
Italy: the status of the Human Rights of Lesbian, Gay, Bisexual, Transgender and Intersex people.

Submission to the United Nations Human Rights

Council for its Universal Periodic Review of Italy.

Stakeholders:

- ~~Centro Risorse LGBTI~~ LGBTI Resource Centre, Via Santa Chiara 1, 10122 Torino, t +39 349 55 85 732, f +39 011 0361121, centro@risorselgbti.eu, centro@pec.risorselgbti.eu, <http://www.risorselgbti.eu>
- Associazione Radicale Certi Diritti, Via di Torre Argentina, 76, 00186 Roma, Tel. +39 06 68979250, info@certidiritti.it, <http://www.certidiritti.it>
- Famiglie Arcobaleno, www.famigliearcobaleno.org
- Intesexioni, <http://www.intesexioni.it>
- ILGA-Europe, rue Belliard straat 12, Brussels B-1040, Belgium, t. + 32 2 609 54 10, f.+ 32 2 609 54 19, <http://www.ilga-europe.org>



Introduction

The respect of the human rights of LGBTI people in Italy is undermined by often incomplete legislation. During the past decade, under the European Union direction, legislation prohibiting discrimination based on sexual orientation and - to some extent - gender identity in the field of both public and private employment, has been introduced. In April 2013 a National Strategy to prevent and contrast discrimination on grounds of sexual orientation and gender identity (2013-2015) was adopted by a Ministerial Decree. The National Strategy was defined by UNAR (the national Office for the promotion of equal treatment and the removal of discrimination on grounds of racial or ethnic origin), which operates within the Department for Equal Opportunity and since 2010 extended its mission to the removal of discrimination on grounds of sexual orientation and gender identity, in collaboration with the Council of Europe. However, the enlargement of its mandate is not prescribed by law: therefore UNAR's role in combating discrimination against LGBTI people is still impermanent and vulnerable to changes of the political will.

The Observatory for security against acts of discrimination (OSCAD) has been established - through an administrative act - in order to help individuals who belong to minorities to enjoy their right to equality before the law and guarantee protection against any form of discrimination also based on sexual orientation and gender identity. Despite the establishment of these two bodies, Italy still lacks an integrated and independent equality body pursuing a multi-ground equality agenda. On a more positive note, the Interministerial Committee on Human Rights was re-formed in September 2013 after having been eliminated by the 2012 spending review and had its first plenary session on the 09th of December 2013. Nevertheless, a specific law recognizing the homophobic or transphobic nature of some hate crimes is still missing. Police forces training is developed and realized by OSCAD together with UNAR.

During the past ten years, some regional legislators have been taking an active part in fighting against discrimination of all kind and, in particular, discrimination based upon sexual orientation and, also, gender identity (Tuscany, Umbria, Emilia-Romagna, Liguria and Marche).

In recent years hate speech against LGBTI persons has directly come from public officials and politicians. Moreover, when incidents occur, there is usually a lack of adequate reaction of leading public officials.

Private life, freedom of expression and peaceful assembly are respected, and LGBTI NGOs can operate freely and engage with government, but there remains public hostility from some politicians, religious leaders and public officials. Same-sex couples are discriminated against in law compared with different-sex ones, and the state totally dissociates itself from providing solutions to the everyday problems to which this discrimination gives rise.

Gender reassignment is legally granted, medical procedures are available free of charge and changes in documents are guaranteed. Nevertheless, lack of specific regulation in procedures causes uncertainty and differentiation within the national territory; furthermore, sterilization is still widely considered a necessary pre-requisite for gender legal recognition and the health care system does not provide free hormone therapy for secondary sexual characteristics in all Regions. To date, there exists no specific legislation to regulate the modification of personal data for intersex/dsd individuals whose gender identity may not correspond to their medically assigned sex.

Italian institutions have been issuing some regulations in the past decade in order to act against violence, bullying and discrimination in schools but they do not explicitly address homophobia and transphobia. Few measures have been undertaken against homophobia in school but none of them is structural and transphobia is constantly neglected.

