

Federal Anti-Discrimination Agency



# Protection against Discrimination in Germany

A Guide for Refugees and New Immigrants

Diese Broschüre ist auch in deutscher Sprache erhältlich:

Bu broşür Türk dilinde olarak mevcuttur:

Cette brochure est également disponible en français:

Ova brošura je dostupna i na srpskom jeziku:

Данная брошюра также доступна на русском языке:

هذا الكتيب متوفر أيضا باللغة العربية :

این بروشور را به زبان دری بدست آورده می توانید:

دغه بروشور د پښتو په ژبه هم ترلاسه کیدلای شي:

نهم نامیلکه ریّنیشاندم و به زمانی کوردییش دهست دهکمونیت :

#### www.antidiskriminierungsstelle.de/refugees



Contents

# Contents

I.	What is discrimination?	_ 3
II.	What is legally an act of discrimination?	_ 4
III.	Where can discrimination occur?	_ 7
	1. On the job and in your profession	_ 7
	1.1 Applying for a job and taking up employment	8
	1.2 Sexual harassment in the workplace	10
	2. Public offices and authorities	_ 12
	3. Doctors' offices and hospitals	_ 15
	4. Opening a bank account	_ 18
	5. Recreation and everyday activities	_ 20
	6. Searching for housing	_ 23
	7. Education and schooling	_ 26
IV.	Support and counselling	_29

# I. What is discrimination?

Discrimination means that one person is treated worse than another person, for example because of a disability or their origins. Discrimination is prohibited in Germany.

That is why we have **the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz – AGG)**. According to this law, discrimination is prohibited, particularly at work, when searching for housing, when eating out at a restaurant or shopping.

This brochure has been written to inform you of your rights and to provide you with answers to the following questions:

- What is legally an act of discrimination?
- How can you defend yourself against discrimination?
- Where can you find support?

# II. What is legally an act of discrimination?

Discrimination is prohibited in Germany on six grounds:

#### Race and ethnic origin

No one may be discriminated against on the grounds of their skin colour, language or origin.

#### Sex

Women and men must be treated equally. Discrimination against trans\* persons and intersexual persons is also prohibited. Trans\* persons are persons who do not live with the sex that was assigned to them at birth. Intersex persons are persons who are not distinctively female or male.

#### Religion and worldview

No person may be discriminated against on the grounds of their beliefs. Furthermore, no person may be discriminated against simply because they belong to no specific faith.

#### Disability and chronic disease

No person may be discriminated against because they use a wheelchair, is deaf or has cancer, for example.

#### Age

No person may be discriminated against because they are 'too young' or 'too old'.

#### Sexual orientation

No person may be discriminated against for being gay, lesbian, bisexual or heterosexual. For example, women who love women must be treated the same as women who love men.

**Everyone in Germany is legally protected against discrimination** – regardless of their residence status. After all, refugees and recent immigrants are also affected by discrimination.

### No one is obliged to tolerate discrimination! Everyone has the right to defend themselves against discrimination!

# In which areas of life does this protection against discrimination apply?

The General Equal Treatment Act protects people from discrimination in two areas: working life and in specific cases of day-to-day life, especially in everyday transactions.

Working life means that no one may be discriminated against:

- when applying for a job
  with respect to pay
  with respect to working conditions
  with respect to promotion
  - with respect to terminations

For example, this means that people working in an enterprise may not be paid less for their work, simply because they come from another country.

**Everyday transactions** means that, for example, no one may be discriminated against when:

renting an apartment
 going to a discotheque
 travelling on a bus or train
 opening a bank account

# What are the exceptions to this rule?

There might be **objective reasons** that justify treating people differently.

For example, job applicants may be refused if they have no work permit. A lack of German language skills could also be an objective reason for a rejection if language proficiency is important, for example in a job that requires customer contact.

This is **not** discrimination!

# III. Where can discrimination occur?

Discrimination can occur everywhere: on the street, in a cafe, at work or on the Internet. In many cases, there are possibilities for you to defend yourself against discrimination or to find support.

The following examples show the type of situation in which discrimination can be experienced and where you can obtain support in such a case.

# 1. On the job and in your profession

In Germany, every person is protected from discrimination with respect to access to work, working conditions and terminations. This protection also applies to **professional training, for example internships**.



