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National courts and other non-judicial bodies

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Germany



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National Courts

All public authorities are obliged to respect fundamental rights. Any person who feels that their fundamental rights have been violated can seek legal redress.

If they consider that a particular legal provision affecting them breaches the German Basic Law (*Grundgesetz*), they can bring the matter to a specialised court. The specialised court, if it upholds their view, will refer the legislative provision in question to the Federal Constitutional Court (*Bundesverfassungsgericht*) for a decision by means of specific judicial review. If the specialised court does not follow the decision, after judicial remedy has been exhausted a constitutional complaint can be brought before the Federal Constitutional Court.

In cases where a contested law or legal provision implements EU law, an individual can take the matter to the specialised court invoking infringement of the Charter of Fundamental Rights. The specialised court is required to refer any question arising in this connection to the Court of Justice of the European Union (Article 267 TFEU). Failure to do so can be challenged before the Federal Constitutional Court by means of a constitutional complaint (*Verfassungsbeschwerde*) on the grounds of infringement of the right to due process laid down in the second sentence of Article 101(1) of the Basic Law. The Federal Constitutional Court uses the Charter of Fundamental Rights as a direct standard of review when examining constitutional complaints concerning matters determined by EU law.

Decisions of the Federal Constitutional Court are not subject to appeal and are binding on all other State organs.

German Federal Constitutional Court (*Bundesverfassungsgericht*)

The Federal Constitutional Court is considered to be the guardian of the Basic Law. Its tasks include providing binding interpretations of the Basic Law and ensuring that fundamental rights are upheld. It is a federal court of justice which is autonomous and independent of all other constitutional organs, and is an independent constitutional body.

According to (inter alia) Article 93(1)(4)(a) of the Basic Law, the Federal Constitutional Court rules on constitutional complaints which may be filed by any natural or legal person who alleges infringement, by a German public authority, of one of their fundamental rights (see Articles 1 to 19 of the Basic Law) or rights equivalent to fundamental rights (Article 20(4), Article 33, Article 38, Article 101, Article 104 of the Basic Law).

A constitutional complaint is not an extension of proceedings taken through the specialised lower courts, but an extraordinary remedy in which only the violation of specifically constitutional law is examined. Details are set out in [Article 93\(1\)4a and 4b](#) of the Basic Law and [Article 90 et seq.](#) of the Act on the Federal Constitutional Court (*Bundesverfassungsgerichtsgesetz*).

Information on the constitutional complaint, in particular the information it should contain, is summarised in an [information sheet](#) of the Federal Constitutional Court.

The contact details of the Federal Constitutional Court are as follows:

PO Box 1771
76006 Karlsruhe

Tel.: (+49)(0)721 9101 - 0
Fax: (+49)(0)721 9101 - 382

Website: https://www.bundesverfassungsgericht.de/DE/Homepage/homepage_node.html

National Human Rights Institutions

German Institute for Human Rights (*Deutsches Institut für Menschenrechte*)

The German Institute for Human Rights is Germany's independent National Human Rights Institution (Article 1 DIMR Act). It strives to ensure that Germany respects and promotes human rights domestically and in its international relations. The Institute also supports and monitors the implementation of the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child and has established monitoring mechanisms for these purposes.

The Institute is committed solely to human rights and is politically independent. The 2015 Act on the legal status and mandate of the German Institute for Human Rights (*Gesetz über die Rechtsstellung und Aufgaben des Deutschen Instituts für Menschenrechte*) governs the Institute's legal status, tasks and funding. The Institute is structured as a non-profit association and obtains its funding from the German lower house (Bundestag), along with external source funding for individual projects.

The Institute's tasks do not include dealing with requests from individuals affected by human rights violations. However, it does its best to provide information on appropriate advisory services.

