

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

GERMANY



Population: 80+ million



Stonewall Global Diversity Champions: 74



THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Germany is classified as a Zone 1 country, which means sexual acts between people of the same sex are legal and clear national employment protections exist for lesbian, gay, and bi people. Two further zones exist. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Articles 5, 9 and 8 of the Constitution protect the general **rights to freedom of expression, association and assembly**.

Each of these rights may be restricted under certain specified circumstances, but there are **no specific restrictions regarding the rights of LGBT people**.

FAMILY AND RELATIONSHIPS

Sexual acts between people of the same sex are **legal**.

There is an **equal age of consent** of 14 years for sexual acts regardless of gender under Article 176 of the Criminal Code.

Same-sex marriage was **legalised** on 01 October 2017 under Section 1353 of the Civil Code.

As a result, there are also **no marriage restrictions specific to trans people**.

Since 01 October 2017, **new registered partnerships cannot be entered** under the Registered Partnership Law (2001).

Existing registered partnerships remain but **can be converted into marriages** by a declaration of intention before a Notary Public.

Married same-sex couples have the **same rights to adopt** jointly as different-sex couples under Section 1741(2) of the Civil Code.

For registered partnerships, only second parent adoption is possible, and the registered partner can adopt the natural or adopted child of their partner under Section 9(7) of the Registered Partnership Law.

EQUALITY AND EMPLOYMENT

The Equal Treatment Act (2006) provides **protection from discrimination on the grounds of 'sexual identity'** in employment and occupation.

The same law also provides general **protection from discrimination based on 'sexual identity' in civil law** (Section 19) and in regard to the access to and supply of goods and services, among others (Section 2(8)).

Section 19a of the Fourth Book of the German Code of Social Law entails a **prohibition of discrimination on the grounds of** – among others – **'sexual identity'** with respect to the **claiming** of certain **benefits**.

According to a judgment of the German Federal Labour Court, the terms **'sexual identity' covers lesbian, gay, bi and trans people**.

Article 3(1) of the German Constitution states that all **people are equal before the law**. No explicit protection is provided regarding sexual orientation and gender identity.

Although not explicitly, Section 46(2) of the Criminal Code makes it possible to consider **hate crimes based on sexual orientation and gender identity** an **aggravating circumstance**.

GENDER IDENTITY

The Transgender Law (1980) provides trans people the **right to change** their **legal name** (Section 1) and/or their **legal gender** to 'female' or 'male' (Section 8).

Legal gender can be changed on **all identification documents including the birth certificate if** the legal gender change has been **confirmed by the court**.

Several **requirements need to be fulfilled** for the legal name or legal gender change. For example, the **person must have had an "obsessive sense of belonging to the opposite sex" for three years** and **two independent expert opinions** are needed **confirming** that the person's **gender identity will not change** in the future.

Medical interventions are **not a requirement** for the legal gender change.

IMMIGRATION

Section 27 (2) of the Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory **enables family reunification of same-sex couples if they are married or their partnership is officially registered** and is in substance equivalent to a German registered partnership.

German Asylum Law states that **persecution on the ground of sexual orientation or gender identity** is considered a valid **reason for granting asylum** (Section 3b (4)).

A VIEW FROM GERMANY

Markus Ulrich is communications officer at Lesben- und Schwulenverband in Deutschland (Lesbian and Gay Federation in Germany). LSVD is the largest LGBT-aligned NGO in Germany. The group aspires to establish legal and social equality for the LGBT community.



What is the lived situation for LGBT people in Germany?

The lived experiences of LGBT people in Germany depend very much on the wider context. For instance, experiences will differ depending on whether the person is a German citizen or not, if they live in a city or rural area, if they're disabled or not, if they're white or a person of colour and so on. Homophobia, biphobia and transphobia often intersect with other forms of discrimination.

Generally speaking, we've made advances in the acceptance of LGBT people. Studies have found that a majority of Germans support equal marriage and are against discrimination towards LGBT people. In 2017 Germany finally legalised same-sex marriage. The Federal Court also made a ground-breaking decision regarding gender identity: by the end of 2018, the government must legally recognise the existence of more than two genders. This means offering a third gender category in the civil status law or abolishing gender registration in this law all together. The decision is a huge step forward in the legal recognition of trans* and inter* people. On the other hand, around 40 per cent of Germans indicated that they find it repulsive to see two men kissing. There are also reservations on including LGBT topics in educational plans, although a few states have now done so. Populist movements have recently argued for a return to certain 'values' that marginalise LGBT people and contribute to a worrying societal divide.

