

Übersetzung durch den Sprachendienst des Bundesministeriums für Gesundheit.  
Translation provided by the Language Service of the Federal Ministry of Health.  
Stand: Die Übersetzung berücksichtigt die Änderung(en) des Gesetzes durch Artikel 4 des  
Gesetzes vom 19. Dezember 2022 (BGBl. I S. 2510)  
Version information: The translation includes the amendment(s) to the Act by Article 4 of the  
Act of 19 December 2022 (Federal Law Gazette I, p. 2510)

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## **General Act on Equal Treatment**

### **(Allgemeines Gleichbehandlungsgesetz – AGG)**

General Act on Equal Treatment of 14 August 2006 (Federal Law Gazette I, p. 1897), as last  
amended by Article 4 of the Act of 19 December 2022 (Federal Law Gazette I, p. 2510).

#### **Division 1** **General part**

##### **Section 1** **Purpose**

The purpose of this Act is to prevent or to stop discrimination on the grounds of race or  
ethnic origin, gender, religion or belief, disability, age or sexual orientation.

##### **Section 2** **Scope**

(1) For the purposes of this Act, discrimination on any of the grounds referred to in section 1  
is inadmissible in relation to:

1. conditions for access to dependent employment and self-employment, including  
selection criteria and recruitment conditions, whatever the branch of activity and at all  
levels of the professional hierarchy, including promotion,
2. employment conditions and working conditions, including pay and reasons for  
dismissal, in particular in contracts between individuals, collective bargaining agreements  
and measures to implement and terminate an employment relationship, as well as for  
promotion,
3. access to all types and to all levels of vocational guidance, vocational training,  
advanced vocational training and retraining, including practical work experience,
4. membership of and involvement in an organisation of workers or employers or  
any other organisation whose members carry on a particular profession, including the  
benefits provided for by such organisations,
5. social protection, including social security and health care,
6. social advantages,
7. education,

8. access to and supply of goods and services which are available to the public, including housing.

(2) Section 33c of Book One of the Social Code (*Sozialgesetzbuch I*) and section 19a of Book Four of the Social Code (*Sozialgesetzbuch IV*) apply to social benefits. The Company Pensions Act (*Betriebsrentengesetz*) applies to company pension schemes.

(3) The application of other prohibitions of discrimination or laws on equal treatment remains unaffected by this Act. The same applies to provisions under public law which serve the protection of specific groups of persons.

(4) Only the provisions governing protection against unlawful dismissal in general and specific cases apply to dismissals.

### **Section 3 Definitions**

(1) Direct discrimination is taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on any of the grounds referred to in section 1. Direct discrimination on the ground of gender is also taken to occur in relation to section 2 (1) nos. 1 to 4 in the event of the less favourable treatment of a woman on account of pregnancy or maternity.

(2) Indirect discrimination is taken to occur where an apparently neutral provision, criterion or practice is liable to put persons at a particular disadvantage compared with other persons on any of the grounds referred to in section 1, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

(3) Harassment is deemed to be discrimination when unwanted conduct in connection with any of the grounds referred to in section 1 takes place with the purpose or effect of violating the dignity of the person concerned and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

(4) Sexual harassment is deemed to be discrimination in relation to section 2 (1) nos. 1 to 4, when unwanted conduct of a sexual nature, including unwanted sexual acts and requests to carry out sexual acts, physical contact of a sexual nature, comments of a sexual nature, as well as the unwanted showing or public exhibition of pornographic images, takes place with the purpose or effect of violating the dignity of the person concerned, in particular where it creates an intimidating, hostile, degrading, humiliating or offensive environment.

(5) An instruction to discriminate against a person on any of the grounds referred to in section 1 is deemed to be discrimination. Such instruction is in particular taken to occur in relation to section 2 (1) nos. 1 to 4 where a person instructs an employee to engage in conduct which discriminates or can discriminate against another employee on one of the grounds referred to in section 1.

### **Section 4**

#### **Difference of treatment on several grounds**

Where there is a difference of treatment on several of the grounds referred to in section 1, that difference of treatment in accordance with sections 8 to 10 and 20 can only be justified where the justification extends to all those grounds for which the difference of treatment occurred.

### **Section 5**

#### **Positive action**

Notwithstanding the grounds referred to in sections 8 to 10 and 20, unequal treatment is also permissible where suitable and appropriate measures are adopted to prevent or compensate for disadvantages arising on any of the grounds referred to in section 1.

