

5. Privacy: gender recognition and family life

5.1. Introduction

Part of every life is private and member states have positive obligations under the European Convention on Human Rights to protect this private sphere. In fact, Article 8 on the right to respect for private and family life of the Convention has a vast scope of application. In addition to family life, it may also protect, for example, medical information, correspondence, collection of personal data and many issues related to self-identity. This chapter examines two aspects of private life which are particularly important for LGBT persons: the legal recognition of a person's preferred gender and family life in several respects.

First, gender or sex is an integral part of self-identity for practically all people, whether they are heterosexual, gay, lesbian or bisexual, and an especially intimate part of private life under Article 8 of the Convention. Gender identity is of course a crucial issue for transgender persons. People who are ill at ease with the gender they were assigned at birth may face difficulties in later life if they want to change their legal gender. This chapter starts with an analysis of the legislative framework and practice in place for the legal recognition of preferred gender and explores to what extent the authorities of member states protect transgender persons from interference with it.

Second, this chapter considers to what extent member states currently protect the private and family lives of LGBT persons and enable the respect due to them under Article 8. It starts with the ability to seal a legal partnership and examines whether same-sex couples receive the rights and benefits which are customarily granted to different-sex partners. Parental rights are of particular interest here because many LGBT persons have children and the rights to custody, inheritance and next-of-kin status need to be assured in the best interests of the child.

The European Court of Human Rights no longer considers that the right to marry under the European Convention of Human Rights must in all circumstances be limited to different-sex couples and has found it artificial to maintain that a same-sex couple cannot enjoy “family life” for the purposes of Article 8 of the Convention.²⁷⁸ This landmark ruling from 2010 reflects a decade of rapid change that saw some Council of Europe member states introduce the right to marry for same-sex couples. However, Council of Europe member states are not obliged to give access to marriage to same-

278. *Schalk and Kopf v. Austria*, Application No. 30141/04, judgment of 24 June 2010, paragraph 55. It built on arguments in earlier cases, notably *Karner v. Austria*, Application No. 40016/98, judgment of 24 July 2003 and *Kozak v. Poland*, Application No. 13102/02, judgment of 2 March 2010, and was repeated in the case of *P. B. and J. S. v. Austria*, Application No. 18984/02, judgment of 22 July 2010. Until June 2010, the Court had interpreted Article 12 of the European Convention on Human Rights, which affords the right to marry and found a family to “men and women of marriageable age” as the prerogative of different-sex couples.

sex partners and they enjoy a wide margin of appreciation in this field under Article 12 of the Convention on the right to marry, which refers directly to national legislation. The Charter of Fundamental Rights of the European Union includes a gender-neutral Article 9 on the right to marry and found a family but recognises the subsidiarity principle vis-à-vis national legislation in this field. Yet member states that do not give cohabiting same-sex couples the opportunity to marry or enter into a legal partnership cannot treat such couples less favourably than cohabiting different-sex couples in the same situation, unless the less favourable treatment can be justified by very weighty reasons.

5.2. Recognition of transgender persons' new gender and name

European standards

For transgender persons it is crucial to acquire the state's legal recognition of the preferred gender. In practice this implies a rectification of the recorded sex on birth certificate or civil register. A second issue is the change of first name. Changes are also needed for other official documents such as passports, driving licences, social security or tax numbers as well as other documents including pension accounts, school diplomas, credit cards, or mortgage contracts. They may identify the bearer not only by name and gender explicitly, but also by an encoded "gender marker", such as 1 for men and 2 for women. For many transgender persons in Council of Europe member states these are complex and cumbersome processes.

