



Legal gender recognition in North Macedonia: a question dividing society

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Abstract: For years, transgender people have battled traditional norms in order to gain social acceptance. Now, North Macedonia is faced with an international obligation which will hopefully provide the push to take much-needed steps to enable legal gender recognition.

A transgender person was stuck in the institutional labyrinths of North Macedonia for almost a decade requesting to have the sex/gender marker and the numerical personal code on his birth certificate corrected to indicate that he was male. The European Court of Human Rights (the Court) considered that on account of the refusal of the administrative authorities to change the applicant's sex/gender marker, the state violated the person's right to private life, guaranteed by the European Convention on Human Rights ([ECHR](#)). In [X v. North Macedonia](#) the Court

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held that the current legal framework in the respondent State does not provide 'quick, transparent and accessible procedures for changing on birth certificates the registered sex of transgender people'.

This 2019 judgement imposed the international obligation on the state for its execution to be supervised by the Committee of Ministers of the Council of Europe, challenging North Macedonia to finally regulate the procedure for legal gender recognition. However, four years later the legislative changes have still not been adopted.

A promising start

Finally, in 2020, after nine years of pending proceedings, a new birth certificate with the new sex/gender marker and personal identity number was issued to the applicant, as part of the state's [obligation](#) to undertake individual measures to rectify the violation found by the Court.

The authorities swiftly initiated the proceedings for preparation of the appropriate legislative changes in order to comply with the Court's findings. The amendments [tabled](#) before parliament in 2021 envisaged that everyone over 18, who is legally capable and unmarried, has the right to legal recognition of their gender. It was anticipated that the procedure would be initiated by a request filed by the person to the Civil Status Registry, together with a copy of their ID card and notarised statement, taking full material and criminal responsibility that their gender identity does not correspond to the sex given at birth and that the change is not requested for the purpose of avoiding a contractual or legal obligation, as well as execution of a sentence imposed by a competent domestic or foreign court. Based on a final decision that legally recognises the new gender, the Civil Status Registry would change the gender data in the birth certificate and send a request for annulment of the personal identification number to the Ministry of Interior. A new birth certificate would be issued without any note of gender change. Non-governmental experts and representatives were part of the process of preparation of these amendments. This was noted as satisfactory by the [decision](#) of the Committee of Ministers at the end of 2021; however, in 2022 the government withdrew the draft amendments from

parliamentary proceedings. According to the government, they were withdrawn due to preparation of a fresh Civil Status Registration Act, however the new text would include the prepared amendments. In its [decision](#) of December 2022, the Committee of Ministers noted with concern the delay caused by the authorities' decision to withdraw the draft amendments to the Civil Status Registration Act from parliament.

A spark of hope

Since the Court's practice is obligatory, while the legislative changes are on hold, the domestic institutions are trying to give full effect of the Court's judgement and protect human rights by changing the administrative practice. By now, state institutions have adopted decisions for change of records in official documents, allowing legal gender recognition to over 15 transgender persons.

On 13 June 2023 a group of deputies submitted for adoption to parliament legislative [amendments](#) for legal gender recognition. Bearing in mind the importance for adoption of legislative changes, for the protection of human rights and the execution of the Court's judgement they decided to (re)submit the amendments which text corresponds to the abovementioned amendments that were withdrawn in 2022. On 26 June 2023, the third Pride was held in Skopje, calling on the authorities for swift adoption of the proposed amendments to the Law on Civil Status Registry, finally regulating proceedings for legal gender recognition and the adoption of a Law on Gender Equality, which, among other things defines gender as a societal construction, emphasising the insecurity and fear transgender people face in everyday activities which include an ID card. Deputies, representatives of the Government and other institutions were present at the Pride, giving support to the LGBTIQ+ community.

Dimming the spark

However, legal gender recognition has divided society. While some believe in the importance of the protection of the rights of trans people, among other groups – others oppose it.

In May 2023, religious leaders issued a [public statement](#) expressing 'concern for the future and safety of the believers, especially women and children'. Finding that the draft texts of the Law on Gender Equality and Law on Civil Status Registry are against the religious doctrines and that the legal gender recognition and the differentiation of 'sex', 'gender' and 'gender identity' is unacceptable, they consider that adoption of this legislation will lead to discrimination against women and children'. On 29 June 2023, the Orthodox Church held a [gathering](#) against the adoption of the Law on Gender Equality and Law on Civil Status Registry under the motto 'We have the duty to protect the children'. Representatives of the church have [stated](#) that they are not against any individual but they are opposed to the laws and the new context given to the term 'gender', since they view sex and gender as interconnected and that 'the implementation of these laws will endanger the rights of the majority'.

A few days before the announced gathering, the leading government party [decided](#) that 'the Law on Civil Status Registry should not be adopted in this form and the process should continue, by including all sides in order to find an acceptable solution' as well as 'to continue the consultative procedure for the text of the Law on Gender Equality, widening the public debate in order to find a solution in the interest of the whole society'.

A wave of reaction followed, condemning the church and other religious groups. [Activists](#) believe that the latter's statements are directly endangering the secularity of the state and are contrary to the constitution. They warn that the statements that 'these legislative changes are a threat to the tradition, children and family, as well as against their right to religion and belief' are fake, manipulative and divisive, encouraging hate speech and hatred towards anyone outside stereotypical norms. The church can express its concern on some social issues; however, they must refrain from opposing the rights of other groups. They [called](#) upon the Government

to emphasise its commitment to promotion of gender equality and the protection of the rights of gender diverse people.

The Commissioner for Human Rights of the Council of Europe, on 3 July 2023, in a [letter](#), called upon parliament to adopt the amendments concerning legal gender recognition, as a crucial step in the execution of the judgement [X v. North Macedonia](#), as well as in the protection of the human rights of trans people.

Wait and see

Transgender people continue to face issues in everyday activities – banks, health care services, housing, passing borders - any activity which includes an ID card – since their identity number does not correlate to the sex marker. Activists emphasise the importance of the legal gender recognition as crucial for normal life of transgender people and the foundation for political, cultural and social change to overcome social inequalities. However, adoption of the legislative changes which will finally enable transgender people to have their gender legally recognised continues to hover in limbo – stuck between the need to protect human rights and implementation of the state's international obligation and the traditional values of the society – pushed by the religious leaders. Societies must move forward, transforming in ones which include differences and respect the rights of all.