

Trans Pregnancy

An International Exploration of
Transmasculine Practices of Reproduction

Law and Policy Review Italy

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1. Trans Rights: National Legal Frameworks

1.1 Italian Law and LGBT Rights: An Overview

Italy is made up of 20 Regions (*Regioni*), 107 Provinces (*Province*), 7,978 Municipalities (*Comuni*) and 14 metropolitan cities (*Città metropolitane*).

Every Region has a statute that serves as a regional constitution, determining the form of government and the fundamental principles of the organisation and the functioning of the region, as prescribed by the Italian Constitution (Article 123), that was approved by the Constituent Assembly in the session of 22 December 1947 and came into force on January 1, 1948.¹

Regarding legislative acts, the Italian Constitution (Article 117), establishes the way different matters are subject to State and/or Regional legislative power. The Constitution enumerates the areas in which the State has exclusive jurisdiction, and those where there is concurrent jurisdiction between the State and the Regions.

The State has exclusive legislative power in areas in which its basic functions are implicated (such as foreign affairs, defense, public order and security, citizenship, currency). The Regions have (exclusive) legislative power with respect to any matters not expressly attributed to the State (for example, safety and security at work; food and agriculture; health protection; civil protection; sports; cultural heritage; education; urban planning; complementary welfare services). In Italy there are therefore both national and regional laws.

In Italy there is relatively little focus on trans people in law or policy. Some key factors particular to the Italian situation are as follows:

- Gender identity is not a key element in anti-discrimination law.
- LGBT rights are not a priority for Italian institutions.
- Only heterosexual marriage is legally recognised.
- Italy has adopted EU legislation on discrimination at work, but sexual orientation is still largely not perceived as a workplace issue.
- Cross-dressing is not illegal.
- Sex reassignment surgery is legal, with medical approval: irreversible surgeries that effect fertility are governed by the legal and welfare systems (Hembree et al., 2017)

The Italian Constitution does not explicitly prohibit discrimination on the basis of sexual orientation or gender identity. Articles 2 and 3 of the Italian Constitution, which deal with the prohibition of discrimination, do not explicitly include LGBT people.

¹ The Constitution of the Italian Republic:
<http://www.constituzionet.org/sites/default/files/Italy.Constitution.pdf>

Article 2 of the Constitution reads as follows:

The Republic recognises and guarantees the inviolable rights of the person, both as an individual and in the social groups where human personality is expressed. The Republic expects that the fundamental duties of political, economic and social solidarity be fulfilled.

Article 3 reads as follows:

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. It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country.

The Italian Constitution guarantees the rights to freedom of assembly (Article 17) and association (Article 18). Demonstrations cannot be banned by the public authorities if they are peaceful and unarmed.

Article 21 guarantees the right to freedom of expression. However, NGOs and media report cases of public authorities limiting the spread of social communication campaigns on issues related to LGBT rights (Centro Risorse LGBTI et al., 2014).

1.11 Legal protections for LGBT people

Sexual intercourse between people of the same sex is legal. There is also an equal age of consent (14 years) that is applicable regardless of an individual's sexual orientation and gender identity.

National legal protections for LGBT people in Italy exist only in the area of employment. This protections exist due to the transposition of the European Union Employment Framework Directive (2000/78/EC) via Legislative Decree (*Decreto legislativo*) n. 216 of 9 July 2003 (*Attuazione della direttiva 2000/78/CE per la parità di trattamento in materia di occupazione e di condizioni di lavoro*), which was issued by the Government acting upon delegation by Parliament.

Article 10 of the Legislative Decree 216/2003 prohibits employment discrimination on grounds of religion, personal convictions, disability, age and sexual orientation (Cartabia et al., 2010). In spite of this law, sexual orientation is still typically not perceived as a workplace issue. Moreover, gender reassignment is not included among the recognised grounds for discrimination.

In 2004, Tuscany became the first Italian Region to ban discrimination against LGBT people in the areas of employment, education, public services and accommodations (International Bar Association, 2015; Arcigay et al., 2016). Tuscany Regional Law n. 63 of 15 November addressed 'norms against sexual discrimination caused by sexual orientation and gender identity' (*Legge Regionale Toscana 15 novembre 2004, n. 63, Norme*

contro le discriminazioni determinate dall'orientamento sessuale e dall'identità di genere). While this law focuses on discrimination on the ground of sexual orientation, its key provision on equal treatment in the provision of services seems to also be applicable to different forms of discrimination (Cartabia et al., 2010; Favilli, 2013).

