

GERMANY

Most questions require a reply based on the following codification:

a. Yes, already done <input type="checkbox"/>	b. Yes, work is in progress <input type="checkbox"/>	c. We intend to work on this <input type="checkbox"/>	d. Position non determined <input type="checkbox"/>	e. No <input type="checkbox"/>
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Section I – Implementation and dissemination of the Recommendation

1. How would you assess the status of implementation of the Recommendation in your country?
Fully satisfactory Adequate Insufficient Absent

Please explain your reply.

As will be evident from the replies made in the present questionnaire, significant steps already have been taken in Germany in the sense of the Recommendation. In our reply, we checked the option “Adequate” as regards the status of the Recommendation’s implementation in Germany since combating discrimination on the grounds of sexual orientation or gender identity is an ongoing and complex task that cannot be regarded as having been conclusively accomplished. Combating discrimination is a challenge that all of society must face up to, and one that will require the commitment of state actors and non-state actors alike.

2. Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?
a. b. c. d. e.

Please explain and, if appropriate, provide examples of any such measures found:

The General Act on Equal Treatment (*Allgemeines Gleichbehandlungsgesetz*) has entered into force only relatively recently. Many issues of discrimination in Germany have not been the subject of scientific analysis as yet, nor have they been definitively addressed by the German courts.

Are there measures in place to redress any such discrimination?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices:

Please see the reply to Question 5.

3. Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?
a. b. c. d. e.

If appropriate, please provide examples of measures adopted or in preparation.

On 27 October 2001, the Federal Republic of Germany, represented by the Federal Ministry of Justice, established the **Magnus Hirschfeld Foundation**. The foundation’s task is to promote education, science, and research in order to counteract the discrimination and social exclusion of homosexual men and women in Germany.

Through its work and diverse programmes, it makes an important contribution to overcoming prejudice and resentment against those perceived as different, and to educating the public. The Magnus Hirschfeld Foundation, a foundation under civil law with legal capacity, is based in Berlin. The foundation's mission, as defined in section 2 (1) of its statute, is to promote education, science, and research, and in particular to

1. Keep alive the memory of Nazi persecution of homosexuals,
2. Scientifically research and present the life and work of Magnus Hirschfeld as well as the life and social environment of homosexual men and women who have lived and live in Germany, and
3. Counteract discrimination and social exclusion of homosexual men and women in Germany.

The purposes of the statute are achieved in particular through:

1. The initiation and promotion of education and the development of an appropriate network,
2. Technical cooperation with universities as well as with educational and research institutions,
3. Independent scientific research and the encouragement and promotion of scientific research and its publication,
4. The collection, documentation, and scientific evaluation of materials and eyewitness reports, and
5. The implementation of exhibitions, conferences, discussion forums, and similar events.

The independent **Federal Anti-Discrimination Agency (*Antidiskriminierungsstelle des Bundes*)** completed / funded two research projects that dealt with issues of discrimination on grounds of sexual identity and/or transsexuality and, to some extent, of intersexuality.

In 2009, the Federal Anti-Discrimination Agency (referred to as “ADS” hereinbelow) resolved to fund and support a campaign of the antidiscrimination organisation, *Lesbenberatung Berlin e.V. - LesMigraS*, to combat **“Violence and multiple discrimination against lesbian and bisexual women and trans* people in Germany.”** The campaign's primary focus was on conducting a quantitative and qualitative analysis of the topic, the results of which were presented at a conference in September 2012 and will be published in a final report by LesMigraS. The study shows that lesbian and bisexual women as well as trans* people in Germany continue to experience a range of discrimination and violence in the areas of education, work, and healthcare, at government agencies, as well as in the public and private spheres. In this context, it is in particular trans* people and queers of colour who are affected by multiple discrimination. The study proves that racism, heterosexism, and cis-sexism – as forms of discrimination against trans* people – are still major issues in Germany, and that there is a need to counteract and prevent these forms of discrimination and violence also in the future.

In addition, ADS published a report by Jannik Franzen and Arn Sauer on **“Discrimination against Trans* People, Especially in the Workplace”** in 2010. The study shows that trans* people face intense discrimination in all spheres of daily life, especially in the workplace. Discrimination impacts their ability to gain access to the labour market and their career opportunities, and ranges from rejection and harassment to outright violence. Trans* people are disproportionately affected by job loss, unemployment, and poverty, and they often work in positions for which they are overqualified. They report transphobic behaviour and attitudes from colleagues and superiors, as well as structural discrimination resulting from the way that the medical and legal systems approach people transcending gender boundaries.

Recommended actions based on the study's findings included a broad, long-term effort to educate the public and raise awareness about the social and legal situation of trans* people and the discrimination they face in businesses, organisations and government agencies, healthcare, while also informing about case law and providing trans* people with opportunities to obtain legal consultation. These include gender mainstreaming and anti-discrimination strategies, which take as their foundation a diversity of sexual identities and modes of expressing gender and discuss them individually. The report (in German) is available for download from the ADS website.

Further, the Federal Anti-Discrimination Agency plans to recruit *Land* and local governments as partners in a campaign to end discrimination in society. Federal, *Land*, and local governments will show a united front against discrimination. Berlin, Hamburg, Brandenburg, Bremen, and the Rhineland-Palatinate have already joined the **“Coalition against Discrimination.”**

The *Länder* and municipalities joining this campaign have issued a statement of intent that reflects their desire to ensure the following:

- That the issue of discrimination receives more public attention;
- That every possible means is applied to provide people who are discriminated against the best possible counseling and advice in the city or town of their residence;
- That, whenever possible, central points of contact are identified;
- That protection against discrimination is firmly anchored as a political goal of all governments at the *Land*, municipal, and sub-municipal levels.

Example of measures taken at the *Land* level:

North Rhine-Westphalia: The government of the *Land* of North Rhine-Westphalia (NRW) wants to decisively counter discrimination against lesbian, gay, bisexual, transsexual, transgendered, and intersexual people – abbreviated as LGBTTI. It is taking action to promote acceptance and the universal recognition of the value of others. Its aim is to create a tolerant NRW, where diversity is a matter of course – something that people can both embody and experience in others. On 30 October 2012, an “**NRW Action Plan for Equality and Acceptance of Sexual and Gender Diversity**” was adopted. It requires all governmental departments to take into account the task of combatting discrimination and homophobia in their substantive agendas and budget plans.

A broad array of stakeholders participated in a process to determine what urgent changes are necessary so that lesbian, gay, bisexual, transsexual, transgendered, and intersexual people can enjoy equal treatment and acceptance. Representatives of the legislative branch (the speakers for LGBTTI issues of each parliamentary group in the *Land* parliament), service providers (NGOs and counseling infrastructure), and government agencies engaged in a planning group. In a constructive dialogue and on an equal footing, the participants contributed their knowledge and experience to identify what action and resources are needed and to set priorities for future work.

Following broad participation in eleven subcommittees, which included further experts representing organisations responsible for the execution of certain programmes, associations, and government agencies, the group developed recommendations for the *Land* government's action plan based on four mutually agreed upon headline goals.

In the action plan, the government agencies declare their intention to implement diverse measures that will target people in all phases and spheres of life and members of specific groups. They also commit to undertaking consciousness-raising efforts. The action area "Discrimination / Violence / Domestic Violence" is one of 12 such action areas, and comprises various projects.

While the action plan was still in the development phase, fundamental measures were initiated or completed. For instance, the legal equality of civil unions with marriages was established in the laws of NRW, funding was secured for a qualitative study on the situation of transsexuals and for a special analysis of the long-term study “Group-Related Hostility towards other People” with regard to homophobia, funding for the material costs of psycho-social counseling services and self-help organisations was increased, and an office was set up for the campaign “Different and Equal – Respect is the Only Answer.” In addition, funding was secured for various programmes that will provide networking and coordination opportunities and services in addition to the existing counseling infrastructure, which currently includes the two central offices of the gay and lesbian self-help organisations for the *Land* of NRW, a state-wide coordination office for anti-violence work, and five psycho-social counseling offices for gays, lesbians, and their family members. This new funding will support the following: the project “Gay and Lesbian Awareness in NRW” (*SchLAU - Schwul-lesbische Aufklärung NRW*), gay and lesbian youth work in the Lower Rhine Region, the campaign “Schools without Homophobia – Schools of Diversity,” services for senior citizens, and programmes in the fields of long-term care and migration. At present, the campaign “Different and Equal – Respect is the Only Answer” is conducting a broad public outreach effort, which includes, *inter alia*, the dissemination of an educational brochure and posters.

