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# genderace

## **The use of racial anti-discrimination laws**

Gender and citizenship in a multicultural context

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### **ANNEX 4**

## **Germany Country Report**

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by

Christiane Howe

**Grant 217237**

**EC Officer: Angela Liberatore**

**Dissemination: Participants**

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# 1. Introduction

## 1.1 WP Objectives

We refer to **claims** as a statement of one's right to redress an assertion of discrimination and to **complaints** as a formal charge or allegation of discrimination in a context of **legal or civil action**.

## 1.2. Limits of the study and interpretation of the results

Access to existing data on complaints and claims was only possible through personal contact with organisations that advise persons who want to either redress discrimination or inform themselves of their rights regarding their experience of discrimination.

To have access to the data it was necessary to personally visit the offices of the organisations concerned and to gain the trust of the key authorities. The purpose of our research had to be presented in a very clear and transparent manner. Some of the representatives were open to cooperation, interested and even supportive, but some of them were more sceptical and hesitant about releasing data. Two governmental anti-discrimination offices refused delivery of their recorded cases. One reason for this is certainly due to the very restrictive data protection laws in Germany.

It was possible to obtain five promises from antidiscrimination offices to send the anonymous, more detailed statistical data for this study. But, in the end we only received data from the anti-discrimination office of the Municipal Government of Hannover and the non-governmental anti-discrimination network in Berlin and the research office of the European Forum on Migration Studies at the University of Bamberg. We are very grateful to these offices for their support and extra efforts they

had to make to anonymise the data. Without this assistance the most basic information would not be available for the German case.<sup>1</sup>

The following report is based on 140 cases of claims and complaints. These are based on three different kinds of bodies in mainly two different regions/ cities in Germany (Hannover, Berlin). This cannot necessarily be considered representative for the rest of the country. Hannover might be a quite good example for an average city of Germany<sup>2</sup>. The city of Berlin is an exception in regard to its history and structure<sup>3</sup>.

The following trends and summary has to be seen in this context. Nonetheless, viewed in the context of the missing data from the other anti-discrimination offices, it seems to give at least a good general view of tendencies and some idea about the issues involved.

The Federal Anti-Discrimination Agency has been working out a statistical template to collect its own data in a better way. This might be available in summer/autumn 2009. But they do not and could not collect the whole data of Germany. This nation-wide collection is very difficult to manage because of the distinctive federalistic structure<sup>4</sup> of Germany.

The complaints and claims of the three offices differ in some points from one another in the manner they collect and register the data. Thus, the tables do not cover the same categories nor all required for the 140 cases reported. Nor are they reported in the same way. For example the 46 data of Hannover do not comprehend information about the country of origin or ethnicity of the victim. These differences have to be taken in consideration and will have an effect on the interpretation of data.

In addition there is no information available on the background of the discriminating agent and there is very little information about the victim of discrimination.

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<sup>1</sup> It is a shame that the Federal Office for Anti-Discrimination Issues could not meet their agreement to supply the anonymised data. If the data is made available it will be too late for this report. This is a pity, but we assume that this is due to the fact that they are understaffed and could not manage for this reason.

<sup>2</sup> Hannover is the capital of the state of Niedersachsen, with about 525.000 inhabitants, the region Hannover covers over 1.130.000 inhabitants. Hannover has a quite good economic infrastructure, although nearly 11% of the inhabitants are unemployed. The unemployment rate in Germany is about 9 %, in West-Germany more than 7%, in East Germany nearly 14%.

<sup>3</sup> Berlin is the national capital of Germany and its largest city, with about 3,416,000 inhabitants. From 1961 until 1989 The Wall separated East from West. On the day of the German reunification, October 3, 1990, Berlin became an independent city-state like Hamburg and Bremen. Berlin is subdivided into 12 administrative districts called Bezirke. 15% of the inhabitants are unemployed.

<sup>4</sup> Reunited Federal Germany consists of a total of 16 federal states, known as Länder.