Italian legislation does not address homophobic and transphobic hate crime and hate speech. On several occasions the Italian Parliament has rejected proposed laws on these issues. Italian criminal legislation does include consideration of discrimination on racial and ethnic ground – punishing both the act of disseminating ideas based on the idea of a racial superiority or on the racial or ethnic hate and the incitement to discrimination for the same reasons (Law n. 654/1975 and Law n. 205/1993) – but the Italian legal system takes no account of whether a crime was committed with a homophobic/transphobic motivation (Cartabia et al., 2010).

Few measures have been undertaken against homophobia at school, and fewer still tackle tackling transphobia specifically. Legal regulations address bullying and discrimination in general terms without explicitly addressing homophobia or transphobia (as can be seen for example in the anti-cyberbullying Law n. 71 of 29 May 2017 *'Disposizioni a tutela dei minori per la prevenzione ed il contrasto del fenomeno del cyberbullismo'*).

1.12 National LGBT Strategy

In 2013 a National LGBT Strategy was formally adopted following wide consultation with LGBT Associations and stakeholders, via the Ministerial Decree of 16 April 2013 (*Ministro del Lavoro e delle Politiche Sociali con delega alle Pari Opportunità*). The Italian LGBT Strategy was adopted to fulfill and implement Recommendation CM/REC 5 (2010)² of the Committee of Ministers to Member States on 'Measures to Combat Discrimination on Grounds of Sexual Orientation or Gender Identity', under the terms of Article 15.b of the Statute of the Council of Europe.

The Strategy was defined and coordinated by UNAR (*Ufficio Nazionale Antidiscriminazioni Razziali*), an Italian equality body originally created in accordance with Article 13 of 'Council Directive 2000/43/EC of 29 June 2000 Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin'. Since 2010 UNAR, which operates within the Department for Equal Opportunities, has extended its mission to address discrimination on grounds of sexual orientation and gender identity, in collaboration with the Council of Europe (Cartabia et al., 2010). However, the enlargement of its mandate is not prescribed by law: therefore UNAR's role in combating discrimination against LGBT people is vulnerable to changes caused by political fluctuations (Arcigay et al., 2016).

² Recommendation CM/REC 5 (2010) adopted by the Committee of Ministers on 31 March 2010. https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a

The Italian LGBT Strategy comprised an interdisciplinary three-year plan (2013-2015) that addressed four selected priority areas:

- 1) Education and training, with an emphasis on preventing and combating homophobic and transphobic bullying.
- 2) Work and employment, with particular reference to the issue of discrimination against LGBT people, especially transsexual and transgender people.
- 3) Security and detention, with a focus on *safety* and *protection* from violence, also in prison.
- 4) Communication and media, in order to fight stereotypes and prejudices directed at LGBT people (Tanteri, 2013; Sullo, 2014).

The Strategy has a multilevel governance structure (Tanteri, 2013: pp. 41-45), comprising:

- UNAR (coordination and management).
- The LGBT National Group (made up of 29 Associations).
- The Inter-institutional Cooperation Committee (composed of representatives of local authorities).
- A forum of social partners (Trade Union Associations and Employers' Organizations).
- The RE.A.DY. Network (National Network of Public Administrations against Discriminations for Sexual Orientation and Gender Identity).

1.2 Gender Reassignment: Law n. 164/1982

The Italian law which regulates the legal reassignment of gender is Law n. 164 of 14 April 1982 (*'Norme in materia di rettificazione di attribuzione di sesso-Rules Concerning Rectification of Sex Attribution'*).

Law 164/1982 was an exception for the Italian cultural and political culture: the Italian transgender social movement had a pivotal role in its adoption (Nardacchione, 2000; Barba, 2005; Pezzoli, 2006; Romano, 2008; Marcasciano, 2008 and 2016). The act was strongly supported by the trans movement and proposed to the Italian Parliament by the Radical Party (Partito Radicale).

Law 164/1982 establishes that the gender reassignment (comprising a change of legal sex and name on civil status records and papers) is disposed by a decision of the Tribunal. The trans person must make two requests to a judge (Castagnoli, 2010).