Persons who are not citizens of the EU may only seek work in Germany after obtaining a work permit. This depends on your residence status. Generally speaking, the official residence papers indicate whether or not you are allowed to work:

"Employment allowed" (Erwerbstätigkeit gestattet) = you are allowed to work

"Employment allowed only with the permission of the office for foreigners" (Beschäftigung nur mit Erlaubnis der Ausländerbehörde gestattet) = you are not or not yet allowed to work

"Employment not allowed" (Erwerbstätigkeit nicht gestattet) = you are not allowed to work

### 1.1 Applying for a job and taking up employment

Finding work is very important, particularly for persons who are new in Germany. Unfortunately, it is precisely in this context that discrimination occurs frequently. In some cases, persons with a foreign-sounding name are less likely to be invited to a job interview.

### This is discrimination!

You can do something about this type of discrimination. No person may be discriminated against, when applying for a job, on the grounds of ethnic origin, gender, religion or belief, disability, age or sexual identity.

#### Muslim women wearing headscarves

Muslim women wearing headscarves also experience discrimination when job hunting. Very often, they are rejected with the justification that customers or other employees in the firm have a problem with the headscarf.

This is not allowed! No person seeking employment may be rejected because of their religion!

Exceptions are made only for employers who are funded by a religious community. Women who are affected by this sort of discrimination should therefore seek counselling at all costs.

If you experience discrimination at a job interview or during working hours, or if you encounter wage discrimination, you should definitely contact a counselling centre. There you will receive information about what you can do against discrimination and whether you have a right to damages or compensation.

The Federal Anti-Discrimination Agency provides you with confidential counselling free of charge. It can also help you to find a counselling centre near you:

#### +49 (0) 30 18555-1855 Mon 1 p.m.-3 p.m., Wed 9 a.m.-12 p.m. and Fri, 9 a.m.-12 p.m.

or use the contact form available on the Internet: www.antidiskriminierungsstelle.de/beratung

You can find an anti-discrimination counselling centre near you by using the counselling centre search option:

www.antidiskriminierungsstelle.de/beratungsstellen

### 1.2 Sexual harassment in the workplace

Sexual harassment means: unwanted physical contact, leering, lewd looks, sexual comments, sexist jokes, or the displaying of pornographic posters.

# All forms of sexual harassment in the workplace are prohibited in Germany!

In the event of sexual harassment in the workplace, the intention of the person committing the harassment is irrelevant. What counts is the fact that the conduct, which is of a sexual nature, is obviously unwelcome.

# This is why all employees have the right to defend themselves against sexual harassment!

There are different ways of defending yourself against sexual harassment in the workplace:

- Tell the person who is committing the acts of harassment to stop.
- Make a complaint to your superior or complain directly to your employer or the complaints office.
- Get support from your company's officer for women's affairs or equal opportunities officer.
- Lodge a complaint with the works council.
- Get advice on what rights you might have to damages or compensation from your employer.

Whether you are an employee or a trainee, every person has the right to defend themselves against sexual harassment. Employees who submit complaints may not be punished or given notice by their employer as a result. **Employers are under the obligation to take measures against acts of sexual harassment**.

In everyday life, not all forms of sexual harassment are prohibited by law. However, what is always prohibited is particularly serious forms of sexual harassment or sexualised violence. In such cases, you should contact the police or get in touch with a victim counselling centre immediately – regardless of whether the violence took place on the street or within the family.

#### Affected persons can seek counselling at any time:

Counselling Hotline of the Anti-Discrimination Agency: +49 (0) 30 18555-1855 Mon 1 p.m.-3 p.m., Wed 9 a.m.-12 p.m. and Fri, 9 a.m.-12 p.m.

or use the contact form available on the Internet: www.antidiskriminierungsstelle.de/beratung Violence Against Women Support Hotline 24-hour service, with the aid of a female interpreter if necessary



# 2. Public offices and authorities

Public offices and authorities are state-run bodies such as: the welfare office, the Job Centre, the local office for foreigners or the youth welfare office. The police, too, are a state-run body. Special rules and laws to protect persons against discrimination apply to the work of state-run bodies.

