



Federal  
Anti-Discrimination  
Agency



# Annual Report 2020



# Equal rights, equal opportunities

Annual Report of the  
Federal Anti-Discrimination  
Agency



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# Dear readers,

2020 was a year that radically changed all of our lives. It was also a challenging year in terms of our efforts to tackle inequality and discrimination.

The Federal Anti-Discrimination Agency has never witnessed such a dramatic increase – by almost 80 percent – in enquiries. The heightened workload created bottlenecks. Many other state and civic anti-discrimination agencies experienced the same. We have seen how great the need is for professional advice and how important digital solutions are. It has become clear that a large number of people have been victims of discrimination as a result of the pandemic. While this annual report traces their experiences, it also shows that it was by no means only the corona virus that made discrimination a pressing issue. We need only recall the racist terror attack in Hanau, the Black Lives Matter protests and the widespread public debate on racism in Germany.

I have been acting head of the Federal Anti-Discrimination Agency for more than three years now, beyond retirement age. I will gladly continue to do so until the Bundestag elections in September. After that, as stipulated by the General Equal Treatment Act, a new head must be appointed. I urge those in a position to act to ensure that the necessary conditions are in place to avoid another multi-year vacancy. Protection against discrimination is too important a topic to do otherwise. It did not take 2020 to prove that.

Best regards,

*Bernhard Franke*

**Bernhard Franke**

Acting Head of the Federal Anti-Discrimination Agency



# The Federal Anti-Discrimination Agency

Under the General Equal Treatment Act (AGG), the Federal Anti-Discrimination Agency is the national equality body for the Federal Republic of Germany.

Its task is to protect people from discrimination on grounds of age, disability, ethnicity or race, gender, religion or belief, and sexual orientation. The AGG primarily protects people at work and in their daily lives, for example when shopping or flat/house hunting.

The Anti-Discrimination Agency advises victims of discrimination, works to raise public awareness, undertakes research into discrimination, and shares recommendations on how to avoid it.

It is an independent body within the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

Bernhard Franke has been acting head of the Federal Anti-Discrimination Agency since May 2018. ●

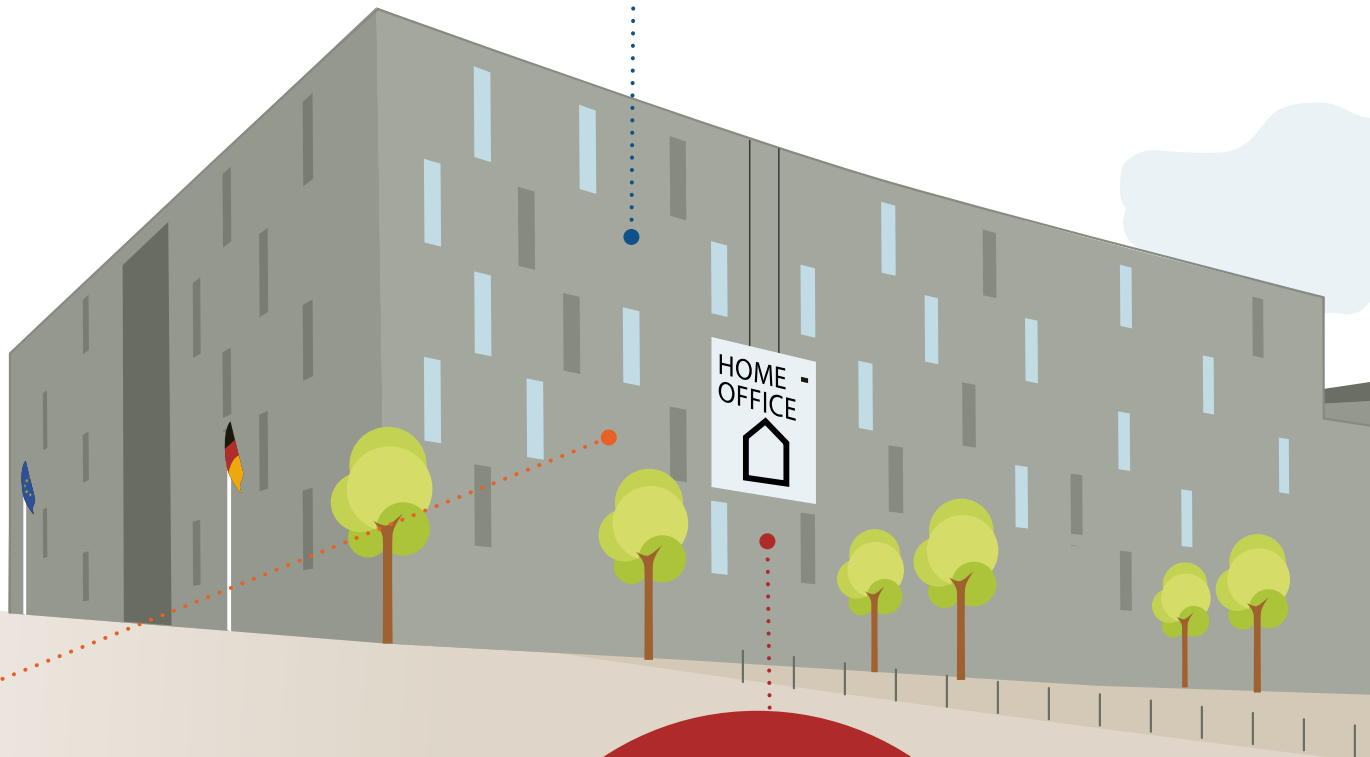
## Advice

The Anti-Discrimination Agency provides free initial legal advice to victims of discrimination. The agency can also mediate amicable settlements or put people in contact with other advisory bodies.



## Research

The Anti-Discrimination Agency commissions research and subsidises scientific studies on discrimination. It regularly evaluates statistical data and analyses legal issues in this field.



## Awareness-raising

Through campaigns, events and publications, the Anti-Discrimination Agency increases public awareness of discrimination, informs victims of their rights and provides information about the ban on discrimination.

# Develop



What were the milestones in terms of preventing discrimination in 2020? Who got things going? What still needs to be done politically?



# Discrimination during the coronavirus crisis

The coronavirus pandemic is posing new and major challenges to the decades of progress made in equality and anti-discrimination policies. “COVID-19 does not care who we are, where we live, what we believe or about any other distinction”, said UN Secretary-General António Guterres in a speech in May 2020, “yet the pandemic continues to unleash a tsunami of hate and xenophobia, scapegoating and scare-mongering.”

COVID-19 has also impacted the work of the Anti-Discrimination Agency like hardly any event before it. This was particularly evident in the dramatic increase in enquiries throughout 2020. The risks of discrimination became clear at a very early stage. In May 2020, the Anti-Discrimination Agency published a background paper on “Experiences of discrimination related to the coronavirus crisis”. The beginning of the pandemic, for example, was marked by racist attacks against people perceived as being Asian. Meanwhile, people with disabilities were often not taken into account in political communications and when implementing protective measures.

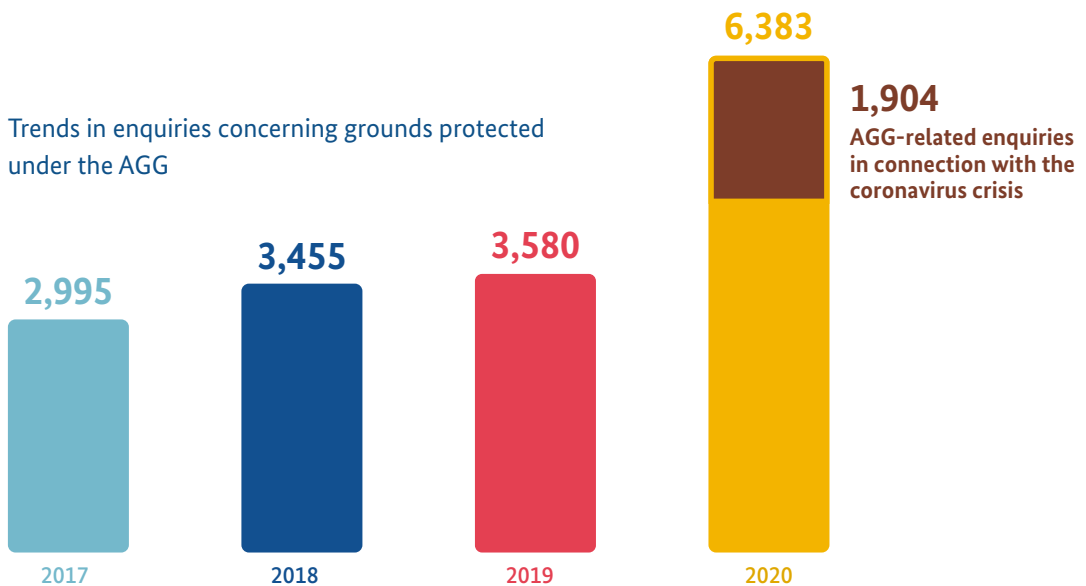
The total number of enquiries almost doubled compared to the previous year. In 2020, a total of 1,904 people contacted the Anti-Discrimination Agency for advice because they felt discriminated during the coronavirus pandemic due to their ethnicity, gender, religion or belief, disability, age or sexual orientation (for more details on the figures, see page 43).

