Integrating Transsexual and Transgendered People (Part 2 of 3)

The Amicus brief from Liberty, Part 2 of 3

Integrating Transsexual and Transgendered People

A Comparative Study of European, Commonwealth and International Law

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Research results

Council Of Europe

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1. Albania

1.1 Transsexuality is treated in the same way the Albanian authority treats prostitution and pornography, and used to treat homosexuality, namely through the criminal law. In 1994 legislation was passed to decriminalise homosexuality. However, punishment for being a transsexual is a fine or a term of imprisonment.

2. Andorra

2.1 A Catholic state under the authority of the Bishop of Andorra, transsexuality like prostitution, and abortion is seen as a sin and it is unclear whether treatment is permitted. However, according to the Ministry of Foreign Affairs, there is no legislation prohibiting transsexuality, and cases would be considered on an ad hoc basis.

3. Austria

3.1 In Austria changes in birth registration of transsexuals is in the hands of the administration.

3.2 Under Austrian law a transsexual's altered gender status is recognised for all legal purposes. A name change is permitted by law, although the process is long.

3.3 Once legal recognition is given to a transgendered person it is possible for them to marry a person of the opposite sex to their new gender.

3.4 Transsexuals in Austria can also make use of anti-sex discrimination laws which are available to protect employment rights. For example a person born male but who after treatment lives as a woman is able to claim protection as a woman under such legislation.

3.5 Under family law in Austria, a woman who after gender reassignment marries a woman will be deemed to be a "father" and would be recognised for the purposes of parental rights and responsibilities over a child.

3.6 In Austria birth certificates are not open to the public.

3.7 Official Documents

A new birth certificate will be issued in the person's reassigned gender after Gender Reassignment Surgery has taken place. The change would mean that an alteration would occur in the margin of the original birth certificate, correcting what will be seen as an inaccuracy. In order to change the birth certificate the applicant must apply to a local court which then passes all information to the Austrian Home Office in Vienna for a final decision. In order to come to such a decision two independent experts will need to agree that the applicant has undergone surgery and that the applicant is psychologically a member of the reassigned gender as well as physically so. The Legal and Medical Institute in Vienna will want further evidence that:

i. the applicant has had a long feeling of belonging to the reassigned gender;

ii. the applicant looks like a member of the reassigned gender;

iii. the applicant can prove that their feelings about their gender are not likely to change;

iv. the applicant can pay for a medical and psychological report to be made.

3.8 Other official documents in Austria (driving license, passport, ID card and National Insurance records) do not record an individual's sex. However, name changes will be

recorded and new documents issued as and when required. It must be noted that these changes in name must also fall in line with the above requirements, and all documents must first be presented to the court before being issued.

3.9 Once official documentation has been issued any previous marriage will be void. This would be noted on new documents and on the reissued birth certificate.

3.10 According to the government's law officers legislation on laws dealing with transsexualism is not necessary because only a few cases are considered each year.

4. Belgium

4.1 Changes in birth register lie in competence of the judiciary.

4.2 In Belgium the law on transsexuality was changed following the landmark case of Van Oosterwijck (1979) where the European Commission on Human Rights recognised for the first time the idea of a fundamental right of an individual to his or her "gender identity".

4.3 The Belgian government are currently looking at changes in the law affecting transsexual people.

4.4 In the past in Belgium, a change of sex could in theory only be recognised in cases of intersexuality. In practice some transsexuals did, however, obtain permission for the amendment of their birth certificates and others did not. In the last few years a positive evolution has however been observed where the decision concerned unmarried and childless transsexuals. The law now treats transsexuals far more favourably than before. The procedure generally takes more than a year. The change of Christian names is an administrative procedure taking also about one year.

4.5 Access to treatment and healthcare

It is legal to carry out Gender Reassignment Surgery in Belgium. There is access to psychological, hormonal and surgical treatment for Gender Identity Dysphoria. There is access to psychological treatment for children and young people under the age of 18 years, but there is no access to hormonal or surgical treatment. Access to all treatment for Gender Identity Dysphoria in Belgium is subsidised by the state.

4.6 Birth certificates / registration of sex

The official criteria for determining sex for the purposes of registration at birth are genital and gonadal. The same criteria are in operation for legal purposes.

4.7 In Belgium the sex registered by an individual is seen as a matter of current identity and is recognised as such by the law.

4.8 It is therefore possible to change the sex registered on a birth certificate after initial registration. However, this can only be the case after surgery. Transsexuals who do not go through with the operation cannot alter their birth certificates.

4.9 Official Documents

It is possible to have other certificates/official documents altered provided that a birth certificate has been issued in the newly confirmed gender. The following documents require a birth certificate before issue: identity cards; driving license; passport, social security card.

4.10 Most other official documents also state an individual's sex and at police interviews, all court proceedings and in banking and in insurance documents pertaining to an individual's current sex will need to be shown.

4.11 Identity Cards

There is a national identity card scheme in Belgium which is mandatory. The ID card itself reveals an individuals' sex. It is possible to change the sex registered on the ID card. However, there are no procedures to protect transsexual people from unnecessary disclosure of the sex originally registered either in legal proceedings or in contacts with state officials.

4.12 Criminal Justice

The criminal law recognises gender reassignment as a change in gender, but there is no adequate mechanism to protect transsexual people against harassment, violence and hate crimes. The definition of rape does include rape of M>F transsexuals per vaginam. Same gender officers are not automatically used for sexual assault and rape interviews of transsexual complainants. However, for an intimate police search, a M>F transsexual would be searched by a female officer and vice versa. This is a police policy which is strictly enforced.

4.13 Family and home rights

If someone undergoes gender reassignment their former marriage will no longer remain valid. A M>F transsexual has the right to marry a man (and vice versa) and domestic partnerships involving transsexuals are also recognised in law. Transsexual partners have no problems in inheriting property or housing.

4.14 Neither should transsexual people experience difficulties in gaining custody and/or access to their children. A couple involving a transsexual are allowed to adopt/foster children although transsexual individuals may not.

4.15 There are no bars to obtaining proper medical/life insurance for transsexual people.

4.16 Employment

Transsexual people have legal protection against discrimination in employment after surgical reassignment, but not before. There seem to be no problems with pensions.

5. Croatia

5.1 Gender reassignment surgery was carried out in the former Yugoslavia. However, following the civil war many transsexuals are left without hormone treatment and clean syringes. The state of the law in the Balkan states is now unclear.

