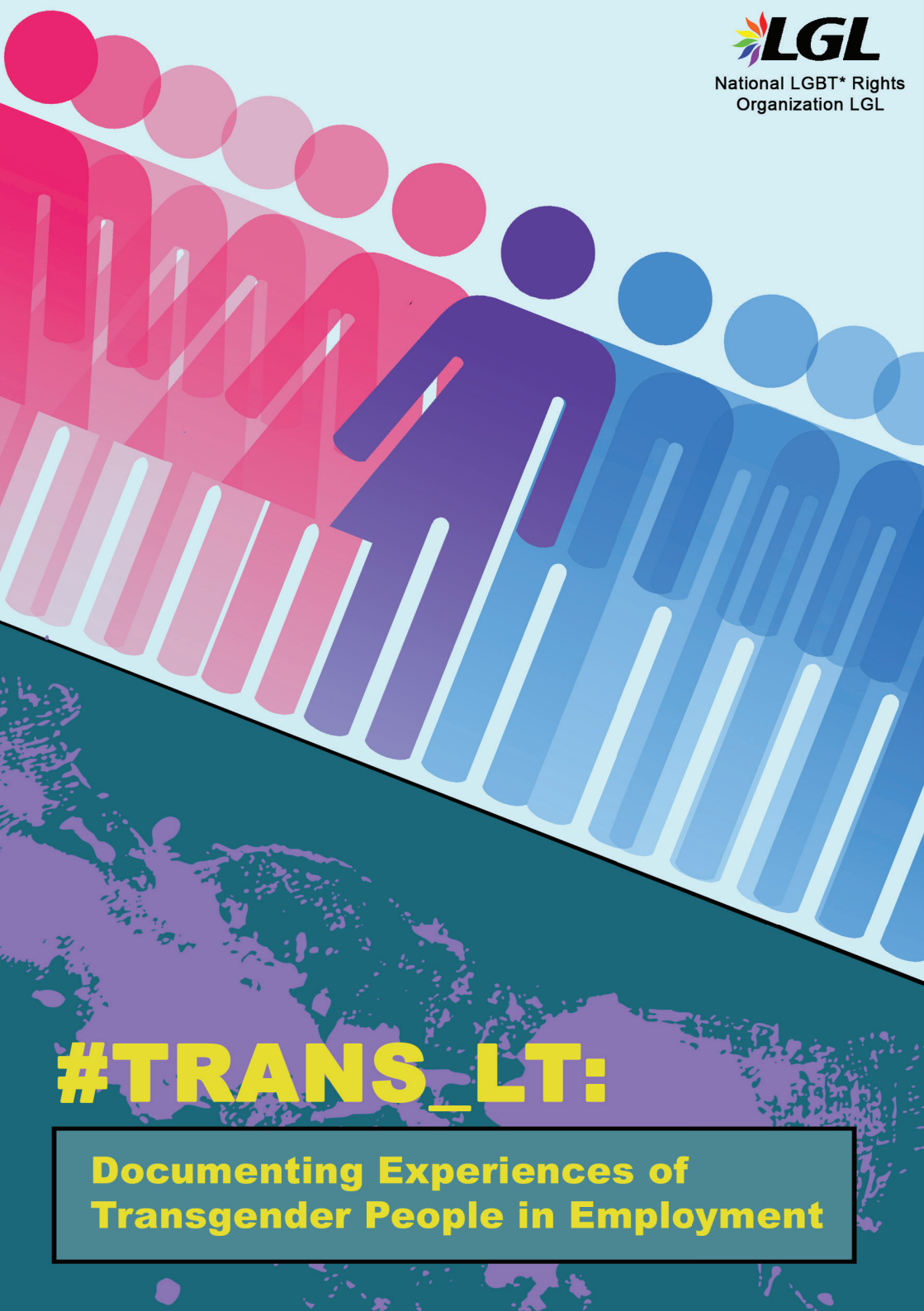

National LGBT* Rights Organization LGL

#TRANS_LT:

Documenting Experiences of Transgender People in Employment

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Documenting Experiences of Transgender People in Employment