What are the gaps in the legal framework and why do they still exist?

In recent years, Germany has fallen behind other European countries in terms of legal advances in LGBT equality. While this situation changed after the introduction of equal marriage, Germany's Basic Law provides for equality before the law but does not yet explicitly refer to sexual orientation or gender identity. Also still missing is a family law that legally recognises the diversity of families, including LGBT families in all of their lived varieties. Furthermore, the law relating to the rights of trans people was passed in 1980, so is outdated. Even though some of the criteria for legal gender change have since been overturned by the Constitutional Court, others remain.

The Conservative Union, which is currently the strongest political force, has historically acted as a barrier to legal progress. Although one quarter of party members voted for marriage equality, it remains to be seen if the party is willing to move away from a definition of conservatism based on the ignorance or degradation of gender and sexual diversity.

What problems do LGBT people face in the workplace?

Many LGBT employees are not out at work. Often the sentiment is that this would be irrelevant information. However, employers should think about the frequency with which straight people 'out' themselves – for instance when talking about their weekends, partner or holidays. Having to actively hide your sexual orientation can be very exhausting. This may have a negative impact both on the employees' well-being and performance. Employers could do more to create a welcoming atmosphere where LGBT employees feel able to be themselves.

In addition, trans people face numerous barriers even when seeking employment. For example, they have to change old transcripts and references to reflect their name and gender and may fear discrimination if they don't. In theory, trans people are protected by anti-discrimination laws, but this isn't always the case in everyday life.

What can employers do to support LGBT employees and the LGBT movement in Germany?

Employers should always assume that they have LGBT employees and reflect this in their internal communications. Doing so can send a signal of acceptance and inclusion, both internally and externally.

For example, summer party invitations can be written using gender-neutral language. Employers could also place job or other advertisements in LGBT press and fly the rainbow flag during Pride season. Anonymised application procedures are especially helpful for trans applicants. Bigger organisations can establish LGBT networks and straight allies' groups.

To support the LGBT movement in Germany, employers should always ensure their support is meaningful. It is always good to approach local LGBT groups and ask what is needed. This could be pro bono work, providing venues, helping with campaigns and so on.

LGBT INCLUSION IN THE WORKPLACE

THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Germany:

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| <ul style="list-style-type: none">  Consult local LGBT organisations to understand the local context for LGBT people  Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies | <ul style="list-style-type: none">  Train HR staff and promote inclusive policies  Carry out LGBT-inclusive diversity training  Encourage senior managers to promote their commitment to LGBT inclusion and equality |
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NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

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| <ul style="list-style-type: none">  Audit and extend equal benefits to LGBT partners  Establish employee engagement mechanisms like LGBT networks and allies programmes  Carry out LGBT awareness-raising events | <ul style="list-style-type: none">  Partner with local LGBT groups to advance LGBT equality beyond the workplace  Work with suppliers and partners to advance LGBT workplace equality |
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Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. www.stonewall.org.uk/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Freshfields Bruckhaus Deringer Halo is Freshfields Bruckhaus Deringer's (Freshfields) global LGBT+ employee network. The local network chapter in Germany has over 20 active members across all offices in the country. Halo hosts a global conference every two years, and Halo in Germany runs an annual conference. These conferences include various networking and development sessions on topics such as the importance of LGBT+ role models. Non-LGBT+ staff can actively support and promote sexual orientation and gender identity equality through participating in the Halo Champions network. Launched in 2014, Halo Champions now has over 190 members worldwide. Local senior leaders' active promotion of both networks has been instrumental in the success of Halo and Halo Champions in Germany. Freshfields also trains staff on LGBT+ issues in Germany. When starting at Freshfields, all employees must complete e-learning on German anti-discrimination law; this law includes sexual identity as a non-permissible basis for discrimination. At the regional induction, lawyers attend a diversity and inclusion session, which consists of a conversation about LGBT+ diversity, an introduction to Halo and its goals, and an invitation to join Halo or the Halo Champions network. In addition, the firm actively promotes itself to young LGBT+ recruits. For instance, Freshfields hosts an annual 'Out and About' recruitment event targeted at LGBT+ law graduates and is annually represented at 'Sticks and Stones', an LGBT+ careers fair in Berlin. These events have led to several recruitment success stories. Freshfields also undertakes LGBT+ rights-related pro bono work. For example, partners and other staff in the German offices worked with their colleagues in Italy to help an Italian trans man living in Germany obtain his legal name and gender change under Italian law, a fight which took over six years. His case was successfully closed recently.