Overall, looking at health policies, the health care system fails to consider the special needs of LGBTI persons. Training of health personnel and social workers does not include LGBTI issues in a structural way with a negative impact on the delivered services and on the overall environment. The differences in sexual development (dsd/intersex) are still considered health issues, instead of possible natural variations in human sexual development.

Interpretation of the Italian law is that persecution on the ground of sexual orientation is a ground for obtaining refugee status or humanitarian protection, while gender identity is still neglected. Nevertheless, cases are going to be discussed by competent authorities in the coming future¹.

Right to life, security, equality and protection from violence and discrimination

Italy lacks proper legal provisions to combat hate crimes and incidents against LGBTI persons. Italian law allows hate crimes based on race, ethnicity, nationality and religion to be aggravated, but the Parliament failed several times to take action to protect LGBTI people from discriminatory crimes and hate speech.

The lack of recognition of the issues related to hate crimes and incidents motivated by sexual orientation and gender identity is particularly severe if compared to the impact that such crimes have on LGBTI people. According to a research carried out by the NGO Arcigay 19,4 % of gay men and 18,4% of lesbians interviewed have been insulted or harassed because of their sexual orientation. The percentage reaches 30% amongst gay men

¹ Centro Risorse LGBTI (2012). REPORT ON IMPLEMENTATION OF THE RECOMMENDATION CM/ REC(2010)5 OF THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE ON MEASURES TO COMBAT DISCRIMINATION ON GROUNDS OF SEXUAL ORIENTATION OR GENDER IDENTITY IN ITALY, http://www.risorseLGBTI.eu/blog/wp-content/uploads/2013/09/report_eng_13-02-13.pdf and UNAR (2012). National Strategy to prevent and contrast discrimination on grounds of sexual orientation and gender identity (2013-2015), <http://www.pariopportunita.gov.it/images/Strategia%20nazionale%20-%20vers.%20EN.pdf>.

under 25². There is no available data on hate crimes or hate related incidents motivated by gender identity. However, a study reports the overall attitudes towards trans people: 24,8% of Italians would refuse to condemn discriminating behavior against trans person; 30,5% do not want a trans person as a neighbor³.

In 2013, the LGBTI Resource Centre was responsible in Italy of the project 'Documentation of homophobic and transphobic violence', promoted by ILGA-Europe, which intends to monitor and report crimes and incidents motivated by sexual orientation and gender identity in 12 European countries. The survey has covered two regions - Veneto, in Northeastern Italy, and Campania, in the South. 75 questionnaires have been collected. 12 cases of extreme physical violence (8.3%), 12 assaults (8.3%), 2 damages of property (1.4%), 42 threats or psychological violence (29%) were documented.

Only some incomplete legal provisions and institutional mechanisms allow the Italian authorities to tackle sexual orientation and gender identity related discrimination and violence. These include:

- Legislative Decree no. 44 of 2010, implementing Directive 2007/65/EC on television broadcasting activities, explicitly states that audiovisual commercial communications cannot include or promote any discrimination based on sexual orientation.
- The 'Observatory for Security Against Acts of Discrimination' (Osservatorio per la sicurezza contro gli atti discriminatori - OSCAD) which includes representatives from 'Polizia di Stato' and 'Arma dei Carabinieri', both of which serve as judicial, public order and security police forces on a national scale. OSCAD, together with UNAR, collects data on discrimination cases: between September 2010 and February 2013, 329 cases were reported, 138 of which were classified as crimes. The reports highlight a prevalence of racial discrimination cases (56%), followed by cases of discrimination on grounds of sexual orientation or gender identity (29%)⁴. These data provide more evidence of the importance of the problem.
- Directive 2000/79/EC establishing a general framework for equal treatment in employment and occupation has been implemented in Italy by Legislative Decree no. 216/2003 and discrimination based on sexual orientation has been explicitly banned for the first time. More recently, Law no. 183 of 2010 known as the "Collegato Lavoro" affected several aspects of employment law. Besides, Art. 1468 of Legislative Decree no.

² R. Lelleri, *Survey nazionale su stato di salute, comportamenti protettivi e percezione del rischio di HIV nella popolazione omo-bisessuale* (Arcigay, 2006), pp. 53, 76. This survey covered 4690 questionnaires from gay or bisexual men and 2084 questionnaires from lesbians or bisexual women.

