

## Schedule 2.

### Comparative Law - Latin American Region

#### i) Costa Rica

#### **Bill 23,809. Law of Recognition of Trans, Non-Binary, Gender Diverse, and Intersex Identities.**

Article 33. **Segregation, isolation, and arbitrary restrictions against trans, non-binary, gender diverse, or intersex individuals of all ages deprived of liberty or detained are prohibited in labor, sports, recreational, educational, and any other activities<sup>1</sup>.**

#### ii) Ecuador

#### **National Council for Gender Equality. National Agenda for Women and LGBTI People 2018-2021.**

1.4.3. Promote spaces for recreation and common gathering that promote the recognition, valorization, and development of diverse identities, creativity, aesthetic freedom, and individual and collective expressions, with gender, ethnic-cultural, disability, and intergenerational relevance.

Here are some actions proposed by this public policy for LGBTI individuals:

1.5. Establish comprehensive actions to change discriminatory patterns that **limit the participation of LGBTI people in recreational and sports activities**, at all stages of life.

1.6 **Design plans and programs oriented towards sports and physical activity**, framed within the principles of equality and non-discrimination throughout the national territory, to **guarantee the access and permanence of LGBTI individuals** in these activities.

1.8. Regulate public and private sports and recreational events to **overcome discriminatory, sexist, and exclusionary patterns<sup>2</sup>.**

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<sup>1</sup> Asamblea Legislativa. Proyecto de ley 23.809. Ley de Reconocimiento de Identidades Trans, No Binarias, de Género Diverso e Intersex.

<https://d1qqtien6gys07.cloudfront.net/wp-content/uploads/2023/06/23809.pdf>

<sup>2</sup> Consejo Nacional para la Igualdad de Género. Agenda Nacional de las mujeres y personas LGBTI 2018-2021. [https://www.igualdadgenero.gob.ec/wp-content/uploads/2018/11/Agenda\\_ANI.pdf](https://www.igualdadgenero.gob.ec/wp-content/uploads/2018/11/Agenda_ANI.pdf)

## **Ministry of Public Health of Ecuador. Manual of Health Care for Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) People.**

On the other hand, "**trans women** who have undergone vaginoplasties and trans men also **require gynecological check-ups** that will depend on each particular situation."<sup>3</sup>

## **Secretariat of Human Rights, Sub-Secretariat of Diversities. Action Plan for LGBTI+ Diversities (PAD) 2022-2025, programmatic framework - Social Rights Sector.**

Raise awareness with the support of the Secretariat of Human Rights to the personnel of sports organizations **regarding sex and gender diversities.**

Develop guidelines to **create safe spaces to prevent discrimination against the LGBTI+ population in sports organizations.**

### **iii) Peru**

#### **Legislative Assembly. Gender Identity Bill, Bill No. 000790/2016-CR.**

Article 1. Purpose. This law aims to regulate principles, measures, and procedures aimed at guaranteeing the following rights of all persons: 6. **To protect the effective exercise of their freedom and without discrimination in all areas of political, economic, cultural, and social life, especially in the following spheres;** a. employment and work, b. affiliation and participation in political, trade union, business, **sports**, professional, and social and economic interest organizations, education, c. **culture and sports**, d. social security, as well as, e. access, offer, and supply of goods and services available to the public, including housing.

#### **Women and Family Commission, Congress of the Republic. Opinion on bill 790/2016-CR, with a substitute text proposing the gender identity law.**

Finally, Madam President, it is proposed that all buildings adapt to this new standard, which would be included in the building regulations. However, the regulations are not retroactive and although some buildings will have space available for changing tables, not all bathrooms have been designed with this in mind, therefore, buildings that complied with the regulations in force at that time cannot be forced to modify their structures with the compliance of this initiative in mind. For these reasons, Madam President, I believe it is convenient for the proposal to be further analyzed in order to approve it and not be rejected by the Executive Power.

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<sup>3</sup> Ministerio de Salud Pública. Manual de atención en salud a personas lesbianas, gays, bisexuales, transgénero e intersex (LGBTI). <https://ecuador.unfpa.org/sites/default/files/pub-pdf/manual%20lgbti.pdf>

#### **iv) Mexico**

### **LAW FOR THE RECOGNITION AND ATTENTION OF LGBTTTI PEOPLE IN MEXICO CITY**

Article 1. The provisions of this Law are of public order, social interest, and general application in Mexico City and aim to:

I. Establish the bases for effective coordination among the Legislative, Judicial, and Executive powers of Mexico City, the Mayors, and the Autonomous Constitutional Bodies which, within the scope of their attributions, must promote, protect, and guarantee progressively the full exercise of the human rights and fundamental freedoms of LGBTTTI people; and

II. Regulate the actions that, based on their competencies, the dependencies of the public administration of Mexico City must follow for the progressive development of the Rights of LGBTTTI People.

