



Trans Legal Mapping Report

Recognition before the law

November 2016

1st Edition

**Zhan Chiam
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Foreword

By Mikee Inton and Brenda Alegre

The ILGA Trans Secretariat is happy and proud to introduce the Trans Legal Mapping Report, the first edition of a comprehensive report on laws and legislation that concern and govern trans people around the world.

This report is a research project of our Gender Identity and Gender Expression Programme, which aims to call attention to issues of gender identity and expression around the world. This report covers laws and legal procedures for trans and gender-diverse people to change their identity markers on official documents, as well as the conditions that allow for these processes to take place.

The Trans Secretariat is happy to endorse this report, knowing the difficulties and challenges involved in gathering this data from ILGA's six global regions, including budgetary, time, and staff constraints. We hope to see future editions of this report cover data on criminalization and discrimination laws, and other administrative and legal processes that affect trans people worldwide. We hope for this project to become an annual report, on par with ILGA's *State-Sponsored Homophobia Report*.

The Society of Transsexual Women of the Philippines (STRAP), ILGA Trans Secretariat.

Author's Preface

By Zhan Chiam

We are very pleased to present the first of what we hope will become an annual, comprehensive mapping of recognition before the law for trans and gender-diverse people. This first edition is a compilation of laws, administrative procedures and processes setting out the ability and limits of trans and gender-diverse people around the world to change their sex/gender markers and names on official identity documents. It focuses on these two aspects because they are often what trans and gender-diverse people first seek to change in order to access other rights and services in their everyday lives. They are also critical when crossing borders and establishing one's identity in a new country or city—a scenario which is perhaps more common for trans people than the general population.

This report sets out whether a process is established in primary legislation, through a court application, in an administrative rule, in policy, or simply not defined. The distinction between these will be of use to advocates who seek to undertake either legal reform or policy change in these countries. They will also have information about neighbouring states and/or countries with similar legal and political systems as a comparative point of reference. They will also be able to utilise the names of organisations referenced to network and strategise, if so desired. It is important to bear in mind that not enough states properly consult with trans communities about these identity and documentation processes. It is necessary that we continue engaging with our national governments—by using reliable data, research and good practice examples, targeting our arguments to the local context, and employing the language of human rights—to effect change for our communities. We hope this report will become one tool towards that end.

The different processes for gender marker change and name change, and the links between the two, if any, are also set out. Name change processes are especially relevant for countries where the gender marker change process is absent or, if present, is onerous, medicalised, pathologised and, therefore, restrictive. As this compilation shows, sadly, this is the case for too many trans citizens.

All too often, countries which allow gender marker change do so with conditions that violate a trans or gender-diverse person's bodily integrity by requiring sterilisation and extensive, multiple surgeries to conform to how a "real man" or "real woman" should look and sexually function. Sterilisation requirements breach the right to freedom from torture and cruel, inhuman or degrading treatment. No less seriously, many countries around the world require multiple psychiatric evaluations, relying on either the World Health Organisation's *International Statistical Classification of Diseases and Related Health Problems* (ICD) or the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM) for their definitions of "gender identity disorders" and "gender dysphoria". The underlying intent of these "diagnoses" is to determine if the trans person presents the appropriate narrative of their past and self-image, and fits in with a heteronormative idealisation of themselves. This is deeply problematic, not least because of the political wedge inserted between gender (identity) and sexual orientation, and the damaging impact such an insistence has on the self-image of trans people everywhere—their bodies, sexualities, desires, histories and aspirations. Some states require the person to undergo a "real life test", often for periods of between one to two years, purportedly to ensure that they are ready to live full time in their gender identity. This delay only prolongs the discriminatory effects of having identity documents that are incongruent with one's appearance or presentation, and entrenches social obstacles in finding or changing jobs and housing, accessing bank accounts, welfare and healthcare, enrolling at schools, and crossing borders. Similarly, elsewhere, trans people are put in psychiatric institutions as a pre-requisite to the path to hormones, surgeries and gender marker and name change.

Most states also ask for the person to be unmarried or, if married, to divorce their spouse, all in order to avoid the threat of gay marriage. Another common requirement is that of not having dependent children. Both of these bitter requirements breach the rights of a person to privacy, and to found a family. Almost all countries, even those without prohibitive medical requirements, require the person to be of a specific legal age.

It is therefore manifestly apparent to trans and gender-diverse people that gender marker and name change processes are but a bureaucratic window into the innumerable ways that their countries discriminate against them and prevent them from fully enjoying their human rights.

As we document the breadth of discrimination and procedural obstacles, we also show best practice and/or progressive examples, such as in Argentina, Colombia, Denmark, Ireland, Malta, Mexico City and Norway. Trans advocates around the world know what full and progressive legal gender recognition looks like—the aim is for informed, sustainable movements to utilise as many tools as are available, adapting them to local contexts and making long-term change in their communities.

A practical note on using this report

This report distinguishes between “sex/gender marker change” and “name change” processes, laws and policies. Although the authors recognise that trans and gender-diverse people often do seek name change as part of their social transition or self-affirmation process, the distinction is made because the processes are often entirely separate, sometimes involving different pieces of legislation or policies. It is in the interests of precision that this distinction is in place throughout the report.

When referring to legislation, court decisions or policies, we have kept faithful to the language of those documents, as we feel it is important to refer to them accurately, as well as to provide insight into the thinking behind their formulation. Most obviously, when a reference is made to “sex” in the legislation or policy, it remains as “sex” in this report rather than the more progressive term “gender”. A judge or policy document may use language that clearly reflects reliance on pathologising definitions, without explicitly revealing their source, which could be by design or omission. In these instances, having the information in the original wording is an entry point for advocates who seek to effect change by first arguing against pathologisation. The reader will see that name or gender marker change processes are often described as having “prohibitive” requirements—by that we mean that any or all of the above—described conditions exist which are contrary to a self-determination approach to gender recognition, identity and expression.

The research and compilation of this report also had many practical limitations—we were three research clusters working separately on different continents: Matilda González Gil and her team in Colombia Diversa, working on the Americas; Sandra Duffy in Ireland, researching Europe and parts of Asia; and Zhan Chiam in the ILGA World office in Switzerland, coordinating and covering the rest. Importantly, this research relied on volunteers, and where we could, the researchers reached out to national and regional trans organisations to verify information—mainly about legalities and the practical effects of laws and policies on local trans communities. We are well aware that there are many gaps in countries covered and information reported, and we hope that with adequate funding we will be able to build on what we have started for future editions. The Middle East and North Africa, West Africa, and many Pacific nations are absent in this report. It is no coincidence that these regions also see the lowest incidence of trans participation at regional and international levels, making research and data collection more difficult. We hope that this report will generate interest in trans communities we have not yet been able to reach, and they will see the utility in contributing information on their countries.

We acknowledge and are grateful for the “Legal and Social Mapping” research conducted by Transgender Europe’s *Transrespect v Transphobia Worldwide* project, and the trans communities who have contributed to that project over the years, without which much of our cross-referencing would not have been possible. We are also grateful to the Open Society Foundations for the publication, *License to Be Yourself: Law and Advocacy for Legal Gender Recognition of Trans People*, and its accompanying briefing papers. All these resources should be read together, for a unified approach to legal gender recognition research and advocacy.

Finally, any mistakes or omissions are solely the fault of the authors, and we urge readers to inform us of where such errors occur so that they can be corrected in future editions.

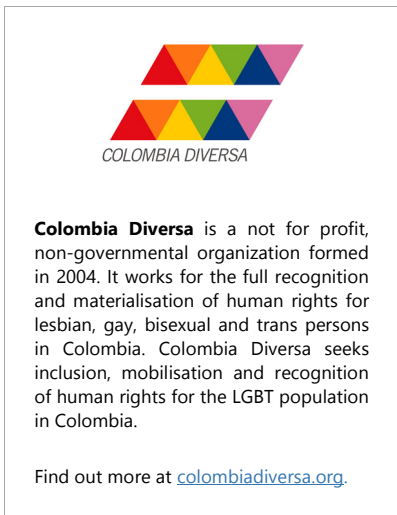
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Africa

By Joshua Sehoole






Africa is home to 54 different nations, more than 2,000 languages and four of the world's 10 fastest growing economies; and so writing on the situation for trans people in Africa is an immense challenge. Moreover, the plethora of legislation is diverse as the 1 billion-strong continent itself.

Despite the broad geographical area and vast population, there is a dearth of information available for individual countries on legal recognition for transgender people in particular. One of the main challenges in compiling this information lies in the lack of explicit provision for gender marker changes, with most countries rather alluding indirectly to the possibility of amendments. In some countries, such as Nigeria, this is compounded by laws that prohibit “posing” as the “opposite sex”—outlawing transgender people’s very existence.






There are, however, countries with overt provisions for gender marker changes in their legislation (albeit with overwhelmingly pathologising requirements) such as Namibia and South Africa. Namibia’s legislation for example, allows the state to request “medical reports and institute such investigations as maybe deemed necessary”. This often leads to violations of doctor-patient confidentiality, a person’s dignity, and basic human rights, such as the rights to privacy and self-determination. Nevertheless, some communities have managed to access the legislative processes and change their gender markers accordingly. In many other countries, such as Kenya, provision is made for some respite through allowing for name change and/or change of personal photographs to more closely match a person’s expressed gender and alleviate instances of misgendering. In other countries, like Botswana, there is active litigation on legal gender recognition.

With diverse and shifting country contexts, we remain mindful that some laws might have changed at the time of this publication, and that gaps in information pertaining to specific countries may exist. We have recently seen an emergence of trans-specific organisations in different regions of the continent, and the establishment of regional networks who are doing amazing work in increasing the availability of research and documentation on the situation of trans lives in the varying contexts. We look forward to the availability of more nuanced, comprehensive chapters in future publications.



Angola

	Name change	See below for gender marker change.
	Gender marker change	Nominally possible, with unclear requirement.
	Authority	Legislation (not trans specific). <i>Código do Registo Civil</i> 2015, s. 87.
	Document(s) amended	National Identity Card, passport.
	Conditions for gender marker change	Although s. 78 of the Code does not allow alterations of details entered in the registration of records of the Civil Registrar, s. 87 permits changes, including change of name where there is a change of facts which alter the legal identity or status of the person. A change of sex marker may also be possible. ¹

Botswana






	Name change	Possible. <i>Births and Death Registration Act 48 of 1968</i> , s.13(3)(a): <div style="border: 1px solid #ccc; padding: 5px; margin: 5px 0;"> <p><i>...the Registrar must be satisfied that the person has a settled wish and intention to be and to continue to be generally known by the new forename or forenames either in substitution for or in addition to the forename or forenames under which his birth was registered.</i></p> </div>
	Gender marker change	Possible.
	Authority	Legislation (not trans specific). <i>National Registration Act 26 of 1986</i> , s.16.
	Document(s) amended	Identity card.
	Conditions for gender marker change	<i>Section 16. Material change.</i> <div style="border: 1px solid #ccc; padding: 5px; margin: 5px 0;"> <p><i>(1) Where the registrar is of the opinion that any change in the particulars relating to a registered person materially affects his registration, he shall record the change and notify the Registrar of National Registration of the circumstances and recommend that the person concerned should be issued with a new identity card. [...]</i></p> <p><i>(3) The particulars relating to the new identity card and its holder shall be recorded in the national register and the register of the area in which that person is registered.</i></p> </div> <p>The Registrar has so far rejected all such applications of trans people. This issue is currently being litigated in Botswana.</p>

Lesotho






	Name change	Possible. <i>Registration of Births and Deaths Act</i> , s. 7(2).
	Gender marker change	Not possible.

¹ Southern Africa Litigation Centre, *Laws and Policies Affecting Transgender Persons in Southern Africa*, July 2016, pp. 18-19.





Malawi

	Name change	See below for gender marker change.
	Gender marker change	Nominally possible, with unclear requirements.
	Authority	Legislation (not trans specific). <i>National Registration Act 13 of 2010</i> .
	Document(s) amended	Identity card.
	Conditions for gender marker change	<p>Section 20(1) provides that where a change in particulars of a registered person materially affect his registration, the district registrar shall record the change and notify the Director of the circumstances and recommend that the person be issued with a new identity card.</p> <p>Section 21(1) provides that every registered person may, when he is satisfied that his appearance has changed so as to make it likely that his identity may be questioned, apply to the district registrar for the issue of a new card with a more recent photograph.²</p>

Mozambique

	Name change	As below for gender marker change.
	Gender marker change	Nominally possible, with unclear requirements.
	Authority	Legislation (not trans specific). <i>Código do Registo Civil 2004</i> .
	Document(s) amended	Identity card.
	Conditions for gender marker change	Section 85(1) gives the Civil Registrar general authority to make changes when there is a change of facts which alter the legal identity or status of the person registered. Trans people could use this section to change the sex description on their identity document. ³

Namibia

	Name change	Possible. <i>Identification Act 2 of 1996</i> . See below for gender marker change.
	Gender marker change	Possible, with prohibitive requirements.
	Authority	Legislation (not trans specific). <i>Births, Marriages and Deaths Registration Act 81 of 1963</i> ; <i>Identification Act 2 of 1996</i> .
	Conditions for legal gender recognition	<p><i>Births, Marriages and Deaths Registration Act 81 of 1963, s. 7B:</i></p> <p><i>The Secretary may on the recommendation of the Secretary of Health, alter in the birth register of any person who has undergone a change of sex, the description of the sex of such person and may for this purpose call for such medical reports and institute such investigations as he may deem necessary.</i></p> <p>The Act does not define "change of sex". Applications in terms of s.7B are done on a case-by-case basis as long as a person can provide medical reports of their "change of sex".</p>

² *Ibid*, p. 27.

³ *Ibid*, p. 31.

Once the application is granted, a trans person can apply for a new identity document and passport. Namibia does not provide gender affirming healthcare in the public health system, making the Act largely inaccessible. A transgender person who has not had a "change of sex" could use s. 12(1)(a) of the *Identification Act 2 of 1996*. It states that "if an identity document does not reflect correctly the particulars of the person to whom it was issued, or contains a photograph which is no longer a recognizable image of that person", the person shall hand over the identity document to the Minister. Section 12(3) states that the Minister shall cancel it and replace it with an improved identity document. The majority of trans people who have made applications to update their photographs have not been successful.

South Africa



Name change

Possible, with unclear requirements. See gender marker process below. Applicants report being unable to process simultaneous gender marker and name change requests before the Department of Home Affairs (DHA).



Gender marker change

Possible, with unclear and prohibitive requirements.



Authority

Legislation (trans (and intersex) specific). *Alteration of Sex Status and Sex Descriptor Act, No. 49 of 2003*.



Document(s) amended

Identity card, birth register.



Conditions for legal gender recognition

No. 49 of 2003:

(2) Any person whose sexual characteristics have been altered by surgical or medical treatment or by evolution through natural development resulting in gender reassignment, or any person who is intersexed may apply to the Director-General of the National Department of Home Affairs for the alteration of the sex description on his or her birth register.

There are no directives from the DHA on how to interpret the Act, and in practice this causes arbitrary obstacles such as requiring proof of gender reassignment surgery, long waiting periods for applications to be processed (averaging 1-7 years), what forms to use and what documents an applicant must bring.

Swaziland



Name change

Possible. *Births, Marriages and Deaths Registration Act 5 of 1983*, s. 8(1).



Gender marker change

Nominally possible, with unclear requirements.



Authority

Legislation (not trans specific). *Births, Marriages and Deaths Registration Act 5 of 1983*.



Document(s) amended

Birth certificate.



Conditions for gender marker change

Section 8(3) provides that for persons over 21 years of age and if, after registration of birth, there is a change in "any other particular of a person" not provided for in that section, the person may apply for alteration of the birth register. The sub-section also provides that:

...on production of documentary proof (in case of change of sex of the child a medical certificate from the medical practitioner shall be produced) and... the said particular of the person to be altered in the original birth information form filed in his office, but without erasing the original entry.⁴

It appears that gender marker change may be more explicitly (and easily) obtainable for children, rather than adults in Mozambique.

⁴ *Ibid*, p. 44.

Zambia



Name change

Possible. *National Registration Regulations 254 of 1965*, reg. 9.

The person applies for a new National Registration Card with a statutory declaration or the change of name, and is issued a new card. A separate register of all persons who have so changed their names is kept by the Chief Registrar.



Gender marker change

Nominally possible, with unclear requirements.



Authority

Legislation (not trans specific). *National Registration Act 19 of 1964*.



Document(s) amended

National Registration Card.



Conditions for legal gender recognition

National Registration Act 19 of 1964, Section 9(2):

In any case where a national registration card issued to a registered person ceases in any material particular to accurately represent his identity, such person shall, without undue delay, produce his national registration card and give such particulars as shall be necessary for the issue of a new national registration card to a registrar who... shall issue to such person a new national registration card.⁵

Zimbabwe



Name change

Possible. *Births and Deaths Registration Act 11 of 1986*, s. 18(2).



