**The Rights of Intersex People in Ukraine**



Parallel Report for the 67th session of the Committee on Economic, Social and Cultural Rights

Country Review of Ukraine

**Joint NGO submission by:**

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Organisation Intersex International Europe

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Table of Contents

[Executive summary 1](#_Toc30437618)

[Introduction 2](#_Toc30437619)

[Intersex in Ukraine 3](#_Toc30437620)

[Self-determination and the highest attainable standard for physical and mental health [Art. 1, Art. 12, GC 14] 3](#_Toc30437621)

[Suggested Recommendations 7](#_Toc30437622)

# Executive summary

Intersex people in Ukraine are denied their right to self-determination and their right to the highest attainable standard of physical and mental health. They are at risk of non-necessary medical and surgical interventions without autonomous, prior, and fully informed consent. These interventions may result in long-term physical impairments and mental health issues. To avoid social issues ‘normalizing’ treatments are offered to the parents of intersex children. Regardless many social problems persist, including lack of access to employment, official identity documents and harrasment. Therefore, intersex people in Ukraine seek protection under Articles of the Covenant and General Comments No. 14

# Introduction

1. This Parallel Report is a joint submission by Egalite Intersex Ukraine, Organisation Intersex International Europe (OII Europe) and NNID Foundation aimed at informing the Committee on Economic, Social and Cultural Rights issues faced by intersex people in Ukraine. The NGO’s would appreciate the consideration of these issues by the Committee Economic, Social and Cultural Rights during the Country Review of Ukraine.
2. Egalite Intersex Ukraine raises awareness on intersex issues in Ukraine. OII Europe is the umbrella organisation of intersex-led human rights organisations in Europe and Central Asia NNID Foundation is an intersex-led human rights organization working for the equality, rights, and visibility of intersex people, and is based in the Netherlands.
3. This report discusses one of the main issues faced by intersex people in Ukraine, namely violations of the right to self-determination and the right to the highest attainable standard for physical and mental health.

# Intersex in Ukraine

1. Intersex refers to the experiences of people who are born with a body that does not meet the normative definition of male and female.
2. The State Party Report describes that intersex has been included in advanced training programs for obstetricians, gynecologists, neonatologists and geneticists. And that intersex people have been included in the Law “On State Financial Guarantees of Public Health Care” in2017 (para. 283 and 284). Naturally, the NGO’s appreciate these efforts of the State Party to increase awareness in some health services and access for intersex people to health services. Additional efforts will be required to address the human rights situation of intersex people in Ukraine.
3. Intersex people in Ukraine often live hidden lives out fear of social stigma, discrimination and pathologization. However, in spite of them trying to keep being born intersex a secret, they are still at risk for violations of their right to self-determination and the highest attainable standard of physical and mental health. Therefore, intersex people in Ukraine seek protection under Articles 1 and 12 of International Covenant on Economic, Social and Cultural Rights, and General Comment 14.