National Lesbian, Gay, Bisexual and Transgender (LGBT*) Association

— 2016 —

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The National LGBT* Rights Organization LGL has been working in the sphere of transgender human rights since 2012. Community building and involving the local transgender community in the organization's activities remains a highly challenging process due to the prevailing transphobic attitudes in the Lithuanian society. In December 2015 as part of the #TRANS_LT social campaign, LGL launched videos where real transgender people shared their experiences of what it takes to be a transgender person in Lithuania. These videos were watched on social media platforms more than 50,000 times. This publication is one of the results of the ongoing #TRANS_LT campaign, which seeks to involve transgender individuals in the processes of public policy directly impacting their lives.

— TURINYS —

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— INTRODUCTION —

According to various international surveys, transgender individuals face significant challenges in the sphere of employment in Lithuania. According to the LGBT* survey by the EU Fundamental Rights Agency (2012), 38% of transgender respondents from Lithuania have experienced discrimination at work in the course of the last twelve months, while 52% felt discriminated while looking for employment. Similar challenges are reflected in opinion polls of the Lithuanian population. According to the Special Eurobarometer 437 (2015), 49% of Lithuanians would feel uncomfortable working with a transgender colleague, while 43% do not agree with the statement that transgender people should be able to change their civil documents to match their inner gender. These results indicate that due to the prevailing transphobic attitudes in the Lithuanian society transgender individuals face a high degree of social marginalization.

The laws of the Republic of Lithuania do not protect transgender individuals from discrimination in the field of employment, because the legal categories of "gender identity" and "gender expression" do not exist in the Lithuanian legal system. As long as Lithuanian decision and policy makers and implementers lack basic knowledge on transgender human rights issues, this social group will remain the most vulnerable group within the local LGBT* community due to the lack of legal guarantees available to other members of the community.

This publication is part of the national LGBT* association LGL's work in the field of initiating broader public discussion among decision makers, policy implementers, the general public and local LGBT* community regarding the situation of transgender human rights in Lithuania. Based on information collected through qualitative interviews with transgender individuals and on the critical situation of this social group in the sphere of employment, this publication seeks to develop an evidence-based advocacy strategy with the view of introducing a prohibition of discrimination on grounds of gender identity and/or gender expression in the

Lithuanian legal system.

The publication briefly discusses **the legal and social situation of transgender individuals in Lithuania** (gender reassignment procedure and situation in the field of employment). More detailed attention is given to the **analysis of transgender experiences in the field of employment.** The data, collected over the course of ten qualitative interviews with transgender people from Lithuania, reveals that these individuals have faced various incidents of prohibited discrimination in the field of employment. The majority of these incidents could qualify as harassment, seeking to create an intimidating, hostile, degrading, humiliating or offensive environment. With the view of initiating further discussion on effective implementation of transgender human rights in Lithuania, **recommendations** are given for decision and policy makers and implementers. It can be concluded that prohibition of discrimination in the field of employment and occupation would significantly contribute to improving the socioeconomic status of transgender individuals in Lithuania.

— LEGAL AND SOCIAL SITUATION OF TRANSGENDER INDIVIDUALS IN LITHUANIA —

The social situation of transgender people in Lithuania remains challenging. According to the LGBT* survey (2012) carried out by the EU Fundamental Rights Agency (FRA), 60% of transgender respondents from Lithuania have experienced instances of physical or sexual violence in the last five years, while 55% have experienced discrimination or harassment on grounds of their gender identity in the last twelve months. However, these problems remain highly invisible in the Lithuanian society. According to the Special Eurobarometer 393 (2012), only 3% of Lithuanians claim to know at least one transgender person. It can be concluded that transgender individuals do not reveal their gender identity due to the prevailing transphobic attitudes in the Lithuanian society.

The legal situation of transgender people in Lithuania could be also described as critical. The legal categories of "gender identity" and "gender expression" do not exist in the Lithuanian legal system. As a result, the Law on Equal Opportunities does not in fact prohibit discrimination of transgender individuals, while the Criminal Code does not qualify transphobic violence and incitement to hatred as hate crimes and/or hate speech. It can be concluded that transgender individuals are the most vulnerable subgroup under the LGBT* umbrella in Lithuania, because they cannot access the minimal legal guarantees available to other members of the community.