- 1) They must be authorised to have any required surgery. This judicial authorisation allows the person to obtain the sex reassignment surgery in public hospitals free of charge: this includes genital surgery to remove the penis and gonads, or the removal of the uterus and gonads as relevant.
- 2) They can ask for a judicial order which provides consent to a legal change of sex and name on the Registry Office.

The judge may appoint one or more experts in order to verify the individual's *physical, mental* or health-related *conditions: starting from the* opinions drafted by the experts, the judge authorises the surgical intervention, if necessary. When modifications of sexual characteristics are to be achieved by medical and surgical treatments, such modifications are authorized with judgment (Article 3). Once the tribunal has confirmed the new legal gender, any pre-existing heterosexual marriage is dissolved (Article 4). Once the transition is completed, the judge orders the correction of papers and records. New documents, which include the individual's new gender and the new name, are issued (Article 5).

Law 164/1982 has played a key role in shaping trans rights by introducing an important innovation: the possibility of legally changing the sex assigned at birth. However, the act has a number of drawbacks (see, for example Armezzani, 2008; Dameno, 2012; Busardò et al., 2013; Ferraro, 2013; Lorenzetti, 2014):

- Any previous marriage is dissolved by the decision of the judge. Dissolution of marriage takes place due to the principle of heterosexual marriage (Palmeri, 2014; Pezzini, 2014). In numerous cases, this forced divorce is imposed against the explicit will of the married couple, who may wish to remain a legally recognised family unit, especially in the presence of children. Indeed, forced divorce may have a negative impact on children (International Bar Association, 2015). The parent who has undergone legal gender change is likely to lose custody rights. Thus, the protection of existing marital unions is not taken into account by Italian legislation (Luciani, 2010). Those who marry after a transition may become adoptive parents. According to transsexual and transgender organisations, however, prejudices in the assessment process undermine this possibility (Castagnoli, 2010: pp. 20-21). In recent years, several court decisions have enabled individual couples to remain married but have not changed the law (see section 2.2).
- The act does not account for a change of legal name during the period of transition. This can have negative effects for trans workers or jobseekers. Research has highlighted the many forms of social and economic distress which characterize the transition period before legal gender reassignment is completed (see, for example Di Folco and Marcasciano, 2001; Fabeni and Toniollo, 2008).
- Lack of specific regulation in procedures causes uncertainty and differentiation across Italy. Moreover, the quality of gender reassignment services, procedures and expertise can vary to a great extent, due to the fact that Italian Regions enjoy significant autonomy in determining the structure of their health systems.
- While sex reassignment surgery is performed completely free of charge in public hospitals, if authorised by the judge, the national healthcare system does not provide free hormone therapy for secondary sexual characteristics and plastic surgery procedures such as breast implants (Arcigay et al., 2016). Only Tuscany has facilitated publicly-funded access to hormones (Tanteri, 2013: p. 16).
- The entire judicial procedure comes at the expense of the transitioning individual: they must pay for lawyers, legal expenses and technical consultancy, for both the initial surgical authorization request and the ID amendment request.

- Sterilization is still considered a necessary pre-requisite for gender legal recognition (see, for example Fabeni, 2002; Dameno, 2005; Lorenzetti, 2014). Gender reassignment is normally authorised only when the person has had irreversible surgery (which effects fertility) including gonadectomy, penectomy, and the creation of a neovagina (vaginoplasty); or oophorectomy, vaginectomy, and complete hysterectomy. Penile reconstructive surgery is not requested because it is a complex and multistage operation, causing high failure rates (Castagnoli, 2010: pp. 20-21). If the person is unwilling or unable to undergo these complex procedures (for example, due to illness) they cannot obtain the judicial order and consequent legal sex reassignment, even if they are undergoing hormone therapy (Cartabia et al., 2010).

In November 2015 (Judgment n. 221/2015), the Italian Constitutional Court held that surgical intervention is required only if considered necessary by the person seeking legal change of gender. The Court argued that the imposition of the prerequisite of surgery for the rectification of the assigned gender violated the fundamental right to gender identity and that the individual right to health should be prevalent over the correspondence between sex and gender.