## Self-determination and the highest attainable standard for physical and mental health [Art. 1, Art. 12, GC 14]

1. In 2013, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called on states to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery, involuntary sterilization, ‘reparative therapies’ or ‘conversion therapies’, when enforced or administered without the free and informed consent of the person concerned. He also called on states to outlaw forced or coerced sterilization in all circumstances.[[1]](#footnote-1)
2. The UN Human Rights Office Background Note on Human Rights Violations against Intersex People states: ‘In recent years, awareness of intersex people, and recognition of the specific human rights abuses that they face, has grown, thanks to the work of intersex human rights defenders. These include risks of forced and coercive medical interventions, harmful practices and other forms of stigmatization due to their physical traits.’[[2]](#footnote-2)
3. Intersex children are at risk of medically unnecessary, intrusive and irreversible surgery, hormone treatments, other ‘normalizing’ treatments and ‘normalizing’ psychotherapy, without the free and fully informed consent of the child.
4. News articles from 2017 describe how a regional hospital in Lviv, Ukraine performed surgery on a patient with a form of sex diversity. The 3-year-old child had been raised as a boy, but after thorough examination, it was decided that it would be better to raise the child as a girl, and genitoplasty was performed to make the child’s genitalia appear more female[[3]](#footnote-3). One of the articles states: ‘Doctors introduced parents to the findings of geneticists and revealed to them all the complexities of surgery. If you shape a boy, then the operation will have to be done in several stages, it will be quite traumatic, but the main thing - the boy, when he grows up, will not be a full-fledged man, he will only resemble him on external grounds. It will be a great psychological trauma for him, and it is unknown how he will react to it. Nature ordered that the anatomical structure of the child's body leaned more towards the girl. But the last word was for the parents. They, weighing all the pros and cons, decided to form a girl.’[[4]](#footnote-4)
5. At the time a concerned intersex person spoke out in an interview. “Intersex children are the same children as everyone else. Their genetic and biological characteristics do not make them any different. If these features do not endanger their health, intervention is not necessary. When becoming an adult, they will decide by themselves.”[[5]](#footnote-5) However, this did not have an effect on the procedure.
6. Health professionals often believe that the sex assignment of intersex children is not an issue. However, recent European research has shown that five per cent of ***all*** intersex children, including those with forms of sex diversity that are usually not recognized at birth, do not align with the assigned sex. Four per cent change their identity before puberty.[[6]](#footnote-6) When children grow older, and their identity becomes clear, they may be confronted with a body that goes contrary to their identity, as a consequence of medical interventions. They will never be able to alter this.
7. A second case was discussed in newspapers in November 2019, when the surgeons of OHMATDIT regional hospital in Lviv planned procedures to surgically adjust the genitalia of a second intersex child of one-year-old. This child was born with the same form of sex diversity as the child mentioned in paragraph 9. In this case, the child was already being raised as a girl. After surgery, the child and will receive hormone treatment for her ovaries and uterus.[[7]](#footnote-7) Due to critical media coverage and public outcry, the surgical intervention has been postponed.[[8]](#footnote-8) However, this does not mean that this child or other intersex children are protected from these interventions. Paragraph 11 shows that in 2017 media attention did not alter treatment plans. Furthermore, the planned ‘normalizing’ intervention may be rescheduled, and other cases may not attract media coverage or public outcry. Therefore, protective legislation is necessary.
8. ‘Normalizing’ medical treatment is performed on intersex people to prevent social problems. In the documentary from 1 + 1 TCN Dr. Yury Zasieda, psychotherapist, urologist and sexologist, states: ‘nature’s mistakes have to be fixed’ and ‘if this child were to live in the forest like Mowgli, it might have been left as it is. But since we are biosocial creatures and live in society, for humanitarian reasons, we have to fix this’[[9]](#footnote-9).
9. However, social issues are not prevented by medical interventions. Several news sources give background on the social situation of intersex people in Ukraine. A brief documentary from 1 + 1 TCN interviewed two adult intersex women who underwent ‘normalizing’ medical treatment in Ukraine in their childhood and adolescence, respectively. One intersex woman described in the interview that she had surgically been assigned male. She was prescribed hypnotherapy to feel like a man, because she had indicated she felt female. She states that she has had struggles with forming friendships.[[10]](#footnote-10) An article with the same intersex person describes that she struggles with access health care, due to unawareness regarding intersex on the part of healthcare providers and being treated without respect to her dignity.[[11]](#footnote-11) In another interview, she relates that she has not been able to find employment for five years, has not been able to legally change the male sex marker she was assigned as a child and for a time only went outside after dark out of fear of violence.[[12]](#footnote-12)
10. Health consequences of surgical and medical interventions can be severe: unnecessary surgery at a young age often leads to lifelong physical and mental health issues due to the irreversible character. European research has shown that 45 per cent of adult intersex people experience mental health problems, almost 20 per cent have suicidal thoughts and nearly 7 per cent have tried to commit suicide[[13]](#footnote-13) – in general, intersex people often suffer from physical and mental health issues throughout their lives[[14]](#footnote-14). The intersex person from Ukraine described in paragraph 12 told in an article that she had struggled with depression and had attempted suicide.[[15]](#footnote-15) Furthermore, she experiences pain from the medical interventions that have been done in her childhood.[[16]](#footnote-16) These are not decisions that can be taken by anyone other than the intersex person themselves at a sufficiently mature age.
11. Non-necessary medical treatments to adjust sex characteristics of intersex people that can be safely deferred until an age that autonomous, prior, free and fully informed consent can be given is a violation of the right to self-determination as described in Article 1 of the Covenant. Furthermore, these practices are contrary to Article 12 of the Covenant on the highest attainable standard of physical and mental health. General Comment No. 14, art. 8 further explicates that “the right to health contains both freedoms and entitlements. The freedoms include the right to control one’s health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation”.

