

## Submission to the 129th Session of the United Nations Human Rights Committee on the List of Issues for the review of the Russian Federation.

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Association of Russian Speaking Intersex (ARSI)<sup>i</sup> is honored to bring to the attention of the United Nations Human Rights Committee (further - the Committee) the submission on human rights violations of intersex people<sup>ii</sup> under Russian jurisdiction. The submission offers questions for the List of Issues for the Committee’s consideration during the eighth periodic review of the Russian Federation.

Firstly, the submission discusses governmental responsibility for the prevention of and redress for medically unnecessary, invasive, and irreversible sex- “normalizing” interventions in intersex children. Secondly, the submission brings to the Committee’s attention Russian authorities’ obligation to make the legal gender recognition procedure fully accessible for intersex people and calls for an end to the associated human rights violations and discrimination of intersex people.

The evidence presented in the submission was collected through analysis of intersex people’s testimonies and individual communications acquired during our human rights violations monitoring and community support activities.

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<sup>i</sup> ARSI was found in 2013 as a non-governmental independent expert organization with a mission to improve the well-being of people with variations of sex characteristics (intersex people) in the post-Soviet countries. Our priorities are increasing visibility, counseling, and education on intersex issues, as well as promoting and protecting intersex peoples’ rights. ARSI is grateful to the Russian intersex community for sharing their experiences and reviewing the present publication, and to Ilia Savelev for authoring the present submission. Any inquiries may be addressed to [arsintersex@protonmail.com](mailto:arsintersex@protonmail.com)

<sup>ii</sup> Intersex individuals are “born with physical sex characteristics that do not fit medical or social norms for female or male bodies, and these variations in sex characteristics may manifest themselves in primary characteristics (such as the inner and outer genitalia and the chromosomal and hormonal structure) and/or secondary characteristics (such as muscle mass, hair distribution and stature).” European Parliament, *On the rights of intersex people*, Resolution No. 2018/2878 (RSP), 8 February 2019, para A.

## Recommended Questions Summary

1. What measures, if any, the Russian authorities are going to take to prohibit for public and private health institutions to perform sex-“normalizing” interventions on intersex children unless the intersex children are able to provide prior, free, and fully informed consent, and when?
2. What measures, if any, the Russian authorities are going to take to adopt — in consultation with local Intersex organizations — human rights-based binding guidelines for medical professionals on the treatment of intersex individuals, and when?
3. What measures, if any, the Russian authorities are going to take to provide for survivors of sex-“normalizing” interventions effective access to justice, including the extension of the retention period of interventions-related medical documentation; waiving criminal statutes of limitations for such interventions; and sufficient redress, including psychological assistance and reparations, and when?
4. What measures, if any, the Russian authorities are going to take to allow intersex people to change their legal gender marker without receiving the psychiatric diagnosis of “transsexualism,” and when?
5. What measures, if any, the Russian authorities are going to take to ensure the right to access to medical treatment that is not limited by the legal gender marker in the person’s official documents, and when?
6. What measures, if any, the Russian authorities are going to take to train Russian law enforcement officers to respect the dignity and human rights of intersex people, and when?

## Sex-“normalizing” Interventions on Intersex Children.

[Articles 3, 7, 9, 17, 24, and 26 of International Covenant on Civil and Political Rights.]

### Issue Summary

The Russian authorities condone the fact that doctors in Russia systematically subject children born with variations of sex characteristics (intersex children) to medically unnecessary and invasive interventions — including irreversible genital surgery — aimed at assigning sex before intersex children have full capacity to give their free and informed consent. These sex-“normalizing” interventions do not have a therapeutic purpose and often based on a stereotyped vision of gender roles. Both intersex people and their parents are often unable to give informed consent owing primarily to a lack of sufficient information on alternatives, risks, and consequences of medical interventions as well as long-term negative consequences for the child. This practice is well-documented by human rights organizations,<sup>1</sup> state authorities of foreign governments,<sup>2</sup> voluminous testimonies of intersex people,<sup>3</sup> scholars,<sup>4</sup> proud reports of medical organizations, and media on the surgeries performed.<sup>5</sup>

### Case study

On March 22, 2019, the Children’s City Hospital of St. Mary Magdalene in Saint Petersburg performed irreversible sex-“normalizing” surgery on an infant with intersex variation in genitalia.<sup>6</sup> As the surgeon explains:

*The child is 8 months old - by karyotype it is a girl, even though outwardly, her external genitals are very similar to the organs of a boy. Our task was to reduce the cavernous bodies of the so-called phallus, reduce the size of the clitoris head (clitoroplasty), form the labia (labioplasty), and create the missing part of the vagina (vaginoplasty).<sup>7</sup>*