Gender marker change

Not possible.

⁵ *Ibid*, p. 46.

Asia

By Zhan Chiam and Sandra Duffy

The delineation of Asia in the ILGA context is a complicated affair, as any attempt to define “Asia” inevitably is. For the purposes of this grouping, Asia is a number of regions—beginning from Lebanon in the west, traversing some post-Soviet countries, crossing into the Indian subcontinental region of South Asia and ending up in East and Southeast Asia. As a result, it is the most linguistically, culturally, religiously and ethnically diverse of the ILGA regions. Population-wise it is also the largest and, age-wise, one of the youngest.

In terms of gender marker and name change rights afforded to trans persons, however, Asia faces a number challenges.

First, there is a lack of commonality in the region, for those reasons mentioned above, but also because of an absence of any human rights legal institution, mechanism, court or commission. A lack of such commonality means that countries and, possibly, activists, may not think of their laws and processes as being particularly of a region, in terms of adherence to a regional legal or rights-based tradition.

Secondly, in all the countries we collected data on, legal gender recognition, if available, is only with prohibitive or unclear requirements. This means that trans persons must face sterilisation, psychiatric diagnosis (often using the International Classification of Diseases - 10th Revision (or earlier) diagnosis of “transsexualism”), multiple surgical requirements, hormone treatment, forced divorce and cannot have dependent children, if they wish to change their gender marker and/or their name.

In Malaysia, Indonesia, Kyrgyzstan and South Korea, a court order is required to amend one’s gender marker. In Bangladesh, Indonesia, Japan and South Korea, a court order is required to change one’s name. In some countries, certain documents cannot have gender or name alterations, or must also retain the previous record in parallel. This is the case in Indonesia for school and birth certificates, Kyrgyzstan for pension insurance documents (including a number denoting male or female document holders) and Sri Lanka for birth certificates. Singapore does not allow gender marker or name changes to birth certificates, viewing them as historical records. In many of the countries surveyed, it is unclear if birth certificates can be re-issued. Japan and South Korea do not properly have birth certificates, but family registers—a reflection of the primacy of the family unit over the individual. While these records are of course entirely valid in their contexts, problems arise when trans citizens of these countries need to show birth certificates in other jurisdictions, for example for the purposes of marriage. Mongolia has a relatively progressive process, which still requires a psychiatric diagnosis but proof of only one medical procedure—which can be hormone therapy or cosmetic surgery. There can be lessons learnt in how Mongolia has been able to limit the severity and degree of surgical requirements.

In two countries with large, visible trans feminine populations—Thailand and the Philippines—no official process exists for gender marker change for trans persons. Brunei, a Malay Islamic Monarchy, does not have provisions for name or gender change and has also recently completed implementation of Sharia Law, making progress in this area highly unlikely. Vietnam is poised to introduce a gender marker change procedure in early 2017, again most likely with pathologising, medical requirements. Given the trend already appearing in the countries surveyed, it is safe to assume that the rest of the region faces similar irregularities and obstacles.

South Asian countries such as India, Pakistan, and Nepal allow for recognition of third gender status. In the cases of India and Nepal, this change came about as a result of strategic litigation by representatives of the transgender community and their counsel—*NALSA v. Union of India*, and *Pant v. Nepal*. However, these laudable decisions may not translate into satisfactory gender recognition frameworks, as has borne out in India. The *NALSA* judgment, handed down in 2014, contained language on the principle of self-declaration and the rights—both civil and socioeconomic—which should be available to trans Indians. Unfortunately, the current Bill on the issues before the Indian parliament removes many of these entitlements and also places medical gatekeeping requirements on legal transition. It remains to be seen

whether India's dynamic civil society organisations will be able to influence this Bill in a more progressive direction.

There are, theoretically, many opportunities to implement progressive, rights-based model processes for gender and name change in Asia, ranging from building on the opportunities as a result of progressive court decisions in India and Nepal, to countries with blank slates because there are no procedures in place at all. The key is how civil society organisations in Asia can translate national court decisions into practice, or contextualise the advantages of rights-based models such as those seen in Argentina, Malta, Denmark, Ireland and other countries to their national systems, and successfully make the arguments to apply such best practices to their own legal, political and cultural contexts.

Bangladesh



Name change

Nominally possible. It is nominally possible for a petition to be brought to the Superior Court of one's region. Updating of documents with a changed name is dependent on the court's approval of one's application.



Gender marker change

Third gender or *hijra* status possible, with unclear requirements.

Gender "transition" not available, but recognition of third gender or *hijra* status was announced by Prime Minister Sheikh Hasina and the government in 2013 and is operational.⁶



Authority

Unclear.



Conditions for gender marker change

Unclear.

Bhutan



Name change

Possible. Form to be submitted to the Department of Civil Registration and Census, along with educational/professional certificates as required by Department rules.⁷



Gender marker change

Not possible.

Hong Kong

(Special Administrative Region of the People's Republic of China)



Name change

Possible. By deed poll.



Gender marker change

Possible, with prohibitive requirements.



Authority

Policy and administrative process.



Document(s) amended

Hong Kong Identity Card (HKIC), passport.



Conditions for gender marker change

The Identity Card holder who applies to effect a change to his/her gender is required to produce a medical certificate which indicates that they have "completed sexual reassignment surgery (SRS)" according to the Immigration Department's administrative guidelines for considering applications to change the sex entries on HKICs:⁸

Generally speaking, persons who have received different forms of treatments by professional psychiatrists and clinical psychologists, including psychotherapy, hormonal treatment and real-life experience of the chosen gender role for a period of time may be recommended for sex re-assignment surgery (SRS).

Persons who have undergone the above treatments and have completed SRS should follow the below procedures and submit application together with the relevant supporting documents to reflect their change of sex on their identity cards:

(a) produce a medical proof which should indicate that the following criteria for the completion of SRS are met:

(i) For sex change from female to male:

6 <http://www.pinknews.co.uk/2013/11/12/bangladesh-third-gender-hijra-to-be-recognised-in-official-documents/>

7 https://www.citizenservices.gov.bt/dob_correction

8 http://www.immd.gov.hk/eng/faq/faq_hkic.html

- Removal of the uterus and ovaries; and
- Construction of a penis or some form of a penis;

(ii) For sex change from male to female:

- Removal of the penis and testes; and
- Construction of a vagina.

For those who have had SRS performed outside of Hong Kong, medical proof from that doctor should be provided, or a Hong Kong registered doctor should give an assessment of the SRS performed.

India



Name change

Name change is possible via an affidavit witnessed by a magistrate, notary public, or commissioner for oaths. Following this, it is necessary to publish the change of name in a local newspaper. Finally, the details should be sent to the Department of Publications in New Delhi.



Gender marker change

Possible, with unclear requirements.



Authority

Case law and policy. The Supreme Court judgment of *NALSA v. Union of India* (2014) recognises the right of transgender persons to “decide their self-identified gender” as male, female, or third-gender, and directs “Centre and State governments” to recognise them as such. It has been possible for some trans persons to use NALSA as precedent for court-ordered legal recognition of their gender. It has been possible to obtain identity cards in one’s changed name and gender in Tamil Nadu State for several years, via the Transgender Welfare Board. However, it is not always sufficient for official identification purposes, such as applying for a passport or opening a bank account.⁹



Document(s) amended

Identity card (nominally).



Conditions for gender marker change

Developments in progress: The legislative status of the recommendations in this judgment has yet to be decided upon. In 2014, a Private Member’s Bill was introduced in, and passed by, the Rajya Sabha (upper house). It addressed the concerns and recommendations of the Supreme Court in the NALSA judgment and featured a broad range of rights and entitlements for trans Indians.

However, this year, a different Bill has been introduced in the Lok Sabha (lower house) - the Transgender Persons (Protection of Rights) Bill, which removes many of the more progressive provisions of the original Rajya Sabha legislation, such as education and employment entitlements. It also removes the principle of self-declaration.

The 2016 Bill’s definition of a transgender person is as follows:

Article 2. (i) “transgender person” means a person who is— (A) neither wholly female nor wholly male; or (B) a combination of female or male; or (C) neither female nor male; and whose sense of gender does not match with the gender assigned to that person at the time of birth, and includes trans-men and trans-women, persons with intersex variations and gender-queers.

However, this is imprecise wording, as, none of A, B, or C apply to binary-identified trans people.

The Bill goes on to say that a transgender person, as defined, has the right to be recognised as such, on the basis of self-identification (Article 4(2)). However, the procedure is not straightforward and there is the possibility that an application can be denied. The person in question makes their application to the District Magistrate; from there it is passed on to the District Screening Committee (composed of (a) the Chief Medical Officer; (b) District Social Welfare Officer; (c) a Psychologist or Psychiatrist; (d) a representative of transgender community; and (e) an officer of the appropriate Government to be nominated by that Government) (Article 6). The application is approved or denied based on the Committee’s ruling. If it is approved, the applicant’s gender is recorded as ‘transgender’ and an identity certificate awarded (Article 7).

A minor can undergo this process via a parent/guardian. (Article 5).

⁹ Venkatesan Chakrapani and Arvind Narrain, “Legal Recognition of Gender Identity of Transgender People in India: Current Situation and Potential Options”, 2012; Venkatesan Chakrapani, “The Case of the Tamil Nadu Transgender Welfare Board: Insights for Developing Practical Models of Social Protection Programmes for Transgender People in India”, 2012.

Indonesia



Name change

Possible. By court order, which allows one to change core documents such as identity card, health card, driver's license, etc.

The birth certificate will have the new name recorded, with the birth name still visible. School certificates cannot be changed—the court order has to be used together with the certificates to prove identity when certificates are required.



Gender marker change

Possible, with prohibitive requirements.



Authority

Court order. A positive court order is then followed by civil registration, see *Indonesian Act no. 23 year 2006 on Population Administration*, Article 56 par (1) and *Indonesian Presidential Decree no. 25 year 2008 on Requirements and Procedures for Registration of Population and Civil Registration*, article 97 par (2).

Both the Act and Decree do not specifically explain the terms of gender marker change.



Document(s) amended

Identity Card and subsequent documents.



Conditions for gender marker change

Medical evidence from psychiatrists and of sex reassignment surgery (SRS).

Japan



Name change

Possible. *Family Registry Act*, Article 107-2:

A person who wishes to change his/her given name on justifiable grounds shall submit a notification to that effect, with the permission of the family court.

Trans persons can apply with (1) Gender Identity Disorder diagnosis (medical certificate is required) or (2) proof that one has lived with and used the name one identifies with for a certain amount of period in one's daily life. For persons 14 years or younger, a guardian should apply on their behalf.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (trans specific). *Act on Special Cases in Handling Gender for People with Gender Identity Disorder* ("Gender Identity Disorder Act"), Law No.111 of 2003.



Document(s) amended

Family Register.



Conditions for gender marker change

The applicant must:

1. Be diagnosed with Gender Identity Disorder by two physicians
2. Be over 20 years old
3. Be unmarried
4. Have no minor children
5. Be sterilised
6. Have completed genital surgery (Sex Reassignment Surgery)

Kyrgyzstan



Name change

Possible.



Gender marker change

Possible but unclear and arbitrary, with prohibitive requirements.

**Authority**

Legislation (not trans specific), policy and undefined practice. *Law on Acts of Civil Status* (2005).¹⁰

Article 72. Conclusion of a registry body of acts of civil status about adding corrections or changes to the statement of the act of civil status.

Conclusion about adding changes or corrections to the statement of the act of civil status is prepared by the registry body in the following cases:

*- if a document of authorized format about change of sex issued by a medical organization has been submitted.*¹¹

Instruction on the rules of registration of acts of civil status approved by the *Order of the State Registration Service under the Government of Kyrgyz Republic* of 21 July 2011:

*Article 155. Change and amendments to civil registries are made when it is needed to "change name, patronymic and surname due to change of sex (of hermaphrodites) upon a statement issued by medical institution that performed change of sex".*¹²

**Document(s) amended**

Birth certificate, passport, pension insurance documents, military registration card.

**Conditions for gender marker change**

Civil registry offices usually require medical certificates confirming a diagnosis of "transsexualism" and surgery for change of gender marker and name. However, in practice transgender people provided medical certificates confirming, for example, chest surgeries, even though this requirement is not established by law.

According to local activists, some trans women were able to change their documentation without surgeries because they applied to those civil registry offices which do not require confirmation of surgeries.

In practice, it is required that in order to change documentation a transgender person should not be married.

Malaysia

**Name change**

Possible. Application to the National Registration Department to change one's Identity Card.

**Gender marker change**

Nominally possible, with prohibitive requirements.

**Authority**

Court application – Civil Courts. Relying on the jurisprudence in the 2005 case *JG v Pengarah Jabatan Pendaftaran Negara* (High Court of Kuala Lumpur) "*Re JG*". The courts followed the Australian case of *Re Kevin* and rejected the *Corbett* view of sex as immutably fixed at birth.¹³ In the absence of legislative guidance, the court held that medical experts should determine gender, and with both physical and psychological aspects examined by doctors, the court found that the applicant was female and allowed to change the last number on her Identity Card (marking her as male or female).

¹⁰ Text of the legislation available in Russian http://www.srs.kg/index.php?option=com_content&view=article&id=55:-12-2005-n-60&catid=5:2010-06-10-09-19-55&Itemid=47 (accessed 16 October 2010).

¹¹ <http://cbd.minjust.gov.kg/act/view/ru-ru/1655?cl=ru-ru>

¹² Due to a lack of differentiation between gender identity and sex characteristics, rules are understood and applied interchangeably between the two.

¹³ In the United Kingdom decision of *Corbett v Corbett* [1970] 2 All ER 33, the court construed a medical test for gender which had far reaching consequences beyond the UK for decades afterwards. The *Corbett* test was applied in many jurisdictions, which was that a person's sex is determined by their gonads, genitalia and chromosomes at birth, and therefore a person's sex is fixed from birth. In *Re Kevin (validity of marriage of transsexual)* [2001] FamCA 1074, an Australian court considered and departed from *Corbett* and found these to be the primary (though not conclusive) factors to be taken into account when determining a person's gender for the purpose of marriage: their biological and physical characteristics, their life experiences, their self-perception, the gender they function in society, and any hormonal, surgical or other medical treatment. Importantly the court also said at [328]:

Because the words "man" and "woman" have their ordinary contemporary meaning, there is no formulaic solution to determining the sex of an individual for the purpose of the law of marriage. That is, it cannot be said as a matter of law that the question in a particular case will be determined by applying a single criterion, or limited list of criteria. Thus it is wrong to say that a person's sex depends on any single factor, such as chromosomes or genital sex; or some limited range of factors, such as the state of the person's gonads, chromosomes or genitals (whether at birth or at some other time). Similarly, it would be wrong in law to say that the question can be resolved by reference solely to the person's psychological state, or by identifying the person's "brain sex".

**Document(s) amended**Identity Card.¹⁴ Passport: never tested.**Conditions for gender marker change**As per *Re JG*, medical experts' opinions.

Maldives

**Name change**

Nominally possible but unclear. Administrative procedure, done by submitting forms along with original birth certificate, identity card, and 'house registry' to Malé Municipality Ge Aabadheeaai behey section.

**Gender marker change**

Not possible.

Mongolia

**Name change**

Possible, unless and until the applicant is serving a parole in lieu of imprisonment.

**Gender marker change**

Possible, with some prohibitive requirements.

**Authority**

Legislation (not trans specific). *Law on Civil Registration*, s.20.1. The legislation was amended on 25 June 2009 to allow gender marker change for transgender and intersex individuals who have had a medical diagnosis of transsexuality, and have undergone at least one medical procedure.

If a citizen of Mongolia has changed their sex through medical procedure, and/or is found to be biologically different sex, civil registration unit/officer of the soum/district shall record such change on the basis of the medical certificate, and a new birth certificate and civil identity card shall be issues.¹⁵

**Document(s) amended**

Birth certificate, Civil Identity Card (IC), passport, driver's license, social insurance card, medical insurance card.

**Conditions for gender marker change**

The IC holder who applies to effect a change to his/her gender is required to produce a medical certificate which indicates that the IC holder has undergone one of the following medical procedures: hormone replacement therapy, any gender confirmation surgery, including cosmetic ones, such as breast implants alone without hormone therapy, or genital surgery.

Negara Brunei Darussalam

(Brunei)**Name change**

Not possible.







**Gender marker change**

Not possible.






¹⁴ Last number of Identity Card shows gender - odd numbers for male, even numbers for female.

¹⁵ 20.1. Монгол Улсын иргэн эмнэлгийн журмаар хүйсээ солиулсан, эсхүл байгалийн жамаар нэг хүйс нь давамгайлсан бол энэ тухай эмнэлгийн магадлагааг үндэслэн сум, дүүргийн улсын бүртгэлийн асуудал хариуцсан нэгж, ажилтан бүртгэж, төрсний гэрчилгээ, иргэний үнэмлэхийг шинэчлэн олгож болно.



