

Universal Periodic Review

4th UPR Cycle - Portugal

Civil Society submission from the Coalition of LGBTI NGOs for UPR-Country Portugal (LGBTI-PT)

Human Rights situation of lesbian, gay, bisexual, trans and intersex youth in Portugal



This report is a civil society submission of the Coalition of LGBTI NGOs for UPR-Country Portugal (LGBTI-PT), composed of rede ex aequo, Opus Diversidades, Casa Qui and ILGA Portugal. This submission aims to present the human rights situation of lesbian, gay, bisexual, trans and intersex youth in Portugal, within the framework of the fourth Universal Periodic Review of Portugal. Its content is based on the experiences of the representatives of the organisations in their institutional work for LGBTI rights, in the context of direct LGBTI community support, and also on the LGBTI population that the organisations of the Coalition represent and support within their work. It has been prepared with the support of IGLYO, the International Lesbian, Gay, Bisexual, Trans, Queer and Intersex (LGBTQI) Youth & Student Organisation, of which rede ex aequo is a member organisation.

More organisations were initially requested to join the coalition and contribute to the final report, including other more youth-focused Portuguese LGBTI orgs, but since most LGBTI-focused organisations in Portugal rely mostly on volunteer work, particularly youth NGOs, it has been ILGA Portugal, Opus Diversidades and Casa Qui, institutions with full-time workers, who have been able to contribute to the final report. In the initial civil society kick-off meeting, led by IGLYO and rede ex aequo, other Portuguese LGBTI organisations have contributed to the definition of the scope of the report, namely AMPLOS, Anémona & Clube Safo.

Submitted by: Coalition of LGBTI NGOs for UPR-Country Portugal (LGBTI-PT)

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A. Introduction

1. Each of the following sections of report represent an area that is underdeveloped in regards to the Human Rights for LGBTI 'youth in Portugal, which are then divided into subsections and expanded further with the insights of the four organisations which form the coalition.

B. Social Housing Provisions: Creation of more structures in detention centres, shelter and youth safehouses

2. In Portugal, the LGBTI community faces significant challenges in accessing safe housing options. Existing social responses are limited and fail to adequately meet the diverse needs of individuals experiencing homelessness, rooflessness or insecure housing situations, particularly those who are victims of domestic abuse. Individuals in such conditions are at heightened risk of developing psychological conditions, adding up to the minority stress, and often experience domestic abuse due to their sexual orientation and/or gender identity (e.g. trans people).
3. Among the residents of Opus Diversidades² housing structures, two of them suffered from domestic abuse stemming from transphobia in their household, while three others struggled with housing instability (couch-surfing or living in trailer trucks) due to a lack of job opportunities that are accepting of LGBTI individuals, which leads to difficulties renting a house with safe conditions. Similarly, on the waiting list, a significant portion of individuals have experienced domestic abuse and many live in precarious housing situations.
4. Despite the growing demand, existing government social housing policies have proven inadequate and insufficient in addressing the needs of the LGBTI community. Casa Qui, for instance, receives on average 2-3 housing requests a month, some of them coming from other Associations or Institutions, but lacks the capacity to accommodate them.
5. Their Autonomy service imposes specific selection criteria (e.g., people shouldn't have serious psychiatric disorders, substance abuse and should be able to commit to a life plan that helps them become independent), leaving many without the support they require. Additionally, there is only one shelter in Portugal that doesn't exclude individuals that meet those criteria, operated by Associação Plano i in Porto, but it lacks a specific focus on youth.
6. In response to these challenges, Casa Qui collaborates with other Associations (such as Opus Diversidades and Associação Plano i, that are not youth specific) or, alternatively, try to help the accepting institutions in accommodating LGBTI youth (either by giving them the necessary information, consultancy, or giving psychological and psychosocial support to the aforementioned youths). While this approach provides some support, it falls short of fully addressing the unique needs of LGBTI youth experiencing housing insecurity.
7. **Recommendation:** Comprehensive reforms are necessary. This includes advocating for inclusive housing policies, increasing funding for LGBTI shelters and support services, expanding capacity, fostering partnerships among stakeholders, raising public awareness, and ensuring legal protections against discrimination.

C. Social Housing Provisions: Necessity of mandatory training in existing institutions

¹ Lesbian, Gay, Bisexual, Trans, Intersex

² Casa Qui and Opus Diversidades, members of the coalition, are some of the only organisations in Portugal who provide LGBTI-specific social housing services.

