



# **BUNDESVEREINIGUNG TRANS\***

FÜR GESCHLECHTLICHE SELBSTBESTIMMUNG  
UND VIELFALT!

## **Violations of Economic, Social and Cultural Rights of Persons with Diverse Gender Identities in FEDERAL REPUBLIC OF GERMANY**

Delivered by: Kim Trau (BVT\*), written by Mio Lindner and Kim Trau

Thank you, ...

Dear chair man/woman/person, dear committee members and listeners,

I am speaking to you on behalf of the Bundesvereinigung Trans\* (BVT\*), the national federation of transgender CSOs in Germany and Lambda, the German federal LGBTIQ\* youth network.

In the following, I will use the word "gender diverse" as an inclusive term, referring to people who may for example identify as trans\*, transgender or non-binary, and other people who don't feel like they fit the categories of female and male. A recent meta-analysis suggests that trans\* people make up approximately one percent of the general population. So I am speaking today on behalf of more than *half* a million people in Germany.

The most urgent problems in our everyday lives are discriminatory laws and other human rights violations of a structural nature.

I will highlight three of the most urgent *legal* challenges gender diverse people face in Germany today: (1) gender recognition (2) health care and (3) children and youth.

### **Challenge 1: Legal Gender Recognition based on self-determination**

Legal Gender Recognition enables trans\* people to change their name and official gender marker. In Germany, this is regulated via the "law on transsexuals" or short TSG from 1981. It's out of date and has never been reformed. Though some discriminatory parts have been removed, the law still requires two "expert opinions" and a personal meeting with a judge in order to access gender recognition. This violates gender diverse peoples' right to self-determination and their dignity. Today, human rights experts and progressive scientists worldwide agree that the only person who can give evidence about someone's gender identity is the person themselves.

The Ministry for Family Affairs made drafts for gender recognition legislation which are scientifically sound and in line with human rights standards. However, we are afraid that none of them might come into force.

A draft bill which currently is in the parliamentary process<sup>1</sup> would introduce a new gender option "diverse" into German law. Though we welcome this step, this draft bill excludes all people whose condition is not medically proven as "differences of sex development" and therefore will apply only to a fraction of the people it is supposed to protect.

#### **A. Recommendation**

Which is why we invite you to make the following recommendation:

**To replace the "law on transsexuals" with gender recognition legislation which ensures a quick, transparent and accessible process based on self-determination, that is also open to minors, detainees, refugees, migrants and persons with disabilities.**

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<sup>1</sup> "Entwurf eines Gesetzes zur Änderung der in das Geburtenregister einzutragenden Angaben"

## **Challenge 2: Obtaining equal access to health care services that respect gender identities**

The medical system pays little attention to gender diverse peoples' particular health needs and fails to adequately train health care providers to address these needs.

Furthermore, the coverage of trans\* related medical treatment by health insurances is not based upon the social security code but only upon a few landmark decisions by social courts and in practice follows outdated guidelines. The ensuing situation is prone to arbitrary decisions by healthcare professionals and insurances and leaves many gender diverse people, especially in the countryside, struggling for even the most basic of medical support.

### **B. Recommendation**

Which is why we invite you to make the following recommendation:

**To incorporate trans\* related medical treatment into the social security code and to advance the development of an accessible health care structure for all people with gender diverse identities.**

### **Challenge 3: Protection of gender diverse children and youth against discrimination and physical harm**

Gender diverse minors are among the most vulnerable members of our society, as they regularly face discrimination, but are often not able to distance themselves from those contexts such as family or school.

Research has shown that gender diverse youth are more vulnerable to depression and suicide than their peers. This variation almost goes down to zero in minors who have been enabled to socially transition by a supporting environment.

Currently, gender diverse minors depend on *supportive* guardianship, this fails to recognize that many of these minors are not supported by their legal guardians.

#### **C. Recommendation**

We therefore invite you to make the following recommendation:

**To enable persons under guardianship to access the procedures of gender recognition legislation in the case of non-supporting guardianship.**

Thank you,