THE LEGAL LANDSCAPE

In Stonewall’s Global Workplace Equality Index, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Spain is classified as a Zone 1 country, which means sexual acts between people of the same sex are legal and clear national employment protections exist for lesbian, gay, and bi people. Two further zones exist. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.


The same law also provides general protection from discrimination based on ‘sexual identity’ in civil law (Section 19) and in regard to the access to and supply of goods and services, among others (Section 218).

Section 19a of the Fourth Book of the German Code of Social Law entails a prohibition of discrimination based on ‘sexual identity’ with respect to the claiming of certain benefits.

According to a judgment of the German Federal Labour Court, the terms ‘sexual identity’ covers lesbian, gay, bi and trans people.

Married same-sex couples have the same rights to adopt jointly as different-sex couples under Section 174(2) of the Civil Code.

For registered partnerships, only second parent adoption is possible, and the registered partner can adopt the natural or adopted child of their partner under Section 9(7) of the Registered Partnership Law.

This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts.
What is the lived situation for LGBT people in Germany?
The lived experiences of LGBT people in Germany depend very much on the wider context. For instance, experiences will differ depending on whether the person is a German citizen or not, if they live in a city or rural area, if they’re disabled or not, if they’re white or a person of colour and so on. Homophobia, biphobia and transphobia often intersect with other forms of discrimination.

Generally speaking, we’ve made advances in the acceptance of LGBT people. Studies have found that a majority of Germans support equal marriage and are against discrimination towards LGBT people. In 2017 Germany finally legalised same-sex marriage. The Federal Court also made a ground-breaking decision regarding gender identity: by the end of 2018, the government must legally recognise the existence of more than two genders. This means offering a third gender category in the civil status law or abolishing gender registration in this law all together. The decision is a huge step forward in the legal recognition of trans* and inter* people. On the other hand, around 40 per cent of Germans indicated that they find it repulsive to see two men kissing. There are also reservations on including LGBT topics in educational plans, although a few states have now done so. Populist movements have recently argued for a return to certain ‘values’ that marginalise LGBT people and contribute to a worrying societal divide.

What are the gaps in the legal framework and why do they still exist?
In recent years, Germany has fallen behind other European countries in terms of legal advances in LGBT equality. While this situation changed after the introduction of equal marriage, Germany’s Basic Law provides for equality before the law but does not yet explicitly refer to sexual orientation or gender identity. Also still missing is a family law that legally recognises the diversity of families, including LGBT families in all of their lived varieties. Furthermore, the law relating to the rights of trans people was passed in 1980, so is outdated. Even though some of the criteria for legal gender change have since been overturned by the Constitutional Court, others remain.

The Conservative Union, which is currently the strongest political force, has historically acted as a barrier to legal progress. Although one quarter of party members voted for marriage equality, it remains to be seen if the party is willing to move away from a definition of conservatism based on the ignorance or degradation of gender and sexual diversity.

What problems do LGBT people face in the workplace?
Many LGB employees are not out at work. Often the sentiment is that this would be irrelevant information. However, employers should think about the frequency with which straight people ‘out’ themselves – for instance when talking about their weekends, partner or holidays. Having to actively hide your sexual orientation can be very exhausting. This may have a negative impact both on the employees’ well-being and performance. Employers could do more to create a welcoming atmosphere where LGBT employees feel able to be themselves.

In addition, trans people face numerous barriers even when seeking employment. For example, they have to change old transcripts and references to reflect their name and gender and may fear discrimination if they don’t. In theory, trans people are protected by anti-discrimination laws, but this isn’t always the case in everyday life.

What can employers do to support LGBT employees and the LGBT movement in Germany?
Employers should always assume that they have LGBT employees and reflect this in their internal communications. Doing so can send a signal of acceptance and inclusion, both internally and externally.

For example, summer party invitations can be written using gender-neutral language. Employers could also place job or other advertisements in LGBT press and fly the rainbow flag during Pride season. Anonymised application procedures are especially helpful for trans applicants. Bigger organisations can establish LGBT networks and straight allies’ groups.

To support the LGBT movement in Germany, employers should always ensure their support is meaningful. It is always good to approach local LGBT groups and ask what is needed. This could be pro bono work, providing venues, helping with campaigns and so on.
THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Germany:

- Consult local LGBT organisations to understand the local context for LGBT people
- Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies
- Train HR staff and promote inclusive policies
- Carry out LGBT-inclusive diversity training
- Encourage senior managers to promote their commitment to LGBT inclusion and equality

NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- Audit and extend equal benefits to LGBT partners
- Establish employee engagement mechanisms like LGBT networks and allies programmes
- Carry out LGBT awareness-raising events
- Partner with local LGBT groups to advance LGBT equality beyond the workplace
- Work with suppliers and partners to advance LGBT workplace equality

Employers can improve their initiatives by participating in Stonewall’s Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)