8. Casa Qui is the only Institution that caters for LGBTI youth specifically that has a housing system, so they frequently receive requests for assistance from other detention centres, shelters, and youth safehouses seeking support for LGBTI youth under their care. However, these institutions often lack adequate knowledge and understanding of LGBTI issues, particularly regarding trans individuals. This results in challenges such as uncertainty about restroom usage, room assignments, and access to gender-affirming care.
9. Providing comprehensive training in existing institutions is extremely necessary. Such training would equip staff with the necessary knowledge and skills to support LGBTI youth effectively without the need for relocation. This approach allows individuals to remain in proximity to supportive family members or friends while fostering a sense of inclusion within society - a crucial aspect of navigating a predominantly cisgender and heteronormative environment.
10. Projects like Queernest³, in which Opus Diversidades is involved, aims to develop strategies for services and social institutions to understand, prevent and combat discrimination while improving access to housing for LGBTI youth.
11. **Recommendation:** In summary, comprehensive training for existing institutions and collaborative initiatives are essential steps toward creating inclusive and supportive environments for LGBTI youth, ensuring they receive the care and assistance needed.

D. Social Housing Provisions: Reviewing guidelines for Institutions

12. To adequately meet the housing and income support needs of LGBTI individuals, it is essential to provide comprehensive assistance beyond conventional shelter options, which do not accommodate the needs of people who are going through gender transition or are suffering from violence due to their sexual orientation, gender identity and expression, and sex characteristics.
13. Organisations such as Casa Qui and Opus Diversidades have had to compensate for the lack of governmental support to LGBTI youth, particularly when the residents in their structures have been faced with the significant challenge of securing income due to a lack of family support.
14. **Recommendation:** The state must ensure there are initiatives to empower vulnerable LGBTI youth to achieve independence upon transitioning out of these housing structures.
15. **Recommendation:** Regarding creating safe spaces, facilities must provide gender-neutral bathrooms and inclusive spaces that can ensure privacy and allow for LGBTI youth to exist in a safe space. The professionals who support the space must be LGBTI-friendly to not cause further harm to the individual and further marginalise.
16. **Recommendation:** Those who manage and support the housing structures must ensure that language used is inclusive regarding SOGIESC⁴, avoiding pathologizing language and adapting their communication to better integrate and accept vulnerable LGBTI youth.
17. **Recommendation:** Housing structures must actively ensure the rights of LGBTI individuals through the compliance with existing legislation. It is recommended to stimulate cooperation with LGBTI-focused institutions to improve the professional's understanding with regards to

³ Queernest is a joint project between Opus Diversidades (Portugal), Quore (Italy) and Ljubljana Pride (Slovenia) which aims to develop strategies for services and social institutions regarding understanding, preventing and fighting discrimination and exclusion in housing access for the young LGBTQIA+ population.

⁴ Sexual Orientation, Gender Identity and Expression, and Sex Characteristics

LGBTI issues. LGBTI residents should also be aware about existing legislation to empower them and ensure they understand their rights and protections within society.

E. Healthcare: Application of the legal provisions concerning the right to access to healthcare, and the state's obligation of providing trans healthcare, training of professionals, publication of norms

18. The norm from DGS⁵, concerning Trans and gender diverse individuals, is still pending publication. Furthermore, the Law 38/2018⁶ is not widely enforced neither within the NHS nor within the Private Health System regarding the use of social name, appropriate gender identity and pronouns. **Recommendation:** The norm must be published and the enforcement of the law must be done as soon as possible.
19. A workgroup is currently reviewing it, with the provisional publication date set for the end of March 2024. There is uncertainty regarding the finalisation and publication of these norms. The Group was created to oversee the implementation of the LGBTI Health Strategy, meeting since May 2023. Progress has been made in resolving issues related to digital records and identification, namely the national health registry. Conversations were also had surrounding the possibility of registering a self-determined gender, however, due to changes in the Government and the end of the monitoring group, this is expected to be delayed significantly or abandoned. **Recommendation:** We recommend that the group continues to be active and makes further progress, resulting in the effective implementation of the Strategy.
20. Advancements have been made regarding oncological screening in trans and non-binary individuals, particularly in prostate and cervical cancer screening. Currently, only population-based cervical cancer screening has been approved for individuals with a uterus.
21. A request has been submitted to Infarmed⁷ for copayment/reimbursement for certain hormones that have a better safety and efficacy profile, long-acting formulations of intramuscular testosterone (testosterone undecanoate) and GnRH analogues as antiandrogenic therapy.
22. Considering the more recent WPATH's Standards of Care, Version 8⁸, and the role assigned to GPs therein regarding hormone therapy and also the long waiting periods for endocrinology consultations, Opus Diversidades is developing a pilot-project in the Lisbon area where GPs will receive training on hormone therapy by endocrinologists and start to prescribe hormones to trans people.
23. Until now, PReP⁹ could only be prescribed and supplied at a hospital-level. We have information that from April onward, GPs, Internists, Pediatricians, Dermatologists, Infectiologists, and Public Health Experts can prescribe PReP regardless of their workplace and the medication will be available at community pharmacies. **It must be monitored whether this is applied and if it will**