Nepal

	Name change	Nominally possible but unclear.
	Gender marker change	Possible. <i>Constitution of Nepal</i> , Article 12: <div style="border: 1px solid #ccc; padding: 5px; margin-top: 5px;">Any citizen by descent of Nepal may obtain an identification card in their correct gender identity.</div>
	Third gender option	Possible.
	Authority	<i>Constitution of Nepal</i> .
	Document(s) amended	Identification card.
	Conditions for gender marker change	Third-gender recognition: The 2007 case of <i>Pant v Nepal</i> holds that persons should be allowed to request legal status in “third gender” non-binary categories. The 2011 Nepalese census allowed for a third-gender category to be used for the first time. Since then, several Nepali citizens have been able to obtain passports and identification papers in the gender ‘O’ (for ‘Other’). However, this has been an individual process involving lobbying and sustained pressure on government administrative departments, and is by no means a guarantee of success for any one applicant.

Pakistan

	Name change	Possible, with unclear requirements. It is possible to change one’s Identity Card details, however, it is unclear whether name change is possible in and of itself or what the requirements for change of details are. ¹⁶
	Gender marker change	Unclear. In 2009, the Supreme Court handed down a decision allowing for “third gender” as a choice in the National Identity Card Registry. It is unclear whether options other than this designation are open to trans persons.
	Third gender option	Nominally possible.
	Document(s) amended	Identity card.
	Conditions for gender marker change	Unclear.

Philippines

	Name change	Not possible.
	Gender marker change	Not possible.

¹⁶ <http://id.nadra.gov.pk/modify-id/>

Republic of Korea

(South Korea)



Name change

Possible. *Act on the Registration etc. of Family Relationship*, s.12.

Name change is available in South Korea regardless of a person's gender identity or completion of gender recognition process. The Family Court permits the first change of name easily.

However, any subsequent application to change one's name is more difficult. Many trans persons change their name before the gender recognition process because of very strict requirements for gender recognition.



Gender marker change

Possible, with prohibitive requirements.



Authority

Administrative Rule and court application. *Guidelines on the Clerical Processing of Cases of Transgender People's Application for Legal Gender Recognition* (2007).



Document(s) amended

Family Relation Register.¹⁷ Following a Family Relation Register change, Identity Cards and passports can be changed.



Conditions for gender marker change

1. Two psychiatric diagnoses of transsexualism.
2. Surgeon's letter confirming gender reassignment surgery and that the applicant now has external genitals of the sex opposite to their biological sex.
3. If no surgeon's letter, a letter from another qualified physician after physical examination.
4. If surgery performed overseas, a written diagnosis (physical appraisal, report of opinion and findings) from a South Korean plastic surgeon, gynaecologist and obstetrician, that applicant has the external genitals of the sex opposite to their biological sex.
5. Applicant is sterile now or in the future.
6. Applicant's statement of his or her growth environment and letters of guarantee from two or more references.
(The statement of growth environment and the letters of guarantee from references shall include:
 - (i) a specific statement of the applicant's interpersonal relationships including relationships with members of the opposite sex and public life for each period including infancy, childhood, youth, adulthood, etc.; and
 - (ii) a statement to the effect that the applicant continuously lived with a gender identity or self-opposite to his or her biological sex for a certain duration from before receiving gender reassignment surgery, received gender reassignment surgery as a manifestation of such a gender identity or self, and leads a public life in great satisfaction with the gender identity or self currently established since gender reassignment surgery).
7. Written consent from parents.

Singapore



Name change





Possible. *National Registration Regulations*, reg. 10(2)(a).

Replacement identity cards for incorrect particulars






10. (2) A registration officer, if satisfied that any person who — (a) reports any change of name under paragraph (1), has in fact changed his name; [...] may issue him a replacement identity card.

By application to the Immigration and Checkpoints Authority (ICA) with deed poll to change the National Registration Identity Card (IC). Birth certificates cannot be altered.



¹⁷ Used as a birth certificate is used in other countries. Although there is a registration of birth for statistical purposes, this certificate is used for internal administration purposes, not identification.

	Gender marker change	Possible, with prohibitive requirements.
	Authority	Legislation (not trans specific) and policy. <i>National Registration Regulations</i> , reg. 10(2)(b). <i>Replacement identity cards for incorrect particulars</i> <i>10.(2) A registration officer, if satisfied that any person who — [...] (b) reports that any particulars on his identity card, other than his address, are incorrect, may issue him a replacement identity card.</i>
	Document(s) amended	National Registration Identity Card (IC). Birth certificates cannot be altered.
	Conditions for gender marker change	The Immigration and Checkpoints Authority (ICA) policy is that: Identity Card holder who applies to effect a change to his/her gender is required to produce a medical certificate/doctor's memo which indicates that the IC holder has completed a gender reassignment surgery from male to female or vice versa. Once satisfied that a complete change in gender from one to another is in order, the registration officer can proceed to update the changes and process the application for a new IC, at the prevailing replacement rates. Note: Surgeries are not defined in policy, the medical practitioner just has to certify that person has completed gender reassignment surgery.

Sri Lanka

	Name change	Possible. For the same documents and with the same procedures as those for gender marker change.
	Gender marker change	Possible.
	Authority	Policy.
	Document(s) amended	Birth certificate (with a note that the birth gender is amended), National Identity Card (without reference to birth gender) and subsequent documents.
	Conditions for gender marker change	Policy of the Ministry of Health, Nutrition and Indigenous Medicine. The issuance of a Gender Recognition Certificate (GIC), by the Ministry of Health, Nutrition and Indigenous Medicine, allows for a change of sex in the birth certificate. The GIC is issued after psychiatric diagnosis of transsexualism based on the International Classification of Disease 10, is referred for hormone and surgical treatment, undergoes treatment in accordance to the World Professional Association of Transgender Health's Standards of Care, and for those over 16 years of age.

Thailand

	Name change	Possible.
	Gender marker change	Not possible.

Vietnam



Name change

Possible. *Civil Code*, Article 27(e). Right to change surnames and given names.

Article 27. Right to change surnames and given names. (e) Where the surname and/or given name of the person are to be changed upon a re-determination of the gender of the person;

Presumably after legal gender change is allowed in Vietnam, this Article can be applied to trans persons who meet these requirements.



Gender marker change

Possible soon (2017), with proposed prohibitive requirements.



Authority

Legislation (trans specific). *Civil Code* and *Decree No. 88/2008/ND-CP*, Article 37 (to be amended on 1 January 2017) and a *Law on Sex Change* (to be determined).



Document(s) amended

Birth certificate, Family Register, Identity Card, passport.



Conditions for gender marker change

"Sex reassignment surgery" or "surgery" - not yet defined.

Europe

By Sandra Duffy

Gender recognition law in Europe has seen several important advances in 2015-2016, with pieces of legislation adopted that reflect a more progressive view of trans persons and the law. Although much of the continent still holds to a binary view of recognised gender, steps have been taken to depathologise gender diversity in law, and to reflect the autonomy of gender-diverse citizens seeking recognition. Among the notable developments have been the Irish *Gender Recognition Act 2015*, which transformed from a draft Bill including medicalisation and forced divorce to an Act which operates on a self-declaration model; the Maltese Gender Identity, Gender Expression, and Sex Characteristics Act, which prohibits non-consensual surgical interventions on children born intersex and allows these children's birth certificates to forego a gender marker until their identity becomes apparent; and the recent French amendments to its Code Civil wherein a lack of medical intervention cannot be seen as a bar to legal gender recognition.

The European section of this report is necessarily the longest, as almost all of the 49 countries of ILGA's 'Europe' region have some provision for either legal gender recognition or a facility for changing one's name. The incidence of gender recognition law in the region has been greatly influenced by the strong regional human rights jurisprudence of the European Court of Human Rights. Its landmark judgment on *Goodwin and I v. United Kingdom* in 2002 prompted many members of the Council of Europe to update their statute books to provide for gender recognition, in order to remain compatible with European Convention on Human Rights. The rules governing name changes are included as, where legal gender recognition is not available, the option of changing one's name to match one's gender provides a legal option for some relief of misgendering.

Europe is a socially diverse continent for one which spans a small geographical area; the range of legal measures which provide for gender recognition are evidence of this. The civil law systems in operation in most countries lead to the establishment of administrative procedures for gender recognition; for example, in Denmark, the procedure involves self-declaration of one's gender identity to the civil registry office, following which the applicant can update their registration details and receive a new social security number. These numbers begin with a different digit depending on the holder's gender—meaning that gender recognition is both a human rights issue and a return to welcome administrative tidiness.

However, there are still many countries in Europe wherein it is not possible to change one's legal gender. For countries such as Azerbaijan, the Former Yugoslav Republic of Macedonia, and Hungary (among others), there is no legal facility for gender recognition, although it is noted that these jurisdictions do allow residents to change their names legally. Lithuania provides an example of a state which has been criticised by both the European Court of Human Rights and the United Nations Human Rights Council for its lack of provision of gender recognition—however, as the situation stands, while it is nominally possible to change one's gender in Lithuania, there is no legally prescribed means of doing so, leaving the country's trans and gender-diverse population in limbo until the legislative gaps are filled in. Still more jurisdictions have uncertainties clouding their gender recognition process: Italy sends the matter to a courtroom without specifying the standards the judge should use to make their decision, while Poland requires a contrived civil suit-type court process. These lacunae mean that although the states can be seen to have gender recognition laws on the statute books, in practice, the effective provision of these services remains nebulous at best.

The report also makes note of the jurisdictions in which gender recognition procedures are explicitly open to minors, along with the conditions to be fulfilled. The 2016 update to Norway's law remains one of the most progressive in the world, with gender recognition open to children aged 16 to 18 on their own application; children aged six to 16 when supported by a parent or guardian; and children under six at a parent's request, with input from the child if they are capable. In most other jurisdictions where they can request gender recognition, under-18s must be supported by a legal adult parent or guardian.

Going forward, it seems that the main problems facing trans and gender-diverse Europeans are the lack of provision of legal gender recognition in many countries; continuing pathologisation in the majority of states with gender recognition laws; the lack of provision for minors; and the almost-total lack of recognition of non-binary identities. In order for gender-variant persons to receive effective vindication of their human right to correctly-gendered identification documents, the legislatures of the continent must continue to clarify and strengthen their gender recognition laws, to continue to remove medical requirements and administrative gatekeeping measures barring persons from access, and to open the door to recognition for persons under 18 and those with non-binary gender identities. This will require a change in attitude for lawmakers to move beyond normative binary conceptions of gender identity, and to understand all gender-variant persons as possessing rights to bodily autonomy, privacy, and equality.

Andorra



Name change

Possible. Available generally by deed poll.



Gender marker change

Not possible.

Armenia



Name change

Possible. *Law on Civil Status*, Article 58. A person who has attained the age of sixteen years, is entitled to the established procedure to change his name, including the name and surname.



Gender marker change

Nominally possible, with unclear requirements.



Authority

Legislation (not trans specific). *Law on Civil Status, 2004*. Article 70.



Conditions for gender marker change

Law on Civil Status, 2004. Article 70.

The corrections and changes under the Civil Status Act will be made when: c) a medical organization established under Armenian law issues a document prescribing gender reassignment.

Austria



Name change

Possible. *Namensänderungsgesetz (Name Change Law) 1988*.

Article 2.1.11 allows for a change of family name "for any other reason". Article 2.2.3 provides for the ability to change a forename which does not match the gender of the applicant.



Gender marker change

Possible.



Authority

Legislation (not trans specific). *Personenstandsgesetz (Civil Status Law) 2013*, Article 41. The Civil Status Registry has the ability to alter an entry, when it has become incorrect after it is made. No specific reference is made to gender recognition.



Conditions for gender marker change

Case law cites psychological factors, and mentions a conviction that one belongs to the opposite sex, and that it be probable that that conviction will last. The applicant should also have undergone "geschlechtskorrigierender Maßnahmen/undertakings to 'correct' gender". These factors will satisfy the requirement of inaccuracy under PSG 2013. However, the Supreme Administrative Court considers that there should not have to be reliance on medical interventions once the psychological factors are in place. (Verwaltungsgerichtshof, 2008/17/0054, appeal of MP.)

Azerbaijan



Name change

Possible. *Civil Code*, Article 26.4.

Article 26.4. Natural person has a right to change the name in an order established by the law...Natural person who has changed their name has a right to demand changes in documents issued in their previous name at their own cost.



Gender marker change

Not possible.

Belarus



Name change

Possible. *Civil Code of Belarus*, Article 18.

Article 18.2. A citizen shall have the right to change his name in accordance with the procedure established by the legislation. [...]

A citizen who has changed name shall have the right to demand the making, at his expense, of respective changes in documents formalized in his previous name.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (trans specific). *On some issues of gender change and correction*, December 9, 2010, No.163.¹⁸



Conditions for gender marker change

Applications are considered by the "Interdepartmental Commission for medical, psychological and social rehabilitation of persons with Gender Identity Disorder of the Ministry of Health of the Republic of Belarus." The Commission hears applications and votes on whether to grant the change.

The applicant must undergo "a comprehensive medical and psychological examination, necessary to exclude other sexual, mental and somatic disorders". This includes psychiatric, psychological, endocrinological, gynaecological/urological, and genetic testing. The applicant must be medically monitored for a year before they can access a Commission hearing.

Belgium



Name change

Possible. *A Law Concerning Transsexuality of 10 May 2007*, Chapter V, Article 9 amends the *Act of 15 May 1987 on Surnames and Forenames* to allow for a change of name at the same time as the change of gender.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (trans specific). *A Law Concerning Transsexuality of 10 May 2007*, Chapter 2.

Article 2. Amends the Belgian civil code to allow for legal gender recognition.

The following conditions to be entered into the Code Civil: every Belgian or non-national registered resident who has the intimate, constant, and irreversible conviction that they belong to the sex opposite to which is indicated in their birth certificate, and who has taken every measure possible and justified from a medical perspective, may declare such to the État Civil officer (registrar). A non-emancipated minor can make this declaration along with their mother, father, or legal counsel.



Conditions for gender marker change

Reports from a psychiatrist and a surgeon to be provided, confirming that the applicant has such conviction; that they have undergone "sex reassignment" to such point as is medically possible and justified; that they cannot conceive children as their previous sex.

Bosnia and Herzegovina



Name change

Possible. *Law on Personal Name FBiH* (FBiH Official Gazette No. 7/12).¹⁹

Article 9: Every person has the right to change the name, or the name or last name only, except in cases that is otherwise provided by this law.

¹⁸ О некоторых вопросах изменения и коррекции половой принадлежности

¹⁹ Zakon o ličnom imenu FBiH (Službene novine FBiH broj 7/12)

A person may change the personal name or the name or surname only after the change of the family or personal status (adoption, recognition and establishment of paternity or maternity, marriage, dissolution of marriage - divorce or annulment of marriage, death of a spouse or a declaration of a deceased spouse, changes gender) or at their own request.



Gender marker change

Apparently possible, with prohibitive requirements.



Conditions for gender marker change

Probably after sex reassignment procedures.

Bulgaria



Name change

Possible. If gender is included in "important circumstances" by court decision. *Civil Registration Act*, Art. 19.

19(1). The change in the first, middle or last name is accepted by the court based on the written request of the principal, where he is ridiculing, disgracing or publicly unacceptable, and where important circumstances require.



Gender marker change

Possible, with unclear requirements.



Authority

Legislation (not trans specific). *Law on Bulgarian Personal Documents* (Title. Amend. - SG. 82 of 2009).

Article 9. (1) Where there is a change in names, personal identification number (personal number/personal number of foreigner), gender, nationality or substantial and permanent changes in facial image, he is obliged to submit an application for new Bulgarian identity documents within 30 days.

Croatia



Name change

Possible. *Urbroj/Regulation: 71-05-03/1-12-2, Law on Personal Name.*

Article 6: Every person has the right to change their personal name.



Gender marker change

Possible, unclear about requirements because of inconsistency.



Authority

Legislation (trans specific). *Urbroj/Regulation: 534-10-1-2-1/2-14-10, Regulations on the methods of collecting medical records and determining the terms and conditions of sex reassignment or change in gender identity status.*

Article 2. (2) No person shall be forced to undergo medical procedures, including surgical adjustment gender, sterilization or hormonal therapy, as a condition for recognition of change of sex or living in a different gender identity.

Article 3. (1) The applicant for the issuance of the decision on registration of change of sex in the register of births, shall attach to the application Opinion of the National Health Council on the change of sex or about life in a different gender identity (hereinafter: Opinion of the National Health Council).

(2) Opinion of the National Health Council is a document based on which the competent state administration office in the county issues a decision on registration of sex change in births. [...]

Article 4. (1) The application of Article 3, paragraph 3 of this Ordinance, the applicant is required to attach medical documentation and opinions, which are prescribed by this Ordinance.