“ Franziska S. goes to a DIY store with her two children. Coronavirus safety regulations prevent the children, aged seven and nine, from going to school. At the entrance to the DIY store, the mother is informed that she can only enter the store without her children, as they are deemed ‘drivers of the pandemic’. ”

“ **Ivan Z.** is deaf and has a pre-op appointment at the hospital. The sign language interpreter, who was registered for the appointment in advance, is not allowed to accompany the patient due to Corona-related protective measures. Instead, the conversation with the attending physician takes place using pen and paper, which hardly allows the deaf man to ask important questions about the surgery and necessary precautionary measures at home. The measures also hinder communication by preventing the patient from lip reading, as the hospital staff insists on wearing protective face masks. ”

“ **Meike H.** is expecting a parcel. When the parcel delivery man turns up at the door with her delivery, he suddenly refuses to hand over her parcel. When the Asian German woman insists that he hand over the parcel, he hurls the words ‘ching chong’ at her and takes off with the parcel. ”

Trends in enquiries concerning grounds protected under the AGG



The trends from the Anti-Discrimination Agency's counselling work were also evident in other points of contact for victims of discrimination. One year after the start of the COVID-19 pandemic, the Anti-Discrimination Agency invited civic organisations and government agencies to share exactly how the pandemic has affected equal treatment and discrimination of certain social groups and what strategies are needed to meet these new challenges. On the one hand, all participating advisory bodies reported a dramatic increase in enquiries, stretching their capacity to the limit. On the other hand, these enquiries and the meeting of experts only further highlighted the social inequalities that already existed before the pandemic. The risks of discrimination faced by the various groups and the responses needed to address the short- and long-term consequences of the pandemic to ensure equal treatment became clear.

The different groups are united by their grave concern that equal treatment and anti-discrimination will be relegated to second-class issues in the public and political eye during the pandemic and in the period that follows.

To specifically counteract this, a need for action is called for in certain areas to ensure long-term protection against discrimination both during and after the crisis:

- When developing crisis management and protective measures, vaccination and testing strategies, and when providing financial assistance and funding, all vulnerable social groups must be considered at all times and ideally involved in decision-making processes. For the implementation of such measures to work, it is also necessary to make employees – especially in the fields of education, health and administration – aware of the realities of life for vulnerable groups.
- The expansion and strengthening of advisory and organisational structures are key to supporting those affected and ensuring that discrimination can be recognised and counteracted. The expansion of nationwide, independent anti-discrimination advisory services, including digital services, is particularly important.
- The collection and collation of data on gender equality and discrimination are crucial for analysing the disadvantages arising from the pandemic and for developing strategies for tackling the problem in the future.
- Barrier-free communication is essential for ensuring the participation of the various vulnerable groups in society in times of crisis.

## Risks of discrimination and disadvantages associated with ...



### ... age

Older people repeatedly experienced the public debate as discriminatory. Stereotypical images of old age were reproduced, referring to older people solely as a vulnerable group in need of help instead of, also acknowledging their contributions – especially in volunteer work. The idea that the lives of older people are less worthy of protection or only worthy of protection up to a certain social cost also kept recurring. The main criticism was the lack of any sort of medium- to long-term strategy to help those in old people's homes or nursing homes participate in society.

The pandemic also poses long-term risks of discrimination for younger people, especially those from a socially disadvantaged background. In addition to limited access to school education, children and young people have been deprived of various leisure activities, which for many represent an important part of their personal development. Long-term negative consequences of the pandemic are feared, especially for migrant children, due to the lack of language and integration courses, the suspension of family reunifications and the loss of many voluntary support services.

### ... disability and chronic illness



Many people with disabilities felt disadvantaged right at the beginning of the pandemic due to the fact that important information on the COVID-19 virus was not accessible barrier-free; this can lead to considerable disadvantages and risks, especially for people with reduced hearing or cognitive impairments. A long-term solution to the problem of limited access to information still does not appear to be forthcoming. Protective measures in retail or the care and home sector have repeatedly led to conflict, as people with disabilities were often not taken into account in the policies (for more details, see the interview on page 18).

In the case of chronically ill people in particular, diseases were not correctly diagnosed due to the major focus on COVID-19. Some patients avoided going to their doctor's office out of fear of contracting the virus. Lockdowns and restrictions on air travel also led to supply problems for certain medications which, for example, foreign patients living in Germany obtain from their home countries.



### ... gender

The pandemic has led to an increased strain on mental and physical health, especially for women. On the one hand, women are often employed as frontline workers in key areas such as health care or retail, which have been under additional pressure and exposed to greater risk of infection during the pandemic. On the other hand, women are more likely to take on the increased burden of child-care, leading to fears of long-term negative effects on their career.

Trans\* and inter\* persons were also directly affected in a particular way: for example, by delays in health services (such as hormone therapies or gender reassignment surgery) or in administration (changes in civil status). Furthermore, advice centres and community spaces were either inaccessible or only accessible to a limited extent, leading to fears of psychological stress and long-term consequences for social inclusion.



### ... racism/antigypsyism

Experiences of racism in everyday life during the pandemic were particularly common among people who are perceived as Asian, as well as Sinti and Roma. The experiences of discrimination of both groups ranged from what was perceived as harassing controls by the

police and public order officials, to more difficult access to (medical) services, to job losses and open hostility. Especially Sinti and Roma suffered from stigmatization in their immediate living environment in the context of infection control measures.

Further long-term consequences of the COVID-19 crisis are to be feared, especially for migrants and their descendants, as the pandemic exacerbates educational inequalities and access to integration services (language courses, advice and leisure activities) is lacking or significantly impeded.

### ... religion/antisemitism



The COVID-19 crisis has given fresh impetus to new and old antisemitic conspiracy myths, especially in the anti-vax protests of so-called “Querdenker” (lateral thinkers). On social media in particular, myths are spread about the origins of the virus or the goals of the vaccination campaign, some of which are linked to centuries-old antisemitic blood libel (ritual murder legends). Even comparisons that trivialise the Holocaust are frequently voiced, for example by wearing face masks with “Jewish stars”. In the medium and long term, there is reason to fear that the pandemic could act as a catalyst for increased antisemitic discrimination and even violence.





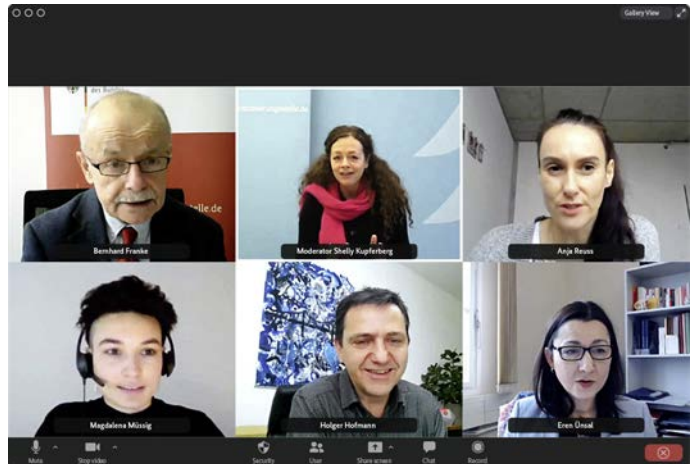
## ... sexual orientation

The living situation of homosexual and bisexual people in the pandemic was characterized, especially in lockdown phases, by the fact that the rules for contact restrictions were often oriented exclusively to conventional family models. For many queer people in particular, however, alternative family

models are important and the regulations thus disadvantaged them. Queer people were and are also particularly affected by the loss of various community spaces such as associations or clubs, which provide important infrastructures for raising awareness, establishing contacts, and offering counseling.

## Expert debate: “Discrimination related to the coronavirus crisis”

The participants of the exchange on 28 January 2021 were staff members and representatives of the Federal Government Commissioner for Migration, Refugees and Integration; the German Children’s Fund; the Berlin Aids-Hilfe; the BAGSO (Federal Association of Senior Citizens’ Organizations); the German Women’s Council; the ISL (Interessenvertretung Selbstbestimmt Leben in Deutschland); the Federal Foundation Magnus Hirschfeld; the Central Council of German Sinti and Roma; the Network for Asian-German Perspectives; the OFEK – Counseling Center on Anti-Semitic Violence and Discrimination; the Lesbian and Gay Association in Germany; the Federal Association Trans\*; the Anti-Discrimination Association Germany; as well as the head of the Berlin State Office for Equal Treatment – against Discrimination – and the head of the Austrian Ombud for Equal Treatment. ●





Ottmar Miles-Paul

## ***“People with disabilities must be included in the conversation”***

The COVID-19 pandemic brought major challenges to people with disabilities, a particularly vulnerable group in this crisis. Ottmar Miles-Paul helped establish the advocacy group “Selbstbestimmt Leben in Deutschland e.V. – ISL”, and has been involved in the disability movement for over 30 years. He also represents the German Council of People with Disabilities on the advisory board of the Federal Anti-Discrimination Agency. Despite the decades-long struggle for inclusion, he says, the concerns of people with disabilities are not being taken into account by default.

***What have people with disabilities experienced?***

People with disabilities have repeatedly had to fight to be part of the conversation during the pandemic. In many areas, we have been set back years and even decades in terms of inclusion. If people with disabilities were considered at all during the pandemic, it was mainly as residents of care facilities. People who need assistance on an outpatient basis, on the other hand, were often forgotten.

***Why is it that people with disabilities are often not considered or are considered too late?***

On the one hand, I don't think we in Germany have a culture of dealing with disadvantaged groups and especially people with disabilities in emergencies and of including them in the conversation from the very beginning. On the other hand, of course, this also has something to do with outdated views of disability. There is still the belief that most people live in institutions and that this is a good thing. That's why the fight for inclusion has always been a tough one, which has unfortunately also been confirmed during the pandemic.

***What would an inclusive (crisis) policy look like?***

Firstly, the legal and practical course must be clearly set for inclusion and not remain stuck in the old system in which people lived in institutions on the fringes of society. Secondly, we need to look at the UN Convention on the Rights of Persons with Disabilities, which clearly calls for special consideration to be given to disabled people in emergencies and crises. Appropriate plans must be drawn up to cover everything from communication to care in hospitals.