### **Division 2**

#### **Protection of employees against discrimination**

**Subdivision 1  
Prohibition of discrimination**

**Section 6  
Persons covered**

(1) For the purposes of this Act, 'employee' means

1. persons in dependent employment (salaried employees, workers),
2. persons employed for the purposes of their vocational training,
3. persons of similar status on account of their dependent economic status; this includes those engaged in home work and those equal in law to home workers.

'Employee' also means those applying for an employment relationship and persons whose employment relationship has ended.

(2) For the purposes of this Division, 'employer' means natural and legal persons as well as partnerships with legal capacity employing persons referred to in subsection (1). Where employees are temporarily supplied to a third party for the performance of work and services, the employer is also classified as such within the meaning of this Division. The client or intermediary takes the place of the employer in the case of employees engaged in home work and those equal in law to home workers.

(3) Insofar as the conditions for access to gainful employment and promotion are affected, the provisions of this Division apply accordingly to the self-employed and to members of an executive body of an enterprise, in particular directors and board members.

**Section 7  
Prohibition of discrimination**

(1) Employees are not permitted to suffer discrimination on any of the grounds referred to in section 1; this also applies where the person committing the act of discrimination only assumes the existence of any of the grounds referred to in section 1.

(2) Any provisions of an agreement which violate the prohibition of discrimination under subsection (1) are ineffective.

(3) Any discrimination within the meaning of subsection (1) by an employer or employee is deemed to be a violation of their contractual obligations.

**Section 8  
Permissible difference of treatment on ground of occupational requirements**

(1) A difference of treatment on any of the grounds referred to in section 1 does not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such grounds constitute a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.

(2) The agreement of a lower rate of remuneration for the same or equivalent work on any of the grounds referred to in section 1 is not justified on account of special protective regulations being applicable for any of the reasons referred to in section 1.

**Section 9  
Permissible difference of treatment on ground of religion or belief**

(1) Notwithstanding section 8, a difference of treatment on the ground of religion or belief of employees of a religious community, facilities affiliated to it, regardless of their legal form, or organisations which have undertaken conjointly to practice a religion or belief does not constitute discrimination where such grounds constitute a justified occupational requirement for a particular religion or belief, having regard to the ethos of the religious community or organisation in question and by reason of its right to self-determination or by the nature of the particular activity.

(2) The prohibition of different treatment on the ground of religion or belief is without prejudice to the right of the religious community referred to in section 1, the facilities assigned to it, regardless of their legal form, or organisations which have undertaken conjointly to practice a religion or belief to require individuals working for them to act in good faith and with loyalty to the ethos of the organisation.

### **Section 10**

#### **Permissible difference of treatment on ground of age**

Notwithstanding section 8, a difference of treatment on the ground of age likewise does not constitute discrimination if it is objectively and reasonably justified by a legitimate aim. The means of achieving that aim must be appropriate and necessary. Such differences of treatment may include, in particular:

1. the setting of special conditions for access to employment and vocational training, as well as particular employment and working conditions, including remuneration and dismissal conditions, to ensure the vocational integration of young people, older workers and persons with caring responsibilities and to ensure their protection,
2. the fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment,
3. the fixing of a maximum age for recruitment which is based on the specific training requirements of the post in question or the need for a reasonable period of employment before retirement,
4. the fixing of upper age limits in company social security systems as a precondition for membership of or the drawing of a retirement pension or for invalidity benefits, including fixing different age limits within the context of these systems for certain employees or categories of employees and the use of age criteria within the context of these systems for the purposes of actuarial calculations,
5. agreements providing for the termination of the employment relationship without dismissal at a point in time when the employee may apply for payment of a retirement pension; section 41 of Book Six of the Social Code (*Sozialgesetzbuch VI*) remains unaffected,
6. differentiating between social benefits within the meaning of the Works Constitution Act (*Betriebsverfassungsgesetz*) where the parties have created a regulation governing compensation based on age or length of service, whereby the employee's chances on the labour market, which are decisively dependent on his or her age, have recognisably been taken into consideration by means of emphasising age relatively strongly, or employees who are economically secured are excluded from social benefits because they may be eligible to draw a retirement pension after drawing unemployment benefit.

### **Subdivision 2**

#### **Employer's organisational duties**

### **Section 11**

#### **Advertisement of vacancies**

A vacancy may not be advertised in violation of section 7 (1).

### **Section 12**

#### **Employer action and duties**

(1) Employers have the duty to take measures necessary to ensure protection against discrimination on any of the grounds referred to in section 1. This protection also covers preventive measures.

