



Policy Brief

Achieving Equality for Intersex People in Bulgaria, Greece, Hungary and the UK



symplexis



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SUMMARY

This policy brief presents recommendations for policy development in Bulgaria, Greece, Hungary and the UK, with the aim to achieve full equality for intersex people in these countries, raise awareness about their human rights, and improve their access to health and social services. The policy recommendations are based on research conducted within the EU-funded BRING-IN project.

The BRING-IN project is implemented by a consortium of six organizations, led by the University of Social and Political Sciences - Panteion, Greece. The partners are Bilitis Resource Center Foundation (Bulgaria), Háttér Society (Hungary), Restorative Justice for All International Institute CIC (UK), Symplexis (Greece) and ITML (Cyprus). To obtain reliable and valuable information on the status of intersex people in their countries, project partners conducted a combination of desk and field research. The latter included semi-structured personal interviews with relevant stakeholders and experts and, most importantly, intersex people themselves and/or their close family members. The present policy brief is based on the findings and conclusions from the four national research reports from Bulgaria, Greece, Hungary and the UK, and the Transnational State of the Art for Intersex People Report prepared by Bilitis Foundation.

CONTEXT ANALYSIS

According to the United Nations (UN) up to 1.7% of the global population, or over 131 million people, as of 2020, have been born with intersex traits¹. Intersex individuals are born with sex characteristics - sexual anatomy, reproductive organs, hormonal structure and/or levels and/or chromosomal patterns - that do not fit the typical definition of male or female. "The term intersex acknowledges the fact that people with variations of sex characteristics other than male or female exist"².

Legal Framework

Comparison of the national legal frameworks on intersex equality in the four countries researched within the BRING-IN project shows that in Bulgaria, Hungary and the UK, there is no specific legislation or case law on how to deal with discrimination based on intersex status. It is only in Greece that the national anti-discrimination law bans discrimination on the grounds of sex characteristics, among others, in the employment sector, during sales of goods or provision of services to the public, in cases of retaliation. Similarly, in Bulgaria, Hungary and the UK there is no explicit legal protection for intersex people when it comes to hate crime legislation, while the Greek Penal Code includes sex characteristics as a protected ground. Regarding legal registration at birth, there is no 'third marker' or 'x marker' in any of the four countries, only male and female sex categories. There is no legal ban on "normalizing" medical treatment for intersex children in any of the four countries. This leads to highly subjective decisions by health specialists, echoing the needs of parents who are afraid to let their child grow up outside the binary gender norms. The legal gender recognition (LGR) procedures in the four countries are varied. A common feature is the lack of recognition of the existence of intersex people who do not self-identify within the binary gender norms. In Hungary, LGR is no longer possible at all since May 2020. In the UK, intersex people can access LGR if they declare that they are transgender and follow the protocol for transgender LGR.

National Policies on Intersex Issues

There are no explicit central policies focusing on the prevention of hate speech, hate crime and/or discrimination against intersex people or on the promotion of their social inclusion and protection of their human rights in any of the four countries. There are single cases of good practices in place in some of the countries, typically led by Civil Society Organizations (CSOs). UK shows a positive development following the 2006 Consensus Statement on the Management of Intersex Disorders, which aimed to improve treatment of intersex people, including more collaborative care and encouraging psychological and counselling support over surgical approaches. A recent call for evidence, opened by the UK government, intended to gather

¹ United Nations Office of the High Commissioner for Human Rights (2015): Fact Sheet. Intersex. https://unfe.org/system/unfe-65-Intersex_Factsheet_ENGLISH.pdf

² Dan Christian Ghattas (2019): Protecting Intersex people in Europe. A toolkit for law and policy makers.

empirical evidence from people with variations in sex characteristics, which would inform policy development. However, the BRING-IN research showed that the medicalization of the intersex identities and the normalizing medical practices are still the dominant approach and little psychological support is offered to intersex individuals and the parents of intersex children.

Status Quo of Expert Knowledge

In all four countries, the level of awareness of health and social care professionals of the basic concepts related to intersex is not very high. Although there were a few respondents in the conducted interviews with professionals (part of BRING-IN research), mostly from the third sector, who were aware of the correct terminology and legal framework, the majority of stakeholders expressed doubt regarding their knowledge and correct usage of terms, as well as procedures and regulations in place.

Both health professionals and professionals working at CSOs talked about the lack of clear policies, guidelines and information for parents of intersex children. At the same time, interviewees also raised concerns over a general lack of awareness and knowledge about intersex issues among medical professionals, including those in senior positions.

