

# Transgender laws to be introduced



Minister Eamon O'Cuiv is being advised on the requirements of transgender legislation

Legislation recognising transgender people in their new identity is set to be introduced after the Government scrapped a Supreme Court appeal.

The State was due to challenge a ruling that current Irish law on transgender rights was in breach of the European Convention on Human Rights (ECHR).

But after dropping its appeal against the High Court decision, the government will now have to bring in fresh legislation - or face condemnation from Strasbourg.

The move follows a 13-year battle for legal recognition as a woman by Dr Lydia Foy, who was registered at birth as a male.

The former dentist from Athy in Co Kildare was represented throughout her campaign by the Free Legal Advice Centre (FLAC).

Michael Farrell, the organisation's senior solicitor paid tribute to Dr Foy's courage during her lengthy legal challenge.

"This has been a long and painful road for her to travel, but her action will help many others who have to make this difficult journey too," he said.

Mr Farrell called on the government to act quickly to introduce legislation recognising the new identity of transgender people and allowing them to obtain new birth certificates.

A spokeswoman for the Department of Social Protection said a gender recognition group was currently advising Minister Eamon O'Cuiv on the legislation required and what it should include.

After a series of failed attempts the High Court finally ruled that the lack of provision for recognising Dr Foy's new gender identity was a breach of her rights under Article 8 of the ECHR. Following the State's decision to drop its appeal, the Taoiseach must now report the court's decision to the Dail within 21 sitting days.

Press Association

# Government withdraws transgender appeal

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The Government has dropped its challenge to a High Court declaration that Irish law on transgender rights is in breach of the European Convention on Human Rights.

The Government must now introduce legislation recognising the new gender of transgender persons and allowing them to obtain new birth certificates or it will face condemnation from the European Court of Human Rights.

Dr Lydia Foy, a transgender woman registered at birth as a male who had challenged Irish law on this matter, today welcomed the Government's decision saying it finally marked an end to her 13-year battle for recognition as a woman.

The Government has withdrawn its appeal to the Supreme Court and has set up an inter-departmental group to advise the Minister for Social Protection on the legislation required.

The Free Legal Advice Centre welcomed the Government's decision, which it described as significant and groundbreaking.

A spokesperson for the Department of Social Protection has said that a Gender Recognition Advisory Group has been established.

Lydia Foy, Fought for legal recognition as a woman



Irish Times "Breaking News" section

Monday 21 June 2010

State drops transgender challenge

Jamie Smyth, Social Affairs Correspondent

The Government has withdrawn its appeal against a landmark ruling by the

High Court that Irish law on transgender rights is in breach of the European Convention on Human Rights.

The decision brings to an end a 13-year legal battle against the State by Dr Lydia Foy, a former dentist who was registered as male at birth and fought for legal recognition to live as a woman.

It also paves the way for the Government to propose new legislation giving transsexuals the right to obtain birth certificates showing their acquired sex and the entitlement to marry in that gender.

Dr Foy, who began High Court proceedings to secure recognition of her acquired gender in 1997, told a news conference today that she was delighted the long and difficult legal battle was finally over.

"I hope this achievement will help others who have endured the pain, abuse, isolation, humiliation and fear that have been the lot of those who are transgendered," she said.

"I hope the Government's acceptance that we are entitled to be recognised in our true gender will make things easier for other transgender people in the future and that this case will have helped non-transgender people to understand how real are the problems and difficulties we face," she said.

Transgendered people are those who have had gender reassignment surgery and treatment, having being diagnosed with gender identity disorder. This is a recognised medical disorder where a person's psychological identity and physical characteristics diverge.

Support groups estimate at least 600 people suffer from gender identity disorder in the Republic. This number could be higher as people may choose not come forward due to the stigma associated with the disorder.

Under current law a transgendered person cannot have a birth certificate issued with his or her new gender, and does not have the right to marry in that identity.

However, in October 2007 the High Court, in a case brought by Lydia Foy, stated that Irish law on issuing identity documents to transgendered people was incompatible with the European Convention on Human Rights.

Mr Justice McKechnie ruled that the lack of a provision in Irish law for recognising Dr Foy's new gender identity was a breach of her rights under article 8 of the ECHR, which protects private and family life. "In this regard, Ireland as of now is very much isolated within the member states of the Council of Europe," he added.

This landmark judgment overturned a previous ruling by the same judge of the High Court in July 2002, who found physical and biological indicators should be used to determine sex/gender.

Just two days after this ruling was delivered the European Court of Human Rights in Strasbourg found in favour of recognising transsexuals right to legal recognition. A year later the Oireachtas enacted the 2003 ECHR Act, which incorporated the European Convention on Human Rights into Irish law and created the conditions for Ms Foy's eventual legal victory in 2007.

The Government's decision this week to withdraw its appeal against the 2007 decision by the High Court means it will have to reply to that judgement.

Under section 5 of the ECHR Act 2003 the Taoiseach must bring to the attention of the Dáil and Seanad Éireann any declaration a declaration of incompatibility issued by the High Court within 21 sitting days.

In anticipation of the withdrawal of the legal appeal the Government has set up an inter-departmental committee on the legal recognition of transsexuals.

The gender recognition advisory group held its first meeting on 6th May and is due to make recommendations on legislation within six months. Under its terms of reference it is to propose heads of a bill to provide for:

- a process for legal recognition of the acquired gender of persons suffering from gender identity disorder who have made transition from one gender to another.
- to set up a gender recognition register for such persons. The certificates issues by this register should be indistinguishable from birth certificates and not refer to the fact a person has acquired a new gender.
- an entitlement to transsexuals to marry in the legally recognised reassigned gender.

Michael Farrell, senior solicitor for FLAC who represented Ms Foy in the legal case, called on the Government to act quickly to introduce legislation.

"This has been a long and painful road for her to travel. But her action will help many others who have to make this difficult journey too," he said.

<http://www.irishtimes.com/newspaper/breaking/2010/0621/breaking69.html>