

EN
E-003458/2019
Answer given by Ms Dalli
On behalf of the European Commission
(14.2.2020)

Any form of discrimination on the basis of sex goes against the fundamental values of the EU and is explicitly prohibited under article 21 of the Charter of Fundamental Rights of the EU.

The Commission is aware that surgeries are performed on intersex infants and young people without their full informed consent due to their age, and that these surgeries are often medically unnecessary.

However, according to the Treaty on the Functioning of the European Union (Article 168(7)), the Union must respect responsibilities of the Member States for the definition of their health policies and the organisation of health services. The ethical accountability for the surgeries, which intersex young people and children undergo, therefore lies with Member States. The possibility to provide a third gender option at birth or in public documents also falls within the competence of the Member States.

As part of the ‘List of Actions to advance LGBTI¹ Equality’², the Commission organised an exchange of best practices for the Member States on legislation and policies on gender identity and sex characteristics, raised the topic in the High Level Group on Non-Discrimination, Equality and Diversity, and released a video testimony on intersex equality³. The Commission is currently reflecting on how to continue the policies with the view of presenting an LGBTI equality strategy this year.

¹ Lesbian, gay, bisexual, transgender and intersex people

² https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/lesbian-gay-bi-trans-and-intersex-equality/list-actions-advance-lgbti-equality_en

³ <http://ec.europa.eu/avservices/video/player.cfm?sitelang=en&ref=1142954>