

Daily routine

-

Experiences of discrimination
on the grounds of gender identity and
gender expression
in access to and supply of
goods & services and employment
in Germany

Case collection 2008 – February 2011

Disclaimer

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Descriptions like FtM (Female-to-Male) or MtF (Male-to-female) might have been assigned to transgender persons by the author. These classifications might not necessarily correspond with and/or over-simplify identities chosen by the persons themselves but were necessary to understand the nature of a case.

Berlin, February 2011

Contents

Disclaimer	1
Introduction.....	3
Anti-Discrimination Legislation	4
Transsexual law	4
Act on Equal Treatment.....	4
National Equality Body	5
Access to Goods & Services.....	6
Health Care.....	6
Financial & Insurance Institutions	10
Public transport	11
Accessing Goods & Services	11
Social Services.....	12
Fitness studio/ Sports Associations	12
Legal Gender Recognition	13
Employment	13
Recruitment.....	Fehler! Textmarke nicht definiert.
On the job.....	16
Dismissal.....	19
Federal Employment Agency.....	20
Police	21
Acknowledgements	23

Introduction

This report collects cases and incidents of discrimination on the grounds of gender identity and gender expression in the time period 2008 – February 2011 in Germany. It is motivated by the European Commission's revision of the implementation of EU Gender Equality legislation 2004/113/EC and 2006/54/EC by member states. Council Directive 2004/113/EC regulates the implementation of the principle of equal treatment between men and women in the access to and supply of goods and services. The EU Council¹ clarified that discrimination arising from the gender reassignment of a person is also covered by this EU law. The Gender ReCast Directive 2006/54/EC regulates the implementation of the principle of equal treatment between women and men. As first EU law, in its Recital 3 the directive explicitly refers to discrimination based on 'gender reassignment'. Thus, transgender people are protected under this legislation.

However, in practice little awareness is present in Germany about this de-facto legal protection. German legislation on transgender matters is in some regards better than in other EU member states (privacy protection in Transsexual law). However, the documented numerous cases illustrate the different faces Transphobia might have: ignorance, misinformation, lack of understanding and an outright hatred.

The collected cases have been contributed by individuals throughout the country as well as projects such as Berliner Senatsverwaltung für Integration, Arbeit und Soziales Landesstelle für Gleichbehandlung - gegen Diskriminierung and StandUp, Antidiskriminierungsprojekt der Schwulenberatung Berlin. Expecting a much higher number of actual discrimination, the relatively low turn-out can be explained by a number of factors. Those, who have experienced discrimination either want to forget and thus avoid reporting these incidents. For many transgender people being treated un-equally is daily routine. Only few recognize a violation of their human rights, especially if institutionalized. Thus, a transgender activist wonders: „where does discrimination happen? I do not have a job – and won't get one. But i do not get really discriminated...“. The present report wants to bring to light –as a tip of an iceberg- the living reality of many transgender people in Germany. It is NOT a scientific research, but would like to encourage funders as well as researchers to intensify efforts in this field.

Richard Köhler

¹ 2606th meeting of the Council of the European Union (Employment, Social Policy, Health and Consumers Affairs) held in Luxembourg on 4 October 2004, Draft minutes, Doc. No. 13369/04 of 27 October 2004, p.7

Anti-Discrimination Legislation

(by Richard Köhler)

Transsexual law

The German Transsexual law (Transsexuellengesetz – TSG) is an anti-discrimination law, meant to protect transsexual people. It regulates how and under which requirements name and gender recognition can be changed. The law also explicitly protects the privacy and legal relationship between parents and children. Since its existence in 1980, the German Constitutional Court has declared six times requirements set out in the law as non-constitutional. After the last ruling in January 2011, the requirements for name change and legal gender recognition are equivalent:

- Minimum age of 18
- German citizen, resident, accepted asylum-seeker (if country of origin does not have similar procedures for changing name/ gender)
- Diagnosis (a minimum of three year prevalence of the strong wish to live in the other gender; absence of contra-indicative mental disorders and high possibility of permanence of this condition)

The ruling parties of CDU/CSU and FDP have in their coalition agreement acknowledged the fact that the TSG is not corresponding to the state-of-the-art science and promised a revision.² However, so far, any changes to the law have only been brought forward by the Constitutional Court. The lack of political will to improve the legal and living situation of transgender people in Germany has been underlined by a statement by the specialist of the ruling part, CDU, in 2009: “As long as the constitutional court does not force me I will not touch the transsexual law and stir up our constituency.” In 2011, in a hearing at the committee on legal affairs, the ruling parties (CDU/ CSU and FDP) finally turned down a legal initiative to include “sexual identity” explicitly as a protected ground in the Constitution. This would constitute “gesture politics”.

Act on Equal Treatment

The purpose of German Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz – AGG) is to prevent or to stop discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual identity. R. Gugel explains that transgender people are covered by this law, even though they are not explicitly mentioned. The applicable ground of “gender” or “sexual identity” remains unclear. In place of a definition of “sexual identity” only groups of persons, “homosexual men and women, transsexual and intersex (‘zwischen-geschlechtlich’) persons,, are mentioned. The legislature has thus decided to not follow the classification as used on EU-level of transsexual people under the “characteristic” “sex”. Since transsexual people are explicitly mentioned in the AGG legal reasoning, their protection is evident. It remains unclear whether transgender people, who do not undergo gender reassignment, are protected under existing anti-discrimination legislation.

The German Constitutional Court has ruled that a discriminatory treatment of transsexual people according to present or absent gender reassignment surgeries is not lawful. Accordingly it can be expected that in accessing anti-discrimination legislation a transgender person without gender reassignment surgery would be treated equally to a transsexual person.