6. Cyprus

6.1 There is no mention of transsexuality in Cypriot legislation. However, legislation currently being passed to decriminalize homosexuality will also cover transgendered people.

7. Czech republic

7.1 There are no legal provisions dealing with transsexuals in the Czech Republic. Gender reassignment surgery is, however, legal. According to administrative practice which is under the discretion of the Registrar General (per Richard Kingham, Consul) alteration of birth certificates, name changes and the right to marry would follow automatically as it is "necessary for a citizen who requires complete and legal contact with the authorities".

8. Denmark

8.1 Relies on administrative action to deal with transsexuals.

8.2 Changes in the birth register are also in the competence of the administration in Denmark.

8.3 Only when the surgical gender reassignment has taken place are they accorded the same rights as their new gender.

8.4 Gender Reassignment Surgery is covered in full by the social health insurance.

8.5 In Denmark a person who wants to obtain permission to change his/her sex will be referred to a special department of the psychiatric ward of the University Hospital of Copenhagen. After a consultation period of two years, a recommendation is submitted to the Directorate of Family Affairs, under the Ministry of Justice. The Directorate gives final permission. According to the *Sterilization and Castration Act*, which in these cases is applied mutatis mutandis, it is a condition for the operation that the person concerned is instructed by a doctor about the character and direct consequences of the operation and about the risks connected with the surgical intervention.

8.6 When the change of sex has taken place, the person involved will on request be given a new first name in accordance with the new sex. These alterations will be made automatically so that after the change of name the case is sent to the registration authorities, which register the person in the same way as indicated in other cases (newly born, people from abroad etc.). With regard to the name, the change is made by way of an application to the local authorities. To ascertain that the person has had the operation, the medical certification is examined before the application for a new name is complied with.

8.7 Access to treatment and healthcare

The *Sterilization and Castration Act* in Denmark legalised gender reassignment surgery, and there is access to psychological treatment, hormonal treatment and surgical treatment for Gender Identity Disorder in Denmark.

8.8 No specific legislation has been adopted as yet. However, the cases are dealt with under Article No. 661 (12 July 1994) on *Sterilization and Castration*. This legislation was

originally catered towards mentally retarded and criminal people and is therefore not particularly popular amongst the transgendered community. The relevant article is Article 13.

8.9 Permission for Gender Reassignment Surgery is given by the Ministry of Justice upon consultation with doctors and psychologists. Gender Reassignment Surgery is only granted in 35 cases per year. Approximately 15-20 applications for Gender Reassignment Surgery are received annually. Applicants mostly receive Gender Reassignment Surgery outside Denmark.

8.10 Although children and young people have access to psychological treatment for Gender Reassignment Surgery, there is no such access for them with regards hormonal or surgical treatment. The state does subsidise access to psychological services for Gender Identity Disorder for young people.

8.11 According to Act 661 (Article 13.2) Gender Reassignment Surgery and access to hormonal treatment is only allowed for those over 21 years of age.

8.12 Birth certificates / registration of sex

Every parish in Denmark keeps an account of the Ministerial Book which notes all birth registrations. The sole identification for registration at birth are genitalia. However, for legal purposes psychological factors are considered, as well as genital and gonadal.If there is a conflict between factors the genital and gonadal factors are considered conclusive evidence. This occurs through general administrative practice. Birth certificates and ID cards state the sex of each individual. These documents are relevant for legal purposes. Legally, a person's sex has its main relevance when it comes to marriage.

8.13 The sex registered on all documents reflects and individuals' current identity, and gender reassignment is considered under the law (through administrative practice) as a change of sex.

8.14 It is possible to change a birth certificate in Denmark providing a person can prove that a surgical gender reassignment has taken place. This procedure is therefore only open to transsexuals after surgical reassignment. Once the replacement birth certificate has been issued there are no reasons for using the former birth certificate and the person will not be asked to issue it at any time.

8.15 A change in birth certificate is only available to post-operative transsexuals. Once amended the original birth certificate will carry no legal weight.

8.16 Other documents will be provided in the new gender provided that a new birth certificate has been issued.

8.17 Official Documents

ID cards, driving licenses and passports require the production of a birth certificate before reissue. The ID card is the most relevant document. The sex of a person mentioned on the ID card is relevant for the issuance of other official documents like driving license, passport and others. But also the birth certificate is changed and is often necessary for the issuance of other documents.

8.18 The police might check an individual's identity in criminal cases. Very often you will have to give your personal identity code which reveals your registered sex. This obviously has greater negative ramifications for pre-op transsexuals.

8.19 Denmark's national ID card is mandatory. It reveals an individual's sex, however it is possible to change the sex noted thereon. The card would not disclose the birth-sex of a person, only the present registered sex.

8.20 Criminal Justice

The criminal law does recognise gender reassignment as a change in gender and the law will consequently protect people against harassment, violence and hate crimes. The definition of rape does include rape of M>F transsexuals per vaginam; the same gender officers are used for sexual assault and rape interviews of transsexual complainants and for intimate police searches a M>F transsexual would be searched by a female officer. This is a legal requirement. The same would be true of a F>M transsexual who would be searched by a male officer.

8.21 Prisons

Transsexual prisoners are recognised in their reassigned gender after surgical reassignment for the purpose of being placed in prison. If prisoners are place in what they consider "wrong sex" prisons they can retain their preferred gender identity through clothing etc. There are, however, no special protections against mistreatment for transsexual prisoners. They will, however, be protected by the ordinary safeguard measures concerning so-called "weak prisoners".

8.22 Access to treatment for Gender Identity Disorder is available within the Danish Prison System.

8.23 Family and home rights

If someone undergoes gender reassignment their former marriage will no longer be valid. A transsexual in their reassigned gender has the right to marry under Danish law and domestic partnerships involving a transsexual person are recognised under Danish law. Consequently, transsexuals have the same spousal and partnership rights as other citizens, although the law does not distinguish between transsexuals and other citizens.

8.24 There are no legal reasons why transsexuals would find it difficult to gain access/custody to their children under Danish law. A transsexual individual is not allowed to adopt/foster a child (no individual can do this in Denmark) and a couple would be able to do so following gender reassignment surgery and providing they were married.

8.25 There are no bars to obtaining proper medical/insurance for transsexual people.

8.26 Employment

Transsexual people have legal protection against discrimination in employment after surgery - Prohibition Against Discrimination in the Labour Market Act 1996.