(2) Employers are required to draw attention to the inadmissibility of such discrimination in a suitable manner, in particular within the context of training and further training, and are required to use their influence to ensure that such discrimination does not occur. Where an employer has trained his or her employees in an appropriate manner for the purpose of preventing discrimination, the duties referred to in subsection (1) are deemed to have been fulfilled.

(3) Where employees violate the prohibition of discrimination under section 7 (1), their employer is required to take suitable, necessary and appropriate measures, chosen in a given case, to put a stop to the discrimination, including cautioning, moving, relocating or dismissing the employee in question.

(4) Where employees are discriminated against, in the pursuance of their profession, within the meaning of section 7 (1) by third parties, their employer is required to take suitable, necessary and appropriate measures, chosen in a given case, to protect the employee in question.

(5) This Act and section 61b of the Labour Courts Act (*Arbeitsgerichtsgesetz*), as well as information concerning the body competent to handle complaints pursuant to section 13 is to be made known in the enterprise or public authority. This may be done by putting up a notice or displaying information leaflets in a suitable place or by using the information and communication channels normally used in the enterprise or authority.

### **Subdivision 3 Employee rights**

#### **Section 13 Right of complaint**

(1) Employees have the right to lodge a complaint with the competent body in the undertaking, enterprise or authority if they feel discriminated against in connection with their employment relationship by their employer, superior, another employee or third party on any of the grounds referred to in section 1. The complaint is to be examined and the complainant informed of the result of the examination.

(2) The rights of worker representatives remain unaffected.

#### **Section 14 Right to refuse performance**

Where an employer takes no or obviously unsuitable measures to stop harassment or sexual harassment in the workplace, the affected employees have the right to refuse performance without loss of pay insofar as this is necessary for their protection. Section 273 of the German Civil Code (*Bürgerliches Gesetzbuch*) remains unaffected.

#### **Section 15 Compensation and damages**

(1) In the event of a violation of the prohibition of discrimination, the employer has the duty to compensate the damage arising therefrom. This does not apply where the employer is not responsible for the breach of duty.

(2) Where the damage arising does not constitute economic loss, the employee may demand appropriate compensation in money. This compensation may not exceed three monthly salaries in the event of non-recruitment if the employee would not have been recruited if the selection had been made without unequal treatment.

(3) Employers are only under the obligation to pay compensation where collective bargaining agreements have been entered into if they acted with intent or with gross negligence.

(4) Any claim resulting from subsection (1) or (2) must be asserted in writing within a period of two months, unless the parties to a collective bargaining agreement have agreed otherwise. In the case of an application or promotion, the period begins to run on the date on which the rejection is received and in other cases of discrimination on the date on which the employee learns of the discrimination.

(5) This is without prejudice to other claims against the employer resulting from other legal provisions.

(6) Any violation on the part of the employer of the prohibition of discrimination under section 7 (1) does not justify a claim to the establishment of an employment relationship, a vocational training relationship or to promotion, unless such a relationship or promotion results from another legal ground.

## **Section 16**

### **Prohibition of victimisation**

(1) Employers are not permitted to discriminate against employees who assert their rights under this Division or on account of their refusal to carry out instructions which constitute a violation of the provisions of this Division. The same applies to persons who support the employee in this or who testify as a witness.

(2) The rejection or tolerance of discriminatory conduct by affected employees may not be used as the basis for a decision affecting those employees. Subsection (1) sentence 2 applies accordingly.

(3) Section 22 applies accordingly.

## **Subdivision 4**

### **Supplementary provisions**

## **Section 17**

### **Social responsibility of involved parties**

(1) The parties to collective bargaining agreements, employers, employees and their representatives are required to become actively involved in achieving the goal set out in section 1 within the context of their duties and scope of action.

(2) Where an employer commits a gross violation of the provisions of this Division in an enterprise in which the conditions of section 1 (1) sentence 1 of the Works Constitution Act are met, the works council or a trade union represented in the enterprise may also assert before a court the rights set out in section 23 (3) sentence 1 of the Works Constitution Act if the preconditions therein are met; section 23 (3) sentences 2 to 5 of the Works Constitution Act applies accordingly. No claims of the person suffering discrimination may be asserted in the application.

## **Section 18**

### **Membership of organisations**

(1) The provisions of this Division apply accordingly to membership of or involvement in

1. a party to a collective bargaining agreement,
2. an organisation whose members belong to a specific occupational group or who have a dominating position of power in the economic or social sector if there is a basic interest in acquiring membership,

as well as any associations thereof.