(2) If the applicant is an adult, is required by the request to submit the following medical records:

- *Opinion/finding medical doctor specialized in psychiatry,*
- *Opinion/ finding medical doctor specialized in endocrinology and diabetology, and*

- *Opinion clinical psychologist and report the competent social welfare center on the personal and family circumstances.*
- (3) If the applicant is a child, the parents or guardian of a child, is required by the request to submit the following medical records:*
- *Opinion/finding medical doctor specialized in child and adolescent psychiatry,*
 - *Opinion/finding medical doctor specialized in pediatric endocrinology,*
 - *Opinion/finding medical doctor specialized in pediatrics,*
 - *Opinion and clinical psychologist with experience in the field of child psychology and the report of the competent social welfare center on the personal and family circumstances.*



Conditions for gender marker change

Unclear about what threshold the opinions or findings need to meet.

Cyprus



Name change

Possible. Provided for with gender marker change. See below.



Gender marker change

Possible, unclear about requirements because of vague wording in legislation.



Authority

Legislation (not trans specific). *Civil Registry Law, No 141(I) of 2002.*

40.(1) For the purposes of this section, "amendment" includes the correction of errors, addition, a new name or change of name, or the change of name and sex simultaneously, and annulment of any registration.



Conditions for gender marker change

According to Art.40, change of name and of sex does not require any of psychological, psychotherapeutic or psychiatric assessment or treatment or diagnosis. A person who undergoes an operation for the change of sex must submit a medical certificate about this operation, together with a sworn affidavit regarding the change of name, to the District Administration authorities.

The District Administration will forward the medical certificate to the Ministry of Health for approval and once this is approved, a new passport, identity card and electoral identity booklet is issued to the applicant.

The population archives department of the Interior Ministry issues a new birth certificate with the new name and the new sex but the old certificate is neither cancelled or repealed and is retained on file.

Czech Republic



Name change

Possible. *Act on registers, names and surnames and amending certain related laws, No. 301/2000.*

5) The registry office, on the application of the person and confirmation from the healthcare provider, can change the name or surname to:

(1) A neutral name, where they are initiating treatment for a sex change, or

(2) A different name, or name and surname, if therapy for sex reassignment has been completed.

Requests to change name and surname after sex change will be registered in accordance with the Czech rules of grammar in the form according to the new gender.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (not trans specific). *Civil Code, Act 89/2012, Section 29.*

Section 29.

(1) A change of gender involves surgery affecting reproductive function and genitals. The date of the change of gender is taken as the date shown in the certificate issued by the healthcare provider.

(2) Changing gender does not affect the personal status of the person, nor personal or financial circumstances. Marriage or civil partnership will be ended. Children and property will be treated as they would in a couple's divorce in this situation.

Also: Act on registration of population and birth certificate numbers and on amendments to certain Acts (Register of Population Act), No. 133 of 2000.

Section 17. Changing the Personal Identification Number.

2. Changing the personal identification number occurs when:

d) there has been a change of sex.



Conditions for gender marker change

As above – sterilisation and genital surgery(s).

Denmark



Name change

Possible, with gender binary restrictions. *Navnelov 524/2005*, Article 13.2/13.3.

§ 13. As the name may be a name that is entered in the list mentioned in § 14 paragraph. 1, or as authorized by § 14 paragraph.

PCS. 2. A name may not denote the opposite sex compared to the one that will bear the name.

PCS. 3. Social Affairs and Minister of the Interior shall lay down rules on persons who are transgender or simply be treated as such, not covered by the prohibition in paragraph.

Denmark operates a list of male/female names, meaning that a change of name would be required to conform to one's gender, within the gender binary.



Gender marker change

Possible, without prohibitive requirements.



Authority

Legislation (trans specific). *Lov 752/2014, Motion to Amend the Act on the (Danish) Civil Registration System* (Granting a new social security number to people who experience themselves as belonging to the opposite gender).²⁰



Conditions for gender marker change

No medical/psychological requirements; it is an administrative procedure.

Article 1: The Act on the Civil Registration System cf. the consolidation Act no.5 of 9 January 2013... is amended as follows:

...(a)after a written application, The Economy and Domestic Ministry will allocate a new social security number to persons who experience themselves as belonging to the opposite gender. Allocation of a new social security number is condition by submission of a written declaration stating that the application is based on a sense of belonging to the opposite gender. After a reflection period of 6 months from the application date, the applicant has to confirm the application in writing. It is furthermore a condition that the applicant is 18 years old at the time of the submission of the application.

Denmark will also allow applicants to receive a passport with the gender marker 'X' (Article 2).

²⁰ Lov om ændring af lov om Det Centrale Personregister

Estonia



Name change

Possible. *Names Act*, Division One, Article 15 (passed 15 December 2004).

§ 15. Assigning new personal name due to change of gender of person

(1) If the gender of a person is changed, a vital statistics office may, on the basis of a written application of the person, the parent of the minor or the guardian of the minor ward, assign a new given name to the person and change the foreign-language surname of the person if gender is reflected in the surname pursuant to the national tradition of the person. [RT I 2010, 1, 1 - entry into force 01.07.2010]

(2) Upon assigning a new given name, the requirements and restrictions provided for in § 7 of this Act shall be complied with.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (trans specific). *General Requirements on Medical Procedures for the Change of Gender* (Adopted 07.05.1999 No. 32).²¹

Article 1. The following measures are required: a) The person must make a statement to the Ministry of Social Affairs; b) A decision is made by a medical expert committee of the Ministry.

Article 2. The Committee's decision requires the following factors: a) Two years of 'transgender identity' previous to making the decision; b) A psychiatrist's report; c) "Genetic and chromosomal studies"

Article 3. Medical treatment may begin once the applicant has the Ministry of Social Affairs decree. Surgical procedures must wait a year after the decree.



Conditions for gender marker change

Medical intervention, surgery, psychiatric assessment and "real life test" are required.

Finland



Name change

Possible, with binary gender restrictions. *Name Law 9.8.1985/694*, Chapter 6 Section 32. Application to be made to the area magistrate. Finland operates a gendered naming practice.



Gender marker change

Possible, with prohibitive requirements, except for specifically not requiring forced divorce.



Authority

Legislation (trans specific). *Act on legal recognition of the gender of transsexuals*, No. 563/2002.²²



Conditions for gender marker change

Section 1 – Preconditions for legal recognition

A person can be legally recognised to belong to the gender opposite to that according to which he or she is recorded in the population information system referred to in the Population Information Act (507/1993) if he or she: (1) presents a medical statement stating that he or she permanently feels to belong to the gender opposite to that assigned to him or her and lives in that gender role, and that he or she has been sterilised or is for some other reason infertile; (2) is of age; (3) is not married or living in a registered partnership; and (4) is a Finnish national or has his or her place of residence in Finland.

Section 2 – Exemption from the preconditions for legal recognition

(1) Notwithstanding the provisions of section 1(3) a person who is married or lives in a registered partnership can be legally recognised to belong to the gender opposite to that according to which he or she is recorded in the population information system, if the married spouse or the other partner in the registered partnership has, after the Local Register Office has given him or her an account of the circumstances referred to in subsection 2, personally given the Register Office his or her consent to that.

(2) When belonging to a gender is legally recognised in a case referred to in subsection 1, marriage will be converted, without any separate measures, into a registered partnership and registered partnership into marriage.

21 Soovahetuse arstlike toimingute ühtsed nõuded

22 Laki transseksuaalin sukupuolen vahvistamisesta

Former Yugoslav Republic of

Macedonia

**Name change**Possible. *Law on the Personal Name*, 1995.

Article 5: The citizen shall have the right to change his/her personal name, i.e. only the name or the surname.

**Gender marker change**

Not possible.

France

**Name change**

Possible. *Code Civil*, Arts 60 and 61. Any person with a legitimate interest can apply to the Family Courts to have their name changed. It is also possible to go through a notary public process, although this does not have the same effect over all documents as a decree by the courts. It can, however, speak to the applicant's seriousness about their application.

**Gender marker change**

Possible, without prohibitive requirements (soon to be inserted).

**Authority**

Law on 21st Century Justice. Article 56 inserts new sections into Article 61 of the *Code Civil*.

**Conditions for gender marker change**

Art 61-5 (to be inserted) Any adult or emancipated minor can make an application to have their gender corrected in the actes de l'état civil (civil registry). They must demonstrate sufficient facts to support their claim: this can include that they appear publicly to belong to the affirmed sex; that they are known in that sex to family, friends, and colleagues; that they have changed their forename to one of the affirmed sex.

Art 61-6 (to be inserted) The application is brought before the TGI. The applicant must declare her free and informed consent to the change of documents and bring any necessary supporting evidence. Not having undergone medical treatment, surgery, or sterilisation cannot be bars to the change. The decision-maker confirms that the applicant satisfies the conditions in 61-5 and orders the modification of the information in the actes de l'état civil.

Art 61-7 A note is to be made of the change of sex and, if necessary, of forename, in the margin of the applicant's birth certificate within 15 days of the judgment, at the request of the procureur de la République.

Georgia

**Name change**

See below for gender marker change.

**Gender marker change**

Possible, with unclear requirements.

**Authority**

Legislation (not trans specific). *Law of Georgia on Civil Status Acts*, Article 78(g).





**Conditions for gender marker change**

Medical certificate confirming change of sex (unclear).






In Georgia, legal recognition of gender is regulated based on Article 78(g) of the *Law of Georgia "on Civil Acts"*, which states that changing a sex is one of the grounds for amending a civil act record. Yet, the Law does not define what is implied under changing a sex. In response to the following questions – what does the law imply under changing a sex; which documents must be submitted to amend a person's civil act record in respect of sex, name and/or surname; and which concrete civil acts could be amended in respect of sex, name and/or surname – the State Services Development Agency provided the following explanation:

"An amendment referred to in Paragraph "g" of Article 78 of the Law of Georgia "on Civil Acts" can be made based on a medical certificate issued by a medical institution, which confirms change of a sex by a person. The birth, father's identification and death act records include a column for denoting a sex. Accordingly, if a person submits the document confirming change of a sex, the civil acts registration authority will make a relevant amendment to the above-mentioned civil act records on the person, and in case of changing a name and/or surname – in all registered civil act records available on the person".²³



Germany

	Name change	Conditions detailed in Section 1(1) of the TSG apply.
	Gender marker change	Possible, with prohibitive requirements.
	Authority	Legislation (trans specific). <i>Law on the Alteration of Forenames and the Determination of Sex in Especial Cases (Transsexual Law - TSG)</i> , 1981 (as amended 2011), Section 2: Determination of Sex, Articles 8 to 10. ²⁴
	Conditions for gender marker change	<p>The applicant must have a firm conviction that they belong to the sex opposite that in which they were registered at birth, and have lived three years in that gender. They must be convinced with "high probability" that their new gender identity will not change. Section 1, Article 1 applies these conditions to name change; Section 2 Article 8 applies the same conditions to gender change.</p> <p>They must also be unable to conceive children and must have undergone surgical intervention on "external sex characteristics": Section 2, Article 8.</p>

Greece

	Name change	Possible. Administrative procedure, done through civil registry offices.
	Gender marker change	Nominally possible, without requirement for genital surgery.
	Authority	Case law from County Court of Athens.
	Document(s) amended	Birth certificate.
	Conditions for gender marker change	Presumably without requirement for surgery, but unclear.

Hungary

	Name change	<p>Possible. <i>Act No. I. of 2010 on registries.</i></p> <div style="background-color: #f0f0f0; padding: 5px; border: 1px solid #ccc;"> <p><i>Section 49(1): a central registry authority may grant a change of name to Hungarian citizens on request.</i></p> </div>
	Gender marker change	Not possible.

²³ From Women's Initiatives Supporting Group" (WISG) Tbilisi, "Discrimination and Hate Crime Against LGBT Persons" (2015), p.152

²⁴ Gesetz über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit in besonderen Fällen (Transsexuellengesetz - TSG)

Iceland



Name change

Possible. Act on the legal status of persons with kynáttunarfanda, Article 8.

Article 8. Kynleiðréttingar and name changes in the national registry

As soon as the National Registry receives notification of the adjusted gender individual under Article 6.4, the Agency shall inform the person of the obligation to change their name. Correction of sex will not be listed in the National Register until a valid application for a name change has been received by the National Registry and the name of the applicant has been modified under the Personal Names Act. The correction of gender and name change in the national register may allow the applicant to obtain a new PID.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (trans specific). Act on the legal status of persons with kynáttunarfanda, 2012, no. 57, Articles 6 and 7.



Conditions for gender marker change

Article 6. The task of the Specialist kynáttunarfanda

Anyone who has received the diagnosis and treatment of qualified teams of the University Hospital of kynáttunarfanda may request confirmation from the expert committee on kynáttunarfanda that he belongs to the opposite sex. The application must be accompanied team. It shall indicate that the applicant has been under the supervision of the team for at least 18 months and have been in the opposite gender roles for at least one year. It is also conditional on confirmation that the applicant is of legal age, domiciled and had continuous lawful residence in the country last two years for the application and are insured under the Health Insurance Act. if an applicant satisfies conditions 1 and:

(2) Confirms the expert committee that he belongs to the opposite sex. If appropriate, the expert committee also confirm that the applicant is qualified to kynleiðréttingar action. Expert Committee shall notify the applicant of the results of the decision referred to.

(3) Expert Committee also announces the National Registry of Sex applicant has been corrected under this Act. The decision sérfræðinefndarinnar under. 3. cannot be appealed to a higher authority.

Article 7. Legal effect of confirmation of the Specialist kynáttunarfanda

Applicants who have been approved under Article 6.3 enjoys all the rights that the law registered sex shows.

Ireland



Name change

Possible. Gender Recognition Act 2015, Part II, Section 10.

10. (1) A person who applies for a gender recognition certificate under section 8 shall furnish the following to the Minister: [...]

(b) the forename and surname by which he or she wishes to be known;



Gender marker change

Possible, without prohibitive requirements.



Authority

Legislation (trans specific). Gender Recognition Act 2015 (25/2015), Part III, Section 18.

Effect of gender recognition certificate generally

18. (1) Where a gender recognition certificate is issued to a person the person's gender shall from the date of that issue become for all purposes the preferred gender so that if the preferred gender is the male gender the person's sex becomes that of a man, and if it is the female gender the person's sex becomes that of a woman.



Conditions for gender marker change

Applicants must be 18 years old. Applicants between 16 and 18 years of age must provide consent from parents/guardians, along with references from the applicant's primary physician and a psychiatrist unrelated to the applicant's case: Part II, Section 12(1)-(4). No mandatory hormonal/surgical interventions. Gender is self-declared, but only binary choices are allowed.

Italy



Name change

Possible. Article 89, *Presidential Decree 396/2000*, states that persons can apply for a change of forename if theirs is "either absurd or shameful/embarrassing, or if it reveals their natural origin".

It is not clear whether a name which reveals a gender assigned at birth and not matching the gender identity of the adult would fall under those categories.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (trans specific) and court determination. *Loi 1982, n.164(1), Rules regarding the rectification of sex attribution.*²⁵

Article 1: 1. Rectification procedure under Art. 454 of the Civil Code also operates on court judgments regarding persons whose sex differs from that on their birth certificate following interventions/modifications of their sex characteristics.



Conditions for gender marker change

Article 2 164/1982 states that "When necessary, the judge can order that expert consultation be undertaken to investigate the psycho-sexual state of the applicant". It is therefore subjective depending on the court.

Kosovo



Name change

Possible. *Law No.02/L-118 On Personal Name, 2007.*

Article 10: Citizen has the right to correct and change his/her personal name.



Gender marker change

Not possible.

Latvia



Name change

Possible. *Name and nationality record change law, 66 (4052), 29.04.2009, Article 2.*²⁶

Article 2. Name change causes

(1) The name or last name (name and surname) can change a person who is a Latvian citizen, non-citizen or Latvian Republic has been granted the status of a stateless person, if it has reached the age of 15 and if there is any of the following reasons: [...]

6) the person changed sex;



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (not trans specific).

*Civil Status Registry Act, 2012/197.1.*²⁷



Conditions for gender marker change

Article 37. Other additions to the birth registry entry

(1) birth registry entry [can be] supplemented, if:

1) a person changes name, personal identity number, nationality, ethnicity or gender entry;

²⁵ Norme in materia di rettificazione di attribuzione di sesso.

²⁶ Vārda, uzvārda un tautības ieraksta maiņas likums.

²⁷ Civiltāvokļa aktu reģistrācijas likums.

2) one of the parents of a person changes the name, personal identity number, nationality, ethnicity or gender entry; [...]

(2) The birth register [can be] supplemented on the basis of a court judgment, the custody court decision, administrative action, a medical certificate or other document confirming gender reassignment, or personal application.

Elaborated upon in the *Provisions on civil status registers 2013/181.17.*²⁸

Article 134. Based on the application of the person and the registry office opinion, the registry entry supplemented, if:

134.11: the record of a person's sex is changed following medical certification by a medical institution or practitioner confirming gender 'reassignment'. The name and surname can be changed in accordance with gender.

