Annual Report 2 2 2 2



Equal rights * for all







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Dear Readers,

More people than ever before contacted the Federal Anti-Discrimination Agency in 2022 — a total of 8,827 enquiries. This is a remarkably high figure — even when compared to the previous record year of 2020 when the number rose owing mainly to the "Black Lives Matter" movement and the coronavirus pandemic.

In my position as the Independent Federal Commissioner for Anti-Discrimination, I head the Federal Anti-Discrimination Agency (FADA). One of our most important tasks is the counselling of people who experience discrimination on the labour market and in their every day lives, whether because of their age, disability, gender, sexual identity, religion and beliefs, racism or antisemitism. These criteria are protected under the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz; AGG) and may not serve as the grounds for disadvantaging any person.

The most common reason for the submission of reports to us in 2022 was racial discrimination. Almost half of the discrimination cases (43 per cent of the enquiries) were related to racism, followed by enquiries based on disability (27 per cent) and gender (21 per cent).

As sobering as these numbers are, they nevertheless also give me cause for optimism. In my view, they are a clear indication of the growing numbers of people who are willing to demand their right to equal

treatment and who are no longer prepared to accept discrimination. That is good. After all, discrimination is not a trivial matter. It can have a negative impact on people's lives and existential consequences. Anyone who has been unable to rent a flat because of a surname that sounds Turkish or Arabic or who cannot get a job because of his or her supposedly advanced age knows this only too well.

There is yet another reason for my optimism: the attitude towards anti-discrimination in Germany has fundamentally changed since the entry into force of the AGG. As a recent Bertelsmann study reveals, a broad majority of society now considers anti-discrimination to be an important topic.

This gives me hope and encourages me to continue advocating for a reform of the General Equal Treatment Act and the strengthening of protections against discrimination. Our counselling activities reveal that legal protection in Germany is often inadequate to help people effectively. We can do better.

Best regards,

Ferda Ataman

Independent Federal Commissioner for Anti-Discrimination

WHAT IS NIEW

Discrimination is prohibited.
This is the explicit message of the General Equal Treatment Act. The Independent Federal Commissioner for Anti-Discrimination has been educating the public about the law

since July 2022 — a first!

A new office for equal rights

For the first time, Germany has an Independent Federal Commissioner for Anti-Discrimination, who is simultaneously head of the Federal Anti-Discrimination Agency. The position was newly created by the German government as part of implementing a project to upgrade and strengthen of the Federal Anti-Discrimination Agency specified in the coalition agreement. An EU-wide comparison, however, reveals a substantial need to make up ground — especially in terms of the agency's competencies.

> erda Ataman is the first Independent Federal Commissioner for Anti-Discrimination. She was nominated by the German government, elected by the German Bundestag on 7 July 2022 and appointed by the German president. The procedure has assured her legitimate standing in accordance with democratic principles, but the office is nevertheless independent of the government. The term of five years was deliberately chosen to decouple it from the four-year legislative period and thus emphasise the autonomy of the office.

> The Independent Federal Commissioner is an advocate for all people who suffer discrimination. She can demand from federal authorities any and all information necessary to take action against discrimination. If the federal government is planning laws or measures encompassing aspects of

discrimination, it must consult the Independent Federal Commissioner, who, conversely, may also issue opinions herself. She is authorised by law to become politically involved whenever any aspects of discrimination are apparent — and her involvement is not limited to the criteria mentioned specifically in the General Equal Treatment Act (AGG).

The primary task of the Independent Federal Commissioner is to lead of the Federal Anti-Discrimination Agency and to define its professional priorities.

The Anti-Discrimination Agency has been counselling people who have experienced discrimination since 2006. Moreover, it conducts research on the topic of anti-discrimination and engages in public relations work concerning the subject.

Ferda Ataman has set for herself three main goals she wants to achieve by the end of her term.

First, she wants to raise awareness of the AGG and the Federal Anti-Discrimination Agency. All people should know their rights — and all should know how they can combat discrimination

Second, no one experiencing discrimination should be left to confront this treatment alone. Assuring support for people suffering discrimination will require expansion of the network of civic contact and counselling centres nationwide (more on this subject on page 16).