We add one category 'group/family' under sex of victim or sex of complainant, because in five cases a whole group/family was the target of discrimination.

Briefly, one main finding appears to be that in the most cases the victims are seeking, advice, counselling and psychological support and empowerment (which might even be the most important item for them). In 31 cases are letter of complaints written. In very few, six, cases is a mediation process initiated. And, in only 14 cases do the persons involved take legal action, that is brought to court.

## 2. Construction of the sample

Since September/October 2008 we have been in contact with the main organisations working on antidiscrimination issues.

We have contacted:

- 15 anti-discrimination- and integration-policy-offices at the national, federal and local level
- 4 non-governmental organisations representing migrant women
- 2 independent anti-discrimination lawyers in the field
- German Women's Lawyer Association
- National council of nation-wide women's associations and organizations
- German Chamber of Commerce and Industry
- Trade Union.

The organisations working on discrimination issues serve primarily claims on the grounds of "racial"<sup>5</sup> /ethnic discrimination. These organisations are not perceived nor generally established for the purpose of addressing specific forms of gender discrimination. In Germany there are special bodies that have traditionally been set up

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<sup>5</sup> It is not possible to use the term "racial" discrimination in the German context. This is why we have questioned this expression by placing it in brackets.

to address gender discrimination and they are not well known for serving victims suffering “racial”/ethnic discrimination. Two examples of the most prominent organisations we consulted are the national council of women's associations and organisations (Deutscher Frauenrat) and the German Women`s Lawyer Association.

Our task was to motivate the experts in the antidiscrimination offices to work with us and make their statistical data available. The data has been recorded with differing methods of registration. And, the data has been recorded more or less professionally. Moreover, it needs to be anonymised before it can be made available for outside use. This possibly involves additional work for which the anti-discrimination offices are not staffed and the process is likely to be time consuming for them.

In addition to the above it seems that there do not exist general standards for recording the data. Thus, every office has developed its own method to formalise the cases. Some offices are not even consistent in the manner they collect their data. Reasons for this certainly have to do with the fact that they are understaffed and poorly equipped. Often they have only one or two contact persons employed to cover an entire region. Their work is defined mainly to be counselling and aiding victims of discrimination as well as training and awareness raising about discrimination. Writing the annual report and recording statistical data might be considered to be one of their least priorities.

**Three sources are the basis for 140 claims and complaints:**

- Governmental Antidiscrimination Office / Municipal Government Hannover (registered and anonymous files)
- European forum for migration studies / Institute at the University of Bamberg (3 recorded, public files)
- Non-governmental anti-discrimination network Berlin (registered and anonymous files)

In total 161 cases of the year 2008 were made available to us. From this sample we have chosen only cases based on “racial”/ethnic discrimination and/or discrimination based on religious belief/identification. (This would be the wearing of a headscarf or other

apparel signifying belonging to the Islamic religion. This issue can be interpreted as it often is in anti-discrimination literature as a kind of ethnic stigmatisation):

- 46 cases (33%) from the anti-discrimination office in Hannover which is a governmental one and under the auspices of the mayor's office and
- 91 cases (65%) from the anti-discrimination network in Berlin which is a non-profit and non-governmental-organisation that receives funding from the Berlin Government. It is independent in the conduction of its work.
- 3 cases (2%) we gained through the data collection of the European forum for migration studies / Institute at the University of Bamberg.

The nature of cases:

- 120 Claims (86%)
- 14 Complaints (taken to court - 10%) - 6 settled (4%) / 8 open cases (6%)
- 6 Complaints (not processed - 4%)

**Total number of Claims and Complaints according to Gender and whether individual or group actions (N = 140)**

Cases	Men	Women	Group	Total
Claims (N=120)	69 (57%)	47 (39%)	4 (3%)	120
Complaints (N=20)	13 (65%)	6 (30%)	1 (5%)	20
Civil Proceedings (N=11)	8 (73%)	3 (27%)		11
Criminal- Proceedings (N=3)	2 (66%)	1 (33%)		3
Total cases (N=140)	82 (58%)	53 (38%)	5 (4%)	140

### **3. Presentation of the sample**

As mentioned above because of the need for data protection there was very little information available on the individual cases. Moreover, each anti-discrimination office makes independent decisions about their data collecting and categorisation process. These organisations do not usually require much socio-demographic information neither about the victims nor about the author of discrimination for their data recording system.

