

Public hearing on “Depathologisation of transgender and non-binary persons”

October 27, 2022

Background to trans specific healthcare

- The trans community’s advocacy has, for a long time, centred around self-determination of gender identity and access to quality, accessible, affordable and respectful trans specific healthcare (TSHC):
 - This includes the ability to decide what to do with our bodies, what care we need, and the ability to decide how to be identified and addressed
 - In healthcare settings, this translates into informed consent i.e. the possibility of making own decisions with all the necessary available information on hand
- However, at present:
 - **Violation of the right to self-determination of gender identity and the right to autonomy:** Trans people are subjected to a long and detailed psychological assessment, both around their gender identity as well as other mental health conditions - there is stigma around a mental health diagnosis and this diagnosis is too often a pre-condition for accessing hormonal treatment and surgical care
 - **Violation right against torture and inhuman and degrading treatment:** Even today, medical and other practices that aim to change the gender identity of trans people are still practiced (in the recent past, many countries are banning such practices like Germany, Greece)
 - **Violation the right of non-discrimination:** This long evaluation process significantly delays access to TSHC and in addition, the requirement of a diagnosis makes it harder for non-binary, gender non-conforming, and intersex individuals to access the care they might need
- Consequences of delaying or denying care: deterioration of physical health, mental health can worsen, risk of self-medication, impact of education / work due to dropping out
- Some data on TSHC:

- All EU member states, with the exception of Malta, require some form of a mental health diagnosis prior to providing hormones or surgical care
- At least 4 EU member states had waiting times of over 1 year for a trans person to see a TSHC professional from when they first requested care (among these, Ireland has the worst record with waiting times of 7-10 years)
- At least 6 member states set an age limit of 18 years to access puberty blockers for trans children (by when it is usually too late)

What is ICD-11 and what does it do?

- The International Classification of Diseases is a coding tool developed by the WHO. It has a variety of functions and is the main basis on which health conditions and statistics on disease are recorded at the primary, secondary, and tertiary care levels:
 - The ICD is revised every few years and the latest ICD-11 came into force in 2019
 - ICD-11 has depathologised transgender identities i.e. it has removed gender incongruence from the chapter on Mental and Behavioral Disorders (in ICD-10) and moved it to the chapter on Conditions Related to Sexual Health
 - **What is depathologisation:** Trans identities are no longer viewed or characterised as psychologically abnormal
- But until this version is implemented by states, it will remain a paper prescription:
 - States must remove psychiatric diagnosis, differential diagnosis (i.e. where a formal diagnosis of other mental health conditions is a prerequisite to accessing TSHC) requirements for accessing hormonal treatment and surgery
 - TSHC should be based on self-determination and informed consent
 - Provide holistic healthcare models for trans people
 - Remove any requirements like 'real life' tests to prove gender identity i.e. trans people should not be required to prove that they have felt a certain way for a specific period of time

- Reality:
 - Few countries (only Malta in the region) have taken steps to depathologise TSHC
 - Malta first depathologised trans identities in its 2015 GIGESC law - access to care is based on self-determination and informed consent i.e. all information on the different treatment options are laid out and trans people are free to decide what they want without any requirement for a previous psychological or psychiatric assessment or diagnosis
 - Now with the Transform Project, they have been working to enhance the capacity of health practitioners and provide them with the information they need - see <https://humanrights.gov.mt/en/Pages/LGBTIQ%20Equality/Transform%20Project/About-the-Project.aspx>
 - Many countries are in the process of revising their healthcare protocols and guidelines, but these changes are still implementing ICD-10
 - Countries do not see ICD-11 implementation as an urgency or recognise that it involves an overhaul of their existing TSHC and LGR procedure i.e. it not a matter of a few tweaks

What do we need?

- Under international human rights law, every country is obliged to secure the right to the best attainable standard of healthcare. This has four essential elements - availability, accessibility, acceptability, and quality. Depathologisation of TSHC will impact each of these aspects of trans specific healthcare and is an avenue to achieving self-determination of gender identity for trans people, which makes it an especially urgent priority for the community.
- What can the European Parliament do?
 - The EUP is a standard setting body and has taken the lead on transgender rights issues in the past eg. In its resolution on SRHR, the EP specifically acknowledged the SRHR needs of trans and gender diverse people
 - EUP can highlight how depathologisation and decentralised TSHC is a key solution for better trans specific healthcare; call upon member States and EU Commission to support implementation in national

healthcare settings, e.g. by funding local pilot projects, best practice exchange for reforming national healthcare system; something like a forum for exchange for healthcare coordinators addressing waiting lists and collapsed TSHC provision in MS

- This will in turn improve quality of life as well as societal / labour participation
- Given the political nature of the issue, interventions from the EUP and MEPs expressing support for depathologisation of TSHC for transgender children and adults and self-determination of gender identity would be crucial and important signal against anti-rights groups
- Supporting the ability and rights of children to decide for themselves, with the necessary mental health support, on the kind of TSHC they need, repeat its call for ending pathologisation of gender identity in childhood in ICD-11
- In practice: suggest for the EUP to explore the issue with an own report, including EU contributions (vote in forthcoming VAW Directive to be inclusive of trans people and incl. forced sterilisation) aiming at a EUP resolution
- Ensure the violence against women directive includes provisions to ensure appropriate support for victims of forced sterilisation and other harmful practices that affect trans people, as acknowledged by the 16 Sept 2021 EU Parliament resolution on gender-based violence

Contact TGEU

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