



NEWS REPORT

Date: 11 February 2011
Expert: Matthias Mahlmann
Title: Rights of transsexuals
Country: Germany
Context
Issue at stake: Rights of transsexuals
Ground of discrimination: Sexual orientation
Source: Decision Federal German Constitutional Court, 1 BvR 3295/07, 11 January 2011
Field: Personal status

Content

Case: The case concerns a man-to-women transsexual with homosexual orientation who wanted to enter a registered partnership under German Law with her female partner. Precondition for that is that she must legally be regarded as a female. This in turn presupposes according to Sec. 8.1 No. 3 and 4 Law on Transsexuals (*Transsexuellengesetz*) that the person concerned has undergone a surgical change of outward appearance and is permanently unable to procreate.

Decision of the Court: The Constitutional Court held Sec. 8.1. No 3 and 4 Law on Transsexuals to be unconstitutional as violating the right of self-determination as to the sexual orientation derived from Article 2.1 read in conjunction with Article 1 Basic Law. It argued that both the requirements regarding surgical measures and permanent inability to procreate put an undue and disproportionate burden on the person concerned. In the view of the Court, the self-perception of the transsexual is to be decisive for the legal determination of the sex/gender, not its outward appearance.

Internet link source and additional information: www.bverfg.de