#### **Countries of origin**

The 46 cases from Hannover do not include any information on the countries of origin of the victims of discrimination. For this reason Hannover is excluded and the remaining total includes 94 cases, the majority from Berlin:

### Cases according to national or ethnic origins, gender and citizenship

Country/region of origin / ethnicity <sup>6</sup>	Men	Women	Group	Total
Turkey (N=36)	16 (44%)	18 (50%)	2 <sup>7</sup> (6%)	36
North Africa (N=16)	15 (94%)	1 (6%)		16
German citizenship: (N=13)	6 (46%)	6 (46%)	1 (8%)	13
African Germans	2	3		5
Repatriate of German origin	2	1		3
South East Asia Germans	2			2
Roma		1	1	2
Turkish background		1		1
Middle East	3	2		5
Sub-Saharan Africa	1	2	1 family	4
South East Asia	2	1		3
South/Central America		2		2
Eastern Europe	1		1	2
Indian subcontinent	1			1
Other: Black US-Americans	3			3
Unknown	3	6		9
<b>Total</b>	<b>51 (54%)</b>	<b>38 (41%)</b>	<b>5 (5%)</b>	<b>94</b>

### Cases according to gender and sources of data<sup>8</sup>

Region	Men	Women	Group
Hannover (N=46)	31 (67%)	15 (33%)	
Berlin (N=91)	50 (55%)	36 (40%)	5 (5%)
efms (N=3)	1	2	
<b>Total (N=140)</b>	<b>82 (58%)</b>	<b>53 (38%)</b>	<b>5 (4%)</b>

<sup>6</sup> The categories are those employed in the data collection made available.

<sup>7</sup> 1 family

<sup>8</sup> Hannover`s table does not content any information on group cases.

The general figures and statistics provided by the organisations show that there are more male than female claims and complaints. There is a slightly higher percentage of males making claims in Hannover than in Berlin where the share of women is 42%.

Hannover data includes information on how the affected persons get in contact with the anti-discrimination office:

**Hannover: how contact was initiated by gender (N=46)**

<b>Contact through</b>	<b>Men</b>	<b>Women</b>
Persons affected/Victims	18 (39%)	5 (11%)
Advocate	9 (20%)	8 (17%)
Third person	4 (9%)	2 (4%)
Total (N=46)	31 (68%)	15 (32%)

The Hannover data indicate that two-thirds of the women (66%) experiencing discrimination do not initiate the contact with the anti-discrimination office themselves, but are supported by others in the process. This is the case for less than half of the men in the sample (42%).

## Contextualisation of the discrimination

### Contextualisation of discrimination by gender and group or individual experience

Sectors	Men	Women	Group	Total
<b>Education (School - N=17)</b>	6 (35%)	<b>11 (65%)</b>		<b>17</b>
vocational training	2	2		4
<b>Employment (N=43)</b>	<b>27 (63%)</b>	<b>16 (37%)</b>		<b>43</b>
Housing	4	7	4	15
Public health services		1		1
Access to public spaces	1	1		2
<b>Access to discotheques, bar (N=19)</b>	<b>18 (95%)</b>		1 (5%)	<b>19</b>
Justice System	1	1		2
<b>Police (N=12)</b>	<b>9 (75%)</b>	3 (25%)		<b>12</b>
Private goods and services	5	2		7
<b>Public goods and services (N=12)</b>	4 (33%)	<b>8 (66%)</b>		<b>12</b>
Public transport	4	1		5
Multiple sectors of discrimination (N=27)	9 (33%)	17 (63%)	1/4%	27

Employment, Education and the access and support of public goods and services seems to be the three main sectors concerning the discrimination of women. Employment, access to public spaces (especially the access to discotheques, bars) and the treatment by police officers are the three main sectors where discrimination is experienced by men.

