

LAW 14 April 1982. n. 164.

Norms in subject of rectification of attribution of sex.

The Room of the Deputies and the Senate from Republic have approved;

The DELLA PRESIDENT REPUBLIC

He/she/it/you PROMULGATES

the following reads:

Art. 1.

The rectification of which to the article 454 of the civic code also becomes in strength of sentence of the court spent in judged that I/you/he/she/it attribute sex diverged from that enunciated in the action of birth to succession of intervened modifications of his sexual characters to a person.

Art. 2.

The question of rectification of attribution of sex of which to the article 1 [e'] proposed with recourse to the court of the place where he/she/it/you has residence l'attore.

The president of the court designates the judge instructor and fixed with decree the date for the treatment of the recourse and the term for the notification to the consort and to the children.

To the judgment the District Attorney participates the senses of the article 70 of the code of civic procedure.

When necessary [e'], the judge instructor arranges l'acquisizione of understood [consulenza] with ordinance to ascertain the psico-sexual conditions of the interested.

You/he/she/it with the sentence that greets the question of rectification of attribution of sex the court order to the officer of civic state of the commune where he/she/it/you had compiled the action of birth of effect the rectification in the relative register.

Art. 3.

The court, when you/he/she/it result necessary a [adeguamento] of the sexual characters to realize by means of physician-surgical treatment, you/he/she/it authorize it with sentence.

In this case the court, ascertained the execution of the authorized treatment, he/she/it/you arranges the rectification in room of counsel.

Art. 4.

The sentence of rectification of attribution of sex doesn't have retroactive effect. She provokes the breakup of the marriage or the cessation of the civic consequent effects to the transcript of the marriage celebrated with religious rite. The dispositions of the civic code are applied and of the law 10 December 1970, n. 898, and following modifications.

Art. 5.

The attestations of civic reported state to person of which corrected [giudizialmente] has stayed the attribution of sex have released with the only indication of the new sex and name.

Art. 6.

In the case that to the entered vigor of her the actor foresees reads is been [gia'] subjected to physician-surgical treatment of [adeguamento] of the sex, the recourse of which to the first paragraph of the article 2 must be proposed within the term of a year from the aforesaid date.

The procedure is applied of which to the second paragraph of the article 3.

Art. 7.

The [accoglimento] of the question of rectification of attribution of sex extinguishes the crimes which I/you/he/she/it have [eventualmente] given place the physician-surgical treatment of which to the preceding article.

He/she/it/you foresees law, provided of the seal of the State, [sara'] inserted in the official Harvest of the laws and of the decrees of the/ to Italian Republic. Made E' forces to whoever I/you/he/she/it am up to of observe it and of do it observe like law of the State.

Date to Ventimiglia, on the 14 April 1982

PERTINI

SPADOLINI- DARIDA-

KIDNEYS

Visa, the Guardasigilli: DARIDA

Public safety

1

R.D. 18 down. 1931, n. 773

T.U. of the laws of police. (G.U. 26 down., n supplement. 146).

TITLE The

Of the provisions of police and of their execution

[omissis\_\_\_\_\_].

Of the authorizations of police\*

\_\_\_\_\_

85. Forbidden E' appear in disguise in public place.

The transgressor has punished 4,000 to 40,000 with the fine from liras.

Forbidden E' the use of the mask in the theaters and in the other places opened to the public, except in the epoches and with the observance of the conditions that they could be established from the local authority of police with apparent [apposito]. (Reg. 151).

The transgressor and who, guest, he/she/it/you doesn't get away the mask, he/she/it/you has punished 4,000 to 40,000 with the fine from liras.

## **Questionnaire to establish what is happening in each jurisdiction as regards transsexuals**

Could you please fill this in to give me an idea of what is happening on the ground in your country. By this means I will be able to do direct comparisons with other jurisdictions. If you can't answer a question don't worry, just leave it. If you think that you have to expand on an answer to any question please feel free to do so. Expanded answers give a better idea of the real situation on the ground. If the answered files are large beyond 500K I would ask you to split the mail into separate mails of 500K each so that neither my ISP or yours rejects it and so that my mailbox can handle the reply.

Please send me any files as text files that you consider relevant to this survey. The more information that I receive the better. If you are not transsexual but are transgendered, crossdresser or transvestite I would still appreciate your point of view and input and could you please state that when filling out the questionnaire.

If there is a law relating to transsexuals in your country could you please send it to me as an attachment with a copy of your constitution if possible. Don't worry if it is not in English, but do please state what language they are in for translation purposes.

I really appreciate you taking the time to answer this questionnaire. If you want a full copy of the finished document sent to you when all the information is compiled do not hesitate to ask.

### **A. Access to Treatment and Health Care**

1.1 Is it legal to carry out gender reassignment surgery? If illegal could you either give details of the law banning it or give some sort of details?