8.27 Transsexual people will also have legal protection against discrimination before surgery under the above statute.

9. Estonia

9.1 According to the Estonian Embassy in London Gender Reassignment Surgery is legal in Estonia. The Estonian Consul stated that postoperative transsexuals would be allowed to marry and change their birth certificates, as there is no legislation prohibiting this. There is, however, no legislation directly permitting this at the moment, although this area, amongst others, is being considered by the Estonian government.

10. Finland

10.1 The minimum age for gender reassignment surgery in Finland is 20 years.

10.2 In 1994 Finland passed transsexual-specific legislation. The Department of Justice had been working on the legislation for many years and it follows similar grounds to the Swedish model.

10.3 Gender reassignment surgery is legally done in Finland and there is access to psychological, hormonal and surgical treatment. Such treatment is subsidised by the state.

10.4 In Finland, sex is registered at birth by a doctor. The official criteria is genital, which is also the official criteria for legal identity. If there is any problem, legal sex overrules genital sex (even though they are both the same).

10.5 The purpose of registration of sex is said to be for military draft.

10.6 The sex registered on the birth certificate reflects current identity. Gender reassignment is recognised by the law as a change of sex. It is possible to change a birth certificate in Finland following a recommendation and diagnosis by a psychiatrist. This procedure is open to transsexuals both before or after surgery.

10.7 Once a new birth certificate is issued the old one becomes invalid. Other official documents can carry the “new” gender regardless of whether or not a birth certificate has been issued.

10.8 Finland’s national ID card is not mandatory, but does reveal an individual’s sex, which can be altered. There is also a procedure to protect transsexual people from unnecessary disclosure of the sex originally registered.

10.9 In Finland, the criminal law recognises gender reassignment as a change in gender and all aspects of the law follow as if the transsexual had always been a member of their reassigned gender.

11. France

11.1 Changes in the birth register lie in the competence of the judiciary.

11.2 In 1992 a French transsexual, B. took France to the European Commission of Human Rights (the case was subsequently referred to the European Court of Human Rights) over the refusal to change the civil record. This time the Court ruled in favour of the transsexual and forced the French Supreme Court, the Court of Cassation, to overturn its earlier ruling, and in November 1992 the right of transsexuals to change civil status in France was recognised.

11.3 Treatment for Gender Reassignment Surgery in France can be reimbursed but there are long waiting lists, said to be caused by the monopoly of certain medical teams in matters of transsexuality. They decide who is or is not a transsexual and whether one is entitled to an operation reimbursable by the social health insurance. Authorisations are rare and few French transsexuals seem to have been operated on in Prance.

11.4 Prior to the judgment in B v. France in 1992, the Birth Register was for historical purposes. It is now, however, a reflection of an individual's current identity.

12. Germany

12.1 Legislation passed in 1980 (1500 cases in 1st decade).

12.2 When the operation is considered as a necessary treatment for gender dysphoria the German state will reimburse in full.

12.3 German legislation allows for two separate procedures to accommodate the needs of the pre-operative and the postoperative transsexual (known as minor and major solutions respectively). The first section of the *Transsexual Law (TSG) 1980* provides that a German citizen, or a homeless foreigner who is stateless, or a foreign refugee or asylum seeker who is resident in Germany, can change their forenames to ones more appropriate to their gender role. The requirements are that they should be at least 25 years old and… it can be assumed as a great probability that their feelings of belonging to another gender are not going to change
TSG 1980 First Section, Ss1 (ii)

12.4 The transsexual brings the procedure to their Regional Court, and the interests of the public are represented through a state appointed legal representative. The transsexual must submit independent reports from two experts in the field of transsexuality, which must confirm that:

according to scientific evidence the applicant is unlikely to change their feeling of belonging to another gender with a high degree of probability
TSG 1980 First Section, Ss 4.4

12.5 Once an order to change the forenames has been made, the transsexual and their relatives are obliged to state only the new names, not the old, for official records and registers.

12.6 The applicant can apply later for the decision to be annulled, if at some time in the future they feel that they have made the wrong choice. However, this recourse is not available to them if they adopt or have a child after the names have been changed, or if they marry using their new names.

12.7 The second section of the Act provides for the "establishment of belonging to a sex group". Designed for the post-operative transsexual, this section allows the court to establish that the person can now be considered as belonging to the other sex from that stated in their birth certificate. The requirements are that:

- they are not married;
- they are continuously non-reproductive; and
- they have undergone an operation to alter their other sexual marks, so that a visible closeness to the appearance of the other sex has been achieved;

TSG 1980, Second section, Ss 8.1 (ii-iv)

12.8 The transsexual must state the forenames they are going to use, and they must produce expert reports to say that the criteria have been met. According to section 10, from the date of the decision the transsexual is to be regarded as belonging to the other sex; this is final and any rights and duties which depend on sex are to be governed by their new sex.

12.9 The *TSG 1980* in section 11 states that parent-child relationships formed before the gender change will not be affected, so the transsexual will still be their parent's son or daughter as they were before for legal purposes. They would also remain as a father or mother as they were before of any children born or adopted before the decision is made final, and lines of inheritance due to sex will not be affected. Section 12 ensures that existing pension rights and other benefits will be untouched and this includes the rights of a former spouse to pension benefits.

12.10 As far as the birth certificate is concerned, only government offices and the transsexual concerned may have access to the birth register. The transsexual may also be issued with a personal status certificate.

12.11 Most legislation requires that a transsexual person provides evidence from a medical source that reassignment treatment has taken place, but legislation does not demand any particular sort of surgical procedure or hormone therapy. For example the German legislation requires that the transsexual has undergone an operation to alter their other sexual marks so that a visible closeness to the appearance of the other sex has been achieved

TSG (1980) Second Section, s8.1 (iv)

but it does not specify that the operation be penectomy or vaginoplasty, or hysterectomy and phalloplasty. There are good reasons for following this sort of approach [Dr Stephen Whittle]: for example, not all transsexuals have sufficiently good health to undergo repeated major surgery, yet they live successfully in their new role; also genital surgery for the F>M still produces very poor results. To require genitals to be reconstructed could be a path to mutilation for some, and possibly a death sentence for others.

12.12 However, in Germany (and as in Ontario, Canada in particular), the requirement in the legislation that some surgery is undergone has led to questions in the Courts concerning to what extent surgical reassignment has taken place particularly in the case of F>M transsexuals.