The case law of the European Court of Human Rights has evolved over time and developed new standards on legal recognition of the preferred gender. In *Christine Goodwin v. United Kingdom*, in which the Court found a violation of Articles 8 and 12, the Court argued that there is "clear and uncontested evidence of a continuing international trend in favour not only of increased social acceptance of transsexuals but of legal recognition of the new sexual identity of post-operative transsexuals".²⁷⁹ Member states are therefore required to legally recognise the gender reassignment of these persons. This was reiterated in 2007 in the case of *L. v. Lithuania*, when the Court stressed that a legislative gap on full gender reassignment treatment left the applicant "in a situation of distressing uncertainty vis-à-vis his private life and the recognition of his true identity".²⁸⁰

279. European Court of Human Rights, *Christine Goodwin v. the United Kingdom*, Application No. 28957/95, judgment of 11 July 2002, paragraph 85. The Gender Recognition Act (2004) was enacted as a response to this judgment.

280. European Court of Human Rights, *L. v. Lithuania*, Application No. 27527/03, judgment of 11 September 2007, paragraph 59. The Committee of Ministers is supervising the execution of judgment in this case.

The Commissioner for Human Rights,²⁸¹ the Council of Europe's Committee of Ministers²⁸² and the Parliamentary Assembly²⁸³ have also emphasised states' positive obligation in this regard. The Committee of Ministers has recommended member states to "take appropriate measures to make possible the change of name and gender in official documents in a quick, transparent and accessible way" as well as to "ensure, where appropriate, the corresponding recognition and changes by non-state actors with respect to key documents, such as educational or work certificates".²⁸⁴

The European Court gives states wide discretion for the means of recognising the preferred gender and name. In practice the requirements can be medical (for example surgery leading to sterilisation, a gender dysphoria diagnosis or a medical opinion, preceded by psychological or psychiatric treatment), legal (for example a court order, automatic divorce) or of another nature (for example being childless, "real-life experience" or the intention to live in the opposite gender for a specific period). In many member states there is a blurring of such legal and medical requirements. The length and cost of these procedures may vary significantly and result in them being beyond the reach of the interested parties. Procedures often involve fees for diagnosis, medical treatment and court proceedings, all of which can be a significant burden for a single individual.

To date, no cases have been judged by the European Court of Human Rights over requirements such as mandatory sterilisation and surgery leading to infertility. The Recommendation of the Committee of Ministers, however, states that "requirements, including changes of a physical nature, for legal recognition of a gender reassignment, should be regularly reviewed in order to remove abusive requirements".²⁸⁵ Parliamentary Assembly Resolution 1728 (2010) calls upon member states to ensure that "official documents reflect an individual's preferred gender identity, without any prior obligation to undergo sterilisation or other medical procedures such as sex reassignment surgery and hormonal therapy".²⁸⁶

National legislation regulating gender recognition

Twenty-four Council of Europe member states have adopted legislation on the legal recognition of the preferred gender. This is the case in Austria, Belgium, Cyprus, the Czech Republic, Denmark, Finland, Germany, Greece, Italy,

281. Commissioner for Human Rights, "Human Rights and Gender Identity", Issue Paper, Strasbourg, 2009.

282. Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, adopted on 31 March 2010.

283. Council of Europe, Parliamentary Assembly Resolution 1728 (2010) on discrimination on the basis of sexual orientation and gender identity, adopted 29 April 2010.

284. Council of Europe, Recommendation CM/Rec(2010)5 of the Committee of Ministers on measures to combat discrimination against discrimination on grounds of sexual orientation or gender identity, paragraph 21.

285. Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, adopted in 31 March 2010, paragraph 20.

286. Council of Europe, Parliamentary Assembly Resolution 1728 (2010) on discrimination on the basis of sexual orientation and gender identity, adopted 29 April 2010, paragraph 16.11.2.