Article 137. On the basis of the administrative act, the registry entry supplemented, if:

137.3: a person who has undergone a partial or complete 'sex change' can change their name(s) and/or surname(s). The record of the person's sex can be changed following medical certification by a medical institution or practitioner confirming gender 'reassignment'. The name(s) and/or surname(s) can be recorded in accordance with the decision on permission to change them.

Lithuania



Name change

Possible, with rules about gender-specific names. The *Order by the Ministry of Justice No. 56-2007* state that one's legal name can be changed only if it corresponds with "the applicant's sex, does not contradict the good morals and the public order of the Republic of Lithuania" (Articles 10 & 12). In essence this means that legal name change is possible only after gender affirmation surgery. This interpretation has also been confirmed by the jurisprudence of the national courts.²⁹



Gender marker change

Nominally possible, with unclear requirements.



Authority

Legislation (not trans specific). *Lithuanian Civil Code*, Article 2.27.

Right to the Change of the Designation of Sex

(1) An unmarried natural person of full age enjoys the right to the change of designation of sex in cases when it is feasible from the medical point of view. The application to the given effect shall have to be made in writing.

The conditions and the procedure for the change of designation of sex shall be prescribed by law.



Conditions for gender marker change

None. The legislation foreseen by the Civil Code has never been put in place, leaving no administrative or legal procedure for gender change.

Luxembourg



Name change

Possible. Can be applied for at the same time as gender recognition, as an accessory petition to the change in civil status.



Gender marker change

Possible, with prohibitive requirements.



Authority

Court application. Petition via the courts under Art. 99-1 of the *Code Civil*. No guidance is given on how the judge should proceed with the hearing, therefore it can be very arbitrary. As of February 2016, a Bill (Bill 6955) was filed with the Parliament on amending the Code Civil to allow for legal gender recognition.

²⁸ Noteikumi par civilstāvokļa aktu reģistriem.

²⁹ For the further discussion on legal gender recognition in Lithuania, please see NGO communication to the Council of Europe regarding the implementation of the *L. v. Lithuania (27527/03)* judgement of the European Court of Human Rights: <http://www.coe.int/en/web/execution/submissions-lithuania>.

**Conditions for gender marker change**

Dependent on the judge hearing the case. Surgery, sterilisation, and/or hormonal treatment may be required.

Malta

**Name change**

Possible. Can be registered at the same time as the change of gender.

**Gender marker change**

Possible, without prohibitive requirements.

**Authority**

Legislation (trans (and intersex) specific). *Gender Identity, Gender Expression, and Sex Characteristics Act 2015*.

To provide for the recognition and registration of the gender of a person and to regulate the effects of such a change, as well as the recognition and protection of the sex characteristics of a person.

Section 4 (4). (1) It shall be the right of every person who is a Maltese citizen to request the Director to change the recorded gender and, or first name, if the person so wishes to change the first name, in order to reflect that person's self determined gender identity.

**Conditions for gender marker change**

Self-declaration.

Section 3(4): The person shall not be required to provide proof of a surgical procedure for total or partial genital reassignment, hormonal therapies or any other psychiatric, psychological or medical treatment to make use of the right to gender identity.

In the case of a minor, the application must be filed by a parent or guardian. The court will take into account the best interests of the child as per the Convention on the Rights of the Child, and the age and maturity of the minor.

Moldova

**Name change**

Possible but unclear. *Law on Identification Documents 100-XV from 26.04.2001*, Article 66(2)c.

The law states the possibility for "a person to change their surname in identification documents only upon presenting a medical certificate on gender correction – one that proves that the person underwent a surgical intervention on sex reassignment." There is no other legislation on the matter of gender recognition.

**Gender marker change**

Possible but unclear, with prohibitive requirements.

Monaco





**Name change**

Possible. Article 77-11 of the *Code Civil*, which allows for petition via the courts.





**Gender marker change**

Not possible.





Montenegro

	Name change	Possible. Also possible under <i>Law 47/08</i> , with gender marker change.
	Gender marker change	Possible, with unclear requirements.
	Authority	Legislation (not trans specific). <i>The Law on Registry Books, 47/08</i> , Article 6.
	Conditions for gender marker change	Administrative procedure. Specifics not found; done by submitting forms to the Ministry of the Interior.

Netherlands

	Name change	Possible. See below..
	Gender marker change	Possible, with prohibitive requirements.
	Authority	Legislation (not trans specific) and court application. <i>Dutch Civil Code</i> , Book 1: Section 1.4.13.
	Conditions for gender marker change	<p>Article 1:28 (Transsexuality and a change of the birth certificate), allows for Dutch citizens to apply to the District Court for legal gender recognition, if they are "physically adjusted to the desired gender insofar this is possible and acceptable from a medical and psychological point of view" and incapable of procreating children in their sex assigned at birth. A non-Dutch national can apply if they are resident in the Netherlands for at least a year.</p> <p>When filing, the following documents are required: original birth certificate; expert report from within the past six months confirming that the applicant's gender identity is real and permanent; if the applicant has been "physically adjusted" to the gender being recognised; that the applicant cannot conceive/father children: see Article 1:28a.</p> <p>The request will be honoured if the District Court is convinced of the facts. This judgment can also include an order to change the forename of the applicant: Article 1:28b.</p>

Norway

	Name change	Possible, non-LGR-specific. Administrative procedure, fill out a form and send it to the tax office of your region.
	Gender marker change	Possible, without prohibitive requirements.
	Authority	Legislation (not trans specific). <i>Lov-2016-06-17-46: Law Amending the Legal Status</i> .
	Conditions for gender marker change	<p><i>Article 2: Persons who are resident in Norway and experiencing belonging to the gender other than which he or she is registered as in the National Register, have the right to amend their legal gender.</i></p>

Poland



Name change

Possible. *Act of 15.11.1956 on names*.³⁰ Must have 'important reasons' for requesting the name change (the ones specifically cited are: if the name is embarrassing or injurious to dignity; if it has non-Polish wording; if it 'resembles a given name'). The application is made to the civil registrar of the applicant's area of residence. A new civil registration certificate can be issued in the new name.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation (not trans specific) and court application. *Polish Civil Code*, Article 189.



Conditions for gender marker change

Changing a person's gender marker is a result of a court process based on article 189 of the *Polish Civil Code*. It is known as the "assessment suit", in which an individual has to confront their parents. This requires filing a lawsuit against one's family. When those regulations were formed, there was no possibility to introduce an administrative process, or a voluntary or ex parte jurisdiction (*iurisdictio voluntaria*).

A transsexual diagnosis in Poland can be obtained through a series of tests and examinations (both psychological and physical—including head x-rays, genitalia examination and karyotype check). Healthcare providers recommend a two-year real-life test during which one is not prescribed any hormones nor able to change their legal status. The real-life test is being gradually withdrawn. However, since there are no unitary standards on transsexual diagnosis in Poland, some diagnosticians still use it in their practice. After these conditions are fulfilled, the diagnostician decides whether to prescribe hormones, but usually does so after the person has already been diagnosed as transsexual. While it is possible to receive hormonal treatment without the diagnosis, this practice might be problematic for further court procedures.³¹

Portugal



Name change

See below.



Gender marker change

Possible, with prohibitive requirements. A Bill is being presented to the Portuguese Parliament which would allow for gender recognition for those under 18 years of age, and remove the pathologisation requirement. As yet unpassed.



Authority

Legislation (trans specific). *Law No. 7/2011 of 15th March: Creating a procedure for change of sex and name in the civil registry and providing for the seventeenth amendment to Code of Civil Registration*.³²



Conditions for gender marker change

Article 2: Legitimacy and capacity

The procedure can be requested by persons of Portuguese nationality; of legal age; not prohibited or incapacitated by reason of "psychological abnormality"/mental incapacity; who are diagnosed with gender identity disorder.

Article 3: Application and notice

1. The request may be made at any Civil Registry Office and must be accompanied by the following documents: (a) Application for change of sex, indicating the civil identification number and proper name by which the applicant wants to be identified; it may be required to acquire a new birth certificate; (b) Report of a diagnosis of gender identity disorder (also referred to as transsexuality) prepared by a multidisciplinary team of clinical sexologists clinic; this can be at a public or private health facility, at home or abroad.

2. The report referred to in section b) should be signed by at least one doctor and one psychologist.

³⁰ Ustawa z dnia 15 listopada 1956 r. o zmianie imion i nazwisk

³¹ Trans-fuzja, "Gender Recognition in Poland: A Report on Court and Administrative Procedures" (http://transfuzja.org/download/publikacje/gender_recognition_in_poland.pdf)

³² Cria o procedimento de mudança de sexo e de nome próprio no registo civil e procede à décima sétima alteração ao Código do Registo Civil.

Romania



Name change

Possible. *Civil Code*.

Art 82. Everyone has the right to name established or acquired under the law;

Art 85: Romanian citizens may legally change their first and/or family names by administrative procedure.

A process before the National Inspectorate for Registration of Persons.



Gender marker change

Possible, with unclear requirements.



Authority

Legislation (not trans specific) and court application. *Law on civil registration data* (119/1996); *Law on the procedures for identification documents* (Ordonanța Guvernului 41/2003).



Conditions for gender marker change

The civil status bureau of the Mayor's office receives requests to change the sex marker on civil status documents, once the individual has a final court order. However, in the absence of clear laws or guidance, the courts issue contradictory interpretations of the law on aspects of legal gender recognition procedures. Some find it contingent on gender reassignment surgery while others do not.³³

Russia



Name change

Possible. *Russian Civil Code*, Article 19; *Law on Acts of Civil Status*, Chapter VII.

Name change is available in law, however in practice it is difficult or even impossible.

While traditionally most Russian names (first name, patronymic, surname) are gendered, there are no official lists of male and female names or rules regulating how they should be formed. At the same time, in practice it is usually easy to change "traditionally" gendered name to a gender-neutral one, but not to a "traditionally opposite-gender name."

One such case has been exhausted recently on the national level, and submitted to the European Court of Human Rights in October 2016 by the Transgender Legal Defense Project.



Gender marker change

Nominally possible, different in practice, with prohibitive requirements.



Authority

Legislation (not trans specific), civil registry and court applications. *No. 143-FZ, About Acts of Civil Status*, Article 70.

Article 70: It is possible to correct/change one's civil gender status with the presentation of certification by a medical institution, following procedure to be established by the executive authority for the region, and following state policy and legal regulation of public health.



Conditions for gender marker change

Conditions are not established by law and are therefore subject to the practices of the individual regional civil registry office or court. The application is presented to the civil registry office, although in practice most of these are refused, as there is no legal definition of the medical certification required under Article 70.

There should be at least a diagnosis of "Transsexualism" using code F64.0 of the International Classification of Diseases-10, hormone therapy, gender reassignment surgery, and, in exceptional cases, one surgery such as mastectomy. Cases where the applicants have not had phalloplasty did not amount to enough surgical requirements for legal gender recognition.

33 Constantin Cojocariu and Iustina Ionescu, *European Union Agency for Fundamental Rights (FRA): "Legal Study of Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity: Romania, January 2014 Update"*, Chapter G.

Slovakia



Name change

Possible. *Act on Name and Surname 300/1993* (as amended).

Section 6 (6): A person undergoing 'sex change' can enable the district office to use a neutral name and surname for them, at their request, and with confirmation from the medical facility in which they are undergoing treatment.

Section 7: permission to change one's forename and surname is not required where it is requested on grounds of gender reassignment. The application is made at the civil registry office. If it is being requested on grounds of gender reassignment a medical report must be submitted (with no specificity on what "gender reassignment means).



Gender marker change

Possible, with unclear requirements.



Authority

Legislation (not trans specific). *Act 301/1995 on personal identification numbers.*

Section 8(2): The Ministry shall, on request, change Social Security number, [...]

b) based on a medical opinion on the change of sex of the person.



Conditions for gender marker change

None given or listed anywhere, but the law on changing one's identification number requires a 'medical opinion' – without specifying what level of medical interventions are needed, if any, for that opinion to suffice.

Slovenia



Name change

Possible. *Law on Personal Names (ESL-1) No. 001-22-3/06.*

Article 18: Names can be changed on request by an adult citizen. It is decided by the competent authority to which the application is made.

Article 20: Minors need the consent of their legal guardians.



Gender marker change

Nominally possible, different in practice, unclear requirements.



Authority

Legislation (not trans specific). *Rules on the Implementation of the Law of the Central Register* (Official Gazette of RS, Nos. 40/05 and 69/09), Article 3.

Article 3: Sex change.

Sex change shall be entered on the basis of the decision of the competent authority amending the data entered. The basis for issuing the decision is confirmed by a competent medical institution or doctor, which shows that the person has changed gender.



Conditions for gender marker change

Per legislation, medical certification. However, there are no criteria for what this must include or what level of intervention must have been performed. It is therefore dependent on the individual civil registrar and uncertain for the applicant.

Spain



Name change

Possible. Provided for with gender marker change. See below.



Gender marker change

Possible, with prohibitive requirements.

**Authority**

Legislation (trans specific). *Law 3/2007, of the 15th of March, Regulating the Rectification of Mentions in the Registry of the Sex of Persons.*³⁴

**Conditions for gender marker change***Article 1.1: Standing*

Any Spanish national who is of legal age and enjoys legal capacity may request that his sex marker be rectified.

Article 4: Requirements

4.1.a. Rectification of sex marker will be allowed upon proof a gender dysphoria diagnosis, certified by a doctor or clinical psychologist who are registered to practices in Spain, showing: 1) a stable and persistent dissonance between gender identity and morphological sex or physiological gender, and 2) the absence of other personality disorders;

4.1.b. The applicant must have undergone medical treatment for no less than two years to alter physical characteristics to match those of the claimed sex. This must be certified by the doctor under whose care the treatments have taken place, or an approved medical examiner.

4.2. These medical interventions need not include sex reassignment surgery. The requirement for medical treatment/certification of such can be waived on account of health or age reasons.

Autonomous Region of Andalusia, Spain

**Gender marker change**

The Andalusian Parliament in Spain passed a separate law on transgender status in 2014. It is based on freedom of gender expression, self-declaration, and depathologisation.

**Authority**

Legislation (trans specific). *Law 2/2014, of July 8, integral for non-discrimination on grounds of gender identity and recognition of rights of transsexual persons in Andalusia.*³⁵

**Conditions for gender marker change***Article 9. Administrative documentation*

1. In order to promote better integration and avoid situations of 'outing' or discrimination, Andalusia will provide to any person requesting it, whatever accreditation of their self-declared identity as may be necessary for access to its administrative services.

2. Regulation of the accreditation procedure will be established based on the following criteria:

- a. Applications will be made by the persons concerned or, where appropriate, by their legal representatives.*
- b. The procedures for issuing administrative documents under this Act shall be free; they will not require any intermediary, and in no case will they involve an obligation to provide or accredit any type of medical documentation.*
- c. It shall ensure that persons are treated according to their freely determined gender identity, and the dignity and privacy of the person concerned will be respected.*

Sweden

**Name change**




Possible. *Name-change law (1982: 670).*

Article 5: anyone wishing to change their birth surname must apply to the Swedish Tax Agency




Article 32: as above for first names.

³⁴ Reguladora de la rectificación registral de la mención relativa al sexo de las personas.





³⁵ Integral para la no discriminación por motivos de identidad de género y reconocimiento de los derechos de las personas transexuales de Andalucía.

	Gender marker change	Possible, without prohibitive requirements.
	Authority	Legislation (trans specific). <i>Act (1972: 119) on establishing gender in certain cases.</i> ³⁶
	Conditions for gender marker change	Section 1: an application may be made for a person avowing that they have for a long time felt they belong to the gender to which they wish to change their registry; that they have lived in this gender identity for a period of time and will continue to do so; that they are over 18. Minors must apply through their legal guardian. Permission for surgical intervention (either modification or "remov[al of] the genital glands") will only be given with legal gender recognition and except in exceptional circumstances the applicant must be over 23.


Switzerland

	Name change	Possible. <i>Swiss Civil Code</i> , Article 42.IV.1. The Code allows for anyone to change their name for "legitimate reasons".
	Gender marker change	Possible, with unclear requirements.
	Authority	Legislation. <i>Swiss Civil Code</i> , Article 42.IV.1.
	Conditions for gender marker change	The Code provides for modification of civil registry entries by a court. All persons with a legitimate personal interest may request that a judge order the entry, correction, or removal of disputed information to do with civil status. No specific mention is made of gender recognition. The courts affirmed the right to judicial change of civil status for transgender persons in Federal High Court decision: BGE 119 II 264.

Turkey

	Name change	Possible. Provided for with gender marker change, as below.
	Gender marker change	Possible, with unclear requirements.
	Authority	Legislation (not trans specific) and court application. <i>Civil Code</i> , Article 40.
	Conditions for gender marker change	Must be over 18 years old, unmarried and certified by "a teaching and research hospital medical board".

