

# General Equal Treatment Act

Allgemeines Gleichbehandlungsgesetz (AGG)



**frequently asked questions**

## 1 What are the objectives of the AGG?

The AGG aims to prevent and eliminate discrimination on the grounds of

- ethnic background
- age
- gender/sex
- sexual identity
- disability
- religion or belief

## 2 What does the AGG focus on?

The act focuses on **employment and occupation**. The regulations apply to employers, employees, job seekers and trainees. It also focuses on **civil law**, i.e. the legal relations between private individuals, such as contracts with suppliers, service providers and landlords.

## 3 What is discrimination?

Discrimination occurs if an individual is treated less favorably than another individual

- in a comparable situation
- without an objectively justified reason
- on the basis of one of the characteristics mentioned in the AGG

The AGG distinguishes between various forms of **discrimination**:

## Examples

### Direct discrimination:

Without an objectively justified reason, a job posting only looks for men under the age of 50.

### Indirect discrimination:

An applicant is required to speak German very well even though the job does not require this.

### Harassment:

Gay jokes are repeatedly told in the presence of a gay employee.

### Sexual harassment:

Unwanted sexual contact, remarks or display of pornographic images in the office.

### Instruction to discriminate:

A waitress is instructed not to let people with disabilities into the restaurant.

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## When is unequal treatment justified?

Not every instance of unequal treatment is discrimination. Unequal treatment can have an **objective justification**. This includes cases of so-called **positive measures**, e.g. support measures to help make up for existing disadvantages, for example those experienced by women. Furthermore, unequal treatment is justified if a criterion for a job is “an essential and crucial”<sup>1</sup> occupational requirement.

<sup>1</sup> Cf. Article 8 of the AGG

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## What are the rights of employees?

The AGG offers comprehensive protection against discrimination at work. This applies to job postings, recruitment processes, working conditions, access to further training, membership in employee associations as well as to protection against dismissal.

If unjustified unequal treatment does take place, employees have a right to appeal against discrimination. If the prohibition of discrimination has been violated, employees may be entitled to compensation. Such claims must be assessed **within 2 months**.

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## What are the obligations of employers?

In accordance with Article 12 of the AGG, employers are obligated to take the necessary measures to protect individuals from discrimination. This includes preventive measures such as making people aware of the AGG by displaying it up on a notice board and/or providing relevant information on the intranet. In the event of a violation of the prohibition of discrimination, employers have to take appropriate measures, such as formal warnings, transfers or dismissals and **measures that protect employees**. According to Article 13 of the AGG, the employer is obliged to set up a **complaint** office that employees can turn towards.

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## How does this affect everyday life?

The AGG opens up new ways of taking action against discrimination when it comes to the supply of goods and access to services, which includes shopping, looking for a new home, entering into insurance and banking transactions and access to bars and clubs. Under civil law you may also be entitled to compensation and damages for pain and suffering as well as to the discriminatory act to stop. Such claims also have to be assessed **within 2 months**.

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## What should I do if I experience discrimination?

Try to remember the details of everything connected with the incident. It is also advisable that you get in touch with a **specialized counselling centre**. There you can discuss all your options, from a letter of complaint to taking legal action.

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## What can I do?

Nobody should turn a blind eye to discrimination and harassment. It is a reassuring sign of moral courage when people take active steps to prevent discrimination. You, and all of us, should help people who are discriminated against and provide suitable support.

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## Where can I find more information?

Helpful information (including in English) is available from the website of the Landesstelle für Gleichbehandlung gegen Diskriminierung (Berlin State Office for Equal Treatment and Against Discrimination). You will also find the legislative text of the AGG there. If you have experienced discrimination, the Berlin State Office will help you find a suitable counselling centre.

### **Landesstelle für Gleichbehandlung – gegen Diskriminierung (Berlin State Office for Equal Treatment and Against Discrimination)**

Senatsverwaltung für Arbeit,

Integration und Frauen

(Senate Department for Labour,  
Integration and Women's Issues)

Oranienstr. 106, 10969 Berlin

Tel. +49 (0)30 / 9028 1866

antidiskriminierungsstelle@senaif.berlin.de



For more information please visit:

**[www.berlin.de/lb/ads/  
main-side-english/](http://www.berlin.de/lb/ads/main-side-english/)**

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**Please note:** This leaflet provides a concise general overview of the content of the AGG. The explanations and examples are not designed to be exhaustive, and do not replace a case-specific consultation.