



Germany

ASYLUM

Referring to a 2013 European Court of Justice (ECJ) judgment, the Federal Constitutional Court ruled in January that lesbian, gay, and bisexual asylum seekers cannot be expected to hide their sexual orientation and thus sent back home. The ruling can be used in appeal cases.

BIAS-MOTIVATED SPEECH

A doctor was fired from his job in April, after stating that being LGBT is an illness.

BIAS-MOTIVATED VIOLENCE

Hate crimes continued to be a serious issue this year. Several trans people were brutally attacked (see [here](#), [here](#), [here](#) and [here](#)) and gay men were also common targets (see [here](#), [here](#) and [here](#)).

In June, the office of Queer Unity, a queer youth centre in Hannover, was defaced with anti-LGBT graffiti.

In July, parliament adopted the new hate crime law, failing to include homophobia and transphobia in its scope. This was strongly criticised by civil society.

In September, the region of Saarland adopted an action plan against homophobia and transphobia, leaving Bavaria the last region without such a plan in place. Civil society continued lobbying for a federal action plan.

BODILY INTEGRITY

Parliament banned conversion therapy to change the sexual orientation or gender identity of minors. Those breaking the new law, including parents and carers, could face up to a year in prison or a 30,000 euro fine. LSVD and BVT* are concerned that the ban only protects those under 18 and that therapies can be carried out by legal guardians, as long as they are considered as “harmless” for the young person’s well-being. Civil society warns that conversion therapies are by default harmful.

In March, the European Commission against Racism and Intolerance (ECRI) recommended Germany to ban intersex surgeries and provide counseling to intersex children and their parents. Following consultation, the government tabled a bill in September. The Bundesrat (Federal Council) debated it and published a statement on 6 November, calling for peer counselling and a central registry of surgeries conducted for health reasons.

EQUALITY AND NON-DISCRIMINATION

Debates on whether the Constitution already protects LGB people from discrimination continued this year. On 12 February, the Committee of Justice held a hearing, where several experts expressed their concern that the proposed inclusion of “sexual identity” does not protect intersex and trans people. In the Bundestag on 16 December, Chancellor Merkel said her government would focus only on reformulating the reference to “race” in Article 3, disappointing LGBT organizations.

On 2 October, the Ministry presented a draft law to rehabilitate soldiers who had been discriminated against in the military because of being “homosexual”, and provide them financial compensation.

FAMILY

In July, the Bundesrat refused to approve the Adoption Assistance Act, which would have further increased the burdens of same-sex female couples with children. The law would have introduced mandatory counseling, in addition to the mandatory second-parent adoption procedure. Same-sex female parents and non-gestational non-binary parents in Germany have to prove their suitability to parent their children, before the youth welfare office and the family court. In October, Society for Civil Rights, LSVD and AllOut launched a campaign to provide financial support to families who need to go through such court procedures.

In August, Federal Minister of Justice Christine Lambrecht announced planning to abolish the mandatory second-parent adoption process for lesbian same-sex couples. This reform plan erases trans, non-binary and intersex parents.

The case of a trans man, who gave birth and is not recognised as the “father”, despite having the legal gender “male”, is still pending at the European Court of Human Rights. The case was joined by a trans woman who is the biological parent of her child but will not be recognised as the “mother” without adoption. Parents with a non-binary gender marker also faced discrimination this year.

BVT* launched a consultation with trans parents about their experiences, and will produce an information brochure.

FREEDOM FROM TORTURE, CRUEL, IN HUMAN OR DEGRADING TREATMENT

Berlin launched a law reform initiative to regulate trans and gender-diverse people’s placement in the prison system.

HEALTH

The statutory healthcare providers' new regulations on cost coverage for trans healthcare set out that treatment would only be covered if it was as a last resort and if psychotherapy failed to "alleviate gender dysphoria". The regulations continue to pathologise trans people, completely erase non-binary people, and overall go against Germany's 2018 standards of care.

A study on the impact of the COVID-19 pandemic on trans people's access to trans healthcare found that in German speaking countries (Austria, Germany, Switzerland), almost half of the respondents feared the pandemic would bar their access to hormones or surgeries (17%). 15% reported that their surgery was cancelled. One in three belonged to risk groups.

HUMAN RIGHTS DEFENDERS

Several civil society initiatives were launched in response to the COVID-19 pandemic, to support the LGBTQI community with information or funds.

LEGAL GENDER RECOGNITION

In a regressive judgment, the Federal Court of Justice ruled on 22 April that §45b PStG of the Civil Status Law (PStG), which introduced non-binary legal recognition in 2018, will only be available to intersex people and requires proof of a diagnosis. The ruling comes as a blow to non-binary people in Germany, many of whom have or planned to change their legal gender to "divers". Civil society has harshly criticised the ruling. On 15 June, a constitutional complaint was launched by several NGOs to challenge the Court's position.

*"We reject the approach that gender identity must first be confirmed by external experts. Gender identity cannot be determined or diagnosed from the outside - only the person concerned can provide information about their own gender identity." - Kalle Hümpfner, Bundesverband Trans**

On 10 June, the Green Party tabled its legal proposal to introduce legal gender recognition on the basis of self-determination. On 16 June, the Liberal Party (FDP) introduced its own legal proposal. The Bundestag held a debate on the 'Transsexual Law' (TSG) on 19 June, with all democratic parties agreeing on the importance of self-determination. On 10 September, the 40th anniversary of the TSG, trans organisations repeated the urgent plea for the LGR law reform to go on and establish LGR on the basis of self-determination. BVT*'s campaign, "Say it Loud", launched in 2019,

has collected over 15,000 signatures to this end. On 2 November, the two bills introduced by the Green and Liberal Party were discussed at the committee of Internal Affairs at Bundestag.

SOCIAL SECURITY AND SOCIAL PROTECTION

The City Council of Munich passed a decision to fund a retirement home for LGBTQI elders, with 500,000 euro.



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