# Discriminatory insults or treatment are also not allowed in public authorities!

This is what you can do if you encounter discrimination at a public authority:

- In the course of the discussion, draw attention to the existence of the ban on discrimination.
- Get support from a counselling centre.
- Make an application to the authority's management requesting that you be assigned a new contact person.
- Lodge an official disciplinary complaint against the civil servant with their superior.
- Some public authorities have complaints offices that you can get in touch with immediately.

### As a rule, the following applies: You may always have someone accompany you when you have to visit a public office.

#### Examples based on the work of the Federal Anti-Discrimination Agency

A Muslim woman approached the Federal Anti-Discrimination Agency because she felt discriminated against by the person handling her case at the Job Centre. The caseworker had advised the woman to remove her headscarf so as to improve her opportunities on the job market.

A counsellor from the Federal Anti-Discrimination Agency then wrote to the Job Centre drawing attention to the fact that this demand was discriminatory. The counsellor also asked the Job Centre to investigate the case.

The Job Centre investigated the case. Although, at the end of the day, it was not possible to prove whether the caseworker had in fact discriminated against the applicant, the woman was assigned to another caseworker so as to avoid further conflict.

You can find additional advice on how to deal with public offices and authorities, particularly with regard to asylum or residence issues, at:

#### PRO ASYL

#### www.proasyl.de

Counselling Hotline (Mon-Fri, 10 a.m.-12 p.m. and 2 p.m.-4 p.m.) +49 (0) 69 24231420

#### Language and communication at public authorities

Many regulations and forms are difficult to understand. **German is the official language in Germany.** As a result, there is no obligation to provide documents and paperwork in other languages. Public authorities are also under no obligation to provide translators and interpreters.

However, the public authority's employees must at least attempt to explain the content of application forms. People may not be rejected as a matter of principle because of poor language skills.

## This is discrimination!



The important thing is: You do not have to sign anything that you do not understand!

And: Everyone has a right to bring an interpreter with them to an appointment.

You are also allowed to bring relatives, friends or a social worker along, to an appointment, to help as an interpreter.

However, the public authority may not expect you to arrange for an interpreter as a general principle. If you are nevertheless required to be accompanied by one, you should seek advice, for example from an immigration counselling office. You can find an immigration counselling office near you by using the counselling centre search option on the website of the Federal Office for Migration and Refugees.

Federal Office for Migration and Refugees www.bamf.de Counselling centre search option:

http://webgis.bamf.de/BAMF/control

# 3. Doctors' offices and hospitals

In Germany, everyone has the right to medical care. Doctors must treat all persons who:

- find themselves in an emergency situation
- are in possession of a health insurance card or a health card, or
  - are in possession of a medical treatment voucher

### Important: Your residence status does not depend on your health status! It makes no difference whether you are going to the dentist, are pregnant or getting a vaccination.

**HOWEVER:** the biggest problem for many refugees is the fact that they have no health insurance card – unless they have already been granted refugee or asylum status. In the majority of the Federal Laender, it can take up to 15 months for a refugee or a recent immigrant to receive such a card.

If you do not yet have such a card, you will need to have a medical treatment voucher. The local public health office or the welfare office will have to provide you with a medical treatment voucher before each treatment.

#### Medical treatment vouchers

The following benefits and services must be authorised in issuing medical treatment vouchers:

- diseases that need to be treated urgently
- diseases that are painful
- pregnancy-related benefits and services
- all benefits for treating children
- dentures: only if immediately necessary
- vaccines and preventive check-ups

**Attention!** If the doctor prescribes medicines for you, and you have a medical treatment voucher, you do not have to pay for the medicines. Make sure that this is written on the prescription.

It is possible that welfare or public health offices will refuse to grant you benefits and services to which you are entitled, without any authorisation to do so. If you are denied an important benefit or service, you can lodge an **objection** with the welfare office.

#### Setting up appointments

Every person has the right to a doctor's appointment. It is true that, in some cases, it can take several weeks to get an appointment. However, in Germany, it is basically not permitted to deny medical treatment to someone because of their residence status or religious affiliation, for example.

This is discrimination!

#### Exceptions

Only under very specific circumstances, a refusal to give someone an appointment is permitted. This is the case, for example, in medical practices that only treat persons who are privately insured. Furthermore, medical practices are not obliged to give appointments if the practice already has too many patients.

This is not discrimination!