(2) Where a rejection constitutes a violation of the prohibition of discrimination under section 7 (1), this constitutes the right to membership of or involvement in the organisations referred to in subsection (1).

## **Division 3**

### **Protection against discrimination in civil-law relations**

## **Section 19**

### **Prohibition of discrimination under civil law**

(1) Discrimination on the grounds of race or ethnic origin, gender, religion, disability, age or sexual orientation is inadmissible when founding, executing or terminating those civil-law obligations which

1. typically arise without regard of person in a large number of cases under comparable conditions (bulk business) or where the regard of person is of subordinate significance on account of the obligation and the comparable conditions arise in a large number of cases or
  2. have as their object a private-law insurance.
- (2) Discrimination on the ground of race or ethnic origin is, furthermore, inadmissible within the meaning of section 2 (1) nos. 5 to 8 when founding, executing or terminating other civil-law obligations.
- (3) In the case of the letting of housing, a difference of treatment is not deemed to be discrimination where it serves to create and maintain stable social resident structures and balanced settlement structures, as well as balanced economic, social and cultural conditions.
- (4) The provisions of this Division do not apply to obligations resulting from family law and the law of succession.
- (5) The provisions of this Division do not apply to civil-law obligations if the parties or their relatives are closely related or a relationship of trust exists. As regards tenancy, this may in particular be the case where the parties or their relatives use housing situated on the same plot of land. The letting of housing for not only temporary use does not generally constitute business within the meaning of subsection (1) no. 1 if the lessor does not let more than 50 apartments in total.

## **Section 20**

### **Permissible differences of treatment**

- (1) Differences of treatment on the grounds of religion, disability, age, sexual orientation or gender are not deemed to be a violation of the prohibition of discrimination if they are based on objective grounds. This may in particular be the case where the difference of treatment
1. serves the avoidance of threats, the prevention of damage or another purpose of a comparable nature,
  2. satisfies the requirement of protection of privacy or personal safety,
  3. grants special advantages and there is no interest in enforcing equal treatment,
  4. is based on the person concerned's religion and is justified having regard to the exercise of the right to freedom of religion or the right to self-determination of religious communities, facilities affiliated to them, regardless of their legal form, and organisations which have undertaken conjointly to practice a religion or belief, given their respective ethos.
- (2) Costs arising from pregnancy and maternity may on no account lead to the payment of different premiums and benefits. Differences of treatment on the grounds of religion, disability, age or sexual orientation in the case of section 19 (1) no. 2 is permissible only where these are based on recognised principles of risk-adequate calculations, in particular on an assessment of risk based on actuarial calculations which are in turn based on statistical surveys.

## **Section 21**

### **Enforcement**

- (1) Where a breach of the prohibition of discrimination occurs, the disadvantaged person may, regardless of further claims being asserted, demand that the discriminatory conduct be stopped. Where other discrimination is to be feared, he or she may sue for an injunction.
- (2) Where a violation of the prohibition of discrimination occurs, the person responsible for committing the discrimination is required to compensate for any damage arising therefrom. This does not apply where the person committing the discrimination is not responsible for the breach of duty. The person suffering discrimination may demand appropriate compensation in money for damage which does not constitute economic loss.

(3) Claims in tort remain unaffected.

(4) The person responsible for committing the discrimination is not permitted to refer to an agreement which derogates from the prohibition of discrimination.

(5) Any claims arising from subsections (1) and (2) must be asserted within a period of two months. After the expiry of that period the claim may only be asserted if the disadvantaged person was prevented from meeting the deadline through no fault of their own.

#### **Division 4 Legal protection**

##### **Section 22 Burden of proof**

Where, in the case of a dispute, one of the parties is able to establish facts from which it may be presumed that there has been discrimination on any of the grounds referred to in section 1, it is for the other party to prove that there has been no breach of the provisions prohibiting discrimination.

##### **Section 23 Support from anti-discrimination organisations**

(1) 'Anti-discrimination organisations' means associations of persons which attend to the particular interests of persons or groups of persons discriminated against within the meaning of section 1 and which, in accordance with their statutes, operate on a non-profit and non-temporary basis. The powers set out in subsections (2) to (4) are granted to such organisations with at least 75 members or to an association comprising at least seven organisations.

(2) Anti-discrimination organisations are authorised, under the terms of their statutes, to act as legal counsel to a disadvantaged person in court proceedings. In all other respects, the provisions set out in the rules of procedure, in particular those according to which legal counsel may be barred from being heard, remain unaffected.