Finally, more people should enjoy better protection against discrimination. Her determination to attain this goal is demonstrated in her efforts to ensure that the reform of the General Equal Treatment Act announced in the coalition agreement is actually realised. As things stand now, the German anti-discrimination act is one of the weakest in Europe (see page 18).

Among other objectives, the AGG reform should give the Federal Anti-Discrimination Agency and anti-



discrimination associations the authority to file legal actions against discrimination on their own initiative. There is also an urgent need for longer periods in which legal action can be taken against discrimination. Furthermore, the General Equal Treatment Act should in future also offer legal remedies when Federal Government agencies such as the Federal Police discriminate against people. The catalogue of prohibited grounds for discrimination should also be broadened.

New topic for counselling: reconciling family and career

In December 2022, the Federal Government implemented an EU directive providing better protection to working parents and family caregivers. Parents and caregivers who have been the victims of discrimination pursuant to

their applying for or taking parental leave, care leave or family care leave can now contact the Federal Anti-Discrimination Agency. However, people who provide care have not been granted the same rights as other groups protected under the General Equal Treatment Act.

The regulation makes it unnecessarily difficult for caregivers. They cannot take action against discrimination until concrete disadvantages on the job have actually occurred. If there has been only a threat of negative consequences, this so-called "ban on punitive measures" does not help.

Furthermore, it is not effective during the application process.

The Independent Federal Commissioner for Anti-Discrimination is therefore seeking an expansion of the grounds of discrimination in the General Equal Treatment Act. Discrimination against caregivers should be explicitly incorporated into the catalogue. Employers would then be obliged to provide comprehensive protection against discrimination for parents, family caregivers and other care providers – and victims could more easily pursue claims of discrimination against employers in court.

Example case from our counselling:

"Your wife is there and can take care of the baby"

Mike L. has been working at a non-profit company, where he has a management position, for several years. When he announces that his wife is pregnant and that he intends to take parental leave next year, his supervisor threatens him with dismissal, claiming that the company cannot afford it, and, after all, his wife will be there to take care of the child. He decides to take only two months of parental leave, but afterwards he is assigned less responsible tasks that do not fit his profile as well. Moreover, some of his salary supplements are cancelled. According to current law, this is not a case of discrimination, but at most a violation of the ban on punitive measures. Care-taking obligations are not included as a ground of discrimina-

tion in the General Equal Treatment Act. Acting on the advice of the Anti-Discrimination Agency, Mike L. has engaged a lawyer and will defend himself against the disadvantages he has suffered.



Five reasons why we need a strong antidiscrimination law

Discrimination is prohibited. This is clearly stated in the General Equal Treatment Act (AGG). But who is the law intended to protect? And who benefits from stronger protection against discrimination? Five reasons why we need to reform the current German anti-discrimination law.



The AGG protects everyone. Everyone can be the victim of discrimination sooner or later

The AGG lists six criteria that constitute the grounds for prohibited discrimination: age, disability, gender, sexual identity, religion and belief and ethnic origin. In other words, anti-discrimination law benefits everyone. Even though some groups are at a higher risk of suffering from discrimination, anyone and everyone can experience disadvantages in the course of his or her life. Sometimes it is enough to be "too" young or old, to become pregnant or to contract a chronic disease.



Anti-discrimination strengthens Germany as a business location

Many companies in Germany are competing internationally for skilled workers. Yet two out of three highly qualified professionals from third countries complain of racist discrimination here. This is confirmed by a study conducted by the Institute for Applied Economic Research (IAW) on behalf of the Federal Employment Agency investigating why foreign workers turn their back on Germany The annual expat survey also reveals that Germany does not have a good image among foreign professionals partly because of discrimination. In view of the acute labour shortage, Germany simply cannot afford to allow discrimination any longer. Strong anti-discrimination policies are part of the package for attractive immigration countries, strengthens the economy and is a building block for ensuring prosperity for all.



Anti-discrimination pays off for companies

More and more companies are implementing policies to foster diversity and diversity management. That is a good thing. But protection against discrimination must rise in parallel to the growth in diversity within companies. This is why the expression "diversity, equity and inclusion" is often used in the English-speaking world. Diversity and anti-discrimination are two sides of the same coin. While these policies are beneficial to employees, companies also profit – even more than the workforce. The creation of a work environment in which employees feel safe and are taken seriously if and when they experience discrimination increases their lovalty. Anti-discrimination has long since become part of successful employer branding because it expands the pool of applicants, strengthens identification with the company and reduces fluctuation among the workforce. In short: sensitivity to and protection against discrimination have been proven to increase success and cut costs.