This can be defined as an ‘interpretative’ judgement/decision: that is, it endorses a ‘constitutional’ interpretation of a given law, but is formally binding only on the judge who certifies the question. Other judges are free to interpret the law differently (Corte Costituzionale, 2012). It may therefore be difficult to assure the effectiveness of an interpretative ruling. Indeed, as Schuster (2017) notes, notwithstanding judgment 221/2015 by the Italian Constitutional Court, in practice the interpretation of the Law n. 164/1982 is still heavily influenced by a medical approach. Despite the law prominently affirming a fundamental rights perspective, judges rely almost exclusively on medical expertise and on physical appearance (Law 164/1982 establishes that change of legal sex and name on civil status records and papers is disposed by a decision of the Tribunal). This means that trans people who have given birth to children or intend to do so are likely to face significant challenges in obtaining legal gender recognition.

2. National Policy Guidelines on Family Life, Reproduction and Fertility

In Italy, issues of reproduction and fertility are complex for people who are trans. Overall, the Italian national healthcare system does not consider the needs of LGBT persons within the design of health policies. Training of health personnel and social workers does not include LGBT issues (Centro Risorse LGBTI et al., 2014; Arcigay et al., 2016). Legislation concerning parental responsibility does not take into account sexual orientation and/or gender identity (Centro Risorse LGBTI et al., 2015).

2.1 Same-sex Marriage

One key point to take into account when discussing reproductive and fertility rights for trans people is that in Italy, under domestic law, the only recognised legal union is heterosexual marriage. Same-sex couples cannot marry, cannot adopt children and cannot make use of assisted reproductive technologies. In this context a trans person who has entered into a marriage prior to transition, and wants to stay married after going through legal gender recognition, offers an additional challenge to legislators (see for example Digoix et al., 2016; Stonewall Global Workplace Briefings, 2016).

In 2015 the European Court of Human Rights recognised the right to civil union for same sex-couples. The Court found Italy to be in violation of Article 8 ECHR-European Convention on Human Rights ('Everyone has the right to respect for his private and family life, his home and his correspondence') due to the lack of legislation recognising and protecting civil union between same-sex partners.

In 2016, following years of harsh debate, the Italian Parliament approved a new law that legalised civil partnership between same-sex couples and provided regulation for cohabitation. Law n. 76 of 20 May 2016 '*Regolamentazione delle unioni civili tra persone dello stesso sesso e disciplina delle convivenze*' (the so-called 'Cirinnà Law') grants same-sex couples many rights similar to those of married couples, in terms of inheritance rights, survivor's pension and obligation to provide moral and material assistance. Civil partnerships (Unioni civili) were formally recognised and regulated, following two rulings of the Italian Constitutional Court (No. 138/2010 and No. 170/2014) and a judgment of the European Court of Human Rights (2015). However, it took several months before this legislation was fully implemented with three Decrees, in January 2017 (Del Giudice, 2017).

However, Law 76/2016 does not grant same-sex couples the right to adopt a child, even if one of the partners is the biological parent. It thereby failed to regulate for the possibility of one partner adopting the biological child of the other. Same-sex couples' inability to exercise legal parental rights over children conceived through assisted reproduction, or from the granting of custody to one partner in case of death of the other, may give rise to future claims of discrimination before the European Courts (Staiano, 2017: p.23).

Prior to the passage of the Cirinnà Law, a number of Italian municipalities instituted registers of civil unions, in which heterosexual and same-sex couples who were not married but were living together could register. Such registrations had a symbolic value only.

2.2 Assisted Reproduction and Adoption

Current legislation on the use of medically assisted reproduction (MAR) is very restrictive. Law n. 40 of 19 February 2004 placed Italy at the most conservative end of the European spectrum (Riezzo et al., 2016). This law forbids the use of MAR techniques of a heterologous type, and forbids cryoconservation and the suppression of embryos. Surrogacy and gestational carriers are therefore banned. Anyone who produces,

organises or advertises the sale of gametes or embryos or surrogacy in any form is to be punished (Article 12). The law also forbids the use of MAR techniques for single people, people below 18 years and above fertile age, and same-sex couples. Only adult heterosexual couples, married or cohabiting, and at a potentially fertile age may have access to assisted reproduction techniques, while the married partners are both alive (post mortem fecundation is not permitted, i.e. with the sperm of a partner who has died in the meantime). Due to these heavy restrictions on the use and availability of assisted reproduction technologies, the practice of traveling to other countries for fertility treatments is booming in Italy.

