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Human Rights Section
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Submission to the Commission on the Status of women

Dear Sirs and Madams,

We hereby complain about some of the breaches by Germany of international agreements that were set up to promote the advancement and safety of women and girls. We also document the failing commitment of Germany in all the above regards. In the following, we describe breaches that occur in the areas of political participation of women, discrimination towards women, girls, mothers and lesbians by erasing the category of sex, state supported hostility and discrimination against women who defend the sex-based rights of women and girls, and growing violence and discrimination against women and girls as a result of Germany's policies on prostitution politics.

Discrimination against women on shortlists at two political parties

The German Green Party (Bündnis 90/Die Grünen) and the Social Democratic Party (SPD) are both discriminating against women in politics on the basis of sex. The parties have a 50:50 quota for women who run as candidates for mandates in the German Bundestag. Currently, three men claiming a female "gender identity" who are running as candidates for the federal elections are listed by the Green Party as women. The party thus prevents three women, defined as adult human female, from running for the Bundestag for the benefit of three men (adult human males). These men call themselves Tessa Ganserer,¹ Nyke Slavik,² and Victoria Broßart.³ The same thing happens with a male member of the SPD who claims to have a female "gender identity". By having him run for election while being listed as a woman, the party potentially denies a woman her legitimate mandate in the Bundestag.⁴

¹ <https://www.sueddeutsche.de/bayern/parteien-augsburg-gruenen-nominieren-transfrau-tessa-ganserer-fuer-den-bundestag-dpa.urn-newsml-dpa-com-20090101-210418-99-251779>

² <https://gruene-lev.de/volltext/article/unsere-kandidatin-nyke-slavik-erobert-den-aussichtsreichen-listenplatz-11/>

³ <https://gruene-rosenheim-stadt.de/victoria-brossart-qa-mit-unserer-bundestagskandidatin/>

⁴ <https://www.rtl.de/cms/berlin-ria-ist-polizistin-und-trans-frau-so-reagierte-die-behoerde-4602489.html>

Discrimination against women in sports

In Germany, men who claim a female “gender identity” are allowed to compete against women in all kinds of sports. These five men were praised in the media for doing so:

- Amanda Reiter, athletic, <https://www.sueddeutsche.de/bayern/lenggries-transsexuelle-laeuferin-wird-fuer-siege-kritisiert-1.3262748>
- Nicole Schnaß, triathlon, <https://www.spiegel.de/spiegel/a-654631.html>
- Hannah Aram, freeride ski, <https://www.sueddeutsche.de/muenchen/freeride-transfrau-ski-1.4348293>
- Jessica Langer, soccer, <https://www.dfb.de/news/detail/jessicas-langer-weg-zum-ich-216880/>
- Shania Swenja Grassat, soccer: <https://www.hna.de/content/hna/downloads/pdf/artikel.pdf>

“Self-identification” of sex

The current legislation allows changing the “legal sex” of a person under certain conditions. In practice though, there are hardly any applicants who are rejected, which renders this law [Transsexuellengesetz] into a de facto self-ID law. Moreover, the consequences for women’s rights, privacy and safety were not assessed when the law has been passed in 1980.⁵ Until today, no safeguarding of women exists around the change of the sex entry for male individuals who claim a female “gender identity”. Men who change their sex entry into female are not featured in any statistic as male and therefore distort the statistics that are used for the development of policies. There is no policy in Germany equivalent to the British Equality Act (2010) that protects single sex services.⁶ Therefore, boys and men claiming to have a female “gender identity” are entering single sex facilities or using services established for women even though there does not officially exist a law for “self identification” of sex. This can be found in Germany at single sex services that were set up explicitly for female victims of sexual violence⁷ or physical violence (women’s shelters)⁸ or at advice centres for lesbians.⁹ At this time, a man who claims a female “gender identity” leads a coming out group for lesbians in a Berlin based lesbian archive.¹⁰

Women who reject the notion that men with a claimed female “gender identity” can become or be women, who perceive it as a violation of their boundaries if these men enter female only spaces or who wish to be in female only spaces for any reason are thus practically excluded and discriminated against within single sex services for women in Germany. The same applies for women who would want to apply for a job in facilities which provide these services.