Society sees a need for action

It should go without saying that people applying for a job are judged solely on their qualifications and that no one is discriminated against when renting or buying a residence. Unfortunately, the reality is often different: unequal treatment is commonplace. The related decisions are not necessarily guided by malevolent intent, which is why it is all the more important to have rules for living together that everyone can follow. We might call them a kind of highway code for everyday life. The issue of protection against discrimination has advanced to the forefront of major discussions in recent years. About 88 per cent of respondents to a study conducted by the Bertelsmann Foundation in Germany state that the issue of equal treatment and anti-discrimination is important to them. People expect political bodies and state agencies to provide effective protection against discrimination.



Anti-discrimination strengthens the rule of law and implements EU standards

Equal rights, freedom from discrimination and inclusive participation are key points of our common European values. Acknowledging these values, the European Commission and the European Parliament have long been driving forces on this issue. The EU has issued directives requiring all its member states to implement laws to protect against discrimination.

Germany must ramp up its efforts to meet the recognised standards for equal treatment (equality) in civil law. At present, German anti-discrimination law (AGG) and the Federal Anti-Discrimination Agency are relatively weak in comparison with other European countries (see page 18). We need legislative reform if we want to assure our anti-discrimination activities conform with European law and to serve as a role model in the future.

Example case from our counselling: "Please show me your ID!"

Michael A., his wife and their daughter are on their way to a family celebration when Federal Police officers on the express train ask them to show identification and to open their luggage. They are the only Black people on the crowded train. Other travellers are not asked for identification. When Michael A. asks why they are being checked, he is not given any information.

Police checks carried out on the basis of racist attributions (racial profiling) are unlawful. They violate the principle of equal treatment under Article 3 of the Basic Law (the German constitution), which prohibits discrimination by government authorities. However, the AGG does not provide any recourse in such cases; instead, anyone who has been the subject of this type of dis-



crimination must seek redress through administrative law. The Anti-Discrimination Agency referred Michael A. to a specialised counselling centre. Supported by workers at the centre, he decided to take legal action before the administrative court.

Clear regulations prohibiting discrimination in police laws and independent complaint authorities are important. Furthermore, the AGG should also be applicable to Federal Government agencies (such as the Federal Police). The government has the duty to act as a role model.

respekt*land: **Green light for the largest**funded programme against discrimination ever

A programme with unprecedented funding will enable the Federal Anti-Discrimination Agency to expand the civic counselling network for anti-discrimination matters across the country in 2023. Important milestones for the project have been defined.

eople who experience discrimination have the right to know what remedies are available to them. Finding good advice is harder in some regions than in others, however. Currently, there are fewer than 100 full-time positions for antidiscrimination counselling in Germany. In other words, an average of one counsellor is responsible for almost one million people. Another shortcoming: the counselling agencies for discrimination issues are unevenly distributed. There are significantly fewer contact points in rural places than in urban areas. There are also discrepancies in availability among the various German Länder.

It has long been known that the counselling network is fragmented, a situation that prompted the Federal Government to include this clause in the coalition agreement: "In collaboration with the Länder. we will expand the network of civic counselling centres against discrimination nationwide and provide sustainable

funding for their operation." In autumn 2022, the German Bundestag adopted measures to provide funds initially totalling five million euros for the year 2023 aimed at closing gaps in the network. A milestone — never before has federal policy made such a binding commitment to anti-discrimination counselling and actually provided the required resources.

Within the framework of this programme (titled "respekt*land), federal and state governments will work together to strengthen the presence of counselling centres in regions where anti-discrimination counselling services are almost completely absent or scarce. The important aspect of the projects' work is their inclusion of all the criteria set forth in the General Equal Treatment Act as prohibited grounds for discrimination: racism, disability, religion and belief, age, gender and sexual identity.