The surgery performed — clitoral reduction and constructing of artificial vagina and labia — is the classic example of cosmetic sex-“normalizing” surgery. Besides, the medical specialists were guided by gender stereotypes about who is considered to be a woman and how the female body should look, ignoring the child’s rights to bodily integrity and self-determination.<sup>8</sup>

Instead of enforcing binding human rights standards on bodily integrity and multiple recommendations of intergovernmental and civil society organizations, in response to our organization’s petition, the authorities approached the administration of the hospital that authorized the surgery. Based on the hospital’s response, the Commissioner for Human Rights of the Child in Saint Petersburg claimed that the surgery was performed in accordance with the law.<sup>9</sup> However, the

law does not provide enforceable standards of informed consent and treats the parental consent for sex-“normalizing” surgery with life-long consequences as simply as, for example, parental consent for a child’s ear piercing.

Furthermore, the Commissioner noted that the surgery did not intend to change the sex of a child but aimed to “eliminate congenital malformations,” validating a pathologizing attitude to intersex variations. The Commissioner did not initiate an inspection on the therapeutic necessity of the surgery or information provided to parents because the parents of an intersex child did not approach the Commissioner with such request. To fortify the justification for doctors’ impunity, the Commissioner proudly reported that every year about 250 children undergo sex-“normalizing” surgery in the abovementioned hospital.

### Human Rights Obligations and Standards

The Committee has already applied the International Covenant on Civil and Political Rights (further – the Covenant) to recommend the prohibition of sex-“normalizing” surgeries in law.<sup>10</sup> For example, the Committee recommended Belgium “...to put an end to irreversible medical procedures, in particular surgical procedures, performed on intersex children who are not yet able to give their free and informed consent...”<sup>11</sup>

Similarly, other intergovernmental organizations and bodies explicitly condemn sex-“normalizing” interventions. The United Nations,<sup>12</sup> WHO,<sup>13</sup> the United Nations Committee against Torture,<sup>14</sup> the United Nations Committee on the Rights of the Child<sup>15</sup>, the United Nations Committee on the Elimination of Discrimination against Women,<sup>16</sup> and the United Nations Committee on the Rights of Persons with Disabilities<sup>17</sup> explicitly questioned such practices as a human rights violation and recommended adopting legislation that explicitly prohibits unnecessary surgical, hormonal, or other interventions on intersex children before they reach the legal age of consent. The United Nations bodies considered sex-“normalizing” interventions performed on intersex children as a matter of bodily integrity, harmful practice, and possible violation of obligations under the prohibition of cruel, inhuman, or degrading treatment, and non-consensual medical or scientific experimentation.

The Yogyakarta Principles specify that States shall:

- D. Recognise that forced, coercive and otherwise involuntary modification of a person’s sex characteristics may amount to torture, or other cruel, inhuman or degrading treatment;*
- E. Prohibit any practice, and repeal any laws and policies, allowing intrusive and irreversible treatments on the basis of sexual orientation, gender identity,*

*gender expression or sex characteristics, including forced genital-normalising surgery, involuntary sterilisation, unethical experimentation, medical display, “reparative” or “conversion” therapies, when enforced or administered without the free, prior, and informed consent of the person concerned.<sup>18</sup>*

Furthermore, sex-“normalizing” surgery was explicitly condemned by the Parliamentary Assembly of the Council of Europe<sup>19</sup> and the European Union.<sup>20</sup> In particular, PACE Resolution N 2191 (2017) calls on member States to:

- 7.1.1. *prohibit medically unnecessary sex-“normalising” surgery, sterilisation and other treatments practised on intersex children without their informed consent;*
- 7.1.2. *ensure that, except in cases where the life of the child is at immediate risk, any treatment that seeks to alter the sex characteristics of the child, including their gonads, genitals or internal sex organs, is deferred until such time as the child is able to participate in the decision, based on the right to self-determination and on the principle of free and informed consent.<sup>21</sup>*

At the moment, the performance of such interventions is explicitly prohibited by law in Malta, and currently, legislative processes for such a ban are progressing in other countries (among others, Spain, Argentina, Uruguay, states of the USA and India). International intersex organizations,<sup>22</sup> authoritative human rights organizations,<sup>23</sup> national government bodies,<sup>24</sup> and even some representatives of the Russian Orthodox Church<sup>25</sup> deem sex-“normalizing” interventions harmful and unacceptable practice.