² Koalitionsvertrag zwischen CDU, CSU und FDP p. 108 <http://www.cdu.de/doc/pdfc/091026-koalitionsvertrag-cducsu-fdp.pdf>

National Equality Body

The National Equality Body has in its mandate to also cover “sexual identity” and thus transgender people. In 2009 the National Equality Body published a large-scale representative study on Perception of Discrimination and Anti-Discrimination politics in German society with 2610 participants. The study found that 45% of respondents had no sympathy for those who intend to or have changed their gender. Asked about who should be responsible for equality of transsexuals 20% believed nobody should take this up; For 60% transsexuals themselves need to take this up (homosexuals: 19% and men: 62%). 30% found this to be a private problem where friends, family and neighbors should be active. 25% identified public authorities and 13% saw churches and social welfare institutions in the duty to act, whereas corporate business, companies and unions were mentioned respectively by 4%. The researchers concluded low problem awareness among the respondents as 49% believed transsexuals do not get discriminated. However, the authors of the study themselves would not further expound the problem despite the devastating results.

In 2010, the National Equality Body published an expert opinion “discrimination of trans people, especially in the labor market”. However, the experts subcontracted to write the report could only helplessly refer to research done abroad or internationally, as they could hardly find any research on the situation in Germany. In a press-release the Equality Body demanded a standardized procedure for educational institutions to re-issue diploma for those transgender people, who have legally changed their name. The recommendation was informed by an inquiry of the federal states, which found that a nation-wide regulation is welcomed by the states to end legal uncertainty. It was also critically mentioned that only those trans people, who have obtained a transsexuality diagnosis would have access to German Transsexual Law.

The recent study and the informed statement on the educational diploma are first steps, which need follow-up with a more in-depth study on the living situation of transgender people in Germany. In January 2011, the Equality body acknowledged in an email that issues faced by transgender people should ideally be equally covered besides other grounds of discrimination. However, lack of resources would prohibit for instance further quantitative research on the living situation of trans-people in Germany.

Access to Goods & Services

Health Care

Trans-related health-care

Instruction manual on treating transsexuality

Since 2009 the instruction manual for transsexuality (Grundlagen der Begutachtung Begutachtungsanleitung Geschlechtsangleichende Maßnahmen bei Transsexualität) of the Association of Medical Revision Boards of the public health provision is valid for Germany. It is the first standardized manual on issues of transgender related health care. Consistent procedures are certainly a positive step towards greater transparency. However, transgender organizations and human rights activists have heavily criticized the manual. The manual establishes itself as corresponding to the German Transsexual law (Transsexuellengesetz - TSG), which regulates only legal aspects of a transition. Where the TSG is transparent as a law and can thus be challenged in courts, the manual has been “enacted” by the association of health insurance providers (Spitzenverband Bund der Krankenkassen). Nor the author nor the Association of Revision Boards consulted with transgender people or their communities. The manual is actually an increased hurdle for those transgender people who wish and/ or need to access medical treatment by requiring mandatory psychotherapy prior to any medical treatment, e.g. hormone treatment: 6 months “real life experience – RLE” (Alltagstest) and therapy, surgeries: minimum 18 months of therapy and RLE.

- ignorance of the individuality of progress and decision making of each individual concerned
- increased costs by excessive requests to undergo therapy with not necessarily increased possibilities to access expense coverage
- extended time span of procedures which are likely to result in an increased agony by the individual concerned, as well as in and thus increased costs in cases of inability to work or unemployment
- Increased mandatory psychotherapy and documentation prior to hormone treatment, which was before within the personal margin of appreciation of the doctor
- Contradicting regulations: on the one hand defining the duration of the real life experience as an individual decision. On the other hand, mandatory lengthy time spans of real-life experience in accessing any transgender-related surgery.
- Explicit request to assess the sexual orientation
- Out-dated medical state of the art in referring to “primary and secondary transsexuality”, “intersexual malformations” etc.
- Highly pathologizing transgender people

The manual does not cover how refused or interrupted cost coverage of a therapy can be dealt with since these are decided separately.

The manual does not correspond with the current medical opinion, as expressed by WPATH the World Professional Association for Transgender Health in their statements or the standards of care. Its underlying assumptions and explicit language is highly pathologizing transgender people and expresses the authors’ belief that transsexuals are not able to decide about their own faith.

Consequences of not undergoing trans-related medical treatment

The conscious decision to not undergo medical treatment, as it was compulsory until January 2011, in order to obtain legal gender recognition can have diverse consequences in other spheres of life as shows the case of a 37 years old trans woman from Cologne, who has been living as a woman for 12 years, who had her legal name change for 12 years. She had decided not to take hormones as the risks of the side effects were too big and incalculable. She does not want any genital operations. She is married to a woman since 2009 and they have a son since June 2010:

Employment

She started a retraining as a physiotherapist in 2005. This education is mainly offered by private schools. She applied to the Physiocumlaude-School in Cologne and the DAAD-School in Bonn, passed the acceptance test with excellence and got her application refused because of her identity. When she asked for the reason the school explained it wants to “protect the patients and their students from her”. Also when applying for other jobs she got refused several times because of her transgender identity. She is well-qualified with a good certificate with thought-after qualifications. She got strongly discouraged by this experience.

Health insurance

She reports to have had on-going difficulties with the health insurance provider, the Barmer Ersatzkasse. The financial coverage for her beard epilation was unnecessarily postponed and only granted when threatened with a lawsuit at the social court. After the expiration of the treatment coverage any further treatment was refused and she had neither the resources in time, energy nor the money to take legal steps.