The *Land* government is planning to conduct an evaluation of the measures initiated and implemented thus far, with an expected completion date of 31 July 2015. Based on the findings of this evaluation, the *Land* government will decide on whether to continue implementing the action plan and will coordinate any further steps.

4. Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?

- a. b. c. d. e.

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

- a. b. c. d. e.

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices:

Since 2006, **ADS** has kept statistics regarding the requests for legal counseling services and evaluated these with regard to the characteristics outlined in the General Act on Equal Treatment (*Allgemeines Gleichbehandlungsgesetz*). Inquiries from transsexuals as well as inquiries from intersexuals are both indexed with the characteristic "Gender."

Since 2001, xenophobic and anti-Semitic crimes have been tracked separately by the police as "Hate Crimes." They are registered separately, based on the criteria catalogue of the Criminal Investigation Department's Reporting Service for Politically Motivated Crimes (*Kriminalpolizeilicher Meldedienst - Politisch motivierte Kriminalität*).

The classification of a crime as a hate crime is contingent on the motivation of the perpetrator, which is to be investigated with consideration given to all the circumstances of the illegal act and/or the perpetrator's mindset. In this context, "Hate Crime" is a general category that currently includes the following sub-categories: anti-Semitism, crimes against the disabled, xenophobia, crimes committed based on social status, racism, religious orientation, and sexual orientation.

However, a single crime may be attributed to many motivations. Germany's system for tracking crime statistics allows for a multi-dimensional view of politically motivated crimes that accommodates multiple motivations.

5. Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?

- a. b. c. d. e.

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The **regulations of general tort law** set out in the German Civil Code (*Bürgerliches Gesetzbuch*) provide effective means of obtaining legal protection for the victims of discrimination on grounds of sexual orientation or gender identity, above and beyond those set out in the General Act on Equal Treatment. Section 21 (3) of the General Act on Equal Treatment (respectively section 15 (5) of said Act) makes it clear that any claims in tort will be concurring causes in action.

In this regard, the following claims under tort law for compensation of damages are conceivable:

- Section 823 (1) of the German Civil Code, where the discrimination is tantamount to an invasion of general personal privacy (as "another right of another person" in the sense of the term as used in that regulation);

- Section 823 (2) BGB in conjunction with section 185 of the German Criminal Code (*Strafgesetzbuch*) in those cases in which the discrimination is joined to an insult; however, it is disputed whether the stipulations of section 19 (1) und 2 of the General Act on Equal Treatment extend further and can be regarded as a protective law in the sense of section 823 (2) of the German Civil Code;
- Section 826 of the German Civil Code in cases in which damage was intentionally inflicted in a manner contrary to public policy.

Furthermore, claims for removal and injunction pursuant to section 1004 of the German Civil Code may exist, by analogy, for an ongoing or threatening invasion of general personal privacy.

The claims under tort law may be of particular interest to the parties discriminated against since according to the express wording of the General Act on Equal Treatment, the two-month preclusive time limit stipulated by section 21 (5) first sentence of the General Act on Equal Treatment does not apply.

As regards **employment relationships**, the following applies:

Where the corresponding pre-requisites are met, the employees affected are entitled to lodge a complaint (section 13 of the General Act on Equal Treatment), have the right to refuse performance (section 14 of the said Act) and have a claim to appropriate compensation of the non-pecuniary damages they have suffered (immaterial damages).

In the event of an action being pursued before the courts, the rules concerning the taking of evidence are simplified where employees are submitting evidence to the court (section 22 of the General Act on Equal Treatment). Should, in the event of a dispute, a party submit evidentiary facts to the court, and prove them, which indicate that the party affected was in fact discriminated against on one of the grounds set out in the General Act on Equal Treatment, the burden of proof shall be on the other party as to there having been no violation of the provisions protecting against discrimination.

Upon the **General Act on Equal Treatment** having been signed into law in 2006, any discrimination on grounds of gender and sexual identity, *inter alia*, is prohibited. Gender identity is not a characteristic separately identified in section 1 of the General Act on Equal Treatment. However, cases concerning gender identity (of trans* and intersexual persons) are covered by the prohibition of discrimination.

The principle of non-discrimination extends to cover the fields of labour law and some fields of civil law. Section 15 of the General Act on Equal Treatment provides for compensation and damages in the field of labour law. The claims arising from discrimination in the field of civil law are governed by section 21 of the General Act on Equal Treatment.

In its work, **ADS** is proceeding based on a "horizontal approach," meaning that any form of discrimination is regarded to be equivalent. In the context of its public relations work, ADS also advertises the consultancy services it provides. The agency wishes to be available to all people potentially affected by discrimination, regardless of the specific characteristic that may apply.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?
None.

7. Has the Recommendation, including its Appendix, been translated in all your national languages?
a. b. c. d. e.

8. Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

All the agencies and departments affected as well as **ADS** and the German Institute for Human Rights (*Deutsches Institut für Menschenrechte*) have received a translation of the Recommendation.

Section II – Implementation of the specific provisions in the Appendix

I. Right to life, security and protection from violence

9. Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

As a matter of principle, all German law enforcement agencies are obligated to initiate an investigation as soon as factual indications lead them to suspect that a crime has been committed (section 152 (2) of the Code of Criminal Procedure (*Strafprozessordnung*)). This obligation also extends to cases in which the motive for the crime may be linked to the sexual orientation or gender identity of the victim.

10. Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?
- a. b. c. d. e.

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to section 46 of the German Criminal Code (*Strafgesetzbuch*), the courts shall weigh the the circumstances in favour of and against the offender in sentencing. The Code expressly states that the circumstances to be taken into consideration should include the motives and aims of the perpetrator, as well as the attitude evinced by the crime. If the offender is found to have been motivated by the sexual orientation or gender identity of the victim in committing the crime, either circumstance can be considered grounds for a more severe sentence.

11. Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Examples of good practice at the *Land* level:

In 1992, the **Berlin police forces** established the position of an **LGBT Liaison Commissioner** (*AnsprechpartnerIn für gleichgeschlechtliche Lebensweisen*). In 2006, an additional position was created to represent the issues of lesbian women. The aim pursued in appointing these commissioners is to reduce barriers and encourage LGBT persons to contact the police authorities, without having to fear discriminatory treatment. The contact person is also involved in the prevention of crimes against LGBT persons and contributes to the investigation of these crimes. The contact person offers advice to individuals, independent organisations, and governmental employees. Per year, about 400 consultations are carried out over the phone or in person. Victims of crimes may also be lent support in reporting a crime and will be transferred to specialised support services.

In August 2012, **Berlin's public prosecutor's office** introduced a contact person for homophobic hate crimes. It is the first office of this kind in Germany. In the course of establishing the office, the

responsibilities of the unit on violent and hate crimes were expanded to include 'offenses committed against a person solely or predominantly due to his/her sexual orientation.' As of now, it will be generally assumed that it is in the public interest to prosecute crimes against lesbian, gay, bi- or transsexual persons; accordingly, it is not possible to terminate such proceedings because they might be resolved in proceedings under civil law, or due to the trivial nature of the offence.

The **Berlin Network of Lesbian, Gays and Transgender People for Equal Treatment - Against Discrimination** provides advice and support in cases of discrimination. It receives funding from the Senate Administration for Labour, Integration and Women.

The **Guide to Counselling, Services, and Support** of the **Land Office for Equal Treatment – Against Discrimination** helps victims of discrimination identify the correct point of contact in order to obtain the support that they need.

In 1990, the **Berlin Anti-Violence-Project MANEO** was founded as the first project against homophobic violence in Germany. The initiative MANEO supports gay and bisexual men affected by violence and discrimination, records and documents homophobic offences, and engages in educational work. Support is offered to victims, persons close to the victim, as well as witnesses of a crime related to homophobia. MANEO provides information on dealing with the police and other public authorities and lends support in the corresponding processes; the project also refers victims to doctors or lawyers and advises them on insurance issues or compensation. Furthermore, the organisation accompanies clients to court hearings and the police. Any interaction with MANEO is confidential, and any person seeking advice or help may also do so anonymously; this does not depend on whether or not the victim reports the case to the police. MANEO also supports victims opting to participate in the programme mediating between victims and offenders.