It is important that disabled people are much more involved in processes – something that is virtually always forgotten. The benefits of such involvement were clearly demonstrated during the coronavirus pandemic. Initially, people with disabilities were not involved at all. As soon as they were – without much effort in the form of telephone or video conferences – a number of errors were corrected in a short space of time. It wasn't rocket science. ●

# Racist discrimination

“Not being racist isn’t enough. We need to be anti-racists!”, said German President Frank-Walter Steinmeier at an event at Bellevue Palace in June 2020. “Racism requires opposition, objection, action, criticism and – perhaps most difficult of all – self-criticism and self-examination.”

Besides the coronavirus crisis, no other topic has shaped the year as much as public scrutiny of how racism is dealt with in Germany. This self-examination was driven by events. The year began with the racially motivated assassination in Hanau, in which an domestic right-wing terrorist murdered nine young people before killing his mother and then himself.

Especially at the outset of the pandemic, racist insults and attacks were directed against people with an ascribed East Asian or South East Asian background (more on page 12).

And in 2020, the situation of Black people in Germany became the focus of debate in the wake of the Black Lives Matter movement. Never before have the experiences of Afro-Germans been publically discussed in such a complex and nuanced manner.

The presence of the topic of racism was also reflected in the counselling activities of the Federal Anti-Discrimination Agency. In 2020, a total of 2,101 enquiries were received regarding discrimination on racist grounds or on the basis of ethnicity. This represents a year-on-year increase of almost 79 percent, a larger increase than in the previous four years combined.

Such enquiries are generally not related to the worst, violent manifestations of racist hatred, but rather to examples of everyday racism. Some of them are casual while others are offensive and aggressive. Because of the mandate of the Anti-Discrimination Agency, these are mostly incidents in the workplace or when accessing goods and services.

“ Ayana T. works for a global enterprise and has African roots. She is repeatedly called racist names ‘as a joke’. She asks the culprits several times to stop. When colleagues then start making a point of passing around chocolate-coated marshmallows, she doesn’t know where else to turn to for help and quits her job. ”

“ Amir and Sarah want to get married. They try to contact a well-known wedding venue to book a room but get no response for days on end – and then an abrupt rejection. Growing suspicious, they book the room again – this time under the bride’s German name rather than the groom’s Turkish name. A short while later, the venue contacts them saying the room is available. ”

“ Min-Seo Y. is a customer at a supermarket. When she draws the cashier’s attention to an incorrectly priced item, the cashier becomes indignant and shouts that she should ‘go back to China’. ”

“ Daniel F. is a German Sinto, who has rented a holiday home online. When he arrives with his family and the landlord hands him the keys, he’s asked why he’s ‘so black’. The next day, the landlord warns Daniel F’s partner not to steal the bath plug. ”

Over the years, people have become increasingly willing to report such incidents to the Federal Anti-Discrimination Agency. Although the figures are not representative, their rise underscores how prevalent discrimination is in the lives of those affected. It also suggests an increased awareness of the applicable prohibitions on discrimination – and that those affected no longer simply accept racist discrimination.

After the terrorist attacks in Halle and Hanau, the federal government has also taken a greater interest in the issue of racism. In spring 2020, a cabinet committee against racism and right-wing extremism was set up. After several meetings in November, 89 individual measures were adopted. They contain important plans to counter racism and right-wing extremism. Especially noteworthy are the planned increased support for victims of hate crime and the promotion of civil society. The announced extension of the overly short two-month period to assert claims previously provided for in the General Equal Treatment Act (AGG) marks another important step. This corresponds to a long-standing recommendation by the Anti-Discrimination Agency.

Unfortunately, unlike the proposals highly recommended by experts in the cabinet committee hearings, the resolutions lack more general plans for strengthening the concept of legal protection against discrimination in the workplace and in everyday life, which could be done by introducing a right to action for associations and/or the Federal Anti-Discrimination Agency. Nor were there any plans to better equip the advisory centres against discrimination. Representatives of civil society also criticised the fact that the

Federal Anti-Discrimination Agency is not even mentioned in the action plan although it is the federal agency with a specific mandate that covers “racist discrimination”.

The Anti-Discrimination Agency believes that future measures aimed at preventing racism and promoting equal treatment believes that future measures aimed at preventing racism and promoting equal treatment should be

flanked by significantly improved legal enforcement in the protection against discrimination. This is necessary if Germany is to succeed in what the federal president has formulated as follows: “Anti-racism must be learned, practised and above all lived.” Strong protection against discrimination is indispensable if people subjected to racism are to fully participate in society. ●

## A landmark decision was reached by the cabinet committee concerning the prohibition of discrimination in Article 3 of the Basic Law of the Federal Republic of Germany.

Since 1949, it has included a ban on discrimination on grounds of “Rasse”, outlawing racial discrimination, but at the same replicating the very term that underpinned Nazi “Rassen” ideology. The federal government has agreed on a draft that proposes prohibiting discrimination “on racist grounds” instead.

The Anti-Discrimination Agency, in line with the German Institute for Human Rights and many self-organisations, has long advocated for the article on protection against racial discrimination to be reworded to make clear that the existence of human “Rassen” must be rejected. At the same time, it recognises the concerns that exist from a constitutional perspective and also among people affected by racism about scrapping the concept of “Rasse”. At a discussion held in Septem-

ber 2020 and jointly organised by the Federal Government Commissioner for Integration, Annette Widmann-Mauz, the Anti-Discrimination Agency gave room to the legal arguments of both sides.

From the point of view of the Anti-Discrimination Agency, it is clear that a reformulation in the Basic Law must under no circumstances lead to a lowering of the protection against discrimination. Especially in light of this concern, the agency welcomes the federal government's intention to increase training for judges on the topic of racism. Incidentally, the adjustment to the wording in the Basic Law should also be applied to the General Equal Treatment Act (AGG), which has so far prohibited discrimination on the basis of “race or ethnicity”.



The panel discussing the term “Rasse” in the Basic Law included (above from left to right) • Moderator Karen Taylor • Dr Michael Griesbeck from the Federal Ministry of the Interior, Building and Community • Elisabeth Kaneza from the Kaneza Foundation for Dialogue and Empowerment • Dr Hendrik Cremer from the German Institute for Human Rights, and • Dr Cengiz Barskanmaz from the Max Planck Institute for Social Anthropology.



Acting Head of the Federal Anti-Discrimination Agency, Bernhard Franke, and Federal Government Commissioner for Migration, Refugees and Integration, Annette Widmann-Mauz, opened the joint event.

Scrapping the term “Rasse” marks an important milestone and makes clear on a constitutional level that there is no justification or scientific basis for dividing people into “Rassen”. However, this step must also mark the beginning of structural change. ●



### *What challenges did the #Afrozensus face?*

Our primary aim, but also our biggest challenge, was to portray and reach out to Black communities in all their diversity. It was important for us to gain people's trust. We had to make sure that it was a community project from a subjective perspective rather than a research project that objectifies Black people. We managed to achieve this – even when creating the survey – by working with partner organisations from Black communities. This was very important to us.

### *Do you think that it worked out?*

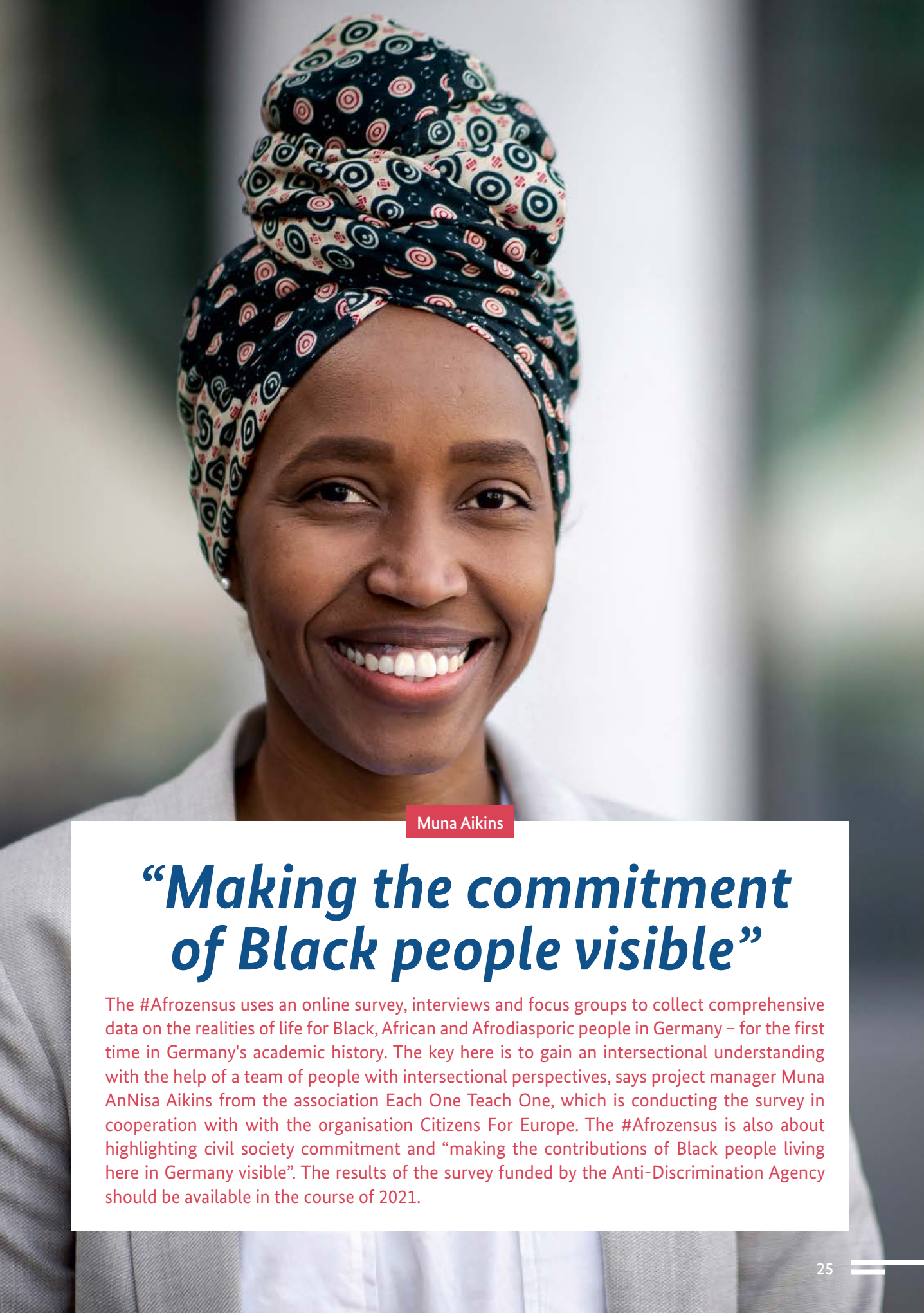
Had it not been for the coronavirus, we would have been able to go ahead and present the project to communities at a number of live events. We did manage to reach more people than anticipated, however – more than 6,000. This is very valuable, because it allows us to make statements about discrimination, both quantitatively and qualitatively. We particularly looked more closely at education and health as two areas of discrimination in order to highlight the need for action in these areas and to make clear how the structurally anchored anti-Black racism needs to be

