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Protecting Workers From Violence and Harassment in the Workplace

German National Report

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Introduction

This report examines the current legal framework governing protection against violence and harassment in the world of work in Germany. The obligations arising from ILO Convention No. 190 were implemented by Germany through legislation adopted in May 2023,[1] and the Convention entered into force in June 2024.[2]

Despite the recognised importance of the issue, the frequency and consequences of violence and harassment in the workplace have not yet been sufficiently investigated. Contrary to the German government's assumption that no significant legislative amendments are required for implementation, there is broad agreement in legal scholarship that further and more precise measures remain necessary. Protection against violence and harassment in German law has thus far been implemented only to a limited extent. While existing regulations provide important protective mechanisms, they do not constitute a comprehensive or coherent legal framework.[3]

A key structural feature of German law is its fragmented approach. Protection is dispersed across several legal regimes—notably anti-discrimination law, occupational health and safety law, civil law, and criminal law—each addressing specific aspects of harmful conduct. However, there is no unified legal concept of "violence and harassment" in the workplace. A frequently raised criticism is that occupational health and safety law identifies protected legal interests, such as health and safety, but does not define specific forms of prohibited conduct.[4]

Furthermore, the current framework falls short of the "inclusive and integrated" approach required under Articles 4, 6, and 8 of ILO Convention No. 190. In particular, protection remains inadequate for vulnerable groups and individuals in precarious or informal employment, and there is a lack of specific provisions ensuring comprehensive access to complaint mechanisms, protection, and compensation irrespective of formal employment status.[5]

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[1] *Deutscher Juristinnenbund*, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), 2024, p.1; *DGB*, Sexualisierte Belästigung am Arbeitsplatz verhindern! *(*2023) p. 16.

[2] *Deutscher Bundestag*, WD 6 - 3000 - 074/23, p. 4.

[3] *Arbeitnehmerkammer Bremen*, Kammer Fokus- Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz: Handlungsmöglichkeiten und Handlungsbedarfe (2025), p. 3.

[4] *Kocher*, ILO Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work and Recommendation No. 206 (2023), p. 9.

[5] *Götz, Isphording, Jessen, Wolter:* Sexuelle Belästigung am Arbeitsplatz: Zwei von zehn Beschäftigten berichten von Vorfällen im eigenen Arbeitsumfeld (2025) p. 3; *Kocher*, *Wulfen*, Reframing Harassment as Occupational Safety and
Health Issue, 2024, https://verfassungsblog.de/ilo-convention-no-190-violence-harassment/ (last visited 03 March 2026).

These structural shortcomings are reflected in empirical data on the prevalence of workplace violence and harassment in Germany. Studies indicate that such incidents are widespread: approximately 9% of employees report having experienced sexual harassment within a three-year period, with women affected significantly more frequently than men (13% compared to 5%). Notably, 83% of those affected report repeated incidents, suggesting that violence and harassment are often systemic rather than isolated phenomena.

Workplace violence also manifests in various forms beyond sexual harassment. Around one third of employees report experiencing verbal harassment, while 8% have encountered unwanted physical contact and 6% report digital forms of harassment, such as unwanted messages or images. In addition, approximately 16,000 reportable workplace accidents annually are linked to violence and aggression, with a significant proportion involving third parties such as customers or clients.

The data further show that certain groups are disproportionately affected, including women, younger workers, persons with migrant backgrounds, LGBTQ+ individuals, and persons with disabilities. Elevated risks are also observed in specific sectors, particularly in healthcare, social services, and occupations involving close interaction with clients or the public.

Taken together, these findings underline a central conclusion of this report: although German law provides a wide range of protective instruments, its fragmented structure and existing gaps limit its effectiveness. As a result, the current framework does not yet fully meet the comprehensive and inclusive standards envisaged by ILO Convention No. 190.

Section I: General Framework, Legal Definitions, and National Perspectives

Under German law, there is no uniform legal definition of “workplace violence” in the strict sense. Instead, various forms of violence, harassment, and discrimination are regulated in different areas of law, particularly in anti-discrimination law, criminal law, and occupational safety and health law. The General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG) and the Occupational Safety and Health Act (Arbeitsschutzgesetz, ArbSchG) play a central role.