— GENDER REASSIGNMENT PROCEDURE

The new edition of the Civil Code of the Republic of Lithuania, adopted in 2001, established the right of an individual to undergo a gender reassignment procedure, if it is medically possible. The conditions and process of this procedure should be regulated by a separate law, which has not yet been adopted. In 2007 the European Court of Human Rights (ECtHR) delivered a judgment in the case *L. v. Lithuania*, ruling that the

unjustified delay in adopting the Law on Gender Reassignment had violated the applicant's right to privacy. The court ordered the Lithuanian Government either to adopt the law in question within three months of the judgment becoming final, or to compensate the pecuniary (i.e. related to the costs of gender reassignment treatment abroad) damages, amounting to €40,000. In the short term the Lithuanian Government has opted for the latter option.

Due to the fact that the Law on Gender Reassignment is yet to be adopted, there is no procedure for legal gender recognition in Lithuania. After undergoing gender reassignment treatment abroad, transsexual individuals have to apply to the national courts in order to get their identity documents changed. This practice is flawed due to two reasons. Firstly, a costly and prolonged litigation process cannot be considered an integral element of a quick, accessible and transparent gender reassignment procedure. Secondly, in order to obtain legal gender recognition, transgender people have to undergo full gender reassignment treatment, including surgery. Due to the non-existent legislation, this medical treatment is not available within the framework of the Lithuanian health care system.

— SITUATION OF TRANSGENDER PEOPLE IN EMPLOYMENT

Discrimination in employment is one of the most challenging problems faced by transgender individuals. It manifests itself in very specific forms, which are applicable only to this particular social group. With the view of assessing the situation on the national level, there is an apparent lack of available data. Up to the present date no national survey has been conducted with the view of assessing the transgender human rights situation in Lithuania. Due to this reason the disaggregated results of international surveys, allowing to identify the results of the Lithuanian segment, have become the only reliable source of data with the view of assessing the economic, social and legal situation of transgender people in the country. The results of these surveys reveal that transgender individuals experience

numerous instances of discrimination at work, and the attitudes of Lithuanians towards their transgender colleagues remain negative:

- 38% of transgender respondents from Lithuania have experienced discrimination at work in the course of the last 12 months, while 52% felt discriminated against while looking for employment (LGBT* survey by FRA);
- only 3% of Lithuanians claim to know at least one transgender person (Special Eurobarometer 393);
- 49% of Lithuanians would feel uncomfortable working with a transgender colleague, while 43% do not agree with the statement that transgender people should be able to change their civil documents to match their inner gender (Special Eurobarometer 437).

— EXPERIENCES OF TRANSGENDER PEOPLE IN EMPLOYMENT IN LITHUANIA —

With the view of developing an evidence-based advocacy strategy for introducing the legal categories of "gender identity" and "gender expression" into the national legal system and thus providing additional legal guarantees for transgender individuals, the aim is to document the subjective experiences of these individuals in various spheres of life. The personal narratives illustrate the daily challenges that transgender people face in the field of employment in Lithuania.

— METHODOLOGY

Ten semi-structured interviews with members of the local transgender community were conducted. The research was restricted exclusively to transgender individuals who have experience in the Lithuanian labour market. In other words, transgender identity and working experience were requirements for participating in the interviews.

Taking into account that some transgender individuals are not open about their gender identity, the aim was to ensure absolute anonymity of the interviewees. This was achieved through removing any personal information from the collected data. Each interviewee has been given an identification code instead of using their real name. In addition, any factual details (e.g. name of employer) that could lead to the interviewee being identified have been removed.