*yes*  *no*

What is the relevant legislation or case law ?:

n°164 , April 14<sup>th</sup> , 1982

1.2 Is there access to psychological treatment for Gender Identity Dysphoria [transsexual]? (Gender Identity Dysphoria is the term for people who have appear to be physically of one sex but consider themselves to be of the other sex.)

*yes*  *no*

1.3 Is there access to hormonal treatment for Gender Identity Dysphoria [transsexual]?

*yes*  *no*

1.4 Is there access to surgical treatment for Gender Identity Dysphoria [transsexual]?

*X* *yes*  *no*

1.5 Is it legal for a transsexual to have any feminising surgery or treatment besides gender reassignment surgery?

*X* *yes*  *no* (if you mean breast surgery and so on, NOT on primary sexual characters)

### **Young People**

1.1 Is there a legal limit that below which it is illegal to gender reassign a child or young person?

*X* *yes*  *no* (you must be over 18)

1.2 Is there a legal limit that below which it is illegal to treat a young person or child for gender dysphoria [transsexual]?

*yes*  *X* *no* (at least from a psychological point of view )

1.3 Is there a legal limit that below which it is illegal to treat a young person or child with hormones?

*yes*  *no* (it is not very clear)

1.4 Is there a legal limit that below which it is illegal to prevent a child's or young person's puberty so that undesired sexual development does not occur in the pathway that the young person or child is rejecting?

*yes*  *no* not sure

1.5 Do children and young people have access to psychological treatment for Gender Identity Dysphoria [transsexual]?

*X* *yes*  *no*

1.6 Do children and young people have access to hormonal treatment for Gender Identity Dysphoria [transsexual]?

*yes*  *X* *no*

1.7 Do children and young people have access to surgical treatment for Gender Identity Dysphoria [transsexual]?

*yes*  *X* *no*

1.8 Is there access to medical services that are subsidised or free at the point of use?

\_X\_ *yes* \_no

1.9 Which aspects of treatment for Gender Identity Dysphoria [transsexual], if any, are subsidised or provided free at the point of use?

\_X\_ *psychological* \_X\_ *(depending on your family doctor – hormones usually are not intended for transsexual, so he endorse a risk in doing it – political work on it in progress)* \_hormonal \_X\_ *surgical* \_no subsidised/free treatment

## **B. Birth Certificates/ Registration of Sex**

1.1 What is the procedure for registering sex? When is it done and by whom? done and by whom?

It is regulated by law 164 dated April, 144<sup>th</sup>, 1982.. you have to apply to a tribunal, with medical and psychological documents

1.2 What are the official criteria for purpose of registration at birth?

\_X\_ *genital* \_X\_ *gonadal* \_chromosomal \_hormonal \_social \_other (please explain)

1.3 Which factors determine sex for legal purposes?

\_X\_ *genital* \_gonadal \_X\_ *chromosomal* \_hormonal \_social \_other (please explain)

(if you discover, at a later time, that chromosomal pattern is against your “legal sex”, the situation is easier, if you want to undergo SRS and document reassignment

1.4 Which factors in 1.3 (above) are conclusive in the event of a conflict between factors?

*Please cite legislation or case law:*

i do not know

1.5 What is the legal purpose and effect of registration of sex?

Marriage, military service (it is compulsory only for males, in Italy), ...

1.6 Is the sex registered considered to be a matter of unchangeable historical fact or to reflect current identity?

\_historical fact \_X\_ *current identity*

1.7 Is gender reassignment recognised by the law as a change of sex?

*yes*  *no*

1.9 What is the relevant legislation or case law for change of sex?

*Always 164*

### **Amending Birth Certificates**

2.1 Is it ever possible to change the sex registered after initial registration?

*yes*  *no*

2.2 If yes, what is the procedure?

It is covered by the “second” part of law 164

2.3 Is this procedure open to transsexual people after surgical reassignment?

*yes*  *no*

2.4 Is this procedure open to transsexual people before surgical reassignment?

*yes*  *no*

2.5 What are the requirements, legal or medical, for changing the sex registered?

No more original gonades, and a plastic surgery to “simulate” desired secondary sexual attributes (panis / vagina)

2.6 Where the sex on birth certificates can be amended for transsexual people, are there any circumstances in which a transsexual person must provide the original certificate or state the sex originally registered?