Before the German Bundestag provided the funds for the programme, the Independent Federal Commissioner for Anti-Discrimination joined civil society actors in preparing the groundwork for the decision. Ferda Ataman released the study "Gut beraten! Moving towards comprehensive antidiscrimination counselling in Germany". No such comprehensive overview on the anti-discrimination landscape which took stock of qualified anti-discrimination counselling in Germany had ever previously been prepared. The authors of the study developed a detailed concept for the nationwide expansion of the counselling centres. Specifically, they recommended a minimum of one full-time position in future counselling services for every 200,000 people.

During a conference in October 2022, more than 250 experts from non-governmental

organisations and counselling centres discussed the study's recommendations for action. The event made it clear: civil society-based anti-discrimination bodies need financial support. But it also demonstrated that professional expertise is already available in many cases.

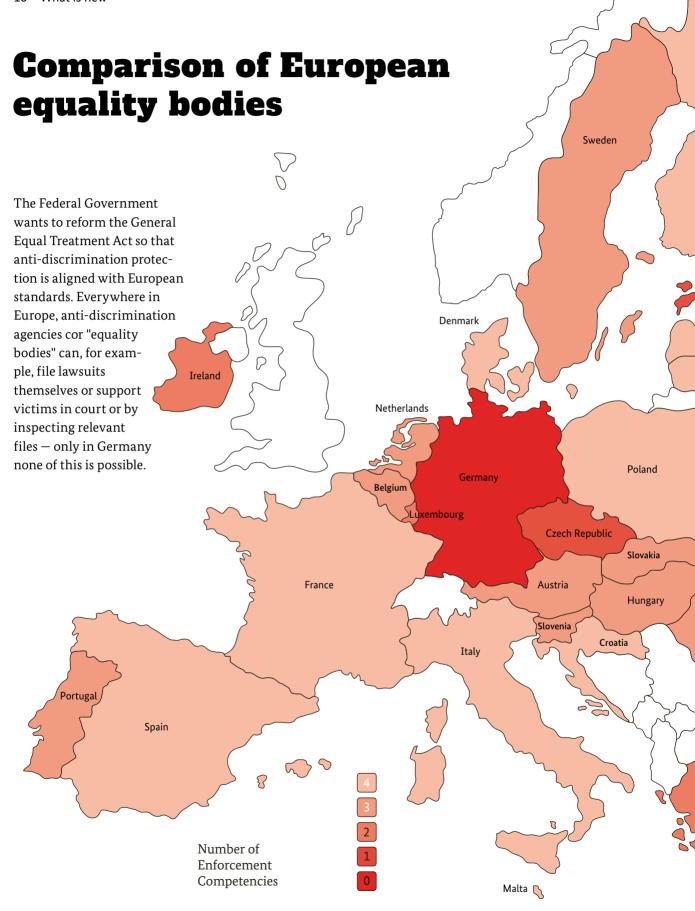
Only a few days after the announcement of the funding on 22 December 2022, more than 100 counselling centres had submitted applications. The green light for project funding was given in March 2023. Thirty-five selected projects will receive supporting funds, initially until the end of 2023. The envisioned target is to grant funding in close coordination with the Länder for a total of three years. The work of the model projects will be monitored and evaluated according to objective criteria to determine whether the measures are effective.

Example case from our counselling: "It was just a joke."

Milena Z. is sexually harassed by her driving instructor. He shows her sexually explicit pictures on his mobile phone and asks if she "wants to go into the bushes with him" at a rest area. She does not dare say anything in reply because she is afraid of failing the driving test. But when he pinches her bottom, she complains to the owner of the driving school. He brushes off the incident as just a joke.

She then turns to the Anti-Discrimination Agency and asks for advice. The agency asks the driving school for a statement, which leads to the driving instructor giving her a half-hearted apology. Nevertheless, Milena Z. changes driving schools because she no longer feels comfortable.

Sexual harassment in civil law relationships — unlike in the workplace — is not prohibited by the AGG, making it more difficult for victims to assert claims. Even criminal law provisions do not always help because solely acts of unwanted physical contact are punishable. These cases are evidence that the inclusion of protection against sexual harassment by contract partners (and their employees) in the AGG is important.