(3) Anti-discrimination organisations are permitted to be entrusted with the legal affairs of disadvantaged persons under the terms of their statutes.

(4) The special rights of action and powers of representation of associations for the benefit of disabled persons remain unaffected.

#### **Division 5 Special regulations applicable to employment contracts under public law**

##### **Section 24 Special regulation applicable to employment contracts under public law**

The provisions of this Act apply accordingly, taking into consideration their special legal relationship, to

1. civil servants in the service of the Federation, the *Länder* (federal states), local authorities, local authority associations, as well as other public-law bodies, institutions and foundations under the jurisdiction of the Federation or one of the *Länder*,
2. judges in the service of the Federation and of the *Länder*,
3. persons undertaking alternative civilian service (*Zivildienstleistende*) and recognised conscientious objectors, insofar as they are required to undertake alternative civilian service.

#### **Division 6 Federal Anti-Discrimination Agency and Independent Federal Commissioner for Anti-Discrimination**

##### **Section 25 Federal Anti-Discrimination Agency**

- (1) The federal agency for the protection against discrimination on any of the grounds referred to in section 1 (Federal Anti-Discrimination Agency) will be established within the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, regardless of the competence of any Parliamentary Commissioners of the German Bundestag or Federal Government Commissioners.
- (2) The Federal Anti-Discrimination Agency is to be provided with the personnel and material resources required for the fulfilment of its tasks. It is to be accounted for in a separate chapter in the departmental budget for the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.
- (3) The Federal Anti-Discrimination Agency is headed by the Independent Federal Commissioner for Anti-Discrimination.

### **Section 26**

#### **Election of Independent Federal Commissioner for Anti-Discrimination; eligibility**

- (1) The Independent Federal Commissioner for Anti-Discrimination is elected by the German Bundestag at the proposal of the Federal Government.
- (2) The German Bundestag votes on the proposal without debate.
- (3) The person proposed is elected if more than half of the statutory number of Members of the German Bundestag vote for him or her.
- (4) In order to be able to fulfil his or her tasks and exercise his or her powers the Independent Federal Commissioner for Anti-Discrimination must have the requisite qualifications, experience and expertise, particularly in the area of anti-discrimination. In particular, he or she must possess knowledge of anti-discrimination legislation acquired from the relevant professional experience and must be qualified for higher non-technical administrative service.

### **Section 26a**

#### **Independent Federal Commissioner for Anti-Discrimination's legal status**

- (1) In accordance with the provisions of this Act, the relationship between the Independent Federal Commissioner for Anti-Discrimination and the Federation is that of an official relationship under public law. He or she is independent in the exercise of his or her duties and subject only to the law.
- (2) The Independent Federal Commissioner for Anti-Discrimination is subject to the supervisory control of the Federal Government.

### **Section 26b**

#### **Independent Federal Commissioner for Anti-Discrimination's term of office**

- (1) The Independent Federal Commissioner for Anti-Discrimination's term of office is five years.
- (2) Re-election once only is permissible.
- (3) If a new election cannot be conducted before the end of the official relationship under public law, the Independent Federal Commissioner for Anti-Discrimination, at the request of the Federal President, continues in post as acting Independent Federal Commissioner for Anti-Discrimination until a new election is held.

### **Section 26c**

#### **Start and end of Independent Federal Commissioner for Anti-Discrimination's official relationship under public law; official oath**

- (1) The person who is elected in accordance with section 26 is to be appointed by the Federal President. The Independent Federal Commissioner for Anti-Discrimination's official relationship under public law begins upon the handing over of the certificate of appointment.
- (2) The Independent Federal Commissioner for Anti-Discrimination swears the following oath before the Federal President: 'I swear to do everything in my power to further the good and the benefit of the German people, to protect them from harm and to defend the Basic Law

and the laws of the Federation, to perform my duties conscientiously and to exercise justice in all my dealings, so help me God.' The reference to God may be omitted from the oath.

(3) The official relationship under public law ends

1. by default upon expiry of the term of office or
2. upon the Independent Federal Commissioner for Anti-Discrimination being discharged from office prematurely.

(4) The Independent Federal Commissioner for Anti-Discrimination is discharged

1. at his or her own request or
2. at the proposal of the Federal Government if the Independent Federal Commissioner for Anti-Discrimination has committed serious misconduct or no longer fulfils the requirements to be able to perform his or her tasks.

It is for the Federal President to discharge the Independent Federal Commissioner for Anti-Discrimination.