³ ISTAT (Istituto Nazionale di Statistica), *La popolazione omosessuale nella società italiana - Anno 2011* (17 May 2012), p. 3. The research held by the Italian National Institute of Statistics is based on a representative sample of the Italian population (7725 individuals).

⁴ For further information, see, in English: <http://www.osce.org/odihr/105452>, and, in Italian: <http://www.dirittiglobali.it/home/categorie/37-osservatorio-razzismo/42683-discriminazioni-oscad-oltre-300-segnalazioni-e-69-arresti.html>

66 of 2010 containing the 'Military Code' prohibits all discrimination against LGB military personnel in access, recruitment, duty assignments and transfers and no campaigns have been launched to prevent discrimination in housing, especially for trans people whose situation is particularly severe⁵.

Italian authorities have not undertaken any legislative or policy measure in order to guarantee the full enjoyment by LGBT people of rights related to housing nor to ensure non-discriminatory access to emergency accommodation for LGBT persons.

Recommendation 1. Providing all legal professionals (police, prosecution and judicial services) with systematic training on hate crimes targeting LGBTI people, and organizing liaison with LGBTI NGOs.

Recommendation 2. Establishment and regular financing of an integrated and independent equality body monitoring the application of laws and pursuing a multi-ground equality agenda, also addressing discrimination on grounds of sexual orientation, gender identity and expression.

Recommendation 3. Adoption of a comprehensive strategy supported by policy documents tackling discrimination against LGBTI people.

Recommendation 4. Completing the legislative and institutional frame to comprehensively address discrimination on grounds of sexual orientation, but also gender identity and expression and to cover areas other than employment (i.e. defense).

Recommendation 5. Discrimination on grounds of sexual orientation and gender identity should be prohibited in the access to goods and service (including housing).

Recommendation 6. Putting in place provisions to tackle the problems related to family refusal of LGBT youths and consequent issues such as homelessness.

Freedom of association

LGBTI organizations do not face legal obstacles with regard to official registration nor are they prevented from operating freely. Besides, public funding earmarked for NGOs is accessible without discrimination, even if LGBTI NGOs report that funding opportunities may depend on the political will of governments and local administrations. LGBTI NGOs are often consulted by policy makers; several institutional actors have been created since 1999 for consultation purposes or have been designed to develop proposals that could go in the direction of overcoming the discrimination faced by LGBTI people. Results have been poor on the one hand due to the rapid turnover of governments, on the

⁵ C. Ippoliti, A. Schuster (eds.), *DisOrientamenti. Discriminazione ed esclusione sociale delle persone LGBT in Italia* (Armando Editore, Roma, 2011), pp. 155-164.

other hand because of the weak will to enact the legislation by the bodies responsible for promoting LGBTI policies⁶.

Freedoms of expression and peaceful assembly

There are no legislative measures limiting the freedom of expression and peaceful assembly of LGBTI people. However, NGOs and media report cases of public authorities limiting the spread of social communication campaigns on issues related to LGBTI rights; barriers to the participation of LGBTI associations or LGBTI human rights supporters organizations in school meetings to inform students about issues related to sexual orientation and gender identity; resistance from the authorities to the presentation in institutional spaces of LGBTI related books - considered morally harmful and not worthy of an audience of young people. Further cases are related with criticism and censure to advertisements for private companies by public authorities, censorships of films and TV series on public television, restricting the access to some LGBTI themed websites. Similar evidence occurs in the case of freedom of assembly: law does not limit the enjoyment of such rights but there are episodes proving attempts of public authorities to restrict such freedom through: the denial of support to LGBTI pride events; homophobic declarations from representatives of public authorities; attempts to limit the route of parades; limitation to the use of public institution venues⁷.

Recommendation 1. The inclusion, in the contract regulating the public broadcast system amongst the Ministry of Economic Development and the public broadcaster company RAI, of LGBTI people and issues, as components of the Italian society that have to be represented in order to guarantee pluralism.