Ukraine

	Name change	Possible. <i>Civil Code of Ukraine</i> , Article 295. <i>Article 295. The right to a name change.</i> <i>An individual who has attained the age of sixteen is entitled at their discretion to change their name.</i>
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³⁶ Om fastställande av könstillhörighet i vissa fall.

**Gender marker change**

Possible, with prohibitive requirements.

**Authority**Legislation (not trans specific). *Basic Laws of Ukraine on Health Act of 19.11.1992 number 2801-XII.**Article 51. Change (correction) of sex**At the request of the patient and according to the biomedical and psychosocial indications, which are set by the central executive authority, which provides public policy in health care, change (correction) of sex can be carried out by medical intervention in health care.**The person whose sex has been changed can be issued a medical certificate to use in respect of appropriate changes in their legal status.*Also: *On Approval of Rules Amendments to the record of civil status, their renewal and cancellation, Order 12.01.2011 № 96/5 (Order of the Ministry of Justice).**Article 2.1: amendments to the records of birth due to change of sex can be submitted to the Civil Registry Department in the region belonging to the Commission on Sex Changes which issued the medical certification of gender transition, as per Ministry of Health procedure.**2.16.9: 2.16.9. This can include both change of legal sex and change of name.***Conditions for gender marker change***Order No. 60 of the Ministry of Health requires:*

- Mandatory in-patient psychiatric evaluation of 30 to 45 days in an individual's region of residence to confirm or reject a diagnosis of "transsexualism";
- A requirement that the person seeking legal gender recognition not be married or have biological children under 18;
- Coerced sterilization;
- Numerous medical tests that are unrelated to Ukraine's legal gender recognition procedure;
- Evaluation by the State Evaluation Commission to confirm the diagnosis of "transsexualism" and authorise the change in legal documents;
- Observation by a sexologist for a period of one year to determine degree of "social adaptation."

United Kingdom

**Name change**

Possible. Change of name for identification purposes is possible by deed poll.

**Gender marker change**

Possible, with some prohibitive requirements.

**Authority**Legislation (trans specific). *Gender Recognition Act 2004 (2004, Chapter 7).**Part II, Section 9. Where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman).***Conditions for gender marker change**

The applicant must be "living in the other gender" or have been granted legal gender recognition by another state: s.1(1) (a) and (b).

The application will be determined by a Gender Recognition Panel: s.1(1)-(3).

The applicant must have/have had gender dysphoria; they must be living in the "acquired gender" for two years before the application; they must intend to remain of that gender for the rest of their life: s.2(1) (a), (b), (c).

The applicant must supply either:

- (a) a report made by a registered medical practitioner practising in the field of gender dysphoria and a report made by another registered medical practitioner (who may, but need not, practise in that field), or
- (b) a report made by a registered psychologist practising in that field and a report made by a registered medical practitioner (who may, but need not, practise in that field): s.3(1).

This report must include details of the applicant's gender dysphoria (s. 3(2)) and medical interventions undergone or planned (s. 3(3)).






They must also report if they are married or in a civil partnership: s. 3(6)(a). Dissolution of the marriage is required before a change of gender can be recognised. Until the applicant's marriage is annulled, an interim gender recognition certificate will be supplied: s. 4(3) and (4); s. 5(1)-(7); and s. 5(A) in the event that the union is a civil partnership.

The applicant must be at least 18 years old: s. 1(1).



Latin America & the Caribbean

This chapter was written by Lina Morales, Anais Lemouton, Marvin André Krause, Gustavo Pérez and Matilda González Gil from Colombia Diversa. Matilda González Gil was the coordinator and supervisor of this research.

Argentina

	Name change	Possible.
	Gender marker change	Possible, without prohibitive requirements.
	Authority	Legislation (trans specific). <i>Act 26.743/2012 Gender Identity Law</i> states that total or partial reassignment surgery, hormone therapies or any medical or psychological treatment, are not needed.
	Document(s) amended	Birth certificate, national identity card.
	Conditions for gender marker change	<p>Anyone is entitled to request the rectification of sex marker, name and/or picture in the civil registry when any or all of these features are contrary to the petitioner's gender identity. These procedures are considered as part of the recognition and guarantee of the right to gender identity.</p> <p>The petitioner must meet the following requirements:</p> <ol style="list-style-type: none">1. Be at least 18 years old, unless authorization of the legal representatives of the child is taken and a lawyer is present to assist with the application. But even if "the consent of any of the minor's legal representative is denied or impossible to obtain", the judge may rule in favour of the child "taking into account the evolving capacities and best interest of the child as expressed in the Convention on the Right of the Child"³⁷2. Submit an application to the Office of National Registry of Persons. Birth certificates are amended and new national identity cards are issued with the original number retained.3. To provide the new first name they want to be registered in. <p>Once the requirements are met, "the public officer will proceed—without any additional legal or administrative procedure—to notify the amendment of the sex and the change of first name to the Civil Register corresponding to the jurisdiction where the birth certificate was filed so that it will issue a new birth certificate incorporating the said changes, and to issue a new national identity card reflecting the amended sex and the new first name as now recorded".³⁸</p>

Bolivia

	Name change	Possible. See gender marker change information below.
	Gender marker change	Possible, without surgical/sterilisation requirements.

37 Article 5, Act 26.743 / 2012: <http://tgeu.org/argentina-gender-identity-law/>

38 Article 6, Act No. 26.743 / 2012: <http://tgeu.org/argentina-gender-identity-law/>

**Authority***Act 807/2016 Act of Gender Identity.***Conditions for gender marker change**

The Act of Gender Identity determines the procedure for name, sex marker and personal photograph change in identity documents of trans persons. The data can be changed only once. The competent authority for regulation and modification of documents is the Civil Registry Service.

Requirements:

1. A letter enlisting name and sex, both given and requested;
2. Psychological examination attesting that the petitioner consents the decision;
3. Original birth certificate;
4. Certificate of personal remarks from the General Service of Personal Identification (SEGIP in Spanish);
5. Certificate of marital status;
6. Certificate of offspring;
7. Criminal Record Certificate;
8. Updated personal photograph;

Those living abroad may apply by proxy. The process should take a maximum of 15 calendar days from the application date. The change cannot be denied without the petitioner being given the opportunity to rectify any issues. After 15 days, the Resolution of the Civil Registry Service notifying the amendment of sex marker, name and personal photograph of the petitioner is sent to institutions relating to identification, banking, immigration, tax, registration of property, criminality and the police, education, defence, insurance and any other records that the applicant requires.

Brazil

**Name change**

Not possible. Current federal legislation only allows name change in exceptional cases and with a judicial order of the Public Ministry.³⁹ The “social name” of trans persons must be acknowledged and used by public officers in any institutional procedure or document, if the person request so.⁴⁰

In official documents and records, one’s “social name” can be added as a separate marker next to the given “civil name” (which will be used “only for administrative procedures”⁴¹), just by request.

However, it is not possible to change the given name in civil registry and personal identity documents yet.

**Gender marker change**

Not possible. In 2013, a Gender Identity Bill was brought to the National Congress. The proposed Act would allow transgender people to change their name, personal photograph and gender marker without any medical intervention or judicial authorisation.⁴²

However, it has not yet been approved by the Congress.

³⁹ Article 58, Act No. 6015 approved by the National Congress in December 31st 1973: http://www.planalto.gov.br/ccivil_03/leis/L6015original.htm

⁴⁰ Article 2, Decree No. 8727 approved by the President of the Republic on April 28th 2016: https://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2016/Decreto/D8727.htm

⁴¹ Article 3, Decree No. 8727 / 2016.

⁴² Articles 3-5, Proposal 5002 / 2013: http://www.camara.gov.br/proposicoesWeb/prop_mostrarintegra?codteor=1059446&filename=PL+5002/2013

Chile



Name change

Possible, but not intended for trans persons. *Act No. 17.344/1970* allows name change in some specific cases, including if the given name is injurious or if a foreign person wants to translate her/his name to Spanish.

However, it does not include the recognition of gender identity as a valid reason to request name change.⁴³



Gender marker change

Not possible. Current Chilean legislation does not provide any grant for the legal recognition of gender identity. There is an Act of Gender Identity that was proposed to the Congress on 7 May 2013. It will allow trans people to correct the given name and sex assigned at birth in their civil registry without any medical or judicial requirement.⁴⁴

In September 2016, the Act was approved by the Human Rights Commission of the National Congress and should be voted by the Senate on 2 November 2016.⁴⁵

Colombia



Name change

Possible. Any citizen can modify their given name in the civil registry through a public deed.⁴⁶ This procedure is allowed just once,⁴⁷ but trans people can change their names in their civil registry and identity documents twice.⁴⁸



Gender marker change

Possible, without prohibitive requirements.



Authority

Legislation (trans specific). *Decree 1227/2015*.⁴⁹



Conditions for gender marker change

Decree 1227/2015 allows modification of the "sex" marker in documents through a public deed. The petitioner must also provide:

1. A copy of the civil registry;
2. A photocopy of the certificate of citizenship;
3. An affidavit with the intention of making the change of the marker "sex".

The component can be renamed only 10 years after the first modification and a maximum of twice in one's life. The notary must issue a public document within five working days of making the request.⁵⁰

⁴³ Article 1, Act 17.344 / 1970: <http://www.leychile.cl/Navegar?idNorma=28940>

⁴⁴ Article 4, Proposal for "Act of Gender Identity": <https://www.iguales.cl/archivos/ley-de-identidad-de-genero/PROYECTO-DE-LEY.pdf>

⁴⁵ Organizando Trans Diversidades – OTD Chile, "Proyecto de Ley de Identidad de Género será votado en particular en Sala del Senado", September 11th 2016: <http://otdchile.org/proyecto-de-ley-de-identidad-de-genero-sera-votado-en-particular-en-sala-del-senado/>; Iguales, "Iguales celebra que comisión de DDHH despache proyecto de identidad de género", September 12th 2016: <https://www.iguales.cl/iguales-celebra-comision-ddhh-despache-proyecto-identidad-genero/>

⁴⁶ Article 6, Decree No. 999 / 1988 approved by the President of the Republic: http://www.icbf.gov.co/cargues/avance/docs/decreto_0999_1988.htm

⁴⁷ ColConectada, "Cambio de nombre en Colombia", January 6th 2015: <http://www.colconectada.com/cambio-de-nombre-en-colombia/>

⁴⁸ Colombian Constitutional Court, Ruling T-086/14: <http://www.corteconstitucional.gov.co/relatoria/2014/T-086-14.htm>

⁴⁹ Por el cual se adiciona una sección al Decreto 1069 de 2015, Único Reglamentario del Sector Justicia y del Derecho, relacionada con el trámite para corregir el componente sexo en el Registro del Estado Civil.

⁵⁰ Decree No. 1227 / 2015 approved by the Ministry of Interior and the Ministry of Justice: <https://www.minjusticia.gov.co/Portals/0/Ministerio/decreto%20unico/%23%20decretos/1.%20DECRETO%202015-1227%20sexo%20c%C3%A9dula.pdf>

Costa Rica



Name change

Possible. Only by a ruling of the Supreme Tribunal of Elections (TSE).⁵¹ However, so far only two trans persons have successfully changed their names in their identity documents.⁵² The person is allowed to have a photograph in the identity documents that reflects their gender identity, and to add a name next to their given name with the marker "known as".⁵³

There is no legislation that guarantees the right to gender identity by amending one's name or gender in personal identity documents without medical, psychiatric or judicial interventions.⁵⁴



Gender marker change

Not possible.

Cuba



Name change

Possible.



Gender marker change

Possible, with prohibitive requirements.



Authority

Legislation.



Document(s) amended

Birth certificate.



Conditions for gender marker change

The sex in identity documents can be amended only if it corresponds to the genitalia of the petitioner. This is because "current legislation registers sex depending on genitalia, even if genitalia were reassigned by surgery".⁵⁵

Integral medical care (including sex reassignment surgery and hormonal treatment) is provided and covered by the national health care system since 2008 (Public Health Ministry, Resolution 126).⁵⁶

The petitioner submits the request to the Civil Section of the Local Tribunal. Then, the request is taken to the National Commission for Integral Attention to Trans Persons along with the medical certification that the petitioner has undergone sex reassignment surgery.

Finally, the Local Tribunal where the request was originally submitted orders the amendment of sex and name in identity documents. After this, the Civil Registry issues a new birth certificate.⁵⁷

51 Artículo 54 del Código Civil de Costa Rica: <http://www.cendeiss.sa.cr/etica/codcivil.pdf>

52 CRHOY, "María José: el dilema de una persona transgénero que no logra que la llamen por su nombre", May 24th 2015: <http://www.crhoy.com/archivo/maria-jose-el-dilema-de-un-transgenero-que-no-logra-que-la-llamen-por-su-nombre/nacionales/>

53 CRHOY, "Registro Civil permite utilizar opción del "conocido como" para nombre en cédula de población transexual", December 9th 2014: <http://www.crhoy.com/archivo/registro-civil-permite-utilizar-opcion-del-conocido-como-para-nombre-en-cedula-de-poblacion-transexual/>

54 REDLACTRANS, "Violaciones a los Derechos Humanos de las Personas Trans en Costa Rica, El Salvador, Guatemala, Honduras y Panamá": <http://redlactrans.org.ar/site/wp-content/uploads/2016/01/Informe-COMPLETO.pdf>

55 BBC, "Cambio de sexo ya es una realidad en Cuba", January 23th 2010: http://www.bbc.com/mundo/america-latina/2010/01/100123_cuba_operacion_cambiosexo.jp.shtml

56 Inter Press Service, "HEALTH-CUBA: Free Sex Change Operations Approved", June 6th 2008: <http://www.ipsnews.net/2008/06/health-cuba-free-sex-change-operations-approved/>; Washington Blade, "Amid Change, LGBT Cubans face lingering challenges", May 27th 2015: <http://www.washingtonblade.com/2015/05/27/amid-change-lgbt-cubans-face-lingering-challenges/>

57 Juventud Rebelde, "El carné tal como soy", June 12th 2014: <http://www.juventudrebelde.cu/cuba/2014-06-12/el-carne-tal-como-soy/>

Dominican Republic



Name change

Possible. There has been a case of a trans woman who changed her name⁵⁸ under the *Law No.659 of July 17th 1944 on acts of civil status*.⁵⁹ She is the first transgender women authorized to change her name in her identity documents in the Dominican Republic.



Gender marker change

Not possible.

Ecuador



Name change

Possible. Anyone over 18 years old can change their own names personally and once, without further requirements.⁶⁰



Gender marker change

Possible, without surgical/sterilisation requirements.



Authority

Legislation (not trans specific). *Ley Orgánica de Gestión de la Identidad y Datos Civiles, Articles 76 and 94*.



Document(s) amended

Identity card.



Conditions for gender marker change

Anyone over 18 years old can change the "sex" marker in the personal identity document for a "gender" marker as masculine or feminine.⁶¹ Personal photographs in the identity document can also be amended to show the owner's gender identity. To change the "sex" marker in the civil registry, they must have a judicial order.⁶²

El Salvador



Name change

Not possible. Article 23, *Ley del Nombre de la Persona Natural, Decreto No. 450 de 1990* de la Asamblea Legislativa allows for a change of name under certain conditions, which do not include recognizing gender identity. Salvadorean legislation only allows change of a person's name under exceptional circumstances and provided that the new name reflects the same gender as in the original document (for which gender marker changes are not allowed).

In 2003, a lawyer who made such an application was given a disciplinary sanction.⁶³



Gender marker change

Not possible.⁶⁴

58 Más VIP, "Por decreto Mía Cepeda cambia de nombre", July 14th 2014: <http://www.masvip.com.do/secciones/quien/por-decreto-mia-cepeda-cambia-de-nombre> (retrieved 12/10/2016).

59 "Ley No.659 del 17 julio de 1944 sobre actos del estado civil en República Dominicana", attached with Cristian King's email, 02/10/2016.

60 Article 78, *Ley Orgánica de Gestión de la Identidad y Datos Civiles*, approved by the National Assembly on February 4th 2016: http://www.registrocivil.gob.ec/wp-content/uploads/downloads/2016/03/LEY_ORGANICA_RC_2016.pdf

61 Article 94, *Ley Orgánica de Gestión de la Identidad y Datos Civiles*.

62 Article 76, *Ley Orgánica de Gestión de la Identidad y Datos Civiles*.

63 Asociación Salvadoreña de Derechos Humanos - Entre Amigos, International Gay and Lesbian Human Rights Commission, Global Rights, International Human Rights Clinic – Harvard Law School, REDLACTRANS: "The Violation of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in El Salvador", Shadow Report submitted to the United Nations Human Rights Committee, October 2010: <https://www.outrightinternational.org/sites/default/files/439-1.pdf>

64 American University – Washington College of Law, Heartland Alliance, ASPIDH Arcoiris, COMCAVIS TRANS and Generación de Hombres Trans de El Salvador: "Violaciones de derechos humanos de las personas transgénero en El Salvador", Shadow Report submitted to the United Nations Human Rights Committee, February 2015: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SLV/INT_CCPR_ICJ_SLV_19856_S.pdf

Guatemala



Name change

Possible. Any person can submit a request of name change to the Notary of the Civil Registry: Articles 18-20, *Ley Reguladora de Asuntos de Jurisdicción Voluntaria*, Decree No. 54 /1977 (approved by the National Congress).