(5) In the event that the official relationship under public law is terminated, the Federal President executes a certificate. The discharge becomes effective upon the handing over of the certificate of discharge.

#### **Section 26d**

##### **Unlawful acts by and activities of Independent Federal Commissioner for Anti-Discrimination**

(1) The Independent Federal Commissioner for Anti-Discrimination may not perform any acts which are incompatible with the tasks of office.

(2) During his or her term of office and while continuing in post as acting Independent Federal Commissioner for Anti-Discrimination, the Independent Federal Commissioner for Anti-Discrimination may not engage in any activities which are incompatible with the office, regardless of whether those activities are paid or unpaid. In particular, he or she

1. may not hold a paid office, exercise a trade and practice a profession,
2. may not be a member of any board, supervisory board or management board of a for-profit enterprise or be a member of any federal or *Land* government or legislative body and
3. may not submit extrajudicial expert opinions for a fee.

#### **Section 26e**

##### **Independent Federal Commissioner for Anti-Discrimination's duty to observe secrecy**

(1) The Independent Federal Commissioner for Anti-Discrimination has the duty to observe secrecy regarding those matters which become known to him or her in office or while continuing in post as acting Independent Federal Commissioner for Anti-Discrimination. This does not apply to official communications or to facts which are obvious or, owing to their level of significance, do not require secrecy to be observed. The Independent Federal Commissioner for Anti-Discrimination decides at his or her duty-bound discretion whether and to what extent he or she is to testify or make statements about such matters in or out of court.

(2) The duty to observe secrecy extends beyond the end of the official relationship under public law or period as acting Independent Federal Commissioner for Anti-Discrimination. A person may only testify in or out of court and may only make statements in matters to which the duty to observe secrecy applies if the incumbent Independent Federal Commissioner for Anti-Discrimination has given authorisation therefor.

(3) This is without prejudice to the duty to act to avert a threat to the free democratic basic order and to the statutory duty to report criminal offences.

### **Section 26f**

#### **Independent Federal Commissioner for Anti-Discrimination's right to refuse to testify**

(1) The Independent Federal Commissioner for Anti-Discrimination is entitled to refuse to testify against any person who has entrusted him or her with facts in the capacity as head of the Federal Anti-Discrimination Agency, as well as to refuse to testify as to those facts. To the extent that the Independent Federal Commissioner for Anti-Discrimination has the right to refuse to testify, he or she may not be required to submit or release files or other documents.

(2) The right to refuse to testify also applies to employees assigned to the Independent Federal Commissioner for Anti-Discrimination, with the proviso that it is for the Independent Federal Commissioner for Anti-Discrimination to decide on the exercise of that right.

### **Section 26g**

#### **Independent Federal Commissioner for Anti-Discrimination's entitlement to remuneration, civil service pension and other benefits**

(1) The Independent Federal Commissioner for Anti-Discrimination receives remuneration commensurate with the basic salary in official pay grade B 6 plus the family allowance as referred to in sections 39 to 41 of the Federal Civil Servants' Remuneration Act (*Bundesbesoldungsgesetz*).

(2) The entitlement to remuneration exists for the period between the first day of that month in which the official relationship under public law begins and the last day of that month in which it ends. If, after the official relationship under public law ends, the Independent Federal Commissioner for Anti-Discrimination continues in post as acting Independent Federal Commissioner for Anti-Discrimination until a new election is held, the entitlement continues to exist up to the last day of the month in which the period as acting Independent Federal Commissioner for Anti-Discrimination ends. Where the Independent Federal Commissioner for Anti-Discrimination receives an income from a public service role over a period during which he or she receives remuneration, the entitlement to that income rests up to the amount of the remuneration. The remuneration is paid monthly in advance.

(3) Section 12 (6) and sections 13 to 18 and 20 of the Federal Ministers Act (*Bundesministergesetz*) apply accordingly to entitlements to an allowance in case of sickness and to a civil service pension, with the proviso that the four-year official relationship under public law as referred to in section 15 (1) of the Federal Ministers Act is replaced by the term of the Independent Federal Commissioner for Anti-Discrimination's official relationship under public law of five years. The Independent Federal Commissioner for Anti-Discrimination is entitled to a transitional allowance at the most up to the end of that month in which the statutory retirement age for federal civil servants as referred to in section 51 (1) and (2) of the Federal Civil Service Act (*Bundesbeamtengesetz*) is reached. If section 18 (2) of the Federal Ministers Act is not applicable because a federal civil servant's civil service status continues beyond the end of his or her official relationship under public law as Independent Federal Commissioner for Anti-Discrimination, the Independent Federal Commissioner for Anti-Discrimination's term of office is counted as a pensionable period of service when calculating the retirement pension upon the civil servant retiring or reaching the age of retirement.