12.13 In his lecture to the 23rd Colloquy on European Law in 1993, Michael Wills mentions the case of OLG Zweibruken [1992], concerning a F>M transsexual, which asks whether in order to achieve what the law calls a "clear approximation" to the opposite sex, will a bilateral masectomy be sufficient, or is genital surgery which includes vaginal occlusion and phalloplasty required? The case has been decided in two lower courts in favour of the F>M transsexual applicant, and the State has yet to decide whether it would appeal. It is likely that this will now prevail as the status quo. [Legal Condition of Sex Reassignment by Medical Intervention - the Situation in Comparative Law (1993)].

12.14 For 15 years Germany had a minimum age limit for Gender Reassignment Surgery, but they no longer have one (see table below). The Federal Constitutional Court struck the minimum ages down in two cases [Bundesverfassungsgericht -16.3.82 and 26.1.93]

12.15 As mentioned above, in Germany legislation on transsexuals offers two solutions:

major solution: provides sex and name change for postoperative transsexuals;

minor solution: provides name change only for pre-op transsexuals.

12.16 The following table notes changes in age limits in Germany:

		Major solution	Minor solution
Federal Ministry Draft	1978	21	21
Constitutional Court	1978	none	none
Government Draft	1978	25	18
Transsexuals Act	1981	25	25
Constitutional Court	1982	none	25
Constitutional Court	1993	none	none

12.17 Therefore in the Federal Republic of Germany the rectification of the birth certificate and the modification of first names demands a legal procedure. A court can decide that a person should belong to the other sex when a person has lived for three years as belonging to the sex the person feels he or she really belongs to: when the person is unmarried, of age, permanently sterile, has already undergone one operation by which a clear resemblance with the other sex has been achieved.

13. Greece

13.1 A report to the European Parliament 1989 maintains on the one hand that "transsexuals can have their name and identity papers changed" and that "the original birth record can be

amended accordingly", while on the other hand "transsexuals in Greece retain their legal sex as determined at birth."

13.2 Therefore in Greece, the legislature permits gender reassignment but the female-to-male transsexual will, legally, be recognised as female.

13.3 In Greece, transsexuals can change their name and identity papers. An annotation is made to the original birth certificate. The legal consequences of this annotation are not clear.

13.4 Recently the Ministry of Justice has for the first time said that a judicial approach is taken which enables transsexual people to change their documentation and have full recognition of their new civil status. As such, they would insist on transsexual men of the correct age to fulfill their military duties under the conscription regulations

14. Hungary

14.1 The law in Hungary is currently undergoing rapid changes, and according to the Ministry of Justice, legislation about transsexuals is being considered. The legal mood in Hungary appears to be very much in favour of following other European legislation where a consensus on issues like sexuality, discrimination and gender identity has become clear over the past decade. To this extent, Hungary has now legislated to allow homosexual men and women to live in partnerships with each other. It has also recently decriminalised much legislation which was anti-homosexual.

14.2 The Hungarian Consul in London said that "attitudes are becoming even more liberal in Hungary now, and we expect that transsexuals will be given new rights, as homosexuals recently have, very soon…"

15. Iceland

15.1 There is no specific law on the rights of transsexuals in Iceland. According to the Directorate General of Health of Iceland gender reassignment surgery has only been done once in the country; most Icelandic people are assumed to go to Sweden. However, there are more cases in the pipeline. A committee for the said Directorate is currently drafting legislation on the issue which is likely to follow that of Sweden.

16. Ireland

16.1 In the Republic of Ireland the operation is not performed. There is no mention of any jurisprudence and most questions are considered not applicable.

16.2 Access to treatment and healthcare

Although Gender Reassignment Surgery is legal in Ireland, due to inadequate facilities, patients are referred to the UK for treatment (especially surgery). However, there is access to psychological and hormonal treatment for Gender Identity Disorder.

16.3 The Irish Department of Health are unclear as to the situation with regards children and young people.

16.4 Access to medical services are subsidised.

16.5 Birth certificates / registration of sex

The situation with regards registration of birth is virtually identical to that of the UK. The Registrar of Births is charged with the responsibility under the Registration of Births (Ireland) Act 1863 -1880. The official criteria for determining sex at the registration of birth is genital. This is also the position for identification of sex for legal purposes (as noted in the regulations made under the 1880 Act).

16.6 According to the Registrar of Births, a birth certificate is a record of a particular event which occurred on a particular date. It is not a personal record and is therefore seen as an historic document.

16.7 Gender reassignment is not recognised by the law as a change of sex.

Lydia Foy v. AG (J.R. 131 1997) - hearing pending

16.8 Section 27 of 1863 Act provides that any error of fact or substance with regards registration may be corrected. However, this has not been deemed to be relevant to transsexuals. However, it is possible to have other documents to correspond to the reassigned sex. For example, Ms Foy in the above case has been issued with an Irish passport which confirms her sex as female.

16.9 In Ireland you will need your original birth certificate for the purposes of insurance and also to register in certain educational institutions.

16.10 Criminal Justice

The definition of rape does include rape of M>F transsexuals per vaginam; there are no regulations concerning transsexuals with regards intimate searches by the police, an area completely avoided by the 1947 Regulations for Government of Prisons

16.11 Prisons

Transsexuals will probably be recognised in their reassigned sex in prison, but there are no official statements to this effect. Prison regulations attempt to protect all prisoners against mistreatment but without reference to transsexuals as a particular class.

16.11 Family and home rights

If someone undergoes gender reassignment their former marriage will remain valid unless there are nullity proceedings. Transsexuals have no right of marriage once they have had Gender Reassignment Surgery and they are likely to face great difficulties with regards access and custody of children.

16.12 The sex on the birth certificate is used to assess premium when it comes to life insurance and medical insurance.

16.13 Employment

There is no specific legislation in this area: no specific legislative protection. The Unfair Dismissal Act 1977 outlaws discrimination with regards gender or marital status, but on no other grounds.

16.14 The Unfair Dismissals (Amendment) Act 1993 extends list of "unfair persons" to dismiss to "sexual orientation", but this term is not defined.

16.15 According to the Free Legal Advice Center in Ireland, there have been no reported cases in Ireland.

17. Italy

17.1 Special legislation was passed in 1982. At the time, Italy had a case brought before the European Commission of Human Rights, and to avoid losing face through defeat hastily passed legislation on transsexuality as Germany had been forced to do two years earlier.