actively addressed. In the area of education, we spoke with teachers, pupils, parents or key carers, and social pedagogues. It is very important for us to be able to say something about mechanisms and patterns in connection with discrimination in addition to our quantitative findings.

### *How will the findings be of value to anti-discrimination policies?*

Firstly, the data is aimed at Black people, at Black self-organisations, because it is important for us to strengthen this empowerment work as a pillar of anti-discrimination. Secondly, the #Afrozensus will provide invaluable impetus for future research projects, but also for policies and thus anti-discrimination infrastructure. We have collected data on the extent to which Black people in Germany trust institutions, for example, especially when it comes to experiencing discrimination, and how cases of discrimination have been dealt with. In this respect, we hope that the #Afrozensus will underline the need for action in these areas. In any case, it is a very important project for our communities. ●





Muna Aikins

## ***“Making the commitment of Black people visible”***

The #Afroensus uses an online survey, interviews and focus groups to collect comprehensive data on the realities of life for Black, African and Afrodiasporic people in Germany – for the first time in Germany's academic history. The key here is to gain an intersectional understanding with the help of a team of people with intersectional perspectives, says project manager Muna AnNisa Aikins from the association Each One Teach One, which is conducting the survey in cooperation with with the organisation Citizens For Europe. The #Afroensus is also about highlighting civil society commitment and “making the contributions of Black people living here in Germany visible”. The results of the survey funded by the Anti-Discrimination Agency should be available in the course of 2021.

# Developments in protection against discrimination

To what extent do racism and discrimination exist in federal or state authorities?

SPD Chairwoman Saskia Esken's remarks about cases of "esprit de corps" and "latent" racism in German security authorities sparked fierce opposition and a debate about structural racism and counter-strategies. This strikes at the heart of protection against discrimination. But discrimination emanating from the state and its authorities is not covered by the General Equal Treatment Act (AGG) – this applies as much to state education as to dealings with authorities or police measures.

When it comes to government action, there is hardly any protection against discrimination that is comparable to the AGG in terms of legal consequences, despite the prohibition of discrimination in Article 3(3) of Basic Law. It is therefore difficult for those affected to take action against such discrimination – especially if there is no record of it in the first place and also no complaints mechanism.

It was precisely the lack of such structures that the Council of Europe's European Commission against Racism and Intolerance (ECRI) criticised in its state report on Germany published in 2020. The key recommendations of the body, which was comprised of experts from all Member States, included the commissioning of a study on prohibited racial profiling by police forces, for which the commission found "strong indications" of a "pronounced" occurrence. Also, the commission recommend-

ed that all 16 Länder establish their own independent anti-discrimination agencies to support victims of discrimination. In December 2020, the Federal Ministry of the Interior commissioned a study on "Motivation, attitudes and violence in the everyday life of police officers".

The Federal Anti-Discrimination Agency regards it as imperative that such a study explicitly covers both attitudes and the potentially discriminatory effects of common police practices. In 2020, the Anti-Discrimination Agency again received 113 complaints of discrimination on racial or ethnic grounds by police officers or other law enforcement officials. A thorough and independent analysis of the circumstances behind such incidents and possible underlying factors is necessary. Such a study could also provide clarity for the police itself and give public security authorities and

those affected a common basis for further discussion. In order to investigate individual complaints, the Anti-Discrimination Agency also advocates for the creation of independent police commissioners at the federal level and in all Länder.

Some Länder are already doing this successfully. For example, Rhineland-Palatinate, Schleswig-Holstein and Baden-Württemberg have independent police commissioners, and Berlin announced that it would be creating such a position in the course of implementing its own state anti-discrimination law.

In 2020, Berlin became the first state to pass such an anti-discrimination law. This law prohibits discrimination by public authorities on the basis of gender, ethnicity, racist and anti-Semitic attribution, religion and belief, disability, chronic illness, age, language, sexual and gender identity, and social status, thus going beyond the characteristics protected under the AGG. It creates complaints mechanisms for those affected and establishes an ombuds service that also has comprehensive investigative rights, which the Federal Anti-Discrimination Agency lacks. The Federal Anti-Discrimination Agency regards it as necessary for all federal states to create their own institutional and legal framework for combating discrimination. This includes setting up their own anti-discrimination agencies,

which currently only exist in eight Länder (Baden-Württemberg, Berlin, Brandenburg, Hesse, Rhineland-Palatinate, Saxony, Schleswig-Holstein and Thuringia). They vary widely in terms of their resources and the degree to which they are integrated into the administrative structure. Bremen announced its intention to establish an anti-discrimination agency in 2020, as did Mecklen-

burg-Western Pomerania some time ago. There is also a non-governmental anti-discrimination office in Saxony-Anhalt that is funded by the Land.

*While some states are still hesitant, other municipalities are moving forward.*

While some Länder are still hesitant, a growing number of municipalities are now moving forward and setting up their own anti-discrimination agencies. This is where the principle of local self-government can play to its particular strengths (see interview on page 30). Fifteen municipalities, most of them large cities, have already created such an agency; In 2020, Braunschweig and Wuppertal announced their intention to do so. At the suggestion of the Federal Anti-Discrimination Agency, the agencies have recently joined forces to create an active network. Some other cities are promoting civil society-based advice centres. Since these are established “locally”, municipal anti-discrimination agencies are often particularly well positioned to solve specific problems and also to offer pragmatic help beyond the AGG, for example when citizens have difficulties with their own municipal offices and authorities.



The Federal Anti-Discrimination Agency welcomes the commitment of the cities and the further expansion of the network of municipal bodies as well as civil society-based centres. It would be particularly beneficial if such facilities were increasingly established in rural areas as well, since discrimination is by no means a purely urban phenomenon – as is evident in the counselling work of the Federal Anti-Discrimination Agency. A study commissioned by the Agency is currently examining how each Land and civil society-based anti-discrimination agency is set up and what potential could be derived from them. The initial results are expected in 2021.

What was said at the beginning for the Länder naturally also applies to the federal level. Around one-fifth of complaints to the Anti-Discrimination Agency in 2020 related to discrimination by government actors. Therefore, in order to strengthen the legal position of those affected by discrimination and to simplify the complaints procedure, government action at federal level should also be included in the scope of the General Equal Treatment Act (AGG).

This recommendation, which the Anti-Discrimination Agency also made to the Cabinet Committee on Combating Racism and Right-Wing Extremism in August 2020, remains valid.

The 15th anniversary of the AGG, which came into force in August 2006, would be a good opportunity to thoroughly reform and expand German anti-discrimination law; this would also be in line with calls from the European Union. Over the past two decades, equality bodies have “driven positive change at societal, institutional and individual levels”, said EU Commissioner for Equality Helena Dalli at a digital celebration of the 20th anniversary of the Anti-Racism Directive in June 2020. But events like the Black Lives Matter protests have shown the scale of the challenges: “Our main goal is therefore to strengthen the appropriate application of the Racial Equality Directive and to ensure that equality bodies are well equipped to carry out their tasks independently, effectively and efficiently.” The Commission plans to consider proposing new legislation to strengthen anti-discrimination agencies by the end of 2022. ●



■ Länder-level anti-discrimination agencies

● Municipal anti-discrimination agencies

An overview of civil society-based advice centres can be found at [www.antidiskriminierungsstelle.de](http://www.antidiskriminierungsstelle.de)





Christine Burmann

## ***“Municipal agencies send out an important signal”***

Nuremberg was one of the first German municipalities to set up an anti-discrimination agency back in 2011. In dealing with its history, the former “City of the Nazi Party Rallies” committed itself decades ago to actively protecting human rights by becoming a “City of Peace and Human Rights”. This is exemplified by the renowned International Nuremberg Human Rights Award. Since prohibiting discrimination is also fundamental to human rights, it was only consequent to firmly anchor anti-discrimination in the municipal administration says Christine Burmann, who has been city commissioner for discrimination since 2020.