Children born into families headed by same-sex couples do not enjoy the same rights as all other children. The children of same-sex parents are denied the right to be maintained, cared for and educated by the non-legal parent; to acquire the kinship (grandparents, aunts and uncles, cousins) 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 (but with different tax arrangements than applied to legally recognized children). 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 (Arcigay et al., 2016)

There are however a number of interesting Court decisions that should be taken into account. One first case to be cited is the one of a transgender woman who has won a five-year legal battle in Italy to remain married to her wife after she underwent sex reassignment surgery. The couple married in 2005 and have been together for 19 years. The Court of Cassation, following the Constitutional Court judgment n. 170/2014 (the so-called 'Case Bernaroli': Veronesi, 2014; Dondoli, 2016), annulled the registration of divorce and stated that the parties' rights and obligations arising from the marriage bond shall be preserved until lawmakers approve a proper form of registered partnership into which it can be converted.

In 2015, the Court of Appeal of Milan agreed to recognise a marriage contracted between a cisgender man and a trans woman in Argentina in 2011 (judgment n. 1176/2015). At the time of the wedding both individuals were legally male, but that changed a year later, after the Congress of Argentina passed a law recognizing gender identity on the basis of self-declaration in May 2012. The trans woman in question had not undergone sex reassignment surgery that would render her sterile: however, in order to have official documents amended, the new Argentinian law does not require the person to prove that they underwent sex change surgery or hormone treatments. The family section of the Court of Appeal of Milan declared that the marriage contracted with an Italian citizen must be considered in every respect, including that of Italian law, identical to a marriage contracted between persons of opposite gender.

In February 2017, for the first time, an Italian Court ruled that a gay couple should be legally recognized as the fathers of surrogate twins. The Court of Appeals in Trento (judgement 23/2/2017 'Minori nati da GPA e riconoscimento legame genitoriale') said both men, not just the biological father, should be listed as the children's parents. The couple had twins through a surrogate mother in Canada. When they returned to Italy, only the biological father was allowed to register as a parent: the couple appealed to the local Court, which ruled in their favour.

3. European Directives

Italy is signatory to international treaties and human rights declarations prohibiting discrimination based on sexual orientation or gender identity (Tanteri, 2013). Consequently, the country is subject to the Council of Europe's efforts in defence of LGBT rights, as well as judgements from the European Court on Human Rights, which operates on the basis of the Convention signed in Rome in 1950.

The Council of Europe has intervened a number of times to promote measures aimed at obtaining the respect and the full enjoyment of human rights for LGBT people. Examples include: recommendations n. 924/1981: 'Discrimination Against Homosexuals'; n. 1470/2000: "Situation of Gays and Lesbians and their Partners in Respect of Asylum and Immigration in the Member States of the Council of Europe"; n. 1635/2003: 'Lesbians and Gays in Sports'; n. 1915/2010: 'Discrimination on the Basis of Sexual Orientation and Gender Identity'). The latter recommendation is particularly important to the context of trans rights in Italy. The Italian National LGBT Strategy was adopted to fulfill and implement this Recommendation.

In December 2000 the Charter of Fundamental Rights of the European Union was signed. The Charter includes a non-discrimination rule based on sexual orientation in human beings and the full recognition of the right to marriage and family. On 1 December 2009, as the Treaty of Lisbon came into force, the Charter became legally binding on EU institutions and on national governments. In addition to these legislative actions that include specific provisions for LGBT people, EU Framework Directive 2000/78/EC was transposed in Italy via the already cited Legislative Decree n. 216 of 2003, which covers discrimination in the employment context and various areas of social life (Favilli, 2013).

4. International Directives

Italy signed the 'UN Declaration on Human Rights, Sexual Orientation and Gender Identity', a General Assembly statement (18 December 2008). The Holy See initially expressed opposition to the statement. After severe criticism from human rights defenders worldwide, the Holy See changed its position, indicating its opposition to criminal penalties for homosexual conduct to the General Assembly.