— Characteristics of the interviewees

Interviewee	Identity	Age	Working Experience in the Last 12 Months	Working Experience in the Last 3 Years
A	Transgender Man	19 years	✓	✗
B	Transgender Man	20 years	✓	✓
C	Transgender Woman	— (Not indicated)	✓	✓
D	Transgender Woman	28 years	✗ (looking for a job)	✓
E	Transgender Man	19 years	✓	✗
F	Transgender Man	20 years	✓	✓
G	Transgender Woman	26 years	✗ (looking for a job)	✓
H	Transgender Man	27 years	✗ (living abroad)	✓
I	Transgender Person	18 years	✓	✓
J	Agender Person	23 years	✓	✗

— INTERVIEW RESULTS

The professions of the interviewees include cashier, car mechanic, graphic designer, cosmetologist, scientist and translator. Based on this information, it can be concluded that transgender individuals take up employment in a variety of fields. Therefore discrimination on the grounds of gender identity and/or gender expression can be encountered in various

professional spheres.

Despite the fact that the opportunities for transgender individuals to integrate into the Lithuanian labour market are partially defined by individual capacities and characteristics (e.g. education, selected professional field, openness about one's gender identity, etc.), the following interviews with transgender individuals reveal that all interviewees have experienced potential instances of discrimination in the field of employment.

— Perception of the Transgender Human Rights Situation in Lithuania

When asked about the biggest challenges faced by transgender individuals in Lithuania, almost all interviewees gave an identical spectrum of problems, namely (a) non-existent legal gender recognition procedure, (b) non-accessible trans-specific health care and (c) social hostility and lack of awareness about gender identity and/or gender expression issues.

> "The biggest challenges... [...] No medical possibilities for gender reassignment. That you cannot change your identity documents. And the overall situation in Lithuania, attitudes towards transgender people, that people do not know anything about it and are automatically very scared of these things." (transgender man, 20 years old)

It has to be noted that although all interviewees identified similar institutional barriers pertaining to transgender human rights protection, the order of the problems was not identical. Despite the fact that non-existent procedure for legal gender recognition and non-accessible trans-specific health care were considered the most pressing issues by all the respondents, transgender individuals who wish to undergo gender reassignment treatment considered challenges pertaining to trans-specific health care to be more important. On the other hand, other interviewees identified legal gender recognition as the ultimate precondition for a successful process of social integration.

"[...] you have to do surgery and then change documents. The problem is that surgery is complicated. It seems to me that the faster you perform the surgery, the faster you get the documents. [...] doctors are not familiar with this topic. They should be trained to work with it somehow, so that there are some competent professionals." (transgender woman, 23 years old)

"[...] the biggest problem is that I cannot change my documents. For example, I do not want to undergo the surgery, because I like it the way it is. [...] I face many problems, because I have a different name on my documents. [...] every time when I have to show my documents, they say that it is not mine." (transgender woman, 28 years old)

When asked whether in their opinion transgender people face discrimination in the field of employment, all interviewees responded positively. Most of the interviewees positioned their response in a broader context relating to the general social situation of transgender individuals in Lithuania.

"[...] you arrive and you are afraid of introducing yourself with your real name, because I am personally afraid that I will not be accepted. In a sense that they will say 'Thank you, goodbye' and they will not want to have any business with me. Even if they do employ me [...] if there is a uniform, you will have to wear a female one and not the one that you prefer." (transgender man, 18 years old)

The majority of the interviewees believed that when faced with discrimination, transgender people are not likely to seek help, because they do not expect and/or cannot receive assistance. In essence this data indicates the prevalence of hopelessness and disappointment among the members of the local transgender community.

> "Where to complain if they simply do not like you, if they do not tolerate you? Maybe you have arrived to a job interview and you say: 'I am a transgender person and I would prefer if you addressed me with particular pronouns or with a different name.' If an employer does not agree with that, they simply will not hire you." (transgender man, 19 years old)

The opportunities of transgender individuals who have encountered potential instances of discrimination at work could be limited by their openness regarding their gender identity. As one interviewee put it: "It is not so easy to talk about discrimination if you are closeted and nobody else knows about it."

