

Proposal for Skopje Spring Congress 2020

Proposal
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LYMEC Spring Congress, April 3 to 5, 2020 in Skopje

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Status: accepted rejected transferred to _____

The Skopje Spring Congress 2020 may decide:

1 **Freedom of Gender Identity as a Fundamental European** 2 **Right**

3 This resolution archives Resolution 2.13 on Freedom of Gender Identity as a Fundamental
4 European Right

5 *Gender and Sexual Rights, Discrimination, Civil Liberties*

6 **For consideration on the annual Congress of the European Liberal Youth (LYMEC) in**
7 **Skopje, North Macedonia on 3-5 April 2020**

8 **Considering that:**

9 - Despite the promising developments in individual countries, trans and intersex people still
10 confront significant levels of inequality across the European Union.

11 - In recent years increasing attention has been paid to the human rights of trans and intersex
12 people and to discrimination on the grounds of gender identity and sex characteristics.

13 - International and regional protections for trans and intersex populations are currently in a state
14 of flux.

15 - No international human rights treaty specifically acknowledges trans and intersex individuals;

16 - EU primary legislation also provides no explicit references to gender identity, gender expression
17 or sex characteristics, although the Charter of fundamental rights of the European Union does list
18 genetic features and sexual orientation in the list of non-discrimination grounds (Art. 21(1)).

19 - EU secondary law does contain reference to trans identities. Recital 3 of the EU equality
20 directive (2006/54/EC) provides that the Directive also applies to discrimination arising from
21 "gender reassignment". The baseline obligation for EU Member States in relation to trans
22 non-discrimination has thus mostly been looked at through the lens of "gender reassignment",
23 resulting in a highly medicalised picture of trans populations, which frames trans equality as
24 contingent upon medical interventions. This calls into question the utility and applicability of EU
25 non-discrimination guarantees for the large population of trans people in Europe who cannot or
26 will not access gender confirmation healthcare.

27 - No judgments have been issued regarding intersex or non-binary individuals and it remains to
28 be seen whether EU sex equality law – in its current formulation – has the capacity to
29 accommodate and safeguard gender beyond the binary.

30 - The conditions for legal gender recognition varies greatly in Europe. In some countries, there
31 are still no legislative, administrative or judicial guidelines for acknowledging a preferred gender.

32 - According the Amnesty International Annual Report 2017/2018, children and adults with
33 variations in sex characteristics continue to face human rights violations, perpetrated in the
34 course of non-emergency, invasive and irreversible medical intervention which often have
35 harmful consequences on physical and psychological health.

36 - In 2017, the European Court of Human Rights found that the sterilization requirement for legal
37 gender recognition violates human rights.

38 - that in some countries, a mental health diagnosis is a requirement in order for one to be able to
39 change their gender.

40 **Noting that:**

41 - The freedom of identity and expression is a fundamental human right;

42 - The availability of non-discriminatory public health care is the foundation of a modern liberal
43 society.

44 - In states where gender confirmation treatments are not available, obtaining such services
45 abroad can result in national authorities refusing to recognise the medical interventions. This
46 creates a possible breach of the freedom to provide and receive services across the EU

47 **LYMEC calls for:**

48 - Gender identity, gender expression and sex characteristics to be added to EU
49 non-discrimination grounds, making discrimination and refusal in the provision of healthcare to
50 trans and intersex individuals illegal.

51 - Gender confirmation treatments should be made available to all.

52 - All EU and EFTA member states to adopt legislation that affirms preferred gender through a
53 model of self-determination.

Attention: This is a preview! The official text is printed in the proposal book for Skopje Spring Congress 2020 03 - 05 April 2020.