References

- Arcigay, Associazione Radicale Certi Diritti, Famiglie Arcobaleno, LGBTI Resource Centre (2016). Italy: the status of the Human Rights of Lesbian, Gay, Bisexual, Transgender and Intersex people, Submission to the United Nations Human Rights Committee for its 119th Session, retrieved from: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ITA/INT_CCPR_CSS_ITA_26521_E.pdf
- Armezzani M. (2008). 'Senso e nonsenso delle perizie sui transessuali', in: E. Ruspini, M. Inghilleri (Eds.), *Transessualità e Scienze Sociali. Identità di Genere nella Postmodernità*, Liguori, Napoli, pp. 163-182.
- Barba D. (2005). 'I Transessuali', in P. Cendon (Ed.), *I Diritti della Persona: Tutela Civile, Penale e Amministrativa*, UTET, Torino, pp. 399-404.
- Busardò F.P., Ciancolini G., Montanari Vergallo G., Marinelli E., Ciallella C., Zaami S., and Frati P. (2013). 'Legal Aspects of Transsexualism: The Italian Scenario in Comparison with Other European Countries', in: *Prevention and Research. International Open Access Journal of Prevention and Research in Medicine*, April; 2(4), pp. 155-160, ISSN: 2240-2594, Published online 2013 April 23. doi: 10.11138/P&R/2013.2.4.155.
- Cartabia M., Crivelli E., Lamarque E., Tega D. (2010). *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity - Italy, 2010 Update*, retrieved from: <http://fra.europa.eu/en/national-contribution/2012/country-thematic-studies-homophobia-transphobia-and-discrimination>
- Castagnoli C. (2010). *Transgender Persons' Rights in The EU Member States*, Policy Department C - Citizens' Rights and Constitutional Affairs, European Parliament, Brussels, retrieved from: <http://www.lgbt-ep.eu/wp-content/uploads/2010/07/NOTE-20100601-PE425.621-Transgender-Persons-Rights-in-the-EU-Member-States.pdf>
- Centro Risorse LGBTI-LGBTI Resource Centre, Associazione Radicale Certi Diritti, Famiglie Arcobaleno, Intesexioni, ILGA-Europe (2014). *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, retrieved from: <http://www.intesexioni.it/wp-content/uploads/2014/04/UPR-Italy-2014.pdf>
- Centro Risorse LGBTI-LGBTI Resource Centre (2015). *Report on Implementation of the Recommendation CM/Rec (2010) of the Committee of Ministers of the Council of European Measures to Combat Discrimination on Grounds of Sexual Orientation or Gender Identity in Italy*, Torino, retrieved from: https://www.ilga-europe.org/sites/default/files/Attachments/italy_-_monitoring_implementation_of_the_coe_recommendation.pdf
- Corte Costituzionale (2012). *The Italian Constitutional Court*, Servizio Studi e Ufficio Stampa della Corte Costituzionale, Roma, retrieved from: https://www.cortecostituzionale.it/documenti/download/pdf/Cc_Checosa_2013_UK.pdf
- Dameno R. (2005). 'La legge 164/1982: tra il diritto all'identità sessuale e di genere e l'obbligo di sterilizzazione. Alcune riflessioni sulla transGenitorialità', in: *GenIUS-Rivista di Studi Giuridici sull'Orientamento Sessuale e l'Identità di Genere*, anno II, n. 1, giugno, pp. 190-