⁵ Directorate General of Health (Direcção Geral de Saúde - DGS), responsible for managing the National Health System

⁶ Diário da República, *Lei 38/2018: Direito à autodeterminação da identidade de género e expressão de género e à proteção das características sexuais de cada pessoa* <https://diariodarepublica.pt/dr/legislacao-consolidada/lei/2018-115935378>

⁷ INFARMED - National Authority of Medicines and Health Products, I.P. Infarmed is a Government agency accountable to the Health Ministry, that evaluates, authorises, regulates and controls human medicines as well as health products, namely, medical devices and cosmetics for the protection of Public Health

⁸ World Professional Association for Transgender Health, *Standards of Care, Version 8* <https://www.tandfonline.com/doi/pdf/10.1080/26895269.2022.2100644>

⁹ Pre-exposure Prophylaxis

be fully functional by June.

24. Due to the change in government and subsequent changes in the functioning of the LGBTI Health Strategy's Monitoring Group, **it must be monitored whether the group will remain operational.**
25. Casa Qui maintains protocols with two public hospitals in Lisbon that provide trans healthcare, with an increase in public health services catering to trans needs to meet growing demand.
26. Concerns persist regarding inadequate supply to meet increasing demand, lack of public awareness about free trans healthcare, apparent lack of standardised medical procedures and practices, and absence of a clear mechanism for addressing malpractices and transphobia in medical settings.
27. **Recommendation:** Training on LGBTI issues must be provided for healthcare professionals and staff who provide assistance at receptions, who often end up discriminating or not ensuring confidentiality.

F. Healthcare: Monitoring the application of the legal provisions concerning the right to access to healthcare, and the state's obligation of providing trans healthcare, training of professionals, publication of norms, and sanctioning when not followed

28. In accordance with the legal framework for gender identity recognition (Lei n.º 38/2018, de 07 de Agosto, art. 11.º), the government is to ensure the existence and access to specialised healthcare in the public health system for medical interventions in the context of physical transition for trans people (e.g. masculinizing and feminising hormone therapy, surgery). For this purpose, the DGS was legally mandated to issue clinical and technical regulations for trans and intersex specific healthcare within 270 days time, ending on May 4th 2019. To this date, no such regulations have been published. This lack of policy, regulations and guidelines when it comes to healthcare has left trans people vulnerable to each healthcare professional's judgement and prejudice, without a way of defining what constitutes quality healthcare. **Recommendation:** The norm must be published as soon as possible.
29. The Directorate General of Health (DGS) has issued a National LGBTI Health Strategy (2019), where it commits itself to certain values of collaboration with civil society organisations, the future publication of regulations, healthcare professionals' training, and LGBTI health literacy initiatives for the public, providing a timeline for these projects, where they were all to be finished and/or implemented by the end of 2020.
30. It has now been 6 years since DGS was mandated by the government to publish regulations, 5 years since they surpassed the government's deadline, 4 years since DGS committed itself to several actions and 3 years since they surpassed their own deadline, having none of these endeavours been accomplished. This lack of ability to meet legally mandated requirements has been left unchecked, leaving healthcare professionals without training and guidelines on what to do in order to ensure quality healthcare for this marginalised population. Each healthcare service unit and professional has their own procedures, some in accordance with international standards, and some severely lacking. This is visible through the multiple accounts and help requests that LGBTI NGOs receive from trans people sharing that they have been mistreated by professionals, blocked from accessing services by misinformed professionals and submitted to unnecessary steps that delay their access to healthcare. To combat this continued delay, in May 2023 the

