

The Federal Anti-Discrimination Agency's research projects at a glance: Discrimination when seeking private insurance

Overview of the expert opinion

This expert opinion investigates the meaningfulness of the discrimination ban for private insurance carriers contained in the General Equal Treatment Act and the degree to which additional action is needed to protect those affected.

Author, title and year of publication of the expert opinion

Prof. Dr. Christian Armbrüster: *Benachteiligungsverbot und Rechtfertigungsgründe beim Abschluss privatrechtlicher Versicherungen (2010)* (The Discrimination Ban and Justifications for Discrimination in the Conclusion of Insurance Contracts with Private Carriers (2010)).

Results

A special feature of private insurances and contracts is that they often differentiate on the basis of personal characteristics. Very often these characteristics are linked to the criteria protected by the General Equal Treatment Act. This type of departure from the ban on discrimination is admissible under certain conditions.

Unisex Insurance Rates

In March 2011, the Court of Justice of the European Union delivered a judgement, valid from 21st December 2012, declaring differences in the premiums and benefits for men and women to be invalid (ECJ, 1.3.2011, C-236/09 (Test-Achats)). From 21st December 2012, the use of gender may no longer lead to different insurance premiums and benefits. As a result, insurance carriers must now offer so-called unisex rates. At the end of February 2013, the *Bundestag* and *Bundesrat* adopted amendments to the General Equal Treatment Act that implement this judgement into national law. (Section 20 sub-section 2 sentence 1 of the Act has been revoked. In Section 33, an additional sub-section 5 has been inserted; it contains a provision governing insurances taken out before 21st December 2012.) The amendments are to have retroactive effect as of 21st December 2012.

Practical possibilities for action

- Insurance carriers should provide more comprehensible grounds for unequal treatment.
- Calling in ombudspersons and complaint bodies can have the effect of satisfying the legal requirements.
- In some cases it is also possible to dispense entirely with the inclusion of the protected characteristic. This can have an exemplary effect.

More information

The expert opinion: *Benachteiligungsverbot und Rechtfertigungsgründe beim Abschluss privatrechtlicher Versicherungen (2010)* "The Discrimination Ban and Justifications in the Conclusion of Insurance Contracts with Private Carriers (2010)" can be accessed => [here](#), available only in German language.