

Interview with Gunda Schumann, board member of the lesbian action center (LAZ) reloaded e.V., on the ruling of the British Supreme Court "For Women Scotland Ltd (Appellant) v The Scottish Ministers (Respondent)" of April 16, 2025

1. Ms. Schumann, you are known as a feminist lawyer and activist who has been campaigning for the rights of women, girls and lesbians in particular for decades. On April 16, 2025, the British Supreme Court handed down a landmark ruling on the Equality Act of 2010. The decision reaffirms that "sex" and "woman" in the Equality Act have always meant "sex" and "woman" according to the biological definition. The long-standing practice of granting men the status of "woman" via a "Gender Recognition Certificate", with far-reaching consequences, was therefore a breach of the Equality Act. Can you briefly explain what this ruling is about and why it is so important from a feminist perspective?

Answer: The Supreme Court ruling is about the interpretation of laws.¹ The focus is on the question of how the above-mentioned terms "woman", "female", "gender", etc., are to be interpreted in the EA 2010 (Equality Act). The case law and methodology (language, contextual and historical interpretation) used for this are complex. What is important is whether the terms used by Parliament in the EA 2010 to protect women and trans people from discrimination have a coherent and predictable meaning. The result is that the aforementioned terms in the EA 2010 are based on biological sex. This is "binary"; there are therefore only "women" and "men", which is "self-explanatory". This logically means that people of the male sex who have a GRC (Gender Recognition Certificate) do not belong to the protected category of "sex", which protects biological women. Trans people are independently protected from discrimination by the category "gender reassignment".

The Supreme Court's ruling is significant from a feminist perspective because the practical merging of sex and gender identity which the Scottish government has even enshrined in law, means that decades of discrimination and harassment of women who are gender-critical or simply want to be among themselves, has been abolished in one fell swoop. This is now applicable law,

¹ "25. the central issue in this appeal is whether references in the EA 2010 [Equality Act] to a person's 'sex' and to 'woman' and 'female' are to be interpreted in the light of section 9 of the GRA [Gender Recognition Act] 2004 as including persons who have an acquired gender by virtue of holding a GRC [Gender Recognition Certificate].", https://supremecourt.uk/uploads/uksc_2024_0042_judgment_aea6c48cee.pdf

which must be put into practice after 15 years of applied transgender ideology.²

2. The ruling strengthens women's rights and thus also reserves spaces such as women's prisons, women's showers or women's sports for women only. A so-called "Gender Recognition Certificate" (GRC) no longer allows men to use women's spaces. Feminist international law expert Alessandra Asteriti nevertheless criticizes the fact that the terminology in the ruling remains ambiguous, which creates legal uncertainty. Do you share this criticism and where do you think clearer terminology is needed?

Answer: Alessandra Asteriti criticizes, among other things, that the Supreme Court has not defined the term "gender (reassignment)". Is gender (social sex) an "assumed sex", is it equivalent to biological sex or is it something else, e.g. a belief? Can "other attributes of gender" that are assumed also be e.g. name, clothing or hair? That would point to gender role stereotypes. Ms. Asteriti fears that the lack of a definition of "gender" versus "sex" could cause the necessary demarcations to falter again and create problems in practice.

The Supreme Court also uses language that stems from transgender ideology (e.g. "trans woman", "trans man" instead of "transsexual"; "aquired gender" is used synonymously with "aquired sex". Under the heading "Living in the assumed gender", the Court mentions a case in which the need of a person with a female gender identity for a "functional penis that enables an erection and genital sexual reactions" is at issue).

I am also critical of the use of transgender terminology but consider the definition of "sex" as "biological" and binary and the distinction between "gender reassignment" and sex to be sufficient to restore women's rights in practice, especially as the UK does not have a "self-ID" law.

3. As we understand it, the ruling also makes it possible to exclude women with a GRC "male" from women's spaces in justified individual cases. This corresponds to the frequently cited example that women have manipulated their bodies with testosterone and plastic surgery to such an extent that they appear male and could cause irritation in women's toilets or, in particular, violence protection facilities for women. Could you explain in more detail how the ruling provides clarity for these cases of conflict?

² For the implementation of the ruling in practice, see Maya Forstater in the interview <https://www.youtube.com/watch?v=kqTG9n4icmw&pp=ygUdVHJpZ2dldm5vbWV0cnkgbWF5YSBmb3JzdGF0ZXI%3D>

Response: One of the guiding arguments as to why the Supreme Court assumes that "sex" in the EA 2010 is about biological sex is pregnant or breastfeeding women with a male gender identity. In their reproductive capacity, they would be discriminated against as biological females from certain health care services provided under the EA 2010, contrary to the entire purpose of the EA 2010.

