

# EMANCIPATIE VAN INTERSEKSE PERSONEN: UITDAGINGEN VOOR EEN TRANSVERSAAL BELEID

Dr. Pieter Cannoot – Hoorzitting Vlaams Parlement – 27 januari 2021

# WOORD VOORAF

- Juni 2020: hoorzittingen Kamer van volksvertegenwoordigers, Commissie Gezondheid en Gelijke Kansen over voorstellen van resolutie ‘om de bescherming van de fundamentele rechten van intersekse personen te waarborgen’
  - Bescherming fysieke integriteit
  - Hervorming geslachtsregistratie

# WOORD VOORAF

## – Beleidsnota staatssecretaris Schlitz

Binnen deze regering zal ik de nodige wetgeving aannemen om de rechten van intersekse personen en -

2021

KAMER • 3e ZITTING VAN DE 55e ZITTINGSPERIODE

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kinderen te beschermen op basis van de door het parlement aan te nemen resolutie. Ik zal ook bewustmakingsinspanningen leveren.

### **7. Een structureel beleid voeren ten aanzien van LGBTQI+-personen: het interfederaal SOGIESC-plan**

In de loop van 2021 zullen wij het interfederaal SOGIESC-plan (*Sexual Orientation, Gender Identity and Expression and Sex Characteristics*) aannemen. Dat is op nationaal niveau het derde plan in de strijd tegen discriminatie en geweld ten aanzien van LGBTQI+-

## – Nood aan transversaal beleid + samenwerking beleidsniveaus

# BESCHERMING FYSIEKE INTEGRITEIT

- Niet-consensuele, uitstelbare behandelingen op geslachtskenmerken
- Veelal esthetische en sociale beweegredenen
- Internationale (en nationale) aandacht voor fundamentele rechten van intersekse personen
  - VN
  - Raad van Europa

# BESCHERMING FYSIEKE INTEGRITEIT

- VN: 40+ aanbevelingen sinds 2011 van CAT, CRC, CRPD, CEDAW, Mensenrechtencomité
  - Niet dringend medisch noodzakelijke ingrepen zonder informed consent = harmful practice; cruel, inhuman or degrading treatment
  - Oproep tot wettelijk verbod van dergelijke ingrepen
  - Oproep tot adequate psychosociale omkadering
  - **2019: België: reprimande van Kinderrechtencomité**

***Prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures can be safely deferred until children are able to provide their informed consent; ensure that intersex children and their families have access to adequate counselling and support and to effective remedies, including by lifting the statute of limitations.***

# BESCHERMING FYSIEKE INTEGRITEIT

## – Omvangrijke aanbevelingen in Resolutie 2191(2017) van Parlementaire Assemblee RvE

7.1. with regard to effectively protecting children's right to physical integrity and bodily autonomy and to empowering intersex people as regards these rights:

7.1.1. **prohibit medically unnecessary sex-“normalising” surgery, sterilisation and other treatments practised on intersex children without their informed consent;**

7.1.2. ensure that, **except in cases where the life of the child is at immediate risk, any treatment that seeks to alter the sex characteristics of the child, including their gonads, genitals or internal sex organs, is deferred until such time as the child is able to participate** in the decision, based on the right to self-determination and **on the principle of free and informed consent;**

7.1.3. provide all intersex people with health care offered by a **specialised, multidisciplinary** team taking a holistic and patient-centred approach and **comprising not only medical professionals** but also other relevant professionals such as psychologists, social workers and ethicists, and based on guidelines developed together by intersex organisations and the professionals concerned;

7.1.4. ensure that intersex people have **effective access to health care throughout their lives;**

7.1.5. ensure that intersex people have **full access to their medical records;**

7.1.6. provide comprehensive and up-to-date training on these matters to all medical, psychological and other professionals concerned, including **conveying a clear message that intersex bodies are the result of natural variations in sex development** and do not as such need to be modified;

# BESCHERMING FYSIEKE INTEGRITEIT

- Wettelijk verbod kan enkel functioneren door flankerend transversaal beleid (~ cfr Resolutie 2191 (2017))
  - Afdwinging verbod = measure of last resort
  - Structurele, preventieve sensibilisering van alle relevante actoren
  - Toegang tot gespecialiseerde, psychosociale ondersteuning voor wie dat wilt
  - Toegang tot gespecialiseerde, multidisciplinaire zorg en ondersteuning indien nodig en/of gewenst (Zorgpad federale overheid en gemeenschappen)

# BESCHERMING FYSIEKE INTEGRITEIT

## – Resolutie 2191(2017):

7.1. with regard to effectively protecting children's right to physical integrity and bodily autonomy and to empowering intersex people as regards these rights:

(...)

**7.1.3. provide all intersex people with health care offered by a specialised, multidisciplinary team taking a holistic and patient-centred approach and comprising not only medical professionals but also other relevant professionals such as psychologists, social workers and ethicists, and based on guidelines developed together by intersex organisations and the professionals concerned;**

7.1.4. ensure that **intersex people have effective access to health care throughout their lives;**

(...)