I. Legal Definitions of Key Concepts Related to Workplace Violence and Harassment

1. Harassment pursuant to § 3(3) General Equal Treatment Act

Harassment constitutes discrimination if unwanted conduct related to any of the grounds listed in § 1 AGG has the purpose or effect of violating the dignity of the person concerned and creating an environment characterized by intimidation, hostility, humiliation, degradation, or insults.

2. Sexual harassment pursuant to § 3(4) General Equal Treatment Act

The German General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG) speaks of sexual harassment where "[…] unwanted conduct of a sexual nature, which also includes unwanted sexual acts and requests to engage in such acts, sexually determined physical contact, remarks of a sexual nature, as well as the unwanted showing and visible display of pornographic images, has the purpose or effect of violating the dignity of the person concerned, in particular where an environment characterized by intimidation, hostility, degradation, humiliation, or insults is created" (§ 3(4) AGG).

The Anti-Discrimination Agency provides a further clarification. Sexual harassment is unwanted conduct that is sexualized or related to gender, for example sexual insinuations, inappropriate touching, pressure to engage in sexual acts, or the display of pornographic content. It violates the dignity of the affected person if it is perceived as offensive, degrading, or humiliating. What matters is the effect on the person concerned, not the intention of the acting person. Affected persons do not have to explicitly state that the conduct is unwanted if this should have been apparent from the circumstances.[6]

Also, sexual harassment in the workplace is often an expression of hierarchies and the use of power rather than sexual desire. It is not about sexuality, eroticism, or flirting, but about gender discrimination.[7]

In most cases, cis and trans* women are affected by sexual harassment. However, the law generally prohibits sexual harassment and therefore protects all genders. Trans* men, intersex, non-binary, and queer persons are also frequently affected by sexual harassment.[8]

Under the German Criminal Code (Strafgesetzbuch, StGB), sexual assault or sexual coercion occurs when a sexual act is performed on a person against their recognizable will (§ 177 StGB). Sexual harassment is punishable under criminal law when a person touches another person in a sexually determined manner and thereby harasses them (§ 184i StGB). As a rule, a criminally relevant act therefore exists only when a physical violation of personal boundaries has occurred.[9]

3. Violence

German law does not contain a single, general legal definition of "violence" applicable across all areas of law, including labour law. Instead, the concept is shaped by different legal contexts.

In criminal law, relevant provisions include, in particular, offences relating to bodily harm, where "intentional physical abuse and damage to health" are punishable. Violence is also addressed in the

[6] *Antidiskrimminerungsstelle*, Was tun bei sexueller Belästigung am Arbeitsplatz?, p. 8.
[7] *Lembke*, Rechtsprechung und juristische Diskurse zu sexueller Belästigung, p. 123.
[8] *Frohn/Heiligers*, Out im Office, p. 6.
[9] *Arbeitnehmerkammer Bremen*, Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz, p. 3.

context of coercion, defined as the use of force or the threat of serious harm to compel a person to act, tolerate something, or refrain from acting.[10]

In civil law, violence becomes relevant through the violation of protected legal interests. Claims for damages arise where the body, health, or the general right of personality is infringed (§§ 823(1), (2) BGB; § 280(1) in conjunction with § 241(2) BGB). This includes psychological impairments.[11]

A more comprehensive definition in the context of the world of work is provided by ILO Convention No. 190. Under this Convention, the term "violence and harassment" refers to a range of unacceptable behaviours and practices, or threats thereof, whether occurring as a single incident or repeatedly, that aim at, result in, or are likely to result in physical, psychological, sexual, or economic harm, including gender-based violence and harassment (Art. 1a).

4. Workplace violence

Workplace violence is not defined as a separate legal term in German labour law. According to Art. 1.1 ILO Convention No. 190, it encompasses: "*Any action, incident or behaviour that departs from reasonable conduct in which a person is assaulted, threatened, harmed, [or] injured in the course of, or as a direct result of, his or her work*."[8] Since Germany has ratified ILO Convention No. 190, this definition may serve as an interpretative guideline for German labour law.