— Knowledge about Prohibition of Discrimination at Work

When asked whether any laws of the Republic of Lithuania protect transgender people from discrimination at work, the majority of the interviewees were not sure. While it could be concluded that the majority of the interviewees lacked specific legal awareness, those with higher education were able to respond to the question about the applicable standards of legal protection more precisely and more accurately. One interviewee precisely described the applicability of the general principle of non-discrimination in the Lithuanian legal system to the grounds of gender identity and/or gender expression:

> "[...] both the Labour Code and the Law on Equal Opportunities, they exist, but they do not define this very clearly; if the exact category [of gender identity – TVR] is not explicit, then it becomes subject to legal interpretations, which is the biggest problem. […] it could be interpreted that we are protected, it could be interpreted that we are not protected, everything depends on who is doing the interpretation and what result they want to achieve." (transgender

man, 27 years old)

When asked about which institutions they would recommend to a transgender acquaintance who has experienced discrimination at work, seven interviewees mentioned LGBT* human rights organizations, one interviewee recommended national courts, one interviewee recommended the Office of the Equal Opportunities Ombudsperson and two interviewees were not able to indicate any body or institution.

— Instances of Direct Discrimination

Over the course of the conversations with transgender individuals, certain incidents were identified which could potentially qualify as instances of direct discrimination in the field of employment. All the identified instances were related to the hiring process (i.e. rejection due to gender identity and/or gender expression).

Instances of Direct Discrimination

Sphere of Employment	Who Performed Discriminatory Acts?	Situation Overview	Quote
Catering	Managing Director	Refusal to accept employment application due to the applicant's gender identity and/or gender expression	"[...] he looked at me in an interesting way, he was talking and you could clearly tell from his face that he does not like me and that he wants to finish with me as quickly as possible, to reject me and to hire someone else. [What was the reason that he did not like you?] Because of my looks. When you have one name written down for you and then you arrive and you do not match your name and all your certificates…" (transgender man, 19 years old)

Food Processing	Human Resources Officer	Refusal to accept employment application due to the applicant's gender identity and/or gender expression	"[...] I started to look for a job and I wanted to work for [name of the company] and it can be said that they accept 99% of applications, only if you do not have any health problems. […] I filled in the questionnaire, everything was fine. It also included my documents and a picture with long hair. […] I showed the documents, it seemed that everything was fine, but I was not hired. Afterwards I talked with a friend and she said that most likely they did not want me because of a mismatch between my documents and my looks. [Why do you believe that your actual looks do not match your looks in the identity documents?] Because in the beginning the human resources officer was addressing me with male pronouns […] and after seeing my documents […] she switched to female pronouns." (transgender man, 19 years old)
Beauty Industry	Managing Director	Refusal to accept employment application due to the applicant's gender identity and/or gender expression	"[...] my friend recommended that beauty salon to me. […] because I was good at doing nails and they needed a manicurist, we reached an agreement with the owner very fast. They asked me to give a copy of my passport and social security card to the accountant. Afterwards they called and said that the city is small and that I will face challenges in attracting clients. […] afterwards they could not find the right person for that position for a few months." (transgender woman, 28 years old)

— Instances of Indirect Discrimination

The potential instances of indirect discrimination identified in the research were related to applying certain workplace rules to transgender individuals, failing to take into account their specific needs.

Instances of Indirect Discrimination			
Sphere of Employment	Who Performed Discriminatory Acts?	Situation Overview	Quote

Catering	Client	Transgender person is required to wear a name tag with their legal name, thus becoming vulnerable to humiliating remarks from the customers	"I went to the manager, put down the name tag on the table and told her that I will not be wearing it anymore, because a woman in the dining room started harassing me and made me feel very uncomfortable in front of all those people. When I came, put down the tag and told her that I will not be wearing it anymore, she allowed me not to wear the tag for a few hours. Eventually, I had to put it on again. […] it was a woman […] she managed to read my legal name from that tag and then she started screaming that […] I look like a guy, but it is written otherwise on the name tag. […] she started screaming all over the place, people were looking. It was a horrible situation." (transgender man, 20 years old)
Retail	Managing Director	Transgender person is required to wear a working uniform according to their biological sex	"[...] I started working [in a shop], but nobody knew that I am trans, I have not told anyone.[…] when it was time to get my uniform and, I went with the manager to get it from the basement, I asked her […] in order to protect myself, I asked for a male uniform. She started laughing and she told me that it is nonsense and that men get male uniforms and women get female uniforms. […] that was her response." (transgender man, 20 years old)
Entertainment	N.B. Manager was seeking to take the specific need of the transgender person into account	Transgender person is required to wear a name tag and a working uniform according to their biological sex	"[in that cinema] there were male and female uniforms. They are different, because the female ones include a vest with a deeper cleavage. When the time came, when I was given my uniform […] the manager told me that I have to wear this uniform. I started crying and said that I will not be wearing this uniform. If I had to wear it, I would have to quit. […] she allowed me to wear a male uniform. […] there were name tags as well, which we had to wear, […] I was not wearing it. They were angry at me, they were shouting, but I told them that I will not wear that thing. […] we made an agreement that I will not wear the card, but if [the owner] arrived, I had to have it in my pocket in order to put it on when they came […]." (transgender man, 20 years old)