Housing is an important area of discrimination more often sensed by women than men, also in regard to a group (family) of migrants.

**Authors of discrimination according to the gender of person discriminated**

<b>Author of discrimination</b>	<b>Men</b>	<b>Women</b>	<b>Group</b>	<b>Total</b>
Superior (N=58)	32 (55%)	25 (43%)	1 (2%)	58
Colleague (N=14)	6 (43%)	8 (57%)		14
Owner (N=23)	20 (87%)	2 (9%)	1 (4%)	23
Neighbour (N=11)	3 (27%)	6 (55%)	2 (18%)	11
Goods or service provider (N=13)	9 (69%)	3 (23%)	1 (8%)	13
Public services (N=33)	21 (64%)	12 (36%)		33
Police (N=12)	9 (75%)	3 (25%)		12
Passer-by (N=5)	2 (40%)	3 (60%)		5

The relationship with the author of discrimination shows a clear gender difference and could be described as:

The main authors of discrimination for men and women are their superiors whether teachers, school directors, bosses, or employers followed by the representatives of public goods and services which include all public offices/authorities and the police.

Colleagues at work and neighbours are the two important categories of social groups from whom women may often report experiencing discrimination. Private goods, especially by the owners of discotheques and bars, are the next category where most often men experience discrimination.

### Grounds of Discrimination by Gender / group

Ground(s) of discrimination	Men	Women	Group
Racism / ethnic origin	82	45	5
Religious beliefs		8	
Racism / ethnic origin <b>in combination of:</b>			
Religious or philosophical beliefs	4	3	
Sexual orientation			
Age	4		
Disability		3	
Gender	2	11	

The most frequent ground for discrimination is the experience of racism or discrimination based on ethnic origin. This is due to the history of discrimination in Germany and the analogical history and structure of the anti-discrimination offices. Discrimination based on signifiers of clothing or symbols of belongingness to stigmatized religion in the case of Islam and the use of a veil or headscarf can also be associated with ethnic stigmatisation and discrimination.

### The kinds of discrimination according to gender / group

Kind of discrimination	Men	Women	Group
Direct discrimination (N=136)	82 (60%)	49 (36%)	5 (4%)
Indirect discrimination (N=5)	2 (40%)	3 (60%)	
Harassment (N=7)	4 (57%)	3 (43%)	
Instruction to discriminate		1	
Victimisation		1	

The majority of discrimination reported can be found in the category of direct discrimination. There are few registered cases of indirect discrimination and a few more cases registered as harassment. Indirect discrimination is much more difficult to prove.

#### **4. Impact of gender on the experience of racial discrimination**

The scope of discrimination differs between the sexes. Women report to experience discrimination more often in employment, education and access to support of public goods and services. These seem to be the three main sectors concerning the discrimination of women. Housing is also an area of discrimination, here group discrimination is evident with regard to group (family) of migrants.

Men report most often the experience of discrimination in employment, access to public spaces (access to discotheques) and offensive behaviour by the police.

The main authors of discrimination for men and women are their superiors, in positions such as teachers, school directors, their bosses, managers or other authorities in their education, work and public life. The latter are often the gate keepers and social control agents representatives of public goods and services, including all public offices/authorities and the police.

Women report experience as well of direct discrimination through colleagues at work and their neighbours.

Men tend to report experiencing more discrimination in the access to private goods and services. Especially common for men is discrimination by the owners of discotheques and bars.