Article 28. It corresponds to the Institute of Sports of Mexico City:

I. Propose, formulate, and execute actions and policies that promote and develop the practice of sports and recreation, emphasizing the participation of LGBTTTI people of Mexico City;

II. Promote the participation of sports organizations and LGBTTTI people or their sports organizations in the determination and execution of their policies;

III. Determine, under a non-discrimination approach and according to the Sports Registry of Mexico City, the LGBTTTI people representatives of sports in Mexico City for national and international competitions;

IV. Establish mechanisms for linking with public and private entities and organizations for the dissemination, promotion, training, promotion, and research in sports matters that promote the sports development of LGBTTTI people;

V. Grant recognitions and incentives to LGBTTTI athletes, in the public, social, and private entities or organizations of the Mayors of Mexico City that have distinguished themselves in sports or in the dissemination, promotion, promotion, or research in sports matters;

VI. Promote programs to provide attention and eliminate discrimination against LGBTTTI people in sports and physical activity in Mexico City; and

VII. Train the personnel of the Institute of Sports of Mexico City to provide adequate attention to LGBTTTI people.

### **COUNCIL FOR PREVENTING AND ELIMINATING DISCRIMINATION IN MEXICO CITY. LEGAL OPINION COPRED/Q/03-2013**

"In order for this Council to gather technical-scientific elements to form a more rigorous assessment in the present matter, in agreement with the Presidency, it was decided to extend an invitation to external specialists in the field of transgender issues and sports medicine, with the purpose of obtaining their opinion regarding the alleged advantage that the petitioner had, as a transgender woman, to compete physically with other women, as well as the physical implications represented by the reassignment of sex and gender identity."

(...)

Gender identity is defined by the Civil Code for the Federal District as the personal conviction of belonging to the male or female gender, which is unchangeable, involuntary, and may be different from the original sex. In the capital of the country, the legal framework establishes that the reassignment process for sex and gender concordance is the professional intervention process through which the person achieves concordance between bodily aspects and their gender identity, which may include, partially or entirely: gender role expression training, hormone administration, supportive psychotherapy, or surgical interventions required in their process; and which will result, through a judicial resolution, in a legal identity as a man or woman, as appropriate.

(...)

The Council for Preventing and Eliminating Discrimination of Mexico City (COPRED) is the institution responsible for promoting the construction of a culture of equality and non-discrimination among the people who live and transit in the capital of the country. The wide range of social strata that make up the Federal District leads us to establish new paths in resolving conflicts and divergences that occur on a daily basis among the different sectors of our society.

(...)

In terms of Articles 5 and 6, sections XXVI and XXXI of the Law to Prevent and Eliminate Discrimination in the Federal District, it is considered discriminatory conduct to restrict, obstruct, or prevent participation in academic, sports, recreational, or cultural activities based on gender identity. Therefore, based on the analysis of the file subject to the complaint, discriminatory conduct is substantiated in this Legal Opinion."

## **v) Chile**

**Law No. 21,120 recognizes and protects the right to gender identity.**

Law Number 21,120 of Chile recognizes and protects the right to gender identity. This law establishes the fundamental principles that govern the entire process of changing name and gender in the legal sphere for the trans population. Aspects regulated by this law:

- Defines the right to gender identity as the faculty of every person to request the rectification of their sex and registry name when they do not match their gender identity.
- Establishes principles such as non-pathologization, non-discrimination, confidentiality, dignity in treatment, and the best interest of the child in relation to this right.
- Creates administrative procedures before the Civil Registry and Identification Service for adults (Art. 9-11) and minors from 14 to 18 years old (Art. 12-17) to rectify their birth certificate regarding sex and name.
- Regulates the effects of rectification, such as the issuance of new identity documents (Art. 20-22).
- Prohibits arbitrary discrimination based on identity and gender expression (Art. 25).

This law marks a significant milestone for trans women in Chile, creating new legal frameworks that both public and private institutions must respect and adapt to.

### **Law 20,609 establishes measures against discrimination**

**Article 1.-** Purpose of the law. The purpose of this law is to establish a judicial mechanism that allows the effective restoration of the rule of law whenever an act of arbitrary discrimination is committed. It will be the responsibility of each of the organs of the State Administration, within the scope of its competence, to elaborate and implement policies aimed at guaranteeing every person, without arbitrary discrimination, the enjoyment and exercise of their rights and freedoms recognized by the Political Constitution of the Republic, laws, and international treaties ratified by Chile and in force.

**Article 2.-** Definition of arbitrary discrimination. For the purposes of this law, arbitrary discrimination is understood as any distinction, exclusion, or restriction that lacks reasonable justification, made by agents of the State or individuals, and that causes deprivation, disturbance, or threat to the legitimate exercise of fundamental rights established in the Political Constitution of the Republic or in international human rights treaties ratified by Chile and in force, particularly when based on grounds such as race or ethnicity, nationality, socioeconomic status, language, ideology or political opinion, religion or belief, union affiliation or participation in trade organizations or lack thereof, sex, maternity, breastfeeding, breastfeeding, sexual orientation, identity and gender expression, marital status, age, filiation, personal appearance, and illness or disability. The categories referred to in the preceding paragraph may not be invoked, under any circumstances, to justify, validate, or excuse situations or behaviors contrary to laws or public order.