#### Current Legislation, Policy, or Practice

**Russian authorities ignore their human rights obligations to prohibit sex-“normalizing” surgery.** The Russian authorities ignore recommendations of international bodies, including an explicit recommendation “to prohibit non-consensual medical interventions performed on intersex people until the person in question is old enough to grant their free and informed consent...,” which was issued to Russia by Spain during the thirtieth session of the Universal Periodic Review.<sup>26</sup> No legislative initiatives or acts prohibiting sex-“normalizing” interventions performed on intersex children were suggested for consideration or adopted.

**Russian law does not provide sufficient protection against sex-“normalizing” interventions.** Federal Law does not provide intersex children below the age of 15 a right to free and informed consent authorizing their parents with autonomy or

right to express an opinion about their bodies,<sup>27</sup> in contradiction with a principle of the evolving capacity of the child. In practice, the consent of minors 15 years old and over has little importance for doctors and misinformed parents.<sup>28</sup> There is no exception for surgeries altering the sex characteristics of children before they reach the age when they can give free, full, prior, and informed consent. The informed consent for parents of intersex children in practice is reduced to the insufficient information and pressure to make an urgent decision. This lack of legislative protection leads to systematic violations of children’s right to bodily integrity by the performance of intersex genital mutilation, female genital mutilation,<sup>29</sup> and male circumcision.<sup>30</sup>

**Russian law does not provide victims of sex-“normalizing” interventions access to justice.** There are limited chances to redress violations of human rights by sex-“normalizing” surgery in Russia. Appeals to domestic remedies do not stand a reasonable chance of success for the following reasons. Firstly, adult victims of sex-“normalizing” surgeries are unable to prosecute the doctors due to statutes of limitations, while the operated intersex child’s parents — often being misinformed by the doctors — are unwilling to file a lawsuit. Secondly, even in case of successful initiation of the lawsuit, instead of international human rights norms and testimonies of intersex people in health law cases, the Russian courts rely on the medical experts’ opinions and outdated medical standards supporting pathologizing and “treatment” of intersex children.

### Recommended Questions

1. What measures, if any, the Russian authorities are going to take to prohibit for public and private health institutions to perform sex-“normalizing” interventions on intersex children unless the intersex children are able to provide prior, free, and fully informed consent, and when?
2. What measures, if any, the Russian authorities are going to take to adopt — in consultation with local Intersex organizations — human rights-based binding guidelines for medical professionals on the treatment of intersex individuals, and when?
3. What measures, if any, the Russian authorities are going to take to provide for survivors of sex-“normalizing” interventions effective access to justice, including the extension of the retention period of interventions-related medical documentation; waiving criminal statutes of limitations for such interventions; and sufficient redress, including psychological assistance and reparations, and when?

## Discrimination of Intersex People on the Basis of Legal Gender Marker.

[Articles 16, 17, and 26 of International Covenant on Civil and Political Rights.]

### Issue Summary

Intersex people in Russian society are subjected to human rights violations due to the discrepancy between their sex characteristics or gender identity and the legal gender marker that was assigned to them at birth.

Sex characteristics of intersex persons might contradict the expectations laid down in legal regulations based on stereotypes of male and female bodies. Also, intersex variation can manifest and change the sex characteristics of a person at a later age.<sup>31</sup> The gender identity of a child as a self-defined category is formed at an older age<sup>32</sup> and might not correspond with the sex assigned at birth.<sup>33</sup> Thus, intersex people may find themselves in a situation where doctors ascribe them to the legal gender marker, which in the future does not match their biological sex characteristics or gender identity.<sup>34</sup> This situation causes numerous human rights violations of intersex people.<sup>35</sup> Besides, the requirement to immediately register a child into one of two legal categories reinforces the perceived “need” for sex-“normalizing” medical intervention on intersex infants.<sup>36</sup>

According to publications by media and intersex organizations,<sup>37</sup> as well as multiple communications our organization received, intersex people experience problems with the change of their legal gender marker through the current legal procedure. In the absence of governmental instructions or protocols to the contrary, the doctors consider the presence of intersex variation as a contraindication to issuing a certificate about diagnosis of “transsexualism,” which is still necessary for legal gender recognition in Russia, in contradiction to the best applicable human rights standards.