Right to marry and create a family

Art. 2 of the Italian Constitution states that «The Republic recognizes and guarantees the inviolable rights of man, as an individual, and in the social groups where he expresses his personality, and demands the fulfillment of the mandatory duties of political, economic, and social solidarity». Art. 3, para. 1, states that «All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions». Art. 29 states that «The Republic recognizes the rights of the family as a natural society founded on marriage. Marriage is based on the

⁶ Del Giorgio, E., & Lombardo, E. (2012). EU antidiscrimination policy and its unintended consequences: the institutionalization of multiple equality in Italy.; Del Giorgio, E., & Lombardo, E. (2009). Institutionalising intersectionality in Italy: gatekeepers and political dynamics. Paper presented at the ECPR Joint Sessions of Workshop 2009, Lisbon: Portugal.

⁷ Centro Risorse LGBTII (2012). REPORT ON IMPLEMENTATION OF THE RECOMMENDATION CM/ REC(2010)5, cit.

moral and legal equality of the spouses within the limits laid down by law to guarantee the unity of the family».

Constitutional Court ruling 138/2010 recognizes that same-sex couples should have their relationship regulated by laws and that it falls within the competence of the legislator to identify what kind of recognition and protection to grant to same-sex relationships and enact general legislation to regulate these subject, with the exception of the possibility for the Court to intervene to grant protection to single specific situations. Despite this, the Italian Parliament has never complied with the provision of the Court and same-sex couples do not enjoy any legal recognition, even though they live together and constitute a *de facto* family.

Consequently, children born into families headed by same-sex couples do not enjoy the same rights as all other children as the legal standard that applies is the same as that of a single parent. The children of same-sex parents are denied the right to be maintained, cared for, educated, and instructed by the non-legal parent; to have guaranteed affective continuity in the event of separation of the same-sex couple or the death of the legal parent; to acquire the kinship (grandparents, aunts and uncles, cousins, etc.) of the non-legal parent; to be the heir of the non-legal parent and the non-legal parent's relatives, except for as provided by will and only for the amount available but with different tax treatment than applied to legally recognized children.

In addition, the non-legal parent is not recognized as the child's parent in the performance of daily activities such as dropping off and picking up from school, accompanying the child to the doctor, etc.

In the event that an Italian same-sex couple residing abroad adopts a child pursuant to the law of the country of residence, upon return to Italy, the child loses both parents because, according to Italian law, the adoption document cannot be transcribed. There is no recognition on the part of the Italian state, even for the child of a partner legally adopted abroad in a place that allows this possibility.

Recommendation 1. Enact general legislation on recognition and protection of rights and duties of same-sex partners.

Recommendation 2. Enact general legislation to allow one partner of a same-sex couple to adopt the other partner's child (step-child adoption) and to remove marriage discrimination within the adoption law.

Education

Few measures have been undertaken against homophobia at school but none of them is structural and all neglected transphobia, despite the existence of regulations combating bullying and discrimination in general, without explicitly addressing homophobia or transphobia. In-service trainings are not systematic and in many cases are organized

thanks to the initiative of LGBTI NGOs, sometimes in partnership with local and regional institutions⁸. Data shows that in Italy 24% of LGB persons have been or are discriminated at school or university⁹ because of their sexual orientation. There are not equivalent data referring to experiences of trans persons in schools and universities.

School curricula do not include information or education on the natural variety of sexual orientation (including asexuality), gender variations (transsexualism and transgenderism) or intersexuality and there are cases where delivery of such information has been explicitly forbidden by school managers.

Recommendation 1. Develop a comprehensive and clear strategy to inform on LGBTI issues at school and address homophobic and transphobic violence, bullying and discrimination in schools

Health

Overall the health care system does not consider the special needs of LGBTI persons within the design of health policies. Training of health personnel and social workers does not include LGBTI issues in a structural way with a negative impact on the services delivered and the environment created. Moreover the lack of legal recognition of same-sex partnerships and parental rights for co-parents in same-sex families creates problems in cases of health emergencies when it comes to identifying the “next of kin”. Some steps have been taken at the regional level (i.e. Tuscany), but there is still lack of general frame¹⁰.

LGB persons experience unequal treatment, harassment or abusive behavior by health professionals. The Italian National Institute of Statistics has recently registered that 10,2% of LGB people have been discriminated in accessing the health care system by medical and non-medical staff¹¹.

