

17 July 2020

## Statement on the draft bills changing the family and civil legislation in connection with the adoption of an amendment to the Constitution of the Russian Federation.

This statement concerns certain provisions of the draft bills, submitted to the Russian Federation State Duma on July 14, 2020, and restricting the rights of intersex individuals. In particular, the draft bill No. 989011-7 (Article 2, paragraphs 2 and 8) makes it impossible to change the birth certificate of a child for reasons related to changes in sex characteristics. In addition to other shortcomings reported by civil society organizations, the draft bill does not provide the possibility of changing birth certificates for intersex individuals.

In the presence of some intersex variations (ovotestis, gonadal dysgenesis, partial androgens insensitivity, 5 $\alpha$ -reductase deficiency, etc.), development of sex characteristics and gender identity of a child cannot be precisely predicted at birth. Therefore, the sex characteristics of a child can begin to change during childhood or adolescence to sex characteristics of the sex opposite to the assigned one. Due to those changes, doctors may determine biological sex and assign the legal sex of the newborn intersex child incorrectly, since the sex characteristics and gender identity of a child might change as the child grows up. In this sense, the entry on the birth certificate will become outdated and cease to reflect reality.

This phenomenon is confirmed by scientific publications and testimonies from intersex people. Here are a few examples of intersex persons who have contacted our organizations:

*At birth, doctors assigned me as a female, because my genitals were like a female's. However, in the abdomen, I had a testicle that secreted male hormones. Because of this, at the age of 14, during puberty, my body naturally started to develop as a male (hair appearance on body, body composition, genitals). This is how I found out that I have an ovotestis. When I was 18, I looked like a man and was perceived by society as a man, but according to my identification documents, I was still "female". At 18, I changed the gender marker in my documents to "male" to avoid further incidents in society. In the future, I want to have a family and children. If the bill is passed, my marriage will be left without state protection.*

A. K.

*I have mixed gonadal dysgenesis. Until the age of 10, it didn't manifest itself, and I was raised as a boy. At the age of 10, during an examination, the doctors first noticed that my genitals develop unusually, and after further examinations, they found my uterus and a mixed gonad. Doctors suggested to my parents to change my biological sex, as everything indicated that I, most likely, was a girl. I am glad that the doctors identified my sex, although this was done only ten years after my*

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*birth. I managed to change identification documents, but if the draft bill is adopted, the same children as me will not succeed.”*

A. I.

Currently, intersex children and their parents apply to the civil registration authorities with a statement and documents confirming the presence of intersex variation from a medical professional, which also does not guarantee a positive result in the absence of relevant legislation for such cases. After the adoption of the bill, the procedure will also be unavailable for intersex children.

Cancellation of the birth certificate amendment procedure for intersex children proposed by the draft bills will result in psychological trauma and restrictions on the intersex children's constitutional rights. In particular, Bill No. 989008-7 (Article 1, paragraph 6) provides that marriage is not allowed between persons of the same sex, which in combination with a ban on changing the birth certificate, will forever deprive intersex individuals of the right to marriage. Subsequently, to the child whose sex characteristics have changed due to the child's biological features, the right to marry will be unavailable. Ultimately, instead of strengthening the institution of the family, the bill will make it impossible to create a family for intersex individuals. In turn, the legal definition of marriage based on the sex assigned at birth may stimulate the abuse of the legal marriage definition to invalidate existing marriages, which will negatively affect the institution of the family as a whole.

Moreover, the adoption of the amendment will reduce the potential number of newborn children. Sex characteristics of intersex people may differ significantly from those of endosex people registered as men and women. Nevertheless, reproductive organs of intersex people can produce sex cells of only one type. Prohibition of changing legal sex would deprive of legal marriage protection an intersex person and their partner with whom the intersex person has the natural ability to have a child despite their same legal sex. Lack of protection of the institution of marriage for couples where a partner wishes to have a child will inevitably have a deterrent effect on making decisions about conceiving and/or having a child by intersex people.

Thus, the adoption of the bill will lead to unreasonable and unfair restrictions on the rights of the child based on sex characteristics which are immutable as ethnicity or permanent disability. Adoption of the bill will lead to claims of discrimination at the national and international level, which will increase the budgetary burden on the Russian Federation. The adoption of the bill will affect the authority of the state in the international arena because the law would prevent equal access of intersex people to the institution of marriage, contrary to recommendations of international organizations.<sup>1</sup>

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<sup>1</sup> For example, the Parliamentary Assembly of the Council of Europe calls on Council of Europe member States “to ensure that, in accordance with the right to respect for private life, intersex people are not

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In addition, parents of intersex children will agree to intersex genital mutilations to avoid limitations on rights and the need to change a child's documents in the future, should the draft bills be adopted. Another negative consequence is a disclosure of medical confidentiality about intersex traits of an intersex person by exposing a discrepancy between a birth certificate and other documents to anyone entitled to check those documents.

In contrast, creating simple procedures for changing birth certificates and other documents where the content indicates the gender of the person will have a positive effect on the well-being of intersex people and improve their rights. The introduction of such a procedure will not become a legislative novelty - diachronous and synchronous comparative legal analysis allows us to identify statutory provisions for such a procedure for intersex people in foreign and domestic legislation.

In this regard, we ask for amendments to the bill, which would **allow the civil registry authority, at the request of a person with intersex variation, to change their birth records, and issue a new, corrected birth certificate.**

If you have questions or need additional information, don't hesitate to approach us for consultation by sending messages to the following e-mail addresses: [arsintersex@gmail.com](mailto:arsintersex@gmail.com), [interseks@gmail.com](mailto:interseks@gmail.com), and [to@nfp.plus](mailto:to@nfp.plus).<sup>2</sup>

Truly yours,  
Association of Russian Speaking Intersex (ARSI)  
Interseks.Ru  
NFP+  
QIT-Initiative

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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." See.: Parliamentary Assembly of Council of Europe, [Promoting the human rights of and eliminating discrimination against intersex people](#), Resolution No. 2191, 2017, para 7.3.5.

<sup>2</sup> The initial text of the statement was prepared by the Association of Russian Speaking Intersex People (ARSI) in consultations and with the active support of the initiatives Interseks.Ru and NFP +.