— Instances of Harassment

Taking into account the lack of awareness on issues pertaining to gender identity and/or gender expression and the widespread transphobic attitudes in the Lithuanian society, it is very likely that transgender individuals experience various situations at work which could potentially qualify as instances of harassment. Examples are hurtful comments, remarks, gossip, refusal to address the person with their preferred pronoun and so on.

Instances of Harassment

Sphere of Employment	Who Performed Discriminatory Acts?	Situation Overview	Quote
Academia	Direct Supervisor	After coming out the direct supervisor started treating the transgender person differently	"[...] when I told him, his behaviour towards me completely changed. [...] he communicated with me much less. [Could you tell that he was avoiding you?] Yes, a little bit. There were some instances when he got confused with my pronouns, which he found funny – it was not pleasant in any way." (transgender man, 23 years old)
Retail	Colleagues, Coworkers	Gossip and hurtful comments by colleagues and coworkers	"[...] afterwards it was the changing rooms, which are shared by women and men. I was changing and by that time I was already wearing a binder. One woman noticed it and then gossip started all over the place about why I am wearing a binder. [...] It was absurd. I was not angry, just sad. I also found it funny, because I do not understand why it has to be this way." (transgender man, 20 years old)
Retail	Colleagues, Coworkers	Gossip and hurtful comments by colleagues and coworkers	"[...] sometimes they were calling me by not very nice names, especially some individuals who were making fun of everyone. They called me 'gay', 'faggot', 'transvestite'. [...] It used to happen in the hallway, in the dining room and in the storage. [...] I did not tell anyone about it, I did not complain, but once I

			was told […] that they were making fun of me in front of the accountant, so she made them stop and told everyone that 'There are different people and they should be respected'." (transgender woman, 26 years old)

— Instances of Sexual Harassment

Sexual harassment refers to creating an intimidating, hostile, degrading, humiliating or offensive environment through comments of a sexual nature and remarks about one's private life. Taking into account that the aspects of private life pertaining to gender reassignment procedure are already very personal and intimate, it can be concluded that transgender people are especially vulnerable to this particular form of discrimination.

Instances of Sexual Harassment

Sphere of Employment	Who Performed Discriminatory Acts?	Situation Overview	Quote
Entertainment	Colleagues, Coworkers	Transgender person is confronted with intimidating questions about their gender and/or gender identity	"[...] when I was working [at the cinema], I received many questions, which were not nice at all. 'How do you have sex?', 'Do you have a penis?' and so on. These questions were very unpleasant for me. […] I felt really bad." (transgender man, 20 years old)

It has to be noted that instances of sexual harassment are usually very traumatizing due to their relation to the sphere of private life. Therefore transgender individuals are not very likely to share their personal stories about this particular form of discrimination.

— Reaction to Instances of Discrimination at Work

The majority of the interviewees have not reported discrimination they have experienced on grounds of gender identity and/or gender expression to relevant public authorities (e.g. the Office of the Equal Opportunities Ombudsperson) or to non-governmental organizations working in the field of transgender human rights. The main reasons behind underreporting were "I do not expect to receive help", "complaint would not be treated seriously", "incident was not severe enough". It can be concluded that the feeling of hopelessness is prevalent among the members of the local transgender community.