The treatment coverage for the breast augmentation was refused because she would not want any genital surgery and or undergo hormone-treatment. She believes that the requested interventions (genital surgery and hormone treatment) are both not scientifically proven to have a positive effect without any serious negative consequences.

Civil registry office in Cologne

The civil servant at the wedding announcement addressed her correctly as “Mrs” but the registrar was totally off target. Despite the couple’s request and instruction she repeatedly addressed her as “Mr” during the ceremony. As well she had to be registered as “husband” in the marriage certificate as there exists no other form. By this time in 2009 it was not possible for them to get registered as a same-sex couple . Also, the spouses did not want that as a number of disadvantages come along with it and they see it as “second-class marriage”. As well in the case of a registered partnership she would have had to adopt her son, who was born a year later to be legally recognized as his parent.”

Application for cost coverage of a mastectomy

Case I

In October 2009 a FtM³ sent a claim for a breast ablation to the insurance company, Techniker Krankenkass – TKK. Only one year later in October/ November 2010 he finally received an appointment with the Medical Review Board of the Statutory Health Insurance Funds (‘the review board’). Meanwhile the review board requested him to hand in a proof of genital measurement, which he refused as it has nothing to do with the present cause. Additional verifications were requested from his therapist. When he called to inquire the state of affairs, he received the answer:

³ FtM – Female-to-Male transgender Person

it's "in process". At that time it was already one year. He describes the appointment with the doctor of the review-board as 'crap'. The doctor explained that he would not need to answer questions if he did not want to and that this would not have an influence on my claim. The doctor asked some very personal questions, such as:

- "Tell me about your sex live."
- "Do you get penetrated and if you do: where, when and from whom?"
- "If I try to imagine you in a gay sex club how would that look like?"
- "Do you keep your T-Shirt on during sex?"
- "How can I imagine you with a dildo? Do you strap it on?"

When the trans man refused to answer he said that it would be hard for him to certificate his transsexuality without this information. In the end of the appointment the doctor asked whether he will attend "this Tranny-meeting". He was referring to the national Transgender conference. In his report the doctor stated that the two previously officially requested experts opinions were not enough. He would need more information for a final decision. The trans man's therapist wrote another three page long supplement to her attest, which he sent to the insurance company in the beginning of January 2011. Since then the claim is again "in process".

Case II

Potsdam Medical Revision Board of the public health insurance providers

For the surgical assessment of his application for cost reimbursement of the gender reassignment surgeries the trans man had expected to be asked a couple of questions and to have pictures of the body taken. However, this is not where the story stopped. His chest was measured very detailed with a measuring tape (about 6 times). Further-on his breasts got weighted with a physical procedure that he called at least questionable. Also his crotch was not spared a close investigation, but got measured(!). In detail: the testosterone-driven growth had to be assessed up to the centimetre. This included scrabbling about the area by the doctor of the medical revision board. It gave the the strong impression that even the medical revision board does not know how to measure. The appraiser was working himself through a kind of checklist. The trans man reports that had he not been very determined to get the health insurance to meet the expenses, he would have blocked this procedure. Afterwards a couple of schnapps were necessary to get to grips with.

4x denied access by Medical Revision Board of the public health insurance providers

A minimum of 4 cases is reported where the Medical Review Board of the Statutory Health Insurance Funds Berlin/ Brandenburg denied access to gender reassignment surgeries (3xFtM, 1xMtF⁴)

Wrong medical reports

A trans man reports the following he came across in his medical report for the indication for surgery:

"... therapy wasn't able to change the most inner desire to live as a woman [sic] [...]"

„Appearance“:

Boyish attitude and appearance with a slight hint of femininity (semi-long hair, rather female face lines, jacket with patterns), which might be attributed to an age-based unfinishedness, or perhaps just simply to fashion and the 'applicant' is self-conscious. (Quotation: "I always like it when a man has something feminine on him")"

⁴ MtF – Male-to-Female Transgender Person

Denied hormone treatment

FtM with unsecured residence permit status is denied testosterone treatment.

Denied trans-related care in custody

FTM in custody is denied gender reassignment surgeries.

General health-care

Avoiding health care after transphobic attack

A trans woman gets attacked by a group of youth. Despite suffering from bruises in the face and upper body she refuses to be treated in the hospital.

Doctor's bill and everyone can see the transgender diagnosis

The bill received from my doctor was folded in a way that allowed everyone to see on the envelope that it's about transsexuality.

Gendered placement in a hospital

A trans woman, who has to go to the hospital is placed in a men's room and not with the women. She fights to get at least a single room. (MtF)

Denied care / violation of privacy

Doctor denies medical attendance to a transgender person and outs the person as "trans" with the property management they both have in common.

GP questions about sex life

MtF is questioned about her "sex life" by the GP, though this is not relevant for the current sickness.

GP advice not to undergo mastectomy

GP advises FtM to not undergo mastectomy since he might regret it (consultation not relevant for the presented health condition).

GP – verbal harassment

GP harasses FtM whether he has a "penis" (has nothing to do with the sinusitis he came to be treated for). Throughout the conversation the GP keeps staring in his crotch. This lack of eye-contact is the most disturbing for the trans man. When he protests her intrusive questioning, she persists since "it is so special and rare".

GP – homo- and transphobic verbal harassment

GP assumes the blood poisoning of a gay FtM upon his coming-out as actually a fresh HIV-infection even though there is no factual evidence for a possible infection. Since FtM wears nail polish he denies him his male identity as he is "too feminine". GP does not detect the blood-poisoning though.

General Practitioner - denied address/ pronoun

GP refuses correct address/ pronoun and touches FtM intrusively.

Physiotherapy - verbal discrimination

FtM is verbally discriminated by the staff in a physiotherapy office.