LGBTI Health Strategy's Monitoring Group¹⁰ was created to allow a joint effort from civil society and health and government organisations to follow through with previous commitments. Even though this has brought more transparency between stakeholders and the government, progress on these key points has not been made. While there is conversation surrounding the publication of norms, DGS has since stated they are once again delayed and will not be published in the first semester of the year, as previously promised. Furthermore, the training of professionals and LGBTI literacy campaigning are stagnated projects. Due to the abrupt change in government to one where the majority is made up of political parties that have historically opposed LGBTI and non-discrimination initiatives, the Monitoring Group was expected to be extinguished. However, it will be allowed to continue under a different entity, which will be the Directorate-General of Health of Portugal, allowing the group to keep functioning with the presence of all prior organisations involved which is positive.

31. By April 2024 an update is expected regarding cervical screenings to include individuals based on whether they have a uterus rather than on legal sex markers. However, while this represents progress, it is not without limitations, as it is not accompanied by any indications to healthcare professionals about how to provide quality care for trans, nonbinary and intersex individuals.
32. Due to this lack of commitment to quality healthcare for trans people, there is also a lack of investment and allocation of staff time and resources for these services, leaving trans people with long waiting lists that postpone life-saving procedures for over 2 years, reaching 6 years depending on the procedure. Extended waiting lists result in prolonged chest binding periods, leading to potentially life-altering conditions such as vascular damage, rib inflammation, back issues, or even lung collapse. Additionally, it can lead to permanent tissue elasticity in the breast, potentially compromising the outcomes of mastectomy procedures. The lack of guidelines also leaves people open to severely underqualified care, such is the case of a trans man who was left mutilated and severely incapacitated after a genital surgery.¹¹ Furthermore, many medical professionals lack the necessary qualifications and preparedness to adequately address the healthcare needs of LGBTI individuals. For instance, during the administration of the AstraZeneca and Janssen COVID vaccines, medical personnel attempted to administer these vaccines to several trans men who were assigned female at birth. This practice was strongly discouraged as it posed significant risks, including the formation of blood clots in the brain and other vital organs. In addition to lacking critical information, doctors demonstrated a concerning inability to comprehend the risks associated with administering certain vaccines to transgender individuals. Despite attempts by trans individuals to elucidate these risks, medical professionals persisted in their course of action, potentially endangering the health of those involved.
33. **Recommendation:** We strongly recommend that the LGBTI Health Strategy's Monitoring Group continues operating under its new format. It is imperative that the healthcare norms are promptly published, along with the implementation of other pivotal initiatives aimed at training professionals in LGBTI-related matters and LGBTI health literacy campaigns. This urgency is underscored by the observed deficit in common understanding within healthcare environments. Ensuring comprehensive inclusivity for LGBTI individuals across all healthcare services is

¹⁰Notícias Governo Português, *Governo cria grupo de trabalho para reforçar estratégia de saúde para pessoas LGBTI* <https://www.portugal.gov.pt/pt/gc23/comunicacao/noticia?i=governo-cria-grupo-de-trabalho-para-reforcar-estrategia-de-saude-para-pessoas-lgbti>, 2023

¹¹ CNN Portugal, *"Tenho um pedaço de carne que não serve para nada. É isto que eu tenho. Zero". Diogo ficou com uma incapacidade de 85% após mudar de sexo*, 2023 <https://cnnportugal.iol.pt/este-e-o-meu-corpo/investigacao/tenho-um-pedaco-de-carne-que-nao-serve-para-nada-e-isto-que-eu-tenho-zero-diogo-ficou-com-uma-incapacidade-de-85-apos-mudar-de-sexo/20231005/64e884aed34e65afa2f4af38>

essential to prevent further discrimination and mitigate associated health risks.

34. **Recommendation:** There must be an effective system in place to monitor the above, as currently it is up to under-resourced NGOs to inform and present complaints. This is even more critical regarding the protection of sexual characteristics in intersex newborns and children, as no surveillance or monitoring measures have been implemented.