**LEARN FROM STONEWALL’S GLOBAL DIVERSITY CHAMPIONS**

**Freshfields Bruckhaus Deringer** Halo is Freshfields Bruckhaus Deringer’s (Freshfields) global LGBT+ employee network. The local network chapter in Germany has over 20 active members across all offices in the country. Halo hosts a global conference every two years, and Halo in Germany runs an annual conference. These conferences include various networking and development sessions on topics such as the importance of LGBT+ role models. Non-LGBT+ staff can actively support and promote sexual orientation and gender identity equality through participating in the Halo Champions network. Launched in 2014, Halo Champions now has over 190 members worldwide. Local senior leaders’ active promotion of both networks has been instrumental in the success of Halo and Halo Champions in Germany. Freshfields also trains staff on LGBT+ issues in Germany. When starting at Freshfields, all employees must complete e-learning on German anti-discrimination law; this law includes sexual identity as a non-permissible basis for discrimination. At the regional induction, lawyers attend a diversity and inclusion session, which consists of a conversation about LGBT+ diversity, an introduction to Halo and its goals, and an invitation to join Halo or the Halo Champions network. In addition, the firm actively promotes itself to young LGBT+ recruits. For instance, Freshfields hosts an annual ‘Out and About’ recruitment event targeted at LGBT+ law graduates and is annually represented at ‘Sticks and Stones’, an LGBT+ careers fair in Berlin. These events have led to several recruitment success stories. Freshfields also undertakes LGBT+ rights-related pro bono work. For example, partners and other staff in the German offices worked with their colleagues in Italy to help an Italian trans man living in Germany obtain his legal name and gender change under Italian law, a fight which took over six years. His case was successfully closed recently.

**Procter & Gamble** Equal opportunities, as well as diversity and inclusion, are essential elements of Procter & Gamble’s (P&G) corporate culture. The firm’s policies expressly prohibit discrimination based on sexual orientation and gender identity. Partner-related employee benefits apply regardless of the partner’s gender. In 2014, P&G launched its LGBT and allies network, GABLE, in Germany. The network aims to create a workplace atmosphere where every LGBT employee can bring their whole self to work. Allies are seen as essential for reaching this goal. They are trained to be responsible for their own actions and to intervene when they hear or see behaviour and language that discriminates against LGBT people. Allies are also provided with merchandise allowing them to show visible support for the LGBT community. Every March, P&G celebrates its diversity and inclusion week. GABLE uses this week to inform the organisation about its aims and goals, as well as to recruit and train new members. Since its launch, GABLE has rapidly grown and now works across 10 office and manufacturing plant locations in Germany, both in cities and more rural areas. The network’s success is furthered by supportive leadership, with three sponsors at senior management level.
GET INVOLVED

THE ANNUAL LGBT CALENDAR

**May** – XPOSED Queer Film Festival. [www.xposedfilmfestival.com](http://www.xposedfilmfestival.com)


**June / July** – Cologne Pride and Christopher Street Day. [www.colognepride.de](http://www.colognepride.de)

**July** – Christopher Street Day Berlin Pride. [www.css-berlin.de](http://www.css-berlin.de)

**July/August** – Hamburg Pride Christopher Street Day. [www.hamburg-pride.de](http://www.hamburg-pride.de)

**October** – Queer Film Festival Munich. [www.qffm.de](http://www.qffm.de)

Check the events websites for the most up-to-date information on dates.

FIND LGBT GROUPS AND COMMUNITIES

**Antidiskriminierungsstelle des Bundes** – a state organisation supporting people who have experienced discrimination on grounds of ethnicity, gender, religion, disability, age, and ‘sexual identity’, as well as providing information and conducting research. [www.antidiskriminierungsstelle.de](http://www.antidiskriminierungsstelle.de)

**Centrum Schwule Geschichte** – a Cologne-based centre maintaining a public library and archives relating to the history of homosexuality and activism in Germany, as well as organising exhibitions, lectures and events. [www.csgkoeln.org](http://www.csgkoeln.org)

**Lesben- und Schwulenverband in Deutschland** – an organisation working to establish complete legal and social equality for the LGBT community through policy work, campaigns, education and community work. [www.lsvd.de](http://www.lsvd.de)

**MANEO** – a Berlin-based anti-violence and anti-hate crime group educating against homophobic abuse and offering counselling and recovery services to victims. [www.maneo.de](http://www.maneo.de)

**Mann-O-Meter** – a Berlin-based group providing HIV/AIDS related health services and acting as a switchboard to connect tourists and residents with LGBT events, organisations and individuals. [www.mann-o-meter.de](http://www.mann-o-meter.de)

**PROUT AT WORK** – an organisation working with employers to advance workplace equality for LGBT*IQ people. [www.proutatwork.de](http://www.proutatwork.de)

**Queer Refugees Deutschland** – a project connecting, supporting and advising LGBT refugees and organisations working with them. [www.queer-refugees.de](http://www.queer-refugees.de)

**Völklinger Kreis** – a network for gay business leaders and managers, providing personal and professional networking opportunities and lobbying for equal opportunities in the workplace and beyond. [www.vk-online.de](http://www.vk-online.de)

**Wirtschaftsweiber** – a network for lesbian businesswomen providing professional networking and development opportunities. [www.wirtschaftsweiber.de](http://www.wirtschaftsweiber.de)

GET LOCAL LGBT NEWS

**LMAG** – an online and printed magazine for lesbians. [www.l-mag.de](http://www.l-mag.de)

**respekt!** – a political magazine run by the LGBT organisation LSVD. [www.lsvd.de/presse/respekt.html](http://www.lsvd.de/presse/respekt.html)

STONEWALL’S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 74 ORGANISATIONS OPERATING IN GERMANY.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

Stonewall
192 St John Street, London
EC1V 4JY
United Kingdom

Switchboard: +44 (0) 20 7593 1850
Info Line: +44 (0) 800 050 2020
Email: info@stonewall.org.uk
Website: stonewall.org.uk

Legal Partner
**Freshfields Bruckhaus Deringer**

Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of July 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland).