



Sexualiarte
ESPACIO NO-BINARIE

The violation of the human rights of non-binary people in the Spanish State

Report for the Human Rights Committee
144th session, 23 June – 25 July 2025

Asociación Sexualiarte
Avda Sánchez Pizjúan 10 4 4
41009 Sevilla
Correo: sexualiarte@disroot.org
Web: <https://sexualiarte.es>

Asociación Sexualiarte
Avda. Sánchez Pizjuan 10 4 4, 41009 Sevilla
CIF G90265588, Registro de asociaciones: 41-1-17356
Correo electrónico: sexualiarte@disroot.org Web: <https://sexualiarte.es>

Executive Summary

The Trans and LGTBI Law of 2023¹, celebrated as an advance towards gender self-determination, left out non-binary identities, thus limiting self-determination to two options, 'man' or 'woman'. Although some Autonomous Communities include the recognition of non-binary identities in their trans or LGTBI laws, this recognition is left to free interpretation and limited to the scope of the respective autonomous administrations. There is no recognition of non-binary identities in identity documents, birth certificates, population registers, or documents of state administrations (Tax Office, Social Security, Civil Registry, etc.). This is even the case for foreigners residing in Spain who have their non-binary identity recognised in their country of origin and in the Registro Central de la Extranjería.

In the case of non-binary people, the mandatory inscription of a non-binary sex/gender on any documentation exposes them to the administration or any person to whom they have to show the documentation (e.g. at a hotel reception), potentially exposing them to discrimination and violence². This is why we think that the best option is to remove gender markers from identity documents, birth certificates and, in general, as part of a person's legal personality, as also required by Principle 31A of the Yogyakarta Principles+10.

The non-recognition of non-binary identities makes it difficult to fight effectively against the multitude of discriminations suffered by non-binary people: in public and leisure spaces, in education, in the health system, in the workplace, which are just some of the aspects of life that can be addressed in this report. As the Spanish State does not recognize non-binary identities, statistics and research on needs, protocols for prevention, awareness and action in the face of violence are not collected and, therefore, awareness and discrimination prevention campaigns are not carried out, leaving us without effective resources to combat discrimination. The Spanish State is thus failing in its duty to protect.

Among the main recommendations we point out the elimination of gender markers from identity documents and the non-registration of sex/gender in the civil registry. As long as these markers are not eliminated or when necessary, we recommend the non-compulsory inclusion of more markers.

We also recommend training and creation of research and campaigns for prevention, awareness and action in the face of the violence we experience, and putting in place protocols in the different areas of life for inclusion and against discrimination; creating mixed and/or private bathrooms in public spaces, sports and educational facilities; and updating health protocols to include in the service portfolio and calendars of notice to diagnostic tests corresponding to the corporality and, if any, to the hormonal process.

Asociación Sexualiarte, May 2025

1 Ley 4/2023, de 28 de febrero, para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI. <https://www.boe.es/eli/es/l/2023/02/28/4/con>

2 Alana Queer: Descertificación del sexo/género, una demanda feminista 'queer', Revista Pikara (online), 5 de febrero de 2025, <https://www.pikaramagazine.com/2025/02/descertificacion-del-sexo-genero-una-demanda-feminista-queer/>

Introduction

The Asociación Sexualiarte is a collective of non-binary people based in Seville, Andalusia, Spain. The vision of Sexualiarte is *“to create, cultivate and promote a community based on care with an intersectional perspective that allows us to have a network of affection, political action and livable and dignified lives for non-binary people, original identities, non-normative and / or related identities”*. Non-binary people are all those who have an identity that does not coincide with the one assigned at birth and are outside the male/female hegemony, either because of fluidity, simultaneity, political position or being partially or completely outside binarism. Non-binary is understood as an umbrella term that includes, for example, agender, genderfluid, genderqueer, bigender, demigirl, demiboy, among others, and ancestral or native identities that do not fit into the imposed Western binary system. Spain's new Trans and LGTBI Law³, in force since 2 March 2023, left out non-binary people, depriving them of the right to their gender identity and other legal protections. In this report we summarise the human rights violations of non-binary people in the Spanish State, with a special focus on the Autonomous Community of Andalusia, being our main field of action. In doing so, we draw on research and the experiences of non-binary people with whom we interact.

No legal recognition of non-binary gender identities

The Trans and LGTBI Law of 2023 states in its article 44: *“1. Any person of Spanish nationality over the age of sixteen may request by themselves before the Civil Registry Office the rectification of the registry mention related to sex.”*⁴ However, in practice it does not include identities outside the male-female binary. The initial draft of a Trans Law included non-binary identities, but in the process of negotiating the law within the coalition government this option was eliminated.

