

Open Letter of Concern to the European Commission:  
**Please stop trivialising intersex genital mutilation and  
misrepresenting the human rights frameworks at stake!**

(“High level Conference on Advancing LGBTI equality in the EU: from 2020 and beyond”)

Geneva, 22 September 2019

Dear European Commission

We are an international intersex human rights NGO that, in collaboration with local intersex advocates and organisations, is **regularly reporting to UN Treaty bodies on intersex and IGM** in currently **13 EU countries**,<sup>1</sup> so far resulting in **22 Concluding Observations** to EU countries condemning Intersex Genital Mutilation as a **serious violation of non-derogable human rights**, namely a **harmful cultural practice** just like FGM (CRC, CEDAW), **cruel, inhuman or degrading treatment** falling under the absolute prohibition of **torture** (CAT, CCPR, CRPD), **non-consensual medical or scientific experimentation** (CCPR), and a **violation of the integrity of the person** (CRPD).<sup>2</sup> Globally, we count **42 such Treaty body verdicts to 24 State parties**.<sup>3</sup>

Currently we’re in Geneva attending the **82<sup>nd</sup> CRC session**, where **Portugal**,<sup>4</sup> just like **Malta**<sup>5</sup> in the previous session, seemed having difficulties explaining to CRC why **they obviously allow IGM practices to continue with impunity** despite **publicly claiming to have abolished** the practice; very likely resulting in the **23<sup>rd</sup> UN reprimand to an EU country** going to Portugal.

1 <http://intersex.shadowreport.org/>

2 <http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

3 CAT/C/DEU/CO/5, para 20; CRC/C/CHE/CO/2-4, paras 42-43; CRPD/C/DEU/CO/1, paras 37-38; CAT/C/CHE/CO/7, para 20; CRC/C/CHL/CO/4-5, paras 48-49; CAT/C/AUT/CO/6, paras 44-45; CAT/C/CHN-HKG/CO/4-5, paras 28-29; CAT/C/DNK/CO/6-7, paras 42-43; CRC/C/FRA/CO/5, paras 47-48; CRC/C/IRL/CO/3-4, paras 39-40; CRPD/C/CHL/CO/1, paras 41-42; CAT/C/FRA/CO/7, paras 34-35; CRC/C/NPL/CO/3-5, paras 41-42; CRC/C/GBR/CO/5, paras 46-47; CEDAW/C/FRA/CO/7-8, paras 18e-f+19e-f; CRPD/C/URY/CO, para 44; CRPD/C/ITA/CO/1, paras 45-46; CRC/C/NZL/CO/5, paras 25+15; CRC/C/ZAF/CO/2, paras 39-40+23-24; CEDAW/C/CHE/CO/4-5, paras 24-25, 38-39; CEDAW/C/NLD/CO/6, paras 21-22, 23-24; CEDAW/C/DEU/CO/7-8, paras 23-24; CEDAW/C/IRL/CO/6-7, paras 24-25; CCPR/C/CHE/CO/4, paras 24-25; CRPD/C/GBR/CO/1, paras 10(a)-11(a), 38-41; CRPD/C/MAR/CO/1, paras 36-37; CRC/C/DNK/CO/5, paras 24+12; CCPR/C/AUS/CO/6, paras 25-26; CRC/C/ESP/CO/5-6, para 24; CEDAW/C/CHL/CO/7, paras 22-23, 12(d)-13(d), 14(d)-15(d); CEDAW/C/LUX/CO/6-7, paras 27b-c+28b-c; CRC/C/ARG/CO/5-6, para 26; CEDAW/C/MEX/CO/9, para 21-22; CEDAW/C/NZL/CO/8, paras 23(c)-24(c); CEDAW/C/AUS/CO/8, paras 25(c)-26(c); CEDAW/C/LIE/CO/5, paras 35+36(c); CEDAW/C/NPL/CO/6, paras 18(c),(d)-19(a),(c),(d); CAT/C/NLD/CO/7, paras 52-53; CRC/C/ITA/CO/5-6, para 23; CRC/C/BEL/CO/5-6, paras 25(b)+26(e); CAT UK, CAT/C/GBR/CO/6, paras 64-65; CRC/C/MLT/CO/3-6, paras 28-29

See also: <http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

4 <http://stop.genitalmutilation.org/post/Portugal-questioned-intersex-mutilation-UN-Mexico-BE-ES-CH>

5 <http://stop.genitalmutilation.org/post/CRC81-Malta-questioned-about-intersex-genital-mutilation-by-UN>

Therefore, while we **applaud** the stated intent of the **European Commission** to promote and implement intersex human rights, we remain **deeply concerned** about how the Commission nonetheless continues to **counterfactually portray Malta and Portugal as positive examples**, and generally **trivialising IGM practices** and **misrepresenting the human rights frameworks at stake**, most recently concerning the “*High level Conference*”<sup>6</sup> and the “*Workshops with stakeholders*”<sup>7</sup> on “*Advancing LGBTI equality in the EU: from 2020 and beyond*”:

- For IGM survivors, to invite the **Portuguese Secretary of State for citizenship and equality** and the **Maltese Minister for European Affairs and Equality** as panel experts to discuss how to advance intersex human rights at the “*High level Conference*” and hereby offering them a platform to once more **counterfactually promote** their countries as intersex human rights pioneers that have allegedly abolished IGM practices, while in fact **both in Malta<sup>8</sup> and Portugal<sup>9</sup> all forms of IGM continue to be practiced with impunity**, advocated and paid for by the State, with both **Ministries being directly complicit**, is adding insult to injury.
- Similarly, to **frame IGM practices as mere “discrimination” and “absence of mainstreaming intersex equality [...] in the sphere of paediatric healthcare”** (instead of correctly as medical violence, inhuman treatment and a harmful practice), as promoted in the “*Workshop 3: Trans and Intersex Discrimination in Europe*”,<sup>10</sup> **perpetuates the trivialisation and misrepresentation** of IGM practices and the actual human rights at stake, while at the same time **aiding and abetting IGM practitioners**.
- The same **trivialisation** of IGM practices and **misrepresentation** of human rights frameworks at stake is also evident in the **2018 European Commission report “Trans and intersex equality rights in Europe – a comparative analysis”**<sup>11</sup> which, despite referencing some relevant UN Treaty body verdicts, **entirely fails** to identify the most **relevant human rights frameworks** invoked, namely harmful practices and inhuman treatment, as well as the **most salient UN Concluding Observations** focusing on IGM practices.<sup>12</sup> Generally, the report obviously focuses on transgender, gender identity and discrimination issues, treating **intersex issues as a mere add-on and afterthought**. Tellingly, while **in theory the report concludes “there is a need to place greater emphasis on the rights and lived experiences of intersex populations”**, **in fact it again lumps intersex and IGM in with trans and identity issues**.

6 [https://ec.europa.eu/info/events/high-level-conference-advancing-lgbti-equality-eu-2020-and-beyond-2019-sep-23\\_en](https://ec.europa.eu/info/events/high-level-conference-advancing-lgbti-equality-eu-2020-and-beyond-2019-sep-23_en)

7 [https://ec.europa.eu/info/events/24-stakeholders-consultation-advancing-lgbti-equality-eu-2020-and-beyond-2019-sep-24\\_en](https://ec.europa.eu/info/events/24-stakeholders-consultation-advancing-lgbti-equality-eu-2020-and-beyond-2019-sep-24_en)

8 See Malta CRC Intersex NGO Report, p. 7-12, and CRC/C/MLT/CO/3-6, paras 28-29,

<http://intersex.shadowreport.org/public/2019-CRC-Malta-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

9 See Portugal CRC Intersex NGO Report, p. 6-12, and the upcoming Concluding Observations,

<http://intersex.shadowreport.org/public/2019-CRC-Portugal-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

10 [https://ec.europa.eu/info/sites/info/files/3\\_transgender\\_and\\_intersex\\_people.pdf](https://ec.europa.eu/info/sites/info/files/3_transgender_and_intersex_people.pdf)

11 [https://ec.europa.eu/info/sites/info/files/trans\\_and\\_intersex\\_equality\\_rights.pdf](https://ec.europa.eu/info/sites/info/files/trans_and_intersex_equality_rights.pdf)

12 For example CRC/C/ZAF/CO/2, paras 39-40+23-24 and CEDAW/C/CHE/CO/4-5, paras 24-25, 38-39, which **explicitly recognise “intersex genital mutilation”**; CEDAW/C/NPL/CO/6, paras 18(c),(d)-19(a),(c),(d), which **explicitly recognises intersex infanticides**; CEDAW/C/DEU/CO/7-8, paras 23-24, and again CEDAW/C/CHE/CO/4-5, paras 24-25, 38-39, which **explicitly address obstacles to access to justice and redress, namely the statutes of limitations**; CCPR/C/CHE/CO/4, paras 24-25, which explicitly calls to “*take all necessary measures*” to prevent IGM, and to ensure that IGM survivors have **access to “reparation, including compensation”**.