If you have experienced discrimination during a doctor's visit, or when setting up an appointment, you can get in touch with the local public health office, for example, or lodge a complaint with the Land Medical Association (Landesärztekammer). Alternatively, you can first consult an immigration counselling office.

**Example from the Federal Anti-Discrimination Agency** A pregnant refugee with extremely high blood pressure was accompanied to a hospital by her social worker. At first, the hospital refused to treat her. The medical treatment voucher from the competent authority was not accepted.

It was only after the social worker complained several times, and then spoke directly to a doctor, that the pregnant woman was treated and given a bed.

#### Disability

It would be advisable for persons with a disability to seek counselling from the very start. You can get advice from your family doctor, the public health, welfare or immigration counselling offices and, in some cases, at your initial reception centre for refugees, or from the:

> Bundesvereinigung Lebenshilfe e.V. www.lebenshilfe.de

#### Transsexuality and intersexuality

The provision of healthcare for trans\*persons and intersexual persons is not standardised in Germany. For counselling and further information, contact:

Inter\*- und Trans\*-Beratung von Queer Leben

www.queer-leben.de

# 4. Opening a bank account

You need to have a bank account to take care of financial matters. For example, transferring salaries and wages, obtaining membership at a gym, or renting an apartment – these things can often only be done through a bank account.



## In Germany, every person has the right to open a bank account – regardless of their origin or residence status.

Despite this, it is possible to experience discrimination when opening a bank account. However, banks are not allowed to refuse anyone to open an account, or deny them entry to one of their branches, without grounds for doing so.

# This is discrimination!

Banks are allowed to refuse customers only in **exceptional cases**.

For example:

- If someone already has an account in Germany.
  - If a person already has a criminal record in some area that has to do with banks or other financial matters.

If the bank had already cancelled the person's account in the past.

# This is not discrimination!



# 5. Recreation and everyday activities

The General Equal Treatment Act prohibits discrimination on the grounds of race or ethnic origin, gender, religion, age, disability or sexual identity in the services sector as well.

It occurs, ever so often, that persons are not allowed to enter a discotheque, gym or swimming pool, for example, on the grounds of their race or religion.

This is discrimination!

#### Exceptions

Not every rejection constitutes a discrimination: Discotheques, for example, are trying to create a specific atmosphere. This is why they are allowed to refuse entry to persons who are too drunk, aggressive or not wearing the appropriate clothes.

A person might be refused entry to a swimming pool or a gym, for example, if there are already too many people inside. This is **not** discrimination!

If a person is denied a service based on poor language skills, or their residence status or nationality, this is considered racial discrimination. You can defend yourself against this. In such a case, you should get in touch with a counselling centre.

It is also not always easy to find out exactly why you were rejected. It might help if you can check the following things yourself:

- Ask why you were refused entry.
- Does the reason given for the refusal make sense? For example, were people allowed in after you even though you had been told that the discotheque was already full?
- If you were required to show identification documents, an invitation or a club membership pass, were all other guests also asked to show a membership pass?

If you have the feeling that you were discriminated against:

- Look for support amongst the people around you.
- Make a written note of what happened. Is there anyone who can testify to the discrimination?
- Remain calm, even if you are annoyed.
- Get in touch with a counselling centre, for example the:

Counselling Hotline of the Federal Anti-Discrimination Agency +49 (0) 30 18555-1855

Mon 1 p.m.-3 p.m., Wed 9 a.m.-12 p.m. and Fri, 9 a.m.-12 p.m. or make use of the contact form available on the Internet: www.antidiskriminierungsstelle.de/beratung

You can find an anti-discrimination counselling centre near you by using the counselling centre search option: www.antidiskriminierungsstelle.de/beratungsstellen

#### **Examples from court rulings**

A Syrian student was not allowed to enter a discotheque. The man was not drunk and was dressed appropriately. The student's light-skinned friends were able to enter the club without any problems.

The student decided to take the discotheque to court. In court, the Syrian student's friends testified in his favour. The court ruled that the man was refused admission on racial grounds. The discotheque was ordered to pay  $\leq 1,000$  in compensation to the student.

#### Associations

Many sports or music clubs are associations. However, in the case of associations, the provisions governing protection against discrimination apply only to especially large organisations and to places of work.