- 201, retrieved from: <http://www.articolo29.it/wp-content/uploads/2015/07/genius-2015-01.pdf>
- Dameno R. (2012). Le persone transgenere. Identità e Diritti, Quaderni del CIRSDIG, Working Paper n. 51, retrieved from: https://forumdirittiglbtqi.files.wordpress.com/2013/04/roberta_dameno_lepersonetra_nsgendere_identitaediritti.pdf
- Del Giudice C. (2017). Financial effects of the new civil partnership and cohabitation relationships under Italian law, retrieved from: <http://www.italy-uk-law.com/financial-effects-of-the-new-regulated-relationships-under-italian-law/>
- Digoix M., Franchi M., Pichardo Galán J.I., Selmi G., de Stéfano Barbero M., Thibeaud M., and Vela J.A.M. (2016). Sexual orientation, family and kinship in France, Iceland, Italy and Spain, Families and Societies Working Paper Series, n. 54, Project funded by European Union's Seventh Framework, retrieved from: <http://www.familiesandsocieties.eu/wp-content/uploads/2016/08/WP54Digoixetal2016.pdf>
- Di Folco M., Marcasciano P. (2001). Transessualismo: dall'esclusione totale ad un'inclusione parziale, Ageform, Bologna.
- Dondoli G. (2016). Transgender persons' rights in Italy: Bernaroli's case, in: International Journal of Transgenderism, 18(3), pp. 353-359, retrieved from: <https://www.tandfonline.com/doi/full/10.1080/15532739.2016.1247404>
- Fabeni S. (2002). The Rights of Transsexual and Transgender Persons: The Italian legal Framework and New National and European Challenges, paper presented during the conference 'Workers Out! 2nd World Conference of Lesbian and Gay Trade Unionists', Sydney, Australia, 31 October-2 November 2002, retrieved from: http://old.cgil.it/archivio/nuovidiritti/documenti/transex_00025.pdf
- Fabeni S., Toniollo M.G. (2008). 'Diritto all'identità di genere e al lavoro. Il conflitto tra principi e pratica', in: E. Ruspini, M. Inghilleri (Eds.), Transessualità e Scienze Sociali. Identità di Genere nella Postmodernità, Liguori, Napoli, pp. 183-212.
- Favilli C. (2013). Report on Measures to Combat Discrimination - Directives 2000/43/EC and 2000/78/EC – Country Report 2013, Italy, Report drafted for the European Network of Legal Experts in the Non-discrimination Field (on the grounds of Race or Ethnic Origin, Age, Disability, Religion or Belief and Sexual Orientation), retrieved from: <http://www.refworld.org/pdfid/541ac2584.pdf>
- Ferraro L. (2013). Transessualismo e Costituzione: I diritti fondamentali in una lettura comparata, in: Federalismi.it-Rivista di Diritto Pubblico Italiano, Comparato, Europeo, n. 21, retrieved from: http://www.federalismi.it/nv14/articolo-documento.cfm?Artid=23431&content=Transessualismo+e+Costituzione:+i+diritti+fondamentali+in+una+lettura+comparata&content_author=Luigi+Ferraro
- Hembree W.C., Cohen-Kettenis P.T., Gooren L., Hannema S.E., Meyer W.J, Murad M.H., Rosenthal S.M., Safer J.D., Tangpricha V., and T'Sjoen G.G. (2017). 'Guidelines on Gender-Dysphoric/Gender-Incongruent Persons. An Endocrine Society Clinical Practice Guideline', in: Journal of Clinical Endocrinology & Metabolism, November, 102(11), pp. 1-35, retrieved from: <https://www.ncbi.nlm.nih.gov/pubmed/28945902>

- International Bar Association-LGBT Law Committee (2015). Mr & Ms X: The Rights of Transgender Persons Globally (paper available online).
- Italian Constitutional Court (2015). Judgment n. 221, year 2015, retrieved from: http://www.cortecostituzionale.it/documenti/download/doc/recent_judgments/S221_2015_en.pdf
- Lorenzetti A. (2005). 'Il cambiamento di sesso anagrafico e le sue condizioni: la necessità o meno dell'intervento chirurgico. Brevi riflessioni sulla situazione attuale e prossimi sviluppi', in: GenIUS-Rivista di Studi Giuridici sull'Orientamento Sessuale e l'Identità di Genere, anno II, n. 1, giugno, pp. 174-189, retrieved from: <http://www.articolo29.it/wp-content/uploads/2015/07/genius-2015-01.pdf>
- Lorenzetti A. (2014). Diritti in transito. La condizione giuridica delle persone transessuali, FrancoAngeli, Milano.
- Luciani S. (2010). 'Transizioni identitarie e transizioni familiari', in: E. Ruspini, S. Luciani, Nuovi genitori, Roma, Carocci, pp. 84-106.
- Marcasciano P. (2008). 'Le tracce del transito: tratti e ritratti di un percorso', in: E. Ruspini, M. Inghilleri (Eds.), Transessualità e Scienze Sociali. Identità di Genere nella Postmodernità, Liguori, Napoli, pp. 213-233.
- Marcasciano P. (2016). AntoloGaia. Sesso, Genere e Cultura degli anni '70, Il Dito e La Luna, Milano.
- Nardacchione D. (2000). Transessualismo e transgender: superando gli stereotipi, Il Dito e la Luna, Milano.
- Palmeri G. (2014). 'Famiglia e identità di genere. Divorzio imposto e diritti fondamentali. Profili di Diritto di Famiglia', in: GenIUS-Rivista di Studi Giuridici sull'Orientamento Sessuale e l'Identità di Genere, anno I, n. 1, giugno, pp. 40-47, retrieved from: <http://www.articolo29.it/wp-content/uploads/2014/06/genius-2014-01.pdf>
- Pezzoli F. (2006), Legge 14 aprile 1982 n. 164. Transessualismo. Teoria e prassi, Crisalide AzioneTrans onlus, Livorno.
- Pezzini B. (2014). 'Il paradigma eterosessuale del matrimonio di nuovo davanti alla Corte costituzionale: la questione del divorzio imposto ex lege a seguito della rettificazione di sesso (ordinanza n. 14329/13 Corte di Cassazione)', in: GenIUS-Rivista di Studi Giuridici sull'Orientamento Sessuale e l'Identità di Genere, anno I, n. 1, giugno, pp. 21-39, retrieved from: <http://www.articolo29.it/wp-content/uploads/2014/06/genius-2014-01.pdf>
- Riezzo I., Neri M., Bello S., Pomara C., Turillazzi E. (2016). 'Italian Law on Medically assisted Reproduction: Do Women's Autonomy and Health Matter?', in: *BMC Womens Health*, 16(44), Published online 2016 Jul 23. doi: [10.1186/s12905-016-0324-4](https://doi.org/10.1186/s12905-016-0324-4), retrieved from: <https://www.ncbi.nlm.nih.gov/pubmed/27449932>
- Romano M. (2008). Diurna: la transessualità come oggetto di discriminazione, Costa & Nolan, Milano.
- Schuster A. (2017). 'La rettificazione di sesso: criticità persistenti', working paper, retrieved from: <http://www.forumcostituzionale.it/wordpress/wp-content/uploads/2017/05/schuster.pdf>