Since 1992, one of the focuses of the **Support Services for Lesbians** (*Lesbenberatung*) is to combat the discrimination of lesbian, bisexual women and trans* people and to eliminate violence against them. The project **LesMigraS** focuses on lesbian, bisexual women and trans* people in Berlin. LesMigraS was founded in 1998 to combat the multiple discrimination of lesbian and bisexual migrants and black women, to engage in networking and to generally support the empowerment of this group. In recent years the focus has been expanded. The project's tasks now comprise anti-discrimination, anti-racist and anti-violence efforts as well as the provision of counselling services. The support team counsels individuals who have experienced violence and discrimination or who are in need of legal advice.

As part of its projects, **LSVD Berlin-Brandenburg e.V.** offers individual **Legal Counselling** for its members and victims of discrimination pursuant to the General Act on Equal Treatment. These initial consultations are offered by volunteer attorneys specialising in discrimination law. The legal fields covered include the General Act on Equal Treatment, aliens law, family law, social law, and criminal law. Further information may be obtained (in German) at: <http://berlin.lsvd.de/gruppen-beratung/rechtsberatung/>

Online form (in various languages) for reporting and tracking cases of discrimination:
Anti-Discrimination Office of the State of Saxony (www.adb-sachsen.de/beschwerde.html)

The **Cologne Anti-Gay Violence Hotline 19228** has counselled victims and witnesses of anti-gay violence since 1992. More information can be retrieved from the German website <http://koeln19228.wordpress.com/>. The hotline's mission is to provide aid and counselling services to victims and witnesses as well as to document anti-gay violence. The hotline is a long-term member of the Working Group of Victims' Aid organisations in Germany and a member of the "Working Group of Anti-Gay Violence Hotlines and Gay Anti-violence Projects in Germany" (ASAD). Model concepts developed for Cologne such as victims' aid work, cooperation with the police and violence prevention efforts, are now implemented in various regional projects (the "Cologne Model").

In addition, **anti-violence efforts** to protect lesbian, gay, bisexual, and trans* people in North Rhine-Westphalia is coordinated by an office that receives state funding. Additional information and points of contact can be found (in German) via the link <http://www.vielfalt-statt-gewalt.de/>.

12. Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?
- a. b. c. d. e.

Also see the reply to Question 1.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Question 12 - Police

In General: While there are no training events or programmes that deal exclusively with the groups described, education about human rights is an integral component of various police-science and legal subjects covered during the training of police officers. Police education in the subjects/fields of public law and constitutional law, civics, European law, law enforcement powers and civil rights, situational and communications training, search for persons, and interrogation/testimony, also deals with the topics of human rights, civil rights, the principle of non-discrimination, the prohibition against mistreatment and torture, the UN Charter and the European Convention on Human Rights as well as intercultural competence.

Police training relies on practical case examples in order to ensure that the future officers' human rights education is aligned with their actual tasks. In subjects such as sociology, psychology and professional ethics, police training programmes discuss the core values that underlie human society, the origin of prejudices, the significance of social groups, and the formation of social judgments and values. These aspects of police training increase the awareness of future police officers with regard to specific social groups, the problems they face, and their need for protection. It also teaches them to recognise and prevent discrimination. Great emphasis is placed on the protection of victims. Upon completing their education, officers are expected to be able to help victims of crime avail themselves of all accessible measures for their protection, and to provide advice on how they might conduct themselves in future to prevent crimes in the future.

The continuing education and training that professional police officers receive also deals with the topics of human rights and the prohibition of discrimination. Thus, the professional expertise and the social competence of police officers are constantly expanded. In addition, various professional development programmes are designed to educate police officers about the causes and context that give rise to discrimination. Such programmes are designed to promote understanding and tolerance of all people, irrespective of their gender or sexual orientation.

Examples of good practice at the *Land* level

Brandenburg: The content of legal and criminological as well as sociological and behavioral science courses is drawn in particular from the "**Action Concept of the Police of the *Land* of Brandenburg for Combatting Politically Motivated Crime**" as well as the "**Police Concept for the Protection of Victims.**" The topic of victim protection, irrespective of specific groups of victims, also plays a role in professional development courses. In addition to the Police Concept for the Protection of Victims, the Brandenburg police also provide victims an **informational hand-out entitled "The Role of the Police in Protecting Victims"** as a matter of standard procedure. It provides recommendations for conduct, while providing information about victims' rights and institutions that can provide aid. It includes information about various categories of offences as well as the guideline on "Domestic Violence" published by the Brandenburg police.

Hamburg: During training, various courses cover topics such as "**Foundations of Social Perception and Communication.**" A deeper understanding of verbal and non-verbal communication as well as the social context for an individual's actions helps police officers better recognise certain behaviour

patterns and better understand the true impact of crimes on victims. This knowledge is of particular importance in combatting discrimination on the grounds of sexual orientation or gender identity. Therefore, training delves intensively into **victimology**, which includes discussion of victimization and its consequences, the needs and expectations of victims, crime reporting behaviour, the fear of crime, and dealing with victims of crimes.

This category of offenses is regularly discussed in professional development courses offered by the **Equal Opportunity Commissioner of the Hamburg Police** to “expand professional as well as personal leadership competence.”

Mecklenburg-Western Pomerania: The **LGBT Liaison Commissioner of the City of Rostock** helped familiarise students with this topic as a guest lecturer.

In Lower Saxony, **LGBT Liaison Commissioners of the Lower Saxony Police** are on hand to provide support and advice.

1. They are available to provide support and advice for all officers and employees in matters of official contact with citizens from the gay and lesbian communities. In addition, they offer employees who seek counsel or advice a safe and trustworthy conversation partner, and they provide support should crisis interventions become necessary in the workplace.
2. They may also be enlisted to support victims of anti-lesbian/anti-gay violence as part of the police response to the issue.
3. They are also available to provide support and advice for the creation and implementation of professional development courses. In this regard, great importance is attached to sensitising employees to the concerns of lesbians and gays in order to prevent discrimination.
4. They also contribute to the development of prospective courses of action to prevent anti-lesbian/anti-gay violence.
5. They may also perform public relations work in coordination with the local media relations offices as regards gay and lesbian issues.

In Saxony-Anhalt as well, there are **Police LGBT Liaison Commissioners**

Their duties include: Participating in external events (e.g., Christopher Street Day), cooperating with the Gay and Lesbian Alliance, the Gay and Lesbian Policy Roundtable of the *Land* of Saxony Anhalt and other aid organisations, contributing to professional development courses offered by the University of Applied Sciences for Police of Saxony Anhalt; they also contribute a fixed number of hours of instruction in the curriculum to courses in the bachelor's degree and trainee programmes.

In the Rhineland-Palatinate, the police instituted a **state-wide, interagency office liaising with the LGBT community** in 2011. In particular, the office serves as a point of contact for gay, lesbian, and bisexual victims of violence as well as initiatives and organisations dedicated to education and prevention. In addition, officers of the Rhineland-Palatinate police can also avail themselves of the office's services. The office also presents its work to young prospective police officers in the police training component of bachelor's degree programmes in order to increase their awareness of the issue.

A **national conference on the issue of “Hate Crimes”** was held from 28-30 November 2012 in Mainz. The conference was jointly organised by the *Land* Criminal Police Office of the Rhineland-Palatinate, the *Land* Police Academy of the Rhineland-Palatinate and the central office for crime prevention of the Ministry of the Interior, Sports and Infrastructure. Representatives of government, churches, unions, the media, academia, the police, and victims' aid organisations examined the phenomenon and discussed opportunities for cooperation. The conference brought these stakeholders together in order to facilitate the sharing of knowledge, develop an array of possible responses, and forge networks that can mount a comprehensive effort to combat the phenomenon.

In May of 2013, the Ministry of the Interior, Sports, and Infrastructure will hold a **Symposium** with the title **“Understanding Diversity as an Opportunity – the LGBT Community as a Challenge for the Police”**. The goal of this programme is to examine the issue in its overall context and develop an appropriate approach to the challenges the police must face in this regard internally, as well as official police contact with members of this group in the field.

Question 12 – Penal Institutions

In General: The training that employees of penal institutions undergo comprises a significant share of coursework on the fundamentals of psychology and human behaviour, with numerous examples illustrating the topic. Moreover, students are taught how to react adequately in situations typical to life in a penal institution, as well as appropriate behavioural patterns. In this way, employees are given the ability to identify criminal offences or critical incidents of any kind – and thus also hate crimes – , to react in a manner appropriate to the situation and to give assistance to the persons concerned. The abilities and knowledge so taught are intensified in regular refresher courses.