LGB persons have no access to information on sexual and reproductive health related to their needs which are not recognized as a consequence of their social invisibility. 78% of men and 86,8% of women included in the survey do not reveal their sexual orientation to their doctor¹².

Transgender persons have access to gender reassignment services; however, these are not equally distributed throughout Italy. Moreover, quality of services, procedures

⁸ C. Ippoliti, A. Schuster (eds.), *DisOrientamenti. Discriminazione ed esclusione sociale delle persone LGBT in Italia*, cit.

⁹ ISTAT (Istituto Nazionale di Statistica), *La popolazione omosessuale nella società italiana*, cit. and G. Prati, M. Coppola, F. Saccà, *Report finale della ricerca nazionale sul bullismo omofobico nelle scuole italiane* (Arcigay, Bologna, 2010).

¹⁰ *Ibidem*.

¹¹ ISTAT (Istituto Nazionale di Statistica), *La popolazione omosessuale nella società italiana*, cit.

¹² R. Lelleri, *Survey nazionale su stato di salute, comportamenti protettivi e percezione del rischio di HIV nella popolazione omo-bisessuale* (Arcigay, 2006), p. 53 and 76. This survey covered 4690 questionnaires from gay or bisexual men and 2084 questionnaires from lesbians or bisexual women.

and expertise are not uniform amongst the gender reassignment services. Gender reassignment surgery is available in public hospitals free of charge. But the health system is mainly a regional responsibility and the level of health care varies significantly from one Region to the other, including significant differences in the procedures followed for gender reassignment treatment and differences in the services provided. Besides, not in all Regions the health system provides free hormonal therapy together with surgical procedures. The fact that most of the 20 Italian Regions do not provide free hormone treatment represent a significant obstacle for trans persons and an economic burden that drives towards marginality and social exclusion as well as serious health problems¹³.

Recommendation 1. Providing health personnel and social workers with systematic training on LGBTI issues in order to avoid any type of discrimination on the ground of sexual orientation and gender identity in the health sector.

Sports

All measures that have been adopted to act against discrimination in sports exclude sexual orientation and gender identity motivated discriminations. Coherently, no active policy to include and guarantee participation of LGBT people in sports has been promoted.

CONI - the 'Italian National Olympic Committee' ('Comitato Olimpico Nazionale Italiano'), that has a legal status in public law, is the Confederation of National Sports Federations and Associated Disciplines Sports. Among its tasks there is the promotion of initiatives to combat all forms of discrimination and violence in sport. According to its duties, CONI approved in February 2012 the 'Sports Code of Conduct' ('Codice di Comportamento Sportivo'). It specifies the mandatory and binding fundamental duties that must be observed by people such as athletes, coaches, managers, judges, and other subjects of sport who are enrolled in national sports federations, the associated sport disciplines, the sports promotion bodies, and the associations. The code also includes the principle of non-discrimination according to which «The members, affiliates and other subjects involved in sport should refrain from any discriminatory conduct in relation to race, ethnic or territorial, sex, age, religion, political opinions or philosophical». (Art. 6) The lack of sexual orientation and gender identity among the prohibited grounds of discrimination is clear. This exclusion is particularly serious given the cases of homophobic behaviors that occur in sport¹⁴.

¹³ Centro Risorse LGBTII (2012). REPORT ON IMPLEMENTATION OF THE RECOMMENDATION CM/ REC(2010)5, cit.

¹⁴ Centro Risorse LGBTII (2012). REPORT ON IMPLEMENTATION OF THE RECOMMENDATION CM/ REC(2010)5, cit.

Recommendation 1. Adoption of measures to prevent the risk of exclusion from participation in sports on grounds of sexual orientation, gender identity and expression.

Recommendation 2. Inclusion in CONI's 'Sports Code of Conduct' of sexual orientation gender identity and expression among the prohibited grounds of discrimination.

Recommendation 3. Adoption of effective measures to prevent and counteract the use of discriminatory insults during and in connection with sports events.

Right to seek asylum

Until now there does not yet exist in Italy a comprehensive national law concerning the right to asylum: Legislative Decree no. 251 of 2007 at art. 8 acknowledges that persecution for belonging to a particular social group characterized by the common feature of sexual orientation is to be considered as among the grounds for protection.