The German government set up a public hearing on 2 November 2020, at which it discussed a

⁵ <https://www.gesetze-im-internet.de/tsg/BJNR016540980.html>

⁶ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

⁷ <http://www.wildwasser-berlin.de/>

⁸ <http://www.frauenhaus-hannover.org/aktuelles-archiv/frauenhaus24-sofortaufnahme-fuer-gewaltbetroffene-frauen-und-ihre-kinder.html>; <https://www.frauen-gegen-gewalt.de/de/organisation/frauenhaus-gotha.html>;

⁹ <https://lesbenberatung-berlin.de/Aktuelles.html>, <https://lesmigras.de/selbstverstaendnis.html>, <https://www.frauenberatungsstelle.de/pages/lesben/thema.php>

¹⁰ <http://www.spinnboden.de/beratung/selbsthilfegruppen.html>; <https://jennywilken.jimdofree.com/>



proposal by the German Green Party and the Liberal Party (FDP) for a law for “self identification” of sex on the basis of a subjectively perceived “sex identity”. Women’s rights advocates who base the term woman on material reality and use the UN definition of sex which defines it as “the physical and biological characteristics that distinguish males from females”¹¹ were not invited to take part at this hearing, even though they (for example, the Women’s Human Rights Campaign) offered their expertise.¹²

The same applies for the “law for protection of conversion treatments” that was passed by the German Bundestag in May 2020.¹³ This law included the notion of “gender identity” [in Germany literally called “sex identity”] to be “protected” of being “changed” by therapists, parents, or teachers. Neither was the perspective of advocates for women’s sex-based rights included at the public hearing or during the whole consultation process, nor the perspective of “detransitioners” (men and women who recover from using the medical or surgical interventions provided by the gender industry).

Germany acted in the examples above in breach of CEDAW:

- (Preamble) “Recalling that **discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries,** hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity”, and
- (Article 7) “**States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:**
(b) **To participate in the formulation of government policy and the implementation thereof** and to hold public office and perform all public functions at all levels of government;

Erasing women, erasing lesbians

The word “women” and other female specific words are erased in many areas related to public financed or co-funded institutions. For example, political parties use terms such as “pregnant bodies”, “pregnant people” and other language that degrades women and girls within the process of legislative initiatives.¹⁴ Universities compel students to use words that suggest the notion of sex as a spectrum and words that erase women, for instance by requesting an asterisk behind words that

¹¹ Gender Equality Glossary, UN Women

¹²https://www.bundestag.de/ausschuesse/a04_innenausschuss/anhoerungen?url=L2F1c3NjaHVlc3NIL2EwNF9pbm5lbmF1c3NjaHVzcy9hbmhvZXJ1bmdlbi84MDEzMzgtODAxMTM4P2ZiY2xpZD1Jd0FSM1FtZmNMZmxmVGw2R01nVFRUNUo2QWpHMW4ta2hhWDdxa3BxdzVFMi1FclQ2SjcyEt5STJEczAw&mod=mod541724

¹³ <https://www.gesetze-im-internet.de/konvbehschg/BJNR128500020.html>

¹⁴ Proposal about sexual reproductive rights by the party Die Linke

<https://dserver.bundestag.de/btd/19/269/1926980.pdf>; see also our written statement:

<https://womensdeclaration.com/en/country-info/germany/>

refer to the sex of groups and discouraging linguistic solutions that refer to the binary nature of sex.¹⁵

A website that is set up and run by the Ministry of Families, Seniors, Women and Youth uses language that erases the material reality of the binary nature of sex and women as a concrete category by using a vocabulary of “gender identity”.¹⁶ The site informs the public uncritically about puberty blockers and cross-sex hormones, as if these were harmless products for everyday consumption. It frames interventionist hormones and surgeries with a wide range of harmful effects as “health care”.¹⁷ The site frames experimental medical interventions by the gender industry and body dissociation as a “personal decision” and strongly condemns current legally demanded psychiatric requirements for changing one’s sex entry.¹⁸ With a design layout aiming to attract children and teenagers, it is in practice an advertisement for the gender industry instead of a neutral source of information for the general public.

