

Executive summary

Ensuring that LGBTI+ people can live as who they are without being discriminated against or attacked is a key policy imperative. This report is the first country review undertaken as part of the OECD work on LGBTI+ inclusion. It explores legal and policy achievements towards LGBTI+ equality in Germany at both the national and subnational levels, to identify progress and remaining challenges as well as facilitate the sharing of good practices within and across different levels of governance. After investigating the life situation of LGBTI+ Germans, the report analyses the extent to which laws and policies conducive to LGBTI+ equality have been passed and implemented, at both the federal and state levels.

How do LGBTI+ Germans fare?

Despite improvements, social acceptance of sexual and gender minorities remains limited in Germany, especially with regard to transgender and intersex individuals: in 2019, 59% of Germans were comfortable with having an LGB son- or daughter-in-law while this share fell to 45% when the son- or daughter-in-law was transgender or intersex, noting that these national averages hide strong disparities across states.

Complementary data confirm that anti-LGBTI+ discrimination and violence is a reality. In 2019, more than half of LGBTI+ Germans reported having personally felt discriminated against during the 12 months prior to the survey, while a little more than one-third reported having been physically or sexually attacked or threatened with violence in the past five years. Similar findings emerge from more objective evidence.

Against this backdrop, it comes as no surprise that LGBTI+ Germans show lower levels of well-being than their non-LGBTI+ counterparts. In the late 2010s, life satisfaction of LGBTI+ Germans was 10% lower than among the general population, noting that, at least partly due to the stigma they face, LGBTI+ Germans are also characterised by worse mental and physical health outcomes.

What are Germany's legal achievements towards LGBTI+ equality?

Although legal achievements towards LGBTI+ equality have been substantial at the federal level, they remain modest at the state level. Considering the laws that are under the purview of the federal government (which coincide with all those viewed as critical to achieve equal treatment of sexual and gender minorities), Germany had advanced more than three-quarters of the way towards full legal equality of LGBTI+ people in 2021. Yet, margins for improvement exist, including:

- Adding sexual orientation in the list of grounds that the *Basic Law* protects from discrimination;
- Closing the legal loopholes of the *General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz – AGG)* that prevent sexual and gender minorities from being fully protected against discrimination in employment and in access to (and supply of) goods and services;
- Granting automatic co-parent recognition to lesbian couples who rely on assisted reproductive technology;

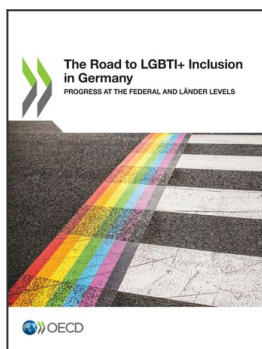
- Basing legal gender recognition on self-determination rather than on validation by a third party to ensure complete depathologisation of being transgender;
- Reforming the law of parentage to guarantee that parents who proceed to a legal change of their first name and civil status are referred to by their new first name and gender on their child(ren)'s birth certificate, a prerequisite for outright equal treatment of transgender and intersex parents.

Although German states have little scope for enhancing LGBTI+ inclusion through legislation, they still can take an active part in fostering legal LGBTI+ equality in two ways: (i) by introducing legislative initiatives in the Bundesrat in order to trigger LGBTI+-inclusive laws at the federal level; (ii) by passing laws in their state parliament in order to protect LGBTI+ individuals against discrimination by state public entities. Yet, few states exploit this room for action, despite the returns of doing so in terms of improved attitudes towards sexual and gender minorities and economic development. Notably, Berlin is the only state to have passed in 2020 an antidiscrimination law (*Landesantidiskriminierungsgesetz – LADG*) that enables people to take action against discrimination by state public entities, with the help of the Ombudsman's office (*Ombudsstelle*) whose powers to enforce people's rights are unprecedented. By following suit and implementing similar LADGs, other German states could make immense progress in protecting LGBTI+ individuals against discrimination together with other groups at risk of unfair treatment.

What are Germany's policy achievements towards LGBTI+ equality?

Beyond laws, policy achievements towards LGBTI+ equality in Germany have been significant, at both the federal and state levels. But there is still room for the federal and state governments to continue joining forces to improve LGBTI+ inclusion through policies. Although implementation power lies primarily with the subnational level, the federal government has undertaken landmark initiatives concerning all policies critical to achieve LGBTI+ equality. Moreover, each German state has implemented a majority of these policies, noting that policy achievements positively depend on the number of successive action plans a given state set up, and on whether an advisory board oversees the execution of those action plans. Follow-up policies needed to make further strides towards LGBTI+ equality include:

- Better advertising low-threshold legal and psychosocial support for LGBTI+ victims of discrimination and violence while ensuring that greater outreach go hand in hand with high-quality service delivery;
- Combining the establishment of an LGBTI+ unit or of LGBTI+ liaison officers within the police force with significant workload relief giving them time to fulfil the tasks associated with their role, on top of their regular policing activities;
- Complementing protection plans aimed at ensuring the safety of LGBTI+ asylum seekers in reception facilities by detailed terms of reference for reception facility operators and regular inspection by an independent body;
- Devising and administering school climate surveys throughout the national territory to create awareness among schools where homophobia and transphobia are pervasive and thus encourage them to enhance their reliance on LGBTI+-inclusive teacher and student training;
- Ensuring that both public and private employers are properly trained on the *General Equal Treatment Act* and the set of grounds this *Act* protects from discrimination;
- Expanding efforts to make the curriculum for the training of nurses more LGBTI+-inclusive to the training of personal care workers and doctors, and improving the demand of health care facilities for staff duly trained on dealing with LGBTI+ patients.



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