***What do cities gain from setting up their own anti-discrimination agency?***

People experience discrimination in the places where they live. That is why local contact points are needed for all citizens. The city of Nuremberg is interested in knowing: Where are the problems, where do people in our city suffer from discrimination? Are there parts of the population that are affected in a particular way? And how can that be addressed? This means that a municipal anti-discrimination agency is an opportunity for municipalities to learn to develop, to implement structural change and to get to know and help shape diversity in urban society. It also sends out an important signal that a municipality, a city administration – even a mayor – is actively saying that discrimination and racism don't stand a chance in their city and that they are taking an active stance against it.

***And how does that translate into practice?***

Citizens contact us, we advise them over the phone, in person or by email, even beyond the AGG. Many of them are in dispute with the municipality, i.e. with our own offices. I examine the cases and have the mandate to obtain opinions and make recommendations or initiate mediation. We also derive new tasks from these consultations. If we come across structural or institutional discrimination within our sphere of

influence, we think about how to change these structures. For example, we have introduced an anti-discrimination trade clause. This means that if there are incidents of discrimination in a gym or in retail, the city of Nuremberg has the right to withdraw their trading license. Another example is housing associations and property developers, who have voluntarily agreed to make a commitment to preventing discrimination. Thirdly, we also work on active prevention. For example, we have compulsory trainings for our trainees on the topic of "Discrimination and human rights".

***More and more municipalities are setting up anti-discrimination agencies. How do you perceive this development?***

It is a welcome development if as many cities as possible create such points of contact to give people access to local support. However, things such as education or the police are the responsibility of the Länder. So it also makes sense to have anti-discrimination agencies at Länder level. In the field of education or in the police, some Länder have contact points for anti-discrimination in schools or in police departments. However, something like this is necessary in every Land, also here in Bavaria. Synergies could be created and Länder-related problems could be solved centrally. ●

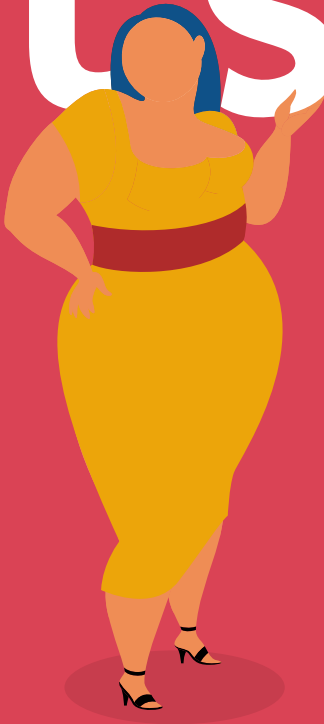
# Eve





What topics have defined the year for  
the Federal Anti-Discrimination Agency?  
Which issues did it get involved in?

nts



# Dates and events



“

*The European Convention on Human Rights is a cornerstone for protecting against discrimination in Europe. Without Article 14 of the Convention, the work of the Council of Europe and the case law of the European Court of Human Rights, a lot of the achieved progress would not have been made.*

”

Acting Head of the Federal Anti-Discrimination Agency, Bernhard Franke, on November 4th, marking the 70th anniversary of the European Convention on Human Rights

## #BewegDeinDenken

Where are shifts needed to dismantle discrimination – in people’s minds, in institutions, in society? In the new #BewegDeinDenken (shift your way of thinking) video series on Instagram, people speak out on their experiences of unequal treatment and how this should be adressed.



## Supporting equal treatment

The Advisory Board of the Federal Anti-Discrimination Agency advises and supports the work of the agency, in particular in the preparation of reports and recommendations to the German Bundestag. The Advisory Board counts a total of 32 members and deputy members representing social groups and organisations that advocate

for disadvantaged groups. On 14 January 2020, the Advisory Board for the 19th legislative period was constituted. It unanimously elected Professor Barbara John, chairwoman of the Board of “Paritätischer Wohlfahrtsverband Berlin”, an association of social organisations, as its chairwoman.



**“ For truly equal rights of lesbian, gay, bisexual, trans\* and inter\* gender people there is still much to be done: from reforming the law of descent, to creating a gender identity law based on self-determination, to including the protection of LGBTI\* in Article 3 of the Basic Law. ”**

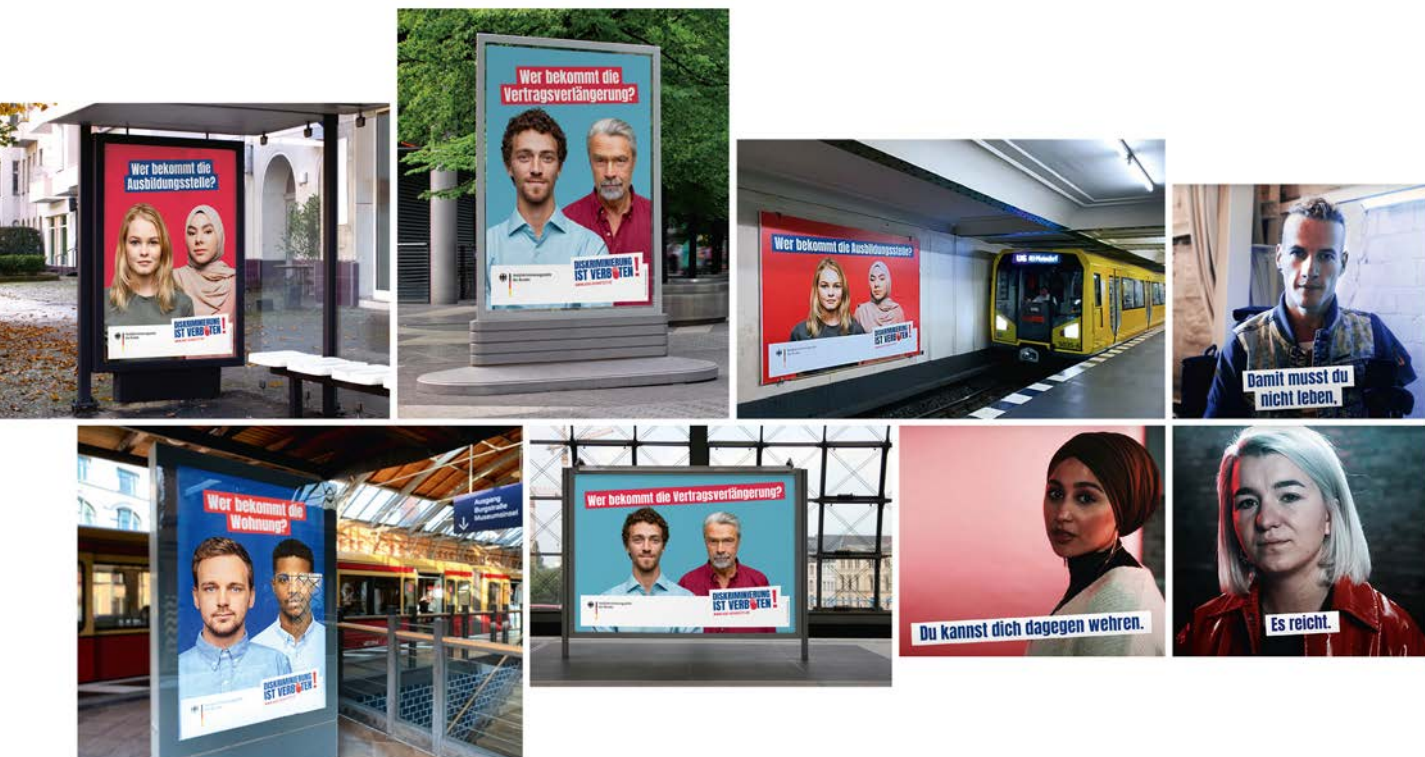
Acting Head of the Federal Anti-Discrimination Agency, Bernhard Franke, on Christopher Street Day in June 2020



# “Discrimination is prohibited” – the AGG protects

At work, when flat/house hunting or while shopping – discrimination is prohibited. The General Equal Treatment Act (AGG) protects against discrimination on racial grounds or on the grounds of ethnicity, gender, religion or belief, disability, age or sexual orientation. But still, not all people are aware of the prohibition of discrimination that applies in labour and civil law.

In autumn 2020, the Anti-Discrimination Agency raised awareness of the AGG with posters and digital advertisements at railway stations, in pedestrian zones, in shopping centres and on social media throughout Germany. The aim was to make employers, landlords and providers of goods and services aware of the fact that discrimination is legally prohibited, but also to reinforce the message that equality and effective anti-discrimination law are key to a strong and open society. ●



# Wer bekommt die Wohnung?



Antidiskriminierungsstelle  
des Bundes

**DISKRIMINIERUNG  
IST VERBOTEN!**

[WWW.AGG-SCHUETZT.DE](http://WWW.AGG-SCHUETZT.DE)

Stock-Fotos. Mit Modelts gestellt.





# Online and in the media

twitter.de



ZDF heute @ZDFheute · 2. Sep. 2020

Laut einer Studie erfahren 30 Prozent der #LGBTQI #Diskriminierung am Arbeitsplatz. Unter #trans -Menschen sind es sogar mehr als 40 Prozent. Die #Antidiskriminierungsstelle sieht Arbeitgeber in der Pflicht.



Diskriminierung: LGBTQI werden im Job oft gemobbt  
30 Prozent der Homosexuellen werden in Deutschland im Arbeitsleben diskriminiert. Unter den Transmenschen sind es sogar mehr als 40 Prozent.  
zdf.de

65 47 155

twitter.de



Deutscher Behindertenrat @dbr\_info · 3. Dez. 2020

Bernhard Franke, kommissarischer Leiter der #Antidiskriminierungsstelle des Bundes, ist live zum #DBRWelttag2020 dazu geschaltet.