Latvia,²⁸⁷ Malta, Montenegro, the Netherlands, Norway, Portugal, Romania, the Russian Federation, Slovakia, Spain, Sweden, Switzerland (in some cantons only – no national legislation), Turkey, Ukraine and the United Kingdom.²⁸⁸ In 10 Council of Europe member states this report has not identified legislation regulating the legal gender recognition. This is the case in Albania, Andorra, Armenia, Azerbaijan, Ireland,²⁸⁹ Liechtenstein, Monaco, San Marino, Slovenia and “the former Yugoslav Republic of Macedonia”. Nor did this study find evidence that these 10 states offer the possibility for transgender persons to have their preferred gender legally recognised in an alternative manner (in the absence of legislation). In 13 other member states transgender persons are able to have their new gender legally recognised, either through going to court or by certain administrative practices or decrees. This is the case in Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, France, Georgia, Hungary, Iceland, Lithuania, Luxembourg, Moldova, Poland and Serbia.

However, in some of the states where legislation is in place, such legislation is not always clear in its scope. For example, some laws appear to confuse the legal recognition of the preferred gender with procedures regulating access to gender reassignment treatment. In other instances laws are not implemented – in Ukraine, NGOs report that the medical board in charge of deciding on applications from transgender persons did not meet once in the period 2007-2008 despite its obligation to meet every three months.²⁹⁰ In yet other instances, procedures described in laws are not “quick, transparent and accessible” as recommended by the Committee of Ministers. Transgender persons have expressed concern regarding such procedures and the inability to have decisions on their legal gender recognition made subject to judicial review.

Surgery leading to sterilisation as a requirement for legal gender recognition

Some countries require surgery leading to sterilisation before they legally recognise the new gender. It should be stressed that this requirement would also apply in the absence of a medical necessity or the applicant's wish for such surgery. Surgery leading to sterilisation has been identified as a requirement in 29 member states (Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark,²⁹¹ Estonia, Finland,²⁹² France,

287. Amendments have been proposed to the Civil Status Document Law allowing for the rectification of the recorded sex in the birth registry, but these proposals have not been adopted. European Union Agency for Fundamental Human Rights, “Homophobia, Transphobia, Discrimination on Grounds of Sexual Orientation and Gender Identity: 2010 Update – A Comparative Legal Analysis”, 2010, p. 15.

288. However, (aspects of) the law have been declared unconstitutional in Germany and Austria, therefore these member states will have to adapt their laws or develop new legislation.

289. However, the Irish Government has stated in its government programme that it “will ensure that transgender people will have legal recognition and extend the protections of the equality legislation to them”. See “Towards Recovery: Programme for a National Government 2011-2016”, p. 54.

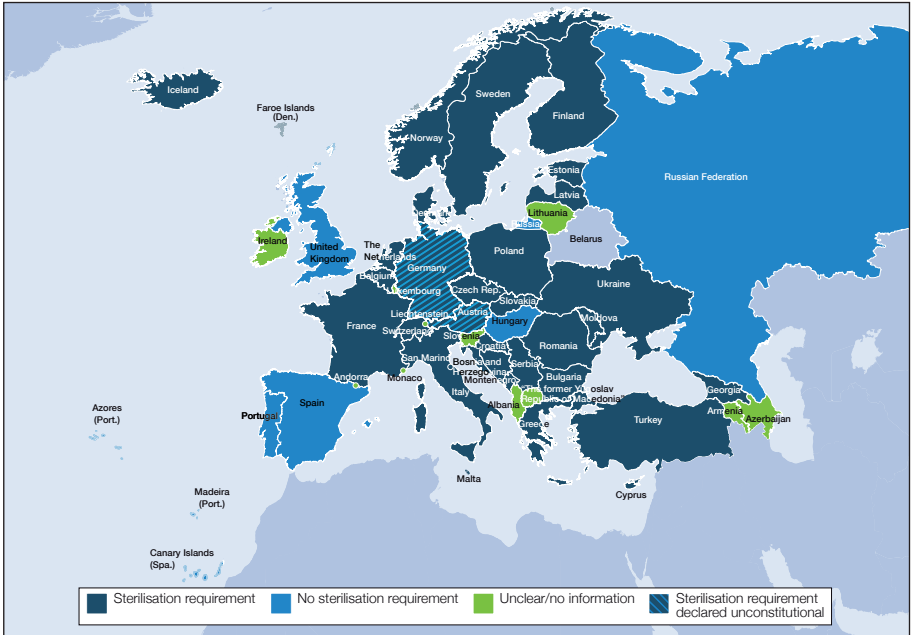
290. National contribution (sociological report) on Ukraine, p. 27.

