

Office of the Minister for Social and Family Affairs  
Oifig an Aire Gnóthaí Sóisialacha agus Teaghlaigh

3 December 2012

Mr Nils Muižnieks  
Commissioner for Human Rights  
Council of Europe  
F-67075 Strasbourg Cedex  
FRANCE

Dear Commissioner Muižnieks,

Thank you for your letter, dated 16 November 2012, relating to the legislation on legal recognition of transgender persons that is currently being drafted here in Ireland.

As a result of the High Court's ruling in Dr Lydia Foy's case, the State now has an obligation to put a process in place to legally recognise the acquired gender of transgender people. At the outset I wish to state that the Irish Government and I are committed to making progress on this issue and this obligation is included as a specific commitment in our Programme for Government.

As you note in your letter, the Gender Recognition Advisory Group (GRAG) was established in 2010 to advise the Government on the legislation required to give legal recognition to the acquired gender of transgender persons. The Report of the Group, which recommends a scheme for the legal recognition of transgender persons, was approved by the Government and published on 14 July 2011.

The Group's recommendations will form the basis of the Irish legislation on the legal recognition of transgender persons, which is currently being drafted. I would point out that it is my intention, in accordance with the GRAG's recommendations that legal recognition of the preferred gender should not require infertility or compulsory medical treatment. However, in cases where an individual has already undergone gender reassignment surgery this will be recognised but I stress it will not be a requirement under the proposed Irish legislation.

I note from your Office's report "Discrimination on grounds of sexual orientation and gender identity in Europe" that the reference to the right to self-determination refers specifically to a transgender person accessing transgender health care. It is important to note that my Department is to introduce legislation to give effect to the High Court's ruling of October 2007, which is to give legal recognition to the preferred gender of transgender persons. Access to transgender healthcare and any procedures regulating access to healthcare are not within the scope of my Department's gender recognition legislation. However, I also think it is important to ensure that any individual who wishes to transition to their preferred gender has access to appropriate guidance and medical advice.



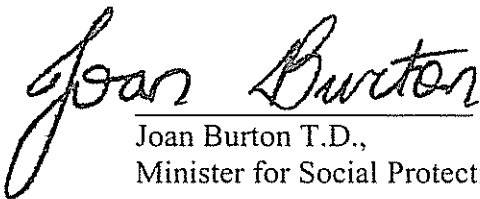
Since the publication of the GRAG Report, the Department of Social Protection has been working on developing draft Heads of a Gender Recognition Bill. In this context, my officials have engaged in discussions with the relevant medical health professionals and with representatives from interested NGOs. Given the legal and constitutional complexities involved in relation to some of the GRAG recommendations relating to the marital and civil partnership status of individuals, the Department sought advice from the Office of the Attorney General, which it expects to receive this legal advice shortly.

It is my intention that the draft Heads of Bill will be discussed in the first instance by the Joint Oireachtas Committee on Jobs, Social Protection and Education. Following the Joint Oireachtas Committee's discussion, it is intended that the draft Heads of Bill will be finalised.

The timetable for the Joint Oireachtas Committee's consideration of the provisional draft Heads is dependent on receipt by my Department of the formal legal advice of the Attorney General and the content of this advice. While I am unable to provide a definitive timeline for the introduction of legislation at this stage, I intend to bring the draft Heads of Bill to the Joint Oireachtas Committee in the first half of 2013. I also want to reiterate that the enactment of gender recognition legislation is a priority for this Government and for me as Minister for Social Protection.

I look forward to continuing our constructive dialogue and I will keep you informed of progress in this area.

Yours sincerely,

A handwritten signature in cursive script that reads "Joan Burton". The signature is written in dark ink and is positioned above the printed name and title.

Joan Burton T.D.,  
Minister for Social Protection