



SWITZERLAND

ASYLUM

The Federal Administrative Court decided on 12 September, that a trans asylum seeker will not be at risk if sent back to her home country, Morocco. The applicant claimed asylum presenting as gay man, but came out as a trans woman during the court procedure. She is in a registered partnership. The court acknowledged that same-sex conduct is criminalised in Morocco, but used the discretion argument, saying the couple could live in Morocco.

BIAS-MOTIVATED SPEECH

As decided on 8 April, a referendum will be held in February 2020 regarding the inclusion of sexual orientation in the hate speech legislation.

BIAS-MOTIVATED VIOLENCE

An increasing number of violent incidents, primarily against gay men, were reported this year, including an attack against an information stand at IDAHOT, May 17, and a gay couple being attacked on their way home from Pride in June. Both cases happened in Zurich.

In relation to IDAHOT, MPs in 15 cantons asked for data collection on homophobic and transphobic hate crimes, and training for police.

On 26 September, the National Council supported a motion by MP Rosmarie Quadranti, Conservative Democratic Party (BDP) to collect data on hate crimes based on SOGIESC. The Council of States will have to vote on the motion.

On 1 November, the Federal Council adopted a decree setting out that it will co-fund structural, technical and organisational costs aimed to increase the safety and security of vulnerable groups. The decree only mentions sexual orientation explicitly. Despite the recommendations of LGBTI organisations, GIGESC are not included in the text, only in how it is interpreted.

BODILY INTEGRITY

On 10 April, the Grand Council Geneva adopted two motions to prohibit genital mutilations on intersex persons, to grant

reparation to victims, and to provide free psycho-social support for intersex persons and their families. On 16 October however, the Council of States Geneva stated that no such surgeries have been performed since 2012, and therefore no ban is needed. There is evidence of the contrary: Switzerland submitted an Annex to its response to the List of Issues by the UN Committee on Economic, Social, and Cultural Rights in 2019, which included the number of surgeries conducted.

EQUALITY AND NON-DISCRIMINATION

On 5 April, the Federal Court stated that direct discrimination based on sexual orientation is not covered by Equality Act. In a case involving a gay man who was not re-hired for a job in the military, the Court explained that the Act only covers direct discrimination when it takes place on the ground of sex or gender, but not sexual orientation. The Court however affirmed that discrimination against trans and intersex people would be considered under sex or gender.

In October, the City of Bern became a member of the Rainbow Cities Network and presented its new Gender Equality Action Plan (2019-2022) in September, which includes LGBTI issues.

FAMILY

For the first time in Swiss history, the result of a referendum was overturned by the Federal Court. On 10 April, the court ruled that the 2016 referendum on the tax rules affecting married couples and the definition of marriage, needs to be re-run.

On 30 August, the National Council's legal commission continued the discussion on marriage equality. The majority were in favor of marriage equality (17 to 7), but only the minority (12 to 13) supported allowing sperm donations for same-sex female couples. Earlier in February, NGO Dachverband Regenbogenfamilien held a demonstration demanding marriage equality and access to sperm donation for lesbian couples.

A local court in Bern decided that a co-mother, despite not being a legal parent, had to pay child support after the children she had with her partner. The court argued that as the couple lived in a registered partnership, the same rules apply as in the case of married couples.



HEALTH

On 8 May, the Federal Court ruled that health insurance companies must evaluate the risks of phalloplasty performed in Switzerland, before deciding on the cost reimbursement of such surgeries performed abroad. The case was filed by the insurance company of a trans man who underwent phalloplasty in Germany, because only five or six procedures per annum are performed in Switzerland and are low in quality. The first instance court ruled in the man's favour, but the insurance company appealed to the Federal Court. It is still unclear if the insurance company needs to pay or not.

HUMAN RIGHTS DEFENDERS

The Swiss Rainbow Families Association was awarded this year's Equality Price from the City of Zurich.

LEGAL GENDER RECOGNITION

In June, a local court granted legal gender recognition (LGR) to a nine-year-old trans child, and stated that the child was capable of making their own judgment without parental consent.

As of October, trans people in the Canton of Zurich can change their name based on self-determination and have to pay half the regular fee. The first requests were processed within one week.

On 6 December, the Federal Council presented a draft law allowing for LGR based on self-determination in a quick and low-cost administrative procedure. They proposed removal of the right of minors capable of making their own judgment to apply for LGR without their parents consent.

Local trans NGO TGNS's community survey with 200 non-binary people found that more than half would not want to have a gender marker in their IDs, and three-quarters would ask for a non-binary gender marker if that was an option. Out of five potential gender markers, "X" was the best rated.

POLICE AND LAW ENFORCEMENT

On 13 November, the Canton parliament of Basel-Stadt included gender identity in its law on detention to better protect trans people in regard to placement.

PUBLIC OPINION

According to the Federal Statistical Office's survey, 65 per cent of women and 53 per cent of men say that same-sex couples should have the same rights as heterosexual couples. 58 per cent (2013: 46.6 per cent) of women and 43 per cent (2013: 32.4 per cent) of men agreed that a child can also grow up happily with same-sex couple.