G. Safe, inclusive and diverse education

35. Although Portugal is frequently cited as one of the most progressive countries worldwide regarding LGBTI friendly policies, the lived experience of LGBTI youth in school often does not reflect it.
36. There are several Portuguese laws¹² that protect LGBTI students, especially regarding access to quality sexual and reproductive health education, and protection against sexist, homophobic, and transphobic discrimination¹³. Portugal's Gender Self-Determination Law¹⁴ protects trans people's right to have their gender identity recognized in various contexts without the involvement of the medical establishment. Legal provision that describes the specific steps schools need to follow to ensure they respect student's gender identity and expression does not currently exist. One such document was published and later revoked, not due to its content, but rather because it could not be any other type of legal document¹⁵. However, current policy is clear in stating that schools are obliged to ensure the student's wellbeing.

H. Safe, inclusive and diverse education: Necessity of application of the existing legal provisions in school contexts and improving them to give youth more autonomy in social transitioning

37. Every year, trans students are denied the rights the law grants them: according to AMPLOS¹⁶, most schools are not inclusive of trans students. This is a recurrent problem: in September (the start of Portuguese school year) AMPLOS supports parents of trans youth as young as five years old so they can lobby for their child's interests at their school, providing resources on the contents of the applicable legislation and the appropriate channels to report these incidents. The use of the child's preferred name and pronouns by teachers and staff, using the child's preferred name and pronouns in school documents; and access to the child's preferred bathroom, locker room and uniforms are issues often addressed by the families that AMPLOS supports.
38. There is a lack of knowledge in regards to the applicability of the Portuguese law regarding the use of the social name in schools, by the schools themselves and the professionals working in these settings. A common complaint that Casa Qui receives from their service users is that the adult population at their schools sometimes refuse to call them by their social name because their legal name hasn't changed yet; sometimes the school board delays the process, even when the family supports their trans children; schools don't know how to proceed when the family is not accepting, but want to provide the necessary support their trans student need; and schools sometimes don't know how to provide safest place possible to their trans students (especially regarding bathrooms and locker rooms), since there's not a standardised practice or guidelines.

¹² Laws 3/84; 120/99; 60/2009; as well as Decree 259/2000 and Portaria 196-A/2009

¹³ Laws 51/2012 and 38/2018

¹⁴ Law 38/2018

¹⁵ Law 38/2018 article 12; Despacho 7247/2019; Acórdão 474/2021

¹⁶ AMPLOS - Associação de Mães e Pais pela Liberdade de Orientação Sexual e Identidade de Género

39. In February 2024, AMPLOS reported an incident¹⁷ of repeated transphobia committed by a headmaster in a school in Linda-a-Velha. On top of refusing one of his students a safe, inclusive school environment, AMPLOS highlighted a video in which this headmaster “speaks about trans people, ridiculing and offending their gender identity, making absurd and humiliating comparisons, not at all worthy of someone with major responsibilities such as a school principal” in the school’s library
40. The latest change to Law 38/2018 regarding administrative measures in schools has been approved by the Parliament, then vetoed by the President, and now has gone back to the Parliament for review, which represents a big obstacle in the implementation of key elements in the protection of LGBTI youth in schools. **Recommendation:** LGBTI youth must be able to exercise their right to education without discrimination from school staff, supported by guidelines that clearly support their right to self determination and autonomy.

I. Safe, inclusive and diverse education: Insufficient monitoring in regards to the application of the proposals regarding the Educational context

41. Monitoring programs are non-existent. There’s a lack of applicability of the Sexual Education Law¹⁸, and when it’s usually applied, it is at the last minute and the last priority, due to the lack of time available in the curriculums. Due to the lack of attention to the application of this law, there was only one study that has been written and it was by Casa Qui in 2019.
42. Since 2005, rede ex aequo’s LGBTI Education Project has facilitated hundreds of peer and non-formal education sessions on LGBTI topics in schools nationwide, promoting literacy on LGBTI issues with thousands of students every year. This is an effort run by volunteering youth, and these sessions are requested by schools, school psychologists, teachers, and sometimes even the students themselves. Through this project, rede ex aequo is able to collect essential information on students and school staff’s experiences regarding LGBTI topics in an educational context. Of the students surveyed in 2022, 81.2% have witnessed discrimination or aggression based on sexual orientation, gender identity or sexual characteristics. 93% consider it important to address issues of sexual orientation, gender identity and sexual characteristics at school, while only 1.7% are against it. However, 58.3% say that these issues are very rarely addressed at school.
43. Furthermore, teachers and other professionals working within an educational context have also shared their insight on this matter: most of them had witnessed anti-LGBTI violence or bullying and were not confident about their ability to handle these situations adequately. Very few can confidently say they know of other resources (such as NGOs or psychologists) they can call for support when dealing with LGBTI discrimination and a considerable number have signalled their need for further training regarding LGBTI topics. **Recommendation:** There must be training with regards to LGBTI topics to support school staff in making the schools truly inclusive.
44. Most strikingly, none of them completely agreed with the statement “I feel that the education system is inclusive when it comes to diversity of Sexual Orientation and Gender Identity”.
45. The data collected by rede ex aequo and civil society more generally is particularly important because of its scarcity, since no data is collected by the Portuguese government regarding the

