



**Tithe an
Oireachtais**
Houses of the
Oireachtas

**An Comhchoiste um Dhlí
agus Ceart agus
Comhionannas**
Teach Laighean

Baile Átha Cliath 2

**Joint Committee on
Justice and Equality**
Leinster House
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24 January 2018

Ms Elza Pais
Chair of the Subcommittee for Equality and Non-Discrimination
Committee for Constitutional Affairs, Rights, Freedoms and Guarantees
1249-068 LISBOA

Re: The right to self-determination of gender identity

Dear Member Pais,

I write to you in relation to your request for the views of the Joint Committee on Justice and Equality on the three legislative initiatives you are currently examining.

I regret that it is not feasible for the Committee to give due consideration to the Bills at this time. However, I hope the following synopsis of the legislative position in Ireland will assist in your deliberations.

Legislative position in Ireland

The [Gender Recognition Act 2015](#) (hereinafter 'the Act') was enacted on the 22 July 2015 and commenced on 4 September 2015.

The principal features of the Act include:

- The introduction of a self-declaration model for transgender people aged 18 or over by way of application to the Minister for Social Protection. The Minister's decision must include reasons for the decision and notify the applicant of the appeals process;

- A route to gender recognition for 16/17 year olds. A court order pursuant to section 12 of the Act is required in order for the application of a 16/17 year old to be considered by the Minister. To obtain such an order:
 - the child's parent(s) or guardian(s) must consent,
 - a certificate must be obtained from the child's primary treating medical practitioner and,
 - a certificate must be obtained from an endocrinologist or psychiatrist who has no connection to the child certifying that his or her medical opinion concurs with that of the medical practitioner;
- The use of the term 'preferred gender' in the wording of the Act;
- Alignment of legislation in relation to the issuing of passports to transgender people; and
- A formal review of the operation of the Act to be started no later than two years after its commencement.

Section 6 of the Act provides for an annual review of the operation of the Act. The second annual review of the operation of the Act - covering the period from 1 January 2016 to 31 December 2016 - can be accessed at the following link:

<https://www.welfare.ie/en/downloads/GRAAnnualReport2016.pdf>

The review notes that in 2016 the Minister received 106 gender recognition applications (104 from those aged 18 or over and 6 from those aged 16/17). 109 of the applications were granted with one application being processed at the time of the review.

Gender Recognition (Amendment) Bill 2017

Second stage debate of the [Gender Recognition \(Amendment\) Bill 2017](#) has taken place in Seanad Éireann. The Bill includes provisions to:

- allow people aged 16/17 to legally determine their own gender on the same terms as currently apply to those over the age of 18 (i.e. by way of application to the Minister);
- open up a route for people under 16 to move towards having their professed gender recognised; and
- ensure consideration of the status of non-binary persons in Irish law.

Formal review of the operation of the Act

As above, section 7 of the Act provides for a formal review of the operation of the Act to be started no later than two years after its commencement. The review group has been constituted and its report is expected to be presented to the Houses of the Oireachtas not later than September 2018.

The review will include a consideration of arrangements for 16/17 year-olds, gender recognition for those younger than 16 years of age and the position of non-binary and intersex persons.

Is mise,

A handwritten signature in black ink, appearing to read 'Caoimhghín Ó Caoláin', written over a horizontal line.

Caoimhghín Ó Caoláin T.D.

Chairman