291. In Denmark a “permission for castration” is required. FRA national contribution (legal report) on Denmark, p. 23.

292. Despite the legally prescribed requirement, there is evidence that cross-hormonal treatment for a minimum period of six months is also accepted as proof of infertility in Finland.

Georgia, Greece, Iceland, Italy, Latvia, Malta, Moldova, Montenegro, the Netherlands, Norway, Poland, Romania, San Marino, Serbia, Slovakia, Sweden, Switzerland²⁹³ Turkey and Ukraine). In two member states, Austria²⁹⁴ and Germany,²⁹⁵ the “sterilisation requirement” has been declared unconstitutional by their respective constitutional courts, but no new legislation has been proposed or adopted. In four member states – Hungary (administrative practice), Portugal, Spain and the United Kingdom (by law) – no requirements of sterilisation are enforced. In the Russian Federation there is also no legal basis for sterilisation, though some civil registry offices or courts have reportedly required sterilisation in order to recognise the new gender. In the remaining 11 member states there is either no legislation regulating legal gender recognition or the situation regarding the sterilisation requirement is unclear (see Map 5.1).

Map 5.1: Sterilisation as a requirement for legal gender recognition



Divorce as a requirement for legal gender recognition

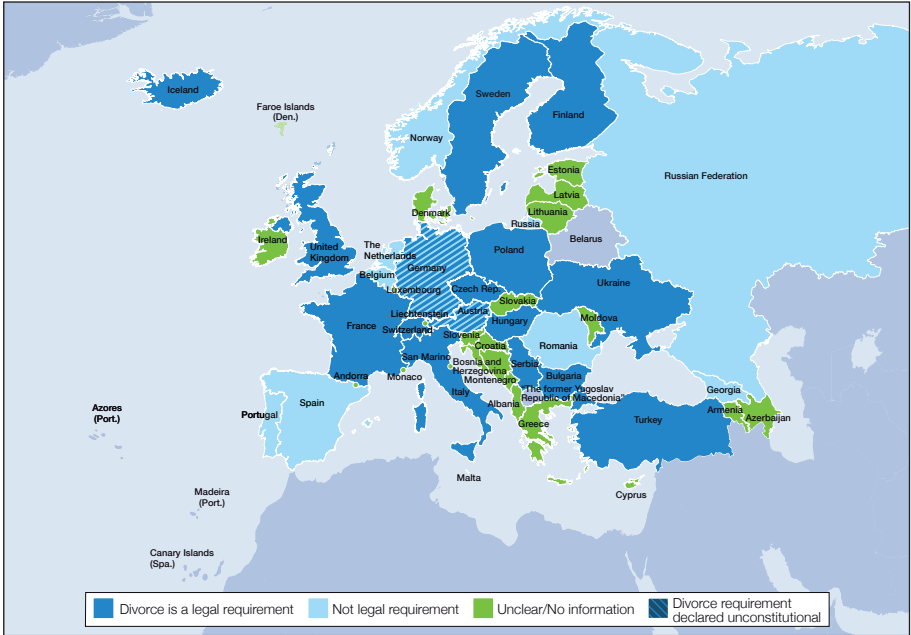
Many member states of the Council of Europe require transgender persons to be unmarried in order to be legally recognised in the preferred gender. In 15 member states (Bulgaria, the Czech Republic, Finland, France, Hungary,

293. However, not in all cantons, as the Zurich High Court decided on 1 February 2011 that for the purpose of legal recognition of the preferred gender there is no need to be irreversibly infertile. Cantonal High Court of Zurich (Obergericht des Kantons Zürich), NC090012, 1 February 2011.
 294. Constitutional Court of Austria (Verfassungsgerichtshof), V 4/06, 8 June 2006.
 295. Federal Constitutional Court of Germany (Bundesverfassungsgericht), 1 BvR 3295/07, 11 January 2011.