With this new law the Spanish state fell short of its obligations under the human rights standards set by the various UN mechanisms. In the publication *Born Free and Equal*, the Office of the High Commissioner for Human Rights states: *“States should provide a simple administrative process to enable the recognition of non-binary identities and provide minors with access to recognition of their identity.”* (bold by the authors)⁵ The *Independent Expert on sexual orientation and gender identity* has also repeatedly pointed out **the obligation to include non-binary identities in the legal recognition of gender identities**⁶. Already in his report to the UN General Assembly in 2018 he recommended that the recognition process should “admit and recognise non-binary identities, such as gender identities that are neither “male” nor “female””.⁷ Also, the Parliamentary Assembly of the Council of Europe has recommended the recognition of non-binary identities in several resolutions⁸, and the Council of Europe's Commissioner for Human Rights also recommended including a third gender marker in

3 Ley 4/2023, de 28 de febrero, para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI., Entrada en vigor: 2 de marzo de 2023, <https://www.boe.es/eli/es/l/2023/02/28/4/con>

4 La Ley 4/2023 también incluye procedimientos para menores de edad mayores de 12 años, y personas extranjeras. No obstante, todos limitados a opciones de identidad de género binarias.

5 Oficina del Alto Comisionado para los Derechos Humanos: *Nacidos libres e iguales* (2nd edición, 2019), HR/PUB/12/06/Rev.1, https://www.ohchr.org/sites/default/files/2023-02/Born_Free_and_Equal_SP_web.pdf

6 Por ejemplo, Experto Independiente SOGI, Visita Camboya, 2024, A/HRC/56/49/ADD.2, <https://docs.un.org/en/A/HRC/56/49/ADD.2>, Visita Georgia, 2019, A/HRC/41/45/Add.1, <https://docs.un.org/en/A/HRC/41/45/Add.1>, Visita Mozambique, 2019, A/HRC/41/45/Add.2, <https://docs.un.org/en/A/HRC/41/45/Add.2>,

7 Experto Independiente SOGI, Informe a UNGA, 2018, A/73/152, <https://docs.un.org/es/A/73/152>

8 PACE: Resolución 2191 (2017), Promoting the human rights of and eliminating discrimination against intersex people, 12 de octubre de 2017, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24232>, Resolución 2048 (2015), Discrimination against transgender people in Europe, 22 de abril de 2025, <https://pace.coe.int/en/files/21736/html>

identity and social security documents.⁹ So did the Inter-American Court of Human Rights in its advisory opinion 24/17 of 2017¹⁰. Along the same lines are the 2017 Yogyakarta Principles+10, which also call for multiple gender markers while gender continues to be registered¹¹.

Although most of the autonomous communities have their own Trans Law, and many include non-binary identities, this is hardly done explicitly, leaving non-binary identities to free interpretation and not making them directly visible. This means that the real scope is limited to the sphere of regional administrations. In spite of this, the regional administrations maintain the obligatory nature of binary registration in their documentation and procedures. Therefore, it is not effective and the documentation continues to exclude identities that are not male or female, and it continues to be compulsory to respond within these two options. As such, basic identity documents follow state-level rules, such as passports, birth certificates and National Identity Cards (DNI), and regional procedures and documentation such as the register of inhabitants, the Social Security, the Tax Agency and other entities require binary identification.

Foreign non-binary persons resident in Spain

The situation of foreign non-binary persons residing in Spain who have their non-binary identity recognised in their country of origin is different. With the ruling of the High Court of Justice of Andalusia of January 2023¹² in the case of Alana Speck, a person associated with Sexualiarte, the national police and the Ministry of the Interior are obliged to recognise their non-binary identity when registering them in the Central Register of Foreigners.

The document issued to foreigners from the European Union does not include the mention of sex/gender, so we do not know if the registration at the internal level actually has this marker. However, foreign nationals from countries outside the European Union are issued with a Foreigner Identification Card (TIE), which, at least in theory, should include a gender/sex marker 'X'. Sexualiarte is not aware of any cases where this has been done.

Despite the ruling approving registration with an 'X' marker in the Central Register of Foreigners, all state administrations require registration with a binary sex. Alana Speck has obtained the removal of their sex from the tax office, where it now says 'no record'. However, all forms to be filed, such as the Income Tax Return, only have the two binary options, and it is compulsory to choose one option in order to file the form. Thus in practice, the recognition in the Central Register of Foreigners has no practical consequences in the daily life of the person.

