



BUNDESVEREINIGUNG TRANS*

FÜR GESCHLECHTLICHE SELBSTBESTIMMUNG
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Bundesvereinigung Trans* e. V.(BVT)

Historical chance missed: German Government proposes restrictive third gender law

The German Federal Government has discussed and voted on a bill by the Federal Ministry of the Interior, Building and Community to introduce a third gender option. The bill will now move into parliament. There has been one important change compared to the heavily criticized draft of the bill: the name of the third option will be "divers" (diverse) instead of "weiteres" (further).

Josch Hoenes of Bundesvereinigung Trans* (BVT*), the national trans NGO comments:

"This option is an important protective measure against discrimination, especially because intersex children and young people can change the legal gender marker made at birth relatively easily, once they are able to voice their gender identity and if they do not agree with their current entry. However, it's incomprehensible why the change of gender marker will require a medical certificate. We strongly criticise this.

The decision of the constitutional court clearly states that the gender entry in the birth register must reflect the gender identity of a person, which is impossible to determine by bodily characteristics. The bill ignores the criticism of pathologisation and violence that intersex people suffer within the medical system. With this background it is unacceptable that medical doctors should be gatekeepers to gender recognition; intersex NGOs such as Intersexuelle Menschen e.V. and OII Germany have made this very clear in their statements on the draft bill earlier.

To BVT* it is also incomprehensible that the option to correct one's gender marker should be limited to people who can prove their gender variance on the basis of a medical certificate on „Differences of Sexual Development“ only. Trans people who do not identify with one of the binary gender options are therefore excluded from the new option.

Although The government now promises to scrap the outdated Law on Transsexuals ("Transsexuellengesetz - TSG") next and replace it by a modern gender recognition act we very much doubt that the Ministry of the Interior will come up with a draft that does respect trans rights as human right and will recognize the right to self determination."

Background:

In a ground breaking decision Germany's Constitutional Court („Bundesverfassungsgericht“ decision 1 BvR 2019/16 of 10th October 2017; publicized 9th November 2017) confirmed that the German Constitution („Grundgesetz“) protects a person's gender identity, also if they identify as neither male nor female, and had ruled that the "Civil Status Act" (Personenstandsgesetz - PStG) has to be altered by 31st December 2018 to provide a third positive gender category for people not identifying as male or female (or alternatively stop registering gender). The draft prepared by the German Federal Ministry of the Interior restricts this third gender category to people who present a medical certificate confirming „Differences of Sexual Development“. This means that the registered third gender marker would be based on medicalisation rather than self determination. It not only excludes many intersex people but also everyone else not identifying within the binary gender system.

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