Iceland, Italy, Malta, Poland, Serbia, Sweden, Switzerland,²⁹⁶ Turkey, Ukraine and the United Kingdom) the person who applies for a rectification of the recorded sex has to be unmarried. This entails mandatory divorce if the person is already married. Divorce is not required by six member states (Belgium, Georgia, the Netherlands, Portugal, Romania and Spain). In the Russian Federation there is also no legal requirement for divorce though some transgender persons reported that the existence of a marriage was regarded as an obstacle to be legally recognised in the new gender.

In the remaining 25 member states the information regarding the divorce requirement is either unclear or there is no legislation in force (see Map 5.2).

Map 5.2: Divorce as a requirement for legal gender recognition



While the European Court of Human Rights has given a wide margin of appreciation to member states which require the unmarried status for legal gender recognition,²⁹⁷ it has also acknowledged that such legislation “clearly puts transgender persons in a quandary” since they have effectively to choose between gender recognition or remaining married.²⁹⁸ Rulings by the highest courts in some member states, however, point in a different direction. The

296. Only some cantons in Switzerland require divorce.

297. European Court of Human Rights, *Parry v. United Kingdom*, Application No. 42971/05, Admissibility Decision, 28 November 2006; *R. and F. v. United Kingdom*, Application No. 35748/05, Admissibility Decision, 28 November 2006.

298. A case is pending before the European Court of Human Rights. In the communicated case *H. v. Finland*, Application No. 37359/09, the applicant complained, *inter alia*, that she could not change her identity number unless she divorced her wife.

Austrian Constitutional Court granted a transgender woman the right to change her sex to female while remaining married to her wife. It ruled that “changing a sex entry in a birth certificate cannot be hindered by marriage”.²⁹⁹ The German Constitutional Court in 2008 ruled that change of sex on a birth certificate should not lead to a mandatory divorce, resulting in a decision³⁰⁰ that prompted a change in the German law and ended compulsory divorce for married couples in which one partner is transgender.

Change of name

Transgender persons may wish to change their first name regardless of their desire to undergo gender reassignment treatment. In order to be eligible for a change of first name, there are similar patterns to some of the procedures described above for legal gender recognition. However, in some countries a name change is easier to obtain since most countries have general provisions for a name change in their law – also for non-transgender persons who want to change their first or last name. A problem arises, however, that in some countries there is a limited choice of names available for the purpose. Reportedly in some member states only gender-neutral names can be chosen while in other member states the opposite is true: no gender-neutral names are allowed.

Generally, member states require some form of medical opinion. Some states allow a change of name on documents only on production of a certificate from the medical profession confirming that gender reassignment surgery has taken place or evidence of the legal gender recognition (for example Croatia, Georgia, Latvia, Moldova, San Marino, Slovakia and Ukraine). At least three other member states require proof of hormonal treatment (Belgium, Croatia and Switzerland). In yet other states applicants need to have a gender dysphoria diagnosis to qualify for the name change (Denmark, Germany, Finland and some cantons in Switzerland). In some states such as Malta a court authorisation is required for a change of name. In the United Kingdom and Ireland a certificate from a notary is sufficient to secure a legal name change. In Ireland, it is remarkable that while it is impossible to receive legal gender recognition, there is a relatively simple procedure for a name change.