5. Domestic violence

Domestic violence is not defined in labour law, but it is clearly regulated under civil and criminal law, especially in the Act on Protection against Violence (Gewaltschutzgesetz – GewSchG). It refers to physical, psychological, or sexual violence occurring within close personal relationships (§ 1 GewSchG). German labour law does not explicitly classify domestic violence as a workplace issue. It becomes relevant only when its effects impact the workplace, for example by endangering employees' safety or ability to work.

6. Bullying or mobbing

German law does not contain a uniform statutory definition of mobbing. The Federal Labour Court (Bundesarbeitsgericht, BAG) assumes that the legislator, through the definition of harassment in § 3 III AGG, has also partially covered manifestations of mobbing where the cause of the harassment lies in one of the discrimination characteristics listed in § 1 AGG (e.g. gender, ethnic origin, or religion).[12]

[10] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 7.
[11] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, pp. 28 et seq.
[12] *Kiesche*, ARP 2025, 116.

The Occupational Health and Safety Act (Arbeitsschutzgesetz, ArbSchG) obliges employers under §§ 3(1), 5 ArbSchG to protect the safety and (psychological) health of employees at work. Mobbing may therefore be the subject of a risk assessment and requires preventive measures by the employer.

Within the context of occupational health and safety, mobbing is regarded as a risk to health and the ability to work that should be reduced through organisational measures, conflict management, and prevention.[13]

Case law emphasizes that *mobbing* is not a legal term and therefore does not constitute an independent legal basis for claims comparable to a legal norm. Only the overall consideration of several systematic acts may amount to a violation of duties under labour law or an infringement of personality rights.[14]

According to a definition by the German Social Accident Insurance (Deutsche Gesetzliche Unfallversicherung, DGUV),[15] mobbing refers to a conflictual form of communication in the workplace between colleagues or between supervisors and employees in which:

- one person is targeted by one or more persons,
- systematically,
- frequently (as a rule at least once per week),
- over a longer period of time (typically at least six months),
- through direct or indirect attacks,
- often with the aim of forcing the affected person out of the employment relationship.

7. Victimisation and reprisals (§ 16 AGG)

Victimisation means treating someone unfairly because they have complained about discrimination, supported another person, or taken part in legal proceedings under the AGG. Victimisation is prohibited even if the original complaint was unsuccessful. Reprisals are mainly covered by the rule on victimisation in § 16 AGG. Employers are not allowed to punish or disadvantage employees because they filed a complaint, supported a colleague, or exercised their rights. Such reprisals may also render dismissals or disciplinary actions unlawful.

8. Cyber violence / Cyber mobbing

German labour law does not define cyber violence as a separate legal term. Online harassment, threats, or stalking are addressed under criminal law. When such behaviour is connected to work, employers may be required to act under occupational safety and anti-discrimination duties.

[13] *Kiesche*, ARP 2025, 119.
[14] *Notzon*, öAT 2022, 89; AG Köln 10.7.2020 – 4 Sa 118/20.
[15] *GDUV*, Mobbing-Organisationshilfe, p. 2.

Cyber violence refers to forms of gender-based violence carried out through information and communication technologies (ICT). The European Union Directive 2024/1385 on combating violence against women and domestic violence (Anti-VAW Directive) recognises several forms of cyber violence, including the non-consensual sharing of intimate material, cyberstalking, cyber harassment, and cyber incitement to violence or hatred. These acts involve threatening, insulting, or harmful behaviour carried out through digital technologies and can cause serious psychological, sexual, or economic harm.[16] However, the Directive has not yet been transposed into German law.

According to the organisation HateAid, cyber violence can generally be described as targeted, systematic, and long-lasting attacks directed against a person by one or more perpetrators within an unequal power relationship. This unequal power imbalance may mean that the bullying originates from supervisors against employees or from groups targeting an individual.