On the other hand, the court states that masculine-looking women with a male gender identity can be excluded from sex-specific facilities for women without being able to claim discrimination under the "gender reassignment" criterion.

However, the Supreme Court does not go any further into the practical consequences of its ruling. On the internet (<https://knowingius.org/p/sex-has-always-meant-biological-sex>), it is suggested that trans people should be provided with separate services and premises.³

4. The Supreme Court also took into account a statement by the LGB Alliance, Scottish Lesbians and Lesbian Persistence. You are also a leader in the organization LBOR International (Lesbian Bill of Rights International). How do you rate the ruling for the rights of lesbians and especially for their right to assemble without men, which is currently banned in Australia, for example?

Answer: The ruling is undoubtedly a "landslide victory" for lesbians in the UK as it restores their dignity. LBORI celebrates this! The definition of "lesbian" has connotations with the term "woman". "Lesbian" and "gay" refers to same-sex orientation. The court is convinced that the access of men with a GRC to lesbian spaces renders the concept of sexual orientation meaningless. It is clear from the ruling that lesbians who wish to congregate in whatever form may lawfully exclude men, whether they have a GRC or not. However, some lesbians also warn of the hateful reactions of the transgender community to the ruling (Jenny Willmott, scottishlesbians@substack.com).

The Australian Sex Discrimination Act does not define "sex" in biological terms but has replaced it with a self-declaration of sex. For this reason, the plaintiff Lesbian Action Group (LAG) finds it difficult to enforce freedom of association for lesbians as biological women.

5. The ruling has made big waves in the UK, and the Netherlands also recently overturned its self-determination law. What consequences could the Supreme

³ See also *Equality and Human Rights Commission, Interim Update 25 April, 2025* (<https://www.equalityhumanrights.com/media-centre/interim-update-practical-implications-uk-supreme-court-judgment>).

Court's ruling have internationally - especially for countries that have introduced or are planning to introduce gender self-identification laws?

Answer: Unfortunately, the Supreme Court's ruling has no direct consequences for countries that have already introduced self-ID (including Germany) or are planning to do so. At best, it can serve as a positive example for the recognition of sex-based women's/lesbian rights and provide arguments for those politicians who are willing to take action against discrimination against women/lesbians.

6. The EU continues to promote "gender identity" as a legal fiction and is even expanding its influence. Do you think that the Supreme Court ruling can also persuade the EU to change its position and how could influence be exerted at EU level to strengthen the gender-based rights of girls and women again?

Answer: The EU will be unimpressed by the ruling because the UK has left the EU. Now it is up to the women's (organizations) at European level (e.g. European Women's Lobby) to exert political influence. The newly founded organization WoPAI (Womens Platform for Action International with the Swedish Women's Lobby as initiator) could also be a player.

7. In Germany, the Self-Determination Act has allowed anyone to change their sex entry by self-disclosure since November 2024 - an approach that the British ruling now calls into question. What impact could the ruling have on the German legal situation, in particular on the SBGG?

Answer: As already mentioned, the UK does not have a self-ID law, whereas Germany does. Here, too, it would be primarily the politicians of the Union (CDU/CSU) who will be in power in the future who would have to bring down the Self-ID Act, or at least drastically reform it. The arguments on discrimination against women and lesbians due to the confusion of sex and gender identity through incoherent terminology can be found in abundance in the judgment. These would have to be taken up accordingly by Union politicians with social pressure from gender-critical women.

8. Unfortunately, the German press has predominantly reported in a very one-sided way and framed the story in such a way that "trans women are denied women's rights", so-called "trans children" no longer have a right to exist in the UK and USA and JK Rowling supported and financed the procedure out of pure hatred for "trans people". This one-sided and distorted narrative is also being spread on social media by influencer accounts. The media has a huge influence on opinion formation. How can this one-sided portrayal be counteracted and the importance

of sex-based rights for girls and women be strengthened in the public consciousness?

Answer: The starting point in Germany would be the increasing tendency to restrict freedom of opinion. The media lawyer Ralf Höcker has written an excellent article on this problem in the Berliner Zeitung, <https://www.berliner-zeitung.de/politik-gesellschaft/das-luegenverbot-der-bundesregierung-angriff-auf-die-meinungsfreiheit-und-gefahr-fuer-die-demokratie-li.2317586> .

To combat the restriction of freedom of expression, the initiatives of politicians who stand up for women's rights and gender-critical women are needed to counter the woke bubble (see <https://www.laz-reloaded.de/aktuelles/>).

Note: The articles in Cicero (Faika El-Nagashi, 19 April), NZZ (Niklaus Nuspliger, London, 16 April), and WELT (17 April) are informative.