Therefore, legal gender recognition procedure in Russia is often inaccessible for people with intersex variations. In other words, the possibility of exercising the right to private life for intersex people in practice might be limited on the basis of sex, health status, sex characteristics, and gender identity of intersex people. In our opinion, it is tantamount to indirect discrimination in violation of Article 26 of the International Covenant on Civil and Political Rights.<sup>38</sup>

This situation is especially problematic because of the recent amendment to the Russian Constitution on marriage as a union between man and woman.<sup>39</sup> This binary classification of the legal subject in the Basic Law of the country, in combination with the abovementioned inaccessibility of legal gender recognition,

can lead to a restriction on the right of intersex people to marry and abrogate respect to family life. Additionally, this regulation will incentivize parents to authorize decisions about sex-“normalizing” interventions in the bodies of their intersex children. That regulation is tantamount to indirect discrimination on the basis of sex characteristics and sexual orientation.

### Case Study

Due to the inconsistency between their sex characteristics and ascribed legal gender marker, intersex people may be denied medical care. That situation happens, among other reasons, because the legal medical protocols for individual intersex variations can be tied to the legal gender marker and age of the patient. For example, our organization received a communication from an intersex person with male legal gender marker and typically male phenotype. Due to intersex variation, our client has elements of sex anatomy which typically appear in women’s bodies (for example, the uterus), and the health problems associated with such anatomy. In Russia, doctors refused to provide our client with medical care, because our client’s legal gender marker ascribed at birth was male, while the legislation of the Russian Federation on medical care for the intersex variation of our client stipulates such care only for people with female legal gender marker<sup>40</sup> and children.<sup>41</sup>

An especially problematic context of intersex people’s human rights violations is detention. For example, police officers in Irkutsk detained an intersex woman and found out the discrepancy between her female gender and male legal gender marker. They published in Instagram a video of the interrogation, exposing the intersex person’s data in order to “find other victims at the hands of [male] citizen Yakimchuk.”<sup>42</sup> The publication of the video ended in a massive bullying campaign against an intersex person, loss of her friends and family, and several attempts of suicide.<sup>43</sup>

In another case, police officers in Makhachkala detained an intersex person during a public assembly.<sup>44</sup> According to the public testimony of the intersex person:

*And then they began to check through their databases my previous passports, [they] saw that I changed the name from male to female, and then it began. They shouted that I was a freak and they could do whatever they want with me. They said they could kill me right now, but they were reluctant to get their hands dirty. Then they threatened: ‘We will kill you and blame everything on the Wahhabis.’ Then it got worse, they began to question me in detail about my body. They wanted to know which genitals I have, what size, shape, and so on. They forced me to undress.... Physical abuse never came up. But they threatened me: “We will post your pictures and passport on the Internet, and the locals will kill you.”*

*In the evening we were taken to court, and before that we gave all the confiscated things. Both I and other detainees immediately turned on the phones and climbed to check social networks, read the news. I saw that dozens of messages came to me: “You need to burn such,” “Go to your Gayrope.” It turned out that the police fulfilled their promise: they posted my photo and passport in local public, sent them to some WhatsApp chats, and from there all the information spread out over the Internet.*

*Now I am sitting at home and can’t go anywhere, delivery brings me medicines and products. True, this does not solve the problem. Recently, one of the couriers recognized me and said that he would not bring me anything anymore. I think now he will try to tell the whole city where I live. I really do not want to leave Dagestan, but I understand that this needs to be done as soon as possible. Letters with threats and insults come one after another.<sup>45</sup>*

The detained person clarifies the root of the problem: “I am intersex. I have a transgender status because I do not have the opportunity to change my passport gender, despite my self-awareness and aspects of physiology. Since birth, [I have had] hormonal disorders.”<sup>46</sup>

In order to change the legal gender marker, Russian legislation requires a person to provide a certificate from medical specialists. In the case of people with variations of sex characteristics, doctors deny issuing such certificates because of their patient’s intersex variation:

*At 22, I began to take female hormones in order to somehow find harmony. I can’t do sex reassignment surgery in Russia, because Klinefelter’s syndrome is a contraindication for it. Accordingly, changing the documents is also not possible. My life is unbearable.<sup>47</sup>*

In addition, in order to receive the change of the legal gender marker in the current procedure, intersex people have to hide their intersex variation from the doctor, take hormonal drugs that they do not need, and carry out other medical interventions, for which they face an unacceptable dilemma between the right to bodily integrity on the one hand, and the right to be recognized before the law by appropriate legal gender marker on the other:

*Then I quit hormones and decided to change documents for women for better socialization, but for this I needed to get a diagnosis of “transsexualism.” I had to imitate hormone replacement therapy, although I naturally have a high level of female hormones, and do not tell doctors about my “pathology.” By hook or by*

*crook in 2010, I finally received the necessary medical certificates, and only this year, I received new documents through the court.*<sup>48</sup>