1 3



Thread



Deutschlandfunk @DLF · 9. Juni 2020

Discrimination often takes place in three major areas of everyday life: when looking for a job, searching for a flat/house or gastronomy, including clubs, said Acting Head of the Federal Anti-Discrimination Agency, Bernhard Franke, in the DLF radio station.

11 26 48



Deutschlandfunk @DLF · 9. Juni 2020

Acting Head of the Federal Anti-Discrimination Agency, Bernhard Franke, called for ombuds services, which victims of racial profiling can access, in DLF.

2 3 15



Deutschlandfunk @DLF · 9. Juni 2020

“General sentiment has become more aggressive and things that were unspeakable a few years ago are now being said. Whether online or in the political debate. Such a climate leads to more discrimination in everyday life”, said Bernhard Franke in DLF.

1 2 8

spiegel.de

Criticism of Seehofer

## “The Federal Minister of the Interior is missing an important opportunity”

The Federal Anti-Discrimination Agency criticises Federal Minister of the Interior Seehofer for cancelling a study on racially motivated police controls. The Ministry’s explanation is “not really valid”.

06.07.2020, 11.30 a.m.



# Racist discrimination an everyday occurrence in Germany

According to the Federal Anti-Discrimination Agency, racism is becoming an everyday problem in Germany, too. It's no longer just a case of isolated incidents.

6 June 2020, 5.06 a.m. / updated on 6 June 2020, 7.42 a.m. / 233 comments /

← twitter.de



"Deutschland tut nicht genug gegen Rassismus", stellt die Antidiskriminierungsstelle des Bundes fest. Es melden sich immer mehr Menschen, die sich wegen ihrer ethnischen Herkunft benachteiligt fühlen. [spiegel.de/panorama/gesel...](https://www.spiegel.de/panorama/gesel...)



7:26 vorm. · 9. Juni 2020 · dlv.r.it

28 Retweets 6 Zitierte Tweets 112 „Gefällt mir“-Angaben

← tagesschau.de

## 2019 Annual Report of the Anti-Discrimination Agency documents rise in racism

09.06.2020, 15:11



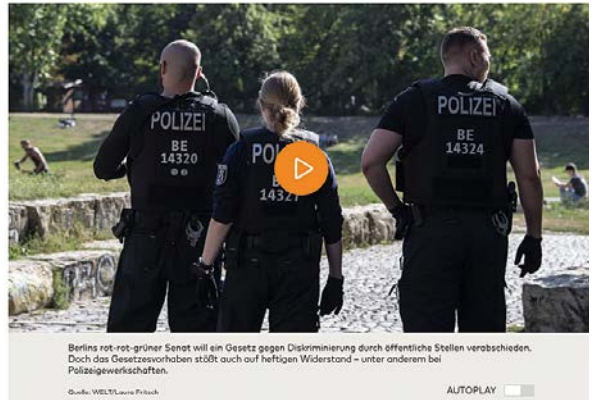
Justus Kliss, ARD Berlin

GERMANY RACIST DISCRIMINATION

# "It would be unrealistic to assume that the police would be free of it"

Published on 09.06.2020 | 4-minute read

Von Luisa Hofmeier  
Redakteurin Innenpolitik



Berlins rot-rot-grüner Senat will ein Gesetz gegen Diskriminierung durch öffentliche Stellen verabschieden. Doch das Gesetzesvorhaben stößt auch auf heftigen Widerstand – unter anderem bei Polizeiverkschaften.

The Federal Anti-Discrimination Agency also receives complaints about racial profiling by police officers. Bernhard Franke, acting agency head, calls for checks based purely on external characteristics to be systematically recorded. And that's not all.

← twitter.de

queer.de @queer\_de · 12. Nov. 2020

Chef der deutschen Antidiskriminierungsstelle: "Intergeschlechtliche und geschlechtsdiverse Menschen berichten vielfach von Diskriminierungen. Ihre Bedürfnisse und Vorschläge müssen gehört werden"



Antidiskriminierungsstelle: Inter-Diskriminierung weit verbreitet  
In drei Studien zeigt die Antidiskriminierungsstelle des Bundes auf, wo Inter-Menschen im Arbeitsleben diskriminiert werden und was dagegen getan ... [queer.de](https://www.queer.de)

8 22





**Who turned to the Anti-Discrimination Agency for advice? Why? What support do those affected need?**



# ences



# 6,383

enquiries were received in 2020 by the Anti-Discrimination Agency's counselling unit relating to issues concerning grounds protected under the General Equal Treatment Act (AGG).

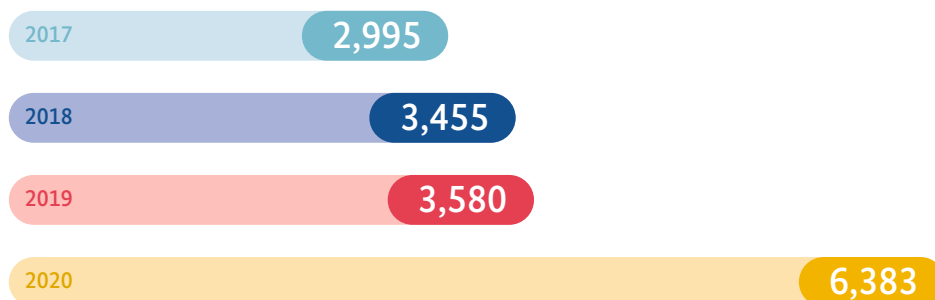
# Enquiries – facts and figures

2020 marked the most significant increase in enquiries recorded by the Anti-Discrimination Agency since 2007. With 6,383 enquiries relating to at least one ground of discrimination protected under the AGG, the number of enquiries increased by 78 percent compared to the previous year. Incidences of discrimination were mainly reported at the workplace (23 percent) and in access to goods and services (40 percent), and the ratio has more or less reversed compared to the previous year (2019: 36 percent at the workplace and 26 percent in access to goods and services). In more than a third of the cases (37 percent), the discrimination took place in an area of life that is not or only partially protected under the AGG. This includes, for example, large parts of the education sector and the entire field of government activity, but also verbal

abuse in public spaces and hate speech on social media. The counsellors at the Anti-Discrimination Agency also received more than 1,500 additional enquiries concerning discrimination on the basis of characteristics not covered by the AGG, such as social status or marital status.

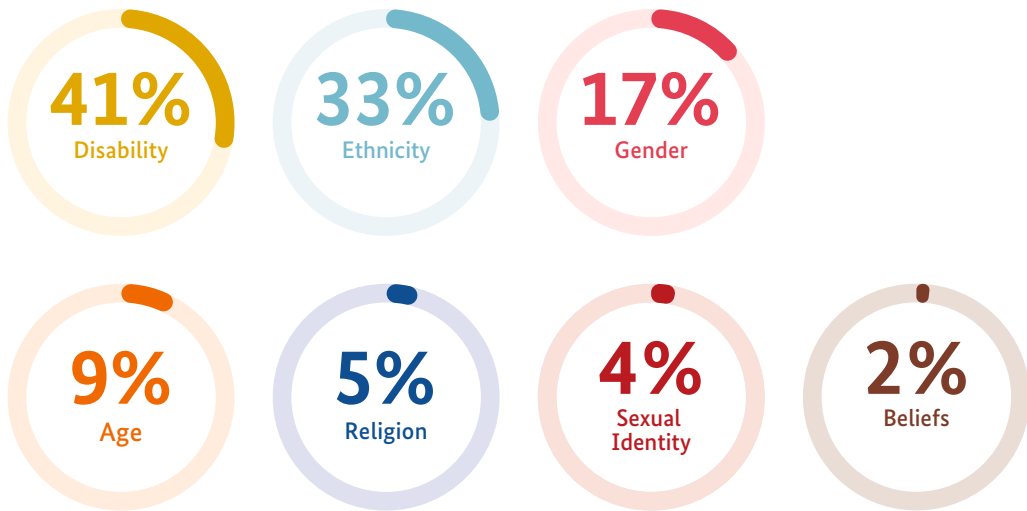
The remarkable increase in enquiries is largely (but not exclusively) related to the coronavirus crisis: 1,904 (around 30 percent) of cases were connected to the pandemic. These involved, for example, services that were refused with reference to a person's Asian heritage, or employees who were not allowed to work from home despite having chronic illnesses or being in a higher age group. However, the majority (1,496) of these enquiries related to discrimination in connection with compulsory