In cases of cyberbullying, insults, threats, false allegations, or private images of the affected person are often disseminated via social media platforms or internal company forums. The perpetrators frequently hide behind anonymous usernames. In cases of cyberbullying in the workplace, however, the attacks are in most instances carried out by colleagues or supervisors.[17]

II. National Legal and Policy Framework on Workplace Violence and Harassment

1. Ratification and implementation of ILO Convention No. 190

Germany has ratified ILO Convention No. 190 on the elimination of violence and harassment in the world of work. In 2023, the German Bundestag approved the law allowing Germany to join the Convention, and it entered into force in German law on 14 June 2024.[18]

Pursuant to Art. 19(5) of the ILO Constitution, member states are required to submit newly adopted conventions to their competent national authorities for ratification within a maximum period of 18 months. The ILO therefore requires states to examine whether they intend to ratify a convention. This may be followed by the signing of the convention by the state, which primarily expresses general political support for the agreement.[19] However, according to Art. 18 of the Vienna Convention, once a state has signed a treaty, it must refrain from acts that would defeat the object and purpose of the treaty.

[16] *Kasin*, Adressing work-related gender-based violence and harassment, p. 20 f.
[17] *Haid Aid*-Cybermobbing am Arbeitsplatz v. 17.11.2023, online unter https://hateaid.org/cybermobbingam-Arbeitsplatz.
[18] BGBl. 2023 II Nr. 142 vom 30.05.202, p. 2.; I*nternational Labour Organization*- Germany ratifies Convention C190, v. 19.06.2023, online unter https://www.ilo.org/resource/news/germany-ratifies-convention-c190-violence-and-harassment-worldwork.
[19] *Deutscher Bundestag,* WD 2-300-062/15, p. 4.

In Germany, in order for an international treaty to become legally binding, an act of approval (Zustimmungsgesetz) is required pursuant to Art. 59(2) of the Basic Law (Grundgesetz, GG). This provision states that international treaties which regulate the political relations of the Federation or relate to matters of federal legislation require the consent of the competent legislative bodies. The relevant bodies are the Bundestag and the Bundesrat.[20]

This consent is given in the form of a Zustimmungsgesetz. Such a law usually does not contain its own substantive rules; it simply declares Germany's consent to the international treaty and thereby makes ratification possible.

Only after this Zustimmungsgesetz has been adopted through the parliamentary legislative procedure and formally promulgated can Germany deposit the instrument of ratification and thus become legally bound by the treaty under international law.[21] International treaties that have been incorporated into German law pursuant to Art. 59(2) GG have the rank of a federal statute. They therefore remain subordinate to the Basic Law.[22]

According to the case law of the Federal Constitutional Court (Bundesverfassungsgericht), German courts must take international treaties into account when applying the law. They are required to interpret domestic law in a manner that is consistent with international law (völkerrechtsfreundliche Auslegung).[23]

For a convention to be directly applicable within the domestic legal order, certain conditions must be fulfilled. A treaty provision can only be applied directly if it is formulated with sufficient precision and does not require further implementation by the national legislator. In addition, the provision must establish subjective rights for individuals so that citizens may invoke it directly before the courts.[24]

The majority of the provisions of ILO Convention No. 190 are formulated as obligations of the state. They primarily address the state and require political or legislative action. They therefore do not establish explicitly formulated individual claims, but rather general objectives and obligations of state policy, for example in the areas of prevention, national strategies, or protection mechanisms in the workplace. In such cases, no directly enforceable subjective rights arise, meaning that individuals generally cannot rely directly on these provisions before the courts. Because they require additional legislative measures, the conditions for direct applicability are not fulfilled.[25]

[20] *Deutscher Bundestag,* WD 2-300-062/15, p. 4.
[21] *Deutscher Bundestag,* WD 2-300-062/15, pp. 4, 5.
[22] BVerfGE 74, 358 [370]; 82, 106 [120].
[23] BVerfGE 111, 307 [318].
[24] *Graf von Kielmansegg*- Ratifikation völkerrechtlicher Verträge, p. 9.
[25] *Graf von Kielmansegg*- Ratifikation völkerrechtlicher Verträge, p. 10.

