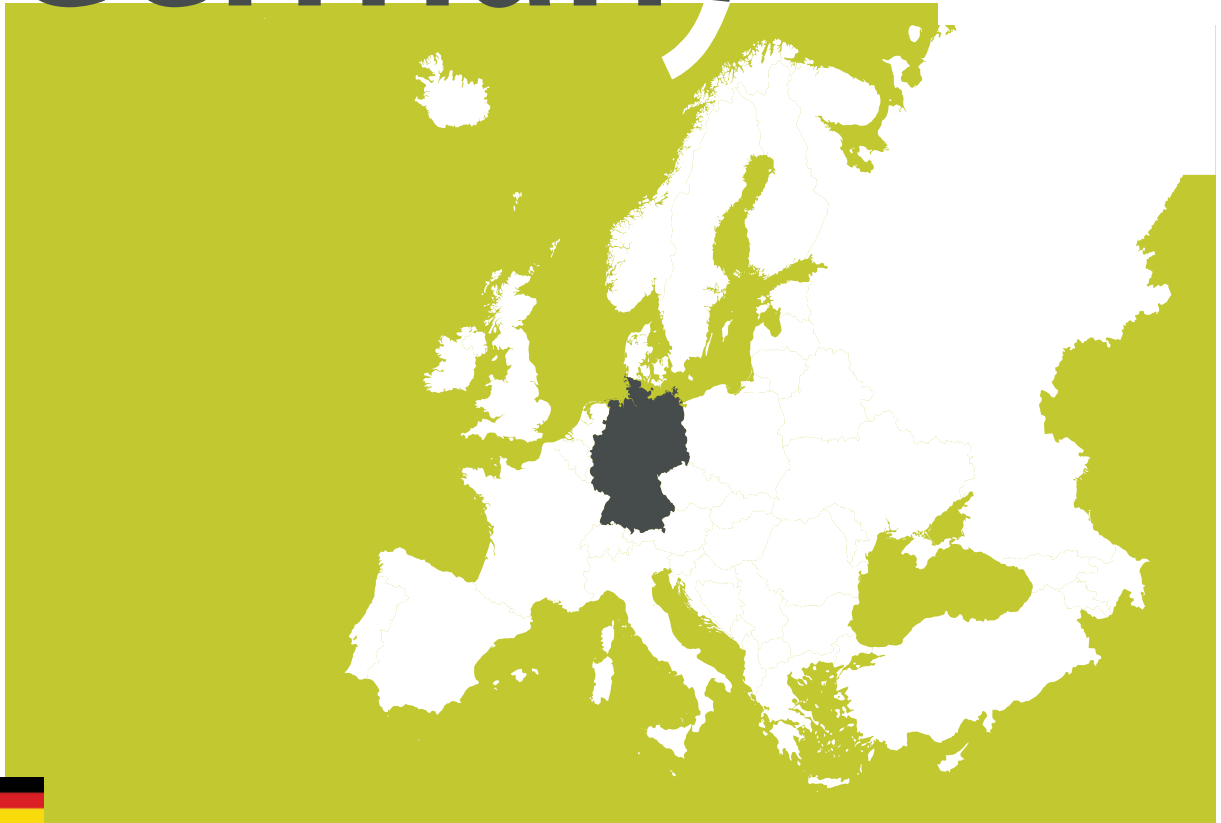


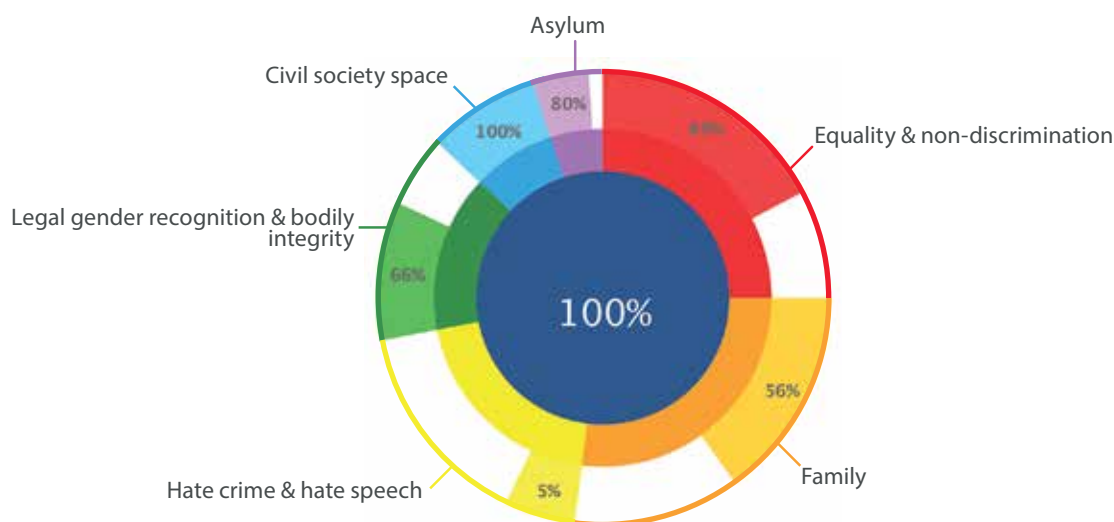
# Germany



Several developments within the area of asylum were reported during 2016. The first dedicated centres providing services for LGBTI asylum seekers were opened by NGOs, and multilingual resources for refugees were launched. A more negative development was the fact that regional NGOs operating in Berlin documented reports of violence against LGBTI asylum seekers. The federal interior ministry also reported an increased number of attacks motivated by the victim's sexual orientation, when compared to 2015 figures. In spite of its record in other Rainbow Europe areas, there are still obvious gaps within the area of family law. Marriage equality was discussed in 2016, not as part of a parliamentary vote, but in public statements made outside legislative chambers. Justice minister Heiko Maas confirmed his support, but no concrete progress was recorded by the end of the year. In addition, European Commissioner Gunther Oettinger spoke of the 'forced' introduction of equal marriage, in what would become an infamous speech in Hamburg. Minister Maas also confirmed that a compensation scheme was planned for gay and bisexual men who had been historically convicted.

For more information on developments in 2016, visit [www.rainbow-europe.org](http://www.rainbow-europe.org) where you can read the full country chapter.

# Legal and policy situation in **Germany** as of 31 December 2016



In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- ➔ Ensuring marriage equality for all.
- ➔ Including express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in laws and policies designed to tackle hate crime.
- ➔ Introducing policies on asylum that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

## Access to goods and services

- A regional court in Cologne fined a landlord who had refused to rent his accommodation to a same-sex couple. In a decision published in March, the court ruled that the landlord's refusal to sign a contract with the two men, when he found out that they were in a registered life partnership, was discriminatory on the basis of sexual orientation under the Equal Treatment Act. The landlord was ordered to pay EUR 1,700 to the couple as compensation.

## Asylum

- The first centres providing services specifically for LGBT refugees opened in February. On 1 February, the first dedicated facility in Germany opened in Nuremberg. The accommodation can house eight people and is managed by local NGO Fliederlich. Berlin's first shelter for LGBT refugees opened on 23 February, in the capital's Treptow-Köpenick area. The centre is run by local LGBT group Schwulenberatung Berlin and has space for 120 people.
- On 16 May, the regional LGBT NGO LSVD Berlin-Brandenburg noted that it received reports of more than 130 cases of violence against LGBT refugees in Berlin between May 2015 and May 2016.
