

LAZ reloaded e.V. to the Key Points of the Federal Ministry for Family Affairs,



**Senior Citizens, Women and Youth and the Federal Ministry of Justice to
the Self-Determination Act of 30.06.2022**

I. Replacement of the Transsexual Law by a "Self-Determination Act"

The coalition partners want "... abolish the transsexual law and replace it with a self-determination law. These include a procedure at the registry office, which makes changes to the sex entry in the civil status possible in principle by self-disclosure, an extended and sanctioned prohibition of disclosure and a strengthening of information and counselling services.

The costs of gender reassignment treatments must be fully covered by the GKV (statutory health insurance)."

The objective stated in the key issues paper of the Minister for Family Affairs, Senior Citizens, Women and Youth, Lisa Paus, is "... a uniform regulation for all transgender, non-binary and intersex people... who want to change their gender entry or first names."

In the future "... a declaration with self-insurance at the registry office that the gender identity does not match the sex entry will suffice. Neither the submission of a medical certificate nor an assessment are necessary."

1. Amendment of civil status law for all

Contrary to the assertion to create a uniform law for different minorities (trans, non-binary, inter) and to create a piece of "normality", like a "passport extension", by abolishing "lengthy and costly court proceedings", as Minister of Justice Buschmann explained without any apparent expertise, the two ministers are concerned with much more: A change in civil status law for the entire population in one important point, the sex entry, which is ultimately to be made irrelevant by its "embargo period" of one year and by replacing it with the unsubstantiated term "gender identity". Is this compatible with our Basic Law?

2. Change of sex entry by self-disclosure

a) On the one hand, this legislative project does not take into account the effects on the evidential function of sex entry in legal transactions. According to the Federal Constitutional Court, in order to preserve precisely this evidential function, the legislature may very well make the change of sex entry dependent upon certain conditions, e.g., evidence "... based on objective criteria", such as expert opinions.

On the other hand, the loss of the evidential function of the sex entry – and that is what this is actually about – makes it more difficult to defend the constitutionally guaranteed rights of women, whose equality with men under Art. 3 sec. (2) GG is to be promoted by the state.

In detail:

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cc) Consequences for women

(1) Equality objective of Art. 3 sec. 2 GG is threatened

The annual eligibility of the sex entry in the registry office register for all persons who wish to do so would, in the long run, abolish the federal statistics on the distribution of biological sexes, at least significantly distort them. The forecasts, expert opinions and measures against discrimination based on federal and state statistics would be made more difficult or impossible. Support plans to achieve equal rights such as political participation through parity laws, quotas, scholarships, women's sports, protection against male violence (which is also a concern of the coalition agreement!), freedom of expression and assembly would be disproportionately restricted.

Last but not least, crime statistics, which under the current legal situation still reflect the extent of male violence against women, e.g. coercion, bodily injury, exhibitionism, rape, manslaughter and murder, would be rendered useless if male offenders could simply re-declare themselves "women".

The logical step after the legally introduced change of the sex entry by self-disclosure and thus its arbitrariness would be its complete abolition in the registry office register, as already contained in the draft of Bündnis 90/Die Grünen on a self-determination law as an alternative option.

This would lead to considerable practical problems in legal relations. According to the former Federal Government: "The gender entry at birth is a reference entry that serves as evidence in all legal transactions in daily life... Therefore, if sex were not recorded in the civil status register but in other registers, the question of determining sex would only be postponed, but the legal position of citizens would be severely weakened."

The elimination of sex entry in the register of persons would mean for women that the gender equality still to be fulfilled would be made impossible in all areas of life: How can the state comply with the principle of equality between women and men and the elimination of gender discrimination if it lacks statistical evidence of how many women there are and in which sectors of society they are discriminated against, even if the statistical quantity "woman" disappears? How should the promotion of women be implemented in the public sector if the women concerned do not have proof that they are women due to a lack of sex entry?

According to this interpretation, the state's mandate under Article 3 (2) of the Basic Law to implement the guaranteed equality of men and women - and not least the indispensable keeping of sex-specific statistics - could not be fulfilled. A draft law that indicates the arbitrariness of sex entry and thus its abolition must therefore be strictly rejected for constitutional reasons.

(2) The right of women and lesbians to physical and psychological integrity under Article 2 of the Basic Law is endangered

The opening of the legal "floodgates" for all people to change their sex upon request and register accordingly, provides all men, including those who are not gender-reassigned, with the legal legitimacy to enter protected (e.g. women's shelters, girls' emergency services, women's prisons) and autonomous women's spaces (e.g. associations, pubs, bars, clubs) without legal hurdles; sexualized violence against lesbians is also one of the consequences. This endangers the right of women in general and lesbians in particular to physical and psychological integrity (Art. 2 GG).

In detail:

- Women's/lesbian and girls' projects, built up in decades of painstaking feminist work to offer women, lesbians and girls a refuge or to make life more self-determined, pleasant, creative and beautiful, are increasingly being opened to so-called 'trans women' - even before the enactment of a so-called "self-determination law".