**7.1.6. provide comprehensive and up-to-date training on these matters to all medical, psychological and other professionals concerned, including conveying a clear message that intersex bodies are the result of natural variations in sex development and do not as such need to be modified;**

7.2. with a view to assisting intersex people, their parents and the people around them in dealing with the challenges posed, inter alia, by social attitudes towards variations in sex characteristics:

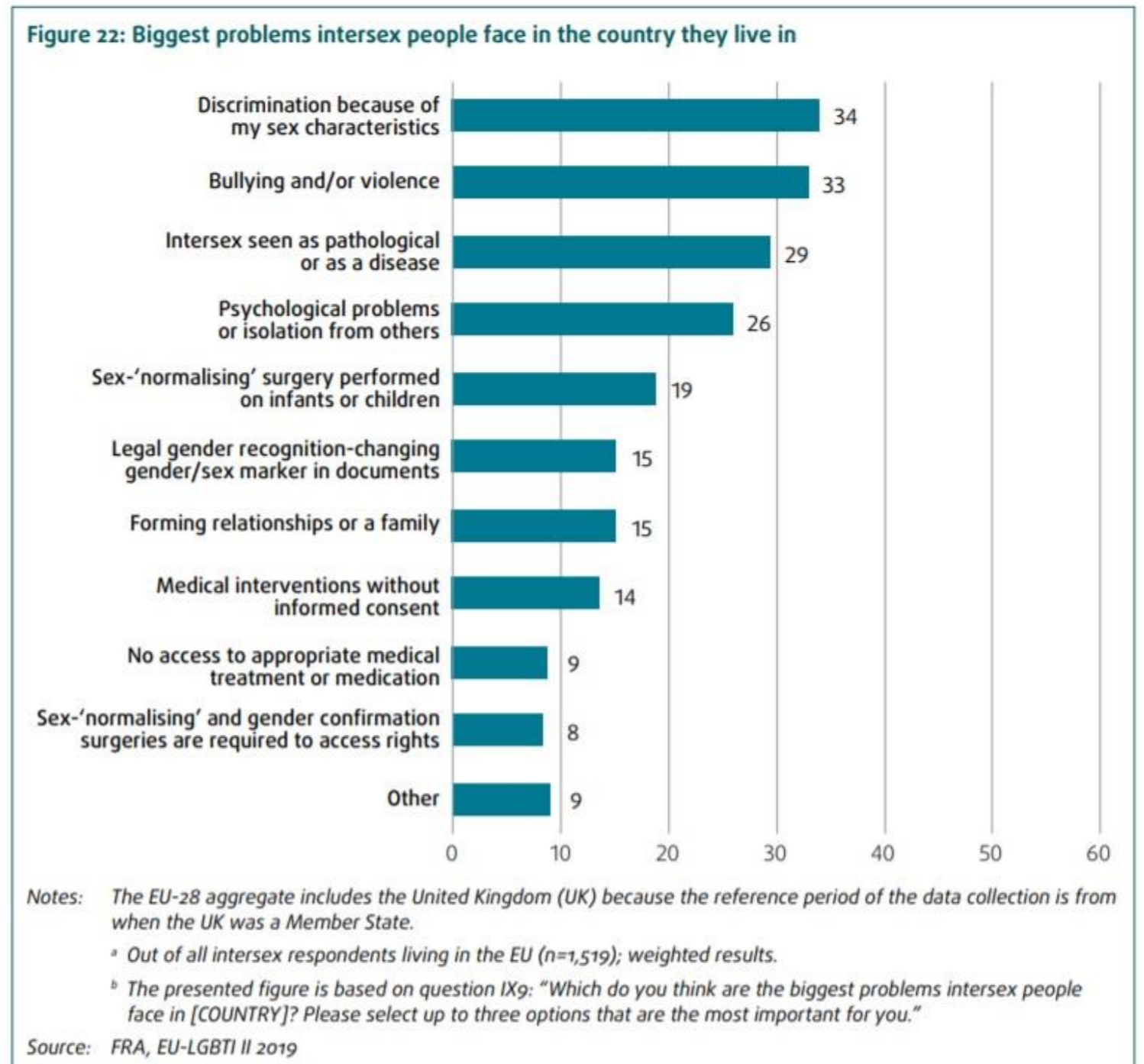
**7.2.1. ensure that adequate psychosocial support mechanisms are available for intersex people and their families throughout their lives;**

**7.2.2. support civil society organisations** working to break the silence around the situation of intersex people and to create an environment in which intersex people feel safe to speak openly about their experiences;



# DISCRIMINATIE

- Intersekse personen = sociale minderheid, kwetsbaar voor discriminatie
- Steeds meer data beschikbaar
  - Recente Nulmeeting Vla-Ned
  - FRA LGBTI survey



# DISCRIMINATIE

- Federale ‘Genderwet’: verbod op discriminatie op grond van geslacht
  - Discriminatie o.g.v. seksekenmerken = geslachtsdiscriminatie
- Gemeenschappen en Gewesten dienen nu ook te volgen

# DISCRIMINATIE

- Nood aan emancipatiebeleid om discriminatie te voorkomen
  - Transversaal emancipatiebeleid = *conditio sine qua non* voor effectiviteit (en aanvaardbaarheid) verbod op niet-consensuele behandelingen
    - Samenwerking federale overheid, gemeenschappen en gewesten
  - Intersectioneel emancipatiebeleid
  - Structureel verankerd emancipatiebeleid en periodieke dataverzameling

# DISCRIMINATIE

- Nood aan emancipatiebeleid om discriminatie te voorkomen
  - Algemene en gerichte sensibilisering
  - Onderwijs
  - Sport (zie rapport Vlaamse Ombudsdienst)
  - Algemene gezondheidszorg
  - Structurele financiering informatievoorziening, belangenverenigingen en lotgenotencontact

# BESLUIT

- Duidelijke richting in mensenrechtenstandaarden m.b.t.
  - Bescherming lichamelijke integriteit
  - Discriminatie
- Nood aan transversaal sociaal emancipatiebeleid dat verhoogde zichtbaarheid intersekse personen opvangt

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