Examples of good practice at the *Land* level:

Baden-Württemberg: The state-wide professional development programme for penal institutions featured a central **Professional Development Conference** called “**Colourful Cultures**” in 2010 that had a corresponding thematic focus. Among the speakers invited to the conference was a speaker from VelsPol Deutschland e.V., the German association of lesbian and gay police officers. The same speaker gave a presentation in 2012 during a three-day conference on “Diversity Management.” In 2013, the following conferences are planned: “Intercultural Competencies” – 22-23 April 2013, targeted towards general correctional officers and the employees running the correctional facilities’ workshops; and “Diversity Management” – 24-26 April 2013, targeted towards upper intermediate and higher level civil servants working in penal institutions. Education and training programmes for prospective corrections professionals are designed to break down taboos around this topic and make students more aware of it.

Berlin: The training facility of the Berlin Department of Corrections is currently developing a **professional development course** on the topic of “**Diversity**” in cooperation with the *Land* Office for Equal Treatment - Against Discrimination. This course will begin in April 2013 with an introductory class for trainers who will lead professional development courses. The objective of the programme is to convey the concept of diversity with a focus on gender and sexual diversity, the importance of valuing others and preventing discrimination for Berlin’s public administration, and the connection of diversity issues to one’s own work, as well as the role of management in implementing a positive approach to diversity. These measures are being taken in the context of the initiative “Berlin Stands Up for Self-Determination and Acceptance of Sexual Diversity” and the accompanying package of measures to combat homophobia, which were adopted in 2010 by the Berlin City Parliament (*Abgeordnetenhaus*).

The two-year training programme for intermediate-level civil servants in penal institutions, which blends theory and practice, also covers the topic “protection of minority rights” comprehensively. Groups such as the Berlin association “**Mann-o-Meter**” offer counselling for homosexual and bisexual inmates of Berlin’s correctional facilities as well as consulting services and information for correctional officers with regard to the issues faced by specific groups.

Lower Saxony: Correctional officers are trained to recognise and prevent violence among inmates, including violence aimed at homosexual, bisexual and transgender inmates. Furthermore, there are plans to develop **professional development courses for correctional employees at all levels of the civil service** with the following content:

- Origins of undesirable conflict-resolution strategies among inmates and how to avoid them;
- Dealing with violent and disruptive prisoners;
- Communications training;
- Working to implement group measures.

Rhineland-Palatinate: Instruction, especially about the General Act on Equal Treatment, in which the prohibition of discrimination based on sexual identity is discussed, serves to **raise awareness with all employees** regarding this issue.

Question 12 - Judges, Prosecutors

In General: Combatting hate crimes of any kind, including those motivated by bias based on sexual orientation or sexual identity, is a fundamental mission of the justice system. Judges and prosecutors are qualified and empowered to recognise and prosecute hate crimes because of their special mandate as well as the education they complete in the attainment of their profession. Separate training and professional development courses with a specific focus on combatting hate crimes motivated by bias based on sexual orientation or sexual identity have not typically been offered thus far. However, professional development courses are offered that facilitate the recognition and suppression of hate crimes in general. For example, the German Judicial Academy (*Deutsche Richterakademie*) hosted an event on “Right-wing Radicalism and Neo-Nazism – Latest Trends,” and a week-long conference on “Political Extremism – A Challenge for Society and the Judicial System.” The conferences 7c/2013, “Dealing with Victims of Sexual Violence in Criminal Trials” and 12d/2013, “Developments and Trends in Criminal Law” are two examples of events that also addressed this subject matter. These professional development courses are open to judges and prosecutors from all the German *Länder*. In addition, judges and prosecutors also attend specific professional development courses for judges at the Academy of European Law on topics such as “Combating Discrimination in the European Union”.

Examples of good practice at the Land level:

Joint Legal Examination Office of the *Länder* of Berlin and Brandenburg:

The phenomenon of crimes motivated by bias against specific gender and sexual identities was examined from various perspectives in **professional development courses** offered to judges and prosecutors organised by the Joint Legal Examination Office of the States of Berlin and Brandenburg (hereinafter the “Examination Office”).

In 2009, the Examination Office presented a working conference for judges, prosecutors, and police case workers on the topic of “**Crimes against Sexual Self-Determination.**” The conference dealt with various aspects of the prosecution of sex crimes with a focus on “Sexual Violence against Adults.”

Group-related hostility towards other people and hate crime were also the subject of a series of events on the topic of “**Extremism**” that the Examination Office held regularly at the Academy of the Judicial Service in Königs Wusterhausen (May 2010) and the German Judicial Academy (2010 and December 2012).

Most recently, the Examination Office organised a conference on “**Current Developments in Right-Wing Extremism,**” which took place from 3-8 December 2012 at the German Judicial Academy in Wustrau. This conference included an examination of the significance of gender roles in modern right-wing extremism with a particular emphasis on homophobia. In addition, the examination of witnesses traumatised as a consequence of homophobia and hate crime was the subject of a *Land* conference on the “**Psychology of Witness Examination**” at the Judicial Academy in Königs Wusterhausen in December of 2012.

In Spring 2013, Senior Prosecutor Ines Karl, the commissioner liaising with the LGBT community at the Public Prosecutor’s Office of Berlin, will give a presentation on the topic of “**Homophobic Crimes and Victims’ Interests – Achieving Equality through Criminal Prosecution**” at the conference, “Dealing with Victims of Sexual Violence in Criminal Trials, especially Children and Youth” at the German Judicial Academy in Wustrau.

Hamburg: In 2010, a professional development course for the judiciary of the *Land* called “**Dealing with Victims of Crime on the Witness Stand in Criminal Trials**” was intended to help participants be more sensitive in dealing with victims of violence. The *Land* of Hamburg intends to offer further professional development events on the topic of victim protection.

North Rhine-Westphalia (NRW): The **NRW Action Plan for Equality and Acceptance of Sexual and Gender Diversity** includes the following passage: “Efforts are being made to raise awareness within the judiciary. The consequences of violence against victims with LGBTTI backgrounds

(Lesbian, Gay, Bisexual, Transsexual, Transgender and Intersexual) is dealt with in professional development courses offered to judges and prosecutors. Special attention is given to the issues faced by transsexuals. The *Land* Ministry of Justice is currently examining to what extent this topic can be integrated into the professional development courses offered by the Judicial Academy of North Rhine-Westphalia in Recklinghausen.”

Schleswig-Holstein: Prosecutors take part in events including the **professional development courses** of the police directorate for training and education and the rapid reaction force of the Schleswig-Holstein police on the subject of the investigation and prosecution of sexual crimes.

13. Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?

a. b. c. d. e.

Also see the reply to Question 1.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Question 13 – Penal Institutions

In General: Measures taken in penal institutions that directly serve the safety and, more particularly, the protection of individual inmates typically will not be designed for any specific group of people. Notwithstanding this fact, an inmate’s background will be considered for each individual case, as will be the causes for his or her requiring special protection; the protective measures will then be taken based on the nature and intensity of the respective psychological or physical dangers. The safety and dignity of the group of people addressed, as one of several groups of minorities, is also addressed at the therapeutic level, in order to counteract discrimination at the atmospheric level, as well as verbal discrimination.

Examples of good practice at the Land level:

Bavaria: If the administration of a penal institution is aware that inmates belong to a minority group (prisoners are not required to disclose their sexual orientation), and this could potentially lead to conflicts with other groups of prisoners, then special consideration is given to this circumstance in the assignment of cells as well as daily routines (assignment of work, doors of cells kept open, yard exercise periods). An effort is made to accommodate the wishes of those affected whenever possible.

Berlin: The prisoner intake department of the Berlin correctional services has comprehensive experience with transgender individuals in particular. In order to protect them from attacks, they can be housed, for example, in women’s facilities or, in isolated cases, in the prison hospital. Information about the sexual orientation of prisoners is not routinely collected in Berlin’s penal institutions. Nevertheless, given the principle that detention should not cause harm, the administration of each penal institution does everything within its means to protect prisoners, regardless of their nationality, religious faith, or sexual orientation, and to eliminate assaults and create a violence-free environment.

Furthermore, the intake department has comprehensive expertise in counselling and supervising homosexuals and bisexuals who express their sexual orientation outwardly such that it is clearly recognised by others.