17.2 According to Italian law (Law of 14 April 1982, No 164) a person who is at least eighteen can ask for his/her civil status to be amended when modifications in his/her sexual characteristics have occurred. The law does not specify whether such modification must be the consequence of sexual reassignment surgery, of hormonal medical treatment or of natural evolution. It does not impose specific conditions such as a trial period, the irreversibility of the choice or the impossibility of procreating. The jurisprudence has clarified that, in accordance with the knowledge of medical science, the sex of a person is the result of various biological and psychological factors, which may happen to be in contrast with one another, and that a transsexual can be defined as a person who is not at ease with his/her anatomical sex and regularly behaves as someone of the opposite sex. Both from the medical and from the legal point of view, it is possible to recognise in such a person a different sex when the psychological attitude is confirmed by the acceptance of surgical treatment in order to modify, as far as possible, external genital organs. So the undergoing of sexual reassignment surgery is considered an indispensable condition.

The task of deciding whether these conditions are satisfied is the responsibility of ordinary magistrates. The procedure is very simple. Notice must be given to any partner and to any children. The intervention of the public prosecutor is compulsory. The operation must be authorised by the Court, in order to ascertain the seriousness of the intention and the existence of the conditions (psychological and physical). An expert can be called on to give an opinion on "psycho-sexual conditions of the person concerned" if necessary.

17.4 The decision of the court is given by means of a judgment which orders the relevant authorities to rectify the indication of the sex of the person concerned in the register of births. The change of forename is a consequence of the change of sex. Another important consequence is the annulment of the marriage, while there is no change in the relationship with the children.

17.5 The previous identity must not be mentioned in civil status certificates. In the case of a new marriage, the fact that the partner did not know of the sexual change can be reason for annulment.

17.6 The law (Article 6) provides a simpler procedure for people who have already undergone an operation and ask for civil status amendment within one year of its entry into force.

17.7 In this case, when the decision of the Court is positive, Article 7 excludes penal responsibility related to surgical treatment (for personal injuries, due to the fact that according to the Italian law, no agreement on any intervention is permitted on one's body where this might cause a permanent reduction in physical integrity).

17.8 An Italian petition No. 16/84 to the European Parliament on 18th April, 1984 was adopted in 1989 as a resolution "on - discrimination against transsexuals" [doc.A316/89,0.J.9.10.89, No C.256/33-35@34]

17.9 The Parliamentary Assembly of the Council of Europe further adopted as Recommendation 1117 of 29.9.1989 "on the condition of transsexuals" asking the Committee of Ministers to invite member states to "introduce legislation".

17.10 In Italy, the law stipulates that an operation has to be authorised by a court decision as does the amendment of the birth certificate. In the latter case the court orders the register of population to rectify the birth certificate.

17.11 Transsexuals in Italy are currently campaigning to persuade the Italian government that rules regarding gender reassignment surgery should be relaxed, so that people can have their documentation amended at a much earlier stage.

18. Latvia

18.1 According to the Latvian Embassy in London it is legal for Latvians to have gender reassignment surgery, and the government will accordingly reissue all documents (including birth certificates) in the reassigned sex. Latvian transsexuals will also be allowed to marry after surgery.

19. Liechtenstein

19.1 No information was received from or about Liechtenstein.

20. Lithuania

20.1 The Lithuanian Consul was unsure of the situation of the law as it deals with transsexuals in Lithuania. However, it was suggested that their approach would be similar to that of Estonia.

21. Luxembourg

21.1 Relies on case law to deal with cases dealing with transsexuals.

21.2 Luxembourg is following the example of Switzerland (see section on Switzerland). Luxembourg is also taking lead from French jurisprudence.

21.3 In Luxembourg there has been one favourable court-decision (1985 - feville de liaison de la conference St Yves - No 66 of September 1986, page 43). allowing a rectification of the birth certificate. This court decision was based on French jurisprudence requiring that the change was the result of an exterior cause and that the transsexual had the intimate conviction to be "a victim of an error of nature". On delivery of the court order and of the rectified birth certificate the change of name and identity papers can take place on request and without delay.

21.4 Access to treatment and healthcare

There is no specific legislation in Luxembourg with regards the legal position for transsexuals. However, there is access to hormonal, psychological and surgical treatment for Gender Identity Disorder.

21.5 Young people have access to psychological treatment only, all of which is subsidised by the state. The state does not subsidise surgery.

21.6 Birth certificates / registration of sex

The procedure for registering a birth is covered in articles 55-57 of the Civil Code. The official criteria for registration of sex at birth is genital.

21.7 For legal purposes, genital, chromosomal and psychological factors are considered to determine sex. Sex registered is a matter of historical fact but correction is possible because the surgery is seen to be correcting a mistake. It is therefore possible to amend a birth certificate after birth in Luxembourg (articles 99-101 of the Civil Code). Such a procedure is only open to post-op transsexuals.

21.8 Official Documents

Birth certificates need to be produced before ID cards are issued. Official documentation showing sex must be shown at court proceedings (both civil and criminal), at police interviews, and for the purposes of insurance and banking.

21.9 The national ID card is mandatory and reveals an individuals' sex.

22. Macedonia

22.1 Gender reassignment surgery was carried out in the former Yugoslavia. However, following the civil war many transsexuals are left without hormone treatment and clean syringes. The state of the law in the Balkan states is now unclear.

23. Malta

23.1 Maltese law does not refer to transsexuals in any way. However, the Consul said that this would mean that gender reassignment surgery could be considered legal. There have been no reported cases in Malta.

24. Moldova

24.1 The situation in Moldova is similar to that for transsexuals in the Ukraine and the Russian Federation.

25. Netherlands

25.1 Legislation passed in 1985.

25.2 No minimum age requirement for Gender Reassignment Surgery.

25.3 Gender Reassignment Surgery is covered in the Netherlands by the social health insurance and is inclusive of electric epilation up to Fl 7500.

25.4 According to Dutch law every Dutch person who is convinced of belonging to a sex other than that mentioned in her/his birth certificate, and who has physically been adapted to the desired sex - for so far this (from a medical and psychological point of view) was possible and justified - can request a court in the judicial area of his domicile to order that the indication of sex in the birth certificate is modified on condition that this person is not married, cannot bear children or become pregnant.

With the request, a copy of the birth certificate has to be produced as well as a joint declaration of the appointed experts. This declaration has to be handed in six months before the request is introduced and should indicate whether the petitioner has already physically been adapted to the other sex. When the permission is granted first names can also be changed on request.

25.6 The rectification of the birth certificate and the alteration of a first name both take about three months. In the majority of States belonging to the European Community the legal issues relating to transsexuals have been dealt with either by the executive or by case law. Dutch legislation is, however, a leading force in European law providing thus:

Articles 29a - 29c of the Dutch Civil Code

Art 29a

1. Every Dutch national, who has the conviction to belong to the other gender than is registered in the birth certificate, has been physically adapted to the designated gender as much as this is justified concerning medical and psychological views, can request the local court to change the registered gender in the birth certificate, if this person:
    a. is not married; and
    b. when registered male in the birth certificate is nevermore able to beget children, and when registered female in the birth certificate is nevermore able to bear children.