(4) The Independent Federal Commissioner for Anti-Discrimination is reimbursed his or her travel expenses and receives an allowance for removal costs in line with the provisions applicable to federal civil servants.

### **Section 26h**

#### **Use of items gifted to Independent Federal Commissioner for Anti-Discrimination**

(1) If the Independent Federal Commissioner for Anti-Discrimination receives a gift in relation to the office, he or she must notify the President of the German Bundestag thereof.

(2) The President of the German Bundestag decides on the use of the gift. The President may issue procedural rules.

## **Section 26i**

### **Conditions on subsequent employment**

The Independent Federal Commissioner for Anti-Discrimination has the duty to give written or electronic notification to the President of the German Bundestag in the event that he or she intends to take up gainful employment or other paid employment outside of the civil service within the first 18 months after the end of his or her term of office or while continuing in post as acting Independent Federal Commissioner for Anti-Discrimination. The President of the German Bundestag may prohibit the Independent Federal Commissioner for Anti-Discrimination from taking up the intended gainful employment or other paid employment if there are concerns that it is prejudicial to public interests. This is in particular presumed to be the case if the intended gainful employment or other paid employment is to be carried out in matters or areas in which the Independent Federal Commissioner for Anti-Discrimination was active during his or her term of office or while continuing in post as acting Independent Federal Commissioner for Anti-Discrimination. The ban is, as a general rule, not to extend beyond one year after the end of the term of office or period in post as acting Independent Federal Commissioner for Anti-Discrimination. In cases of serious prejudice to public interests, the ban may also be issued for a period of up to 18 months.

## **Section 27**

### **Tasks of the Federal Anti-Discrimination Agency**

(1) Anyone who believes they have been discriminated against on any of the grounds referred to in section 1 may take their case to the Federal Anti-Discrimination Agency. Employees may also take their case to the Federal Anti-Discrimination Agency if they believe they have been discriminated against on the ground of

1. applying for or availing themselves of the option of being relieved of their obligation to perform work or adjusting their working time as a parent or caregiving relative in accordance with the Federal Parental Allowance and Parental Leave Act (*Bundeseltern-geld- und Elternzeitgesetz*), the Act on Caregiving Leave (*Pflegezeitgesetz*) or the Act on Family Caregiving Leave (*Familienpflegezeitgesetz*),
2. being absent from work as set out in section 2 of the Act on Caregiving Leave or
3. refusing, on urgent family grounds as referred to in section 275 (3) of the German Civil Code, to perform that work which they are personally required to perform where an illness or accident requires their immediate absence.

(2) The Federal Anti-Discrimination Agency gives independent assistance to persons who take their case to the Agency in accordance with subsection (1) when it comes to asserting their rights to protection against discrimination. Such assistance may, in particular, involve it

1. providing information concerning claims and possible legal action based on legal provisions providing protection against discrimination,
2. arranging for advice to be provided by other agencies,
3. endeavouring to achieve a friendly settlement between the involved parties.

Where responsibility lies either with a Parliamentary Commissioner of the German Bundestag or with a Federal Government Commissioner, the Federal Anti-Discrimination Agency immediately passes on matters relating to the person referred to in subsection (1), with their prior approval.

(3) The Federal Anti-Discrimination Agency takes on and independently carries out the following tasks, insofar as no Parliamentary Commissioner of the Bundestag or Federal Government Commissioner is competent in the matter:

1. public relations work,

2. measures to prevent discrimination on any of the grounds referred to in section 1 as well as discrimination against employees pursuant to subsection (1) sentence 2,
  3. academic studies into such discrimination.
- (4) The Federal Anti-Discrimination Agency and the competent Federal Government Commissioner and Parliamentary Commissioner of the German Bundestag jointly submit reports to the German Bundestag every four years concerning cases of discrimination on any of the grounds referred to in section 1 as well as discrimination against employees pursuant to subsection (1) sentence 2, and they make recommendations regarding the stopping and the prevention of such discrimination. They may jointly carry out academic studies into such discrimination.
- (5) The Federal Anti-Discrimination Agency and the competent Federal Government Commissioner and Parliamentary Commissioner of the German Bundestag are, as a general rule, to co-operate in cases of discrimination on several of the grounds referred to in section 1.

