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20 years of the AGG: Reform to celebrate the anniversary of the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG)

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The General Equal Treatment Act is always a current topic in employment law, from "AGG hopping", to the presumption of conformity insection 22 AGG in gender pay gap claims and the Egenberger case. For its 20th anniversary the AGG is being both partially revised and extended.

On 6 May 2026 the German cabinet published adraft of a Second Act to Amend the AGG. The draft has currently been presented to the German parliament, the Bundestag, for deliberation. The majority of the provisions should come into force on 19 June 2026, with others coming into force on the day after promulgation. The background to this is infringement proceedings by the European Commission that have been ongoing since 2015 as well as two EU Directives on strengthening equality bodies which must be implemented by 19 June 2026 (Directives (EU) 2024/1499 and (EU) 2024/1500).

This will have tangible effects for employers.

Extending the period for asserting claims to four months

From an employment law perspective, the most important change is the extension of the period for employees to assert their claims for compensation and damages in writing to the employer in accordance withsection 15 (1) and (2) AGG i(section 15 (4) sentence 1 AGG extended version). Currently, the period is two months. This is being extended to four months. The period commences, as before, when the employee learns of the discrimination, or, in the case of an application, it typically commences on the date the rejection is received. The extension of the period is, in particular, justified in that so far affected parties have only been asserting claims very rarely (also) due to the short period.

HR departments should carefully document the application process and, in particular, rejection letters with a view to any compensation claims and retain the corresponding documents for at least the duration of the extended period. Otherwise, there may be difficulties with evidence before the courts.

New arbitration board at the Federal Anti-Discrimination Agency (FADA)

One key element of the reform is the introduction of an official arbitration board at the FADA(section 27a AGG extended version). It has been established as a low-threshold alternative to court proceedings and open to everyone who feels they have been discriminated against under section 7, 12, 16 or 19 AGG, i.e. also employees and applicants who want to assert a discrimination claim against an employer.

The process is voluntary and free of charge for the applicant. The application may be made in text form with no particular format or orally on the record. The arbitration board should work towards an amicable resolution; if the participants agree they can also use mediation. If an agreement cannot be reached, the person discriminated against will propose a non-binding settlement proposal containing a representation of the facts, a legal analysis and, in the case of discrimination being confirmed, specific suggestions to remedy this.

In practice, the effective date of the application is particularly important in employment law. If the transfer to the respondent is carried out within the period specified in section 15 (4) AGG extended version, the claim is deemed to have been asserted in due time (section 27a (4) sentence 2 AGG extended version). In addition, carrying out the transfer postpones the three-month claim period in accordance with section 61b (1) of the Labour Court Act (Arbeitsgerichtsgesetz, ArbGG to the end of the arbitration proceedings(section 27a (4) sentence 3 AGG extended version). This may result in significantly prolonging the resolution of the discrimination allegations.

Employers should not underestimate the settlement proposal as merely a weak recommendation. While there is no legally binding effect if an agreement cannot be reached, it remains to been seen whether and to what extent the Labour Courts will position themselves to look at the facts when assessing the arbitration board. It is therefore recommended to exercise the same due care and attention in the arbitration proceedings as would be used in later legal proceedings, in particular to comprehensively present and document indicators that rule out discrimination.

Appointment and opinion of the FADA in labour court proceedings

Section 27 (6) AGG extended version grants the FADA a future right to appear in the proceedings to assist the person discriminated against regarding discrimination on one of the grounds listed in section 1 AGG . This will only take place with the consent of the affected person. The FADA should not take part in every proceeding but should select cases at its own discretion such as by difficulty, duration or fundamental importance of the alleged discrimination.

In addition, if requested by the court, the FADA may submit an expert opinion on legal questions of fundamental importance(section 27 (7) AGG extended version). The FADA may only provide assistance or an expert opinion, not both.

For employers this means that in future they may not only be facing an applicant/employee and their legal representatives in unfair dismissal proceedings/compensation proceedings but possibly also a federal authority, which, even without party status, can submit its own legal and factual submissions to the proceedings. The draft states that the FADA expects to accompany approximately 50 cases and submit four expert opinions per year which would be selected based on targeted proceedings or those of fundamental importance.

Amending the church clause (section 9 (1) AGG extended version)

Section 9 (1) AGG extended version builds on the case law of the Court of Justice of the European Union (CJEU) (Egenberger judgment dated 17 April 2018 – C-414/16) and the German Federal Labour Court (Bundesarbeitsgericht, BAG) (judgment dated 25 October 2018 – 8 AZR 501/14), in accordance with which the previous alternative 1 ofsection 9 (1) AGG – Justification solely by the religious community's right of self-determination – violated EU law and was therefore inapplicable.

The draft combines both previously alternative incriminations: A difference of treatment on the ground of religion or belief shall in future only be permissible if the religion or belief represents a justified occupational requirement with respect to the religious community's self-perception *and* based on the nature of the work or the circumstances of its performance.

Substantively, little changes for religious communities and church institutions. As before they must be able to state the relevance of the requirement to the job when differentiating by religious denomination while making hiring and staffing decisions. The reform achieves legal certainty in this respect. Employers in religious areas must (continue) to review their job descriptions and requirement profiles to ensure that the requirement to belong to a religious denomination can be justified by a specific occupational requirement.

Outlook

The important ongoing issue from an employer's perspective, stopping AGG hopping, i.e. abusive job applications with the aim of being able to claim compensation, is in the meanwhile not addressed in the draft. The requirements for producing evidence and proof that claims are abusive remain high. The number of claims for compensation will likely increase even further, given the extended period to assert a claim for compensation.

The draft Act is currently in the parliamentary process; therefore, changes may still occur. However, given the implementation deadline of 19 June 2026 the legislative process is anticipated to conclude quickly. Employers should keep an eye on the developments and adjust their internal processes in good time.

If you require any further information on this topic please contact us and we will be happy to help.

Please note:
This overview is solely provided for information purposes and should not replace professional legal advice. If you have any questions please contact your usual contact at GÖRG or the author Florian Seidl on +49 69 170000158 or fseidl@goerg.de. Information about the author is available on our website www.goerg.de.

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