Competencies of equality bodies in the EU Member state Rights to act Other Investigation Authority to make (on own behalf or forms of support rights decisions on behalf of third in court (e.g. inspection of (binding and parties) (amicus curiae) files, hearings non-binding) or similar actions) Finland Belgium × Bulgaria × Germany Denmark Estonia Estonia × X Finland Latvia France Greece X X Lithuania Ireland X Italy Croatia Latvia Lithuania Luxembourg × × Malta Netherlands × Austria × Poland Romania Portugal × Romania Sweden × Bulgaria Slovakia Slovenia × Spain Greece Czech Republic X X × Hungary × Cyprus × ×

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FACTS AND FIGURES

How many enquiries did FADA receive in 2022? How do the enquiries differ from those of previous years?



enquiries were submitted to the Federal Anti-Discrimination Agency in 2022.

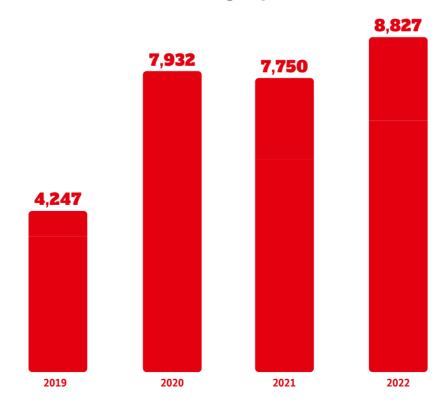
Enquiries – facts and figures

In 2022, a total of 8,827 enquiries about discrimination were received, of which 6,627 concerned at least one of the grounds of discrimination protected under the AGG.

This is a record in absolute terms. The total number of enquiries continued to increase sharply and rose by more than 1,000 enquiries compared to the previous year. The same applies to

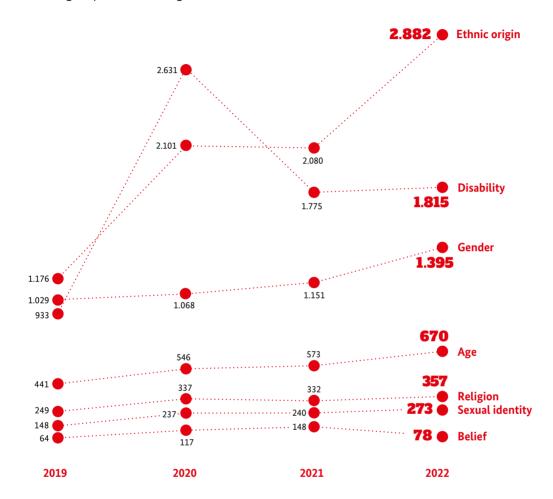
enquiries related to the scope of protection of the General Equal Treatment Act (AGG), which also increased by more than 1,000 submissions compared to 2021 — from 5,617 to 6,627. The number of enquiries is now significantly higher than in 2020, when the volume of counselling services reached a previous all-time high owing to the coronavirus crisis.

Growth in enquiries submitted to the Federal Anti-Discrimination Agency 2019–2022



Number of enquiries submitted to the Federal Anti-Discrimination Agency by protected ground

Including enquiries indicating multi-dimensional discrimination

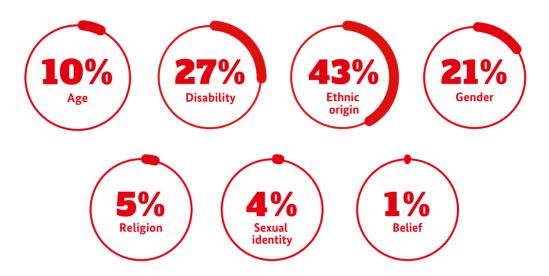


Three specific developments during the reporting period are particularly noteworthy:

① Of all enquiries, 6,627 were related to ground protected under the AGG. There were considerably more reports of racial discrimination (2,882 enquiries) than in previous years. Enquiries concerning discrimination based on ethnic origin or race now account for about two out of five (43 per cent) enquiries relating to one or more AGG criteria. This is another increase of six percentage points compared to the previous year and ten percentage points compared to 2020. These numbers are further confirmation of the observed trend that the large majority of submitted enquires are due to discrimination on the grounds of ethnic origin and race.

Distribution of enquiries submitted to the Federal Anti-Discrimination Agency by ground in 2022

Including enquiries indicating multi-dimensional discrimination



The discrimination ground of disability and chronic disease is in second place (1,815 enquiries; 27 per cent). While this figure is slightly higher than the number of enquiries received in 2021, it is lower than the corresponding number in 2020. This is because at that time a large number of enquiries concerned the obligation to wear protective masks and were consequently categorised as related to health and disability.