¹⁷ This misconduct was reported to various state authorities, such as CIG - Comissão para a Igualdade de Género, the Ministry of Education, the Secretary of the Ministry of Education, and Direção Geral dos Estabelecimentos de Ensino - DGEstE. This case is still ongoing.

¹⁸ Lei n.º 60/2009, 6 de agosto

grounds of discrimination cases in schools, including anti-LGBTI discrimination.

Recommendation: We believe that the monitorization of the processes mentioned above would further ensure their application and thus the quality of the education provided in Portuguese schools, contributing to the safety and well-being of LGBTI students.

J. Safe, inclusive and diverse education: Revision of schoolbooks and curricula through an inclusive lens

46. The content of school books and curricula is not adapted to include LGBTI children and young people. In addition to this, teachers, educators and educational assistants often fail to use language that is inclusive of these realities.
47. There have been cases where the Law 38/2018 is not taken into account or is subject to different interpretations, leading to children and young people finding themselves in fragile and unprotected situations. Since there is no knowledge of the topic, it is difficult to develop content, conversations and work on it.
48. LGBTI youth would benefit from additional policies regarding education, such as measures like the **revision of school books and curricula** which have been recommended by multiple publications, such as 2023 Eurydice Report “Promoting diversity and inclusion in schools in Europe”¹⁹. According to this report, LGBTI students are not specifically addressed in existing curricula, top-level policies, or measures on diversity and inclusion in schools. Themes such as preventing prejudice and discrimination, addressing human rights, representing diverse identities, combating stereotypes, and using inclusive language, although featuring in recent curricula revisions, are not currently covered. Awareness-raising on exclusion, bullying, violence, and the mis- or non-representation of marginalised student groups is also lacking.
49. School sports are also a challenge for trans students: on top of all the mentioned above, Physical Education classes are frequently gender segregated on a binary understanding of gender. This creates a hostile environment, where together with the lack of inclusive facilities and knowledge that schools and students have surrounding what lockerrooms they can use, make students miss class, not get involved in sports and consequently neglect their physical and mental health. Trans students are often at disadvantage when compared to their cisgender peers, which might have an impact on their pursuit of higher education.
50. The existing school subject “Citizenship and Development” could be an opportunity and a space to talk about the LGBTI community, but schools’ syllabus for this subject do not address this directly nor sufficiently. Students are not encouraged to talk about and debate these issues, which contributes to a general lack of interest and knowledge.

K. Safe, inclusive and diverse education: Mandatory mainstreaming of gender issues, in schools, with professionals

51. There is a training on “Gender Equality” provided by CIG, which has been printed and online guides for schools, in which LGBTI themes are briefly addressed. There’s a **need to train teachers in these matters.**

¹⁹ European Commission, European Education and Culture Executive Agency, Promoting diversity and inclusion in schools in Europe, Publications Office of the European Union, 2023, <https://data.europa.eu/doi/10.2797/443509>

52. In addition to integrating gender issues into formal education curricula, the development of non-formal educational interventions is equally crucial. Opus Diversidades has recognized this necessity through its experience with Queernest, which emphasises experiential learning and empowerment of participants.
53. In the 2020 article ““The Worst Part Was Coming Back Home and Feeling Like Crying”: Experiences of Lesbian, Gay, Bisexual and Trans Students in Portuguese Schools”, Jorge Gato et al.²⁰ write about LGBTI students demands in the context of their research “These demands included (i) specific help to trans students and (ii) information/talks/support groups about LGBTI issues and other minorities (...) Students’ perceptions are consistent with the lack of inclusive school programs and training of teachers and school staff”. More recently, IGLYO’s European Education Index 2022²¹ points out 3 areas for improvement in Portugal, Mandatory Teacher Training – there is currently no mandatory and comprehensive teacher training on LGBTI awareness – Data Gathering, and legal gender recognition.
54. **Recommendation:** The application and subsequent monitorization of the existing legal provisions in school contexts and improving them to give youth more autonomy in social transitioning, training of professionals (teachers, staff, secretariat, security) on LGBTI issues, revision of schoolbooks and curricula, and mandatory mainstreaming of gender issues, in schools, with professionals.

