Bias-motivated speech

Portugal’s largest victim support association APAV launched an awareness raising campaign on hate speech called “Fight Hate with Respect”, including SOGIESC issues. The videos feature well-known rappers and one video includes a trans woman.

Bodily integrity

On 12 July, the Portuguese parliament adopted a law banning non-consensual surgeries on intersex children. Portugal is now the second country worldwide to outlaw medically unnecessary treatments on intersex kids. The law was first adopted on 12 April, and was later vetoed by the President. Following the adoption in July, it entered into force on 7 August.

A lot of work is needed now to ensure that the law is effectively implemented, in a way that it best protects the fundamental rights of trans and intersex people. For instance, guidelines for the healthcare and education sector will be important.

Local NGOs and OII Europe voiced criticism over some sections of the law. OII Europe criticised the law, as instead of banning all deferrable surgeries and other medical interventions, it refers to the “moment in which the person’s gender identity is manifested” as starting point after which “interventions […] are to be carried out with the person’s express and informed consent, through the person’s legal representatives”. It does not state how the knowledge of this “manifestation” of a minor’s gender identity is to be established. Nor does it require proof of whether the child has the capacity to consent to these medical interventions.

“Many deferrable interventions on intersex children are carried out at a very young age. There is a high risk that parents and doctors may declare or believe the child’s gender identity to be ‘manifested’ in order to carry out deferrable and irreversible interventions on the child’s sex characteristics. Children depend on their caregivers and, therefore, are especially vulnerable. It is very unlikely that a younger or even an older child will have the capacity to defend themselves, when pressure to ‘consent’ is put on them, or be able to actually identify biased or lacking information. The law, as it is, is not strong enough to protect intersex children against a violation of their bodily integrity.”

Dan Christian Ghattas, Executive Director of OII Europe

Education

In June, ILGA Portugal launched the results of their National School Climate Survey, collecting responses from LGBT youth aged 14-20, during 2016-2017. The results showed that schools continue to be spaces where anti-LGBT attitudes, harassment and even violence take place. Students indicated however that support from educators and an inclusive environment were really helpful. ILGA Portugal called for more investment into resources, specialised training for educators, and sensitisation for youth on SOGIESC issues.

Equality and non-discrimination

For the first time, a specific National Action Plan on SOGIESC was adopted in May 2018, within the framework of the National Strategy for Equality and Non-Discrimination, and will initially be in force until 2021. The National Strategy and its specific Action Plans are constructed within the 2030 Agenda.

The Portuguese government hosted the 6th annual European IDAHOT Forum on May 14, in Lisbon.

Family

In May, the Constitutional Court declared some of the provisions of the law on Assisted Reproductive Technology (ART) as unconstitutional, also regarding the anonymity of the donor. The law is suspended until the Parliament adopts the necessary changes.

Legal gender recognition

On 12 July, Portugal became the sixth country in Europe to establish a legal gender recognition procedure based on self-determination. Trans people will no longer need to be diagnosed with gender identity disorder in order to have their gender legally recognised.

“With the adoption of this law, the State is finally saying that it is on the side of trans people and that it recognizes them fully, giving signs to society that they deserve dignity in their daily lives. In the same sense, by protecting the sex characteristics of intersex infants and children, it ensures that intersex people have the right to experience their bodies in full, without mutilation, without decisions not consented to or without their express will”

Daniela Bento, GRIT (Reflection and Trans Intervention Group), ILGA Portugal
The law was first adopted on 12 April and also allowed for minors aged 16 and above to access the process. Unfortunately it was vetoed by President Marcelo Rebelo de Sousa in May, despite pressure by local and European LGBTI civil society. The veto centred on the inclusion of minors, with the President suggesting that minors should have to obtain a medical opinion in order to change their gender marker.

Unlike the original law, the final version which was adopted, now foresees that young people between 16 and 18 need to obtain a document certifying that they are able to provide consent from a doctor or a psychologist (of their choice).

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