Enquiries on all other discrimination grounds — with the exception of belief — also increased in absolute terms in 2022. There were 1,395 enquiries on gender, 670 on age, 357 on religion and 273 on sexual identity. A further 2,200 enquiries concerned grounds outside the scope of

the AGG such as nationality, social status and caregiver duties.

2. The coronavirus pandemic and related enquiries played a significantly smaller role in 2022. Although 920 people seeking advice still turned to the counselling service because they felt disadvantaged by the coronavirus measures (about half of which (470) were based on a discrimination ground protected under the AGG), the submissions represented only about one-tenth of the total enquiries and fewer than one out of every 14 counselling cases falling within the scope of the AGG. In contrast, almost one-third of counselling cases in 2020 and one-fifth in 2021 were related to the coronavirus

pandemic. The current increase in the total number of enquiries is related to experiences of discrimination under normal conditions and not in exceptional circumstances.

Distribution of enquiries related to an AGG ground by area of life (2022)

Labour market	1,781		27%
Goods and services	 1,345		20%
Agencies and authorities	1,039		16%
Public/Leisure	 605		9%
Education	439		7%
Judiciary and police	336		5%
Housing market	307		5%
Health and care	263		4%
Advertising / Media / Internet / Broadcasting / Press	207	 O	3%
Other areas	 171		3%
No response	134		2%

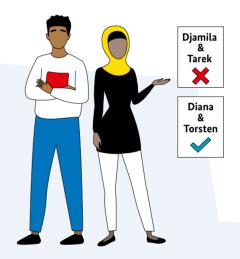
3 Discrimination by government authorities now accounts for one-fifth of all enquiries. For example, more than 1,000 people believed they had suffered discrimination by government agencies and authorities and over 300 by the police and the judiciary. If the public education sector, which also accounts for about 400 discrimination complaints, is also included then more than a quarter of the counselling cases relate to the public sector. This is not covered by the AGG's protection against discrimination, however, and there are no special

regulations in this area. The large part (more than a quarter) of the discrimination incidents described in counselling sessions are still related to working life and are prohibited by the AGG. They also include sexual harassment in the workplace, which was reported 186 times in the reporting period. This is equally true of private-law business transactions, which include enquiries about discrimination when accessing goods and services (20 per cent) and on the housing market (5 per cent).

Example case from our counselling: "I'm sorry, the flat is already taken"

Djamila and Tarek M. are looking for a flat; although they have submitted all the required verification documents and have a good income, a housing association has repeatedly neglected to invite them to a viewing appointment. When they receive yet another rejection for a suitable flat, they apply again as Torsten and Diana Meier. All other details are the same. That very day, they are invited to view the flat.

Djamila M. then contacts our counselling service and asks for help because she feels that she and her family are being racially discriminated against because of their Arabian origin and their surname.



Thanks to their "test" — i.e. the renewed request with a German-sounding name and the housing association's reaction to it — there is strong evidence of discrimination. The Anti-Discrimination Agency can use these circumstances to persuade the housing association to alter its conduct. The association apologises to the M. family and offers appointments to view flats. The family ultimately finds a suitable flat.

Almost half of all people seeking counselling in 2022 felt discriminated against in areas of their lives that are not or are only partially covered by the AGG.

> In addition, people are often confronted with discrimination in the (social) media, on the internet or in public spaces and during their leisure time, where discriminatory remarks and insults and even violence, arising from group-focused enmity are commonplace. Moreover, complaints about discriminatory behaviour also occur time and again in the health sector and in care services.

> Every year, the Anti-Discrimination Agency also receives numerous enquiries that are not directly related to an AGG ground and involve instead appearance, weight, marital status, parenthood or other family care responsibilities (so-called caregivers), nationality or social status, just to mention a few. Looking closely at these types of questions is also important for anti-discrimination work, as they indicate that the negative impact on victims of discrimination based on

certain personal characteristics is comparable to the experience of discrimination arising from the grounds expressly protected by the AGG.

Furthermore, the coalition agreement includes commitments to reform the AGG during the current legislative period with the goals of closing gaps in protection, improving legal protection and extending the scope of the law's application. It would be both conceivable and desirable from the point of view of the Independent Federal Commissioner for Anti-Discrimination to expand both the grounds defining discrimination and the protected areas of life so that people can take better action against discrimination.