With regard to non EU citizens, Legislative Decree no. 286 of 1998 and subsequent amendments ('Immigration Code') at art. 19, para. 1, prohibits a foreigner from being sent to a state in which he may be «persecuted for reasons of race, sex, language, citizenship, religion, political opinions, or personal or social conditions, or if he risks being sent to a state in which he will not be protected from persecution»: sexual orientation and gender identity are not expressly mentioned but this legislation has been usually interpreted as covering these grounds of persecution. It is important to notice that all these legislative measures as well as judicial decisions only address the problem of sexual orientation. In 2011, however, the Tribunal of Rome overturned an expulsion order for an Egyptian transsexual citizen and granted him a stay permit for humanitarian reasons because of the risk of persecution in his country of origin.

Court of Cassation', no. 1598 of 20 September 2012 rules that the existence of penal laws criminalizing homosexual intercourse is «per se a general condition of privation of the fundamental right of freely living one sexual and affective life» because it forces the homosexual citizen to choose between violating a penal law or disguising his/her sexual orientation. According to the Court this is serious meddling in private life and a serious violation of personal freedom. On this respect the Italian jurisprudence is therefore more advanced than the one of the European Court of Justice (CJEU/13/145 07/11/2013)¹⁵.

Italy failed to meet the deadline for transposition of Directive 2011/95/EU which was December 2013.

Recommendation 1. Adoption of a comprehensive national law transposing Directives 2013/32/EU and 2011/95/EU and providing training in specific problems of LGBT asylum seekers or refugees for staff responsible for processing requests.

¹⁵ Court of Justice - CJEU/13/145 07/11/2013, <http://curia.europa.eu/juris/documents.jsf?num=C-199/12>.

Recommendation 3. Modifying the provision according to which it is forbidden to legally apply for a job before six months from the filing of the asylum request. This period of time should be reduced, especially in consideration of the fact that LGBTI asylum seekers cannot count on the solidarity of their communities of origin who share homophobic and transphobic stereotypes with their countries of origin.

Rights of Transgender people

Law 164/82, norms concerning sex correction, regulates the procedures for sex change and the consequent modification of personal ID. The law leaves room for interpretation, since it doesn't specify whether the correction should concern the primary or secondary sexual traits, and whether a pharmacological treatment is sufficient or surgical intervention is necessary in order for the modification to take place. It is common practice that people who have had their gonads removed are granted access to the amendment, although some sentences have allowed the sex change on ID for MtF transgender people who had not undergone surgery, on the basis of the Court's assessment of their achievement of a satisfactory psychological and physical balance¹⁶. Nevertheless, the sentences still mentioned their probable sterility as a consequence of the medical treatment. As a matter of fact, it is currently necessary to demonstrate achieved sterility in order to obtain the amendment of the personal ID, which often means undergoing undesired surgery. This state of things determines difficulties in obtaining a job, signing lease contracts, etc. It also constitutes a privacy violation whenever it becomes necessary to show an ID that does not correspond to the appearance of its bearer. Since sex is also indicated in the Italian fiscal code, a simple modification of birth name is not sufficient to protect the privacy of the individual, and is a rarely used practice.

The entire judicial procedure is at the expense of the transsexual person: lawyers, legal expenses, technical consultancy, for both the initial surgery authorization request and the second personal ID amendment request.

Recommendation 1. Issuing coherent ID through a fast administrative procedure, anytime the trans person requests it.

Rights of Intersex people

In Italy, the differences in sexual development (dsd/intersex) are still considered as an exclusively medical issue, and not also as a social and bioethical question, closely tied to the right to self-determination and to the respect of other fundamental human rights,

¹⁶ Ruling 18-10-1997 (<http://www.articolo29.it/decisioni/tribunale-di-roma-sentenza-del-18-ottobre-1997/>); ruling 11-3-2011, n. 5896 (<http://www.articolo29.it/decisioni/tribunale-di-roma-sezione-prima-civile-sentenza-11-3-2011-n-5896/>); ruling 2-5-2013 (<http://www.articolo29.it/decisioni/tribunale-di-rovereto-sentenza-del-del-2-5-2013/>).

such as physical integrity and the freedom to decide and dispose of oneself and one's own body.

