

Concerning TransGender issues Europe is a quite heterogeneous continent. There's still a cultural border between the old eastern and western block but there are also differences between South and North. Nevertheless, also set on by the European Union, there is a process of convergence, which might also have an impact on the situation of TransGender persons. That's the subject when I'll talk* about the

Development of TransGender Politics in Europe

Concerning the current situation in Europe we are confronted with an extreme heterogeneity.

European Heterogeneity

Each country has different rules for regulating transsexuality. Some have laws or just edicts; in other ones the gender recognition depends on case law or just on the decision of public authorities.

But there is one **general pattern**, which is widely applied: For **getting legally recognised** in one's lived gender, you have to undergo first psychotherapeutic treatment, psychiatric analysis and genital surgeries. This holds for most countries, e.g. Germany, France, Spain, Portugal, Austria, Swiss, Denmark, Italy, Netherlands, Belgium, but also for Turkey, Ukraine, Czech Republic and Croatia.

In some countries TransGender laws require explicitly that candidates have to be infertile for legal sex change. That's the case in Germany, France, Finland or Denmark where a eugenic law from the 1930ies is still applied.

In most countries surgeries and legal recognition are still necessary for acquiring a legal appropriate **first name**. This holds for example for Turkey, Russia, Ukraine, Spain, Portugal, Italy, Switzerland and Austria. Some countries know specific name changing rules for transsexuals, e.g. Denmark, the Netherlands, Germany or France. There are only few ones having liberal rules, which don't discriminate the change of one's first name due to gender, e.g. UK or Belgium.

A **change of identity papers** is in general only possible after full legal recognition. Without surgery TransGender persons are forced to declare their primary gender though every days life. This implies as a rule losing one's job and being forced to prostitution, poverty or illegality thereafter.

But there are a lot of **exceptions** from this general pattern:

One curious example is **Ireland**, where the birth certificate can never – even after SRS - be changed. During the real life test the gender entry has to be changed to "T" at first. The proper "M" or "F" is inscribed only after surgery.

Another exception is **Hungary** where the full legal recognition depends only on one evaluation by a qualified health professional.

Another exception is **UK**. The Gender Recognition Bill adopted 2004 designed a completely new scheme. For full legal recognition and for the change of your birth certificate it is required that you

- are diagnosed with gender identity disorder
- live for two years in the "chosen gender" (original expression), and
- swear a statutory declaration that you intend to do so for the rest of your live.

According to that law no surgeries or therapies are required. This law ensures a reasonable and respectful treatment of gender identity and became immediately an attractive model for many European TransGenders.

I come from Austria, where the situation is far worse. Our TransGender associations, called TransX, struggled a lot over the last ten years, but – like in most European countries – we are just too weak to realize essential changes. Maybe we could bring in the necessary changes when we stand up together.

In February 2005 TransX announced that we would be willing to organise an European wide network meeting for TG-groups. Our first letter of advice evoked an overwhelming response. We were really surprised that there is such a strong readiness for common political work. Finally, at November 2005, 120 representatives of 66 TG-groups from 21 European countries gathered in the Viennese town hall. There were participants from Portugal to Russia and from Iceland to Turkey.

Right from the preparations it became obvious that this wouldn't become just a party. So we announced it as

First European TransGender Council on Civil and Political Rights

And it became a real council. Before summer we asked the groups to formulate three “demands, which the Council should pursue on an Europe-wide level”. Up to November we received 42 demands, which were discussed, reformulated and supplemented by working groups at the Council. At the end there were 68 proposals and all members were asked to declare which issues they would support in a voting.

The results indicate a strong concordance between TG's all over Europe. Almost all proposals were supported by a majority of our members. 50% of the proposals (34 demands) were supported by more than 85% of valid votes.

The ten strongest supported demands could be summarised concerning four main issues:

Gender recognition

Change of documents concerning profession and school education.

The right to change the legally registered gender/sex in all documents of recognition.

Full state recognition of the individual chosen gender/sex without obligation to undergo medical treatment.

Sterilization shall not be a prerequisite for change of gender/sex status.

Free choice of first names

Medical practice

Free choice of medical practitioners within the European Union.

Better funding for treatment.

Anti-discrimination

Anti-discrimination laws for all transgender persons.

Protection in all areas of direct and indirect discrimination (education, health, ...).

Protection in hate crimes.

Among the next top-ranked proposals the following issues were addressed:

Better information of the public.

Acceptance of gender diversities.

Support of non-pathologizing infrastructure.

No disclosure of an individual's previous sex/gender.

No force to be divorced for gender recognition.

Political asylum rights for individuals who are prosecuted as transgender people.

Some of you might miss the goal of psychiatric declassification, e.g. dropping gender disorder from the list of mental diseases. In fact only one of the 68 demands addressed this issue. It was originally submitted by the French group Caritig and formulated in combination with other goals. Literally they asked for:

Recognition of the gender diversity as a logical part of our society.

At the medical level by an exit of the DSM and ICD. But also by a better training of the professionals, a governmental financial support for non-profit transgender organisations, information campaigns in direction of general public, etc.

The working group “Acceptance” did not reformulate this text nor pick up “declassification” as distinct issue while other items of that proposal were explicitly reformulated. So it became one of the 68 final demands. But it was clearly less supported than the demands quoted before: Only 66% of members declared their readiness to support this proposal. More than 2/3 of all proposals received a stronger agreement from the delegates. Hence I would conclude that “declassification” is not an urgent demand of European TransGender activists.

There were also two issues, which were supported by less than 50% of the delegates. These were:

Follow-up studies should be made of every sex reassignment surgery.