Once the request is formulated, it is published in the government gazette. Other persons can oppose the request if they are negatively affected by that change. If there is no opposition, the Civil Registry will proceed to amend the birth certificate.

If there is opposition, a court will determine if the given name of the petitioner will be changed or not.⁶⁵



Gender marker change

Not possible.⁶⁶

Haiti



Name change

Not possible.



Gender marker change

Not possible.

Honduras



Name change

Not possible.



Gender marker change

Not possible. It is forbidden by law to make any modification of the sex assigned in the original birth certificate.⁶⁷

Jamaica



Name change

Possible. By deed poll to change driver's license, medical records, passport, etc. The process is governed by policy from the Registrar General's Department.⁶⁸



Gender marker change

Not possible.

⁶⁵ Artículo 3.1. del "Manual del Procedimiento para la Inscripción de Cambio de Nombre, Identificación de Persona e Identificación de Tercero", Acuerdo de Directorio No. 27-2010 del Registro Nacional de las Personas.

⁶⁶ Organización Trans Reinas de la Noche, Heartland Alliance for Human Need and Human Rights, Akahatá: "Situación de los Derechos Humanos de las Personas Travestis, Transgénero y Transexuales en Guatemala", Shadow Report submitted to the United Nations Human Rights Committee, August 2015: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/GTM/INT_CCPR_IC_S_GTM_21419_S.pdf

⁶⁷ Artículo 30, Numeral 5 del Reglamento de la Ley del Registro Nacional de las Personas, Acuerdo No. 73 del Directorio del Registro Nacional de las Personas: <http://www.poderjudicial.gob.hn/CEDIJ/Documents/Reglamento%20de%20la%20Ley%20del%20Registro%20Nacional%20de%20las%20Personas.pdf>

⁶⁸ Contact by email with Glenroy Murray, JFLAG, 30/09/2016.

Mexico



Name change

Possible (only in Federal District of México City). See gender marker change information below.



Gender marker change

Possible, without prohibitive requirements (only in Federal District of México City).

In Mexico, the laws concerning changing name and gender marker are not uniform and depend on the federal states. Only the Federal District of México City has taken measures to recognize gender identity, allowing trans people to change their name and gender on identity documents.



Authority

Legislation (not trans specific). *Civil Code*, Article 135.



Conditions for gender marker change

Since 13 March 2004, the amendments to the México City Civil Code allowed transgender people to change their gender marker and name on birth certificates. However, sex reassignment surgery was required.⁶⁹ In 2008, this right was extended to recognize gender identity.

In November 2014, the legislative assembly approved by vote a proposal so that transgender persons can change their name and gender without medical examination nor judicial order.⁷⁰ This amendment points the recognition of gender identity as a necessity, unlike the former amendments. In addition, the new article modifies the process from being judicial and up to the judge's discretion to an administrative procedure.

The requirements are listed in Article 135 of the *Civil Code*. The applicant must be Mexican, over 18 years old and provide the following documents: a filled application, proof of residency in the district of México City, birth certificate and official ID.⁷¹

An important step forward in this reform is that no longer are chirurgical and medical interventions are required: "In no event shall be required chirurgical interventions of any kind, as well as therapies or other diagnostic and/or procedure (alike) for the recognition of gender identity."

Nicaragua



Name change

Not possible.



Gender marker change

Not possible.

Panama



Name change

Possible. Resolution 221 of the National Direction of the Civil Registry, commencing in 2016.⁷² Before that, trans persons were required to have had sex reassignment surgery to change their names.⁷³





69 OutRight International, "Mexico City amends Civil Code to include transgender rights", June 15th 2004: <https://www.outrightinternational.org/content/mexico-mexico-city-amends-civil-code-include-transgender-rights> (retrieved 27/09/2016).

70 Milenio, "Facilitan cambio de nombre a personas transgénero", November 13th 2014: http://www.milenio.com/df/transgenero-actas-de-nacimiento-aprueba-ALDF-tramites-juicio-peritajes_0_408559370.html and Animal Político, "Reconocimiento de identidad de género derechos de personas transexuales y transgénero", April 20th 2015: <http://www.animalpolitico.com/blogueros-verdad-justicia-reparacion/2015/04/20/reconocimiento-de-identidad-de-genero-derechos-de-personas-transexuales-y-transgenero/> (retrieved 27/09/2016).



71 Código Civil Para el Distrito Federal de México <http://www.aldf.gob.mx/archivo-c9dc6843e50163a0d2628615e069b140.pdf> (retrieved 27/09/2016).

72 La Estrella de Panamá, "Candy Pamela, primera transexual en cambiar su nombre en Panamá", May 22th 2016: <http://laestrella.com.pa/panama/nacional/candy-pamela-primera-transexual-cambiar-nombre-panama/23939628>



73 Corresponsales Clave, "Avances en el derecho a la identidad de género en Panamá": <http://www.corresponsalesclave.org/2016/06/identidad-de-genero-panama.html>

	Gender marker change	Possible, with prohibitive requirements.
	Authority	<i>General Assembly's Law on Civil Registry, Law 31 of 2006, Section 121.</i> ⁷⁴
	Document(s) amended	Birth certificate.
	Conditions for gender marker change	By a ruling of the National Direction of the Civil Registry. ⁷⁵ A forensic doctor must certificate that the sex of the person is the same as that corrected to in the identity documents. ⁷⁶ For trans people, this means that they can only request a correction of sex in their identity documents if they go under sex reassignment surgery. ⁷⁷

Paraguay

	Name change	Possible. Current legislation only allows name change in exceptional cases and with a judicial order. If someone else is affected by this change, they can request the judge to revert it. ⁷⁸ It is unclear if this can be used by trans persons also.
	Gender marker change	Not possible.

Peru

	Name change	<p>Possible.⁷⁹ By judicial order. The request must be submitted to a civil judge, with a copy of the petitioner's identity document, birth certificate, a letter stating the valid reasons why they want to change their given name, and any criminal record. Once accepted, it is published in the government gazette and the main newspaper of the district where the request is submitted.⁸⁰ If the judge authorizes the change, the order will be sent to the National Registry of Identification and Civil Status (RENIEC). RENIEC will make the change in the petitioner's civil registry.⁸¹</p> <p>The Peruvian Constitutional Tribunal ruled in 2006 that a transgender person could change her name (from male to female) in her identity documents, but this procedure did not alter any other "identity feature (sex, date of birth, etc)" which stayed the same as in the original registry.⁸²</p>
	Gender marker change	Not possible.

⁷⁴ Ley del Registro Civil, Ley 31 de 2006 de la Asamblea Nacional.

⁷⁵ Artículo 121 de la Ley del Registro Civil, Ley 31 de 2006 de la Asamblea Nacional: http://www.tribunal-electoral.gob.pa/html/fileadmin/user_upload/archivos_en_general/Ley_31-2006_del_Registro_Civil.pdf

⁷⁶ Artículo 121 de la Ley del Registro Civil, Ley 31 de 2006 de la Asamblea Nacional: http://www.tribunal-electoral.gob.pa/html/fileadmin/user_upload/archivos_en_general/Ley_31-2006_del_Registro_Civil.pdf

⁷⁷ "Situación de derechos humanos de las personas trans en Panamá", Public Hearing before the Inter-American Commission of Human Rights, October 2015: <https://www.youtube.com/watch?v=At3Lp26inKw>

⁷⁸ Articles 42 and 48, Act No. 1183 Paraguay Civil Code approved by the National Congress: https://www.oas.org/dil/esp/Codigo_Civil_Paraguay.pdf

⁷⁹ <http://www.tc.gob.pe/jurisprudencia/2014/00139-2013-AA.pdf>

⁸⁰ Poder Judicial del Perú, "Cambio o adición de nombre": https://www.pj.gob.pe/wps/wcm/connect/cortesuprema/s_cortes_suprema_home/as_servicios/as_enlaces_de_interes/as_orientacion_judicial_a_usuario/as_tramites_judiciales/requisitos_procedimientos/cambio_o_adicion_de_nombre

⁸¹ El Comercio, "Reniec: pasos para cambiar de nombre o agregarse uno", June 2nd 2015: <http://elcomercio.pe/sociedad/lima/reniec-pasos-cambiar-nombre-agregarse-uno-noticia-1815708>

⁸² Peruvian Constitutional Tribunal, Ruling 2273 / 2005: <http://www.tc.gob.pe/jurisprudencia/2006/02273-2005-HC.html>

Saint Lucia



Name change

Not possible.



Gender marker change

Not possible.

Uruguay



Name change

Possible. See gender marker change procedure below.



Gender marker change

Possible, without prohibitive requirements.



Authority

Legislation (trans specific). *Act No.18.620 Right to Gender Identity and Change of Name and Sex in Identification Documents.*



Conditions for gender marker change

Act No.18.620 allows name change and correction of gender marker in identity documents as ways to guarantee the right to gender identity. Both name and gender marker change applications can be made by anyone to the Family Court. Along with the request, the petitioner must submit evidence to prove that their identity documents do not match their gender identity. Such contradiction must have lasted at least two years, which is not necessary if the petitioner has had sex reassignment surgery (though this is not a prerequisite).⁸³

Psychiatric diagnosis is not required, but the application must be analyzed by an interdisciplinary committee of the National Direction of the Civil Registry specializing in gender identity.

Venezuela



Name change

Possible. The *Organic Act of the Civil Registry* states that any adult citizen can modify the given name once. The request must be submitted with a copy of the Civil Registry to be amended, a letter explaining the reasons why the petitioner wants to change her or his name, the address and the signature of the petitioner. Among the valid reasons to change the given name, are whether it is "injurious" or whether it corresponds with the gender of the petitioner.⁸⁴ The Civil Registry must issue a final decision in a term of 8 days. If the request is denied, the petitioner can ask for a motion of reconsideration to the Civil Registry or can submit the request to a judge.⁸⁵

However, Venezuelan LGBTI activists and organizations have said that most name change requests by trans persons are denied by the Civil Registry and redirected to administrative judges. In such cases, "most of the requests are denied after a prolonged time and invidious medical, psychological, psychiatric or forensic examinations".⁸⁶



Gender marker change

Not possible.

⁸³ Articles 2-4, Act No. 18.629 approved by the General Assembly on October 25th 2009: <https://legislativo.parlamento.gub.uy/temporales/leytemp8083310.htm>

⁸⁴ Article 146, "Ley Orgánica del Registro Civil" passed by the National Assembly on August 25th 2009: http://www.cne.gob.ve/registrocivil/uploads/repoDocs/67ec2b3348cc47937ce81e62a2acbfd0615e6514_1293028789.pdf

⁸⁵ Article 92, Resolution No. 40.093 / 2013 "Reglamento No. 1 de la Ley Orgánica del Registro Civil" passed by the National Electoral Council on December 20th 2012: <https://derechovenezolano.files.wordpress.com/2013/02/reglamento-nc2b0-1-consejo-nacional-electoral.pdf>

⁸⁶ Red LGBTI Venezuela, "Situación de los Derechos Humanos de las Lesbianas, Gays, Bisexuales, Trans e Intersex en Venezuela", Shadow Report submitted to the United Nations Human Rights Committee, May 2015: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/VEN/INT_CCPR_CSS_VEN_20596_S.pdf

Kingdom of the Netherlands

Aruba, Curaçao, Sint Marteen are part of the Kingdom of Netherlands. Although they are dependent on the Netherlands for economic reasons, they have their own parliaments and do not have the same legislation as the Netherlands. It appears that these countries do not have any laws concerning gender identity, and by extension, processes for trans people to change gender or name markers on identity documents.

However, the Caribbean Netherlands (**Saba, Sint Eustatius** and **Bonaire**) have the same legislation as the Netherlands with regard with trans rights. See Europe section for more information.

Puerto Rico



Name change

Possible. Applicants must submit a petition to the Court of First Instance in the region where they live. The petition must include the applicant's current legal name/given name, the proposed name, their address of residence, place of birth, and original and copies of documents demonstrating the identification of the petitioner, including birth certificate. No public announcement is required.⁸⁷ The amendment of the given name in the birth certificate will be effective with the court order and done by the Vital Statistics Registry.



Gender marker change

Possible, without surgical/sterilisation requirements.



Authority

Policy.



Document(s) amended

Identity card, driver's license.



Conditions for gender marker change

Since August 2015, it has been possible to change one's driver's license or identity card. The applicant must fulfil a gender change form and submit it to the Department of Transportation and Public Works. It must be signed by a licensed clinical professional (psychologist, therapist or social worker).

Overseas Departments and Territories of France

Saint Martin, Martinique, Saint Barthélemy, and Guadeloupe are overseas departments and territories of France, also called DOM-TOM.⁸⁸ It is possible to ask for gender or name change before the *Tribunal de Grande Instance* (a court of the person's region). It is a judicial process and the judge decides whether to grant or refuse the change.

Overseas Territories of the United Kingdom

Anguilla, British Virgin Islands, Cayman Islands, Montserrat, and the **Turks and Caicos Islands** are overseas territories of the United Kingdom.⁸⁹ They are not part of the United Kingdom, they have their own governments and British law does not apply to them. Most of these islands do not have any laws concerning name or gender changes. Only a few of them have local LGBT organizations, therefore there is a lack of information about LGBT rights.

United States Virgin Islands



Name change

Possible.



Gender marker change

Not possible.

⁸⁷ National Center for Transgender Equality, "Puerto Rico releases new gender change form for driver's licenses", February 1st 2016: <http://www.transequality.org/blog/puerto-rico-releases-a-new-gender-change-form-for-driver-s-licenses>

⁸⁸ Décret n° 2000-318 du 7 avril 2000 relatif à la partie Réglementaire du code général des collectivités territoriales: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000399814&dateTexte=&categorieLien=id>

⁸⁹ <http://www.consoc.org.uk/other-content/about-us/discover-the-facts/what-is-the-british-constitution/in-detail/> under Primary structures of the British State > Overseas territories. Retrieved 27/09/2016.

North America

This chapter was written by Lina Morales, Anais Lemouton, Marvin André Krause, Gustavo Pérez and Matilda González Gil from Colombia Diversa. Matilda González Gil was the coordinator and supervisor of this research.

Canada



Name change

Possible. In Alberta, the name on a birth certificate can be changed under the *Vital Statistics Information Regulation*, part 3, section 16:

“(a) currently used name, (b) date and place of birth, (c) sex, (d) proof of identity that meets the requirements of section 15 of the *Vital Statistics Ministerial Regulation*, (e) current address and mailing address, (f) telephone number, and (g) signature.” As well as “(i) proof of marital status of the person that meets the requirements of section 17 of the *Vital Statistics Ministerial Regulation*, (ii) a record of the person’s fingerprints taken by a law enforcement agency in accordance with section 24(2)(j) of the Act, (iii) certificates that show all previous changes of name of the person, (iv) the name being applied for, and (v) the person’s full legal name and any other name by which the person is known”.

There are other requirements if the applicant is not applying in person or if the applicant is minor.

In British Columbia, Manitoba and Nova Scotia, the procedures to change the “sex designation” and name on birth certificates and driver’s license are very similar. The last to remove sex reassignment surgery from its *Vital Statistics Act* was the province of Saskatchewan in February 2016.⁹⁰

To obtain a name change in Québec, the person must go through an administrative procedure with the *Directeur de l’état civil*.⁹¹ The applicant must prove five years of use of the name and a declaration/letter in support of a name change, pointing out the reasons, which can be “The use, for five years or more, of a surname or given name not entered on the act of birth”, “Serious prejudice or psychological suffering caused by the use of the name”, or “A name that invites ridicule or that is infamous (marked by disgrace, shame or humiliation)”, or “A name of foreign origin, too difficult to pronounce or write in its original form”, among others. The person must be born in Québec and be more than 18 years old.



Gender marker change

Possible, without prohibitive requirements.



Authority

Legislation (not trans specific) and varies in different provinces.