Privacy is not always respected during such processes. For example, in Croatia, the Personal Names Act³⁰¹ prescribes that after receiving a request for a change of name, the municipal administrative body is obliged to publish an announcement of the submitted request on a public notice board. The State Registries Act then prescribes that a change of personal name and sex are entered as additional entries. This means that if a person changes her name from Marko to Ana, she will have a birth certificate in which ‘Marko’

299. Constitutional Court of Austria (Verfassungsgerichtshof), V 4/06, 8 June 2006.

300. Federal Constitutional Court of Germany (Bundesverfassungsgericht), 1 BvL 10/05, 27 May 2008.

301. Personal Names Act, OG, No. 69/92.

will be entered in the basic entry, and below, in small letters at the bottom of the document, the following note would be added: “By the decision of the municipal administrative body No. ..., the name was changed to Ana on the date ...”). As a result, all citizens are able to find out about the applicant’s change of gender and name when the data is published on the notice board, and later on that information is also visible in birth certificates.

The difficulty of living with documents that reflect the wrong gender identity or wrong name cannot be exaggerated. Transgender persons who have been unable to change their passport or ID experience problems every time they have to identify themselves, for example when paying with a credit card, taking out a library book, opening a bank account or crossing a border. As a result of having inadequate documents, transgender persons can spend long periods of life effectively barred from meaningful and full participation in society, education or employment, as they may face continual problems “justifying” their identities. Transgender persons may also face practical problems in institutional settings such as hospitals, public toilets, police stations³⁰² and prisons.

Even after transgender persons have achieved legal gender recognition and the change of name, the problems with privacy may not always disappear – for example when transgender persons are unable to change their name and gender on their diplomas and other educational documents. Some graduate transgender persons have had difficulty changing the sex or name on diplomas that were issued before their gender was legally recognised. The Ministry of Education in the Netherlands has ordered all universities to change graduates’ diplomas on legal gender recognition, after the University of Amsterdam lost a case against a former student at the Equal Treatment Commission in 2010.³⁰³ The Committee of Ministers in its Recommendation R(2010)5 has explicitly stipulated that member states should provide effective protection of privacy of transgender persons in relation to, for example, employment applications, and with regard to disclosure of the gender identity history.³⁰⁴ However, in a survey in Scotland (United Kingdom) “40% of transgender respondents rated the services of their human resources departments as “extremely poor (...) and 15% felt that their employer failed to protect their privacy”.³⁰⁵

302. For example, in France, a transgender woman whose ID papers indicated that she is male complained that she was put in the male ward of a prison. Communication received by the Office of the Commissioner for Human Rights.

303. Dutch Equal Treatment Commission, Decision No. 2010-175, 30 November 2010.

304. Committee of Ministers Recommendation R(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, paragraphs 29 and 30.

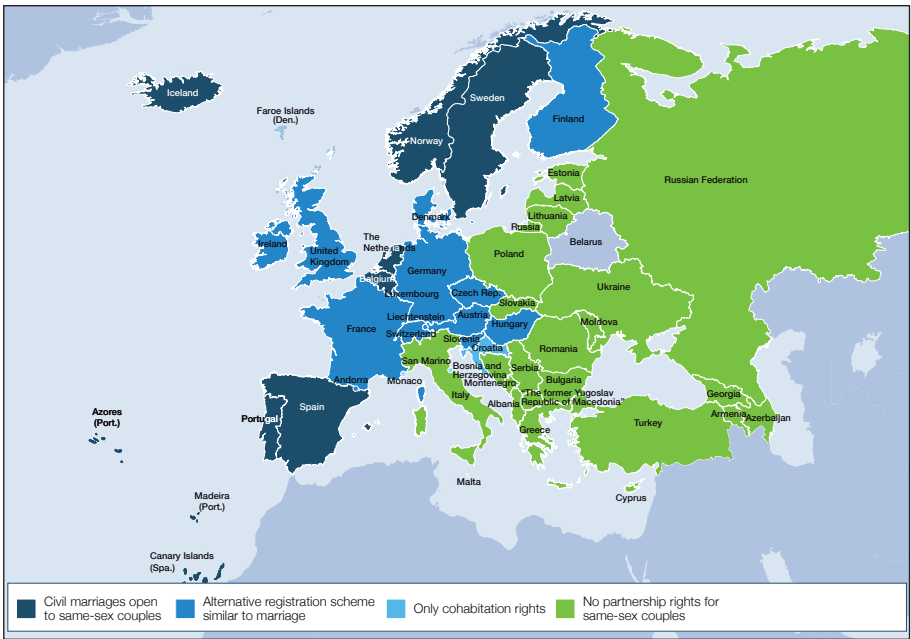
305. Scottish Transgender Alliance, “Transgender Experiences in Scotland – Research Summary”, Equality Network, Edinburgh, 2008, pp. 14-15, also quoted in European Union Agency for Fundamental Human Rights, “Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the European Union Member States: Part II – The Social Situation”, 2009, p. 117.