The same ministry commissioned a study on lesbians in 2020. The publication produced showed that the category of lesbians in this study included men who defined themselves as lesbians. This constitutes a discrimination against lesbians on the basis of sex, and thereby a breach of CEDAW.¹⁹

Open hostility towards women who defend sex-based rights by state funded/provided services

Specialized agencies of the City of Munich have defamed our campaign in a “professional assessment”. The document was produced by the “Equality Office for Women”, the “Specialist Office for Democracy” and the “Coordination Office for LGBTIQ Equality”. In this document, the agencies “assessed” the Declaration on Women’s Sex-Based Rights²⁰ and spread their “assessment” widely to many women services in Munich in October 2020 (the document itself is undated). The “assessment” emphasizes the support of the mayor of Munich and claims that the Declaration, that defends women’s sex-based rights, was “anti-trans”, “anti-gender”, “hostile against gender identities and intersex people” and “dehumanizing”. Municipal counselling aids, among them explicitly lesbian-focused services, disseminated these statements in social media and on their websites, including the “Lesbentelefon e.V.”, “LeTRa Lesbenberatung”, “LeZ Lesbisch-queeres Zentrum”, “Treffpunkt, Fach- und Beratungsstelle Regenbogenfamilie”, “Aids-Hilfe München” and the addiction counselling center “Condrops”. Moreover, in 2020 the city of Munich requested the names of members of a radical feminist group that met in a women's centre in Munich.²¹

¹⁵ <https://www.gleichstellungsbuero.uni-freiburg.de/de/download/broschueren/Leitlinie%20geschlechtersensible%20Sprache.pdf>

¹⁶ For example: “Trans men and non-binary people can get pregnant”,
<https://www.regenbogenportal.de/informationen/trans-elternschaft>

¹⁷ <https://www.regenbogenportal.de/informationen/gesundheitsversorgung-von-transgeschlechtlichen-menschen>

¹⁸ Ebd.

¹⁹ “Advancing liveable lives for lesbians in Europe – Intersectional challenges and future policymaking”, edited by Dr. Stefanie Boulila,
<https://static1.squarespace.com/static/5cbc8e61fd67936e5b006c6a/t/5fb40a652b231537f53ebd2b/1605634664036/Boulila+Advancing+Liveable+Lives.pdf>

²⁰ <https://womensdeclaration.com/en/declaration-womens-sex-based-rights-full-text/>

²¹ personal information from one of the affected women

A second occurrence is the following. After the yearly organized Lesbian Spring Gathering (“Lesbenfrühlingstreffen”) announced this year’s program in May 2021, in which lesbian feminists defending sex-based rights were to be present in workshops and exhibiting organizations (us among others), a politician withdrew her patronage from the Gathering. The Magnus-Hirschfeld-Foundation, a state funded foundation, publicly criticised the program and regretted its financial contribution as well. In addition, a wide range of media outlets defamed the women and organizations involved.²² The city of Bremen withdrew its pledged funds for the Gathering as well as an association that claims to represent the interests of lesbians (Lesbenring e.V.) distancing itself officially.²³ A further reason for the moral outcry by these parties was that men with a claimed female “gender identity” were not explicitly addressed in the public invitation of the Lesbian Spring Gathering, even though these men have been allowed to participate (to the regret of some lesbians).²⁴

In these occurrences, Germany actively was involved in breaching the UN Declaration of Human Rights (1948) which states that:

- “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance” (Article 18),
- “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (Article 19), and
- “Everyone has the right to freedom of peaceful assembly and association” (Article 20).

