



Federal Working Group
GLBTI

United Services Union

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Only via mail uprsubmissions@ohchr.org

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Ihre Zeichen
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Highly revered Excellencies,

Ver.di (united services union) is the second largest single trade union in Europe. The federal working group GLBTI is an association of all local GLBTI working groups inside ver.di in Germany.

We want report on problems in the implementation of human rights in Germany for people with HIV and AIDS and for transsexual and intersexual people.

1. On the situation of people with HIV and AIDS in Germany

Life for infected HIV persons in Germany has clearly improved in the last decades, especially with the introduction of ART (Anti Retroviral Therapy). These have saved and are saving the lives of infected and sick persons and a deadly sickness has become a chronic sickness in Germany. This therapy also reduces the cross-infection risk so decisively that people with a functioning therapy not only have an almost normal life-expectancy, but are no longer infectious, which means they and their partner are greatly relieved. In addition there no longer exist any occupational bans or legal limitation on the choice of work-place.

Nevertheless the Federal Working Committee, representing working LGBTI people views with concern the still existing discrimination and stigmatisation of HIV infected persons in the Federal Republic of Germany. People with HIV are excluded from their families, experience insults and slander, are rejected by doctors, and their right to informational self-determination are violated. Although today more than two thirds of HIV persons in Germany are employed, there still exists mobbing and dismissals based on HIV infection.

The Federal German Government sticks fast to the idea that the Anti-Discrimination law provides no protection for HIV persons and other seriously chronically sick persons.

The United Services trade union (ver.di) based on decisions at their federal congress held in 2007 demands that HIV and other chronic sicknesses should be protected by Paragraph 1 of the General Equality Act (Allgemeinen Gleichbehandlungsgesetzes (AGG)).

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In addition the non-infectiousness of functioning ART had not yet been fully accepted by the Federal Government. In many judicial proceedings concerning the punishment of HIV transmission this has not been accepted since the courts still give the HIV-partner the sole responsibility for protecting against transmission.

According to our position **both** partners in a freely-decided sexual meeting should always carry the same responsibility for protection against HIV transmission. According to the recommendations of the UNAIDS HIV-related specific crimes should be eliminated.

2. On the situation of transgendered people in Germany

Although the German Supreme Court (Bundesverfassungsgericht) has over the years has made several rulings on the German gender recognition act of 1980 (Transsexuellengesetz - TSG), the prerequisites of having undergone sex-reassignment surgery and proof of infertility were only finally deemed unconstitutional and thus no longer applicable, in 2011. For 30 years transpeople in Germany were forced to comply with those and other unconstitutional regulations if they wanted legal recognition of their gender.

Nevertheless *ver.di* is still deeply concerned that the requirements for a change of first name(s) according to §§ 1, 3 and 4 and also § 7 TSG are a violation of people's privacy if not their human rights, and that transgendered people, even those who have gone through the procedure of getting their new name and legal gender officially recognised according to § 1 and § 8 TSG still face discrimination by authorities, employers and companies. (footnote 1)

Ver.di urges the German government to implement EU-guidelines and international human rights standards by adopting *expeditious* procedures to enable legal name and gender change, by raising awareness on gender identity issues and making equality a reality, by guaranteeing trans-people specific health care provisions (footnote 2) and by protecting people and their privacy.

3. On the situation of intersexual people in Germany

We of the Federal Working Committee of Lesbians, Gays, Bisexuals, Transgender and Intersexual people of the United Services trade union (**ver.di**) are very concerned that the Federal German Government are not transposing effectively the equality of intersexual people and their legal recognition, despite

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being aware of the statements of the Committee. It is thanks to the national and international bans on discrimination that in Germany “gender” as a legal terminology is losing importance, unless it concerns the ban on discrimination on the basis of gender. Despite this German law still holds fast to the gender of a person being recorded in a birth certificate (§ 59 Abs. 1 Nr. 2 Personenstandsgesetz) and passport (§ 4 Abs. 1 Nr. 6 Passgesetz) as well as in the Register of Births (§ 21 Abs. 1 Nr. 3 Personenstandsgesetz).

This regulation leads to intersexual children *must* be registered under either the category of “female” or “male” and that they are bound to the here registered gender (the legal gender).

Including when the gender identity (meaning the identity as experienced and felt by the individual concerned) and which develops in the course of life, is another one.

In relation to gender correction operations, „*Intersexuelle Menschen e. V.*“ with its seat in Hamburg, has reported many times to the UN Committees (CEDAW, ICESCR and to CAT) People who have suffered these gender correction interventions without their informed agreement, suffer life-long and experience no legal protection from the Federal Republic of Germany which must be changed.

The United Services trade union (ver.di) demands that in accordance with the decisions of the general Federal Congress (2011) that the rights of intersexual people, as well as the parity with men and women should be implemented without delay. We agree with the statement of the German Ethical Council of 23.02.12 and demand the physical and mental Integrity and right to self-determination be preserved.

¹ Vgl. Adamietz, Laura (2012): Geschlechtsidentität im deutschen Recht, (Gender Identity in German law) in: Aus Politik und Zeitgeschichte, 62. Jahrgang, 20-21/21012 of 14th. May 2012, published by Bundeszentrale für politische Bildung, (Federal Centre for political education) Bonn

Sincerely yours



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