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Frauen und Jugend

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Act on Self-Determination With Regard to Gender Markers

(Gesetz über die Selbstbestimmung in Bezug auf den Geschlechtseintrag – SBGG)

Act on Self-Determination With Regard to Gender Markers of 19 June 2024 (Federal Law
Gazette 2024 I No. 206)

Section 1

Purpose of the Act; scope

(1) The purpose of this Act is to

1. uncouple gender assignment under the law on civil status and choice of given names from assessments by third parties and strengthen the self-determination of the person concerned,
2. realise each person's right to respect and respectful treatment with regard to their gender identity.

(2) This Act does not regulate medical measures.

(3) Where a person has chosen German law under Article 7a (2) of the Introductory Act to the German Civil Code (*Einführungsgesetz zum Bürgerlichen Gesetzbuche*), a change of gender marker and given names is permissible only if they are a foreign national who

1. has a permanent right of residence,
2. has a renewable temporary residence permit and is lawfully resident in Germany or
3. has an EU Blue Card.

Section 2

Declarations regarding gender markers and given names

(1) Each person whose gender identity differs from the gender marker entered in the civil register may make a declaration before the register office that they wish to have the gender marker entered in a German civil register replaced by one of the other options provided for under section 22 (3) of the Civil Status Act (*Personenstandsgesetz*) or to have it deleted. If no entry exists in a German civil register, they may make a declaration before the register office as to which of the options provided for under section 22 (3) of the Civil Status Act is definitive or that they do not wish to enter a gender marker.

(2) When making their declaration, the person must give an assurance that

1. the chosen gender marker or the deletion of the gender marker best corresponds to their gender identity,
2. they are aware of the scope of the consequences of making the declaration.

(3) When making the declaration in accordance with subsection (1), the person is to designate the given names which they wish to use in future and which correspond to their chosen gender marker. This is without prejudice to section 11 read in conjunction with section 3 (1) of the Change of Name Act (*Namensänderungsgesetz*).

(4) Where a foreign national makes the declaration in accordance with subsection (1) within the period beginning two months prior to an event leading to the expiry of their residence title pursuant to section 51 (1) of the Residence Act (*Aufenthaltsgesetz*) and their being required to leave the federal territory pursuant to section 50 (1) of the Residence Act and ending at that point in time at which the residence title expires pursuant to section 51 (1) of the Residence Act, their previous gender marker and previous given names remain in effect.

Section 3

Declarations by minors and persons with a supporting legal representative (*Betreuer*)

(1) A minor of limited legal capacity who has reached the age of 14 years may only themselves make the declaration regarding a change of gender marker and given names (section 2) but requires the consent of their legal representative therefor. If the legal representative does not consent, then the family court gives its consent in their stead if the change of gender marker and given names is not inconsistent with the best interests of the child. When giving the assurance as required by section 2 (2), the minor must declare that they have been advised. Such advice can in particular be provided by

1. persons who have a professional qualification in psychology, child and youth psychotherapy or child and youth psychiatry or
2. providers of public or private child and youth services.

(2) Where a minor does not have legal capacity or has not yet reached the age of 14 years, only their legal representative may make the declaration regarding a change of gender marker and given names (section 2) on their behalf. The declaration requires the child's consent once the child has reached the age of five years. A guardian requires the approval of the family court therefor; the family court gives its approval if, having regard to the rights of the ward under section 1788 of the German Civil Code (*Bürgerliches Gesetzbuch*), the declaration is not inconsistent with the best interests of the child. When giving the assurance as required by section 2 (2), the legal representative must declare that they have been advised.

(3) In the case of a person of full age without legal capacity for whom a supporting legal representative has been appointed in this matter, only the supporting legal representative may make the declaration regarding a change of gender marker and given names in accordance with section 2; the supporting legal representative requires the approval of the competent court therefor. The competent court gives its approval if the declaration corresponds to a wish which must be respected as required by section 1821 (2) to (4) of the German Civil Code or to the presumed will of the person with a supporting legal representative.

Section 4

Notification of the register office

The person making the declaration is required to notify that register office with which the declaration is to be made of a change of gender marker and given name, either verbally or in writing, three months prior to making the declaration in accordance with section 2. The notification is invalidated if the declaration is not made within six months following notification.

