



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	Germany
Title:	Land Berlin Non-Discrimination Law (Landesantidiskriminierungsgesetz)
Date:	29 June 2020
Expert:	Mahlmann, Matthias
<u>Context</u>	
Issue at stake:	Land Berlin Non-Discrimination Law (Landesantidiskriminierungsgesetz)
Grounds of discrimination:	All grounds
Field of application:	Other field
Source:	National legislation
Applicable law:	Land Berlin Non-Discrimination Law (Landes-Antidiskriminierungsgesetz Berlin (LADG)) Drucksache 18/1996 of 12/06/2019

Content

Law development: On 4 June 2020 the legislative of the Land (state) of Berlin has passed the Land Non-Discrimination Law (Landes-Antidiskriminierungsgesetz (LADG)).

The LADG provides protection against discrimination in public law against acts of all public authorities in Berlin. It prohibits discrimination on the grounds of sex, ethnic origin, racist ascriptions, religion and belief, disability, chronic illness, age, language, sexual and gender identity and social status. It prohibits direct and indirect discrimination and provides for the justification of discrimination if there is a sufficient objective reason for unequal treatment. It prohibits victimisation. It establishes the possibility of representative action against the action of public authorities. This is possible for associations dedicated to the work against discrimination (Antidiskriminierungsverband). These associations are entitled to represent individuals in court proceedings. These associations have to be recognised by public authorities. There is a shift of the burden of proof: If a complainant has made it plausible that there has been a discrimination by a public authority, the public authority has to prove that this has not been the case. The act establishes an Ombuds-authority with a right to investigate, give advice, commission an expert opinion and to formulate recommendations, among others. The act established a general duty of all Land public authorities to work for a culture of diversity and respect.

Key points of analysis: The act forms the first antidiscrimination law concerning the action of public authorities on the Land level in Germany. It contains various innovative elements including a broader list of characteristics that are the ground for discrimination than EU law. The term 'racist ascriptions' intends to signal that there are no human 'races'. The possibility for representative action, a shift of the burden of proof, the establishment of an Ombuds-authority and the obligation of the administration in Berlin to work for diversity and a general culture of respect are further noticeable elements of the law.

Internet link source: <https://www.berlin.de/sen/lads/recht/ladg/materialien/>.