The need for the removal of gender markers

The contradiction with non-binary foreign nationals further highlights the need for intervention in relation to gender markers and administrations. Principle 31A of the 2017 Yogyakarta Principles+10 also calls for "*ending the registration of a person's sex and gender on identity documents such as birth certificates, identification cards, passports and driving licences, and as part of their legal personality*"¹³.

9 Council of Europe, Commissioner for Human Rights: Human Rights and Gender Identity and Expression, Issue paper, 2024

10 Corte Interamericana de Derechos Humanos: Opinión Consultiva OC-24/17, Identidad de género, e igualdad y no discriminación a parejas del mismo sexo. 24 de noviembre de 2017, http://www.corteidh.or.cr/docs/opiniones/seriea_24_esp.pdf

11 Principios de Yogyakarta+10, principio 31A, <https://yogyakartaprinciples.org/principles-sp/los-principios-de-yogyakarta-10/>

12 Tribunal Superior de Justicia de Andalucía, STSJ AND 792/2023 – ECLI:ES:TSJAND:2023:792, Resolución 83/2023, 23 de enero de 2023, <https://www.poderjudicial.es/search/AN/openDocument/15836915e44c939ca0a8778d75e36f0d/20230330>

13 Principios de Yogyakarta+10, principio 31A, <https://yogyakartaprinciples.org/principles-sp/los-principios-de-yogyakarta-10/>

Pieter Cannoot and Ariël Decoster argue that **mandatory sex/gender registration and “sex/gender registration disproportionately infringes the emerging right to autonomy of gender identity and the right to its legal recognition.”**¹⁴ (underlined by author)

In the case of non-binary people, the mandatory registration of a non-binary sex/gender on any documentation violates their right to privacy and also to protection, as the level of discrimination and violence towards non-binary people is high. Furthermore, the mandatory nature of a system that does not yet have effective anti-discrimination channels in place may result in many non-binary people choosing to have a binary marker to hide and avoid the risk of violence, at the emotional cost of having to hide their identities.

The Swiss National Advisory Commission on Biomedical Ethics in its 2020 opinion also concluded that *“the complete abolition of the official gender register, which signals the state's rejection of the gender binary, faces the challenge that the binary structure is deeply rooted in our culture and widely accepted, which makes it a very sensitive issue. The NEC explicitly acknowledges this challenge. However, in the Commission's view, the above considerations suggest that the abolition of official gender registration is the preferable solution from an ethical perspective”*¹⁵.

In his report to the 2018 United Nations General Assembly, the *Independent Expert on sexual orientation and gender identity* expressed “strong doubts as to the real need for the widespread display of gender markers in official documentation, which appears to respond to vestiges of needs that have long been obsolete or to a justification that should never have been applied in the first place. The simple principle remains that States should refrain from collecting and exposing data without a legitimate, proportionate and necessary purpose”, and recommended: “States should refrain from collecting and exposing data without a legitimate, proportionate and necessary purpose, and ensure that, where data is to be collected, it is collected on the basis of self-determination, while respecting privacy and confidentiality.”¹⁶

Along the same lines goes the recommendation of the Council of Europe's Commissioner for Human Rights to “review the necessity and proportionality of including gender markers in public documents in general”¹⁷.

However, in the Spanish state it is almost impossible to interact with an administration, submit an application or any procedure, without the need to tick a binary sex/gender box, generally mandatory, which we understand as an intrusion into the privacy and intimacy of the person, and, moreover, forces non-binary people to tick a box that does not correspond to their gender identity, thus making their right to self-determination impossible.

One of the major counter-arguments to the removal or extension of sex/gender boxes has to do with statistics. In those services that actually conduct meaningful statistics for intervention and equality protocols and demographic knowledge, it is important to be able to appear in them. This inclusion in statistics and research should be on a voluntary basis and with the real identity of the person, not having to take on an identity that is not one's own. These statistics could be useful to collect also the needs and social situation of non-binary people, so that actions can be taken to activate and protect the violated rights of non-binary people. However, as long as there is not a variety of appropriate markers and it is not optional, it makes us invisible, exposes us to violence and generates unrealistic statistics of the population.

14 Cannoot, P y Decoster, A, 'The Abolition of Sex/Gender Registration in the Age of Gender Self-Determination: An Interdisciplinary, Queer, Feminist and Human Rights Analysis' (2020) 1 *International Journal of Gender, Sexuality and Law* 26.

15 National Advisory Commission on Biomedical Ethics: Officially recorded gender. Ethical considerations on the management of the recording of gender in the civil register, *Opinion no. 2020/36*, Bern, Suiza, Octubre de 2020

16 Experto Independiente SOGI, Informe a UNGA, 2018, A/73/152, <https://docs.un.org/es/A/73/152>

17 Council of Europe, Commissioner for Human Rights: Human Rights and Gender Identity and Expression, Issue paper, 2024

Discrimination of non-binary people

Beyond the lack of legal recognition of their gender identity, non-binary people suffer a wide range of discrimination, in violation of Article 26 of the International Covenant on Civil and Political Rights. In this report we can only give a summary of some of the discrimination suffered by non-binary people in Spain, and of the serious consequences for the health and lives of non-binary people.

