

# Equal Marriage Rights for Everyone (October 1, 2017)

## Abstract

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In a surprise move that unfolded very quickly, the Bundestag passed legislation to allow same-sex marriages, starting in October 2017. It was the last of several statutory acts since 1969 to legally guarantee equal rights to homosexuals. The article explains the origins of the act and answers questions regarding its application.

## Source

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### From now on, everyone can get married

*Registered civil partnership is a thing of the past, marriage for everyone has arrived: beginning in October, gay couples are allowed to marry. The most important questions and answers.*

It was not that long ago that “homosexual acts” were still listed as an offense in the criminal code. Paragraph 175 was not entirely abolished until 1994. That was a milestone on the path to equality for homosexuals.

Sunday will witness another step, one that gays and lesbians have been fighting for for decades – against all obstacles and harassment: from that day forward, same-sex couples in Germany will be allowed to get married. No more registered civil partnerships, the very label of which already revealed that it was not the equal of marriage.

What does this step mean? The most important questions and answers.

### What exactly will change?

What has been adopted is a change to the Civil Code that will take effect on October 1. Paragraph 1353 will then state: “A marriage is entered into for life by two people of a different or the same sex.” Thus, it is no longer only a man and a woman who are allowed to get married.

### What has the legal situation been for gays and lesbians to date?

Since 2001, gays in Germany were able to officially register only a civil partnership. To be sure, differences to marriage, for example with respect to rental law, inheritance law, and tax law, were eliminated over the years – often only at the behest of the Federal Constitutional Court. However, disadvantages remained. Most recently, the biggest was that civil partners were not allowed to jointly adopt children.

### Are adoptions permitted as of October?

Yes. A change to the adoption law is not necessary for this, since the requirements there are tailored generally to married couples. As soon as a gay or lesbian couple is married, the spouses can also jointly adopt a child, just like heterosexual couples – provided they meet the necessary requirements.

### Will civil partners automatically become spouses on October 1?

No. The conversion occurs only upon request. Both partners must jointly declare at the registry office that they henceforth wish to live in a marriage.

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### **Will civil partnerships still be registered going forward?**

No. The law opening up marriage states: “After this law takes effect, no new civil partnerships can be registered.” However, already registered civil partnerships continue if those in them do not request a conversion to marriage.

### **How many couples are affected?**

Based on the most recent 2015 microcensus, about 94,000 same-sex couples live together in Germany, 43,000 of them in registered civil partnerships. According to a survey among registry offices, to date there have been more applications for the conversion of existing registered civil partnerships than for new marriages.

### **Are there practical problems with the change?**

Same-sex marriages can be correctly entered into the marriage registers only as of November 1, 2018. Until then, according to the Ministry of the Interior, registers will have only the existing entries “husband” and “wife.” In other words, for gay and lesbian couples, one of the partners will for now be listed under the wrong category. Gerhart Bangert of the Federal Association of German Registrars calls this an oversight in the legislative process. However, this formal problem is no impediment to the marriage of gay and lesbian couples beginning on October 1.

### **Why did this law happen so suddenly after a decades-long debate?**

At the end of June, Chancellor Angela Merkel (CDU), in a surprise move, departed from the CDU’s clear “No” on this question and suddenly spoke about a decision of conscience. In response, the other parliamentary groups in the Bundestag exerted pressure to achieve a quick decision in the Bundestag. Shortly thereafter, a large majority in parliament, in an open roll call, voted to open up marriage.

### **Could the whole thing still founder?**

Bavaria is looking at bringing an action before the Federal Constitutional Court. The CSU state government there has doubts about the constitutionality of the law. At its request, experts are now to clarify the legal situation – and the possible chances for an action in Karlsruhe. It is therefore still unclear whether or not the law will end up in court. And even if it does: from now on, gays and lesbians can get married in any case.

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Translation: Thomas Dunlap

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