If the crime committed by a new inmate indicates repressed or denied homosexuality, intake will also address this issue with the new inmate. In some cases, the institution may facilitate a process in which prisoners can come out in a safe environment, either with the help of an external expert or in the context of prison social therapy.

Brandenburg: In order to ensure the safety and dignity of incarcerated lesbian, gay, bisexual and transgender people, prisoners are informed of their rights and obligations immediately during the

admission procedure. Following said admission procedure, a treatment examination is conducted, during which the personality and life circumstances of the prisoner are explored. The examination may yield indications that a prisoner is inclined to commit hate crimes. Prisoners' incarceration is planned and designed in significant measure based on the information gleaned through this process. If the results of the examination indicate that a prisoner could pose a danger to lesbian, gay, bisexual or transgender people, then the treatment and incarceration plan is adjusted to account for this fact. In individual cases, special security measures or determinations regarding the accommodation of the prisoner may be ordered, including his or her segregation from other prisoners or even solitary confinement. The prisoner's participation in work or vocational programmes, work-therapy activities, education and training, and free-time activities may be restricted or, if necessary, prohibited entirely. If these protective mechanisms are insufficient, the prisoner may be assigned to a different penal institution than the one designated by the Scheme of Execution of the *Land* of Brandenburg for prison sentences, including facilities outside the *Land* of Brandenburg. Such transfers may be made to ensure the prisoner's own safety or to protect other inmates.

The correction and prevention scheme, which outlines the course of the prisoner's sentence with regard to individual objectives, defines specific treatment measures. The correction and prevention scheme is aligned with the prisoner's development and updated in accordance with further results obtained in exploring his or her personality. If there is any suspicion that a prisoner harbours bias or may even spread discriminatory thought to other prisoners, treatment countermeasures are taken. Social workers, psychologists, and clergy are part of the treatment team and contribute expert knowledge. They are available to both perpetrators and victims. They support inmates during their incarceration and help prepare them for life after their release, and also assist the inmates' families.

Hessen: Inspired by a minor interpellation of the parliamentary group "Die Linke" regarding the recommendations of the study "Fleeing Homophobia," the treatment of lesbian, gay, bisexual, transsexual, intersexual, and transgender people was discussed in a meeting last year of penal institutions' directors. This discussion helped raise awareness of the issue. Likewise, the annual conference of correctional facility physicians included a discussion of this topic aimed at identifying needed measures in each facility.

Question 13 - Police

In General: The procedures to be followed in connection with the arrest of persons, or taking them into custody, are governed specifically by the Police Custody Ordinance (*Polizeigewahrsamsordnung*) of the respective *Land* and the service instructions accompanying it. These rules stipulate that any detained person is to be afforded proper treatment, and that their dignity is to be respected. Restrictions are to be imposed on detainees only to the degree required by the purpose of their detention and the maintenance of order in custody. Moreover, any detainees are to be placed individually if at all possible, regardless of their sexual orientation or gender identity.

Question 13 – Forensic Psychiatric Institutions / Psychiatric Facilities

In General: The rights of all patients placed in a psychiatric facility or a forensic psychiatric institution in the context of a measure depriving them of their liberty based on the Mental Health Laws, the Laws on the Execution of Measures of Correction and Prevention, or the Acts on the Therapeutic Treatment and Placement of Violent Offenders Suffering from Mental Disorders in force in the respective *Länder*, are protected by the government supervisory authority responsible, as well as the supreme supervisory authority. Furthermore, patients's rights are represented by independent visiting commissions, which accordingly are not subject to any instructions and whose task consists of visiting the psychiatric institutions and auditing them with a view to whether all patients' rights and legitimate interests are safeguarded. This audit also comprises the review of whether or not the principles of equal treatment are observed, and whether or not discrimination is prevented. As a matter of course, these measures are also intended to protect inmates against discrimination due to their gender and sexuality, both in psychological and physical form.

Examples of good practice at the Land level:

Baden Württemberg: In Baden-Württemberg, the institution of the “patient advocate” was created to serve as a neutral party that represents the interests of patients being treated in inpatient as well as in outpatient psychiatric facilities.

The planned Mental Health Law is intended to further strengthen the rights of patients and their families in Baden-Württemberg. Information, counselling, and grievance offices at the city and rural district level are intended to **expand and further develop the role of patient advocates**. The staffing and operation of these offices will be based on the concept of a “dialogue,” which denotes a culture of equal communication among psychiatric experts, the families of mentally ill people, and volunteers. Further plans call for the establishment of a **Land Ombudsman's Office**, which is expected to offer special legal expertise and will advise the grievance offices. The Ombudsman's Office will be required to report on its activities to the *Land* Parliament.

North Rhine-Westphalia: Team meetings, clinical supervision of staff, and therapeutic concept discussions often include discussions of sexuality, sexual identity, and dealing with discrimination of any kind due to the varied clinical illness patterns of patients in facilities implementing the measures of reform and prevention serving to protect the public (*Massregelvollzug*). Because of their forensic training, the specialists working in such reform and prevention facilities are prepared to deal with potentially problematic situations that arise in their daily work in the ward.

A patient's sexual identity will only play a role in the therapy he or she receives during the reform and prevention treatment if there is an indication that the crimes that resulted in the patient being institutionalised were connected to the patient's sexual identity, or if the patient expresses a desire to deal with this subject in the therapeutic process.

Discriminatory behaviour among patients is also dealt with in the context of individual and group therapy or of ward assemblies. The resulting discussions are supervised by mental health professionals.

Patients who feel they have been the victim of discrimination as a result of their sexual identity have numerous avenues to file a grievance. They may turn to the institution itself by filing a request for administrative review with the institution's management, or file a complaint with the grievance offices of the Regional Councils, the *Land* Commissioner for Reform and Preventive Treatment, the petitions committee of the *Land* Parliament or other institutions. All patients are informed verbally and in writing about these avenues for filing grievances and legal action when they are admitted to the reform and preventive treatment facility.

14. Have appropriate measures been taken to combat all forms of “hate speech” against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation ?

a. b. c. d. e.

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Pursuant to section 130 (1) of the German Criminal Code (*Strafgesetzbuch - StGB*), whosoever, in a manner capable of disturbing the public peace:

1. incites hatred against segments of the population or calls for violent or arbitrary measures against them; or
2. assaults the human dignity of others by insulting, maliciously maligning, or defaming segments of the population,

is guilty of the crime of incitement to hatred and shall be liable to punishment.

A segment of the population, in the sense of the term as used here, is any domestic body of persons of such a large number that it cannot be reasonably viewed as a group of specific individuals, and which differs from the overall population due to certain characteristics of an internal or external nature.

The law was amended on 16 March 2011 to its current status, with the express objective of including among the protected segments of the population those groups named in Question 1, as well as individuals who are attacked as supposed representatives of these groups.

II. Freedom of association

15. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. b. c. d. e.

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

- Freedom of association: Article 9 (1) of the Basic Law (*Grundgesetz* - GG)
- Equal access to support from the state: Article 3 (1) of the Basic Law

16. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There has been no indication of any need for such specific protection in Germany.

17. Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Section 47 of the Joint Rules of Procedure of the Federal Ministries (*Gemeinsame Geschäftsordnung der Bundesministerien* - GGO) ensures that non-governmental organisations active at the national level are involved prior to the adoption and implementation of laws concerning the particular topic that they lobby for.

III. Freedom of expression and peaceful assembly

18. Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

- a. b. c. d. e.

Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

- a. b. c. d. e.

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

- | |
|---|
| <ul style="list-style-type: none">- Freedom of opinion / information: Article 5 (1) first sentence of the Basic Law (<i>Grundgesetz</i> – GG)- Freedom of assembly: Article 8 (1) of the Basic Law |
|---|

19. Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In General: The fundamental right of assembly (Article 8 of the Basic Law) is of the utmost value. Thus arises the state's duty not only to respect this fundamental right, but to create conditions that make the actual exercise of this fundamental right possible.

Against this backdrop, the police are duty-bound to protect all peaceful, registered assemblies from disturbances. This duty stands regardless of the objective of a given demonstration. Therefore, people who participate in demonstrations or assemblies for the rights of lesbian, gay, bisexual or transgender people enjoy this protection as a matter of course.