9. The SBGG is often referred to by critics like you as a 'men's rights law' because it endangers women's safe spaces. Could the Supreme Court's ruling help to abolish the SBGG, and if so, in what way?

Answer: Unfortunately, the ruling of the British Supreme Court can hardly help on a legal level, as the legal bases in the two countries are completely different. The UK has no self-ID law, but a transgender ideology that has covered all areas of society like mildew since 2010. It will take some effort and time to change all this in favor of women/lesbians again.

In Germany, transgender ideology is not yet as widespread as in the UK, but we do have a self-ID law. The Federal Constitutional Court's departure from the binary concept of gender enshrined in Article 3 (2) of the Basic Law in favor of self-determined sex⁴ does not bode well for any constitutional complaints by women/lesbians.

That leaves only the political and social campaign level in Germany to turn the tide on the SBGG.

10. The AfD parliamentary group's spokesperson on family policy, Martin Reichardt, reacted immediately to the Supreme Court ruling and called for the abolition of the SBGG. The CDU/CSU, on the other hand, have not commented at all on this court ruling, although they had also expressed their desire to abolish the SBGG

⁴ Cf. the expert opinion by the lawyers Jacob and Dr. Märker on the draft SBGG, https://storage.e.jimdo.com/file/5e295889-f93a-4280-94d0-29e564498f48/Gutachten_SBBG.pdf; cf. also Third Option, BVerfG, decision of the First Senate of October 10, 2017 - 1 BvR 2019/16, BVerfG, decision of the First Senate of December 6, 2005 - 1 BvL 3/03 -, para. 1-73, Prohibition of marriage following a change of first name: "lesbian" trans woman', http://www.bverfg.de/e/ls20051206_1bvl000303.html, BVerfG 2005, para. 39; BVerfG, Order of the First Senate of 11.01.2011 - 1 BvR 3295/07-, para. 1-82 -, - Registered civil partnership only with surgical intervention: "lesbian" trans woman', http://www.bverfg.de/e/rs20110111_1bvr329507.html, BVerfG 2011, para. 76).

during the election campaign. All that remains in the coalition agreement is the plan to evaluate the law by 2026. How do you assess the stance of the two parties on these issues and how do you see the chances of a decision being reached?

Answer: The abolition of the SBGG announced in the CDU/CSU election manifesto will not be enforceable in the black-red coalition. The CSU/CSU women are strong (e.g. Dorothee Bär, Susanne Hierl, Sylvia Breher), but not strong enough. Once the Federal Government has been constituted, gender-critical women/lesbians should contact the new family/education minister as soon as possible in order to increase the chances of a critical evaluation based on the criteria set out in the coalition agreement⁵:

- *effects on children and young people,*
 - *the deadlines for changing the sex entry and*
 - *the effective protection of women*
- on the reform of the SBGG.⁶

11. With the ruling in mind, what strategies would you suggest for seeking the abolition of the Self-Determination Act in Germany? Are you thinking of legal, political or social approaches - and how do you assess the influence of the many grassroots organizations? Do you also believe that a women's ministry under Silvia Breher will help to reassert women's rights in Germany?

Answer: I am thinking primarily of political and social approaches. Grassroots women's/lesbian organizations are good, but they need to take the fight of gender-critical UK women as a model and work better together. Above all, there must be no pause for breath in the fight against the SBGG.

I am not in a position to judge whether a family/education ministry under Karin Prien can help women's rights in Germany to be asserted again. The EMMA article <https://www.emma.de/artikel/karin-prien-ministerin-universalistin-341759> paints a fairly positive picture (*"We should focus more on the universality of human rights and stop splitting up minorities and minority rights."*). As far as I know, Karin Prien comes from the "liberal camp" of the CDU in Schleswig-Holstein. Whether this gives cause for hope, I cannot judge at the moment.

⁵ https://www.koalitionsvertrag2025.de/sites/www.koalitionsvertrag2025.de/files/koav_2025.pdf (section 4.1.).

⁶ The conservative ÖVP in Austria has not changed the so-called Federal Equality Act 2023, according to which the "perceived sex" is decisive; the current government program does not mention anything about this (see the Cicero article above),

12. Finally, what hope does the Supreme Court's ruling give you for the future of women's rights, and what would be your most important advice to women and girls in Germany who want to fight back against the effects of the SBGG?

Answer: My most important advice to women and girls in Germany who want to defend themselves against the effects of the SBGG: Take joint action and stick together! There needs to be a constant flow of information, perhaps by establishing a newsletter, as well as continuous public criticism of the negative effects of the SBGG on women/lesbians and girls.

Berlin, May 1st, 2025
Gunda Schumann
LAZ reloaded e.V.