The contact details of the German Institute for Human Rights are as follows:

Zimmerstraße 26/27
10969 Berlin

Tel.: (+49)(0)30 259 359 - 0
Fax (+49)(0)30 259 359 - 59

Email: info@institut-fuer-menschenrechte.de
Website: <https://www.institut-fuer-menschenrechte.de/>

Specialised Human Rights Bodies

Federal Anti-Discrimination Agency (*Antidiskriminierungsstelle des Bundes*)

The Federal Anti-Discrimination Agency, which has its office at the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, is an independent focal point for people affected by discrimination. Its tasks are laid down in the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz – AGG*). The Anti-Discrimination Agency is a focal point for all people who feel discriminated against on grounds of racial or ethnic origin, gender, religion or belief, disability, age or sexual identity.

The legal tasks of the Anti-Discrimination Agency are:

- providing information, advice and, on request, assistance in reaching an amicable settlement between parties, with referrals to local anti-discrimination counselling centres where necessary;
- public relations;
- measures for the prevention of discrimination;
- implementing scientific studies;
- submitting reports to the German Bundestag at regular intervals, accompanied by recommendations to

abolish and avoid discrimination.

People who feel discriminated against or have questions about the AGG can contact the Anti-Discrimination Agency by telephone, e-mail or post, or via the electronic contact form. Guidance for businesses is available at <http://www.antidiskriminierungsstelle.de/>, answering basic questions about the implementation of the AGG in companies.

The contact details of the Anti-Discrimination Agency are as follows:

Glinkastraße 24
10117 Berlin

Tel.: (+49)(0)30 18 555 - 1855

Counselling email address: beratung@ads.bund.de
Email for general enquiries: poststelle@ads.bund.de
Website: <http://www.antidiskriminierungsstelle.de/>

The Federal Commissioner for Data Protection and Freedom of Information (*Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit – BfDI*)

The Federal Commissioner for Data Protection and Freedom of Information (BfDI) is an autonomous and independent supervisory authority for data protection at federal level. The tasks of the BfDI are set out in Article 57 of the General Data Protection Regulation (GDPR) and Article 14 of the Federal Data Protection Act (*Bundesdatenschutzgesetz – BDSG*). Its main tasks are:

- monitoring and enforcing the GDPR, the BDSG and other provisions relating to data protection;
- raising awareness and educating the public concerning the risks, rules, guarantees and rights in connection with the processing of personal data;
- providing advice to the German Bundestag and to the upper house (Bundesrat), the Federal Government and other institutions and committees on legislative and administrative data protection measures;
- raising awareness and providing advice to data controllers in their area of responsibility concerning their obligations arising from the GDPR, the BDSG and other provisions on data protection;
- handling complaints from data subjects or complaints from data protection associations;
- cooperating with other supervisory authorities in Germany and Europe, exchanging information and providing mutual assistance;
- conducting investigations and controls;
- contributing to the work of the European Data Protection Board.

The BfDI can also issue opinions to the German Bundestag or any of its committees, the Bundesrat, the Federal Government, other bodies and agencies, and the public. At the request of the German Bundestag, one of its committees or the Federal Government, the BfDI also examines any information about data protection-related processes within the public authorities of the Federal Government.

According to Article 77 of the GDPR or – within the scope of the Law Enforcement Directive – Article 60 of the BDSG, any person has the right to lodge a complaint with the BfDI if they believe that a body subject to the BfDI's supervision has violated their rights.

The contact details of the Federal Commissioner for Data Protection and Freedom of Information are as follows:

Graurheindorferstraße 153
53117 Bonn

Tel.: (+49)(0)228 997799 - 0
Fax: (+49)(0)228 997799 - 5550

Email: poststelle@bfdi.bund.de
Website: <http://www.bfdi.bund.de>

Online forms can also be used to contact the BfDI, lodge complaints and report data breaches.

In addition, the contact details of the *Länders* data protection officers for the public and non-public sphere, broadcasters, churches, and data protection officers in Europe and elsewhere are available on the [BFDI](#) website.

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