This means that, in the case of small and locally-based associations, such as the local football club, no person can claim a right to membership under the law. However, there are other ways of defending oneself against discrimination. This is why, if you have been rejected by an association, you should still contact a counselling centre such as an immigration counselling office.

Persons who are already members of an association and encounter discrimination there can approach the association's board or its management.

# 6. Searching for housing

Discrimination against persons looking for housing is prohibited in Germany:

- in the renting of housing
- during the tenancy/rental agreement
- while terminating the tenancy/rental agreement

However, there are differences among the various elements that are subject to legal protection.

Discrimination on the basis of **ethnic origin and racial discrimination** is absolutely prohibited. This would generally also include rejections based on residence status or on the lack of language skills.

#### Exception

Generally speaking, the prohibition on discrimination does not apply if the landlord himself or herself lives in the house or on the property.

In the case of all **other elements of the General Equal Treatment Act**, **with the exception of ethnic origin**, the prohibition on discrimination only applies if a landlord has **more than 50 housing units** for rent. In such a case, one is dealing with so-called bulk business transactions.

If, for example, a homosexual couple is looking for an apartment and is refused as a result of their homosexual partnership, they would only be able to take action against the rejection if this happens within the framework of so-called ,bulk business transactions'.

### In the event of discrimination

If the applicant is told "No foreigners!" or "No refugees!", when viewing an apartment, this would qualify as a clear case of prohibited discrimination. You can defend yourself against this. Furthermore, you might encounter discrimination during the rental/ tenancy relationship itself. This might take the form of discriminatory rent increases, warnings or threats of termination of the rental contract.

### This is discrimination!

Should this happen, you should seek support immediately. You can find support, for example, at:

#### The Counselling Hotline of the Federal Anti-Discrimination Agency +49 (0) 30 18555-1855

#### Mon 1 p.m.-3 p.m., Wed 9 a.m.-12 p.m. and Fri, 9 a.m.-12 p.m.

or by means of the contact form available on the Internet: www.antidiskriminierungsstelle.de/beratung

You can find an anti-discrimination counselling centre near you by using our counselling centre search option:

#### www.antidiskriminierungsstelle.de/beratungsstellen

If your neighbours discriminate against you, or are hostile towards you, you should directly contact your landlord or the manager of the housing unit. This can help you to prevent further conflicts.

However, there are also forms of discrimination on the housing market that are less obvious. One such form is when the landlord only pretends that the apartment has already been rented out to someone else. Even in such cases, it would be advisable to consult a counselling centre. The counselling centres are in a position to document such cases and collect evidence.



#### Examples based on the work of the Federal Anti-Discrimination Agency

A municipal housing company refused to give two young men from Syria a rental contract for an apartment. The move had also been authorised by the competent authorities. However, the municipal housing company repeatedly found excuses and did not allow the men to sign the contract. The excuses were not credible and pointed to a case of discrimination.

Consequently, the two Syrians got in touch with a migrant support service. With the aid of a migrant support worker, and the assistance of a lawyer, the two men were able to sign the contract six months later.



# 7. Education and schooling

In Germany, the Federal Laender are responsible for education; this explains why there are many different regulations and school forms. You can find general information on education in Germany, for example, here:

Federal Office for Migration and Refugees www.bamf.de/DE/Willkommen/Bildung/bildung-node.html

**Adults and young people** who acquired qualifications in their home country can have these qualifications recognised in Germany. You can find additional information and counselling centres near you here:

www.anerkennung-in-deutschland.de

+49 (0)30 1815 1111

As a rule, the following applies: all children and young people living in Germany must go to school. This **compulsory schooling** for children

begins at the age of five to seven years and ends after nine to 12 years, depending on the Federal Land in which the child lives.

is independent of a person's residence status.

# This means that all children and young people have the right to attend school!

In exceptional cases, schools have the right to refuse pupils if a lot of children and young people are already registered.

## This is not discrimination!

In such a case, parents should, nevertheless, definitely get in touch with a migration counselling centre or the competent education office. As a rule, there is always at least one school in your immediate vicinity that must accept children and young people.

#### Attention!

From time to time, affected persons report that refugee children are to be sent to so-called special needs schools because of their lack of language skills. From the perspective of long-term integration, this can be to the children's disadvantage. This is why, in such cases, parents should seek the support of an immigration counselling office.

However, **discrimination** can also take place in **day-to-day school life**. It might happen, for example, that children are bullied by other pupils. In addition, comments by or the behaviour of teachers could discriminate against individual pupils.

This is discrimination!

Even though there is no standardised statutory protection against discrimination for the school environment, there are possibilities for defending oneself against discrimination in school.

Depending on the incident, parents should directly approach the teachers or the school management. In some Federal Laender, and in some schools, there are direct contact points or persons who can be approached in cases of discrimination.

In such a case, you should get in touch with

The Counselling Hotline of the Federal Anti-Discrimination Agency +49 (0) 30 18555-1855 Mon 1 p.m.–3 p.m., Wed 9 a.m.–12 p.m. and Fri, 9 a.m.–12 p.m. or use the contact form available on the Internet: www.antidiskriminierungsstelle.de/beratung You can find an anti-discrimination counselling centre near you by using our counselling centre search option: www.antidiskriminierungsstelle.de/beratungsstellen

#### Nursery schools and day care centres for children

Younger children have a right to a place at a nursery school or day care centre for children. If you have the feeling that you were discriminated against while looking for a place for your child, you can receive counselling here:

> KiDs – Kinder vor Diskriminierung schützen! www.situationsansatz.de/kids.html

# IV. Support and counselling

Organisation	Internet	Phone
Antidiskriminierungs- stelle des Bundes	www.antidiskriminierungsstelle.de	+49 (0) 30 18555-1855
(Here you can obtain help, especially in cases that have to do with work, housing and everyday business transactions)		
Antidiskriminierungs- verband Deutschland (advd)	www.antidiskriminierung.org	+49 (0) 341 30690787
(Here you can obtain help, especially in cases that have to do with work, housing and everyday business transactions)		
BAMF – Bundesamt	General information:www.bamf.de	
für Migration und Flüchtlinge	Counselling centres:	
(Here you can find general information for	http://webgis.bamf.de/BAMF/ control	
refugees on all areas of life, counselling centres	Education: www.bamf.de/DE/	
for migration – and	Willkommen/Bildung/	
local youth migration services – in English, German, Russian and Turkish)	bildung-node.html	

Beratungsstellen- suche der Antidis- kriminierungsstelle des Bundes	www.antidiskriminierungsstelle.de/ beratungsstellen	
(Here you can find counselling centres near you)		
Hilfetelefon Gewalt gegen Frauen	www.hilfetelefon.de	08000 116016
(This hotline provides help especially for women who have experienced violence or are in fear of violence – in 15 languages, 24 hours a day)		
KiDs – Kinder vor Diskriminierung schützen	www.situationsansatz.de/kids.html	+49 (0) 30 695399904
(Here you can get help if you run into dis- crimination at nursery schools or infant day care centres)		
PRO ASYL	www.proasyl.de	+49 (0) 69
(Here you will find general information on the topic of fleeing and asylum, as well as on how to conduct visits to public authorities and offices)		24231420

#### Rainbow Refugees www.rainbow-refugees.de

(Lesbian, homosexual, bisexual, trans\* and intersexual persons can find support here)

#### Discrimination, violence and hate crime

If you are the victim of a violent assault for racist, ableist (anti-disabled), homophobic or other reasons, you should contact the police. Violent crimes are criminal offences. In the event of a suspected criminal offence, all persons have the right to report the incident to the police, the public prosecutor's office or the municipal court.

In addition, the different Federal Laender also have counselling centres for persons who have been affected by violence and hate crime. An overview of the counselling opportunities that are available can be found here, for example:

Verband der Beratungsstellen für Betroffene rechter, rassistischer und antisemitischer Gewalt

www.verband-brg.de/index.php/ beratung-und-unterstuetzung

+49 (0) 30 55574371

Bundesverband Mobile Beratung

http://www.bundesverbandmobile-beratung.de/kontakt/

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#### Contact:

Phone: +49 (0) 30 18555-1855 Fax no.: +49 (0) 30 18555-41865 Initial Legal Counselling: Mon 1 p.m.-3 p.m., Wed 9 a.m.-12 p.m. and Fri, 9 a.m.-12 p.m. E-mail address: **beratung@ads.bund.de** General Enquiries: Mon-Fri, 9 a.m.-12 p.m. and 1 p.m.-3 p.m. E-mail address: **poststelle@ads.bund.de** 

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