## Human Rights Obligations and Standards

Even though the human right to change one's legal gender marker per se is well-established in European<sup>49</sup> and international human rights law, the procedure of legal gender recognition varies among countries. The Committee has already recommended State parties to eliminate abusive requirements for legal gender recognition, including mental health diagnosis, and to establish "a quick, transparent and accessible gender recognition procedure on the basis of self-identification by the applicant."<sup>50</sup> Similarly, the Parliament Assembly of Council of Europe<sup>51</sup> and European Parliament encouraged states to implement "flexible procedures for legal gender recognition as long as they continue to be registered."<sup>52</sup>

The current Russian system of legal gender recognition is inconsistent with human rights obligations under the Covenant. The mere fact that it is necessary to acquire an outdated psychiatric diagnosis of "transsexualism" as a condition for legal gender recognition after depathologization of being transgender by WHO<sup>53</sup> is problematic<sup>54</sup> and might be brought to the attention of the Committee by Russian transgender-led civil society initiatives. The Committee has already recommended removing unnecessary requirements for legal gender recognition such as surgery and marital status requirements,<sup>55</sup> similar to lacking intersex variation.

Moreover, in one of its observations the Committee recommended to "ensure that legislation concerning the change of civil status with respect to gender identity is clear and applied consistently with the rights guaranteed under the Covenant."<sup>56</sup> However, the Russian legal gender recognition procedure is not consistent with the Covenant.

Article 26 of the Covenant prohibits any discrimination in law or in fact in any field regulated and protected by public authorities as any distinction, exclusion, restriction or preference which is based on any ground like sex or health status and has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.<sup>57</sup> Article 26 prohibits indirect discrimination when a rule or measure "may be neutral on its face without any intent to discriminate but which nevertheless results in discrimination because of its exclusive or disproportionate adverse effect on a certain category of persons."<sup>58</sup> In addition, the Committee noted that "where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct those conditions" by, for example, providing "certain preferential treatment in specific matters as compared with the rest of the population."<sup>59</sup>

The Russian legal gender recognition procedure is discriminatory towards intersex people.

Firstly, the legal gender recognition procedure is limiting the rights of intersex people to change their legal gender marker per se. This is especially true because being intersex is immutable and, in this regard, limitations for enjoyment of all human rights on the basis of being intersex is comparable to the limitations on the basis of sex or race. The implied requirement to be lacking intersex variation as a pre-condition for legal gender recognition should be addressed by either providing a simple legal gender recognition procedure based on self-defined gender identity or introducing specific regulations on legal gender recognition for people with intersex variations, which should be adopted in consultations with the local intersex community, including our organization.

Secondly, the legal gender recognition procedure prevents intersex people from exercising and enjoying numerous rights guaranteed by the Committee, like the right to recognition everywhere as a person before the law, the right to privacy, or the right to marry. For example, after the enforcement of a new constitutional amendment, the Russian legal gender recognition procedure might impede intersex people's right to marry on the basis of their sexual orientation. The Committee explicitly held that Article 26 of the Covenant prohibits discrimination based on sexual orientation.<sup>60</sup> In this regard, Parliamentary Assembly of Council of Europe calls on States to “ensure that, in accordance with the right to respect for private life, intersex people are not prevented from entering into a civil partnership or marriage or from remaining in such a partnership or marriage as a result of the legal recognition of their gender.”<sup>61</sup>

Finally, Part 2 of Article 24 of the Covenant establishes that every child shall be registered immediately after birth and shall have a name. That obligation does not require the State Parties to register male or female sex of a child. In fact, for example, the Parliamentary Assembly of the Council of Europe recommends to ensure that laws and practices governing the registration of a newborn's sex duly respect the child's right to private life and allow “sufficient flexibility to deal with the situation of intersex children” as well as ensure that “wherever gender classifications are in use by public authorities, that a range of options is available for all people, including those intersex people who do not identify as either male or female.”<sup>62</sup>

## Current Legislation, Policy, or Practice

**Russian law does not provide a simple administrative procedure of legal gender recognition based on self-defined gender identity.** In order to change one's legal gender marker the current legislation requires a person to present the registry office a certificate about "sex reorientation" [половой переориентации] which is issued by a medical organization after establishing a diagnosis "transsexualism."<sup>63</sup> Unlike the law of the USSR,<sup>64</sup> current Russian law does not provide an exception for intersex people to change the legal gender marker on the basis of their intersex variation. Russian law does not regulate medical protocols for diagnosing "transsexualism," which makes the accessibility of legal gender recognition arbitrary and dependent on the opinion of doctors rather than self-defined gender identity. Russian law provides only two possible options for registration of the legal gender marker. Russian law prescribes to register the legal gender marker at birth.