- The federal NGO LSVD (together with major welfare and social justice organisations) published multilingual brochures for LGBTI refugees. *The Queer Refugees* website ([www.queer-refugees.de/](http://www.queer-refugees.de/)) was also set up during the year, containing useful information for LGBTI refugees in several languages.

## Bias-motivated violence

- Two trans women were attacked in Dortmund on 10 January. Three young men approached the women near the city's main train station and, after engaging them in conversation, began threatening and throwing stones at them. Police officers intervened, arresting the three attackers. One of those arrested was a 17-year-old boy, who was later released to his parents. One of the attackers was later charged with grievous bodily harm.
- In December, the Federal Ministry of Interior announced that 205 violent incidents based on sexual

orientation had taken place between January and the end of September. This was a 15% increase on the ministry's 2015 figures.

## Bodily integrity

- The family ministry (BMFSFJ) published an issue paper on the situation currently faced by intersex and trans people to mark Intersex Awareness Day on 26 October. The paper described the work of the inter-departmental working group on intersex and trans issues (including on counselling structure and quality, and medical issues) spearheaded by the ministry and provided an evaluation of recommended law reforms.

## Education

- On 15 November, the right-wing, populist party Alternative for Germany (AfD) presented a common position paper of all their regional parliamentary groups that targeted educational proposals in all regions of Germany (Bundesländer). The AfD paper rejected plans to integrate societal diversity, respect, promotion of acceptance and family diversity in school curricula.

## Employment Equality and non-discrimination

- On 18 February, members of the Bundestag discussed a report from the house's legal committee and called for a free vote on marriage for same-sex couples. The grand coalition partners – the Social Democratic Party (SPD) and the Christian Democratic Union (CDU/CSU) – stuck to the principle of coalition discipline throughout the rest of 2016. As a result, no vote took place on any legislative project that had not originally been included in the 2013 coalition agreement, including equal marriage.
- Following North Carolina's introduction of legislation that removed anti-discrimination protections from LGBTI people, Deutsche Bank announced that it would not move ahead with job expansion plans in the state. The bank made the announcement on 12 April in reaction to the bill known as HB2, which also limits trans people to using bathroom facilities that correspond with their birth certificate, not their gender identity.