### **Section 28**

#### **Independent Federal Commissioner for Anti-Discrimination's authority and federal authorities' and official federal bodies' duty to provide support**

- (1) The Independent Federal Commissioner for Anti-Discrimination is required to be involved in all planned activities which affect his or her tasks. Such involvement is, as a general rule, to occur at an early stage. He or she may make suggestions to the Federal Government and submit statements.
- (2) Unless otherwise provided by law, the Independent Federal Commissioner for Anti-Discrimination informs the federal ministries at any early stage as regards matters which are of fundamental political relevance, insofar as the tasks of the federal ministries are affected.
- (3) In those cases in which a person has turned to the Federal Anti-Discrimination Agency owing to a case of discrimination and the Federal Anti-Discrimination Agency is seeking to reach a friendly settlement between the parties, the Independent Federal Commissioner for Anti-Discrimination may ask the parties to submit statements if as the person who has turned to the Federal Anti-Discrimination Agency has declared his or her consent thereto.
- (4) All the federal ministries, other federal authorities and federal bodies governed by public law have the duty to support the Independent Federal Commissioner for Anti-Discrimination in the fulfilment of his or her tasks, in particular to provide the required information.

### **Section 29**

#### **Co-operation between Federal Anti-Discrimination Agency and non-governmental organisations and other institutions**

The Federal Anti-Discrimination Agency is, as a general rule, to involve, in an appropriate manner, non-governmental organisations and institutions active in the field of protection against discrimination on any of the grounds referred to in section 1 at European, federal, *Länder* or regional level.

### **Section 30**

#### **Advisory Council to Federal Anti-Discrimination Agency**

- (1) The Federal Anti-Discrimination Agency is to be assigned an Advisory Council for the purposes of promoting dialogue with social groups and organisations whose goal is protection against discrimination on any of the grounds referred to in section 1. The Advisory Council advises the Federal Anti-Discrimination Agency as regards the submission of reports and recommendations to the German Bundestag in accordance with section 27 (4) and may put forward its own suggestions to that end and with regard to academic studies as referred to in section 27 (3) no. 3.
- (2) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, in agreement with the Independent Federal Commissioner for Anti-Discrimination as well the competent Federal Government Commissioner or Parliamentary Commissioner of the German

Bundestag, appoints the members of this Advisory Council and a deputy for each member. The Advisory Council is, as a general rule, to comprise representatives of social groups and organisations, as well as experts on issues concerning discrimination. The Advisory Council is, as a general rule, not to exceed a total membership of 16 persons. The Advisory Council is, as a general rule, to be made up of equal numbers of men and women.

(3) The Advisory Council adopts its own rules of procedure, which require the approval of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

(4) The members of the Advisory Council perform their duties in accordance with this Act on a voluntary basis. They have the right to claim expenses, travel expenses, a per diem and an accommodation allowance. The rules of procedure contain further details on these matters.

## **Division 7**

### **Final provisions**

#### **Section 31**

##### **Prohibition of derogation**

No agreement derogating from the provisions of this Act may be made to the disadvantage of the persons protected thereby.

#### **Section 32**

##### **Final provision**

General legal provisions apply unless this Act provides otherwise.

#### **Section 33**

##### **Transitional provisions**

(1) As regards discrimination in accordance with sections 611a, 611b and 612 (3) of the German Civil Code or sexual harassment pursuant to the Employee Protection Act (*Beschäftigtenschutzgesetz*), the law applicable prior to 18 August 2006 applies.

(2) As regards discrimination on the ground of race or ethnic origin, sections 19 to 21 do not apply to relationships under the law of obligations entered into prior to 18 August 2006. Sentence 1 does not apply to subsequent changes to continuing obligations.

(3) As regards discrimination on the ground of gender, religion, disability, age or sexual orientation, sections 19 to 21 do not apply to relationships under the law of obligations entered into prior to 1 December 2006. Sentence 1 does not apply to subsequent changes to continuing obligations.

(4) As regards relationships under the law of obligations whose object is a private-law insurance, section 19 (1) does not apply where these were entered into prior to 22 December 2007. Sentence 1 does not apply to subsequent changes to such obligations.

(5) In the case of insurance relationships established prior to 21 December 2012, different treatment in relation to premiums and benefits on the ground of gender in the case of section 19 (1) no. 2 is permissible only where gender is a determining factor when assessing risk based on relevant and precise actuarial and statistical data. Costs arising from pregnancy and maternity may on no account lead to the payment of different premiums or benefits.