

# The situation of transgender persons in Russia

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**Submitted for the consideration of the 6th periodic report by the Russian Federation for the 62nd Session of the Committee on Economic, Social and Cultural Rights (CESCR)**

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**Prepared by Transgender Legal Defense Project**



This report describes specific challenges faced by transgender persons in Russia that affects their economic, social and cultural rights, namely: access to legal gender recognition, access to transition-related health care services, and discrimination related to mismatch between transgender persons' gender identity and/or appearance and their documentation.

The report also suggests a set of relevant questions and recommendations for the Russian Government. Particularly, the Government should ensure a quick, transparent and accessible procedure for legal gender recognition for transgender people; should organize trainings for medical professionals working with transgender people; should provide funds to cover gender reassignment health care services; and should adopt affirmative measures in the labour market, such as quotas for transgender persons.

## Introduction and summary

Transgender Legal Defense Project fully confirms its support of all information submitted in the coalition of civil society organizations' report on LGBTI persons' situation in Russia.<sup>1</sup>We also appreciate highly references to LGBTI made by the CESCR Committee in its List of Issues for the Russian Federation.<sup>2</sup>

Taking this in mind, we would like to specifically stressed out the need for the examination of disaggregated data, including those on particular challenges faced by transgender people in Russia. Apart from more common problems targeted all LGBTI communities, transgender people face very specific challenges when accessing their economic, social and cultural rights due to the **absence of quick, transparent and accessible procedure of legal gender recognition.**<sup>3</sup>

Therefore, this report includes information on the following issues related to the specific situation of transgender persons in Russia:

- access to LGR;
- access to transition-related health care services; and
- discrimination against transgender persons due to lack of LGR.

In addition to statistical figures and case examples referred to by the coalition report, we provide further explanation and case examples of discrimination against transgender persons in Russia.

### 1. Access to legal gender recognition

The CESCR Committee has already expressed its concerns on “the absence of legal recognition of their gender identity” that“ is a barrier to transgender persons having effective access to work, education and health services” and recommended consequently “to ensure that transgender persons have effective access to economic, social and cultural rights.”<sup>4</sup>

Even though the current Russian legislation and practice do allow change of transgender persons' documentation, there is **no quick, transparent and accessible procedure for legal gender recognition.**

The existing procedure **is not quick**, because in most cases LGR is only possible in court and not through a simple administrative procedure. Such simple administrative procedure is required by the Federal Law on Acts of Civil Status,<sup>5</sup>however, due to the fact that since 1998 the Ministry of Health has not approved a standard template for the “sex change” certificate, it is not implemented.

The existing procedure **is not transparent** due to the lack of consistency in both substantive and procedural requirements. For example, in2015,in the Transgender Legal Defense Project lawyers' practice there were several cases when transgender persons' applications have not been admitted for consideration by judges, or when their claims were dismissed on the grounds that, in the opinion of the court, they had failed to make out their case according to the relevant procedural form.

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<sup>1</sup>Hereinafter “coalition report”.

<sup>2</sup>See E/C.12/RUS/Q/6, para. 12.

<sup>3</sup>Hereinafter referred to as LGR

<sup>4</sup>Concluding Observations: Costa Rica, E/C.12/CRI/CO/5, paras. 20-21.

<sup>5</sup> Federal Law of the Russian Federation No. 143-FZ of November 15, 1997.

The existing procedure **is not accessible**, because of the complexity and the diversity of approaches to LGR that vary from region to region and from judge to judge, which does not allow for the correct handling of a case without legal education and professional experience.

Another challenge relates to the necessity of personal application to civil registry office at the place of residence, which the court and civil registry officials in most cases associate with the place of permanent registration. In essence it means the necessity for a trans person to travel to a hometown or place of birth in order to obtain LGR. Because many transgender people move to bigger cities where they have more opportunities regarding health care services, and they can start there a new live, coming back to their hometown means a risk of “outing” and even physical violence for many of them, not even mentioning financial burden related to such travelling.

Apart from that, gender reassignment surgeries, often required for LGR by civil registries and/or courts (despite the fact that according to the Russian legislation, no medical interventions are required for LGR), are expensive and not covered by any public health funds. While demanding such surgeries civil registries and/or courts often completely ignore transgender person's needs, wishes and health conditions.

The CESCR Committee has already recognized that “[l]aws and policies that indirectly perpetuate coercive medical practices, including [...] hormonal therapy, as well as surgery or sterilization requirements for legal recognition of one’s gender identity, constitute additional violations of the obligation to respect.”<sup>6</sup> Unfortunately, the results of our work and researches proves violation of this obligation by the Russian authorities.