Discrimination and violence in public spaces

According to the European Union Agency for Fundamental Rights survey, **almost half of non-binary people (49%) felt discriminated against in the 12 months prior to the survey** in one or more of eight areas of their life. 30% felt discriminated in a café, bar, or restaurant, 21% in a shop. When asked about the context in which the last incident of discrimination occurred, the responses were as follows

- 7% seeking employment
- 21% at work
- 6% seeking to rent a place to live
- 17% by health or social service personnel
- 10% at school or university
- 21% in a café, bar, or restaurant
- 11% in a shop or other private business
- 4% in an office of an administration or public service
- 3% when showing an identity card or other document that includes a gender marker.¹⁸

According to the same survey, **21% of non-binary people experienced physical or sexual violence in the five years prior to the survey at least once because of their gender identity**, the vast majority (55%) in a street, square, car park or other public place, 13% in a café, bar or restaurant and 10% at home. 66% experienced a form of harassment in the twelve months prior to the survey, 40% in a street, park, car park or other public place, 10% at home, and 19% on the internet or social media.¹⁹

As a consequence, many non-binary people avoid certain public spaces. According to the Fundamental Rights Agency survey, **81% of non-binary people avoid spaces for fear of discrimination, harassment or violence**, 12% always, 24% often, and 45% sometimes²⁰. According to the research *Study on the needs and demands of non-binary people in Spain 2022*, the only study of non-binary people from a Spanish administration, **81% of non-binary people practice cis-passing in public spaces** (41% frequently)²¹. As a result, the rights related to the expression and exploration of identities are completely violated, non-binary people avoid public spaces and the expression of their identity as a form of personal protection against aggressions, with the corresponding emotional cost.

For the majority of non-binary people participating in this study, many public spaces are problematic places. Despite high levels of passing, more than six out of ten people (65%) have experienced discrimination in accessing public spaces. 71% experience being called by the wrong name and pronouns, 70% have heard that 'non-binary people are not normal', 65% have been in situations where they have had to "explain themselves"; 58% have experienced silent harassment (e.g. being looked at strangely, being whistled at).

66% of respondents practice *passing* in the area of leisure and recreation (26% frequently). Nearly six out of ten people (59%) have experienced discrimination in leisure and recreation activities and spaces.

18 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtiq-survey-iii>

19 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtiq-survey-iii>

20 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtiq-survey-iii>

21 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

Thirty-nine percent avoid associations or social groups for fear of harassment, and 33% avoid other leisure facilities²², limiting the ability to socialise, build support networks necessary for mental and physical health, depression and suicide prevention, and limiting the possibilities to associate for the defence of their rights.

Particularly complicated places are those segregated by sex, such as toilets and changing rooms, with the majority being in leisure, cultural and sporting establishments. As one respondent says: *"In many physical activities it involves changing rooms, which involves having to choose, and in many cases having to show my body. I've been kicked out of women's spaces not having had surgery, how could they treat me having had surgery?"*

*I don't feel comfortable being in a women's changing room, but I don't feel safe in a men's changing room (...) This segregated space is one of the things that conditions me the most"*²³ Alana Speck, a member of Sexualiarte, describes their experience with using the women's changing room as follows: *"The first few times I went I was quite nervous. But now I'm used to it. When I arrive, I go straight into the toilet to change, and come out in my swimming costume just to put my things in a locker, and go straight to the pool. When I finish, I do it the other way round. I pick up my stuff from the locker and go straight to the toilet to change, and leave the Sports Centre. I try to stay as little time as possible in the changing room itself and interact as little as possible with the women inside"*²⁴ All of this generates constant tension and fear, generating alterations such as dissociation, depression and avoidance, with a high emotional cost. So that both going to these spaces, at the risk of violence, and the avoidance of these spaces results in the loss of access to places of physical, relational, mental and emotional health.

50.6% of trans people (binary and non-binary) avoid using public toilets because of discrimination or fear of discrimination, and 35.9% have stopped going to the beach or parks²⁵.