Section 5

Waiting period; determination of given names after reversion back

- (1) A person may not make another declaration in accordance with section 2 within one year after having made a declaration regarding a change of gender marker and given names. This does not apply in the cases referred to in section 3.
- (2) Where a person effects a change of a previous gender marker by making a declaration, their given names change accordingly.

Section 6

Effects of changing gender marker and given names

- (1) A person's current gender marker and current given names are definitive in legal relations insofar as they pertain to gender assignment under civil status law or given names and unless provided otherwise by law.
- (2) As regards access to facilities and spaces and participation in events, the freedom of contract and domiciliary right of the respective owner or holder, as well as the right of legal persons to regulate their matters by statute, remain unaffected.
- (3) Assessments of sporting performance may be regulated independently of a person's current gender marker.
- (4) A person's current gender marker is not relevant when it comes to any health-related measures or services, provided they are linked to physical, in particular organic, attributes.

Section 7

Quotas

- (1) Where provision is made by law for a minimum number or minimum share of female and male members when it comes to the composition of bodies or organs, the gender marker entered in the civil register for each member at the time of their appointment is definitive.
- (2) Account is to be taken of any change of a member's gender marker in the civil register which is made following their appointment when the next member is appointed. If the number of new appointments to be made is not sufficient to achieve the statutory minimum number or statutory minimum share of members, then only persons who belong to the underrepresented gender are to be appointed, the aim being to successively increase their share.
- (3) Subsections (1) and (2) apply unless stipulated otherwise.

Section 8

Application of laws and regulations

- (1) Laws and regulations containing provisions relating to pregnancy, childbearing capacity, artificial insemination and the collection or transfer of egg cells or embryos apply regardless of the gender marker entered in the civil register in relation to a person

1. who is pregnant or capable of childbearing,
2. who wishes to become pregnant or capable of childbearing,
3. who has given birth to or is breastfeeding a child or
4. who is undergoing artificial insemination or who has had egg cells or embryos collected or transferred.

The same applies to laws and regulations containing provisions relating to pregnancy, childbirth, postpartum and breastfeeding.

- (2) Laws and regulations pertaining to the collection or transfer of sperm cells or the use of sperm cells for artificial insemination, to a person's status as biological father or to the fact that a man had sexual intercourse with the mother of a child during the period of conception apply regardless of the gender marker entered in the civil register in relation to a person

1. who was or is fertile,

2. who conceived or could have conceived a child or
3. who wishes to donate or has donated sperm cells or from whom sperm cells are collected.

Section 9

Assignment to the male gender in a state of tension or state of defence

Where the male gender has been legally assigned to a person, this is retained, insofar as it pertains to military service on the basis of Article 12a of the Basic Law (*Grundgesetz*) and legislation based on the Basic Law, for the duration of a state of tension or state of defence under Article 80a of the Basic Law if there is a direct temporal link between the state of tension or state of defence and the declaration to change that person's gender marker from 'male' to 'female' or 'diverse' or to delete the gender marker. A temporal link is 'direct' during a state of tension or state of defence and as from two months prior to its determination.

Section 10

Amendment of registers and documents

(1) If a person's gender marker and given names have been changed in the civil register, then if a change is not already being made on the basis of other statutory regulations, that person may require that entries concerning their gender and given names be changed in official registers, unless there are special reasons of public interest to the contrary. The previous entries and submitted documents remain in official registers.

(2) A person may also require that, insofar as they contain information concerning their gender or given names and are to be handed over to that person, the following documents and documents comparable to them are to be reissued to that person with the amended gender marker and amended given names where a legitimate interest can be substantiated:

1. certificates and other performance records,
2. training and employment contracts,
3. property documents,
4. driving licences,
5. proof of insurance number and electronic health card and
6. payment cards.

The following documents are not reissued with the amended gender marker and amended given names:

1. court documents,
2. documents submitted under the Notarial Recording Act (*Beurkundungsgesetz*) or Civil Status Act,
3. documents which become invalid on account of a change of given name or gender.