Procter & Gamble Equal opportunities, as well as diversity and inclusion, are essential elements of Procter & Gamble's (P&G) corporate culture. The firm's policies expressly prohibit discrimination based on sexual orientation and gender identity. Partner-related employee benefits apply regardless of the partner's gender. In 2014, P&G launched its LGBT and allies network, GABLE, in Germany. The network aims to create a workplace atmosphere where every LGBT employee can bring their whole self to work. Allies are seen as essential for reaching this goal. They are trained to be responsible for their own actions and to intervene when they hear or see behaviour and language that discriminates against LGBT people. Allies are also provided with merchandise allowing them to show visible support for the LGBT community. Every March, P&G celebrates its diversity and inclusion week. GABLE uses this week to inform the organisation about its aims and goals, as well as to recruit and train new members. Since its launch, GABLE has rapidly grown and now works across 10 office and manufacturing plant locations in Germany, both in cities and more rural areas. The network's success is furthered by supportive leadership, with three sponsors at senior management level.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

May – XPOSED Queer Film Festival. www.xposedfilmfestival.com

August – Sticks & Stones LGBT Job and Career Fair. www.sticks-and-stones.com

June / July – Cologne Pride and Christopher Street Day. www.colognepride.de

July – Christopher Street Day Berlin Pride. www.csd-berlin.de

Check the events websites for the most up-to-date information on dates.

July – Christopher Street Day Munich Pride. www.csdmuenchen.de

July/August – Hamburg Pride Christopher Street Day. www.hamburg-pride.de

October – Queer Film Festival Munich. www.qffm.de



FIND LGBT GROUPS AND COMMUNITIES

Antidiskriminierungsstelle des Bundes – a state organisation supporting people who have experienced discrimination on grounds of ethnicity, gender, religion, disability, age, and 'sexual identity', as well as providing information and conducting research. www.antidiskriminierungsstelle.de

Centrum Schwule Geschichte – a Cologne-based centre maintaining a public library and archives relating to the history of homosexuality and activism in Germany, as well as organising exhibitions, lectures and events. www.csgkoeln.org

Lesben- und Schwulenverband in Deutschland – an organisation working to establish complete legal and social equality for the LGBT community through policy work, campaigns, education and community work. www.lsvd.de

MANEO – a Berlin-based anti-violence and anti-hate crime group educating against homophobic abuse and offering counselling and recovery services to victims. www.maneo.de

Mann-O-Meter – a Berlin-based group providing HIV/AIDS related health services and acting as a switchboard to connect tourists and residents with LGBT events, organisations and individuals. www.mann-o-meter.de

PROUT AT WORK – an organisation working with employers to advance workplace equality for LGBT*IQ people. www.proutatwork.de

Queer Refugees Deutschland – a project connecting, supporting and advising LGBTI refugees and organisations working with them. www.queer-refugees.de

Völklinger Kreis – a network for gay business leaders and managers, providing personal and professional networking opportunities and lobbying for equal opportunities in the workplace and beyond. www.vk-online.de

Wirtschaftsweiber – a network for lesbian businesswomen providing professional networking and development opportunities. www.wirtschaftsweiber.de



GET LOCAL LGBT NEWS

L.MAG – an online and printed magazine for lesbians. www.l-mag.de

respekt! – a political magazine run by the LGBT organisation LSVD. www.lsvd.de/presse/respekt.html



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 74 ORGANISATIONS OPERATING IN GERMANY.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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Freshfields Bruckhaus Deringer

Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of July 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)