Examples of good practice at the Land level:

Lower Saxony: Those who subscribe to extreme right-wing viewpoints in particular are to be regarded as a potential threat to the public discussion regarding questions of sexual orientation or gender identity. The **Overall Concept for Combatting Right-Wing Extremism**¹, introduced in 2001 and updated in 2012, provides the *Land* government of Lower Saxony a sophisticated, interdepartmental strategic response to right-wing extremism, one which includes numerous preventative and suppressive measures intended to promote a democratic and tolerant mindset in the population. Thus, this approach to combatting the phenomenon of right-wing extremism also contributes to strengthening the rights of the groups in question that need protection.

Rhineland Palatinate: The situation assessment conducted by police departments in the Rhineland Palatinate in preparation for deployment at a public demonstration includes evaluations of the organiser, the participants, and any potential disruptive influences. These standards are applied regardless of the sexual orientation of the participants in the assembly. When the police become aware of an assembly dealing with the human rights of lesbian, gay, bisexual, and transgender people, the concrete preparations they undertake before deployment are tailored to the content of the demonstration. The objective of a demonstration is also part of the situation assessment conducted by the police. If necessary, the officers who will be deployed at a specific event will receive training aimed at raising their awareness of the issues they may face in dealing with particular groups of people at the demonstration.

¹ Combatting Right-Wing Extremism in Lower Saxony – Strengthening Democracy. Overall Concept for Combatting Right-Wing Extremism of the Lower Saxony Ministry of the Interior and Sports; version of 16 January 2012.

During the assembly, the police will stop disruptions aimed at the demonstration or its participants. Their actions are guided by the principle of focusing on disruptors. The police measures will be directed at those who create danger or are responsible for crimes – regardless of their gender, age, nationality, religion, gender identity, ethnic background, disability, or sexual orientation.

IV. Right to respect for private and family life

20. Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Section 175 of the Criminal Code, in its old version, which penalised any sexual contact whatever between men, continued in force unchanged following the end of World War II. From the late 1960s onwards until the mid-1970s, the provision was modified to become a penal provision serving the protection of male youth against sexual acts by adult men. The provision was repealed by Article 1 no. 1 of the 29th Act Amending the Criminal Code of 31 May 1994, with effect as per 11 June 1994. This put an end to the special treatment of homosexual acts under the Criminal Code.

21. Are there measures in place to ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?

a. b. c. d. e.

Please provide examples of exceptions to this principle, if any:

Special types of personal data as defined by section 3 (9) of the Federal Data Protection Act (*Bundesdatenschutzgesetz – BDSG*) (such as, for example, information on a person's sexual life) may be collected, processed, or used, subject to the pre-requisites being met set out in section 13 (2) and section 28 paragraphs (6) through (9) of the Federal Data Protection Act.

22. Are appropriate measures available to guarantee full legal recognition of a person's gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

a. b. c. d. e.

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

23. Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

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24. Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?

- a. b. c. d. e.

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

- a. b. c. d. e.

In Germany, marriage is an institution reserved for two persons of the opposite sex. Persons of the same sex may enter into a civil union pursuant to the **Act on Civil Unions (Lebenspartnerschaftsgesetz – LPartG)**. In family law, civil unions have been given nearly fully equal status with marriages. The Act on Civil Unions entered into force on 1 August 2001, and its amended version entered into force on 1 January 2005; the Act was further amended by subsequent laws. It includes, *inter alia*, the following core stipulations:

- Creation of a separate institution under family law, this being the civil union, which has been structured to correspond to marriage to a very significant extent;
- Complete integration of the laws governing marital property, including pension rights adjustment following the dissolution of the partnership;
- Complete integration of the laws governing maintenance;
- Establishment of a statutory inheritance right of the surviving partner in a civil union;
- Dissolution of a civil union by the family court;
- Granting of “minor custody rights” to a partner in a civil union (who is entitled to participate in the decisions concerning matters of the child’s daily life) and permission to adopt step-children.

Today, partnerships between persons of the same sex are equivalent to marriage in the entire German legal system also outside of family law, with only a few exceptions. The Federal Government has compiled those instances in which partnerships between persons of the same sex are not given equal treatment when it replied to a major interpellation by the parliamentary fraction of BÜNDNIS 90 / DIE GRÜNEN on 31 December 2012 (published in the Official Records of the German Parliament, *Bundestagsdrucksache* - BT-Drs. 17/8248). The differences mainly concern the principle of descent, income tax regulations, and the laws governing adoptions. Thus, section 1592 no. 1 of the Civil Code (*Bürgerliches Gesetzbuch – BGB*) stipulates that the husband of a child’s mother is the legal father and no corresponding provision has been made for the mother’s partner in a civil union.

Furthermore, partners in a civil union cannot apply, like their married counterparts are able to do, the income splitting method to their tax payment obligations. They may only adopt a child on their own, or they may adopt the biological child of their partner in a civil union; partners in a civil union are not permitted to jointly adopt a child (which is the rule for married couples), nor may they adopt a child that their partner in a civil union has already adopted. A hearing was held before the Federal Constitutional Court (*Bundesverfassungsgericht*) on 18 December 2012 to review this provision of the law; the decision of the court is still pending.

Please provide examples:

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25. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child’s best interest, as well as without discrimination based on sexual orientation or gender identity?

- a. b. c. d. e.

According to the German laws on **custody**, a child's parents will have custody as a matter of principle, and where the parents are married to each other, they will have joint custody as a matter of principle (section 1626 of the Civil Code); parents who are not married to each other will have joint custody if they have made a declaration of parental custody pursuant to section 1626a of the Civil Code, or if a court has transferred custody to them jointly. Where a partner in a civil union has adopted the (biological) child of his/her partner (adoption of a stepchild), the partners in a civil union have joint custody of that child just as if they were parents who are married. Section 1627 of the Civil Code stipulates that parents must exercise parental custody by mutual agreement for the best interests of the child. In cases in which the child's parents have separated and that parent who has sole custody of the child enters into a new marriage or civil union, the spouse or the partner in a civil union of a parent with sole parental custody has the power to make joint decisions in matters of the everyday life of the child (section 1687 b of the Civil Code, section 9 (1) of the Act on Civil Unions – so-called “minor custody rights”).

According to the German **laws governing adoptions**, adopting a child is admissible where it serves the child's best interests and where it can be expected that a relationship as given between parents and children will develop between the adopting parties and the child (section 1741 (1) first sentence of the Civil Code). In this context, the sexual orientation of the adoptive parent(s) does not play any role; a homosexual person not bound in a civil union may adopt a child alone just as a heterosexual, unmarried person can. A spouse a marriage, or a partner in a civil union, may also adopt the child of the other spouse or partner in a civil union. The only differences to the situation of married couples is that children can be adopted by both spouses together, and that they have the possibility to further adopt a child that has already been adopted by the spouse, which options are not available to partners in a civil union (please also see the answer to Question 24).

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The project **Rainbow Families** offers counselling, networking, exchange, group programmes, topical events, and educational courses. It works to communicate the concerns of rainbow families to the majority society and, in particular, to combat discrimination. It pursues these objectives by providing counselling and education course, while raising awareness through public relations campaigns, presence in the media and in person, and information booths at relevant events.

Counselling and self-help services (in German):
<http://berlin.lsvd.de/projekte/regenbogenfamilien/>

Online handbook and guide for family counseling services (in German):
<http://www.family.lsvd.de/beratungsfuehrer/>

Online brochure “Becoming and Being a Rainbow Family” with a list of further resources (in German):
<http://www.lesben-nrw.de/Regenbogenfamilie.htm>.

V. Employment

26. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

- a. b. c. d. e.

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

- a. b. c. d. e.

If so, are there measures in place concerning in particular:

i) Access to employment

- a. b. c. d. e.

- ii) Promotion, dismissals, pay and other working conditions
 - a. b. c. d. e.
- iii) Prevention and punishment of harassment
 - a. b. c. d. e.
- iv) Protection of privacy of transgender persons
(in accordance with paragraph 30 of the Appendix to the Recommendation)
 - a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The General Act on Equal Treatment protects employees against discrimination based on their sexual identity. This also covers discrimination on grounds of “gender identity” (cf. the Official Records of the German Parliament, *Bundestagsdrucksache* - BT-Drs. 17/1780, p. 30). This protection against discrimination applies *mutatis mutandis* to public sector employees (section 24 of the General Act on Equal Treatment).