5.3. The right to marry and legally contract a partnership

European standards and the national situation

Same-sex couples do not as yet have the right to marry under international human rights law, but their legal rights have evolved through changes in national legislation and recent European jurisprudence. In the case of *Schalk and Kopf v. Austria* in June 2010, the European Court of Human Rights recognised for the first time that same-sex partners enjoy “family life” in the sense of Article 8 of the European Convention on Human Rights. Seven member states (Belgium, Iceland, the Netherlands, Norway, Portugal, Spain and Sweden) have given same-sex partners access to marriage (see Map 5.3). Fourteen others have introduced a form of registered partnership (Andorra, Austria, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Liechtenstein, Luxembourg, Slovenia, Switzerland and the United Kingdom). Croatia has introduced a system of cohabitation rights for same-sex partners.

Map 5.3: Legislation regarding same-sex partnerships



The remaining 25 member states (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Georgia, Greece, Italy, Latvia, Lithuania, Malta, Moldova, Monaco, Montenegro, Poland, Romania, the Russian Federation, San Marino, Serbia, Slovakia, “the former Yugoslav Republic of Macedonia”, Turkey and Ukraine) do not legally recognise same-sex couples through marriage, partnership registration or cohabitation rights. Some of these member states (Bulgaria, Latvia, Moldova, Lithuania,

Montenegro, Serbia, Ukraine and Romania) have specified that marriage is the prerogative of different-sex couples.³⁰⁶

Some member states would refuse to recognise same-sex partnerships and marriages concluded abroad. Others wish to avoid having their nationals enter a same-sex partnership abroad at all. Before they register a partnership or marriage abroad Polish citizens, for example, usually need to present a certificate from the Polish Civil Status Office confirming that they are unmarried. The Ministry of Internal Affairs and Administration of Poland has instructed³⁰⁷ that certificates will be issued only to persons wishing to enter a different-sex marriage. Lesbian women, bisexual or gay men wishing to enter a marriage or partnership abroad must obtain special notary certificates at additional cost and effort. A petition of Polish NGOs on this subject was presented on 31 May 2010 to the European Parliament Petitions Committee, which is examining it.

States that do not give same-sex couples the opportunity to marry or to enter into a legal partnership arrangement granting the same or similar rights must ensure that they do not treat them less favourably than cohabiting different-sex couples in the same situation, unless the less favourable treatment can be justified by very weighty reasons.³⁰⁸ Over the last decade, the European Court of Human Rights has gradually narrowed states' margin of appreciation in this area. In the case of *Karner v. Austria* it found that the Convention had been breached when Austria terminated the tenancy of someone whose same-sex partner had just died. In the ruling, the Court found that the Austrian Government had failed to advance any arguments (particularly the need to protect the "traditional family") that showed that excluding same-sex couples from the provisions of the Rent Act was necessary to achieve its objective.³⁰⁹

With regard to differences in treatment between same-sex registered partners and married different-sex couples, the Court has stated that member states enjoy a certain margin of appreciation concerning the exact status given by alternative means of recognition.³¹⁰ In its Recommendation CM/Rec(2010)5,

306. National contributions (legal reports) on the relevant member states; European Union Agency for Fundamental Human Rights, "Homophobia, Transphobia, Discrimination on Grounds of Sexual Orientation and Gender Identity: 2010 Update – A Comparative Legal Analysis", 2010, pp. 46-47.