Art 29b

1. With the petition must be submitted a copy of the birth certificate as well as a by decree designated expert's signed statement, issued at most six months before the date of submission of the petition, which shows:
    a. the conviction of the petitioner to belong to the other gender than shown on the certificate of birth, as well as the opinion of a qualified expert that this conviction, taken into account the period the petitioner has lived as such, and if so, to mention other facts or circumstances that this can be proven permanent;
    b. whether, and to what degree the petitioner has been adapted physically as much as justified and possible in medical and psychological view;
    c. that the petitioner when registered male in the birth certificate is nevermore able to beget children, and when registered female in the birth certificate is nevermore to bear children.
2. The statement does not need to contain the first paragraph under a designated part when the petitioner has already been adjusted to the desired gender.

Art 29c

1. When the court grants permission to change the registered gender, it can, when requested, also change the first names of the petitioner.

25.7 In the Netherlands, a transsexual born female, but now living as a man in a marriage, becomes by law the father of a child born to the woman to which he is married and therefore will register as the father of the child.

25.8 A transsexual born female, but now living as a man in a marriage style relationship with a woman, will be able to register as the father of a child born to the woman by recognising the child as his own before the civil registrar.

26. Norway

26.1 Relies on administrative action to deal with transsexuals. Changes in birth register therefore lie in the competence of the administration.

26.2 Access to treatment and healthcare

Gender reassignment surgery is legally carried out in Norway, and there is access to psychological treatment, hormonal treatment and surgical treatment for Gender Identity Disorder.

26.3 Young people from the age of 18 have access to psychological, hormonal and surgical treatment for Gender Identity Disorder in Norway, which is subsidised by the state.

26.4 Birth certificates / registration of sex

The sole identification for registration at birth is genitalia. This is also the case with regards legal purposes.

26.5 The sex registered reflects and individuals' current identity, and gender reassignment is considered under the law as a change of sex.

26.6 Once surgical gender reassignment has taken place a new birth certificate will be issued by the government. A new birth certificate is only open to transsexuals after surgery. Once the replacement birth certificate has been issued there are no reasons for using the former birth certificate and the person will not be asked to issue it at any time.

26.7 Other documents will be provided in the new gender provided that a new birth certificate has been issued.

26.8 Official documents that show sex must be produced at police interviews, civil and criminal court appearances and in banking an insurance.

26.9 There is no Norwegian national identity card.

26.10 Criminal Justice

The criminal law does recognise gender reassignment as a change in gender and the law will consequently protect people against harassment, violence and hate crimes. The definition of rape does include rape of M>F transsexuals per vaginam; the same gender officers are used for sexual assault and rape interviews of transsexual complainants and for intimate police searches a M>F transsexual would be searched by a female officer. This is a legal requirement. The same would be true of a F>M transsexual who would be searched by a male officer.

26.11 Prisons

Transsexual prisoners are recognised in their reassigned gender after surgical reassignment for the purpose of being placed in prison. There are, however, no special protections against mistreatment for transsexual prisoners.

26.12 Access to treatment for Gender Identity Disorder is available within the Danish Prison System through the prison psychology unit.

26.13 Family and home rights

If someone undergoes gender reassignment their former marriage will no longer be valid. A transsexual in their reassigned gender does have the right to marry under Norwegian law. Consequently, transsexuals have the same spousal rights as other citizens, although the law does not distinguish between transsexuals and other citizens.

26.14 There are no legal reasons why transsexuals would find it difficult to gain access/custody to their children under Danish law. A transsexual individual is able to adopt/foster a child and a couple would be able to do so following gender reassignment surgery and providing they were married.

26.15 There are no bars to obtaining proper medical/insurance for transsexual people.

26.16 Employment

There is no specific legislation covering transsexuality and employment in Norway.

27. Poland

27.1 Changes in birth register lie in the competence of the judiciary. There is no specific legislation.

27.2 Two Supreme Court judgments deal with transsexuality in Poland:

22 June, 1988	It was decided that transsexuality is not a cause justifying the rectification of civil status record, which take place only on error or inaccuracy in the records.
22 March, 1991	The Supreme Court accepted that the enduring feeling of not belonging to the sex indicated on the birth certificate is protected by the provisions of the Civil Code concerning the protection of each individual's personal property and that therefore it was possible to start a procedure with the object of changing the transsexual's civil status in two stages: i. to establish the existence of an individual right in relation to the protected property (here, the new sex), then ii. the recording of the change of sex on the birth certificate.

27.3 According to the Supreme Court, this change in civil status is in principle justified only after surgery.

28. Portugal

28.1 Changes in birth register lie in the competence of the judiciary.

28.2 In Portugal the case law dealing with transsexuals has been controversial. In 1984 a court allowed a change of sex on the basis of the fact that there was no law which made it a penal offence and that henceforth a change should be permitted on the condition that the person concerned was unmarried, infertile and that an operation had taken place. The same court of appeal of Lisbon passed a judgment, however, in 1986 stating that "the unassailability of human dignity in which public order has an interest, prohibited the possibility of an artificial change of sexual characteristics by a surgical operation. Such an operation should never be a reason for the State to permit a change of sex on the birth certificate."

28.3 No specific legislation on transsexuality in Portugal - there is not yet a consensus on the issue. In fact, up to now the lower courts have always dismissed applications from transsexuals for reassignment of sex, but the Court of Appeal, the only one to have pronounced, has quashed these judgments and authorised the requested reassignment of sex.

29. Romania

29.1 Gender reassignment surgery is being allowed for the first time in Romania.

30. Russian Federation

30.1 The situation in the Russian Federation is almost identical to the situation of transsexuals in the Ukraine.

31. San Marino

31.1 No information was available from San Marino.

32. Slovak Republic

32.1 There is no special legislation in the Slovak Republic. However, the administration will allow a transsexual to change their name and birth certificate if a doctor can issue a letter stating that Gender Reassignment Surgery has been successfully completed. The surgery is legally available in the Slovak Republic.

33. Slovenia

33.1 Gender reassignment surgery was carried out in the former Yugoslavia. However, following the civil war many transsexuals are left without hormone treatment and clean syringes. The state of the law in the Balkan states is now unclear.