L. Wider access to documentation: Changing the law to include the legal recognition of gender identity of trans people without portuguese nationality

55. The legislation which facilitates the legal acknowledgment of gender identity is the law “Lei n.º 38/2018, 7 Agosto”. In accordance with this law, it is stipulated that one of the prerequisites for eligibility is possession of Portuguese citizenship²². Notably, LGBTI advocacy groups within Portugal express apprehension regarding the existing statutory framework, contending that the **law should extend its purview beyond solely Portuguese citizens to include residents in the country as well**. This proposed expansion aims to address the concerns and rights of non-citizen residents who may also seek legal recognition and protection of their gender identity within the Portuguese legal system. A critical factor motivating this initiative lies in the absence of legal safeguards in their respective home countries. Many non-citizen residents may come from nations that lack comprehensive legal frameworks recognizing and protecting gender identity. Consequently, the proposed expansion becomes a crucial pathway for individuals to attain the legal acknowledgment and protection they may be denied in their countries of origin, underscoring Portugal's commitment to providing a supportive environment for all residents. Additional considerations involve the basic need for access to essential services such as healthcare and education. Moreover, the proposed expansion emphasises the crucial importance of protecting non-citizen residents from discrimination, recognizing its pivotal role in creating an inclusive society and upholding the fundamental rights of individuals seeking legal recognition and protection of their gender identity within the Portuguese legal system.
56. The proposed legal framework outlines a process for officially recognizing the gender identity of non-Portuguese residents in Portugal and it should extend across all just legal documents,

²⁰ Gato et al, “*The worst part was coming back home and feeling like crying*”: experiences of lesbian, gay, bisexual and trans students in portuguese schools, 2020, <https://hdl.handle.net/10216/131679>

²¹ IGLYO, *LGBTQI Inclusive Education Report, Map & Index 2022*, <https://www.education-index.org/2022/>

²² Art. 7: “The legitimacy to request the procedure for changing the mention of gender in the civil registry and the consequent alteration of their given name is granted to individuals of Portuguese nationality”

certificates, diplomas, and other important documents crucial for job applications. While some individuals can change their identity on official government identification, like Brazilian trans people residing in Portugal, legislation should be enacted to ensure this right for all individuals within Portuguese territory. It is fundamental that everyone has the freedom to express themselves and access their identity without the inclusion of formerly given names (*deadnames*), which can negatively impact their well-being.

M. Wider access to documentation: Changing the law to not restrict age of legal recognition

57. Within the current legal framework in Portugal, individuals are mandated to attain the age of 18 for independent legal recognition or, for those aged between 16 and 18, through the engagement of their legal representatives. Despite a partial extension of legal recognition to minors, the existing law remains notably restrictive.
58. The imposition of age limits is argued to expose young trans individuals to a spectrum of challenges, including rejection, exclusion, social stigma, compromised academic performance, deteriorating health, and an elevated risk of suicidal tendencies. The elimination of age limits, therefore, holds the potential not only to foster social acceptance but also to mitigate school drop-out rates, address mental health concerns, and enhance the overall well-being of minors. Rather than focusing on arbitrary age criteria, emphasis should be placed on maturity.
59. **Recommendation:** Central to this perspective is the commitment to ensuring the best interest of the child as the primary consideration in all legal proceedings involving minors. Drawing inspiration from states such as Malta and Luxembourg, which have adopted more flexible approaches, Portugal's focus should shift from arbitrary age criteria to maturity considerations, affording minors the opportunity to be heard. States can ensure the best interest of the child by introducing procedures that allow minors and their parents flexibility in deciding when to pursue identity recognition, preempting potential legal challenges on grounds of age discrimination. Procedural safeguards should be incorporated to protect the child's right to the unhindered development and protection of their gender identity. This includes provisions for parental consent, consideration of the child's views based on their age and maturity, and mechanisms for addressing disagreements between parents in the child's best interest. In instances where parental consent is absent, the introduction of separate proceedings, such as automatic notification to child protection services or application before a specially trained judge, safeguards the child's right to the development and protection of their gender identity. These solutions promote a more inclusive and rights-based approach to legal gender recognition for minors.

