

Ref: CommHR/DM/sf 021-2023

Mr Talat XHAFERI

Speaker of the Parliament of North Macedonia

Ms Sonja MIRAKOVSKA

Chairperson of the Committee on the Political System and Inter-ethnic Relationships

Ms Snezana KALESKA-VANCHEVA

Chairperson of the Legislative Committee

Ms Maja MORACHANIN

Parliamentary Rapporteur for law proposal (no. 08-3221/1)

Strasbourg, 3 July 2023

Dear Speaker of the Parliament, Dear Chairpersons and Rapporteur,

As Council of Europe Commissioner for Human Rights, my mandate is to foster the effective observance of human rights in all 46 member states of the Council of Europe. An important part of my work is to engage in dialogue with authorities in member states, and to assist them in addressing possible shortcomings in implementing human rights obligations in their laws and practices.

I am writing today in regard to the draft amendments to the Law on Civil Registry concerning legal gender recognition ([no. 08-3221/1](#)). The draft amendments, which I understand are in the first reading phase, provide a significant opportunity for members of the Macedonian parliament to protect the human rights of transgender (trans) people, and to ensure the execution of judgments of the European Court of Human Rights (the Court), which is a cornerstone of human rights protection in the Council of Europe region.

More specifically, I consider that adopting the draft amendments would represent a crucial step in the execution of the Court's judgment in the case of [X v. "the former Yugoslav Republic of Macedonia"](#) in which the Court found a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights (the Convention) because of the absence of quick, transparent and accessible procedures in national legislation for gender recognition. The execution of this judgment has been pending since 2019.

Without the accurate indication of their name and gender identity in identity documents, trans people face the risk of violence and discrimination in many fields, including employment, housing, social security, and freedom of movement, as well as in case of identity checks by police or deprivation of liberty. In accordance with the case-law of the Court, Council of Europe member states have a positive obligation under Article 8 of the Convention to enable legal gender recognition through quick, transparent, and accessible procedures established in law. The Court has firmly rejected abusive requirements such as infertility and compulsory medical treatment.

The draft amendments have the potential of bringing the Macedonian legal framework in line with these standards. I encourage you to further strengthen them by removing the condition that the person asking for legal gender recognition be unmarried. This condition could result in imposing unwanted divorce, which may have a disproportionate effect on the right to respect for family life.

I also take this opportunity to insist on the important role of parliamentarians in promoting inclusive societies that are respectful of diversity. This includes combating existing prejudices and intolerance against LGBTI people. The Parliamentary Assembly of the Council of Europe recently [condemned](#) the deliberate mischaracterisation of demands by LGBTI people for equality as 'gender ideology' or 'LGBTI

ideology'. I understand that the draft amendments face opposition from groups promoting such narratives. As I have [stressed](#) before, under the pretext of defending so-called traditional family models and values, ultra-conservative movements often promote a misogynist, LGBTI-phobic and more generally anti-rights agenda. I call on you to resist pressure that may result in undermining full respect for human rights.

I strongly encourage ongoing efforts to bring the Macedonian legislation in this field in line with Council of Europe standards. I would very much appreciate being informed about the progress of this process and look forward to a constructive dialogue.

I would appreciate if you could share this letter with all members of parliament, including the members of your respective Committees.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dunja Mijatović', with a stylized flourish at the end.

Dunja Mijatović