Data monitoring based on an analysis of the incidence of the single intersex/dsd variations is still missing. Also missing is data tracking of the number of intersex/dsd variations among newborns, and of the number of individuals subjected to surgery or to medical intervention without surgery. There is no systematic follow-up data on the long-term results of precocious medicalization of intersex/dsd children, both at a local and national level. There is only raw data (collected by the single hospital structures) on the number of intersex/dsd individuals who are hospitalized as a consequence of their variation, or for different reasons leading up to the discovery of the variation.

To date, there is no specific legislation to regulate a modification of personal data for intersex/dsd individuals whose gender identity may not correspond to their medically assigned sex.

Researchers in Sociology and Anthropology are collecting the first testimonies on the negative effects of precocious medicalization on intersex/dsd children in Italy¹⁷.

Recommendation 1. Establishment of data monitoring based on an analysis of the incidence of the single intersex/dsd variations.

Recommendation 2. Guarantee of the physical integrity, autonomy, and self-determination of intersex/dsd people.

Recommendation 3. Providing families with intersex children with adequate counselling, and support when requested.

Rights of LGBTI inmates

Given the very serious violation of inmates' human rights proved by repeated rulings of the European Court of Human Rights and many NGOs' reports according to which the overcrowding rate in Italian prisons is 134.4 percent, meaning that there are more than 134 prisoners per 100 beds, against the European average of 99.6 percent and inmate suicides in Italy are 20 times that of the general population, caused mostly by "environmental factors" and "illegal" detention conditions¹⁸, looking at the condition of LGBTI prisoners, the 'extraordinary Senate Commission on human rights protection'

¹⁷ Crocetti D., *L'invisibile intersex. Storie di corpi medicalizzati*, Pisa, ETS, 2013; Balocchi M., "Sexual and Human Rights of Intersex People: the Sociological Aspects of Medicalization of Intersexuality in Italy", in *Gender and Sexuality* (ed. S. Antosa), Aracne editrice, Roma, 2012, 35-50; Balocchi M. - Tonarti A.M. "Sanità e famiglie, troppa fretta: operando si mutilano i bambini", in *Il Manifesto*, 16, July 27, 2013: english version in <http://www.intersexioni.it/social-mutilations-scalpel-increasingly-popular-to-homologate-atypicalities/>; Braida N. *Essere donne, essere uomini. Percezione e trattamento della variabilità sessuale tra realtà biologica e costruzione culturale*, Master thesis, Università degli Studi di Torino, 2011.

¹⁸ Antigone (2013). X RAPPORTO NAZIONALE SULLE CONDIZIONI DI DETENZIONE, L'EUROPA CI GUARDA, EDIZIONI GRUPPO ABELE 2013, http://www.osservatorioantigone.it/upload/images/6818sintesiXrapporto_LEUROPACIGUARDA_versione5.pdf

clearly tackles the lack of competence of the prisons staff on issues related to sexual orientation and gender identity and the severe form of discrimination that such prisoners suffer¹⁹.

In prison, it is often not possible to continue the hormonal therapy or to use cosmetics for trans inmates.

Recommendation 1. Providing prison staff with training programmes which include LGBTI issues in a structural way.

Recommendation 2. Measures of protection and security for inmates who may be in danger because of their sexual orientation, gender identity and expression. One welcomed measure is the establishment of separated and dedicated cells where LGBTI people can be incarcerated if desired.

Recommendation 3. Full access to hormones therapies for trans inmates.

Recommendation 4. Full and free access to regular and qualified psychological assistance. Particular attention should be paid in order that LGBTI inmates are not judged by volunteers who provide psychological assistance for their sexual orientation, gender identity or expression or, worse, be exposed to so called «reparative therapies».

Recommendation 5. A law which imposes the creation, in each Italian prison, of one or more spaces where detainees can spend at least 4 hours per month with their partners without any visual control by prison staff.

¹⁹ Centro Risorse LGBTI (2012). REPORT ON IMPLEMENTATION OF THE RECOMMENDATION CM/ REC(2010)5, cit.