## **2. Access to transition-related health care services**

Transgender persons in Russia are required to undergo psychiatric evaluation in order to receive an F64.0 diagnosis ('transsexualism', according to ICD-10), insofar as the presence of this diagnosis serves as an authorization for both hormonal treatment and gender reassignment surgeries. Without having this diagnosis established, it is also impossible in practice to change one's gender marker in their official documentation.

The existing legislation<sup>7</sup> affords transgender individuals the opportunity to undergo psychiatric evaluation and to receive the assistance of an endocrinologist for free as part of the state-provided health insurance system (the mandatory medical insurance system). However, it is often hard or impossible for a transgender person to receive transition-related assistance free of charge and without facing disrespect and/or verbal abuse (see case examples below). This leads to a high level of mistrust in state medical insurance system among transgender individuals.

Also, medication that is taken as part of hormone replacement therapy (which is usually prescribed to transgender people for the life term), as well as gender reassignment surgeries are not covered by

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<sup>6</sup>General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/22, para. 58.

<sup>7</sup> Ministry of Health Order No. 1221n of December 20, 2012.

mandatory state medical insurance. Therefore, transgender people have to cover all expenses related to hormone treatment and/or surgeries, by themselves.

According to a survey done by “Coming Out”, 67% of respondents (transgender people who lived in Russia) had some financial problems, 60% of respondents had problems with collecting money for gender reassignment surgery, and 31% of respondents mentioned that they were not able at all to collect funds needed for surgery. 24% of respondents told that they did not have access to a qualified endocrinologist because of financial reason.<sup>8</sup>

### 3. Discrimination against transgender people

Lack of quick, transparent and accessible procedure for LGR leads to discrimination against transgender persons because of the mismatch between their gender identity/appearance and their documentation. Being revealed as transgender persons by state and non-state actors, they are discriminated against when trying to access their economic, social and cultural rights.

Such cases occur in the labour market, in education, health care, housing and other spheres. During our monitoring activities we have recorded **136 cases of discrimination** against transgender persons that took place in Russia in the period of 2011-2016. Among these, there were 37 cases of workplace discrimination (including cases of employment denial), and 13 cases related to barriers in accessing health services.<sup>9</sup>

#### a) Workplace discrimination

Workplace discrimination is one of the major problems transgender persons face before obtaining LGR due to mismatch between their appearance/gender identity and IDs. Compelled to unemployment and lacking a stable source of income, transgender people suffer from stress, depression and a severely decreased quality of life, while many among them also face extra expenses such as hormone therapy, medical tests, examinations and/or surgeries. In addition to this, in the absence of employment opportunities, many transgender people are forced to work unofficially, illegally and even to commit transgressions as a way of providing for themselves.

#### Case examples:

*Yuna, a transgender woman, had a history of trying to find a job in Volgograd and Saint Petersburg for two years (in the period between 2013 and 2016). During this time, according to her, she had been rejected a large number of times by various companies, while applying for jobs such as advertising agent (handing out flyers), call-centre employee, courier and others. Some of these companies openly admitted that the only reason for rejection was Yuna's male ID, while other employers became openly aggressive after finding out Yuna was transgender. When she went to an employment bureau in Saint Petersburg, she was denied registration. According to*

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<sup>8</sup>See: Гендерная идентичность в эпицентре дискриминации: жизнь транс\* людей в России. СПб, 2014, p. 21.

<sup>9</sup> According to data from Transgender Legal Defense Project from 21 August 2016

*Yuna, she lived in poverty and had to resort to sex work in order to survive and afford hormone replacement therapy.<sup>10</sup>*

***Zhanna, a transgender woman from Moscow region, was invited to an interview in 'Lenta' hypermarket chain in September 2016. During the interview, after seeing Zhanna and her ID, company's HR was seemingly confused and told her that the job was not available, because 'the position had been taken'. After Zhanna asked if they had any other job for her, the interviewer responded with denial. Zhanna is convinced that her appearance was the only reason for being refused the job. She also commented that similar situations had happened several times, each time with a different employer.<sup>11</sup>***

According to our surveys that were conducted online, roughly 16% of transgender people can be considered jobless (do not have a job, do not work as freelancers, not currently studying).