Interviewees, especially in Greece and Bulgaria, pointed out the strong patriarchal norms and respective intolerant attitudes to all diversities in the societies, as a fuel for fake news widespread in the social media and instilled by radicalized groups in society. The situation in Hungary can also be seen as a strong example of how targeted media misinformation campaigns can create deep dividing lines and target the intersex community.

Lived Realities of Intersex People

BRING-IN research also included in-depth interviews of intersex people and parents of intersex children. All 18 respondents (6 from Bulgaria, 4 from Greece, 4 from Hungary, and 4 from the UK) shared similar experiences related to stigmatization, invisibility, traumatic experiences in health care, as well as at school and in the workplace. The lack of sufficient information about their physical status has led to late recognition of the fact that they are intersex for many respondents. The lack of alternatives presented to parents was the main reason for undergoing medically unnecessary "normalizing" treatment for many respondents. The lack of adequate support and psychological counseling for intersex children and teens has led to feelings of isolation and shame during their school age. The lack of public awareness and specific measures for support and inclusion of intersex people in any sphere of life has produced internalized stigma and fear of coming out as intersex for many respondents.

CONCLUSIONS

Intersex people in Bulgaria, Greece, Hungary and the UK still experience stigmatization, institutional and verbal discrimination, harassment, lack of medical care, lack of legal recognition, and lack of visibility of their bodies at any age. "Invisibility", "ignorance", "hostility" are among the key words, which could describe the status of intersex people in the four countries. Intersex people still face numerous problems in a variety of areas, the most serious of which are registration at birth, medical treatment, and legal gender recognition. The research showed that a major hindrance to the equality of intersex people is the lack of knowledge on variations of sex



characteristics and the diversity of human sexes even among health professionals, but also among educators, and the general society. Political and media messages have also strengthened the social exclusion of several social groups, including sexual and gender minorities over the last years.

RECOMMENDATIONS

The support for social inclusion and wellbeing of the intersex children, youth, and adults ranges beyond the provision of basic health and social services. It has to do with changes in the environment at kindergartens, schools, sports clubs, universities, and employment settings, as well as the legal system and court practice, to accommodate people with variations of sex characteristics.

The general recommendations formulated by the project partners are derived from the BRING-IN project research, and relate to three key areas of intervention:

- non-discrimination and prevention of human rights violations;
- access to adequate health and social-care;
- social inclusion and wellbeing.

The recommendations below are addressed to national governments/legislative authorities, health and social care providers, educational institutions, employers, law-enforcement institutions, and NGOs (both advocacy organizations and those that provide support to intersex people).

A. Non-discrimination and prevention of human rights violations

RECOMMENDATIONS TO NATIONAL AUTHORITIES

- A neutral gender option should be available for intersex children, but not mandatory, and decisions to use it should be made with the participation of the child. It should as well be available for the legal gender recognition of adult intersex people, who do not self-identify with their gender assigned at birth. A third gender marker, if assigned at birth, may lead to stigmatization and kindergarten/school bullying, so it should be used only if the child is able to receive adequate support.
- The registration of sex should not be compulsory at least until a certain age, when the child is able to self-identify.
- National legislation prohibiting discrimination should be amended in Bulgaria, Hungary and the UK, to explicitly include the protective ground of sex characteristics, as this would help enact further legal protections from discrimination of intersex people in the areas of hate crime, hate speech, education, and employment. This would ensure sufficient legal protection from discrimination of intersex people beyond the ground of medical treatment that guarantees bodily integrity and personal autonomy.
- The national legislative frameworks for legal gender recognition based on self-determination should be improved in Bulgaria, Greece, Hungary, and the UK. In Bulgaria, the procedure should be alleviated from unnecessary load (to be transformed from court-based to an administrative procedure), and streamlined. A written procedure is still missing, which creates great variances in the implementation and makes it unpredictable. In Hungary, the latest amendments of the national legislation related to “birth sex” and its unchangeability should be annulled in order to allow for legal gender recognition. Providing a third gender option in the legal gender recognition procedure was regarded as valuable

by experts in Greece, but the procedure is still not rights-based and should be improved by removing the medicalizing requirements. In the UK, the medicalized legal gender recognition procedure that currently exists also presents barriers for intersex people and should be demedicalized.

- Written protocols for the cases when a newborn baby is identified as intersex should be created and should be in line with protecting the intersex child's bodily integrity, except for treatments that are vital and necessary to avert a present, serious physical harm.
- Medical interventions, related to sex characteristics, which are performed on intersex minors without their consent and are non-vital and do not treat a present, serious physical harm, should be banned. Procedures, which are non-vital and do not treat a present, serious physical harm, should be deferred until the individual is old enough to provide informed consent and decide for themselves if they need the intervention.
- Legislative change should also look to address concerns over the termination of healthy fetuses with variations of sex characteristics. At the same time, any amendments to the abortion laws should be made with utmost care not to violate the pregnant person's abortion rights.