In 2022, 2,200 cases based on legally protected discrimination ground were submitted to the counselling team.

Example case from our counselling:

"You don't need the dog at all"

Mario N. suffers from post-traumatic stress disorder and depends on the company and support of his assistance dog in his daily life. When he needs a medical check-up, he makes an appointment and explains that he needs to bring his assistance dog to the surgery. The doctor's receptionist on the phone tells him that this will not be a problem. When the dermatologist sees him and the assistance dog in the waiting room, she asks Mr N. to leash the dog outside the surgery. Attempts to clarify the situation fail; among other things, Mr N. is told that he "doesn't really need the dog". Mr N. returns home without treatment.

ered a disability under the AGG; as of mid-2021, the Disability Equality Act (Behindertengleichstellungsgesetz; BGG) unambiguously states that people with disabilities have a right to take their assistance dogs with them into all facilities accessible to the general public. The facility operators are required to tolerate it in these cases. A refusal usually constitutes unlawful discrimination.

If there is a dispute, it is also possible to appeal to the arbitration board at the Federal Disability Commissioner or even file a complaint with the professional association.

The Anti-Discrimination Agency informs the doctor's surgery about the legal situation. Chronic impairment is consid-



Impressions from the year 2022



Shoulder to shoulder against discrimination

At the invitation of the Independent Federal Commissioner for Anti-Discrimination, all commissioners of the Federal Government and the German Bundestag charged with combating forms of discrimination came together for the first time to discuss strategies against discrimination. Bottom row (left to right): Ferda Ataman, Dr Eva Högl (Commissioner for the Armed Forces), Jürgen Dusel (Commissioner for the Affairs of Persons with Disabilities); middle row (left to right) Reem Alabali-Rado-

van (Minister of State for Migration and Integration and Commissioner for Anti-Racism), Dr Mehmet Daimagüler (Commissioner for Antigypsyism in Germany); top row (left to right) Felix Klein (Federal Government Commissioner against Antisemitism), Natalie Pawlik (Commissioner for German Resettler Issues and National Minorities). Not pictured: Sven Lehmann, Commissioner for Queer Issues.



Study on age images in Germany

Negative stereotypes and questionable role clichés towards older people are widespread as is revealed in the study conducted by the Anti-Discrimination Agency titled "Ageism — Age Images and Age Discrimination in Germany". It was presented jointly with Professor Eva-Marie Kessler from the Medical School Berlin and Dr Regina Görner, chairwoman of the Federal Working Group of Senior Citizens' Organisations.





Symposium for more counselling against discrimination

How can nationwide anti-discrimination counselling be successfully established and protection against discrimination strengthened? This was the subject of the symposium Gut Beraten! attended by representatives of all democratic parliamentary groups. Picture above: Dr Katja Leikert (CDU) and Kaweh Mansoori (SPD) with a participant of the symposium; left picture: Ferda Ataman, Gyde Jensen (FDP) and Dr Katja Leikert (CDU).



When anti-discrimination sets an example

Children and young people are far too often subjects of discrimination in schools. A discrimination-sensitive everyday school life is the goal of the competition fair@school — Schools Against Discrimination. The Anti-Discrimination Agency joined forces with Cornelsen-Verlag for the sixth time to honour outstanding people who stand up against discrimination at their schools. The pictures show the winning team from Kurt-Schuhmacher-Grundschule Berlin and an impression of the get-together after the award ceremony.





Visible for equal rights

Lesbian, gay, bisexual, trans, inter and queer people still often experience discrimination and even today do not have equal rights in all matters. That is why it is so important to ensure visibility and demand improvements such as a strong self-determination law for trans people. Photos from Christopher Street Day 2022 in Berlin.







In dialogue



The AGG affects a truly large number of people and groups in Germany. Ferda Ataman has held numerous discussions with associations and initiatives for the purpose of sharing experiences and ideas. She is pictured here with representatives of the alliance "AGG Reform — Now!", Andrea Nahles, chairwoman of the Federal Employment Agency, and Steffen Kampeter, managing director of the Federal Confederation of German Employers' Associations.

Legal information

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