## Recommended Questions

1. What measures, if any, the Russian authorities are going to take to allow intersex people to change their legal gender marker without receiving the psychiatric diagnosis of "transsexualism," and when?
2. What measures, if any, the Russian authorities are going to take to ensure the right to access to medical treatment that is not limited by the legal gender marker in the person's official documents, and when?
3. What measures, if any, the Russian authorities are going to take to train Russian law enforcement officers to respect the dignity and human rights of intersex people, and when?

<sup>1</sup> E.g., Organization Intersex International (OII) Europe, *MAP: Situation of intersex people in the world // 4th International Intersex Forum*, 25 April 2017.

<sup>2</sup> E.g., United States Department of State, Russia 2019 Human Rights Report, p. 65.

<sup>3</sup> Batenka da vy Transformer, *How intersex people live in Russia*, 27 November 2019; Snob, *Artem's Frank Confession: "I am Intersex"*, 11 December 2019; Sobaka, *Not a man or a woman: how an intersex person lives*, 23 March 2017; Snob, *"Nothing was sewn to and cut off from me"*, 12 February 2020; QueerFest, *My intersex story. Collection.*, 2017; RIA-Novosti, *"I am intersex." How do people live between the sexes*, 18 August 2018; Takie Dela, *"I am intersex, and that is normal"*, 28 December 2017; AIDS.CENTER Foundation, *Crippling surgery and ignorance of doctors: how do intersex people live?*, 2018; Snob, *Intersex person monologue: "XX and XY have nothing to do with it"*, 2 December 2019; Newnownext, *What It's Like To Be Intersex In Russia: "My Doctors Never Explained Anything Honestly To Me"*, 23 October 2017.

<sup>4</sup> Meyers MJ, *"Tragic and Glorious Pages": The Evolution of Intersex Rights in Russia and Reframing Law and Tradition to Advance Reform*, 26 Duke J. Gender L. & Pol'y 109-35, 13 May 2019; Snob, *"Correction of diversity." Medicine vs Intersex people*, 13 March 2018; Berezkin I, *Russian Intersex: Resistance and Conformity*.

<sup>5</sup> E.g., Rossiyskaya Gazeta, *Was there a boy? Surgeons perform unique sex reassignment surgery in newborns*, 14 July 2016; Life.ru, *Surgeons changed the sex of a two-year-old child in Rostov*, 28 November 2011.

<sup>6</sup> Doctor Piter, *As in a children's hospital in St. Petersburg made a girl out of a boy*, 22 March 2019.; Life.ru, *Doctors in St. Petersburg restored the gender of the child with signs of a girl and boy*, 22 March 2019.

<sup>7</sup> Doctor Piter, *As in a children's hospital in St. Petersburg made a girl out of a boy*, 22 March 2019.

<sup>8</sup> The hospital press service develops: *"The girl had a very difficult situation, because she had to undergo three operations at a time: remove unnecessary male genital organs, make female ones from her own tissues, and make internal genital organs."* See: Doctor Piter, *As in a children's hospital in St. Petersburg made a girl out of a boy*, 22 March 2019.

<sup>9</sup> Similarly, the Health Committee of the St. Petersburg's Government, as part of its documentary audit, was satisfied with the written consent of the child's parents.

<sup>10</sup> United Nations Human Rights Committee, *Concluding observations on the sixth periodic report of Australia*, CCPR/C/AUS/CO/6, 9 November 2017, para 26; United Nations Human Rights Committee, *Concluding observations on the fourth periodic report of Switzerland*, 22 August 2017, CCPR/C/CHE/CO/4, paras 24-25; United Nations Human Rights Committee, *Concluding observations on the sixth periodic report of Mexico*, CCPR/C/MEX/CO/6, 4 December 2019, paras 12-13.

<sup>11</sup> United Nations Human Rights Committee, *Concluding observations on the sixth periodic report of Belgium*, CCPR/C/BEL/CO/6, 10 June 2016, para 22

<sup>12</sup> United Nations, *Free and Equal Campaign. United Nations for Intersex Awareness*.

<sup>13</sup> WHO, *Eliminating forced, coercive and otherwise involuntary sterilization*, An interagency statement 2014.

<sup>14</sup> United Nations Committee against Torture, *Concluding observations on the seventh periodic report of France*, CAT/C/FRA/CO/7, 10 June 2016, paras 34-35.