Neurology – denied address/ pronoun

MtF is denied correct address/ pronoun use in a neurological office.

Dermatology - denied address/ pronoun

Ftm is denied correct name and pronoun use in a dermatology office since he does not have an official name change / legal gender recognition.

Radiology- violation of privacy

Medical secretary outs FtM in front of other waiting patients as transgender.

Radiology - verbal harassment/ violation of privacy

Radiologist asks intrusive questions about his gender identity (for lungs X-ray) and marks the patient's record with "transgender".

Financial & Insurance Institutions

Legal battles necessary to get new insurance card

In November 2008 a trans woman applied with the Knappschaft Bahn See and the Bahn-BKK for a new insurance certificate showing her new name and a new number with female identifier. With a dgti card this is possible by law before legal recognition of name and gender)

In December 2008 the Bahn-BKK called to say that there is no legal basis to get a female insurance card without legal name and gender recognition. The dgti identity card would not be sufficient proof for a new insurance card. The dgti has been authorized by the German Ministry of Interior to issue alternative identity cards for those transsexual persons having received a first diagnosis for the time until the name change is official. In January 2009 the Knappschaft Bahn See called to say that a new insurance number cannot be received before legal gender recognition. She sent again an explanation about the legal validity of the dgti card. Two weeks later she received a note with the new (female) insurance number and another week later a new insurance card from the Knappschaft Bahn See. In April 2009 she received a new health insurance card from the Bahn-BKK.

Denied access to life insurance/ violation of privacy

Several Trans* people got rejected from insurance companies when they wanted to get a life insurance. Explanations were the allegedly higher suicide rates, liability for psychological illnesses or unexplored long term impact of hormone therapy. To refuse insurance on the grounds of transsexuality is against the AGG (General Act on Equal Treatment). In one case the transgender person finally found an insurance through an insurance broker. It was possible to get a life insurance but without the additional wished insurance for incapacity to work (which was refused on the grounds of transsexuality). The employer had to sign the application form which caused another difficulty as the application form includes information about the transsexuality. The insurance broker arranged with the insurance company for transsexuality only to be mentioned on a separate page which would not be sent to the employer.

Outed by the Bank

FtM is forced to out himself by his bank as the institute refuses to obtain a new signature for his account

Public transport

Verbal discrimination in public transport

A trans woman reports that she experiences regularly verbal discrimination the metro. This experience is such a common phenomenon that many transgender people do not even 'bother' to report. Many try to avoid as a result public transportation and use alternatives (own car, bike, by foot).

Accessing Goods & Services

Violated privacy by clerk in citizen center

FtM is outed against his will in the citizen center

Impossible to change name with Ebay

Ebay denies name-change of account despite official court-decision of name-change.

Cinema - Denied (free) entrance

Cinema denies access to two MtF the free entrance even though it has proclaimed "women's day"

At the hairdresser's

Upon coming-out as trans, disrespectful questions by the hairdresser.

Request to audition by property management

FtM is asked by the property management of his rented apartment to "audition" upon informing of his name change.

Hospitality association

FtM is requested by the head of a hospitality association to "comprehensively" report about his transsexuality in order to assess whether he is "placeable".

Transphobic drugstore – denied service

Drugstore denies MtF estrogen despite a prescription as they "don't support this"

Social Services

Gendered Therapeutical living

Therapeutical living community for men denies an FtM access before transitioning.

care for persons with disabilities

MtF is denied the correct name/ pronoun in a handicapped aid.

care for persons with disabilities II - tolerated harassment

MtF gets harrassed as trans* in an institution of the handicapped aid, the institution does not intervene.

Fitness studio/ Sports Associations

Not fit to change - Fitness company I

A trans woman receives the written reply from the fitness company that she cannot become a member as she has not undergone gender reassignment and therefore cannot possibly be allowed to use the female changing rooms. This would create discomfort for and pose a threat to other female customers.

Not fit for sports - Fitness company II and swimming pool

A trans woman experiences discrimination at the fitness and swimming pool. She is forced to change at the men's locker room even though she has got a legal name change.

Denied access to a fitness club III

Fitness studio denies FtM access to the male changing facilities.

Denied access to gendered sports association

MtF is denied access to a women/ lesbian sports group

Transphobia in sport association

Trainer in a sports association advises FtM to not come out and refuses him any support

Harassed and kicked out of Model Railroad Federation

In November 2007, after 36 years of membership and many years as board member, a trans woman comes out as transsexual in the Model Railroad Federation. At the general meeting of the Brandenburger Modellbahn Freunde e.V. she was insulted by two members of the board: “You make me wanna puke. You are disgusting me.” For the sake of the peace of the federation, in March 2008 she was barred from the Model Railroad Federation after 36,5 years of membership. In 2009 she pressed charges against two members of the Brandenburger Modellbahn Freunde e.V. for insult. The case was accepted by the district court Brandenburg. They agreed on a settlement. She received a financial compensation from the respondents.

Legal Gender Recognition

Discrimination – State Medical System - Germany

In his medical exams necessary to obtain the name change according to German transsexual law, a trans man was denied full acknowledgement of his real life experience (“Alltagstest”) (1 year living in the new gender role). The state employed doctor criticised that he had not been living fully in his new sex since he was still employed as female. However, only a court ruling on the name change would have been excepted by the human resources department to change the gender. Other than on the job for bureaucratic reasons, he was fully living in his new gender role as a man. He contested the negative doctor’s opinion. It delayed his legal name change. At a second occasion it gave the German state health insurance the possibility to first decline my application for a mastectomy. It took him one and a half years of struggle with the health insurance. Finally, supported by a lawyer, he managed to get approval of cost coverage for his mastectomy.