In order to effectively counteract any discrimination in employment and in professions, the General Act on Equal Treatment has established a general prohibition of discrimination (section 7 of the said Act). This stipulates that no-one may be discriminated against at the workplace on grounds of, *inter alia*, gender or sexual orientation. According to the definition given in section 3 of the General Act on Equal Treatment, the term “discrimination” covers any direct or indirect disadvantages as well as harassment, including sexual harassment. Pursuant to section 2 of the General Act on Equal Treatment, any discrimination based on one of the grounds set out therein is impermissible, both as concerns conditions for access to dependent employment and self-employment (including selection criteria and recruitment conditions) as well as concerning employment conditions and working conditions (including pay and reasons for dismissal).

Employers are under obligation to take appropriate measures protecting employees against discrimination (section 12 of the General Act on Equal Treatment). This also includes the obligation of the employer to draw attention, in a suitable manner, in particular in the context of professional training and professional development programmes, to the fact that discrimination is impermissible and to use his or her influence to ensure that such discrimination does not occur.

Examples of good practice:

Baden-Württemberg: The topic “Homosexuality in the Police Force” has been a fixed component of the police training curriculum, covered in two instructional units since 2012. The instructional units are led by representatives of the Association of Lesbian and Gay Police Officers in Baden-Württemberg (VelsPol-BW e.V.).

Federal Ministry of Defence: Even before the Recommendation of 31 March 2010 was adopted, the Leadership Development and Civic Education Centre in Koblenz was running courses that cover the aspect of combating discrimination on grounds of sexual orientation and gender identity. It is one aspect of the prohibition of discrimination, on which the Act on the Equal Treatment of Female and Male Military Personnel in particular contains clear rules.

All personnel on relevant posts are briefed on this act and educated about its practical relevance for their individual area of responsibility as part of compulsory training units on leadership development and civic education, namely *Innere Führung mit Einheitsführern* (for company-level commanders and officers in comparable positions as well as their deputies) and *Innere Führung mit Kompaniefeldwebeln* (for first sergeants / masters-at-arms and personnel in comparable positions). These classes introduce the law and clarify its practical relevance for each area of responsibility. The objective of eliminating existing and preventing future discrimination, including discrimination on the grounds of sexual orientation or gender identity, is also an important component of initial and follow-on training courses that the Leadership Development and Civic Education Centre runs for

military commissioners for gender equality and their deputies as well as for female equal opportunity representatives.

Together with partner administrations from **Brandenburg, Hamburg, Nuremberg and Stuttgart**, the **Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes - ADS)** completed the project “**Verifying (Equal) Opportunities Right Away – Diversity Mainstreaming for Public Administrations**” between November 2010 and December 2011.

The project received funding through the EU programme PROGRESS, which supports member states in fulfilling their obligations under the EU Equal Treatment Directive.

The objective was to help the *Länder* and municipalities achieve an optimal implementation and development of measures combating discrimination and promoting equal opportunity. The project consisted of two central components

- Research on the topic of mainstreaming equal opportunity within the administration as well as beyond the administration through the use of the administration’s powers and resources;
- A series of workshops for employees of state and municipal administrations.

One element of the research conducted on the topic of mainstreaming equal opportunity and diversity was a survey of prior experiences within the partner administrations. This investigation focused on what instruments were already available for the achievement of equal rights in the *Länder* and municipalities, what experiences the administrations had had applying these instruments, and what prospects existed for approaches that cut across target groups. In addition, reports were created that dealt with the question of equal opportunity as a criterion for measuring the quality of work performed by and in an administration, as well as the implementation of diversity mainstreaming in other European countries.

In the fall / winter 2011, a two-part workshop series was held for administration employees.

Representatives from the federal, Land, and municipal administrations discussed the range of possible actions open to administrations for the promotion of diversity and exchanged lessons learned.

The results of the project were documented in a report and incorporated into a hand-out for administration employees (see also www.antidiskriminierungsstelle.de, which is published in several languages).

VI. Education

27. Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?
- a. b. c. d. e.

If so, are there measures in place concerning in particular:

- i) Anti-discrimination training or support and teaching aids
a. b. c. d. e.
- ii) Information, protection and support for pupils and students
a. b. c. d. e.
- iii) Objective information on sexual orientation and gender identity in school curricula ?
a. b. c. d. e.
- iv) School equality and safety policies and action plans
a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Teacher training: see *Standards for Teacher Training: Educational Sciences* (Resolution of the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* (*Kultusministerkonferenz* - KMK) of 16 December 2004): here: Competency: Education.

Currently, a joint working group of the Standing Conference of the Ministers for Equal Opportunity and Women of the *Länder* (*Gleichstellungs- und Frauenministerkonferenz – GFMK*) and the Standing Conference of the Ministers of Education and Cultural Affairs is engaged in a process of stocktaking and developing potential measures to address **“Overcoming Gender Stereotypes” in schools**.

In November of 2010, the project **“Queerformat”** was launched, which is intended to foster the acceptance of homosexuals in schools and in the work done by youth welfare services (*Jugendhilfe*) by appropriate educative measures, e.g. the compulsory participation of pedagogic personnel in diversity training courses and the introduction of training courses on sexual diversity into school curriculums. The initiative was taken as the consequence of research results proving that homosexual juveniles suffer most from being stigmatised, and that this demographic has particularly high suicide rates, drug addiction rates and homelessness rates.

The project is part of the wider campaign “Berlin stands for self-determination and acceptance of sexual diversity” (***Berlin tritt ein für Selbstbestimmung und Akzeptanz Sexueller Vielfalt***) launched by the Berlin government. The campaign encompasses 60 projects in six areas of action, such as education, discrimination and violence, change in administration services, research, legal harmonisation, and dialogue.

In other German cities, initiatives combine awareness-raising campaigns directed at a young audience with concrete offers for counselling, e.g. the project “Love the way you want” (***Liebe wie Du willst***, www.liebewieduwillst.de) in Giessen and Marburg.

The *LesBiSchwule* (Lesbian, Gay, Bisexual) School Project is a sexuality education programme for school classes. The goal is to facilitate personal encounters and exchanges with lesbian, gay, and bisexual people for students. The men and women on the team tell students about their own coming out, answer questions and provide the opportunity to discuss issues related to sexual orientation.

SchIAuNRW (www.schlau-nrw.de) stands for “Gay, Lesbian, Bi and Trans* Awareness” (*Schwul Lesbisch Bi Trans* Aufklärung*) in North Rhine-Westphalia. Currently, it is a network of twelve local education teams from across the *Land*. The volunteer groups visit schools, youth centres, and other educational institutions in their city or county. SchLAu is centred on encounters between children and young adults and lesbian, gay, bisexual and trans* people. It is based on the idea that prejudice and clichés can be effectively challenged and overcome through direct encounters. This concept has been applied in other German *Länder*, and a nationwide network is currently being developed.

The initiative **“Schools without homophobia, schools of diversity”** (www.schule-der-vielfalt.de), which receives funding from the Ministry for Schools and Professional Development of North Rhine-Westphalia, is campaigning for more action against homophobia and for acceptance of different lifestyles at schools in NRW. Students and teachers can engage in projects to promote their own “school of diversity.”

Another important player is the **Federal Agency for Civic Education (*Bundeszentrale für politische Bildung*)**, which works to prevent prejudice by disseminating information. It does so by providing literature and online information (www.bpb.de/gesellschaft/gender/homosexualitaet/ <<http://www.bpb.de/gesellschaft/gender/homosexualitaet/>>), both pages are in German while the general website has been translated into English) on the topic of homosexuality as well as materials for school classes.

Teaching materials:

- Political action, especially for equal opportunity and the acceptance of rainbow families (<http://www.lsvd-blog.de/?p=3422>) and LGBT-friendly schools (<http://www.lsvd-blog.de/?p=2817>, both pages in German)
- Events dealing with diversity and non-discrimination in the workplace (<http://www.lsvd-blog.de/?p=3455>)
- LGBT-friendly schools (<http://saar.lsvd.de/lsvd-saar/checkpoint-schule/>, in German)

VII. Health

28. Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

29. Has homosexuality been removed from the national classification of diseases?
- a. b. c. d. e.

30. Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?
- a. b. c. d. e.

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

VIII. Housing

31. Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property,?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Section 19 of the General Act on Equal Treatment sets out a general prohibition of discrimination under civil law. The provision stipulates that any discrimination on grounds of, *inter alia*, gender or sexual identity shall be illegal when founding, executing, or terminating relationships under civil law entailing the performance of obligations. This prohibition applies only to such obligations under civil law which typically arise without regard of person, or where the regard of person is of subordinate significance.