According to research by NoBinaries Spain, of the non-binary people who play sport, some 27% have experienced violence in sport:

- 13% have suffered verbal abuse.
- 21% have been excluded or marginalised.
- 21% have been intimidated or threatened.
- 82% feel that their concerns are not taken into account in sport.²⁶

According to the Transaludes research, 45.8% of trans people (binary and non-binary) have stopped using sports facilities (including swimming pools) because of discrimination or fear of discrimination.²⁷

Discrimination in public and leisure spaces considerably limits the free development of non-binary people, limits their full participation in society and puts their physical, relational, mental and emotional health at risk.

Discrimination within the education system

This section is based on the report submitted to the Independent Expert on Sexual Orientation and Gender Identity on non-binary people and the right to education in Spain and Andalusia, presented by the author collective, Sexualiarte, in April 2025²⁸.

22 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

23 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

24 Alana Speck: Vestuarios – y ser nobinarie, 23 de julio de 2022, <https://alanaqueer.es/es/contenido/vestuarios-y-ser-nobinarie>

25 Belza MJ, González-Recio P, Moreno-García S, Donat M, Iglesias A, Guerras JM, Granda E, Palma D, Barba R. Transaludes: salud en personas trans y/o no binarias en España. Madrid: Instituto de Salud Carlos III; 2024

26 NoBinaries España: Estudio sobre las violencias que sufren las personas no binarias en España. 2024

27 Belza MJ, González-Recio P, Moreno-García S, Donat M, Iglesias A, Guerras JM, Granda E, Palma D, Barba R. Transaludes: salud en personas trans y/o no binarias en España. Madrid: Instituto de Salud Carlos III; 2024

According to the latest survey by the European Union Agency for Fundamental Rights, to the question on bullying: **“During your schooling, have you ever been ridiculed, teased, insulted or threatened because you are LGBTIQ?” of non-binary people aged 15-17, 67% answered “Yes, by my peers” and 22% chose “Yes, by teachers”.** It is particularly alarming that **one in five non-binary people have been bullied by teachers** who have a legal obligation to respect the identity and dignity of all students. **More than half hide their non-binary identity at school always**, 23% often. Some 30% have experienced problems with going to the toilet always or often, and 38% have experienced problems with being accepted in sports teams always or often. 24% have considered changing school because of their gender identity²⁹. To all this we must take into account that most of the time, children do not have support networks in their families due to lack of recognition and social acceptance, leaving them even more vulnerable and giving them less possibilities of action in the face of bullying. According to the Study on the needs and demands of non-binary people in Spain, **84% of non-binary people practice cis-passing in the educational environment**, 56% of them frequently³⁰. This coincides with the survey of the Fundamental Rights Agency, **according to which 60% of non-binary people between 15 and 17 years old avoid being open about their identity at school**³¹. According to NoBinaries Spain, **52.7% have suffered violence at school from students and 39.7% from teachers**. According to the same research:

- 59% have suffered bullying.
- 54% have been verbally abused and 26% physically abused.
- 15% have had to change school.
- 54% have been excluded or ostracised.
- 55% have been bullied or threatened.
- 53% believe that teachers do not take them seriously.
- 21% say that there is no protocol for dealing with violence in their school and 58% do not know³².

These figures are alarming and signify a frequent violation of the right to education, identity and sexual expression of non-binary people.

Discrimination in the healthcare system

The healthcare system is one of the main sources of anxiety for non-binary people. The healthcare system is organised in a very binary way, and, although some Autonomous Communities allow the change of sex in the healthcare setting to ‘non-binary’, ‘unspecified’ or ‘undefined’ without making this change in the Civil Registry, this right is a) little known and b) does not change the mainly binary treatment within the healthcare system. On the other hand, alternatives such as ‘x’ which is unknown, ‘undefined’ as if there is no clear identity, or ‘unspecified’ when you really do want to specify but there are no options. These are options that put the desire, clarity and visibility of self-determined identities into vulnerability and questioning.

According to the Study on the needs and demands of non-binary people in Spain, **87% of non-binary people practice cis-passing in the health sector, 72% of them frequently. More than four out of ten people (45%) have experienced discrimination in accessing health services** (outpatient,

28 Sexualiarte: Aportaciones al Informe sobre el derecho humano a la educación y la protección contra la violencia y la discriminación por motivos de orientación sexual e identidad de género – personas no binarias, Sevilla, 21 de abril de 2025, <https://sexualiarte.es/es/recursos/2025/personas-no-binarias-en-el-sistema-educativo-en-andalucia-y-espana>

29 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtqi-survey-iii>

30 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

31 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtqi-survey-iii>

32 NoBinaries España: Estudio sobre las violencias que sufren las personas no binarias en España. 2024

hospital, specialties). The main discriminatory conditions reported are: the care and registration of the sex and name assigned at birth, the imposition of transit routes or binary access requirements, and the lack of knowledge and interest in non-binary realities.

Even when registration with the chosen name and gender identity is possible (and is done), it is not collected as the person wants to be treated, and health personnel generally treat the non-binary person as male or female, depending on how their gender expression is read. In this regard, the 2020 recommendation of the Special Rapporteur on the right to privacy, “to include in health records and health-related data non-binary classifications in gender marker categories”³³, is insufficient, **as the gender marker does not indicate the pronoun the person uses and how they want to be treated.** On the other hand, gender marking does not indicate the corporeality and health needs derived from the level of hormones that each person may have. That is to say, it does not indicate whether their corporality corresponds to having a penis, vulva, intersex genitalia, nor does it indicate their hormone levels, nor whether they have received or are receiving any hormone treatment. **This means that it is not possible to adjust medications, analytical indicators, screening test notifications and generates barriers to access and request for referral to specialists** related to gynaecology, urology and tests such as mammograms. Exposing to a higher risk of late detection of different pathologies or worsening of symptoms or diseases.

An illustrative example is breast cancer screening, the Andalusian Health Service excludes non-females from screening regardless of whether or not they have breasts and whether or not they are undergoing a hormonal process. Despite the fact that the Spanish Society of Senology and Breast Pathology, in a report called *Senología y Patología Mamaria en Personas Trans* recommends screening for trans people who are taking oestrogens for at least five years and who are older than 50 years: “*In general, it is recommended to perform annual or biennial mammography from the age of 50 in trans women with a minimum exposure of 5 years to hormone treatment (...). It should be taken into account that these patients have a high prevalence of dense breasts, which means an increased risk of breast cancer and an increase in false negatives in mammography*”³⁴. However, the Andalusian Health Service excludes non-females (non-binary people and trans women who have not changed their registered sex) from breast cancer screening³⁵, which means discrimination based on identity and a risk to the health of trans* people.

Another frequent problem for non-binary people who want to transition medically and who do not follow the established binary trans pathways is access to treatment. We have no statistics or research, which is already a risk factor, yet we know of various experiences of non-binary people:

- Refusal of hormone treatment (oestrogen or testosterone) is frequent if you do not lie and say you are a binary trans person who wants to transition to the ‘other gender’ (binary).
- Mastectomy is often refused if they have not taken testosterone and do not want to take it.
- Incomprehension and rejection by specialised health personnel regarding non-binary transitions.

A person interviewed for the Study on the needs and demands of non-binary people in Spain says: “*I am a nurse and I know the health system. It seems to me that the health circuit is extremely hostile to trans people in general. And I think that for non-binary people in particular it is even more so, if possible. Because I have accompanied young people who, in the end, have to give answers that are, let's say, fake in order to access hormones or to access waiting lists for surgeries. And so on, because if at the end you say that you are a non-binary person, but you want oestrogens or you want this, well, in the end their head explodes*”.³⁶

33 Consejo de Derechos Humanos, 43er período de sesiones, Informe del Relator Especial sobre el derecho a la privacidad, A/HRC/43/52, 24 de marzo de 2020, <https://docs.un.org/es/A/HRC/43/52>

34 Sociedad Española de Senología y Patología Mamaria: *Senología y Patología Mamaria en Personas Trans*. 2020

35 Carta del Servicio Andaluz de Salud, La directora general de Asistencia Sanitaria y Resultados de Salud, a Alana Speck, 22 de abril de 2025

36 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

According to the Study on the needs and demands of non-binary people in Spain, “**55% indicate having refused or postponed going to health services** for one of the following reasons: uncertainty or insecurity regarding the treatment of professionals (27%), distrust of health services and resources (21%), lack of knowledge of professionals about my needs or demands (19%), bad previous experiences (17%), discomfort with administrative requirements (documents, records) (16%).”³⁷

According to Nobinaries.es research on violence in healthcare,

- “55% have experienced stigma or rejection at the doctor's office.
- 18% have been verbally abused and 4% physically abused.
- 23% consider that there has been medical negligence.
- 46% consider that there has been a lack of information on their diagnosis or treatment.
- 24% have been excluded from decision making.
- 10% have suffered invasive practices.
- 54% feel that they are not taken seriously.
- 21% feel that their privacy has been violated.
- 24% have experienced threats or intimidation in the health care setting.”³⁸

The discrimination non-binary people suffer in all areas of their lives and the minority stress have a serious impact on their mental and physical health, with high levels of anxiety, depression and suicidal ideation, muscle pain, migraines and other somatisations. Moreover, access to public mental health care, difficult enough in Spain, is even more difficult for non-binary people, as **many mental health professionals are not trained in gender identity**, and even **a pathologising perspective on trans* identities in general and non-binary identities specifically persists**.

According to the Transaludes research, **58% of non-binary people were in need of mental health care but could not afford it for financial reasons**³⁹. This is also a reflection of the lack of adequate mental health care in the public health system.

Barriers to accessing health services are of particular concern given the perceived poor health of many non-binary people. According to the 2024 Transaludes research, of non-binary people

- 7.1% consider themselves to be in very good health
- 37.1% consider themselves to be in good health
- **36.9% consider their health to be regular**
- 14.6% consider their health as poor
- and 4.4% consider their health to be very bad.⁴⁰

Even compared to transmasculinities and transfemininities, the percentage who consider their health as bad or very bad is very high. **In the general population, 85.3% consider their health to be very good or good - compared to only 44.2% of non-binary people.**

More than 70% of health problems are related to mental health: anxiety, depression, eating disorders and other mental health problems. For example, in the general population **only 6.0% have visited a psychologist, psychotherapist or psychiatrist in the last 12 months**, in the trans and non-binary population **66.0% have visited a psychologist, psychotherapist or psychiatrist in the last 12 months**.⁴¹ Here we can clearly see how discrimination, invisibilisation, avoidance of public spaces, lack of networks and social violence have a high impact on non-binary people, who will additionally have more difficulties in accessing social and health care services.

37 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

38 NoBinaries España: Estudio sobre las violencias que sufren las personas no binarias en España. 2024

39 Belza MJ, González-Recio P, Moreno-García S, Donat M, Iglesias A, Guerras JM, Granda E, Palma D, Barba R. Transaludes: salud en personas trans y/o no binarias en España. Madrid: Instituto de Salud Carlos III; 2024

40 Belza MJ, González-Recio P, Moreno-García S, Donat M, Iglesias A, Guerras JM, Granda E, Palma D, Barba R. Transaludes: salud en personas trans y/o no binarias en España. Madrid: Instituto de Salud Carlos III; 2024

41 Belza MJ, González-Recio P, Moreno-García S, Donat M, Iglesias A, Guerras JM, Granda E, Palma D, Barba R. Transaludes: salud en personas trans y/o no binarias en España. Madrid: Instituto de Salud Carlos III; 2024

According to the Transaludes research, 27.7% of transgender people have stopped using health services, including psychology and physiotherapy, because of discrimination or fear of discrimination.⁴²

Discrimination in the workplace

According to the European Union Agency for Fundamental Rights survey, **32% of non-binary people felt discriminated against at work in the twelve months preceding the survey**. Some 4% had even experienced sexual or physical violence in the workplace, and 7% had experienced harassment.

Only 28% have never hidden their non-binary identity at work⁴³. According to other research, 81% engage in cis-passing in the workplace (66% frequently).

One interviewee commented: *"I chose not to be myself in order to keep a job. I had to disguise who I was in order to opt for a job where I was constantly treated in a way I didn't feel comfortable with. I was able to find work, but at what cost? [...]"*⁴⁴ The research sums it up as follows:

*"Everything that 'escapes' binary logics about gender is generally problematised in work environments. In this sense, most non-binary people experience fear and insecurity about any change that impacts on how they are perceived by their environment. From these conditions of vulnerability, in order to reduce conflict at work and to be able to keep their jobs, most of them try to show a feminine or masculine identity, which sometimes involves making themselves visible as a binary trans person".*⁴⁵

According to research by Nobinaries Spain, of non-binary people in employment:

"14% have suffered mobbing.

9% have suffered verbal abuse.

6% have had to change jobs and 13% have left their job.

28% have been excluded or ostracised.

11% have been intimidated or threatened.

30% feel that they are not taken seriously.

*27% say that there is no protocol for dealing with violence in their centre and 49% do not know.*⁴⁶

The legal non-recognition of non-binary identities means that in order to be treated with their chosen name and pronoun, non-binary persons have to come out and insist on treatment not in accordance with their identity documents. In addition, social security registration, pay slips and invoices will be made with the name and gender according to the identity documents (in the case of foreigners who have their non-binary identity recognised in the Central Register of Foreigners, social security registration and pay slips also have to be done with a binary gender, because the state administrations only allow binary options).

According to the Study on the needs and demands of non-binary people in Spain, **"more than three out of ten people (32%) have experienced discrimination in accessing job opportunities or resources. These data are consistent with other studies that indicate that 40% claim to have been rejected in job interviews because of their gender identity (Abad and Gutiérrez, 2020)"**.

According to the same study, **"among the over-24s, the unemployment rate is 20 %, while 67 % are currently working: 48 % are in permanent paid employment (31 % full-time, 17 % part-time), 13 % are self-employed and 6 % are in temporary paid employment. 5 % are in unpaid work. Unemployment among the over 24s is 6% higher than in the general population, which is 14%."**⁴⁷.

