

Statement on the increase in legal gender recognition age in Kazakhstan

This statement outlines the views of the Association of Russian Speaking Intersex regarding the draft Code of the Republic of Kazakhstan "On the health of the people and the health care system."¹ In particular, Amendment No. 539 provides for an increase in the age at which it is possible to change the legal sex in documents, from 18 years to 21 years.

Being established in the law, increasing the age for changing the legal sex will violate Kazakhstan's international human rights obligations. In particular, the adoption of the amendment would violate the principle of non-discrimination in the exercise of the right to respect for private life and the right to the highest attainable standard of health on the basis of age and gender identity. Also, the establishment of a legislative age limit for changing the legal sex will conflict with the consistent recommendations of international organizations to guarantee a flexible, quick, transparent, and accessible procedure for changing documents in accordance with the individual's gender self-determination.²

In addition, the legislative age barrier for changing the legal sex will lead to violations of the rights of the child, including the principle of the best interests of a child and the principle of the developing abilities of the child. Many intersex children from an early age have an idea of their gender identity, which often does not coincide with the legal sex assigned to them at birth. Early access to changing documents for intersex children is critical and time sensitive. Fixing the age for changing documents in the law will lead to discrimination and other human rights violations of intersex children during adolescence due to the prolonged inability to change legal sex in documents. Among other things, increasing the age for changing the legal sex can negatively affect the mental health of intersex people, including provoking depressive and anxious conditions.

On the contrary, the removal of age barriers for changing legal sex will reduce the traumatic experience of growing up with outdated or erroneous documents as well as provide intersex children with legal protection from incorrigible decisions on sex-"normalizing" interventions, and access to appropriate medical care, sports, and other sex-sensitive opportunities.

We also consider inappropriate use of the category "sex change." The word "sex" in the conventional sense means biological sex. Biological sex is a multi-level system, including genetic, anatomical, and physiological components; therefore, unlike individual sex characteristics, it is impossible to "change" one's sex. The object of legal regulation of the law under discussion is the procedure for changing

¹ See Dossier on the draft Code of the Republic of Kazakhstan "On the health of the people and the health care system," May 2020, available at: https://online.zakon.kz/Document/?doc_id=36020195

² See United Nations Human Rights Committee, *Concluding observations on the fourth periodic report of Czechia*, CCPR/C/CZE/CO/4, 6 December 2019, paras 12-13.; Parliamentary Assembly of the Council of Europe, *Discrimination against trans gender people in Europe*, Resolution No. 2048, 22 April 2015, paras 6.2.1, 6.2.2.; European Parliament, *On the rights of intersex people*, Resolution No. 2018/2878 (RSP), 8 February 2019.

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documents and the legal status of an individual, which requires the use of appropriate terms ("legal sex," "legal sex marker," "legal gender recognition," etc.).

For the abovementioned reasons, we urge the authorities of the Republic of Kazakhstan to:

- 1.Reject the legal gender recognition age increase amendment
- 2.Abolish age restrictions for changing the legal sex in Kazakhstan
- 3.Establish a flexible, fast, transparent, and accessible procedure for changing documents based on self-determination
- 4.To exclude the term "sex change" from legislation, replacing it with a correct terminology defined in consultations with representatives of local and international intersex and transgender communities.

