

## JOINT PUBLIC STATEMENT

### GREEK TRANSGENDER SUPPORT ASSOCIATION, COLOUR YOUTH, AMNESTY INTERNATIONAL, ALL OUT, TRANSGENDER EUROPE AND ILGA EUROPE

20 September 2017



#### **Greece: Bill on legal recognition of gender identity must fully uphold transgender people's rights**

On 18 September 2017, a much anticipated bill to reform the procedure through which transgender people can access legal recognition of their gender identity has been tabled to the Greek Parliament. The bill is an important step forwards since it expressly states that transgender persons can change their papers without the requirement of medical interventions or tests. Still, more changes are required before it is voted so that transgender people can fully enjoy their rights without discrimination.

Prompted by the need for further reforms, four non-governmental organizations working on transgender peoples' rights - the Greek Transgender Support Association, Colour Youth, Amnesty International and All Out - partnered and launched a Joint International Campaign on 31 August 2017. In this campaign, the four organizations urge Stavros Kondonis, the Greek Minister of Justice, Transparency and Human Rights and the Members of the Greek Parliament to do the right thing and ensure that the new legislation fully upholds the rights of transgender people.<sup>1</sup> The campaign is also supported by Transgender Europe and ILGA Europe.

Among the serious flaws identified in the new law are: the recognition has to be validated by a local court, instead of a simple, accessible out of court administrative process.<sup>2</sup> This means that the change of a person's gender marker takes

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<sup>1</sup> 'Greece do it right: new law must uphold the rights of transgender people', Petition, 31 August 2017, available at <https://www.amnesty.org/en/get-involved/take-action/greece-uphold-transgender-rights/>; and 'Should a Judge decide your Gender?', Petition, 1 September 2017, available at <https://go.allout.org/en/a/greece-gender/>

<sup>2</sup> See PACE Resolution 2048 (2015) on the Discrimination against Transgender People in Europe Article 6.1.2.

place following a judge's decision and is not based on the individual's self-declaration. Also, a lawyer's assistance is usually required which means that the procedure can be expensive.

In addition, it is up to a judge to decide whether the person's external appearance matches the gender the person identifies with: meaning that individuals have to have their gender identity validated based on whether or not they conform to gender stereotypes

The Bill also denies access to legal gender recognition to minors below 17 years and to transgender refugees and migrants leaving them as a result, at risk of discrimination, bullying and violence, and excludes non-binary persons from obtaining official papers that reflect their gender identity.

The Bill also forces transgender people who are married to get divorced before they can change their legal gender, forcing them to choose between the rights and protections provided by their marriage, and the rights and protections provided by legal recognition of their gender. If a transgender person has children, their gender and name cannot change in their children's birth certificate, breaching as result the transgender person's private life.

The Greek Transgender Support Association, Colour Youth, Amnesty International, All Out, Transgender Europe and ILGA Europe urge the Greek authorities and MPs to introduce amendments that:

- Enable transgender people to change their legal name and gender, based only on the gender they identify with, without any reference to their external appearance;
- Remove blanket age restrictions to give minors the right to legally change their gender marker, taking into account their views;
- Ensure transgender people can change their legal name and gender through an out of court administrative procedure that is quick, transparent and easily accessible to all transgender people, including refugees and migrants;
- Remove the requirement for married transgender people to get divorced and ensure that a parent's name and gender can change in their children's birth certificate where applicable;
- Allow individuals who identify as neither male nor female to obtain official papers that reflect their gender identity, including a third gender option for those who wish it;

In parallel, the four organisations call on the Greek authorities to:

- Include amending provisions in all legislation prohibiting gender discrimination that expressly refer to gender identity and sex characteristics;
- Adopt rights-based healthcare protocols, including through passing legislation, in order to address key issues affecting the rights of individuals with variations in sex characteristics and ensure that no child is subjected to non-emergency, invasive and irreversible surgery or treatment with harmful effects.

## **BACKGROUND INFORMATION**

Until recently, Greek courts have usually required transgender persons applying for a change in their gender markers and names to provide certificates that they had undergone medical treatments such as removal of their reproductive organs, hormonal treatment, and a psychiatric diagnosis that they suffered from 'gender identity disorder'. However, several landmark judgments in the past two years show a change in judicial practice. In 2016, the Athens Magistrates' Court found that medical procedures were not an obligatory requirement for legal recognition of gender identity in a case filed by a transgender man.<sup>3</sup>

After a lengthy wait, the a bill on "Legal Recognition of Gender Identity and a National Mechanism monitoring and evaluating the Action Plan on the rights of the child" was presented by the Ministry of Justice, Transparency and Human Rights on 2 May 2017 and opened for public consultation. The current bill reflects the change in jurisprudence.

In communications to the Greek authorities, the Greek Transgender Support Association, Colour Youth and Amnesty International submitted a number of observations and recommendations and called the Minister to take these into account in revising the draft legislation on legal recognition of gender identity.

### **The detailed positions of the three organizations can be found in:**

SYD observations for Draft Law under consultation on the legal recognition of gender identity', Greek Transgender Support Association, Press Release, 9 May 2017, 'available at <http://www.transgender-association.gr/>.

Colour Youth positions regarding the bill on legal recognition of gender identity opened for public consultation, 22 May 2017, available at <http://www.colouryouth.gr/2017/05/22/natf/>.

Greece: Draft law on legal recognition of gender identity must be strengthened so that transgender people enjoy human rights without discrimination, Amnesty International Public Statement, 10 July 2017, <https://www.amnesty.org/en/documents/eur25/6692/2017/en/>.

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<sup>3</sup> See April 2017 ECtHR ruling (A.P. Garçon and Nicot v. France, Judgement of 6 April 2017) that found that a sterilisation requirement in legal gender recognition was a human rights violation, available at [https://hudoc.echr.coe.int/eng#{"itemid":\["001-172556"\]](https://hudoc.echr.coe.int/eng#{)]; for commentary see [http://tgeu.org/echr\\_end-sterilisation/](http://tgeu.org/echr_end-sterilisation/).