



TPN/077/2015

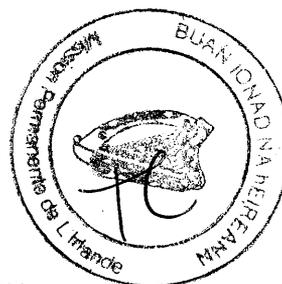
The Permanent Mission of Ireland to the United Nations in Geneva presents its compliments to the Secretariat of the United Nations (Office of the High Commissioner for Human Rights) and has the honour to refer to the Joint Communication made to Ireland by the Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (joint letter of allegation case reference number IRL 1/2015)

The Permanent Mission of Ireland has the honour to note that it has come to our attention that the reply of Ireland to the aforementioned Joint Communication has not been received by the Office of the High Commissioner for Human Rights.

The Permanent Mission of Ireland therefore has the honour to transmit the attached reply of Ireland to the aforementioned Joint Communication and to request that its safe receipt is confirmed to us by return.

The Permanent Mission of Ireland to the United Nations in Geneva avails itself of the opportunity to renew to the Secretariat of the United Nations (Office of the High Commissioner for Human Rights) the assurances of its highest consideration.

Geneva 30 September 2015



Office of the High Commissioner for Human Rights (OHCHR)
Palais Wilson, 52 Rue de Paquis
CH-1201 Geneva 10, Switzerland

OHCHR REGISTRY

- 1 OCT. 2015

Recipients :.....S.P.O.....

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Enclosure

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Joint Communication from the Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Response of Ireland

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

The Gender Recognition Bill 2014 continues to be developed and has changed significantly in the period since the Joint Communication was issued.

Firstly, the Bill was amended to provide for a formal review of the operation of the legislation to be carried out not later than two years following the coming into operation of the Act.

Secondly, it was announced on 3 June 2015 that the Government has decided that the legislation shall be amended to provide that applications for gender recognition from persons aged above 18 years of age shall be determined on the basis of a statutory declaration by the applicant. The requirement that this declaration be accompanied by a supporting statement from a medical practitioner will no longer apply.

The necessary legislative changes will be introduced when parliamentary consideration of the Bill resumes on 17 June 2015.

2. Please provide information on measures taken by the Government of Ireland to ensure that the proposed legislation will provide equal and non-discriminatory access to legal gender recognition to transgender people without disproportionate or abusive requirements, and in full respect of their human rights.

The name of the State to which the Joint Communication is addressed is Ireland. Following on the Government announcement on 3 June 2015, the legislation will provide for legal gender recognition on the basis solely of self-declaration for persons aged 18 and above.

3. Please provide information on the analysis carried out by the Government with regards to the compatibility of the requirement of certification by medical practitioners with international human rights standards.

Following on the Government announcement on 3 June 2015, the legislation will not require certification by a medical practitioner where an applicant for gender recognition is aged 18 and above.

4. ***Please provide information about the assessment of the impact of the proposed legislation on the human rights of young transgender people, including transgender people below the age of 16, and between the ages of 16 and 18, and the measures taken by the Government to protect their rights, inter alia to freedom from discrimination, health, education, physical and psychological integrity and to be heard, in this legislative process.***

The decision to seek gender recognition from the State is a hugely significant one, which will have implications for the person throughout their life. The provisions contained in the Gender Recognition Bill 2014 in relation to persons aged under 18 have been arrived at following extensive consideration of the issues involved, which included pre-legislative scrutiny by the Joint Oireachtas (Parliament) Committee, and reflect the requirement on the State to legislate to protect the best interests of all children.

In the course of its deliberations, for instance, the Joint Oireachtas Committee heard expert evidence to the effect that before puberty there is a reported 20% 'regret rate', while following puberty this rate falls to less than 5%.

It is worth noting that the provisions of this Bill in relation to the minimum age go well beyond those in place in many other UN Member States. The Netherlands recently reduced the minimum age to 16 but Denmark, after revising its procedures recently, has retained a minimum age of 18.

The approach taken to formal legal gender recognition for young people does not imply that the needs of transgender children do not require to be addressed through State services. By way of illustrating the commitment of the Government in this regard, concrete steps have been taken in relation to the needs of transgender children within the education system. Anti-bullying procedures have been introduced for schools, which for the first time require all schools to have policies to tackle homophobic and transphobic bullying.

Moreover, the Minister for Education and Science has met with Transgender Equality Network Ireland (TENI) and other stakeholders to discuss the lived experiences of such children in our schools, and what policy options may be open. A roundtable discussion with the education partners on this topic will be convened subsequently which will allow for the issues faced by transgender children and young people to be discussed in detail with management bodies, trade unions and representatives of students and parents.

The formal review process which will form part of the legislation will offer an opportunity to reflect further on the complex and sensitive issues associated with the legal recognition of young transgender people. In the interim, the legislation takes a prudent and balanced approach to this matter.

5. *Please provide information on mechanisms and processes in place to ensure that transgender people would not be required to divorce in order to obtain legal gender recognition, should the marriage equality referendum fail to pass.*

As the proposal to allow in the Constitution for same-sex marriage was passed by way of a referendum on 22 May 2015, the requirement that applicants for legal gender recognition is being removed from the legislation as it progresses through Parliament.

6. *Please provide information on how the rights of intersex people will be protected through this proposed legislation.*

While there is no explicit or separate reference to intersex persons in the Bill, the same provisions that apply to transgender persons will also apply to intersex persons.

It should be noted that existing legislation – in the form of the Civil Registration Act 2004 - allows for the correction of errors. This means that where a child with an intersex condition has been assigned the wrong gender, this can be corrected under current legislation

ENDS