



GERMANY

ASYLUM

In February, the topic of amending the safe countries list was removed from the agenda of the second chamber of parliament, the Bundesrat. There has been no news since then.

BIAS-MOTIVATED SPEECH

In October, the Federal government adopted a package of measures to combat right-wing extremism and online hate speech, increasing the current penalties for incitement to, and approval of, criminal offences online.

BIAS-MOTIVATED VIOLENCE

The Ministry of the Interior shared that in the first half of 2019, 245 hate crimes were committed on the grounds of sexual orientation. NGO LSVD believes this is just a fraction of the total number. NGOs again urged the government to adopt an effective National Action Plan against homophobia and transphobia.

BODILY INTEGRITY

In June, Federal Health Minister Jens Spahn (CDU) announced the planned ban on conversion therapy. A study commissioned by Spahn earlier this year, found that roughly 1,000 people are subjected to conversion therapy annually. Spahn believes the current fine on practitioners, including therapists and religious figures, needs to be increased. The Ministry of Justice, in agreement with Spahn, prepared a draft on banning the practice on minors. The draft includes both SOGI, which was welcomed by civil society.

The government made no progress this year on banning non-consensual and medically unnecessary surgeries on intersex children.

EQUALITY AND NON-DISCRIMINATION

In November, the Bundestag continued the debate on whether the Constitution already protects LGB people from discrimination. Trans people are already assumed to be covered under “gender”. For the first time this year the Christian-democratic party CDU supported amending the Constitution to explicitly include “sexual identity”, which means two-thirds majority support. Only the far-right AfD maintained its opposition.

FAMILY

In September, NGO LSVD called on the new Minister of Justice Christine Lambrecht to continue the legal reform process her predecessor started, to recognise and protect rainbow families. The previous Minister aimed to establish automatic co-parent recognition for same-sex female parents, as they currently have to go through the process of second parent adoption. Although the draft legal changes were positive in this regard, they do not recognise prior to conception agreements between donors and parents. They do not recognise binding parental agreements, and explicitly refuse to recognise families where more than two people share parental responsibilities. The draft does not recognise trans and intersex parents in their self-defined gender identity, even if they have legally changed their name and gender. For instance, a trans father, who gave birth to the child and whose legal gender is male, will be registered in that child’s birth certificate as the mother and under his previous legal name. This not only violates trans people’s right to private and family life and gender recognition, but can also cause serious difficulties when traveling.

There is further need to recognise children born out of surrogacy abroad, or the possibility of a German birth mother’s legally binding statement that she is not legally related to the child. Rulings on surrogacy have been negative to date. In April, for instance, the Federal Court ruled that a Ukrainian surrogate is recognised by law to be the mother of a child born back in 2015, even though she never claimed any such rights. The child was conceived with the sperm and eggs of a heterosexual couple, who are recognised as parents in Ukraine, but not in Germany.

In August, a regional court in Potsdam-Rehbrücke ruled in favour of having both fathers registered on their children’s birth certificate. The children were born through surrogacy in the US. Previously, only the biological father was legally recognised.

The Federal Cabinet adopted a bill in November to extend stepchild adoption to non-married couples, including same-sex couples, if they have lived in a common household for at least four years.



FOREIGN POLICY

In November, the government's answer to the Liberal Party (FDP) confirmed the lack of implementation of the 2017 National Action Plan against Racism to regarding the inclusion of LGBTI rights in foreign policy and development cooperation.

HEALTH

In November, NGO Bundesverband Trans* launched its guidelines on the application of the 2018 German Standards of Care (AWMF 2018) to inform both trans people and medical professionals of its implications.

LEGAL GENDER RECOGNITION

On 8 May, the Ministry of Justice and Ministry of the Interior presented the draft reform bill on legal gender recognition that would amend Germany's 1981 law Transsexuellengesetz (TSG). The 40-year-old TSG pathologises trans people by requiring a psychiatric diagnosis and fails to provide legal gender recognition on the basis of self-determination. It is also inept with regard to acknowledging the third option gender marker ("diverse"), introduced in 2018.

The draft also failed to establish the self-determination model. Instead of two medical expert opinions, trans people would still be required to submit a "qualified advice" certificate and go to court before they can change their legal gender.

The draft also introduces the concept of "spousal veto", which severely violates trans people's right to self-determination. It further imposes a three-year waiting period before one can reapply and challenge a negative court decision or a spousal veto.

Intersex advocates also criticised the draft and noted the various hurdles it imposes on both trans and intersex people.

Civil society was given a total of two days to submit a response to the draft. NGOs, the equality body (Antidiskriminierungsstelle des Bundes), the human rights body (Deutsches Institut für Menschenrechte), and academic institutions firmly and unanimously criticised the draft and consultation process. In the

end, the draft was not adopted. No information on the next steps has been released since May.

In September, NGO Bundesverband Trans* (BVT*) launched the campaign Say it Loud/Sagt es Laut, urging trans people and allies to record a video message to the government, asking them to introduce self-determination.

Since its introduction in 2018, the use of the "divers" gender option has proved to be very difficult for both intersex and trans people. Although the law only aimed to provide this option for intersex people and with a medical certificate or a sworn statement (in exceptional cases), its wording left room for binary and non-binary trans people as well. The Ministry of the Interior released a written clarification in April, restricting the scope to intersex people only. Although the law is binding, registry offices have mostly followed the Ministry's non-binding guidance and made it very difficult for trans people to use the "divers" option. Due to this legal uncertainty, the law has become more inaccessible for intersex people, too.

The government made no progress on stepping away from a medical and pathologising definition of intersex by reforming the Civil Status Law and allowing anyone to choose the legal gender "divers" if that is their identity.

POLICE AND LAW ENFORCEMENT

A trans woman, whose legal gender is female, was placed in a men's prison in Munich in November, because she had not undergone gender affirming surgeries. She is being held in solitary confinement, allegedly for her own protection. Civil society expressed grave concern.

PUBLIC OPINION

The 2019 Eurobarometer found that the acceptance of same-sex relationships in Germany has significantly increased since 2015. 88 per cent thought LGB people should have the same rights as heterosexuals (2015: 70 per cent), 50 per cent had no problems with a gay couple and 60 per cent with a lesbian couple kissing (2015: 27 per cent and 24 per cent). Support for third gender options among Germans was the fourth highest in the EU.