## Trends in enquiries concerning grounds protected under the AGG



### Distribution of enquiries across AGG grounds (2020)

Including multiple answers indicating multi-dimensional discrimination

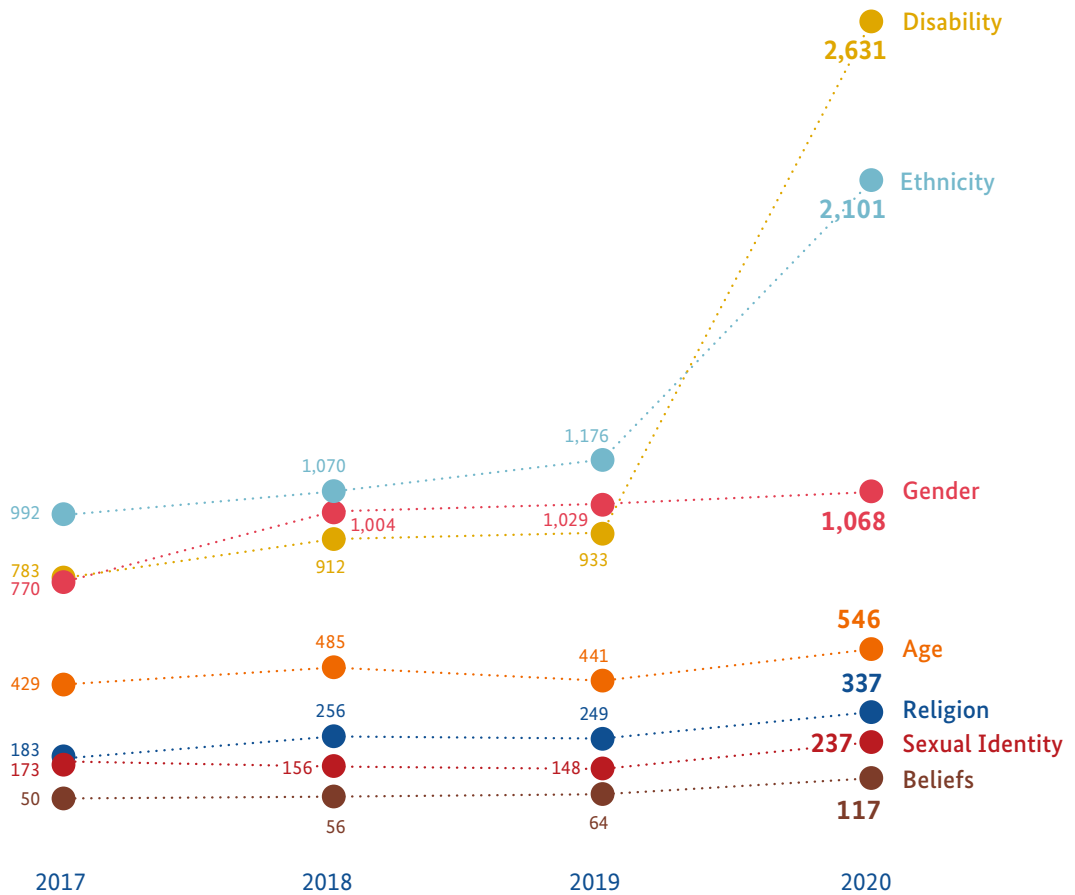


mask-wearing. Most of these were cases in which people were refused a service or entry to a shop without a mask, often despite being medically exempt from having to wear one. In other areas of life, too, such as at work or school and in day-care centres, compulsory mask-wearing presented difficulties for people who cannot wear a mask for health reasons. The extent to which this constitutes discrimination in a legal sense depends on each individual case.

Evaluating these cases is further complicated by the fact that during the course of the pandemic, individuals and groups began to evade compulsory mask-wearing by obtaining medical certificates without actually having any medical reasons. There are also indications of forged certificates; in some cases, there have also been specific calls to complain to the Federal Anti-Discrimination Agency about the obligation to wear a face mask. Due to limited capacity, it is not possible to estimate the exact percentage of such questionable enquiries and provide conclusive clarification on a case-by-case basis. The

## Trends in enquiries according to AGG characteristic

Including multiple answers indicating multi-dimensional discrimination



Anti-Discrimination Agency assumes, however, that the majority of those who turned to its counselling service had genuine concerns. Being denied entry to supermarkets, for example, has a considerable impact on those who genuinely cannot wear masks for health reasons (see page 48 for more details).

Looking at the other cases, it is clear that the pandemic was not the only contributing factor to the significant increase in the number of enquiries in 2020. Enquiries unrelated to the pandemic also increased year-on-year by 25 percent.

41 percent of the enquiries received by the Anti-Discrimination Agency in 2020 related to “disability and chronic illnesses”, which translates into 2,631 cases. Therefore, the number of enquiries almost tripled compared to the previ-

ous year. This is primarily due to the many enquiries about face masks that were assigned to this category. The number of enquiries in connection with racist discrimination also increased significantly again in 2020. At 2,101

“ After her job interview for a managerial position at a hotel chain goes well, Nele S. receives a call from the respective department manager suggesting she spend a night in a hotel room with him before he makes his decision.

In responding to her complaint, the company’s complaints department wrongly informs Ms S. that there is no

legal possibility to take action against him because she is not an employee of the company. Ms S. therefore asks the Federal Anti-Discrimination Agency to obtain a formal statement from the company. The management responds, but claims that Ms S.’s account of events are distorted. Ms S. decides to first contact a psycho-social advice centre for women to explore her options. ”



cases, these make up a third (33 percent) of all enquiries. The third most common reason for contacting the Anti-Discrimination Agency was that people felt discriminated against because of their gender (17 percent). Enquiries

concerning discrimination on the grounds of age (9 percent), religion or belief (5 and 2 percent respectively) or sexual identity (4 percent) followed behind in terms of proportion. ●

“

Zainab D. contacts the Anti-Discrimination Agency because she has the impression that she was discriminated against when applying for a job as a teacher at an after school tutoring institute. During the job interview, she was asked if she would be willing to take off her headscarf for the position. When Ms D. said no, the interview was terminated. The school does not permit the wearing of religious headscarves.

The advisor explains to Zainab D. that the employer's behaviour could well be a case of discrimination prohibited under the AGG. Her application could only be rejected if the company had a neutrality rule that applied equally to all religions, beliefs and political convictions. Zainab D. intends to assert claims for compensation and damages against the school with the help of a lawyer. ”



# News from the counselling centre

## No mask, no entry?

Protecting health and showing solidarity in daily interactions are of great significance in times of a pandemic. Wearing a mask and following social distancing rules are prime examples of how people can help contain the pandemic through their own actions. For vulnerable groups in this pandemic, such as people with disabilities or the elderly, it is of great importance that as many people as possible use protective face masks in their daily lives. For this reason, wearing mouth-to-nose protection was made mandatory in the Corona Protection Regulations early in the COVID 19 pandemic, particularly in enclosed spaces, workplaces, and stores.

In implementing these rules, people without masks were repeatedly denied entry to shops, buildings or public transport. In 2020, Anti-Discrimination Agency counsellors received a total of 1,496 enquiries from people who felt discriminated against because they were denied access to a service due to not wearing a face mask.

The rules are intended to contain the pandemic generally and to protect against infection locally. However, coronavirus safety regulations essentially take into account the fact that mask requirements – if enforced across the board – would exclude people who cannot wear a mask for health reasons. Therefore exceptions were set out. However, in many of the corona protection ordinances, these remain unclear. For instance, it is not always obvious from the regulations how to determine which circumstances warrant an exception and, for example, whether those affected must present a medical certificate. The obligations and authority of service providers such as shop owners are also seldom regulated.

In addition to the regulations, the AGG is also a relevant means of assessment from an anti-discrimination law perspective. If people are excluded from a service because they refuse to wear a mask out of personal conviction, this does not amount to discrimination under the AGG. Nor is denial of the pandemic protected as a belief under



law. The same applies if entry is denied due to a temporary illness. The AGG only protects those who are discriminated against because of a disability.

However, not all illnesses or medical findings are classed as disabilities under the AGG (compare, for example, the ruling by Bremen District Court on 26 March 2021 file no.: 9 C 493/20). If a face mask cannot be worn due to a genuine disability, the requirement to wear a mask may lead to indirect discrimination against people with disabilities. Such a requirement is only inadmissible under the AGG, however, if there are no factual grounds for justification.

Rather than taking a blanket approach, grounds for justification can only be determined proportionately by taking into account the circumstances of each individual case. So far, no rulings have been published on the subject, making it currently difficult to assess whether and under what conditions the courts would assume that discrimination is legally prohibited in cases where the AGG applies.

So far, the Anti-Discrimination Agency has informed complainants about aspects which, in its view, must be included in the assessment of each individual case. For example, in response to the question as to whether refusal of entry to a shop is justified, the following aspects should be considered: Are there people present for

whom a coronavirus infection would be particularly dangerous? Can the necessary distance between customers be maintained? How long would the person stay in the shop without a face mask? Can ventilation be provided?

The same applies to the workplace, as many employers had already introduced mandatory mask-wearing in their company before the coronavirus occupational health and safety regulations and national industry-specific regulations came into force. This is permissible because employers have a duty of care towards their employees and a right to issue instructions. However, even here,

enforcing mandatory mask-wearing without exception may indirectly disadvantage people with disability-related respiratory diseases or other related disabilities. In the world of

work, too, decisions should be made on a case-by-case basis, depending on the necessity to enforce mandatory mask-wearing and taking into account the specific work environment. Employers are obliged under the AGG to look for appropriate solutions and to make reasonable accommodations to allow people to perform their work regardless of their disability.

Many employers solve such problems by allowing employees to work from home – if their job allows – or by

***Denial of the pandemic is not protected as a belief under the AGG***



“

Samir K. wants to visit a department store with his mother. As he suffers from a severe form of skin disease, he cannot wear a mask. His disease means that his skin cannot compensate for temperature fluctuations, which can be life-threatening if he perspires too much. The department store refuses him entry despite a doctor's certificate.

Samir K. turns to an Anti-Discrimination Agency counsellor, who contacts the department store. Given the petitioner's disability and the size of the department store, he works to ensure that Mr K. is allowed entry in future. The department store agrees with the counsellor's assessment and subsequently contacts Mr K.

”



implementing alternative safety measures. In the service sector, some shops now offer their customers the possibility to order goods online and pick them up outside, without having to enter the shop. The Anti-Discrimination Agency believes that such offers can provide a sensible solution to protecting against both discrimination and infection.