34. Spain

34.1 Spain relies on case law/judiciary in dealing with transsexuals. There is no specific Spanish legislation on transsexuality.

34.2 In Spain a modification of the Penal Code in 1983 made surgical intervention causing a change of sex no longer a penal offence. Moreover in July 1987 the Supreme Court recognised the right of a transsexual to change sex. However, up to this date there is no legislation that regulates this right and transsexuals legally continue to keep the sex they had at birth. One can, however, obtain legal documents in a new name and gender after a court order, which in theory would be no problem.

34.3 Rectifications based on transsexualism must be the subject of an ordinary judicial procedure, an action for declaration of status which, if successful, will result in the alteration of the birth certificate.

34.4 Access to treatment and healthcare

As mentioned, Gender reassignment surgery was legalised in Spain in 1982. The right to reassignment stems from Article 10.1 of the 1978 Constitution which guarantees self-expression. However there is no further legislation, and this creates a problematic gap in the law.

34.5 There is therefore access to psychological treatment for Gender Identity Disorder in Spain as well as hormonal and surgical treatment. Such access is not provided free of charge/subsidised.

34.6 There is no information available with regards the position of young people; this is one of the gaps in the law.

34.7 Birth certificates / registration of sex

The sole identification for registration at birth is genital and chromosomal. For legal purposes psychological factors are also considered, as well as genital and gonadal. However, if there is a conflict between factors the jurisprudence of the Spanish Supreme Court declares that psychological sex prevails over chromosomal sex.

34.8 The sex registered reflects and individuals' current identity. However, reassignment is not recognised under the law as an official change of sex.

34.9 The Spanish Supreme Court's judgments in 1987 and 1991 recognise the right to change one's name, but do not recognise all gender rights, especially the right to marriage. However if a court recognised a marriage and the public prosecutor does not, appeal against the marriage, then the marriage is valid in that one occasion.

34.10 It is theoretically possible to change a birth certificate in Spain. However, it would have to be done through a law suit, a procedure which can last up to 2 years. Even after this the results are unsure. Such a procedure is, however, open to transsexuals regardless of whether they have had surgery. Because there is no established legal procedure for changing registered sex each case is considered separately by a judge or public prosecutor who can ask for different modes of proof.

34.11 Other documents will be provided in the new gender provided that a new birth certificate has been issued.

34.12 The National Identity Card requires production of a birth certificate before issue and this ID card will be required for presentation at most places. The ID card is mandatory and reveals the sex of the carrier. It is possible, however, to change the sex stated on the ID card.

34.13 There is no procedure to protect transsexual people from unnecessary disclosure of their original sex.

34.14 Criminal Justice

The criminal law does recognise gender reassignment as a change in gender but there are no provisions to protect people against harassment, violence and hate crimes. The definition of rape does not include rape of M>F transsexuals per vaginam. As for police searches, the law is silent on this issue.

34.15 Prisons

Transsexual prisoners are recognised in their reassigned gender after surgical reassignment for the purpose of being placed in prison. However, there is no legal requirement as such; it is very much down to judges and prisoner directors.

34.16 Access to treatment for Gender Identity Disorder is only available within the Spanish prison system at the discretion of the prison director.

34.17 Family and home rights

A law is expected soon with regard the position of domestic partnerships (which would cover transsexuals). This law is expected to extend partnership rights on inheritance etc. to partners, and transsexual people will be able to benefit from such a law.

34.18 In Spain if a couple ask for a marriage and the court authorises that marriage, and if the public prosecutor does not appeal against the decision, the marriage can go ahead. This is true for transsexuals.

34.19 A transsexual can adopt/foster individually if s/he fulfills an ad hoc criteria set out by the judge. There is only one known case of a transsexual being allowed to adopt.

34.20 There are no bars to obtaining proper medical/insurance for transsexual people.

34.21 Employment

There is no legal reference to transsexuality in employment law.

34.22 The Spanish Federation of Transsexual Associations is currently asking for a sex and gender change in the law which would involve all the rights forgotten in legal gaps in Spain's legal system. Immediate registration of gender and full marriage rights are at the top of the priority list. The government is currently considering this, and public opinion is openly supportive.

35. Sweden

35.1 Minimum age for gender reassignment surgery is 18 years.

35.2 Sweden was the first European country to pass any special legislation relating to transgendered people, following a campaign by a group of politically active members of the transgender community who were fighting for recognition of name changes and sex specific personal identity numbers. With regards transsexuality in Sweden they had already acknowledged and accepted the medical intervention and were now looking at regulating the legal aspects of transsexualism. Legislation concerning affirmation of gender identity was finally passed in 1972.

35.3 There is access to psychological, hormonal and surgical treatment for gender dysphoria in Sweden. Such treatment is provided for by the State.

35.4 Once Gender Reassignment Surgery has been completed in Sweden the individual concerned will legally be considered a member of the reassigned sex. All documents will be reissued as such.

36. Switzerland

36.1 Changes in the birth register lie in the competence of the judiciary.

36.2 In Neuchatel, 2.7.1945 Journal des Tribunaux 1946.1.122) the judge at first instance said:

"It is not the body alone which determines a person's sex, it is also his soul…"

36.3 There have been no problems for transsexuals in the law in Switzerland since.

37. Turkey

37.1 No minimum age for gender reassignment surgery.

37.2 Special legislation was passed in 1988.

37.3 According to the expert from Turkey of the Committee of Experts on Family Law the new wording of Article 29 of the Civil Code, amended by Law No 3444 of 4 May 1988, stipulates that a person who has any sexual conversion which occurs after his/her birth, may request the correction of his/her civil status record from the court, provided that the sexual conversion be proved by a medical report.

Article 29 of the Civil Code:

All the necessary changes shall be made in the civil status of the transsexual in case of any sexual conversion which occurs after birth provided it is proved by a medical report. In all cases, for the correction of these records, action is brought against the spouse if the transsexual person is married. The same court shall indicate in its judgment to whom custody of the children shall be given. The marriage is automatically dissolved on the civil status record.

In the framework of the above-mentioned provisions of Article 29:

After the courts decree, the changes brought about are to be entered in the transsexual's civil status records by adding such details to the original record so as to update the data concerning sex on the birth certificate and identity papers, and by authorising a subsequent change of forename.

The judgment correcting the transsexual's civil status records has certain legal consequences for spouses;

Firstly, if the transsexual is married, the marriage is dissolved automatically when the decree of court becomes definite. In this respect, the spouses may obtain maintenance from one another after the dissolution of the marriage.

