



Antidiskriminierungsstelle
des Bundes



FADA's work on intersex discrimination

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Focus year 2015



Antidiskriminierungsstelle
des Bundes

Gender commission



Anti-discrimination award



Antidiskriminierungsstelle
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Advisory board



Third option

- Since 2013, after a Constitutional Court decision, the gender entry in the Register of Births, Marriages and Deaths could be left blank.
- In November 2017, the Constitutional Court upheld the complaint of Vanja, an intersex person, and decided that a positive entry outside the binary gender model must be possible.
- In December 2018, the Bundestag and Bundesrat passed the “Law on the Amendment of Information to be Entered in Birth Certificates”.



Third option

FADA criticism:

- Minimal consensus, principle of self-determination not fully realised. FADA had recommended a Gender Identity Law that would also replace the outdated and partly unconstitutional Transsexuals Act (TSG)
- Lack of guidance from the Federal Government

Consequences:

- Need for expertise and research





Legal expertise „Beyond Male and Female“

Prof. Dr. Anatol Dutta, M. Jur. (Oxford)
Prof. Dr. Matteo Fornasier, LL.M. (Yale)

Gender-based rules in employment and public service law (federal law)

- (1) **Bans on discrimination (General Equal Treatment Act, Pay Transparency Act etc.)**
- (2) **Maternal protection provisions**
 - No need for legislative steps. Necessary adjustments can be made by way of interpretation of law through the court system.

Gender-based rules in employment and public service law (federal law)

(3) Binary legal differentiation on grounds of gender without intention to favour (bathrooms; uniforms)

→ Legislative adjustments required

(4) Positive discrimination: Legal measures intended to favour an underrepresented gender (in particular: quotas)

→ Can only be applied to women and men according to constitutional law; legislative adjustments to be desired



Best practice study „Gender Diversity in Employment and Occupation“

Dr. Tamás Jules Fütty, M. A. Marek Sancho Höhne,
M. A. Eric Llaveria Caselles



Methods

- **Evaluation of existing research**

- **Guided interviews**

53 question for employers and 49 questions for inter* and trans* organisations.

30 interviews between 40 and 120 min (Mai to August 2020) with:

8 large companies	3 small-medium businesses	6 public services
3 union representatives	3 social services	7 inter* and trans* organisations





Fields of action and modules

To **implement non-discrimination** with regards to **gender diversity** in employment researchers identify **six fields of action**

Corporate culture

Language and
communication

Recruitment

Sanitary facilities

Gender-related
data

Body, clothing,
health





Fields of action and modules

Corporate culture

Structural embedding

Awareness-raising and advanced training

Dealing with resistance and discrimination

Building teams and relevant networks

Recruitment

Job postings

Recruitment procedures and job interviews

Gender-specific job descriptions and physical requirements.





Fields of action and modules

Gender-related data

Informational self-determination

Official data in personnel files

Organisational tools

Changes of first names and gender registration

Gender-related data in quotas

Language and communication

Fundamentals of gender-inclusive language

Use of pronouns and forms of address

Switch to gender-inclusive language





Fields of action and modules

Gender-neutral sanitary facilities

Necessity

Communication

Installation of toilets

Installation of showers and locker rooms

Body, clothing, health

Informal rules for “appropriate” appearance

Uniforms and workwear

Gender-related medical procedures

Health management and examinations by public health officials

Pregnancy and parental leave

Security checks and field service



Zooming in: Gender-related data

Module Changes of first names and gender registration

Checkliste für die Umsetzung von Vornamens- und Personenstandsänderung

Unterlagen	Amtliche Anerkennung/ DGTI-Ausweis	Ohne amtliche Anerkennung
Personalakte/Personalverwaltung		
Stammdaten	Mit neuen Angaben ersetzen.	<input type="checkbox"/> Neue Angaben zusätzlich zu den amtlichen Angaben aufnehmen und in der internen Kommunikation uneingeschränkt verwenden. <input type="checkbox"/>
Arbeitsvertrag	Neu ausstellen mit neuen Angaben. Geschlechtsneutrale Anrede und Sprache im Arbeitsvertrag anbieten.	<input type="checkbox"/> Neu ausstellen mit neuen Angaben zusätzlich zu den amtlichen. Geschlechtsneutrale Anrede und Sprache im Arbeitsvertrag anbieten. <input type="checkbox"/>
Arbeitsanweisungen und dienstliche Beurteilungen	Ab sofort unter neuen Angaben erstellen. Alte Dokumente neu ausstellen mit neuen Angaben. (Wenn nicht möglich, ist besondere Vertraulichkeit geboten.) Geschlechtsneutrale Anrede und Sprache im Dokument anbieten.	<input type="checkbox"/> Ab sofort unter neuen Angaben erstellen. Alte Dokumente neu ausstellen mit neuen Angaben oder besondere Vertraulichkeit. Geschlechtsneutrale Anrede und Sprache im Dokument anbieten. <input type="checkbox"/>
Lohnabrechnungen	Ab sofort unter neuen Angaben erstellen. Alte Dokumente – wenn möglich – neu ausstellen mit neuen Angaben. (Wenn nicht möglich, ist besondere Vertraulichkeit geboten.) Geschlechtsneutrale Anrede anbieten.	<input type="checkbox"/> Besondere Vertraulichkeit. Geschlechtsneutrale Anrede in zukünftigen Dokumenten anbieten. <input type="checkbox"/>
Sozialversicherungspflichtige Meldungen	Ab sofort unter neuen Angaben erstellen. Alte Dokumente – wenn möglich – neu ausstellen mit neuen Angaben oder besondere Vertraulichkeit. Geschlechtsneutrale Anrede anbieten.	<input type="checkbox"/> Besondere Vertraulichkeit. Geschlechtsneutrale Anrede in zukünftigen Dokumenten anbieten. <input type="checkbox"/>





Zooming in: Language and communication

Module **Use of pronouns and forms of address**

Email signature:

„In this company we welcome gender diversity. As a general rule, we use gender neutral language. Please let us know which pronouns and form of address you prefer for yourself. Kindly address me in gender neutral ways like Good morning, First Name Last Name / Dear First Name Last Name.“

Zooming in: Sanitary facilities

Module Installation of gender-neutral toilets



„Male, female, diverse - New perspectives on gender diversity in employment“, November 12th





Thank you for your attention!

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