42 Belza MJ, González-Recio P, Moreno-García S, Donat M, Iglesias A, Guerras JM, Granda E, Palma D, Barba R. Transaludes: salud en personas trans y/o no binarias en España. Madrid: Instituto de Salud Carlos III; 2024

43 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtiq-survey-iii>

44 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

45 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

46 NoBinaries España: Estudio sobre las violencias que sufren las personas no binarias en España. 2024

According to the EU Fundamental Rights Agency's 2020 survey (in 2024 this question was not asked), **52% of non-binary people found it very difficult, difficult or somewhat difficult to make ends meet⁴⁸, compared to 45.1% of the general population in the same year⁴⁹**. This is a reflection of the high unemployment rate among non-binary people and the difficulty of finding stable and well-paid employment.

Conversion practices

According to the Fundamental Rights Agency's survey, one third of non-binary people have experienced one or more conversion practices:

- 15% through their family
- 5% through religious rituals, prayers, or religious counselling
- 8% through psychological or psychiatric therapy
- 2% through medication
- 5% through physical violence
- 2% through sexual violence
- 22% through verbal humiliation⁵⁰

Although conversion therapies are prohibited according to Law 4/2023, of 28 February, for the real and effective equality of trans people and for the guarantee of the rights of LGBTI people⁵¹, this law does not include non-binary people, and leaves a legal vacuum for conversion practices with respect to non-binary people.

Beyond conversion therapies, of particular concern are conversion practices carried out by families of non-binary people and by other people.

47 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

48 Fundamental Rights Agency: EU LGBTIQ Survey II (2020), <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2020/lgbti-survey-data-explorer>

49 Red Europea de Lucha contra la Pobreza y la Exclusión Social en el Estado Español: El estado de la pobreza 2024. Primer avance de resultados. Febrero de 2024

50 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtiq-survey-iii>

51 Ley 4/2023, de 28 de febrero, para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGBTI. <https://www.boe.es/eli/es/l/2023/02/28/4/con>

Recommendations

1. In line with Principle 31A of the Yogyakarta Principles+10:
End the registration of a person's sex and gender on identity documents such as birth certificates, ID cards, passports and driving licences, and as part of their legal personality.
Ensure access to a rapid, transparent and accessible mechanism for name change, including to gender-neutral names, based on the self-determination of each person;
2. **As long as sex and gender continue to be recorded and where useful and necessary: of a non-mandatory nature and have multiple gender marker options available.**
3. **Eliminate the sex/gender field from public administration forms** if it is not strictly necessary, or, at the very least, make this field optional and provide more gender markers based on self-determination.
4. **Create protocols for prevention, awareness-raising and action in cases of violence** (harassment, discrimination and hate crimes) in the legal, labour, educational, health sectors and in access to culture, leisure and sport.
5. **Provide mixed and/or individual toilets** in public spaces on a mandatory basis and take measures in private spaces for leisure, culture and sport. While these toilets do not exist, clarify that non-binary people have the right to use the toilet where they feel safer and maintain protection protocols.
6. **Provide private changing rooms in sports facilities**, including sports facilities in schools and swimming pools. While these changing rooms do not exist, clarify that non-binary people have the right to use the changing room in which they feel safest, including disability and staff toilets, and maintain protocols and protective measures.
7. To develop and carry out an **awareness and visibility campaign** on sexual diversity in an updated and non-pathologising way, on identities, realities, problems and actions in the face of violence towards non-binary people.
8. **Create laws and legal action against violence in media and advertising** towards non-binary people.
9. **Compulsory training for teachers and other educational staff** on the reality and problems of non-binary people and tools for their support in the education system.
10. **Include more gender marker options in the databases of the Autonomous Communities' health systems**, and, in addition, include a field for "treatment (pronoun)", corporality, operations and hormone treatment.
11. **Base notification, information and access to specialists and screening on the individual's body and medical circumstances**, taking into account markers of corporality and hormone status.
12. **Base screening for different types of cancer (uterine cancer, breast cancer) not on arbitrary data such as registered sex, but on the actual body of each person**, independent of the sex/gender collected. Likewise for other treatments, diseases and symptoms that are

modified by body type or possible medical procedures such as surgery or hormones.

13. **Mandatory training for all health care workers** on the reality and problems of non-binary people in the health care system and on how to deal with non-binary people.
14. **Include non-binary gender identities explicitly in Law 15/2022 of 12 July on equal treatment and non-discrimination.**
15. **Explicitly prohibit any gender identity conversion practices.**