Also, roughly 43% of our respondents can be considered living in poverty (cannot afford to buy enough food, or can afford food but not clothing). This is slightly worse than for the Russian population in general and greatly worse than for the young Russian population (aged 18-30).<sup>12</sup>

#### **b) Discrimination in healthcare**

Discrimination against transgender persons in Russia in the healthcare sector takes the form of verbal abuse, disrespect, refusal to allow individuals to become blood donors, and even overt denial of emergency or planned medical assistance. Transgender individuals face discrimination in healthcare both related and completely unrelated to their transition. Denial of medical assistance or non-timely provision of assistance, as well as forced self-treatment can negatively affect a transgender person's health or create a serious threat to their life.

##### **Case examples:**

***N., a transgender man from a Siberian city, in December 2015 had high fever and called an ambulance. The medical professional measured his temperature, gave him an injection and recommended hospitalization. When the medical professional revealed the name and gender on N.'s mandatory health insurance policy, he started to insult N. by calling him "a pervert". Then the medical professional collected his equipment and left, refusing to drive N. to the hospital with the comment "if he needs it so badly, he can get there on his own".<sup>13</sup>***

***Andrey, a trans man from Samara region, came to see his residential polyclinic endocrinologist in January 2016 for a prescription for hormone replacement therapy and a medical certificate needed for LGR in civil registry/court. The doctor refused to write out both the prescription and the certificate and referred him to another clinic. Andrey describes her attitude as "cold and disgusted".<sup>14</sup>***

<sup>10</sup> Violation of transgender people's rights in Russia: research results. Transgender Legal Defense Project. 2016. Pp. 13-14. [http://pravo-trans.eu/files/violation\\_of\\_the\\_rights\\_of\\_transgender\\_people\\_in\\_Russia-en.pdf](http://pravo-trans.eu/files/violation_of_the_rights_of_transgender_people_in_Russia-en.pdf)

<sup>11</sup> new data from Transgender Legal Defense Project monitoring program 2016-2017.

<sup>12</sup> <http://pravo-trans.eu/materialnoe-polozhenie-transgendernyh-lyudej-v-rossii-rezultaty-oprosa/>

<sup>13</sup> Violation of transgender people's rights in Russia: research results. Transgender Legal Defense Project. 2016. Pp. 30-31. [http://pravo-trans.eu/files/violation\\_of\\_the\\_rights\\_of\\_transgender\\_people\\_in\\_Russia-en.pdf](http://pravo-trans.eu/files/violation_of_the_rights_of_transgender_people_in_Russia-en.pdf)

<sup>14</sup> Ibid. p.31.

*Vladislav, an intersex person identifying as male, from Novosibirsk, in summer 2013, was refused getting help covered by obligatory medical insurance in a fracture clinic. The staff accused him of using his sister's insurance policy because his appearance did not match his female ID. Vladislav says failure to receive timely medical assistance resulted in health issues.*<sup>15</sup>

#### **4. Recommended questions**

- What factors (legislative, administrative, institutional, financial, etc.) have prevented the Russian Federation from developing and adopting a form of a medical certificate confirming a sex change, as required by the Federal Law 'On Acts of Civil Status', for more than 18 years?
- When will the Russian Federation develop this form, and who will be involved in this process?
- What are the requirements for legal gender recognition for transgender people wishing to change their legal gender marker?
- Why are transgender people who have not had any gender reassignment surgery or who have had only one such surgery denied legal gender recognition?
- In what way is the Russian Government planning to address the problem of gender reassignment surgery requirement prior to legal gender recognition?
- What measures have been taken in order to decrease the level of discrimination against transgender people in employment, health care, and education?
- What measures have been taken to improve access for transgender people to transition-related medical services (such as hormone replacement therapy and gender reassignment surgeries)?

#### **5. Recommendations**

In order to ensure that transgender persons' economic, social and cultural rights are respected, the Russian Federation should:

- Provide a quick, transparent and accessible procedure for legal gender recognition for transgender people, including replacement of birth certificates, passports, work record books, diplomas, etc.;
- Allow for applying for LGR to any local civil registry offices (regardless of the place of the applicant's official permanent or temporary residence);
- Remove and prevent unnecessary and unjustified requirements such as mandatory surgeries while developing and adopting new legal regulations related to legal gender recognition for transgender people;
- Provide trainings for medical professionals (such as endocrinologists, psychiatrists and surgeons) on transgender-related topics, including trans-sensitivity;
- Provide coverage of transition-related health care (such as hormone replacement therapy and gender reassignment surgeries) by mandatory state medical insurance and/or quotas for high-tech medical care;
- Provide more job opportunities for transgender individuals through, in particular, quotas for hiring transgender persons.

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<sup>15</sup>Ibid. p.33.