Senato della Repubblica, Constitution of the Italian Republic, retrieved from:

https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf

Staiano F. (2017). '(In)Comparable Situations: Same-Sex Couples' Right to Marriage in European Case Law', in: *Federalismi.it-Rivista di Diritto Pubblico Italiano, Comparato, Europeo*, n. 6, 22 marzo, retrieved from:

<http://www.sipotra.it/wp-content/uploads/2017/04/InComparable-Situations-Same-Sex-Couples%E2%80%99-Right-to-Marriage-in-European-Case-Law.pdf>

Stonewall Global Workplace Briefings (2016). Italy, retrieved from:

https://www.stonewall.org.uk/sites/default/files/gwb_italy_2016_final.pdf

Sullo P. (2014). EU Experience in Respect of the UPR Process, Global Campus of Human Rights Research programme 2013-2014, retrieved from:

https://www.eiuc.org/tl_files/EIUC%20MEDIA/Global%20Campus%20of%20Regional%20Masters/research/2013-14/6.%20EU%20experience%20in%20respect%20of%20the%20UPR%20process.pdf

Tanteri A. (2013). National Strategy LGBT-National Strategy to Prevent and Contrast Discrimination on Grounds of Sexual Orientation and Gender Identity 2013-2015, Presidenza del Consiglio dei Ministri, Dipartimento per le Pari Opportunità e UNAR - *Ufficio Nazionale Antidiscriminazioni Razziali*, retrieved from:

<https://rm.coe.int/16801e8db6>

The Constitution of the Italian Republic, retrieved from:

<http://www.constitutionnet.org/sites/default/files/Italy.Constitution.pdf>

Veronesi P. (2014). 'Il "caso Bernaroli" alla Corte Costituzionale: ancora un bivio sul tema dell'eterosessualità del matrimonio', in: *GenIUS-Rivista di Studi Giuridici sull'Orientamento Sessuale e l'Identità di Genere*, anno I, n. 1, giugno, pp. 48-57,

retrieved from: <http://www.articolo29.it/wp-content/uploads/2014/06/genius-2014-01.pdf>

About the Trans Pregnancy Project

This international research project aims to address the social, legal and health care implications of, and for, people who become pregnant and/or give birth after transitioning.

The project explores the experiences of transmasculine people (including trans men and non-binary individuals) who become pregnant after transition, attitudes towards future pregnancy among young transmasculine people, and the legal and policy context in which transmasculine people might become pregnant and give birth.

For further information, please visit our website: <http://transpregnancy.leeds.ac.uk>.



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