Employment

Following experiences of discrimination at the workplace have been collected by the participants of an employment-related workshop at the nationwide Transgender Conference in October 2010:

- Confinement to travel or work abroad with missing documents
- To be not promoted in a responsible position
- Relocation into internal service division without client-contact (being hidden)
- Intimate, intrusive questions of colleagues about sex life, medical surgeries and others – based in lack of knowledge about medical treatment but also lack of understanding for it.
- Address with first/ last name, duty at a call center to give first and last name at the phone; the problem gets individualized – it is the person’s problem.
- Wrong address as political weapon: correct address according to the gender identity gets problematic after an argument about founding of a workers’ council. Now, the employer demands official documents of the name change.
- Pronoun-use: head of team refuses to use the correct pronoun.

- Communication too challenging for companies: starts already with job applications and the need to explain two names, e.g. if diploma shows old name, is seen as a barrier to communication.
- Communication II: trans*women, who feel obliged to compensate for their male sounding voice often do not feel free to speak up. As a result, they hold themselves back and restrain from pursuing own interests.
- Trans*women are not 'seen' by male colleagues (gender gap).
- Social imbalance (difference in remuneration for trans*women)
- Wrong address:
 - o Exp. 1: on-the-job-training: Trainer used 2-3 times the wrong pronoun as a slip of tongue. The trainer is embarrassed. Offer the possibility to differentiate between what is perceived as discrimination and how to deal with it
 - o Exp. 2: tele-call, wrong address with „he“ because of deep voice.
- Team has difficulties in adjusting and uses the wrong pronoun as the colleague is working at the same place for a long time.
- Job interview: question about "other" first names and lack of understanding for explanation of new first name due to being trans (What is all that good for?) .
- Trans*men who lack the ‚age-passing‘: being addressed with the first name instead of last name as they appear to be much younger than they actually are (power behavior).
- Assignment by somebody else to the women's team and lack of understanding that this is not correct
- The board of a LGBT institution with gays and lesbians as board members responds to the demand for trans identified board members: if one has problem with their identity, they need to attend a peer-support group. in addition pathologizing of trans identities.
- Colleague refuses to give trans*woman a lift with the company car though they live in short distance to each other.
- Federal Employment Agency offers a MtF a position with client-contact. She is qualified and willing to take the job. FEA-employee argues this would not be possible due to passing-problems.
- Client-contact: being positioned in the last office corner
- Human resource staff has in private leaked details from the personnel record of an employee about his transgender identity. The employee experience massive workplace bullying. Once confronted with it, the HR staff member denies to have conveyed information. Due to lack of evidence (testimonies only) and a difficult private living situation the employee decides against engaging the workers council and hopes for a replacement within the company.
- Job-loss after transgender coming-out: Employer in health care is first okay with coming-out as transgender, however later-on this is allegedly any longer tolerable for patients and fear of loss of patients. Employer is willing to keep the employee under the old name as the work records are good. However, the employer is not willing to support the Coming-out. Since the contractual basis is a de-facto freelance contract, as very common in the German health care system, the trans person has no

legal possibility to challenge the discrimination. German ADL does not apply. Finally, the trans*person cannot get other contracts afterwards.

- Colleague addressed trans*person with wrong pronoun in front of customers, even though the colleague only knows the new name. Transgender identity was addressed in the team on a general level, but not personally with this colleague.
- University: Coming-Out as transgender within the University faculty for already a couple of months and excepted. After a stressful meeting, presentation of the planned thesis paper in front of other members of the faculty, where the thesis planning is blown into little bits and the wrong pronoun is used five times. Afterwards no excuse but reference to the stressful meeting before. The trans person does not find this adequate. This shows that problems of acceptance often show up in proxy situations
- Professional health care providers trash-talk about transgender patients.

Official letters show continuously address in the wrong gender, even after written application for correction to the relevant department and personal appearance where the digital entrance was allegedly corrected.

Vocational training

Discrimination – Name Change - University Diploma - Germany

Humboldt University Berlin

It took a trans man one and a half years of struggle with the legal department of Humboldt University Berlin to get a university diploma, showing his new name and also being addressed in the appropriate gender. He had presented the court ruling on the name change. The legal department of the university outright denied a new and backdated certificate, arguing that it could not “falsify” the issuing date. They would also not be able to address me as “Mr” since I had “only” changed my first name and not my sex. Only by citing several court cases protecting the “Offenbarungsverbot” (German Transsexual Law Clause entitling transsexuals to being addressed in the new gender upon an official name change without a legal sex marker change) and threaten with a court case, he was finally able to obtain a diploma after more than a year.

No change of my school certificate after name change

Upon his name change was legally valid, a trans man requests his old school to send a new certificate with new name and male pronouns. The school refuses the request with the following explanation: “Unfortunately we cannot fulfil your request to change your certificate to your new name and male pronouns because your male gender is legally not recognized yet.”

Denied University Diploma - Berlin

Two universities deny an FtM reissuing of diploma with the new name.

Foreign school certificate

A transgender person received the university-entrance diploma in Rumania. After the name change in Germany he wants to change the name on certificate. Rumania does not have a law to change the name on a certificate and there is no way to do that through the school. In Germany the regional governments are in charge for foreign certificates of German citizen. On a personal visit the

department of education and Office for the Recognition of Certificates of the regional council, Stuttgart explained that they are not able to provide an alternative document despite the Transsexual Law and the prohibition of disclosure.