An additional category, namely “other”, to be offered in all registration systems.

Europe is obviously not the ideal cultural medium for third gender systems.

The first TransGender Council was just a starting point. Another will take place next year. But for continuous political work the European TransGender Network was established as grass root democratic union of TG-groups. We have to take care that these demands will be realised. And we are building up a network of solidarity and Europe-wide cooperation.

To illustrate how necessary this is I want to introduce you one women called Gisberta. Gisberta was a lady who lived a live that nobody would want to life. Well, she was a woman, which is hard enough sometimes. But she was also transsexual. She emigrated from Brazil to Portugal, had to do sex work to finance her operation. But before that she run into drug problems and became HIV positive. At last she lost her home and slept in a building lot in Porto. One month ago, on 22nd February, she was raped, tortured and murdered in such a cruel way that I don't want to bring the details to your mind[‡].

She was murdered by a gang of 14 minor boys aged from 12 to 16 years.

The Portuguese TG-community was shocked, not only by this event, but far more by the reactions of the state, the press – who ignored it or addressed her by her male name, the church - who tried to excuse the boys, and the queer community which showed, with the exception of only one group no solidarity at all.

The European TG Network supported the Portuguese TG group [at](#). with an international champagne: Relevant information and press material was published on tgeu.net in several languages immediately. A call for protest letters to Portuguese authorities was submitted Europe wide. Even an Australian group organised a vigil for Gisberta. You still can sign the condolence book at <http://tgeu.net>.

The crime committed against Gisberta is by far not the only bloody deed against TransGender persons. The American page <http://www.gender.org> documented 12 murdered TransGender persons in Europe within the last three years: That is four hate crimes each year. We know that these figures are strongly downward biased. And remember, you have not seen the figures of suicides by now.

However, Gisberta's death was one of the most cruel and horrible offences against our communities. This may never happen again! Neither in Europe nor anywhere else!

4 documented TG - Hate Crimes per Year!		
February 2006	P	Gisberta
July 2005	NL	Irene
March 2005	FR	Mylène
December 2004	I	Luano
December 2004	UK	Penny Port
July 2004	I	Leandro Bispo Estavao
July 2004	I	Gennaro Rizzo
August 2003	I	Enrico Tagliatalata
October 2003	I	Rider Orcero
October 2003	I	Erika Johana
October 2003	I	Adrian Torres de Assuncao
March 2003	Serbia	Merlinka

When you look at the victims you will find out that immigrants and sex workers are over represented. To prevent such crimes we need

- Social Integration
- Saver Jobs
- Legal Documents
- Secure medical treatment and of course
- Gender Recognition independent of psychiatric or surgical treatment!

Legal recognition is the key to social integration and regular jobs. It should not be permissible that people are forced to sex work to finance their surgeries. We have to address this issue to our governments. And we know that the wind is changing.

Europe on it's way to new TG/TS - laws

In several countries new laws concerning gender-migration are developed by now. There are three topical examples:

Spain: Since almost two years there are ongoing negotiations concerning a new TS-law.

Austria: Just one month after the Council, on 2nd December 2005 the highest constitutional court decided to examine the rightfulness of the Austrian TS-rules. The reason was that public authorities refused to change the gender entry in the register of births in the case of a married applicant. In that case the high court declared, "that one's person legal gender can not dependent on the existence or non-existence of a legal relation" like a marriage.

Germany: On 6th December 2005 the German Federal Constitutional Court stated that the "TS-law violates the privacy of a person and the right to express one's gender-identity." The TS-law requires that TGs without full legal recognition have to pick up their former first name when they marry a person of their chosen gender. The German Federal Constitutional Court declared that "this violates the privacy of a person and it's right to express her gender-identity."

Although these cases challenge the force to divorce respectively the ban on marriage for TransGender persons the high courts didn't refer to the human right of marriageⁱ.

But obviously TG-persons might have also some rights. I want to recall some articles from the Charter of Human Rights of the European Union, signed 2000, and it's implication for TransGender persons:

Article 7ⁱⁱ: Respect for private and family life

Everyone has the right to respect for his or her private and family life, home and communications.

This means that the states have to respect the chosen and lived gender of citizens.

We have a right that gender appropriate first names are respected. The state has no right to regulate and control our inner most feelings and our personality by forcing us to use unsuitable names.

Article 8: Protection of personal data

Everyone has the right to the protection of personal data concerning him or her.

The disclosure of the previous gender status implies the disclosure transsexuality. There cannot be a force to declare one's first gender in public files and personal documents, e.g. passports any more.

Article 3: Right to the integrity of the person

Everyone has the right to respect for his or her physical and mental integrity.

It is not permissible that the fundamental right to privacy granted only on the condition that surgeries and sterilizations were made.

Although it's obvious that today's wide spread treatment of TransGender persons is not compatible with those fundamental rights, we should not expect that changes will come by themselves. We have to stand up and take care that the rules will change. That's a task for all TransGender-activists, it's a task of all pressure groups and it's of course a task for common engagement of the European TransGender Network.

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*) The present text is a script for the speech given on 27th March 2006 at the TransGender-Conference preceding the 23rd ILGA World Conference at Genève, Swiss.

‡) The boys tortured and raped her for three days. On the fourth day they threw her into a pit filled with water, attempting to hide the crime. Gisberta, still alive, was drowned there. Her body showed cigarette-burning marks, injuries from beating her up with sticks and stones and injuries from pressing sticks in her anus.

i) Article 9 of the European Convention on Human Rights.

ii) A similar, but a bit restrained formulation can be found in Article 8 of the European Convention on Human Rights.