

Press Release

22. February 2023

On 31 January 2023, the European Court of Human Rights released its judgement in the case of *Y v. France*. The case concerned the French authorities' refusal to allow for the "male" gender marker of the applicant, an intersex person, to be replaced by "neutral" or "intersex" on the person's birth certificate. The Court held, by six votes to one, that there had been no violation of Article 8 of the European Convention on Human Rights.

The Court attributed to France wider discretion, gave high importance to the alleged public interests at stake - among which, a need to preserve the consistency and reliability of civil status records - and argued that the alleged far-reaching consequences on the national legal system along with an alleged lack of European consensus about the recognition of neutral gender markers would militate in favour of the Court keeping restraint.

OII Europe strongly regrets the Court's judgement and wants to point to some arguments that should have led it to decide differently:

- There is a clear trend in Europe to establish self-determination as the model for legal gender recognition, coupled with an increasing recognition of the need to establish a third or multiple gender markers;
- A person's gender identity is an essential aspect of individual intimate identity and is therefore a very high level interest;
- Several international human rights bodies have called for ensuring protection to this right;
- Strict binarism in the legal gender system causes a huge amount of suffering and discrimination for those individuals, including intersex persons, who self-identify outside of it;
- It also reinforces the prejudices which underpin the harmful practice of Intersex Genital Mutilation.

While regretting the rejection of the application, OII Europe notes the doors left open by the Court for future positive decisions - including the acknowledgment of the suffering of the applicant and of the importance of protecting one's identity. OII Europe also points to this decision as a renewed reminder for European countries that it is high time to guarantee legal gender recognition for intersex people and for all.

• END •

Please find OII Europe's comment on the decision here:

<https://www.oiiurope.org/comment-on-y-v-france-echr-decision/>