Discrimination on grounds of gender expression

A cis-gendered non-transgender woman experienced discrimination as a woman with a beard on chin and upper lip. She applied for jobs with several employers and an employment agency and only got refusals. Some turned her down without honest answers and excuses, like “the Job has just been given away.” Even though she had called just a few minutes earlier and the job was still available. This kind of attitude was even broadcasted on the TV on Akte 09 and Faszination Leben. The later broadcasted her supervisor at a Christmas market booth in Hamburg, where she said front of the camera that “this” (referring to the facial hair) was abnormal. By now she does not care about regular jobs anymore. She consciously exposes herself as woman with beard and works in palm reading, a profession she was trained in. That’s how she started to built her own source of income.

No freedom of movement

A specialist for Psychiatry and Psychotherapy is not granted accreditation necessary to work under his male name in Luxembourg without an official name change. As he is German he needs to fulfill the pre-conditions for a name change under the German Transsexual Law, requiring him to be diagnosed as mentally ill (F64.0). He refuses this as he fears negative effects on his professional reputation and privacy protection. This states a de-facto prohibition to work; psychiatrists with work experience are highly demanded in Luxembourg.

On the job

Discrimination – Employment – Private Sector - Germany

A trans man reported that he worked as an international consultant in a German private company for three years. The job entailed travelling abroad a lot and representing the company in other countries to clients (such as ministries), partner companies etc. He had power of attorney. He started out as a female employee, but informed the general manager of the company in after two years about his plans to transition. The manager was supportive in the conversation, assured him of his satisfaction with the employee’s work. The manager promised him to back him up towards fellow colleagues. A couple of months later he was assigned a job in the inner part of the company without client contact. As reasoning the consultant was given the explanation that plans to restructure the international team had been in existence for a long time. International business was growing, and that was also due to the success of the consultant’s department and his appreciated qualifications and experience. Due to the later, he was required to work from the company’s headquarters in order to better coordinate. Since the consultant perceived the coordination role as a degradation of his responsibilities, he quit the company after a year without having finished his (gender) transition.”

Student job

Another trans man reports that he used to have a great student job, which he had to give up when he got depressions. At that time, he knew that he was trans* but the legal name change was still under way. He was already passing as a man, most of the time, but at work he was obliged to carry a name badge with “Mrs”, which he just could not stand anymore.

Afraid to come out at work

An employee reports that she is afraid of coming out about her gender identity at work because of discrimination and loss of her job.

DRK⁵ Sisterhood

A nurse has been working in the DRK sisterhood since 1997. In 2008 the nurse comes out as a transsexual man. He was well supported from his employer. He has been working as a hospital nurse on the same ward for 10 years and suddenly got difficulties with the superior who finally bullied him out of the job. He applied for a job in Hamburg and had a verbal job acceptance. He just wished for a clean cut and a new start. Since the reference from the Sisterhood included a reference to him being transgender, he is concerned about the need to explain himself to the new superior.

Gossiping and verbal harassment at the work place

A trans man, who lives 'stealth' (not being out about his gender identity) in his acquired gender, learned about rumors in his company about himself. These said that he intending to undergo male-to-female gender reassignment surgery. He felt a great insecurity on how to react as gossiping was widely spread among the work force, sometimes with quite a sharp tone. When co-workers had previously learned about his gender identity, it had been against his will. A colleague had recognized the characteristic under-arm scar as the result of a trans man's phalloplasty and he had to inform his team supervisor about the reasons for an up-coming sick-leave. Despite the confidentiality of the talk, the team supervisor harassed him verbally afterwards with 'funny' remarks in relation to the up-coming sick-leave. Confronted with the inappropriateness of his remarks, the supervisor refused to take responsibility and denied any bad intentions. As a result, the behavior by his co-workers and superior has created for the man a working atmosphere of distrust and fear. At his work place, he feels not understood and deprived of the possibility to address the situation effectively as he does not wish to further publicize the reasons for his discomfort with others at his job.

Imitating men

Sch. had reacted supportive when W. had come out 2,5 years ago as female-to-male in the job. However, Sch. advised W. in professional meetings, with others present, that W. 'should not take on the habit of smoking in order to imitate men'. W. felt panic, offended in his masculinity and especially by the presence of others to this comment challenged in his professional capabilities.

Gendered harassment in a company training

S. was happy that his document change went smoothly. With a new ID showing his officially recognized new male name and a "male" social security ID number he was very motivated to start his new job. S. was shocked and sad when he learned from another colleague that participants in his training group had reacted bewildered when they had learned that S. had a girlfriend. They also run down S.'s "androgynous character". S. immediately contacted his head of team and human resource manager. As a result, he was sent home, as he appeared to be negatively affected by the incidents.

⁵ German red cross

S. was in doubt whether it was reasonable of him or out of proportion informing his superiors right-away. His masculinity was invalidated by the supposition that he was androgynous.

Verbal harassment and threats by a neighboring shop owner

Trans male identified shop owner P. got harassed and black-mailed by the owner of a neighboring security-business. The security firm had worked on a gay party, where its owner saw P. with his girlfriend (and probably assumed him to be lesbian). Since then the communication deteriorated and P. got verbally harassed in a very aggressive way. His neighbor threatened to pull down a separating wall as P.'s shop had supposedly 3,5qm more than his own. Upon protest of P., he explained that he would not care and threatened to soon begin to take down the wall. The property management finally stopped his intentions. Since then, the neighbor is behaving very aggressively and intimidating towards P., who fears that his belongings, shop or himself might get physically attacked. P is also afraid that the neighbor might try to 'convince' the property management by telling them about P's (perceived) life-style.