B. Access to adequate health and social care

RECOMMENDATIONS TO HIGHER EDUCATION AND IN-SERVICE TRAINING PROVIDERS

- The health and social care professionals should receive present-day scientific information about intersex people's bodies and psychological needs during the course of their university studies, and learn the difference between vital and non-vital interventions
- The medical understanding of intersex status as a disorder or illness/disability should change. Sex characteristics should be taught as a spectrum of variances, and not as a set of two binary options. Health professionals, especially obstetricians, neonatologists, birth attendants, and public nurses should be trained accordingly.
- Additionally, pre-service and in-service training should be provided to those who do not specialize in areas pertinent to variations of sex development, as all health and social care practitioners are likely to come into contact with intersex individuals.
- The existing public health insurance pathways should cover all necessary medical check-ups that needed by intersex children and adults.
- Health and social care practitioners should receive training on the professional protocols and professional practice guidelines for treatments of intersex babies and children, and new specific psychosocial services for intersex people and their families should be developed.
- Human rights based and depathologising language is of primary importance in outdoing the medicalization of the intersex identities. Health and social-care professionals should receive training on how to talk to intersex people and their parents in a non-medicalizing and non-stigmatizing way that encourages the acceptance of variations in sex development.

RECOMMENDATIONS TO PUBLIC AND PRIVATE HEALTH AND SOCIAL SERVICE PROVIDERS (INCLUDING NGOS)

- Intersex children and adults and their families should have access to ongoing and educated emotional and psychological support, which is funded through the public healthcare system.
- The NGOs and support groups for intersex people should work side by side with health and social care professionals in a non-stigmatizing, non-pathologizing environment to provide this holistic care, and should receive adequate state level funding in order to do so.
- Together, civil actors and health professionals should write non-stigmatizing, non-pathologizing information materials for parents of intersex children. These should be distributed in healthcare institutions.
- Peer groups for parents are also of great importance, and could be facilitated by intersex-support organizations (NGOs). However, they should be organized with caution to avoid the shaming of parents who have already consented to “normalizing” treatments, and to provide equal support to them as well as to those who prefer to delay the interventions until their child is capable of self-determination. NGOs which provide peer-support and counseling to intersex people/parents of intersex children should be supported financially by the government to carry out their work without interruptions resulting from financial constraints.

C. Social inclusion and wellbeing

RECOMMENDATIONS TO EDUCATIONAL INSTITUTIONS AT PRE-SCHOOL, PRIMARY AND SECONDARY LEVEL

- Educational institutions should provide support to intersex children, who do not self-identify as either male or female, to accommodate them safely in a binary kindergarten/school environment.
- Neutral-gender bathrooms and change rooms that guarantee the privacy of gender variant people are a necessity; however, their installment requires decision-makers’ will and funding.
- In addition to inclusive physical settings, the use of inclusive language that does not automatically place people in the binary gender options is of great importance. The use of such language should be stimulated by educating in the first place teachers and school personnel as well as other caretakers of young children on how to use it and encourage its usage. The establishment of an open discussion culture at schools where children can talk without shame about their physical diversity, may have positive impact on the development of all children, including intersex children.

RECOMMENDATIONS TO EMPLOYERS, LAW-ENFORCEMENT INSTITUTIONS, AND NGOS

- Policies for the wellbeing of workers and prevention of psychological risks should take into account the needs of intersex people. Awareness raising of employers and employers' associations is of primary importance in creating inclusive of intersex workplaces.
- Trainings of law enforcement professionals are necessary in order to facilitate the non-discrimination of intersex people in the justice system, including the court practice. The trainings for professionals, including police officers, prosecutors, lawyers, and judges, should provide basic knowledge on sex and gender diversity as well as emphasize the use of inclusive language.
- Improvement of the communication between rights-defender NGOs and intersex people will lead to better understanding and communicating of the needs of intersex people to policy-makers and to the general public. Intersex support groups and NGOs should make ongoing efforts to raise public awareness to ensure societal appreciation for the existence of, and challenges faced, by intersex people. This will contribute to overcoming stigma and secrecy.
- All public awareness raising activities must be done respectfully with intersex communities at their center. Intersex rights groups should be supported to speak up and voice the needs of the communities that they represent, and to take active part in the development of policies that concern their constituencies.

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