- The same **trivialisations, misrepresentations, and inconsiderate praise** of the Maltese and Portuguese legislations, is also evident in the (otherwise mostly commendable) **European Parliament Resolution 2018/2878(RSP) of 14.02.2019**,<sup>13</sup> as explained in our **Letter of Concern** to the EU Committee on Civil Liberties, Justice and Home Affairs (LIBE).<sup>14</sup>
- In contrast, the **2017 European Parliament Resolution 2016/2096(INI) of 14.02.2017**<sup>15</sup> explicitly “[c]alls on the Member States to **prevent, ban and prosecute female genital mutilation and genital mutilation affecting intersex persons, and to provide mental health support, in conjunction with physical care, to victims and to those individuals likely to be targeted**” (para 61).
- The same **trivialisations, misrepresentations, and inconsiderate praise** of the Maltese and Portuguese legislations, is also evident in the **2015 EU Agency for Fundamental Rights (FRA) “Focus paper ‘The fundamental rights situation of intersex people’”**,<sup>16</sup> which further clearly **instrumentalises intersex and IGM** for trans and LGBT demands.<sup>17</sup>
- Further, the European Union continues to directly fund **research projects** that openly **advocate, justify, arrange, perform, facilitate and/or acquiesce to IGM practices**, namely **DSDnet, DSD-Life, eUROGEN**<sup>18</sup> and **Endo-ERN**, as criticised in our **2017 Open Letter to the European Commission** and others,<sup>19</sup> and in clear contradiction to the **European Parliament Resolution 2018/2878(RSP) of 14.02.2019**,<sup>20</sup> which explicitly “[c]alls on the Commission to make sure that **EU funds do not support research or medical projects that further contribute to violating the human rights of intersex people, in the context of the European Reference Networks (ERNs); calls on the Commission and the Member States to support and fund research on the human rights situation of intersex people;**” (para 13).

**Recalling the severe physical and mental pain and suffering** caused by IGM practices, further recalling our **Letters of Concern** to the European Commission (2017)<sup>21</sup> and the EU Committee on Civil Liberties, Justice and Home Affairs (LIBE) (2019),<sup>22</sup> as well as the **42 UN Concluding Observations** unmistakably condemning IGM practices as a **serious violation of non-derogable human rights**,<sup>23</sup> we would like to **urge the European Commission and the European Parliament** to please **stop trivialising** intersex genital mutilation and **misrepresenting** the human rights frameworks at stake, but to **adequately frame and address IGM practices** in line with the obligations and stipulations laid out in the mentioned **UN Conventions**, and the relevant **General Comments** invoked in the UN Treaty body Concluding Observations, namely the **CRC-CEDAW Joint General Comment/Recommendation No. 18/31** “on harmful practices”.

13 [https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128_EN.html)

14 [http://intersex.shadowreport.org/public/StopIGM-Concerns-EU-LIBE-2018-2878-RSP\\_web.pdf](http://intersex.shadowreport.org/public/StopIGM-Concerns-EU-LIBE-2018-2878-RSP_web.pdf)

15 [https://www.europarl.europa.eu/doceo/document/TA-8-2017-0028\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2017-0028_EN.html)

16 <http://fra.europa.eu/sites/default/files/fra-2015-focus-04-intersex.pdf>

17 See <http://stop.genitalmutilation.org/post/IDAHOT-2015-Let-s-Talk-About-Intersex-Appropriation>

18 See <http://stop.genitalmutilation.org/post/eUROGEN-EU-funded-Intersex-Genital-Mutilators>

19 [http://stop.genitalmutilation.org/public/Open\\_Letter\\_I-DSD\\_Copenhagen\\_2017.pdf](http://stop.genitalmutilation.org/public/Open_Letter_I-DSD_Copenhagen_2017.pdf)

20 [https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128_EN.html)

21 See above fn. 19

22 See above fn. 14

23 See above fn. 3

Thank you for your consideration.

Kind regards,

Daniela Truffer, Markus Bauer / StopIGM.org

### **About StopIGM.org**

StopIGM.org / Zwischengeschlecht.org, founded in 2007, is an international intersex human rights NGO based in Switzerland. We are the leading NGO in reporting intersex issues to UN Treaty bodies, achieving (in collaboration with local intersex NGOs and advocates) the vast majority of the currently 42 UN Concluding Observations considering serious violations of intersex human rights. We have been active in 15 countries in Europe (including Switzerland, Germany, Austria, Italy, France, UK, Ireland, Belgium, Luxembourg, Liechtenstein, Denmark, Spain), as well as in Africa, Asia and South America, and have been consulted by various ethics, human rights, government and non-government bodies, including CRC, CAT, CEDAW, CCPR, CRPD, OHCHR, the Swiss National Bioethics Commission (NEK-CNE), the German Ethic Council, WHO, OECD, the Luxembourg Comité interministériel des droits de l'homme presided by the Ministry of Foreign Affairs. We have presented and taught on intersex issues at various universities, institutions and symposia including the University of Lausanne, University of Padova, the Institut de Formation et de l'Éducation Nationale (IFEN) of Luxembourg, Genital Autonomy, the BanFGM Conference in Rome, and the symposium "After the Recognition of Intersex Human Rights" at the Institute of Advanced Studies (IAS) at the University of Surrey, and participated in the "Intersex/DSD Human Rights, Citizenship and Democracy (EUICIT)" project of the University of Huddersfield. Daniela has also been internationally active in intersex self-help groups for almost 20 years.