Successful transitioning at the job with some trip-over

T. Bauer had chosen after a temporary assignment with the well-known state-owned German development company to take on a full-time job, not only for its good name, but also for the likelihood of being able to smoothly transition on the job from female to male. At his first official working day he receives the official email composed of forename.name@company-name.de. He immediately calls the IT department to change the forename to his nickname. He is told that it is not possible to have a first name different than the passport name, due to liability reasons. Even though, he had not intended to change his name any time soon, as his self-chosen nickname worked well in university and the previous assignment, T. sees no other way than to officially start the name change procedures. During the employment procedures, a medical examination is mandatory. T. has to undress down to the underwear and has to walk on a line while the doctor wonders loud about the tomboyishness and asks whether 'that' runs in the family. During the year T. waits for the name change, his female name is used and though he makes sure that his boyish nickname is also professionally used, being counted in the 'female lot' and having to hide his gender identity drag on him. When he finally receives notice of the imminent official decision, he turns in an email to the equality officer of the company to talk with her about his planned transitioning on the job. The equality officer called back during T.'s absence. As his colleagues answer the phone the equality officer asks for Mr. Bauer and brings T. in an embarrassing situation upon his return. When telling his direct manager that he has changed his name to a male name, the manager sharply asks back whether T. had had a sex change operation. Upon his official coming-out, his human resource manager tells T. that he should report any harassment or mal-treatment by colleagues right away. However, in the same sentence, the manager tells him that he would not have been hired as a man as his first assignment was to work on developing rehabilitation concepts around trafficking victims.

Outed by colleagues

Ftm working in higher education is outed against his will by colleagues.

Work accident

Evidence of a male identified trans worker: "The work-accident could have been connected with being trans, but I'm not sure. It was quite at the beginning of taking testo. I already had quite a male voice, but did not have a mastectomy yet. Despite binding I often wondered and feared somebody will notice. It may have been the reason for my inattentiveness and it happened so fast. But I do not know for sure, what I thought, it remains speculation. In any case I did not get a job in that area,

because there are no jobs available anymore and I lack the necessary contacts through which to get employment.”

Dismissal

Private school Berlin

A teacher at a private school comes out during his transitioning to the principal. He gets instructed to keep silent about it. Soon after, his time contract is not pro-longed, even though this would be otherwise a routine procedure. Throughout the argument students and parents learn in a not coordinated process about the teacher’s transsexuality, who was known as a female teacher before. Reactions are differing between mainly supportive and some objecting. The teaching staff is not concise in its opinion: the fact that the teacher turned to equality bodies is perceived as whistle-blowing. The teacher had to be temporarily on sick-leave as the court proceeding and also the process at the school poses big psychological stress on him.

Fired because of transphobia during change of documents

A trans man was hired by a temporary employment agency to work at company X. As the female name on his professional diploma (Gesellenbrief) was contradicting his male appearance and passport name, he had to inform the management about his gender identity. The supervisor at company X had received the diploma and thus knew about the transition.

At the second day at company X, the supervisor started to criticize the work performance of the painter and argued with the employment company that they had sent the wrong person and even threatened to sue the agency. He also called the craftsmen’s chamber (as the issuing institute) to verify the correctness of the diploma. Even after receiving further documentation (new ID, social security ID, school certificates) upon his request, the supervisor kept on being over-critical. He expressed his disbelief to the painter how it was possible that only a year after he had finished his education as female his identity card could state a male name.

The situation continued and though it was obviously not the painter’s work performance, the employment agency was pressed to dis-continue the assignment of the painter with company X. Though, his agent had been actively supporting the painter and defended him against the harassment of the supervisor, the painter got dismissed as there was no alternative job-offer.

The painter was very dismayed about the unfair treatment by the company’s manager. Though the manager’s behavior was clearly not related to his work performance, as a beginner the painter experienced great insecurities regarding his working skills.

When he asked at the issuing institute to have his diploma re-issued with the new name, his interlocutor at the craftsmen’s chamber reacted first with laughter and insecurity. However, she informed herself, called him back and within 2 weeks he could expect the newly issued document.

Federal Press Department

X. used to be employed in the visitor service of the Press & Information Department of the Government since May 2003. Until April 2008 she got regularly contracted with servicing visitors groups by the department 401 (Events). X used to work minimum 3 times a year for the federal Press

& Information department from 2003 till 2008. Payment was issued according to the conditions of the visitor service of the Press & Information Department. X. has always fulfilled her tasks to complete satisfaction of the federal Press & Information Department as well as to the visiting people. Complaints have not been known at any given time. She was contracted with two more service contracts for the year 2008. At the yearly kick-off discussion in January 2008 in the Federal Press & Information Department she mentioned, that she has an inner feeling of being female and she will from now on also live it to the outside. How this will proceed, also in realm of her professional work, was not talked about in detail. The responsible person of the Press & Information Department never asked any more questions. She acknowledged this information and did not express any objections or concerns. In February 2008 X. went again to the Press & Information Department. The respective employee addressed the former conversation directly and told X. she had discussed this matter with her superior and the new situation was talked about. As a result it was decided to cease the collaboration with my client with immediate effect. Additionally, the two contracts already issued for 2008 to X have been withdrawn. As reasoning for that decision the employee mentioned that X would not be able to represent the Press & Information Department of the German Government to the outside adequately and was therefore not wanted anymore. A man who is a woman would not be acceptable. Explaining further, she added that they also didn't want to push X. back into a role as a man. They explicitly mentioned their satisfaction with the quality of X.'s work.

X. felt violated in the core of her personality. It was a highly difficult process to show her feminity to the outer world and to live this part of her personality. The action of the federal Press & Information Department is perceived as a severe humiliation by X. She has no understanding whatsoever for the fact, that the Press & Information Department did not make any effort to talk about her transition in detail.

