

Trans Rights Europe & Central Asia Index 2020: Indicators & Criteria

[campaign](#), [non-discrimination](#)

The **Trans Rights Europe & Central Asia Index** provides detailed information on the legal situation of all 47 Council of Europe member States and five Central Asian countries. The Index covers a total of 30 indicators in six legal categories: legal gender recognition, asylum, bias-motivated speech and violence, non-discrimination, health, and family.

Legal Gender Recognition

- **Existence of legal measures:**

Criteria:

There is legislation in place for legal gender recognition and there is a procedure that provides consistent results.

- **Existence of administrative measures:**

Criteria:

There is a clearly established administrative procedure in place for legal gender recognition, or court decisions, and they provide consistent results.

- **Name change:**

Criteria:

There is a legal or administrative procedure in place that makes name change possible for trans people, and it provides consistent results. This includes [deed poll](#) (a written declaration used in the UK to change one's name. It needs to be signed by the person concerned and two witnesses).

- **Name change without age restriction (*new*):**

Criteria:

There is a legal or administrative procedure in place that makes name change possible for trans people under 18, without any age restriction, and it provides consistent results. This includes deed poll.

- **Self-determination:**

Criteria:

A point is awarded if all of the following criteria are met:

- LGR is based exclusively on the expressed wish of the person concerned e.g. by declaration
- Does not require third party involvement, e.g. judge, medical expert, intercessor
- Intersex status and/ or sex characteristics are not a contraindication.
- **No diagnosis or psychological opinion required:**

Criteria:

Diagnosis (such as Gender Identity Disorder, Gender Incongruence, or similar) or psychological opinion are not required for legal gender recognition.

- **No compulsory medical intervention required:**

Criteria:

Non-surgical medical interventions (such as medical examinations, assessments, hormone therapy) are not required for legal gender recognition.

- **No compulsory surgical intervention required:**

Criteria:

Surgical interventions are not required for legal gender recognition.

- **No compulsory sterilisation required:**

Criteria:

Sterilisation or proof of infertility are not required for legal gender recognition.

- **No compulsory divorce required:**

Criteria:

Divorce or single status are not required for legal gender recognition.

- **LGR without age restriction (*new*):**

Criteria:

The legal or administrative procedures in place for legal gender recognition have no age restriction, and they provide consistent results for minors.

- **Self-determination based LGR without age restriction (*new*):**

Criteria:

A point is awarded if all of the following criteria are met:

- There is no explicit age restriction for minors to change their legal gender
- LGR is based exclusively on the expressed wish of the person concerned e.g. by declaration
- Does not require third party involvement, e.g. judge, medical expert, intercessor
- Intersex status and/ or sex characteristics are not a contraindication.

- **Gender non-binary recognition:**

Criteria:

A point is awarded if:

- *More than two gender marker options ("X", "NB", "other", or other option(s)) are available in the public registry (e.g. Register of Births, etc.); and*
- Available for those who seek it (not forced);

OR

- No mandatory recording of gender marker in the public registry (ability to opt out from recording of gender marker available to all, not only trans/intersex people).

Half a point is awarded if:

- *More than two gender marker options (such as "X") are available in passport only, and*
- Available for those who seek it (not forced).

Asylum

Criteria:

Gender identity is expressly included in asylum law as a qualification criterion.

- **Policy/other positive measures:**

Criteria:

Gender identity is expressly included in policy/instructions/other positive measures. This only refers to actions based on a recurrent and continuing framework by state actors (ad hoc measures do not count).

Examples:

- Existence of specific measures in a general national LGBTI equality action plan
- Existence of a sectoral action plan in the area of asylum

Bias-motivated Speech and Violence

- **Hate crime law:**

Criteria:

Bias based on the victim's (perceived) gender identity is expressly included in hate crime legislation as an aggravating factor.

- **Hate speech law:**

Criteria:

Gender identity is expressly included in hate speech legislation as an aggravating factor.

- **Policy tackling hatred:**

Criteria:

Gender identity is included in a national strategy tackling hatred (hate crimes or hate speech). This only refers to actions based on a recurrent and continuing framework by state actors (ad hoc measures do not count).

Examples:

- Existence of specific measures addressing hatred in a general national LGBT equality action plan
- Existence of a specific sectoral action plan in the area of hate crime/hate speech covering LGBTI
- Existence of generalised training curricula for competent professionals (e.g. police officers, prosecutors, victim support services, judges)
- Existence of specialised dedicated structure(s) within the competent public authorities, with an expertise in the area of LGBTI hate crime/hate speech

Non-Discrimination

- **Employment:**

Criteria:

Legislation prohibits discrimination in the field of employment and gender identity is expressly mentioned. Equivalent ground e.g. sexual identity, gender reassignment, etc. accepted too.

- **Health:**

Criteria:

Legislation prohibits discrimination in the field of health and gender identity is expressly mentioned. Equivalent ground e.g. sexual identity, gender reassignment, etc. accepted too.

- **Education:**

Criteria:

Legislation prohibits discrimination in the field of education and gender identity is expressly mentioned. Equivalent ground e.g. sexual identity, gender reassignment, etc. accepted too.

- **Goods & services:**

Criteria:

Legislation prohibits discrimination in the field of goods & services and gender identity is expressly mentioned. Equivalent ground e.g. sexual identity, gender reassignment, etc. accepted too.

- **Housing (new):**

Criteria:

Legislation prohibits discrimination in the field of housing and gender identity is expressly mentioned. Equivalent ground e.g. sexual identity, gender reassignment, etc. accepted too.

- **Equality body mandate:**

Criteria:

A national human rights institution / equality body is explicitly mandated to work on gender identity in its law/founding documents, or where the national human rights institution / equality body is systematically working on issues covering gender identity. Equivalent grounds (sexual identity, gender reassignment, etc.) are accepted too.

Equality action plan: covers action plans, which expressly include gender identity, and include specific measures for progress. Equivalent grounds (sexual identity, gender reassignment, etc.) accepted too. A full point is awarded when the action plan entails or is followed up with the following measures:

- Detailed projects or initiatives within the time span
- Allocation of resources (financial or human resources)
- Clear responsibilities for proper implementation
- Setup of monitoring procedure.

A half point is awarded when a part of these criteria are met.

Law (gender expression): Legislation prohibits discrimination and expressly includes gender expression.

Health

- **Depathologisation:**

Criteria:

A point is awarded if all of the following criteria are met:

- No mental health diagnosis relating to trans identities in national clinical classification standards or equivalent; neither for adults/ adolescents nor for pre-puberty children
- Access to and cost coverage for trans-specific healthcare (TSHC) for adults/ adolescents is possible without requiring a mental health assessment or diagnosis.
- Access to and cost coverage for support services for pre-puberty trans and gender variant children is ensured without requesting a diagnosis of "Gender Incongruence in Childhood" (ICD11) or equivalent.
- **Conversion therapy prohibited:**

Criteria:

There are legal or policy measures in place prohibiting reparative or conversion therapy that is practiced against trans people.

Family Rights

- **Parenthood Recognition (new):**

Criteria:

A trans parent's legal gender and name are recognized in their child's birth certificate (or other documentation of kinship) and "mother" or "father" are used according to the parent's legal gender.

- **Non-binary parenthood recognition (*new*):**

Criteria:

A point is awarded if:

- Regulations regarding recognition of parenthood can be aligned with available gender options where more than two gender markers are available, i.e. non-binary parents are able to be recognized as "parent" on their child's birth certificate or other documentation of kinship; or
- All parents are recorded as "parent".

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