Moreover, Germany was involved in breaches of the following rights as defined in the European Convention of Human Rights and Fundamental Freedoms (1950):

- Freedom of expression (Article 10)
 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and **to receive and impart information and ideas without interference by public authority** and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- Freedom of assembly and association (Article 11)
 1. Everyone has the right to freedom of peaceful assembly and **to freedom of association with others**, including the right to form and to join trade unions for the protection of his interests.
 2. **No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety**, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not

²² <https://www.emma.de/artikel/cancel-culture-gegen-lesben-338675>; in English: <https://lesbianandgaynews.com/2021/04/germanys-oldest-lesbian-festival-under-sustained-attack-by-transgender-activists-for-hosting-women-only-workshops-and-feminist-speakers/>; <https://www.tagesspiegel.de/gesellschaft/queerspiegel/wegen-transfeindlichkeit-lesbenfruehlingstreffen-in-der-kritik/27156972.html>

²³ <https://lesbenring.de/pressemitteilung-zu-lesbenfruehlingstreffen-2021/>

²⁴ For more details on the Gathering, visit their website: <https://lft2021.de/>

prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Prostitution

The current legislation in Germany, with its focus on regulation frames prostitution as a “profession”. It neglects the structural sex-based differences and dynamics within this form of violence. It reinforces the objectification of and violence against women as well as harmful sex role stereotypes. Regulating prostitution promotes the idea that women ought to sexually service men and that sexual abuse of women and girls by men in exchange of money is a natural condition of (any) society which can never be changed for the better (see also the shadow report by Alliance Nordic model).²⁵

With its prostitution politics, Germany not only violates the German constitutional requirement to protect the inviolable dignity of every human being (Article 1 (1)) but also the constitutional obligation to “promote the actual implementation of equal rights for women and men and work[s] towards the elimination of existing disadvantages” (Article 3 (2)). Instead, Germany gives women who are prostituted by men a list of advice on what to do individually to prevent oneself from becoming a victim of violence. For example: “Do not wear long chains or scarves/shawls” (strangulation incentive) and “in an emergency, take off shoes and run away in the opposite direction of travel.”²⁶

The German state also fulfils the role of a pimp because it profits financially from the sexual abuse of women and girls, that is prostitution. Women and girls who are victimized in Germany as “prostitutes” are obliged to pay an amount of the earned financial compensation to the German state as taxes.

With its prostitution politics, Germany breaches international obligations, for example as ratified in the Palermo Protocol which dictates member states to discourage demand that fosters all forms of exploitation of persons that lead to human trafficking²⁷. Existing German prostitution politics also constitute a breach with Article 6 of CEDAW (1979) that obligates states to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”.

As the shadow report by the Alliance for Nordic Model (2020) describes in relation to the German situation, “state-subsidised counselling centres have often already become part of the prostitution system. The free health examinations and treatments make the women ready for prostitution again. The self-image of many counselling centres as quasi-union support for the ‘sex workers’ also prevents them from focusing on the exit. Even agreements between support services and brothel operators are no longer taboo - in Karlsruhe, a church organisation financed with tax money has concluded an agreement with brothel operators with the aim of jointly developing and implementing

²⁵ <https://rm.coe.int/2021-07-09-alliance-nordic-model-shadow-report/1680a33a24>

²⁶ Guideline of the Ministry of Family Affairs on health counselling according to § 10 of the Prostitutes Protection Act ProstschG

²⁷ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000; reinforced by the Council of Europe Convention on Action against Trafficking in Human Beings



a seal of quality for brothels!" Round tables on prostitution welcome brothel operators (i.e. pimps). There are hardly any support services that help women to exit prostitution.

With kind regards,

Women's Human Rights Campaign Germany