The main reason seems to be the long arm of relevant lobby groups to ensure that women's and lesbian groups are deprived of state subsidies in the event of a corresponding refusal. An example: The fellow women of the lesbian project "RuT – Rad und Tat – Offene Initiative Lesbischer Frauen e.V." in Berlin saw each other without preparation, discussion or their agreement with a questionnaire that bears the word "lesbian" with a gender asterisk in the title, i.e. includes 'trans women'. The questionnaire belongs to a project (lesbian*. Sichtbar.Berlin), initiated by the queer feminist Stefanie Kuhnen and founded by the LGBT department of the Senate Department for Justice, Consumer Protection and Anti-Discrimination (former Senator: Dirk Behrendt, Bündnis 90/Die Grünen) and aims to "network the L* communities and lesbians*".

With a so-called "self-determination law", there is no longer even a need for financial sanctions to deny the other women's, girls' and lesbian projects the opportunity to be among their peers.

- Women's prisons, hitherto a scene of scandalous violence by transgender men against female prisoners, especially in Anglo-Saxon and Anglo-American countries, are not spared from this development. Shortly before the Bundestag elections in September 2021, the state of Berlin has made a corresponding amendment to the law:

'The principle of separate placement may, in individual cases, take into account... the needs of the other prisoners, especially if prisoners ... on the basis of their gender identity not the one indicated in their official civil status entry, but a different gender... perceive as belonging.'

While the Senate of Berlin – in view of the not yet easily possible change of sex entry in the registry office register – points to the "needs of the other prisoners", i.e. female prisoners, in the respective individual case decision, a "self-determination law" would no longer even require this consideration, since, according to the logic of gender theory, men who "feel" to be women are 'women'. The right of imprisoned biological women to physical and psychological integrity would thus be acutely endangered.

- Finally, the intrusion into female spaces literally involves female bodies: The renowned BBC recently published an article on sexualized violence against young lesbians. The border crossings, which the so-called "Self-Determination Act" tries to sell as "equal treatment", only harm women, especially lesbians and girls, because of the still existing de facto gender inequality in all areas. Alleged "equal treatment" thus cements the unequal treatment of women and men.

3. Changing sex entry of minors

While it is the task of the legal guardians to submit the amendment to the registry office for minors under the age of 14 and for legally incompetent minors, minors from the age of 14 should submit the declaration themselves with the consent of the legal guardians. If the parents do not agree, the family court may, at the

request of the minor, replace the parents' decision – based on the child's best interests.

How the family judge should be able to assess the maturity and capacity of judgement of the applicant child with regard to her/his health and quality of life in the event of a social transition without formal evidence proceedings, i.e. without a juvenile psychiatric report, only in view of the impression in the personal interview, is not clear. The opinion of one, preferably two, experts should be a minimum requirement for the regulation in question.

4. Strengthening education and counselling services for minors and their parents

Admittedly, the key issues paper now speaks of "competent" and "open-ended" advice for minors and their parents, inter alia on "effects of the change of first name and civil status, (on) gender development" and "gender identity", and no more, as in the draft law by B90/Die Grünen, of a wide range of advisory services for the transition.

However, "reference should also be made to counselling services offered by relevant clubs and associations", which probably means lavishly subsidized trans lobby organizations with rather trans affirmative advice, which state agencies are paving the way for.

The renowned Canadian child and adolescent psychologist Ken Zucker has long confirmed that the early social transition confirms children in their gender dysphoria and encourages them to head for the medical transition.

The ministers thus abandon the physical and mental integrity of children to be protected by the state according to Art. 2 GG in favor of a fictitious "gender identity", which is to be helped to "succeed" over sex.

5. Extended prohibition of disclosure subject to sanctions

The prohibition of disclosure under § 5 of the Transsexual Act prohibits third parties (with the exception of close relatives and former spouses) from revealing or investigating the applicant's former first name after the district court's decision has become final.

The extension of the prohibition of disclosure, including salutation and sanctions, means that women who reject a change of first name and gender entry by self-disclosure or who are critical of the opening of women's and lesbian spaces for men with "female gender identity" and consequently refuse to base the salutation of a "transperson" not on biological sex but on "felt" gender, would risk in the future of becoming perpetrators of an administrative offence subject to a fine.

When asked, the ministers explained that the fine framework would be between € 5,000 and € 10,000.

In plain language, this means that the legislator wants to forbid its citizens – as in George Orwell's "1984" – to tell the truth under threat of sanctions. Namely, that there are two sexes. That men cannot be lesbians because lesbians are obviously women whose sexual orientation is directed towards other women. With "tax secrecy", as Minister of Justice Buschmann noted, the obviousness of female and male physiognomies truly has nothing to do.

This "prohibition of truth" is hardly compatible with the constitutionally guaranteed freedom of expression under Art. 5 sec. (1) GG.

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