Unfortunately, compulsory mask-wearing continues to cause conflict, not least due to people refusing to wear a mask, being unwilling to discuss it and aggressively confronting staff, for example in shops or on local transport. This makes it difficult to implement pragmatic solutions – to the detriment of all concerned. ●

## Pregnancy discrimination in the workplace

Family planning and childcare are a constant obstacle, especially for working women. While the General Equal Treatment Act (AGG) prohibits any form of gender-based discrimination in the workplace, reports of individual employers being unaware of statutory provisions regarding pregnancy or sometimes even deliberately disregarding them continue to emerge. The prohibition of discrimination is clear: “... direct discrimination on the grounds of sex is constituted[...] in the event of the less favourable treatment of a woman on account of pregnancy or maternity” (Section 3 paragraph 1 sentence 2 AGG). Pregnancy should therefore play no role in recruitment, promotion, working conditions or dismissal. Questions about a current or planned pregnancy are not permitted, particularly during the application process or when negotiating contract extensions.

During the reporting period, there were 79 cases of women who contacted the Federal Anti-Discrimination Agency for advice and reported that they were not hired, their employment contract was not extended or they were dismissed or otherwise placed in a worse position because of their pregnancy. Many of these incidents show a misplaced notion on the part of employers that it is permissible to consider the pregnancy of female applicants or employees as a

criterion in an application process. This is especially the case if, for example, a woman does not provide that she is pregnant during a job interview and only discloses this information after she has been hired or promoted. Some employers seem to interpret this as a breach of trust and use it to try to reverse contractual agreements or penalise those concerned.

However, this assumption lacks any legal basis. Not only is the ban on discrimination against pregnancy in the workplace unrestricted (and independent of an employer’s individual assessment of the costs/benefits). Those affected are also expressly entitled to withhold the truth if they are asked about plans to have children or even an existing pregnancy. According to case law, such questions are an indication of discrimination under the AGG. Those affected can assert claims for damages and compensation if discriminated against as a consequence of such questions, for example if the pregnant applicant is rejected.

Unfortunately, it is not always easy for employees to understand which procedures are legal and which are not. According to a survey conducted by the Anti-Discrimination Agency in 2018, for example, 39 percent of respondents believed that it was acceptable to be



asked about pregnancy during a job interview. Anyone under the impression that they have been discriminated against because of a pregnancy should seek support from the Anti-Discrimination Agency or another advisory centre.

Discrimination against pregnancy in the workplace is still common, despite the clear legal situation. The Anti-Discrimination Agency regards it as necessary to investigate the reasons for this. Employers and employees in particular should be better informed about the legal situation and harsher penalties should be examined. ●

“

Doreen O. has been deputy manager of her team in a consulting company for several months. During this time, she is repeatedly told by her superiors that she will be part of the company's in-house programme for promoting and training executives.

Doreen O. that she may be eligible to claim for damages and compensation. However, out of fear for the long-term consequences this may cause at work and the physical strain any legal proceedings could have on her pregnancy, Ms O. decides against taking further action. ”

When she is unexpectedly told that she is no longer eligible for the programme because she has informed her superior about her pregnancy, she turns to an Anti-Discrimination Agency counsellor. The counsellor offers to obtain an official statement and informs



# Third gender option

In 2018, the German Bundestag amended the law on civil status, thus implementing the decision of the Federal Constitutional Court on the “third gender option”. Since then, in addition to “female” and “male”, the gender entry “diverse” can be chosen; the entry can also remain blank. However, the risks of discrimination and legal uncertainties remain. Even several years after the new law came into force, people still contact the Anti-Discrimination Agency to report that forms and templates are not designed to be gender-diverse, and that they cannot enter their legally correct gender on them. In addition, those affected repeatedly describe that they are not addressed in a gender-appropriate way in correspondence from official departments and authorities.

Yet this is an essential part of general personal rights. The Regional Court of Frankfurt recently ruled (in its ruling of 3 December 2020, file no. 2-13 O 131/20): If a customer is obliged to choose the designation “Mr” or “Ms” when registering for mass market online services and the form used to address the customer depends on this choice, without the customer having the possibility to change this at a later date and without requiring information

about the customer’s gender being justified for concluding a contract, this violates the general personal rights of customers with non-binary gender identity.

There also is a lot of insecurity in the workplace, although many companies are actively working towards a non-discriminatory approach to gender diversity. Nevertheless, incidents like the following occur: A person applied for a job advertised for gender-“diverse” people and disclosed their gender identity in the interview. Shortly after being hired, the person changed their email signature to suit their actual gender identity. This caused a stir, as the company did not want such information to be disclosed in external communications with clients. There were also complaints from other employees who felt insecure when dealing with the new colleague. Despite their good performance, the person seeking advice was told that the employment contract would be terminated at the end of the trial period.

To provide more legal clarity and improve the situation of intersex and trans\* employees in an area of life directly protected by AGG law, the



Federal Anti-Discrimination Agency commissioned two complementary studies – which were presented at a digital symposium in November 2020.

The legal report “Beyond male and female – people with variations in sex characteristics in labour law and federal public employment law” by law professors Anatol Dutta (Ludwig Maximilian University of Munich) and Matteo Fornasier (Ruhr-University Bochum) lays out in great detail that while protection against discrimination for people with the gender entry “diverse” applies without restriction, legislative changes are nevertheless needed for all legal provisions that relate to a binary gender structure in labour and civil service law. This is especially true wherever workplace regulations on sanitary facilities and staff dress codes, for example, make gender-based distinctions that do not intend to improve the position of the typically disadvantaged gender. The situation is even more complex wherever regulations expressly intend to promote women. It would be helpful for the legislator to clarify how people with a “diverse” gender entry can be appropriately considered in these situations.

***The situation of many trans\* and inter\* people has not fundamentally improved***

This legal expertise was complemented by the practical study “Gender diversity in employment and occupation. Needs and implementation possibilities of anti-discrimination for employers”, which was carried out by a team consisting of Dr Tamás Jules Fütty, Marek Sancho Höhne and Eric Llaveria Caselles. Based on interviews with companies and administrative bodies, works councils and civil society organisations, specific recommendations for action were developed. These concern key areas of working life (corporate culture, recruitment, dealing with gender-related data, language and communication, sanitary facilities as well as body, clothing and health). The researchers recommend far-reaching awareness-raising measures. The Anti-Discrimination Agency will use this study to develop guidelines in 2021 that will provide practical suggestions for concrete action in the workplace.

The situation of many trans\* and inter\* people has not fundamentally improved during the reporting period. According to the results of a study conducted by the Cologne Institute for Diversity & Anti-Discrimination Research (IDA) and funded by the Anti-Discrimination Agency, the majority of respondents



experienced discrimination at work. They describe a climate of hostility in teams and organisations and criticise in particular the lack of support in cases of discrimination. They also report a lack of suitable sanitary facilities as well as refusals to be inclusive in letters and forms by using gender-sensitive language.

The Transsexuals Act (TSG), which has already been largely rejected as unconstitutional by the Federal Constitutional Court, is still in force and its provisions include the obligation to undergo an

expert assessment before changing the gender entry. This is perceived as humiliating as well as costly by those affected. In the eyes of the Anti-Discrimination Agency, a gender self-determination law that would replace the TSG and would allow people to change their gender entry simply by self-declaration at the registry office, is overdue. Such a regulation could then also benefit intersex and non-binary people. ●



# Studies and publications

Every year, the Federal Anti-Discrimination Agency publishes a wide range of material on the subject of discrimination, including booklets, FAQs, scientific studies and videos. All publications are available online at [www.antidiskriminierungsstelle.de](http://www.antidiskriminierungsstelle.de).



## “Standpunkte” publication series

Anti-Discrimination Agency experts address current legal issues in the new “Standpunkte” (standpoints) series. The first issue is dedicated to questioning the extent to which the AGG is also applicable to medical treatment contracts, i.e. visits to doctors and hospital stays.

## Posters and postcard sets from the #agg-schuetzt campaign

Job seeking, flat/house hunting or shopping – the General Equal Treatment Act (AGG) protects everyone in Germany against discrimination. The Anti-Discrimination Agency’s “#agg-schuetzt” (#agg-protects) campaign raises public awareness for legal protection against discrimination under the AGG. Posters and postcard sets of the campaign motif are available to order.







## Equality for jobseekers – flyer in “easy language”

What rights do I have when looking for a job? What helps against discrimination? The “Equality for jobseekers” flyer provides information for job seekers in accessible “easy language” - for example on how to tackle and obtain help against discrimination during a job interview.

## Legal report: “A legal vacuum? Implementing the EU Anti-Racism Directive in the area of housing”

Although racist discrimination on the housing market is a widespread problem, legal protection against discrimination is riddled with exceptions, making it difficult to deal with such discrimination. In the legal report commissioned by the Anti-Discrimination Agency, Professor Gregor Thüsing from the University of Bonn finds that the EU Anti-Racism Directive is inadequately implemented in Germany.



## Booklet on protecting against discrimination at universities

The “Building blocks for systematic protection against discrimination at universities” booklet suggests six modules that universities can use to effectively protect their students. After all, racist insults, sexual harassment or bullying on the grounds of sexual orientation are crucial challenges for institutions of higher education as well.



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Federal Anti-Discrimination Agency  
11018 Berlin, Germany  
[www.antidiskriminierungsstelle.de](http://www.antidiskriminierungsstelle.de)

### **Contact:**

Phone: +49 (0)30 18555 1855  
Fax: +49 (0)30 18555 41865  
Initial legal advice: [www.antidiskriminierungsstelle.de/beratung](http://www.antidiskriminierungsstelle.de/beratung)  
Email: [beratung@ads.bund.de](mailto:beratung@ads.bund.de)  
General inquiries: Mon.–Fri. 9 a.m.–12 noon and 1–3 p.m.  
Email: [poststelle@ads.bund.de](mailto:poststelle@ads.bund.de)

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