Likewise, rental agreements for housing are covered by this prohibition, unless the exceptions set out in section 19 (5) of the General Act on Equal Treatment are given. Thus, the prohibition of discrimination is not applicable, as a general rule, where a particularly close relationship of trust is given between the contracting parties as a result of their using residential space on one and the same plot of land. Any difference of treatment in the sense of the term as used in section 19 of the General Act on Equal Treatment also may be justified where it is based on one of the objective reasons set out in section 20 of the General Act on Equal Treatment.

The principles set out hereinabove also apply to the acquisition of land and properties in a contract under civil law as to the sale and purchase of such real estate.

On evictions: Neither gender nor sexual orientation are factors that would merit particular consideration in eviction proceedings. On the contrary, the question of whether the matter entails discrimination will be reviewed, as a general rule, in the court proceedings pursued in advance of the termination of the housing usage. Moreover, the Code of Civil Procedure (*Zivilprozessordnung – ZPO*) provides special legal remedies against compulsory enforcement (in section 721 – specifically granting a period of time for the vacation of premises – and section 765a – concerning all matters entailing the vacation of premises), which provide for the protective needs that may remain.

32. With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

IX. Sports

33. Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?
- a. b. c. d. e.

Also see the reply to Question 1.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The German Olympic Sports Confederation (*Deutscher Olympischer Sportbund – DOSB*) is in the process of developing a concept for diversity management in sports. This will also address discrimination on grounds of sexual orientation or gender identity.

Examples:

- 2013: Brochure “Diversity in Sports,” including good practices in sports clubs for combatting discrimination on grounds of sexual orientation or gender identity;
- 2012: Seminar for leaders in sports “Diversity in Leadership Positions”;
- 2011: Position paper “Promotion of Equal Opportunities and Diversity in Sports”.

The **ADS** is working to increase diversity and in particular to overcome homophobia in soccer. It is recruiting multipliers and actively working to raise awareness among fans, clubs, and associations. In this context, the ADS is closely coordinating its efforts with the German Soccer Association (Deutscher Fussballbund - DFB).

Fighting Prejudice in Sports

The project **Respect Gaymes** has focused on two areas of action. Education and awareness-raising workshops on the topic of sexual diversity and the LGBT community take place year-round in schools and youth-centres. The workshops are intended to help young people develop respect and tolerance for lesbian, gay, and trans* people, while encouraging them to reflect on and overcome their own prejudices. In addition, programmes on the same topic are held for multipliers from schools, youth aid programmes, youth centres, and athletic organisations.

In order to boost the efficacy of these events, the second focus of the Respect Gaymes is a major sporting and cultural event that takes place once annually with the motto “Show respect for gays and lesbians!” At the Gaymes, homosexual, heterosexual, bisexual and trans* young people engage in football, beach volleyball, breakdancing, and workshops and gather in the village, at the stage, or for

special programmes at information booths. Shared experiences through sports and music engender a sense of community and mutual respect.

<http://berlin.lsvd.de/projekte/respect-gaymes/>

Fans against Homophobia

The mission of the project **Soccer Sound** is to engender greater sensitivity for the issue of diversity and counteract prejudice and homophobia in sports, especially soccer. Conversations with league and club representatives show again and again that the topic of homosexuality remains the top taboo in sports. In youth sports, the prevailing climate remains one in which young people hardly dare to come out, while the issue continues to be shrouded in silence in many clubs, and epithets like "fairy" (*Schwuchtel*) or "gay sow" (*schwule Sau*) are commonly used insults, especially in soccer. The project responds to these problems on three different levels. The first is the Berlin Soccer Association (BFV), where efforts are pursued to raise awareness and counselling is offered. Through the BFV, those who supervise young athletes also receive training. At the club level, the project works to deepen relations with its network of contacts and to enhance the awareness in new clubs of the issue. The third level addresses fans through the very successful campaign "Soccer Fans Against Homophobia."

<http://berlin.lsvd.de/projekte/soccer-sound/>

X. Right to seek asylum

34. In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

These measures result from the international obligations that the Federal Republic of Germany has entered into, and in particular the Geneva Convention relating to the Status of Refugees of 28 July 1951 and the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

35. Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Where refugees do not already enjoy protection (cf. the answer to Question 34), Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms at least serves as a basis for the prohibition of extraditing them.

XI. National Human Rights Structures

36. Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?

a. b. c. d. e.

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

a. b. c. d. e.

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

The Federal Anti-Discrimination Agency (*Antidiskriminierungsstelle des Bundes - ADS*) is an independent resource for people affected by discrimination. It was created to protect people from discrimination on grounds of the characteristics described in Section 1 of the General Act on Equal Treatment. Section 25 (1) of the General Act on Equal Treatment expressly calls for the creation of the ADS. Section 1 of the General Act on Equal Treatment states that the law's objective is to prevent or eliminate discrimination on the grounds, inter alia, of sexual identity and gender. Gender identity is not listed as a separate characteristic in Section 1 of the General Act on Equal Treatment. ADS disseminates information about the rights that citizens have, and their options for legal action, in order to protect themselves against discrimination in the context of the statutory framework. It can also arrange consultations with other offices and agencies. Furthermore, it can work toward amicable settlements between parties. As explained in the answer to Question 5, ADS is proceeding based on a "horizontal approach." People rarely experience discrimination on grounds of just one of the characteristics outlined in Section 1 of the General Act on Equal Treatment. Rather, a combination of characteristics usually plays a role. The horizontal approach ensures more effective protection from multi-dimensional discrimination.

The **German Institute for Human Rights (*Deutsches Institut für Menschenrechte*)** was founded in March of 2001 on the recommendation of the German *Bundestag*. It disseminates information about the human rights situations in Germany and abroad. It contributes to the prevention of human rights violations and the safeguarding of human rights.

Its mission includes, in particular:

- Information and documentation;
- Research intended to provide an evidence-based foundation for human rights work;
- Advising policymakers and society;
- Human-rights education, such as the creation of training programmes for professionals, agencies, and schools, or continuing education for international development cooperation specialists, the police, and the military;
- International cooperation with other national human rights institutions and the human rights organisations of the European Union, the European Council, the Organisation for Security and Co-operation in Europe and the United Nations;
- Promoting dialogue and co-operation on human rights issues in Germany.

XII. Discrimination on multiple grounds

37. Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

- a. b. c. d. e.

Section 4 of the General Act on Equal Treatment has expressly provided for discrimination on several grounds, stipulating that any unequal treatment occurring on several of the grounds referred to under section 1 of the said Act may only be justified under sections 8 to 10 and 20 when the justification extends to all those grounds for which the unequal treatment occurred. The first report that ADS submitted to the German *Bundestag*, jointly with the responsible Commissioners of the Federal Government and of the *Bundestag*, pursuant to section 27 (4) of the General Act on Equal Treatment, addressed such discrimination on multiple grounds and set out recommendations in this regard.

Examples of good practice:

Discrimination on Multiple Grounds and Solidarity among Minorities

The efforts by the **Centre for Immigrants, Lesbians and Gays (MILES)** aims to support lesbian, bisexual, trans* and intersex people with immigrant backgrounds as well as their family members. Its primary mission includes the following:

- 1) Psychosocial and legal counselling on the topic of coming out, LGBTI-identity, psychological distress and mental illness, violence, discrimination and the General Act on Equal Treatment as well as the right of residence for foreign nationals;
- 2) Providing opportunities for social networking and self-determined process of identifying with a specific culture of one's own choice, empowerment;
- 3) Education and efforts to raise the awareness of the general public of racism and homophobia within and for immigrant communities and multipliers;
- 4) Networking among groups and individuals that specialize in LGBTI and immigration issues in order to ensure a broad representation of LGBTI people with immigrant backgrounds;
- 5) Creation of educational materials in simple German and in the native languages of the major immigrant communities. In addition to LGBTI people with immigrant families as such, the centre engages people and organisations in their immediate spheres, such as family members, institutions, NGO's, and special interest groups. These include, for example, families and partners, social welfare projects and religious communities, schools and the public administration, as well as immigrant organisations and sports clubs. <http://berlin.lsvd.de/projekte/miles/>

In North Rhine-Westphalia the project **“Psychosocial counselling, get-together and self-organised network of people from immigrant families with an LGBTI background”** in Cologne has received funding to function as a point of contact throughout the *Land* of NRW.

Section III - Follow-up

38. Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix ?

The European Council should continue to evaluate the implementation of this Recommendation.

39. Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

Yes

40. Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

The Recommendation could also address the situation of intersex people.