

**Question for written answer E-003458/2019
to the Commission**
Rule 138
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Subject: Determination of gender and the rule of law

Sex enables reproduction but only germ cells can be dichotomised in two sexes. Physiologically, gender and sex are manifested in varying degrees between male and female typical features, and every human being has more or less both the features.

The sex characteristics of each person develop uniformly during the first weeks of pregnancy. Normally, sex and gender characteristics are clearly distinguishable as either male or female, but these characteristics can be crossed in such a way that, from birth, a human being has both a uterus and a penis.

Biological research has shown that it is not possible to identify sex through chromosomal tests either, because many chromosomal variations are known which guide the development of sex characteristics.

People may also, from birth, possess material from two or more genomes, which may be of different sex types (chimerism and mosaicism).

The medical profession also recognises a genetic abnormality affecting the development of the body whereby initially the body appears to be of a female type, until at puberty it starts to become masculinised. Atypical sex states are often defined by medicine as disorders, and the genitals of babies that fail to conform to recognised gender boundaries have been operated on without medical justification. However, deviation from the norm is not a disorder unless it leads to complications.

Sex and gender are defined by the State and in every country determines the legal status of the individual. Arbitrarily imposing a legal status would violate the rule of law, so the basis for determining sex or gender should be corrected in the light of what is known to make it more tenable.

How does the Commission ensure that the determination of sex and gender is performed on an equal footing in accordance with the rule of law, bearing in mind the recognition by the medical profession that it is not possible to assign every individual an unambiguous male or female gender?