Paradigm shift with mixed feelings: Germany finally adopts gender self-determination law

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Today, the German Parliament has adopted a legal gender recognition law based on self-determination. The new law ends four decades of patronising trans people and declaring trans people as mentally ill.

TGEU welcomes the adoption of the law as a paradigm shift. However, we regret that anti-trans arguments were given an unnecessarily large amount of space in the law-making process leading to mixed feelings amongst trans people about the law.

Once the law comes into force in November, Germany will be the 12th European country to have legal gender recognition based on self-determination.

What is in the new law?

In the future, a person can change their gender marker and name by making a declaration before the civil registry.

Children over 14 years old will be able to make the declaration themselves but will need their parents' agreement. A family court can step in cases where the parents don't agree to the change. For children under 14, the parents will, if they agree, make the declaration on behalf of the child. Children will also have to self-declare that they are well advised. TGEU member organisation Bundesverband Trans* is concerned that this might introduce a requirement to receive a mental health diagnosis through the back door.

Refugees, stateless persons and people with an unlimited residency title can also change their gender marker in the same way. However, there is a further deterioration for people with a renewable residence permit. If this is revoked, a current change to the gender entry can be revoked retroactively.

Before making the declaration the person will have to wait three months. Another change is possible only after one year.

In addition, the law regulates questions of registration of parenthood, data protection, and mandatory change of key documents.

The law also contains harmful and unnecessary provisions. The provisions imply trans people and in particular, trans women and trans feminine people are a threat to the rights and wellbeing of cis women, children and others. The adopted law is the result of a lengthy two-year legislative process that saw very loud anti-trans voices being given unnecessary space. At the same time, self-determination received a lot of public support from progressive civil society, welfare organisations and religious groups.

What's next?

After today's vote, the lower house (Bundesrat) will again debate the law without the possibility to change it. From August, it will be possible to sign up at the registry office so that the first people can make the declaration in time for the law to come into force on 1 November 2024.

What does the trans community in Germany say?

Many voices in the trans community in Germany are unhappy with the law, for its harmful provisions (see above) and the accompanying toxic debate.

At the same time, it is widely acknowledged that the new procedure means a paradigm shift from the previous court procedure. The current process is a lengthy, costly procedure and involves severe mental health testing and diagnosis.

The community is preparing to take aspects of the new law that are incompatible with human rights to the courts.