In the following correspondence the federal Press & Information Department stated that a gender-based discrimination was not at work. At the same time it denied the contend of the two conversations held in January 2008 and February 2008 with X. A court case is currently under preparation.

Federal Employment Agency

Memo records name/ gender change

A client at the Federal Employment Agency got a new administrator. When he called the administrator could not find his name in the database right away. While she was searching he heard her quoting parts of his records with his old female name. Obviously there is a memo referring to the name change. In this case it is absolutely irrelevant for the Employment agency to keep a note of the name change and transgender identity.

Agency administrator requires medical details

A client required information about possibilities of occupational re-training at the Federal Employment Agency. His administrator told him that they would need access to his medical correspondence to make a decision about a re-training. He was asked to bring the records to the next appointment so that it can be attached to his file. The client is aware of the fact that requesting medical correspondence is illegal, but he is afraid to be refused the re-training or to have the allowance cut, if he does not obey.

Denied support upon transphobic harassment

FtM gets harassed as "trans" at the place of a assignment, (mandatory for those unemployed) employment agency denies support in finding a new place.

Wrong address

Federal Employment Agency addresses MtF continuously as "Mr" XY.

Police

Problems are continuously reported with police forces employing transgender people.

Discrimination – Employment – Police Force (Berlin) - Germany

After years of not hiring, the Berlin police contacted me years after I submitted my application and invited me to the assessment tests. I used to apply as female, but at the time of the test I had already started to take testo and my transition to living as male and was in-between from appearance. According to my application, I was grouped into the female candidates and passed the sport and written test with flying colours (6th best of all Berlin applicants). As the final test, a medical exam was supposed to take place the next day. After having passed the tests the first day, I informed the hiring officer about my transition, because I was not comfortable being evaluated according to female targets for the sport test. I also needed to let them know, I wished to fully transition and work as a male cop. The respective hiring officer was taking a back and said to me on the phone that under those circumstances it did not make sense at all to continue with the testing process. He would not be able to forbid me to go to the medial exam and complete testing, but he could tell me right away "that I could spare the effort". I did not go and was never hired (that was before the German non-discrimination law took effect).

Police I No testicle – no police man

Being one of the best police cadets in 2005 in the federal state Hesse nonetheless refused to employ a man who underwent gender reassignment 15 years earlier. Despite his excellent results in the final test, the police medical service found did not found him fit for service. Police regulation 300 (Polizeidienstverordnung), applicable at national and federal state-level, defines that "at least one testicle needs to be functional. Loss or atrophy of both testicles defines a failure that contradicts an employment." Since the police cadet has never had testicles nor lost them, the regulation is not applicable in this case. However, the medical service of the police feared an increase of aggression because of the hormone treatment or lack thereof; also the doctor associated potential mood-changes with the treatment. Whereas, external medical specialist for endocrinologist attested the cadet's health condition to be without complications. In the court-proceedings, so-called experts by the police explored in great detail the potential danger of and vulnerability of hydraulic penile prosthesis as used for men with erection problems. Even though the cadet had a phalloplasty and been free from complications. In December 2007, the judges reasoned that it lies within the margin of appreciation of the federal state to refuse the applicant. They acknowledged that this constitutes discrimination on the grounds of sex. However, this would be justifiable as it serves the higher-ranking aim of: "securing a functioning police service by excluding such applicants, who, due to artificial hormone treatment, are subject to mood-changes and are thus running the risk of not being able to master the special challenges of this service." An appeal against this decision is not possible. The case has attracted some attention in the national press. The cadet is pressing charges against Hesse now at Federal Constitutional Court. The decision is pending.

Police II No testicle – no police man

A similar case in another federal state has been reported, where a police cadet had already transitioned during the initial training and already worked as probationer for a number of years with the police forces. First, teachers and fellow students, later colleagues and supervisors had no reason to complain about his performance. A medical examination in his training time did not indicate any obstacles for his career. He finished his training-period with new male name (while keeping female civil status). This was known at any time to his new employer. However, as in the previously described case the final routine check by the police medical services at the end of the 3-year long trial period declared him not fit for service. First, the police argued similarly with the lack of a functioning testicle of a male police officer, citing Polizeidienstverordnung 300. Later it was ordered that with immediate effect the cadet had to return his service weapon and was not any longer allowed to serve in his previous active position. A new attest was composed out of previously available medical records. It found temporary stress-related problems in relation with his suppressed transsexuality during his training-period to be of acute danger. This report by a medical expert, who had never spoken to the cadet, attested a number of obviously exotic mental health conditions. Different from the Hesse-case, the cadet was not dismissed. He was transferred against his will to administrative service, for which he needs to be re-trained. The police offered him the possibility to undergo another 3-year probation period upon legal gender recognition. But all the time, the cadet received nothing written. The “possibility” was mentioned in a conversation without any legal value. At that time, genital surgery was still required for legal gender recognition. The cadet underwent this intrusive treatment, even though he had personally neither wished for it nor out of medical necessity. As a result, he experienced a number of medical complications. By now, he is greatly demoralized, anxious and afraid to turn to local or national equality bodies for fear of being immediately dismissed for ‘dishonoring the forces’.

Acknowledgements

This collection would not have been realized without the kind support and contributions from the following individuals and institutions:

Transgender Luxembourg

Elijah Lüthi

Arn Thorben Sauer, M.A.

Berliner Senatsverwaltung für Integration, Arbeit und Soziales Landesstelle für Gleichbehandlung - gegen Diskriminierung

Dr. Karsten Seifert, M.A.

Dr. Tolmein

Tommy

Leo Y. Wild, StandUp, Antidiskriminierungsprojekt d. Schwulenberatung Berlin,