Conditions for gender marker change

Over the last years, the requirements for sex reassignment surgeries have been removed from all of the provinces. The first one was Ontario, in April 2012, when the Human Rights Tribunal of Ontario ruled that sex reassignment surgery was no longer required to change gender on a birth certificate.⁹²

In Alberta, the *Vital Statistics Information Regulation* has been modified in 2014 because it was considered unconstitutional.⁹³ The amended regulation came into force in September 2015 and it does not require surgical reassignment anymore in order to change gender on the birth certificate. Instead, the applicant must provide an affidavit including a “statement confirming that the person identifies with and is maintaining the gender identity that corresponds with the requested amendment to the sex on the record of birth”, as stated in part 3 section 16 of the *Vital Statistics Information Regulation*.⁹⁴

90 CBC News, “Transgender people in Saskatchewan celebrate government ID change”, February 25th 2016: <http://www.cbc.ca/news/canada/saskatoon/transgender-people-in-saskatchewan-celebrate-government-id-change-1.3463578>

91 <http://www.etatcivil.gouv.qc.ca/en/change-name.html>

92 The Star, “Transgender Ontarians can now change birth certificates without sex-change surgery”, October 12th 2012: <http://www.thestar.com/news/canada/article/1269454--transgendered-ontarians-now-allowed-to-alter-birth-certificates-without-sex-change-surgery>

93 <http://www.canlii.org/en/ab/abqb/doc/2014/2014abqb237/2014abqb237.html>

94 *Vital Statistics Information Regulation*, part 3, section 16. http://www.qp.alberta.ca/documents/Regs/2012_003.pdf.

The application must also include a statement confirming the above, written by "one of the following medical professionals:

- (a) a regulated member of the College of Physicians and Surgeons of Alberta under the Health Professions Act who holds a practice permit issued under that Act;
- (b) a regulated member of the College of Alberta Psychologists under the Health Professions Act who holds a practice permit issued under that Act;
- (c) a person who is practising and who is authorized in a jurisdiction other than Alberta to practise a health profession equivalent to that practised by a person referred to in clause (a) or (b)."

In addition, minors can also amend their gender on the birth certificate, upon the consent of the minor's parent's or if the minor is married, or an adult independent partner or in charge of another minor. This applies only in Alberta. The gender marker change can also be amended on a subsisting marriage record.

Requirements for sex designation change is as follows in Québec: Canadian citizenship, residing in Québec for at least one year, providing a duly filled application and a "letter from a physician, psychologist, psychiatrist, sexologist or social worker authorized to practice in Canada or in the State in which you are domiciled, who declares having evaluated or followed you and who is of the opinion that the change of sex designation is appropriate" (ref. 5).

United States of America



Name change

Possible. Fourteen states one district (Washington, California, Texas, Louisiana, Mississippi, Alabama, Tennessee, Florida, South California, Kentucky, South Carolina, Virginia, Vermont, Connecticut, District of Columbia) allow name change without requiring public announcement.

Thirty-seven states (Oregon, Nevada, Arizona, New Mexico, Utah, Montana, Kansas, North Dakota, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Oklahoma, Michigan, Ohio, North Carolina, Pennsylvania, New York, New Hampshire, Maine, Massachusetts, Maryland, Alaska, Hawaii, Idaho, Wyoming, South Dakota, Nebraska, Indiana, Georgia, West Virginia, Rhode Island, New Jersey, Delaware) require public announcement of name change in the local courthouse or in the newspapers. However, in some states such as Oregon, Wisconsin and many others, this may be waived for the applicant's safety or confidentiality.⁹⁵

Finally, 19 states have laws that include additional rules and regulations for those with a criminal record (ref. 19). For instance, in Connecticut, registered sex offenders must notify the supervising Commissioner and update their criminal history with the new name upon petition approval (Conn.Gen.Stat.Ann.§52-11).⁹⁶



Gender marker change

Possible, with some medical requirements to prohibitive requirements (*varies within the country).



Authority

Legislation, court application and/or policy, varies in different states. The conditions to change gender marker on identity documents vary among the state laws and policies, and depending on the documents to be amended.

The three principal ones are the birth certificate, the driving license and the passport. To give an overview of the variable processes US citizens may encounter when they request to change their name and/or gender marker, we will present the different legal possibilities and their processes depending on each document.

The processes by which an individual can change the gender marker on their driver's license and/or birth certificate to accurately reflect their gender identity are governed by state laws and administrative polices and often include intrusive and outdated requirements, such as proof of sex reassignment surgery and court orders.

⁹⁵ National Center for Transgender Equality: ID Documents Center – Wisconsin: <http://www.transequality.org/documents/state/wisconsin>; ID Documents Center – Oregon: <http://www.transequality.org/documents/state/oregon> (retrieved 27/09/2016).

⁹⁶ National Center for Transgender Equality: ID Documents Center – Connecticut: <http://www.transequality.org/documents/state/connecticut> (retrieved 27/09/2016).

According to the National Center for Transgender Equality, burdensome requirements and prohibitive costs prevent the majority of transgender individuals from obtaining accurate identity documents.⁹⁷



Document(s) amended

Birth certificate, driver's license, passport.

Birth certificate

In 10 states and one district (Washington, California, Hawaii, Minnesota, Pennsylvania, New York, Massachusetts, Rhode Island, Connecticut, Maryland, District of Columbia), it is possible to have a new birth certificate and change gender marker without requiring sex reassignment surgery (SRS) nor a court order.⁹⁸

For example, in California, according to the Health and Safety Code, §§ 103425-103445, 103426 (as added by AB 1121, July 2014), the applicant must make a request to the CA Department of Public Health with a statement from a physician that the person has "undergone clinically appropriate treatment for the purpose of gender transition, based on contemporary medical standards."⁹⁹

Twelve states (Oregon, Nevada, Utah, Kansas, South Dakota, Mississippi, New Hampshire, Alaska, West Virginia, Indiana, Vermont, Wyoming) are unclear regarding the requirements and/or may require a court order. For example, the state of Wyoming requires a court order stating that "the sex of an individual has been changed", according to the administrative code WY Rules and Regulations HLTH VR Ch. 10 s 4(e)(iii) (2004).¹⁰⁰ It seems unclear whether this means SRS is required or if other clinical treatments are accepted. The applicant should submit a birth certificate application, a certified court order with the name and/or gender changes, and payment of fees.¹⁰¹

Twenty-two states (Arizona, New Mexico, Montana, North Dakota, Colorado, Nebraska, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Louisiana, Kentucky, Virginia, North Carolina, Alabama, Georgia, Florida, Delaware, New Jersey, Maine) require proof of SRS. In Alabama, the gender marker on a birth certificate will be amended upon receipt of a certified copy of an order of a court indicating that the "sex... has been changed by surgical procedure and that the name of the individual has been changed." (Alabama Code § 22-9A-19, 22-9A-21)¹⁰².

Oklahoma, Texas, Ohio and South Carolina have unclear or unwritten policies. Idaho and Tennessee do not allow the gender marker on birth certificates to be amended.

Driver's license

Fifteen states and one district (Washington, Oregon, Alaska, Hawaii, New Mexico, West Virginia, Virginia, Pennsylvania, District of Columbia, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire) accept a large range of documents from licensed professionals and do not require SRS. In the District of Columbia, the applicant must change their name with the Social Security Administration and then submit a court order authorising the name change and a "gender designation" form signed by a medical professional or social service provider.¹⁰³

Fourteen states (Idaho, California, Nevada, Arizona, Colorado, Nebraska, Minnesota, Wisconsin, Illinois, Indiana, Ohio, Florida, New York, Vermont) accept a limited range of documents by professionals and/or require name change by court order. They do not require SRS.¹⁰⁴

97 Transgender Law Center: Identity Document Laws and Policies: <http://transgenderlawcenter.org/equalitymap> (retrieved 27/09/2016).

98 Transgender Law Center: Identity Document Laws and Policies – Birth Certificate <http://transgenderlawcenter.org/equalitymap> (retrieved 27/09/2016).

99 Assembly Bill No 1121 http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1101-1150/ab_1121_bill_20131008_chaptered.pdf (retrieved 27/09/2016); National Center for Transgender Equality: ID Documents Center – California: www.transequality.org/documents/state/california (retrieved 27/09/2016).

100 Lambda Legal, "Changing Birth Certificate Designations: State-by-State Guidelines", March 2nd 2015: <http://www.lambdalegal.org/know-your-rights/transgender/changing-birth-certificate-sex-designations>

101 National Center for Transgender Equality: ID Documents Center – Wyoming: <http://www.transequality.org/documents/state/wyoming> (retrieved 27/09/2016).

102 National Center for Transgender Equality: ID Documents Center – Alabama: <http://www.transequality.org/documents/state/alabama> and FindLaw, "Alabama Code Title 22. Health, Mental Health, and Environmental Control. § 22-9A-19", <http://codes.findlaw.com/al/title-22-health-mental-health-and-environmental-control/al-code-sect-22-9a-19.html> (retrieved 27/09/2016).

103 National Center for Transgender Equality: ID Documents Center – District of Columbia: <http://www.transequality.org/documents/state/district-columbia> (retrieved 27/09/2016).

104 National Center for Transgender Equality, ID Documents Center: <http://www.transequality.org/documents> and Transgender Law Center: Identity Document Laws and Policies – Driver's license <http://transgenderlawcenter.org/equalitymap> (retrieved 27/09/2016).

Four states (Utah, Michigan, Kansas, Maryland) require proof of clinical treatment and/or other updated documents in which the gender marker has been changed. They do not require SRS. For example, in Kansas, the person must submit to the Kansas Department of Motor Revenue: any updated legal document(s) demonstrating the name change and a request including a statement from a physician saying the person has undergone appropriate clinical treatment.¹⁰⁵

Thirteen states (Montana, Wyoming, Oklahoma, Texas, Iowa, Missouri, Louisiana, Kentucky, Tennessee, Alabama, Georgia, North and South Carolina) require proof of SRS, a court order and/or an amended birth certificate. In Wyoming, the applicant must first change their name with the Social Security Administration and then submit all three mentioned documents to the Department of Transportation.¹⁰⁶

Four states (Arkansas, Mississippi, North and South Dakota) have unclear, unwritten or unknown policies.¹⁰⁷

Passport Gender Change Policy (June 2010)

Since the inception of this policy, an applicant is not required to have undergone SRS, but must provide a certificate from a physician saying they have undergone clinical treatment for gender transition. Issued by the State Department, this policy applies to all federal states. If the identity documents have already been changed, the certificate is not required and the amended documents are sufficient to change gender on a passport.¹⁰⁸

105 National Center for Transgender Equality: ID Documents Center – Kansas: www.transequality.org/documents/state/kansas (retrieved 27/09/2016).

106 National Center for Transgender Equality: ID Documents Center – Wyoming <http://www.transequality.org/documents/state/wyoming> (retrieved 27/09/2016).

107 Transgender Law Center: Identity Document Laws and Policies > Driver's license <http://transgenderlawcenter.org/equalitymap> (retrieved 27/09/2016).

108 National Center for Transgender Equality, "Understanding the Passport Gender Change Policy", March 2014: http://www.transequality.org/sites/default/files/docs/kyr/passports_2014.pdf (retrieved 27/09/2016).

Oceania

By Tuisina Ymania Brown and Zhan Chiam

Oceania represents a divergent and challenging region for trans rights. Economically dominated by Australia and New Zealand, it is also home to 15 other sovereign nations—small in size and population, and separated from each other by vast distances across the Pacific Ocean.

New Zealand/Aotearoa

In New Zealand, trans people are still required to prove they have medically transitioned in order to alter their birth certificates, and therefore their other day-to-day identity documents. In practical terms, gender affirming surgeries are not covered by public health insurance, and the waiting lists are extraordinarily high, resulting in trans people going overseas for surgery if they can afford it. Meanwhile, a progressive policy on passports means that trans New Zealanders can self-declare their gender, and choose from three gender options. There is a basic disconnect between conditions for identity documents issued by the same government, and something which should be addressed immediately.

Australia

In Australia, the states and territories are moving towards removing prohibitive medical requirements in order for trans people to change their gender markers on birth certificates—a cardinal document. However, for a country with such a high incidence of migrants, steps should be taken to introduce alternative identity documents, such as that seen in New South Wales, which allows citizens or permanent residents born outside Australia to be issued with a “recognised details certificate”, registering their sex as female, male or non-specific. Unfortunately, qualification for the New South Wales certificate requires medical proof that the person has undergone surgery on their reproductive organs. In Victoria, a progressive move means that trans people are now not forced to divorce or be unmarried in order to change their gender marker. At the federal level, the government continues to take steps to implement recommendations made by the Australian Human Rights Commission in its collection of sex and gender information of citizens, through the *Australian Government Guidelines on the Recognition of Sex and Gender*.

Pacific nations

In the rest of the Pacific, there are two pillars that support the day-to-day lives of the citizens of these countries within Oceania—culture and religion. Christianity is the majority religion of Micronesia, Melanesia and Polynesia. Over the years, religion has become so entrenched and strongly adhered to in the Pacific that it now permeates and informs much the second pillar of society - culture. Other pillars within a Pacific context are family, and one’s commitment to and membership of their community, tribe, and extended family.

Concurrently, many Pacific cultures have indigenous understandings of gender that go beyond the gender binary—with established cultural gender roles that have some commonality with contemporary concepts of trans or gender diversity, but do not always comfortably sit alongside trans, gender diverse or LGBTI identities. These include *fa’afafine* and *fa’afatama* (Samoa), *fakaleiti* (Tonga) and *Vaka sa lewa lewa* (Fiji) to name a few.

It is no surprise then that legal gender recognition is a concept that is very much foreign to most of the Pacific. Name change procedures are also unevenly available. Although possible in some countries, changing one’s gender marker is not as easily available as in New Zealand and Australia, including third gender options that go beyond the binary of “female” and “male”.







Trans men and women exist in the Pacific—the Pacific cultural wisdom is that these individuals have forged a way of co-existing within their communities and are accepted for who they are and what they bring to their families and communities, not by the dictates of their physiology or gender. When you are

accepted as who you are, the need to fight for trans acceptance is less urgent. If there was no acceptance of indigenous LGBTI populations by their cultures, it would be a much different conversation.







But we caution that Pacific nations are not uniform in their cultural acceptance of these indigenous LGBTI populations. Certainly the Melanesian countries of Fiji, Vanuatu, Papua New Guinea and the Solomon Islands are less tolerant than their Polynesian and Micronesian counterparts—Samoa, Tonga, Cook Islands, Kiribati, Palau and Tahiti, which have a long history of acceptance of indigenous LGBTI populations. There have been reports from Papua New Guinea, the Solomon Islands and even Vanuatu where gender and sexuality diverse people can be killed for being different.

Taking into consideration these variations and cultural specificities, human rights activists working within Pacific indigenous communities and those working internationally utilising UN mechanisms need to find a common ground. The answer lies between real acceptance of the lived experiences of indigenous LGBTI people and the pursuit of universality and human rights gains. There is room for both, we just need to find out the best way to achieve this.

Australia

	Name change	Possible. In common law, a person is taken to have changed their name simply by taking and using the name. However, to take full legal effect, a deed poll or application to the local Births, Deaths and Marriages Registry for a name change certificate is necessary.
	Gender marker change	Possible, with some medical requirements to prohibitive requirements (*varies within the country).
	Third gender option	Possible.
	Authority	Legislation (State or Territory) and policy (Federal). Each State and Territory has legislation that allows for birth certificates to be amended, while the Federal government has policy that gives guidance on change of gender markers on Australian government records. ¹⁰⁹
	Document(s) amended	Birth certificate, driver's license, Medicare card, passport. The cardinal document in Australia for these purposes is the birth certificate, which is issued by each state or territory. In some jurisdictions, a person born outside Australia can also apply for a Recognised Details Certificate, and which records a person's new sex/gender and current name.
	Conditions for gender marker change	The different jurisdictions have varying levels of requirements, some of which are improving to accord with rights standards. For example, prohibitive surgical requirements are being amended in South Australia, with a Bill tabled in August 2016 to this effect.

New Zealand/Aotearoa

	Name change	Possible. <i>Births, Deaths, Marriages, and Relationships Registration Act 1995</i> , ss.21A, 21B.
	Gender marker change	Possible, with prohibitive requirements.
	Third gender option	Possible.
	Authority	Legislation (not trans specific) and court application. <i>Births, Deaths, Marriages, and Relationships Registration Act 1995</i> , s.28 (for birth certificates).
	Document(s) amended	Birth certificate, passport, citizenship certificate.
	Conditions for gender marker change	Section 28 allows for a declaration from the Family Court that the applicant is issued birth certificates in the sex specified in their application, after being satisfied by expert medical evidence that the applicant has "undergone such medical treatment... to enable persons of the genetic and physical conformation of the applicant at birth to acquire a physical conformation that accords with the gender identity of a person of the nominated sex", and that the applicant "will maintain a gender identity of a person of the nominated sex". For passports, policy dictates that a person should submit a statutory declaration indicating the sex/gender they wish to be displayed in their passport, and how long they have maintained their current gender identity. There is no need to amend the sex/gender marker on the birth certificate.

¹⁰⁹ Attorney-General's Department, "Australian Government Guidelines on the Recognition of Sex and Gender" (updated November 2015); <https://www.ag.gov.au/Publications/Documents/AustralianGovernmentGuidelinesontheRecognitionofSexandGender/AustralianGovernmentGuidelinesontheRecognitionofSexandGender.PDF>

Samoa



Name change

Possible. By deed poll to change Driver's License and Passport. Birth certificates cannot be altered.



Gender marker change

Not possible.



ilga

www.ilga.org