> "[...] we are considered propaganda, we are too few, […] one life story does not count, it is the general principle here in Lithuania towards everything; it is the general feeling that if you are not in the majority, nobody cares about you…" (transgender man, 18 years old)

The majority of the interviewees indicated that the discrimination they have experienced has negatively impacted on their professional and personal lives in the long term. Three transgender individuals reported unwillingness to go to work after the incident, they were depressed, and their efficiency and productivity have decreased. Two more interviewees reported that the repeated instances of harassment have encouraged them to look for new employment opportunities.

> "I have noticed it myself and my friends started telling me that a few years ago, when I came out of the closet, […] my personality has changed. […] I have become much more hostile towards people that I do not know, I am always cautious about my environment. […] and I always have this 'rolodex of hate' in my head – if someone is going to tell me something, […] I have to be ready to hit back." (transgender man, 18 years old)

— RECOMMENDATIONS

Based on the collected data on the experiences of transgender individuals in the sphere of employment, **legislators** are recommended to:

1. introduce a prohibition of discrimination on grounds of gender identity and/or gender expression in the Labour Code of the Republic of Lithuania;

2. introduce the protected ground of gender identity and/or gender expression within the framework of the Law on Equal Opportunities of the Republic of Lithuania.

With the view of achieving comprehensive protection from discrimination on grounds of gender identity and/or gender expression, it is recommended to undertake broader measures, i.e. not only introduce formal equality of transgender individuals, but also promote social integration of this socially vulnerable group.

The Office of the Equal Opportunities Ombudsperson is recommended to:

1. formulate and implement a principal position within the framework of the main functions of the Office that, according to the jurisprudence by the Court of Justice of the European Union (CJEU), discrimination of transsexual individuals is considered discrimination on grounds of gender;

2. conduct national research on the situation of transgender individuals, seeking not only to measure public opinion on the prevalence of discrimination on grounds of gender identity and/or gender expression, but also to reveal the magnitude of social and legal discrimination faced by transgender individuals in Lithuania;

3. develop constructive dialogue with civil society organizations representing the interests of the local transgender community.

The Ministry of Social Security and Labour is recommended to:

1. prepare an interinstitutional action plan on promoting social integration of transgender individuals, which would foresee, inter alia, measures to counter discrimination in the field of employment and occupation;
2. develop constructive dialogue with civil society organizations representing the interests of the local transgender community.

— CONCLUSIONS —

Interviews with the members of the local transgender community have revealed that these individuals face multiple instances of discrimination at work. However, discriminatory incidents are not being reported to the public authorities. While there is a lack of trust among the local transgender community in public institutions responsible for the implementation of national equality legislation, it is up to policy and decision makers and implementers to decide whether the prohibition of discrimination on grounds of gender identity and/or gender expression will be introduced in the Lithuanian legal system. Decision-makers should take the lead in making socially responsible decisions to combat negative attitudes towards socially vulnerable groups, even though these decisions might be unpopular in the short term. Without their initiative any progress in the field of human rights is hardly possible.

#TRANS_LT: Documenting Experiences of Transgender People in Employment

This publication seeks to encourage dialogue with legislators, policy makers and implementers regarding the necessity of protecting transgender people from discrimination in the field of employment in Lithuania. The publication contains the results of qualitative interviews with transgender individuals, indicating that prohibition of discrimination on grounds of gender is not sufficient to ensure efficient participation of this social group in the Lithuanian labour market. Therefore it is recommended to include the grounds of discrimination based on gender identity and/or gender expression in the Lithuanian legal system. The English summary contains:

- assessment of the social and legal situation of transgender individuals in Lithuania;
- overview of interview results with transgender individuals regarding their experiences in the labour market;
- recommendations for Lithuanian authorities with the view of ensuring efficient participation of transgender individuals in the Lithuanian labour market.

This publication is one of the deliverables by the National LGBT* Rights Organization LGL with the view of representing the interests of the local transgender community.

LGL
NATIONAL LGBT* RIGHTS ORGANIZATION

National Lesbian, Gay, Bisexual and Transgender (LGBT*) Association

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