Secondly, upon dissolution of the marriage parental authority over the children will be given by the Judge to one of the spouses. The other party, to whom parental authority is not given, has however to contribute according to his/her financial capacity to the expense of raising children.

37.4 The underlying story behind the change of law on transsexuality in Turkey is quite unique: One of the most popular singers in Turkey with a cult following, Bulent Ersoy, underwent sexual reassignment in 1981 and made a comeback one day as a female singer. This created a conflict with the authorities who refused to accept the sex change and alter he birth certificate. As a highly visible protest, the singer refused to sing any longer unless the laws were changed. There was public anger at this and the Ministry of Justice succeeded to draft and pass a piece of legislation in a record time of four months enabling the singer - and all other transsexuals who had undergone gender reassignment surgery to change their names

and birth certificates. The law in Turkey is very short and subject to wide interpretation by local judges.

38. Ukraine

38.1 In the Ukraine once gender reassignment surgery has occurred an individual may change all of his/her documents which state sex and name to a new gender and set of names / patronymic / surnames. The procedure for this is as follows: the individual gives the authorities a "resolution" from the medical commission along with a petition, the original birth certificate and a small payment. All this is done at the registry office of your place of current living (as opposed to place of birth). The registry office then send this information to the registry office of the applicant's place of birth.

38.2 At this stage the registrar crosses out the old name, patronymic and surname in the book of registration of births, writes in the new details, makes a new birth certificate and sends it to the registry office that originally dealt with the case. The applicant is then given the new birth certificate and a certificate of change of name / patronymic / surname. The applicant may then return his/her passport (with another small payment) to the local Ministry of Internal Affairs in return for which a new passport based on the new birth certificate will be issued. From that point onwards an individual may change all other official documents. The respondent to this questionnaire had never heard of anybody being refused a change of document.

38.3 The Ukrainian *Code on Family and Marriage* (June 25th, 1996) foresees that, as in the former USSR, each person will have only one name and obligatory patronymic.

38.4 Gender reassignment is treated as a private and secret matter in the Ukraine. The new birth certificate of a transgendered person will be no different to that of a pre-op transsexual apart from the fact that it will convey the correct gender.

38.5 Any non-primary birth certificate will have duplicate stamp marks on them, distinguishing them from other birth certificates. However, this will occur for many reasons, mainly due to the loss of the original or after adoption (when in the Ukraine the adoptive parents will then be place on the birth certificate).

38.6 Birth certificates in the former USSR did not have a column for "sex", but had in particular a patronymic column which in the case of Russian/ Ukrainian language indicates a specific gender, even if the name and surname were unisex.

38.7 USSR passports did not indicate "sex", but new Ukraine ones do. For all documents that have been altered the old name and sex are crossed out but remain visible. However, access to these documents is limited and all extracts and copies are issued in the new gender and name only. Most Russian surnames are not unisex, neither are the first names. However, many surnames are not Russian.

38.8 In March 1996 the Ukrainian Ministry of Health issued an order concerning the medical treatment of persons who require a change of sex. The rules in the USSR were far from perfect, but the order of March 1996 is even worse. For example, the order determines that reassignment surgery is only permissible for those over the age of 25 years. If the transsexual applicant has a child they will be refused the treatment. The order further asserts that there

will be only one commission in Ukraine dealing with permission to have surgery and there will be no appeal against such a decision.

38.9 The Ministry of Justice of Ukraine gave instructions to all registry offices in Ukraine to authorise the change of names of transsexuals only after reassignment surgery was completed. Documents are crucial in the Ukraine; it is the former USSR and totalitarian habits survive. Surgery will only be completed after at least one year of full psychological and social adaptation in the desired gender

38.10 It is also noted that the system is almost identical in the Russian Federation and in Moldova.

39. United Kingdom

39.1 As expounded in the case of *Sheffield and Horsham v. UK*, although the operation is legally performed in hospitals in the United Kingdom, and although the government are prepared for the National Health Service to pay for such treatment, a change of sex is not legally recognised and birth certificates may not be amended. A transsexual is treated in law where the law treats men and women differently (e.g. the retirement age remains the same). There is no protection to keep confidential a former gender.

39.2 Passport, driving license, national insurance documents may be issued in the new name and gender, but the primary source of an individual's identity - the birth certificate - cannot be reissued.

39.3 There is access to psychological, hormonal and surgical treatment for Gender Dysphoria in the UK. As previously mentioned, Gender Reassignment Surgery is covered by the National Health Service, although this usually does not cover electrolysis for removal of male growth of hair and moreover there are long waiting lists with the result that many transsexuals use the private sector instead of the National Health Service.

39.4 In the United Kingdom, the Employment Service does not require clients to state whether they are transsexual. However, in *Sheffield and Horsham v. UK* the Commission were told earlier this year that "they [the Employment Service] will normally respect the wishes of the client as to the sex by which he or she is to be known and treated". However, there is no obligation on them to do so.

39.5 In the employment discrimination case of *P v. S and Cornwall County Council* (1996) the Advocate General's recommendation to the European Court of Justice was that the European Council Directive on the principle of Equal Treatment for men and women should be held to cover transsexuals. The decision, confirmed by the court means that throughout Europe it is now unlawful to discriminate against a transsexual, whether female to male or male to female, on the grounds that they are going to or have had gender reassignment. The direction given by the Advocate General is that:

Articles 2(1) and 5(1) of Council Directive 76/207/EEC must be interpreted as precluding the dismissal of a transsexual on account of a change of sex.

39.6 According to Mr D C Bradley of the London School of Economics speaking at the 23rd Colloquy on European Law in Amsterdam in 1993, the five main principles underlying current UK policy on transsexuals are as follows:

1. A transsexual has no right to amend his/her birth certificate and therefore is denied their ultimate and true identity;
2. A transsexual has no right to privacy in the sense that a transsexual cannot conceal earlier history;
3. There are no obligations on those entering legal or any other relations with a transsexual to compel them to recognise the confirmed/reassigned identity;
4. Transsexuals have no right to marry (and miss out on other basic rights);
5. There is an absence of specific legal controls on transsexuals with regards surgery and other forms of medical intervention.

39.7 Legislation has tried to be passed in the UK. Alex Carlile MP's Gender Identity (Registration and Civil Status) Bill, received its second reading on the 2nd February 1996. It provided for the issue of a recognition certificate for transsexuals who have undergone gender reassignment surgery which will allow for the issue of a new certificate and thereby allow marriage between a transsexual and non-transsexual. However, nothing came of the Bill.