*yes*  *no* *not sure: it remains a trace on the “full” birth certificate, but i do not know the events in which it is required*

2.7 If yes, what are these circumstances?

2.8 Is it possible to have other official documents reissued to correspond to the reassigned sex?

*yes*  *no* (*difficult for school certificates, that are “perpetual”*)

2.9 If yes, is it necessary to have an amended birth certificate before other documents can be reissued?

*yes*  *no*

### **C. Official Documents**

1.1 What official documents require the production of a birth certificate before issue?

*identity card*

*driving licence*

*passport*

*Social security or National Insurance card*

*other (please list)*

*practically always!!! ...for marriage, for instance*

1.2 When must an official document that shows sex be produced?

*police interviews*

*civil court appearances*

*a) as plaintiff*

*b) as defendant*

*c) as witness*

*criminal court appearances*

*a) as complainant*

*b) as defendant*

*c) as witness*

*banking*

*presenting cheques*

*utilities (electricity, water, gas)*

*insurance*

*other (please list)*

*it is difficult to say....in Italy Identity Cards do not report sex, while Driving Licence and Passport (other legal identity documents) report sex...i think that is necessary for insurance, social security (due to sex "discrimination" on age you need to be endorsable to subsidiary help from social security etc*

### **Identity Cards**

1.3 Is there a national identity card?

*yes*  *no*

If yes, is it mandatory?

*yes*  *no*

1.4 Does the identity card reveal sex?

*yes*  *no*

1.5 Is it possible to change the sex registered on the identity card?

*yes*  *no*

1.6 Is there a procedure to protect transsexual people from unnecessary disclosure of the sex originally registered either in legal proceedings or in contacts with state officials?

*yes*  *no*

## **D. Criminal Justice**

1.1 Does the criminal law recognise gender reassignment as a change in gender?

*yes*  *no*

1.2 Does the law have a mechanism which would adequately protect transsexual people against harassment, violence and hate crimes?

*yes*  *no*

1.3 Does the definition of rape include rape of male to female transsexual people per vaginam?

*yes*  *no*

1.4 Are same gender officers used for sexual assault and rape interviews of transsexual complainants?

*yes*  *no* *not clear*

1.5 For an intimate police search, would a male to female transsexual be searched by a female officer?

*yes*  *no* *it depends on legal status (documents already re-issued or not)*

Is this

*a) a legal requirement?*

*b) police policy?*

*c) police practice?*

1.6 For an intimate police search, would a female to male transsexual be searched by a male officer?

yes  no.....see 1.5

Is this

a) a legal requirement?

b) police policy?

c) police practice?

Please explain

1.7 Has it ever been illegal in your country to be transsexual?

yes  no

## **Prisons**

2.1 Are male to female transsexuals recognised in their reassigned gender after surgical reassignment for the purposes of placement in prison?

yes  no (the main point is if documents are already reissued or not), even if i know of a case in which she was discriminated and put within males...

2.2 Are female to male transsexuals recognised in their reassigned gender after surgical reassignment for the purposes of placement in prison?

yes  no see 2.1

2.3 If transsexual people are placed in what they consider 'wrong sex' prisons, can they retain their preferred gender identity (e.g. in clothing, manner of address etc.)?

yes  no.....i think mainly yes

2.4 Do special protections against mistreatment exist for transsexual prisoners?

yes  no

Please explain

2.5 Is there access to treatment for Gender Identity Dysphoria in prisons?

yes  no...it depends on the prison, i think

Please explain

## **E. Family and Home Rights**

1.1 Does the marriage of someone who subsequently undergoes gender reassignment remain valid?

yes  no

1.2 Does a male to female transsexual have the legal right to marry a man?

yes  no

1.3 Does a female to male transsexual have the legal right to marry a woman?

yes  no

1.4 Are domestic partnerships involving a transsexual person recognised in law?

yes  no

1.5 Do transsexual people in domestic partnerships have the spousal and partnership rights of other citizens?

yes  no

a) inheriting property

b) inheriting housing

c) other

Please explain

1.6 Are transsexual people likely to face difficulties in gaining custody and/or access to their children?

yes  no

1.7 Can a couple involving a transsexual adopt and/or foster children?

yes  no....legally yes, but is very difficult, if it is discovered by social assistants that you are TS: dependinbg on thei opinion on this matter, they can establish that you are not psychologically able to grow up a children

1.8 Can a transsexual individual adopt and/or foster children?

yes  no

1.9 Are there any bars to obtaining proper medical and/or life insurance for transsexual people?

yes  no

Please explain

## **H. Case Studies of Mistreatment of Transsexual People**

1.1 We are looking for case studies or individual histories detailing mistreatment, discrimination, and other difficulties faced by transsexual people in leading fully-integrated lives, particularly as a result of any requirement to produce official documents showing sex registered at birth.

1.2 We are also interested in individual histories detailing other difficulties encountered by transsexual people as a result of their legal status.

Please attach or cite any relevant materials preferably in a text format if possible.

## **I. Further Information**

1.1 Please add anything you wish to add that you think I should know.

## **J. Please give your details for correspondence:**

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Many thanks for your time and effort in responding.