- A legal study, conducted by the Federal Anti-Discrimination Office, concluded that the German government had an obligation to repeal the criminal records of men who were prosecuted because of their sexual orientation. The study, released in May, noted that approximately 50,000 gay men had been prosecuted after World War II. Convictions were based on paragraph 175 of the criminal code, dating from 1872. Homosexuality was later decriminalised (in 1968 in East Germany and one year later in West Germany) but the criminal records remained. In October, Minister of Justice and Consumer Protection Heiko Maas (Social Democratic Party, SPD) announced plans for a EUR 30million compensation scheme for individual and collective claims. Minister Maas circulated the draft law to his ministerial counterpart for collective agreement in December.

- All 16 of the country's health ministers voted in favour of changing the exclusionary categories regarding blood donation, specifically to remove the blanket ban on gay and bisexual men donating. The proposal was put forward at the 89th Conference of Health Ministers in June, and initiated by Saarland health minister Monika Bachmann (CDU). LGBTI NGOs called for a removal of the ban. The Federal Medical Association was considering the recommendation and their guidelines had not been changed at the end of 2016.

- NGOs TransInterQueer e.V., Atme, LSVD and the Bundesvereinigung Trans\* (as part of a national alliance of women's organisations) took part in the shadow reporting process in preparation for Germany's forthcoming appearance before the UN's CEDAW Committee in February 2017. The NGOs' main demands were reparations for sterilisations under previous legislation, anti-protection from violence and discrimination, depathologisation and better health care and law reform based on self-determination.

## Family

- On 9 April, the Synod of the Evangelical Church of Berlin-Brandenburg-Silesian-Upper-Lusatia (EKBO) decided to grant same-sex couples access to the same wedding ceremony as different-sex couples. As a result,

Protestant churches in Berlin can hold ceremonies and enter the names of same-sex couples on the church register. Sven Kretschmer and Tim Kretschmer-Schmidt were the first couple to opt for a wedding and were married on 12 August.

- On 26 October, while giving a speech in Hamburg, European Commissioner for Digital Economy and Society Günther Oettinger commented that "compulsory gay marriage" might be introduced in Germany. The same video also showed the Commissioner making derogatory comments about Chinese diplomats. On 3 November, Commissioner Oettinger apologised "for any remark that was not as respectful as it should have been." (See also **European Union**.)

- In an open letter, published to mark the Bundesstiftung Magnus Hirschfeld foundation's fifth anniversary in October, justice minister Heiko Maas stated his support for marriage equality. He wrote that "In the future, it [the foundation] can continue to trust in my support, for example when it comes to supporting marriage for all". Since 2013, Maas' SPD party have been grand coalition partners with the Christian Democratic Union (CDU; centre-right) and the Christian Social Union (CSU; centre-right).

## Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Germany, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

## Health

- The German Medical Commission group that is charged with re-working the standard of care guidelines, to focus on trans-specific healthcare, met regularly throughout 2016. The group contains two trans members, nominated by NGO Bundesvereinigung Trans\*. A draft of the new standards of care will be open for public consultation in 2017, with the final, fully revised standards of care expected to be finished by the end of the year.

- The family ministry (BMFSFJ) organised an expert forum in November, involving health professionals, insurers and the trans community, to discuss the issues faced by trans people interacting with the public health insurance system.

## Legal gender recognition

- The Federal Court of Justice rejected an individual's request to be registered as 'inter/diverse', rather than male or female. The decision (handed down on 22 June and published on 4 August) stated that the 2013 introduction of an undefined gender marker for intersex babies did not create a "further sex". The district court in Hanover and the Celle appellate court had previously rejected Vanja's (the person involved in the court case) claim. NGO Dritte Option, who had assisted Vanja with their legal challenge, indicated they intended to appeal. On 2 September, Dritte Option submitted their complaint to the Federal Constitutional Court. Several other NGOs submitted statements in advance of the 22 January 2017 deadline.

## Participation in public, cultural and political life

- Ben Melzer became the first trans model to feature on the cover of the German edition of fitness magazine 'Men's Health' in April.

## Public opinion

- An opinion poll carried out by YouGov showed that 61% of CDU voters surveyed were in favour of marriage equality (79% of SPD voters supported equal marriage, 68% of Catholic respondents also supported the proposal, which matched the average for all interviewees (68%)). 63% of those questioned said that same-sex couples could raise children just as well as different-sex couples. The YouGov survey was based on interviews with 1338 people interviewed between 22 and 26 January 2016.
- In April, the Federal Anti-Discrimination Office published a study which stated that discrimination based on sexual orientation and gender identity is an above average phenomenon. The Leipziger Mitte-Studie study,

released in June, showed that 40% of those surveyed said that they found two men or two women kissing in a public place to be "disgusting".

- On 18 October, Berlin-based research group Dalia published the results of their 'Counting the LGBT population' survey. The survey was conducted in August with 11,754 respondents across the EU. 7.4% of German people questioned identified as LGBT when asked directly, compared to a European average of 5.9%.