<sup>15</sup> United Nations Committee on the Rights of the Child, *Concluding observations on the combined second to fourth periodic reports of Switzerland*, CRC/C/CHE/CO/2-4, 26 February 2015, para 42; United Nations Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Australia*, 1 November 2019, CRC/C/AUS/CO/5-6, para 31.

<sup>16</sup> United Nations Committee on the Elimination of Discrimination against Women, *Concluding observations on the eighth periodic report of Australia*, CEDAW/C/AUS/CO/8, 25 July 2018, para 25.

<sup>17</sup> United Nations Committee on the Rights of Persons with Disabilities, *Concluding observations on the combined second and third periodic reports of Australia*, CRPD/C/AUS/CO/2-3, 15 October 2019, para 34; United Nations Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of Germany*, CRPD/C/DEU/CO/1, 13 May 2015, para 37.

<sup>18</sup> *Yogyakarta Principle 10 as amended by The Yogyakarta Principles Plus 10*, 10 November 2017.

<sup>19</sup> Parliamentary Assembly of Council of Europe, *Children's right to physical integrity*, Resolution No. 1952, 1 October 2013; Parliamentary Assembly of Council of Europe, *Promoting the human rights of and eliminating discrimination against intersex people*, Resolution No. 2191, 12 October 2017.

<sup>20</sup> European Parliament, *On the rights of intersex people*, Resolution No. 2018/2878 (RSP), 8 February 2019.

<sup>21</sup> Parliamentary Assembly of Council of Europe, *Promoting the human rights of and eliminating discrimination against intersex people*, Resolution No. 2191, 12 October 2017.

<sup>22</sup> OII Europe, *Malta Declaration*, 1 December 2013; Australia and Aotearoa/New Zealand intersex community organisations and independent advocates, *Darlington Statement*, March 2017; OII Europe, *Statement of the 1st European Intersex Community Event*, 20 April 2017.

<sup>23</sup> Human Rights Watch, *"I Want to Be Like Nature Made Me" - Medically Unnecessary Surgeries on Intersex Children in the US*, 25 July 2017; Amnesty International, *First, Do No Harm - Ensuring the Rights of Children with Variations of Sex Characteristics in Denmark and Germany*, 2017.

<sup>24</sup> Commonwealth of Australia, Senate Standing Committee on Community Affairs, *Second Report - Involuntary or coerced sterilisation of Intersex people In Australia*, 25 October 2013; German Ethics Council, *Intersexuality - Opinion*, 23 February 2012; Swiss National Advisory Commission on Biomedical Ethics, *On the management of differences of sex development - Ethical issues relating to "intersexuality"*, November 2012; Human Rights Commission of the City & County of San Francisco (California, USA), *A Human Rights Investigation Into the Medical "Normalization" of Intersex People*, 28 April 2005.

<sup>25</sup> Gazeta.Spb, *The bishop of the Russian Orthodox Church condemned the operation to change the sex of a child*, 24 March 2019.

