Asylum
In November, the Federal Parliament (Bundestag) discussed again a bill introduced by the Federal Government considering Georgia, Algeria, Morocco and Tunisia safe countries. NGOs condemned the proposal. No vote took place.

Bias-motivated violence
Last year, the Federal Government presented the draft “National Action Plan Against Racism”. The plan only discusses homophobia and transphobia in a retrospective manner, looking at what had been done in the past. NGOs Network Against Racism, the Trans* Federal Association (BVT*) and LSVD made a submission asking for an Action Plan that effectively counters homophobia and transphobia and includes defined targets, timeframes, and resources. The submission is attached to the Plan as an annex, but the government failed to meaningfully integrate it. The coalition agreement of the current government from February 2018 (see Equality and non-discrimination) does not mention the Action Plan.

equality and non-discrimination
After the elections in October 2017, a coalition agreement was finally signed in February between the conservative parties (CDU/CSU) and the social-democratic party (SPD). The 180-page paper mentions only a handful of initiatives regarding the rights of LGBTI people, e.g. the Constitutional Court’s decision on gender diversity, hate crimes, and the need to ban surgeries on intersex children.

In June, the second chamber (regional governments (Bundesrat)) discussed again a proposal to amend Section 3.3 of the Constitution on equality, which currently covers belief, origin, race, disability and gender. The proposal includes sexual orientation and gender identity. The proposal is not expected to be adopted, given adoption would require a two-thirds majority in both chambers.

Family
Despite entry into force of marriage equality October 2017, family laws do not sufficiently guarantee the rights of rainbow families. For instance, women in a same-sex marriage still need to undergo second-parent adoption if one of them gives birth to a child. The Federal Court in Germany ruled against an automatic co-parent recognition, stating lesbian couples should go through a “reasonable” stepchild adoption process.

Far-right party Alternative for Germany (AfD) proposed a bill in the Bundestag to abolish marriage equality, attempting to overturn the law established in October 2017. The proposal was rejected.

Freedom from torture, cruel, inhuman or degrading treatment
On the 10th anniversary of the inauguration of monument commemorating gay victims of Nazi persecution in Berlin, President Frank-Walter Steinmeier publicly asked for forgiveness for the crimes committed in the name of the German state.

Health
In October, new medical guidelines for “treating” gender dysphoria/gender incongruence were published (immediate effect). Trans NGO BVT* members were part of the drafting committee. The guidelines abolish the ‘real life test’ and mandatory therapy. Instead, they are based on individualised healthcare provision, whereby a trans person reaches an informed, common decision together with the medical expert about possible interventions. The guidelines also include non-binary trans people and intersex people, and cover more trans healthcare services than previously.

Nevertheless, major gaps remain. First, mandatory psychiatric diagnosis (ICD-10) remains a requirement for LGR (until 2020). Second, health insurance policy needs to be revised to be in line with the new guidelines and to ensure systematic coverage without conditions.

Legal gender recognition
Following the 2017 Constitutional Court decision, German legislators were required to introduce a third gender option or remove gender registration altogether by the end of 2018. On 14 December, the law was adopted by Parliament.
Shortcomings were highlighted by trans and intersex activists, i.e. that medical certificates are still required and that the “divers” third gender option is only available to intersex people, excluding non-intersex non-binary people. BV*T called the bill a “historical chance missed” for recognition of the right to self-determination.

The government has still not started to work on the long overdue revision of the German Transsexual Law. In 2018, the Federal Minister of Justice (Dr. Katarina Barley) stated that her ministry will put it on the agenda for 2019. The Federal Ministry for Family, Seniors, Women and Youth commissioned a study on gender diversity and its legal requirements. Results are expected in the first half of 2019.

**Police and law enforcement**

The German police has access to trans people’s old name and gender assigned at birth in background registries. This makes some trans people vulnerable to discrimination by the police.

Trans people who are part of the police or applying to join the police reported discrimination/rejection when in the process of medically/legally transitioning, and before having secured the protected status of public servant. Some federal states, like Berlin, are in the process of revising admission standards and non-discrimination rules. Trans groups have advocated for better regulations across all states.

**Social security and social protection**

The German Federal Fiscal Court (BFH) ruled that IVF costs incurred by an infertile woman in a same-sex relationship were tax-deductible. The applicant underwent IVF treatment in 2011. When she had included these expenses on her tax form, they were rejected by the tax agency and the first instance fiscal court. On 3 January, the BFH ruled that these expenses are covered by section 33.1 of the German Income Tax Act.

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