When documents are to be reissued, the person must present the documents to be amended in the original and the documents are to be retained by the body referred to in subsection (3) or declared invalid. If the document to be amended cannot be presented, the person must make a declaration in lieu of an oath that they are neither in possession of the document nor aware of its whereabouts.

(3) The entitlement under subsection (2) exists vis-à-vis the public or private body which or person who

1. issued the document to be amended,

2. is the issuing contractual partner of the person authorised in accordance with subsection (2) or

3. is otherwise authorised to issue a duplicate.

The person authorised in accordance with subsection (2) is to bear the reasonable costs of reissuing the document.

Section 11 **Parent–child relationship**

(1) Any gender marker entered in the civil register is irrelevant as regards any existing or future legal relationship between a person and their children under section 1591 and section 1592 no. 3 of the German Civil Code. As regards any existing or future legal relationship between a person and their children under section 1592 no. 1 or no. 2 of the German Civil Code, the gender marker entered in the civil register at the time of the child's birth is decisive, unless a declaration is made before the register office when registering the child's birth that the gender marker entered prior to the making of the declaration in accordance with section 2 is to be decisive.

(2) An existing legal relationship between a person and their adopted children remains unaffected by any change of gender marker. As regards a future legal relationship between a person and their adopted children, the gender marker entered in the civil register at the time of their adoption is decisive.

Section 12 **Gender-neutral provisions**

Statutory provisions relating to men and women which provide for the same legal consequences for both genders apply to persons regardless of the gender marker which has been entered in the civil register and even when no gender marker has been entered.

Section 13 **Prohibition of disclosure**

(1) Where a person's gender marker and given names have been changed in accordance with section 2, the gender marker and given names registered until their amendment may not be disclosed or ascertained without that person's consent. Sentence 1 does not apply where

1. official registers or official information systems contain personal data relating to that person and it is necessary in the context of fulfilling the respective tasks of a public body to process the data referred to in sentence 1 under other legal provisions,
2. special reasons of public interest necessitate the disclosure of the data referred to in sentence 1 or
3. a legal interest in the data referred to in sentence 1 is substantiated.

Special reasons of public interest within the meaning of sentence 2 no. 2 in particular exist where disclosure of the data is necessary for the fulfilment of the tasks of the criminal prosecution or security authorities and of official agencies fulfilling security tasks.

(2) A former and current spouse, relatives in the direct line and the other parent of a child of the person concerned are required to state their amended gender marker or amended given names only if this is necessary for the keeping of public accounts and registers or in legal relations. In all other cases, the prohibition of disclosure and ascertainment under subsection (1) sentence 1 does not apply to them, unless they act with the intent to cause damage. The exception under sentence 1 does not apply to

1. spouses in a marriage entered into after a change of gender marker and given names,
2. a child born or adopted after a change of gender marker and given names,

3. the other parent of a child born or adopted after the person concerned made the declaration regarding a change of gender marker and given names.

(3) The prohibition of disclosure under subsection (1) sentence 1 does not preclude the further processing of information contained in official registers or information systems up until a change of gender marker and given names. Official registers and official information systems are permitted, for the purpose of verifying a person's identity, to process information included in them up until a change of gender marker and given names if other laws or regulations provide for the processing of the current data.

(4) Notifications and information exchanged between official registers and official information systems and the retrieval of information from them based on other laws or regulations are permissible notwithstanding the prohibition of disclosure under subsection (1) sentence 1.

Section 14

Regulatory fines provisions

(1) Whoever discloses a person's gender identity or given name contrary to section 13 (1) sentence 1 and thus intentionally damages the person concerned is deemed to have committed a regulatory offence.

(2) The regulatory offence may be sanctioned with a regulatory fine of up to ten thousand euros.

Section 15

Transitional provisions

(1) Proceedings pending on 1 November 2024 under the Transsexuals Act (*Transsexuellengesetz*) in the version applicable up to and including 31 October 2024 are to be continued under the law applicable up to and including 31 October 2024.

(2) Sections 6 to 13 apply accordingly to changes to a person's gender marker and given name which were made based on the respective version in force up to and including 31 October 2024 of

1. the Transsexuals Act and
2. section 45b of the Civil Status Act.