- <sup>26</sup> United Nations Human Rights Council, Report of the Working Group on the universal periodic review, Russian Federation, 12 June 2018, A/HRC/39/13, para 147.229.
- <sup>27</sup> Federal Law No. 323-FZ, *On the Fundamentals of Public Health Protection in the Russian Federation*, 21 November 2011, art. 20.2.
- <sup>28</sup> E.g., EA News, *The doctor decides whether you are a boy or a girl*, 28 October 2019.
- <sup>29</sup> *The practice of female genital mutilation in Dagestan: strategies for its elimination*, 6 December 2018.; Meduza, *Moscow clinic offered to do "female circumcision" for girls under 12 for religious reasons. This procedure cripples*, 27 November 2018.
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- <sup>31</sup> Butler A, BBC, *At 12 I grew a beard and had a period*, 22 April 2016; Parry L, Daily Mail, *'I didn't choose to become a woman, I GREW into one naturally': Born a boy, Charli developed breasts at 13 as a result of an extremely rare condition - which means she's both male AND female*, 15 July 2015; Marquez AR, *Women with beards*, 29 February 2016.
- <sup>32</sup> Fausto-Sterling A, *Gender/sex, sexual orientation, and identity are in the body: how did they get there?* 56 Journal of Sex Research 529-55, 15 March 2019; Martin CL and Ruble DN, *Patterns of Gender Development*, 61 Annual Review of Psychology 353-81, 20 August 2013.
- <sup>33</sup> *Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity*, 2007.
- <sup>34</sup> In fact, up to 20% of intersex people might have a gender identity that did not match their legal gender marker. See Furtado PS, et al., *Gender dysphoria associated with disorders of sex development*, 9 Nature Reviews Urology 620-27, 9 October 2012.
- <sup>35</sup> E.g., "From the beginning of my adult life, I had problems because of 'female' documents - I looked like a man. Difficulties were in everything, from buying cigarettes to ending with employment." Snob, *Between "M" and "F". Monologues of Intersex People*, 13 March 2018.
- <sup>36</sup> See.: European Union Agency for Fundamental Rights, *The fundamental rights situation of intersex people*, April 2015.
- <sup>37</sup> Intersex Russia, *Intersex in Russia*.
- <sup>38</sup> United Nations General Assembly, *International Covenant on Civil and Political Rights*, 19 December 1966.
- <sup>39</sup> Law of the Russian Federation on Amendment to the Constitution of the Russian Federation No. 1-FKZ, *On improving the regulation of certain issues of the organization and functioning of public authority*, 14 March 2020.
- <sup>40</sup> Ministry of Health of Russian Federation, *On the approval of the Procedure for the provision of medical care in the profile of "obstetrics and gynecology (excluding the use of assisted reproductive technologies)"*, Order No. 572N, 1 November 2012.
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- <sup>48</sup> Id.
- <sup>49</sup> European Court of Human Rights, *A.P., Garçon and Nicot v. France*, Applications nos. 79885/12, 52471/13, and 52596/13, 06 April 2017; European Court of Human Rights, *Christine Goodwin vs. United Kingdom*, Application no. 28957/95, 11 July 2002.; European Court of Human Rights, *Van Kück v. Germany*, Application no. 35968/97, 12 June 2003.; European Court of Human Rights, *L. v. Lithuania*, Application no. 27527/03, 11 September 2007.
- <sup>50</sup> 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.
- <sup>51</sup> 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.
- <sup>52</sup> European Parliament, *On the rights of intersex people*, Resolution No. 2018/2878 (RSP), 8 February 2019.
- <sup>53</sup> Mohan M, BBC, *Transgender no longer recognised as 'disorder' by WHO*, 29 May 2019; Belluck P, *The New York Times*, *W.H.O. Weighs Dropping Transgender Identity From List of Mental Disorders*, 26 July 2016.
- <sup>54</sup> For example, Committee of Ministers of the Council of Europe recommends to ensure that prior requirements for legal recognition of gender reassignment should be regularly reviewed. See: Committee of Ministers of the Council of Europe, *Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity*, 31 March 2010.
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- <sup>56</sup> United Nations Human Rights Committee, *Concluding observations on the fifth periodic report of Romania*, CCPR/C/ROU/CO/5, 10 November 2017, paras 15, 16.
- <sup>57</sup> United Nations Human Rights Committee, *General Comment No. 18 - Non-discrimination (HRI/GEN/1/Rev.9 (Vol. I))*, 10 November 1989, paras 1, 7, 12.
- <sup>58</sup> United Nations Human Rights Committee, *Derksen v. Netherlands*, Communication No. 976/2001, 2 April 2004; United Nations Human Rights Committee, *Althammer et al. v. Austria*, Communication No. 998/2001, 8 August 2003.

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<sup>59</sup> United Nations Human Rights Committee, *General Comment No. 18 - Non-discrimination*, HRI/GEN/1/Rev.9 (Vol. I), 10 November 1989, para 10.

<sup>60</sup> United Nations Human Rights Committee, *G. v. Australia*, Communication No. 2172/2012, 17 March 2017; United Nations Human Rights Committee, *C. v. Australia*, Communication No. 900/199, 28 October 2002; United Nations Human Rights Committee, *Toonen v. Australia*, Communication No. 488/1992, 31 March 1994, para 8.7; United Nations Human Rights Committee, *Young v. Australia*, Communication No. 941/2000, 6 August 2003, para 10.4; United Nations Human Rights Committee, *X v. Colombia*, Communication No. 1361/2005, 30 March 2007, para 7.2.

<sup>61</sup> Parliamentary Assembly of Council of Europe, *Promoting the human rights of and eliminating discrimination against intersex people*, Resolution No. 2191, 12 October 2017, para 7.3.5.

<sup>62</sup> *Id.*, para 7.3.3.

<sup>63</sup> Federal Law No. 143-FZ, *On acts of civil status*, 15 November 1997, Article 69, 70; Ministry of Health of Russian Federation, *On approval of the form and procedure for the issuance by a medical organization of a document on sex change*, Order No. 850n, 23 October 2017.

<sup>64</sup> See: *Rules for amending, supplementing and correcting the records of acts of civil status No. K-7-534*, 7 October 1977, para 4 (c).