N. Wider access to documentation: Eliminating regional disparities in Legal Gender Recognition compliance

60. The legal framework unequivocally stipulates that legal recognition of gender identity is afforded to Portuguese citizens who have attained legal age, are not interdicted or incapacitated due to a "mental anomaly", and whose gender identity diverges from the assigned sex at birth. Additionally, the law outlines that the initiation of the process for changing the gender marker and subsequent alteration of the first name involves the submission of an application at any civil registry office.
61. Regrettably, reports have surfaced highlighting challenges in the practical implementation of this procedure, with civil registry offices introducing impediments. These challenges encompass the

insistence on multiple hearings for adults to validate their decisions or outright refusal of the procedure, contending that such alterations fall beyond their purview. This incongruity between the legal framework and its execution has resulted in a discernible imbalance. The non-uniform observance of the law across the country accentuates discrepancies between metropolitan areas and smaller areas, thereby universally denying trans individuals their rightful legal recognition. As a consequence, individuals frequently find themselves compelled to travel to different cities or even districts for this legally mandated change. This predicament underscores the imperative for unwavering adherence to the law, ensuring that legal rights and procedures are uniformly recognized and accessible throughout the entire nation.

62. In response to the challenges identified in the implementation of legal recognition of gender identity in Portugal, several solutions are proposed to foster a more inclusive and consistent approach nationwide.
63. **Recommendation:** It is essential to establish regulations for the application of the law, as a considerable number of registry offices demonstrate a reluctance to adhere to legal requirements, based on the reports received from the LGBTI youth NGO rede ex aequo. This measure should aim to ensure uniformity in the application of the law, mitigating discrepancies that may arise between metropolitan areas and smaller cities.
64. Furthermore, the **training** of civil registry personnel becomes imperative to guarantee adherence to Portuguese law and foster inclusivity. By providing comprehensive training on gender identity issues, officials can better understand the importance of respecting individuals' rights and navigate the legal framework effectively. Sensitization programs can complement this training, cultivating a more understanding and supportive environment within civil registry offices.
65. Clear and comprehensive **guidelines** are essential in this process. Developing and disseminating guidelines to civil registry offices delineate proper procedures for gender identity recognition. These guidelines can cover aspects such as the number of required hearings, documentation requirements, and other pertinent elements of the recognition process according to the existing legal framework.
66. To ensure the consistent application of the law, **mechanisms for legal oversight are recommended**. This involves establishing avenues for periodic reviews, audits, or reporting mechanisms that empower individuals to bring instances of non-compliance to attention. By incorporating legal oversight, a system of accountability is instituted, reinforcing the commitment to uniform and lawful gender identity recognition practices throughout the nation.
67. Collectively, these proposals aim to create a robust and comprehensive framework that respects the rights of trans individuals and ensures that legal procedures are universally recognized, accessible, and consistently applied across all civil registry offices in Portugal.

O. Improved data collection on intersex experiences: Publication of norms, training of professionals, Criminalization of IGM

68. No progress has been observed since UN-CCPR's reprimands regarding IGM in Portugal, particularly on the topics of specific criminalization and lack of effective access of courts and reparations for victims. Intersex issues, particularly IGM, must be prioritised and pivoted by intersex people and intersex-specific organisations themselves, given that the lack of representation of intersex people and intersex issues experts within organisations that cover intersex topics (eg. LGBTI organisations, health-specific organisations) can indicate a risk of

misrepresentation of these topics and misattribution of resources.

69. **Recommendation:** Improved access of courts and reparations for victims

P. Improved data collection on intersex experiences: Creation of monitoring mechanisms for IGM

70. There is a need for effective and unequivocal monitoring of IGM by the Portuguese state and independent bodies. There is no data collection on current practices, particularly on what is being allowed to be done under the caveat of “interventions that are absolutely necessary for medical reasons”. There is no indication that medical staff has been informed of the nature of IGM as a harmful practice, as an illegal practice (Lei n.º 38/2018 de 7 de Agosto, art. 5), nor about the fact that this practice is supposedly covered under art. 144 2 of the Portuguese Criminal Code (Violation of Integrity), although not specifically mentioned as IGM.
71. **Recommendation:** Explicit criminalization of IGM, monitoring of the IGM and study of the effect of the Law 38/2018 in the practice of IGM