307. Instruction of the Deputy Director of the Department for Information Technology Development and State Registers of the Ministry of the Interior and Administration of 3 April 2002, No. DIR-V-6000-21-2731/2002.

308. The Court also held in other cases that, where a difference of treatment is based on sexual orientation, the margin afforded to the state is narrow. See, for example, European Court of Human Rights, *E. B. v. France*, Application No. 43546/02, paragraphs 91 and 93, *S. L. v. Austria*, Application No. 45330/99, judgment of 9 January 2003, paragraph 37, *Smith and Grady v. United Kingdom*, Applications Nos. 33985/96 and 33986/96, judgment of 27 September 1999, paragraphs 89 and 94; *Karner v. Austria*, Application No. 40016/98, judgment of 24 July 2003, paragraphs 37 and 41, and *Kozak v. Poland*, Application No. 13102/02, judgment of 2 March 2010, paragraph 92.

309. European Court of Human Rights, *Karner v. Austria*, Application No. 40016/98, judgment of 24 July 2003, paragraph 92.

310. European Court of Human Rights, *Schalk and Kopf v. Austria*, Application No. 30141/04, judgment of 24 June 2010, paragraph 108.

the Committee of Ministers recalls and reiterates the case law of the Court and recommends as follows: “Where States grant rights and obligations to unmarried couples, these should apply equally to same-sex couples; where States grant rights and obligations to same-sex couples through registered partnerships, these should be the same as for heterosexual couples in a comparable situation; and where neither of these situations apply, States should consider the possibility of providing same-sex couples with legal or other means to address the practical problems related to the social reality in which they live.”³¹¹

Transgender persons’ right to marry

Case law from the European Court of Human Rights on the right of transsexual persons to marry has also evolved. Before 2002 it held that the right to marry under Article 12 of the European Convention on Human Rights referred exclusively to marriage between persons of different biological sex.³¹² In the case of *Goodwin v. United Kingdom* in 2002, however, it found that the right to marry can no longer depend on a gender determination based only on biological criteria, and should extend to transsexual persons who have undergone gender reassignment surgery and wish to marry a person of the opposite sex after gender reassignment. It found that the United Kingdom had violated the right to marry of a transgender woman when it prevented her from amending her birth certificate and so marrying a male partner.³¹³ However, transgender persons may still face obstacles in this regard in some member states. For example in Malta in 2007 a transgender woman who had successfully legally changed her sex to “female” on her birth certificate was refused permission to marry her male partner by the Maltese Marriage Registrar on the basis that the applicant was a man and could not be authorised to marry a man. While the applicant’s initial request to marry was first upheld by the court, it was later successfully challenged by the Marriage Registrar. In view of this, the applicant filed a constitutional case alleging a violation of her right to marry and the Maltese Constitutional Court decided in her favour on 30 November 2010 citing jurisprudence from the European Court of Human Rights. The Marriage Registrar, however, appealed this decision on 17 December 2010.³¹⁴

311. Committee of Ministers Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, adopted 31 March 2010, paragraphs 23-25.

312. European Court of Human Rights, *Rees v. United Kingdom*, Application No. 9532/81, judgment of 17 October 1986, paragraphs 49-51; *Cossey v. United Kingdom*, Application No. 10843/84, judgment of 27 September 1990, paragraphs 43-48; *Sheffield and Horsham v. United Kingdom*, Applications Nos. 22985/93 and 23390/94, judgment of 30 July 1998 (Grand Chamber), paragraphs 62-70.

313. European Court of Human Rights, *Christine Goodwin v. United Kingdom*, Application No. 28957/95, judgment of 11 July 2002, paragraphs 100-104. See also *I. v. United Kingdom*, Application No. 25680/94, judgment of 11 July 2002.

314. *Cassar Joanne v. Direttur Tar-Registru Pubbliku*, Application No. 43/2008, 30 November 2010, Civil First Hall. The final judgment is pending.