# Suggested Recommendations

The NGO’s respectfully request the Committee on Economic, Social and Cultural Rights to make the following recommendations to Ukraine:

1. Adopt clear legislative provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children until they reach an age when they can give their free, prior and fully informed consent; provide families with intersex children with adequate counselling and support; provide redress for intersex persons who have undergone such unnecessary procedures, without fear of retribution or stigmatization, access to effective remedies and victim support, such as legal, social, medical and psychological assistance and consider establishing a state compensation fund;
2. Ensure access to non-discriminatory health services for intersex people by raising awareness among providers; ensure that information is provided to medical professionals on the legal prohibition of unnecessary surgical or other medical interventions for intersex children;
3. Develop a comprehensive legislative and policy framework to raise awareness and safeguard intersex people from abuse, discriminatory stereotypes, and exclusion; ensure the recognition of intersex people’s equal access to identity documents in line with their identity.
1. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Medez, Human Rights Council, 1 February 2013 (A/HRC/22/53). [↑](#footnote-ref-1)
2. UN Human Rights Office. Background Note on Human Rights Violations against

Intersex People. 25 October 2019. [↑](#footnote-ref-2)
3. **Mishishin A**. Впервые в Украине львовские медики прооперировали ребенка с гермафродитизмом (For the first time in Ukraine, Lviv doctors operated on a child with hermaphroditism). KP. 6 April 2017. https://zaxid.net/lvivski\_hirurgi\_sformuvali\_stat\_ditini\_vzhe\_pislya\_yiyi\_narodzhennya\_n1422323

**Druzhblyak N.** Як Віктор став Вікторією (How Victor Became Victoria). High Castle Online. 07 April 2017. https://wz.lviv.ua/life/196616-yak-viktor-stav-viktoriieiu

**Balandyuh O.** Львівські хірурги сформували стать дитини …вже після її народження: Маля народилося істинним гермафродитоz (Lviv surgeons formed the sex of the baby ... even after she was born: The baby was born a true hermaphrodite). Zaxit.net. 3 April 2017. https://zaxid.net/lvivski\_hirurgi\_sformuvali\_stat\_ditini\_vzhe\_pislya\_yiyi\_narodzhennya\_n1422323.

Украинские хирурги впервые провели ребенку операцию по смене пола (Ukrainian surgeons first performed a child sex change operation). InfoResist. 3 April 2019. https://inforesist.org/ukrainskie-hirurgi-vpervyie-proveli-rebenku-operatsiyu-po-smene-pola/ [↑](#footnote-ref-3)
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6. **Falhammar H, Claahsen-van der Grinten HL, Reisch N, Slowikowska-Hilczer J, Nordenstrom A, Roehle R, et al.** Health status in 1040 adults with disorders of sex development (DSD): a European multicenter study. Endocrine Connections. 2018. https://doi.org/10.1530/ec-18-0031. [↑](#footnote-ref-6)
7. **Balandyukh O.** Львівські хірурги готуються сформувати стать однорічній дитині: Маля народилося справжнім гермафродитом (Lviv surgeons are preparing to form the sex of a one-year-old child: The baby was born a true hermaphrodite). Zaxid. 18 November 2019. https://zaxid.net/lvivski\_hirurgi\_gotuyutsya\_sformuvati\_stat\_odnorichniy\_ditini\_n1493070

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