

# CHECKLIST

## GENDER RECOGNITION LEGISLATION

This checklist aims to assist in assessing the human rights compatibility of legal texts or proposals regulating gender recognition procedures. It lists the minimum standards on the commonly known issues in procedures, requirements or effects of gender recognition procedures.

This list does not claim to be complete; suggestions for amendments can be sent to [tgeu@tgeu.org](mailto:tgeu@tgeu.org). Depending on the context, it might also be necessary to take additional issues into consideration.

How to use the check list: Go through the three different sections and compare whether the legal text complies with the criteria given below. If a question cannot be answered positively, *or if the text does not address the mentioned criteria or is ill-defined*, the text should be reviewed and brought into line.

Does the proposed text comply?	
Criteria	
Procedures	
Separate procedures are available for change of name and registered gender.	
The institution in charge (e.g. administration or court) is clearly indicated in the text of the regulation.	
The procedure is quick, and the maximum duration is clearly and explicitly regulated.	
The procedure is accessible to anyone, irrespective of their economic or other capacity.	
Access of persons with limited legal capacities (minors or those under guardianship) is regulated explicitly.	
Access to the procedure for citizens living abroad is regulated explicitly.	
Recognition of foreign decisions for residents or citizens is regulated explicitly.	
Access to the procedure for foreign residents is regulated explicitly.	
The privacy of the applicant is ensured during and after the procedure.	
Professionals who disclose private information about the applicant without explicit permission of the person concerned are held accountable.	
The involvement or interference of spouses, children, work colleagues or other third parties in the procedure is barred.	
Grounds for refusal, such as fraudulent intention, are limited and explicitly listed.	
The applicant is free in the choice of names, including gender-neutral names.	
The possibility for an applicant to appeal the decision is clearly indicated, including the body to whom to address the appeal.	
Enforcement of the legislation for its correct implementation is supervised. A remedy or review mechanism is in place where practice does not correspond to the legislation.	

Requirements	
The self-determination of the applicant is the sole basis for the gender recognition.	
No interference or opinion of a third party, neither professional (mental health expert, etc.) nor private (parents, spouses, children, work colleagues, etc), is requested.	
A request for proof of surgical procedure, hormonal therapy or any of her medical or psychological treatment or status is omitted.	
The procedure is fully accessible for young and elderly applicants , irrespective of their age.	
The procedure is fully accessible for applicants who are married or in a registered partnership.	
An existing marriage or registered partnership prevails and does not need to be altered. However, the applicant and their partner can, if freely chosen, transfer their marriage into a registered partnership and vice versa (where available).	
The procedure is fully accessible for an applicant, who is a parent or has custody of, guardian ship over or visiting rights with children (independent of their age).	
The procedure is fully accessible to an applicant who has a criminal conviction.	
The applicant is not required to have lived for a certain time in their gender identity (so called „real-lifeexperience“) or have used the requested name.	
No other personal characteristics, such as physical appearance, sexual orientation, disability, health or social status may pose a valid ground for refusal or delay.	

Effects	
Upon the decision, the applicant is considered a member of the registered gender for all intents and purposes.	
Equity provisions aiming at protecting the applicant on grounds of their gender identity are explicitly regulated. (For example, prostate-cancer check-ups should be made available for trans women.)	
Upon the decision, the applicant enjoys all (gendered) rights and duties at par with others of the same registered gender.	
A change of name and gender marker leads to an automatic (ex officio) change in all held registries without a trace, where feasible.	
Once a decision is in force, the name(s) and gender marker that were in use prior to such a decision may not be made public or searchable, unless there is an overriding interest or the applicant consents.	
A change of name leads to the right to be addressed in all official documents as belonging to the corresponding gender.	
State and non-state actors are obliged to rectify gendered information, including letter and number combinations on working references, educational certificates, etc. without a trace, also retroactively.	
Existing rights and acquired privileges relating to a marriage or registered partnership remain unaffected.	
Acquired pension rights and/or similar recurring benefits remain unaffected.	
Next-of-kin relationships, especially custody and visiting rights regarding children, remain unaffected (neither can they be prerequisites for changes to gender identity).	