As already described in the national state of the art report the largest group of migrants in Germany, especially in Berlin, are those with Turkish roots. This is one of the most vulnerable groups because they are more or less visible in public eye and they have been ascribed as difficult, even as not capable of being integrated into German society. Reference is made to their rural and Muslim origins or more recently to their increased

identification with Islam. The key word here is “Islamophobia”. This debate has evidently created discrimination for women and men, but in different areas. For example, women perceive discrimination in the sector of employment and education due to the heftiness of the headscarf debate that leads to the discrimination, paternalism and even stigmatization of women wearing veils and scarves. Young men are identified with failures in school, violence and religious conservatism.

Many persons of colour or persons associated with certain ethnic groups are ascribed characteristics due to the meanings attached to cultural and religious symbols. They may be frequently confronted with direct discrimination in the form of harrassment, exclusion and marginalisation. This is also true for a number of other groups assumed to be “not belonging” viewed to be black African, Arabic or of some Asian origin.

## **5. The reaction to discrimination: using the resources**

Male and female victims of discrimination ask in a first step for empowerment, for advice, counselling and mental, psychological support, also clarifying their situation. This fact seems to be the most important item. In 31 cases they decide to write a letter of complaint often with the support of the anti-discrimination offices. In a six cases they ask in a second step for mediation and in 14 cases they do go to court/take legal action.

## **6. The institutional level: processing the complaint**

Judicial proceedings raise for most victims the issue of time, energy and at least money. Many victims try to solve their situation often sooner than a legal case may be able to be effective. Counselling, writing letter of complaints, mediation, conciliation may be more useful in many cases, especially of employment and housing issues. Processing a case seems to be the last step to stop discrimination or to get right.

## 7. Our potential policy recommendations

First of all, the state of the data demonstrates that a unified system of data collection would advance our knowledge about the numerous dimensions of discrimination, the groups most discriminated against and the contexts and conditions that lead to more frequent cases of experiencing discrimination. The data is too uneven to reflect the many specific dimensions that need to be known.

Secondly we should focus more on awareness raising and trainings of the mainstream (civil society) to increase the perception of discrimination as a permanent and immanent part of our society because such a comprehension and perception of discrimination does not exist.

Awareness of discrimination and what it means and the right to defend yourself against discriminating practices will also raise the conscience of the persons most suffering discrimination to initiate claims, perhaps to organise themselves more often in advocacy groups so that indirect as well as direct discrimination has a chance to be documented and recognised in society.

The affected people should be better informed, supported and accompanied, especially in court cases. Mediation seems to play one important role which could be improved.

There is much more need for awareness raising to be done in this area. This applies to:

- 1) the discriminated population themselves, that may have internalised the forms of discrimination they have experienced and thus do not believe that they can be effectively protected.
- 2) Lawyers, judges and legal experts in the field working on these issues need training about what is discrimination and how it manifests itself in direct and especially for indirect discrimination and sensitization for forms of harassment.
- 3) the mainstream society itself. Discrimination and Anti-Discrimination should be a daily and relevant topic in the current debate in Germany. It should not occur only when racist motivated attacks happen on the part of right-wing extremists.

At least, since financial resources and fears of going in debt may be a real barrier to claiming experienced discrimination or making a formal complaint. Perhaps there is a need for a public fund and more room for advocacy groups to take initiatives with respect to precedence cases of.

## **8. Conclusion and most important results**

Male and female victims of discrimination ask in a first step for empowerment, for advice, counselling and mental, psychological support, also clarifying their situation. This fact seems to be the most important item.

In 31 cases the discriminated persons decide to write a letter of complaint often with the support of the anti-discrimination offices. In a six cases they ask in a second step for mediation and in 14 cases they do go to court/take legal action. All of these procedures should be taken in consideration.

Appropriate staff and financial assets of anti-discrimination centres must be provided. The demands on regions and communities should be to promote anti-discrimination work and ensure its sustainability. To consolidate an anti-discrimination culture on a communal and regional level, furthermore, it is essential to involve the perspective of the people affected.

*The GENDERACE Team is responsible for the content of the report which does not necessarily reflect the view of the Commission, nor can the Commission accept responsibility for the accuracy or completeness of information it contains.*