So far, in Germany there are no reported court decisions in which an individual has successfully based their claim directly on ILO Convention No. 190. Nevertheless, the objectives formulated in the convention are already reflected in existing legislation, in particular in the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG) and the Occupational Health and Safety Act (Arbeitsschutzgesetz, ArbSchG).[26] The General Equal Treatment Act (AGG) protects employees from discrimination and sexual harassment in the employment relationship and obliges employers to take appropriate preventive and protective measures. The Occupational Health and Safety Act (ArbSchG), in turn, generally aims to ensure the safety and health of employees at work and provides preventive instruments such as workplace risk assessments as well as organisational duties of protection.[27]

However, further and more precise implementation measures are still considered necessary. It has been pointed out that protection against violence and harassment in German law has so far been implemented only to a limited extent and that further action is required. Although the existing regulations provide important protective mechanisms, they do not yet constitute a comprehensive legal framework addressing violence and harassment in the workplace.[28]

One frequently raised criticism is that occupational health and safety law identifies the legal interests that must be protected, but does not define specific forms of prohibited conduct.[29]

2. International and European Regulatory Instruments Impacting National Approaches to Workplace Harassment and Violence

A central influencing factor is European anti-discrimination law. The definition of harassment in the German General Equal Treatment Act (AGG) is directly based on European directives, in particular Directive 2000/43/EC (Racial Equality Directive), Directive 2000/78/EC (Employment Equality Framework Directive), and Directive 2006/54/EC (Recast Equality Directive). These directives define harassment as a form of discrimination. They were implemented in Germany through the AGG and therefore directly shape the national legal framework for protection against harassment in working life.[30]

The OHS Framework Directive 89/391/EEC (Occupational Safety and Health) establishes a preventive occupational health and safety system. The central approach of the directive is that employers are required to systematically identify and assess risks to the safety and health of employees and to take

[26] *Kocher,* ILO Convention No. 190, p. 5.
[27] *Kocher,* ILO Convention No. 190, p. 7.
[28] A*rbeitnehmerkammer Bremen*-Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz, p. 3.
[29] *Kocher,* ILO Convention No. 190, p. 9.
[30] *Kasin*, Adressing work-related gender-based violence and harassment, p. 14; *Kocher,* ILO Convention No. 190, p. 7 et seq.

appropriate protective measures. These fundamental employer obligations were implemented in Germany primarily through the Occupational Health and Safety Act (Arbeitsschutzgesetz, ArbSchG).[31]

The Istanbul Convention, formally the "Council of Europe Convention on preventing and combating violence against women and domestic violence", has been ratified by Germany and therefore—like the ILO Convention—forms part of domestic law. The Convention also influences national policy by requiring a comprehensive political approach to combating gender-based violence. This includes preventive measures, support services for victims, and coordinated state strategies. In particular, Art. 3, which defines gender-based violence, and Art. 40, which defines sexual harassment, provide important points of reference and can be compared with the definitions contained in the AGG.[32] However, the Convention does not contain specific provisions on workplace violence or harassment and does not establish direct obligations for employers.[33]

The European Social Charter is an international human rights treaty of the Council of Europe that protects economic and social rights. Germany has ratified the Revised European Social Charter and is therefore obliged to implement its provisions and regularly report on their implementation. For the issue of violence and harassment in the world of work, Art. 3 of the Revised European Social Charter is particularly relevant. This article requires the contracting states to develop, implement, and regularly review a coherent national policy for the protection of safety and health at work.[34]

Second, the Gender Equality Recast Directive 2006/54 defines harassment and sexual harassment as discrimination on grounds of sex in employment. This influenced national equality frameworks, including how harassment is conceptualised and enforced.

The European Framework Agreement on Harassment and Violence at Work (2007) is an important European instrument for addressing violence and harassment in the workplace. The agreement recognises that violence and harassment in the world of work can take different forms. They may be physical, psychological, or sexual in nature, may occur as single incidents or repeated patterns of behaviour, and may arise between colleagues as well as between supervisors and employees. In addition, third parties such as customers, patients, or students may also be involved.[35]

A central focus of the agreement is prevention. Companies are encouraged to establish clear workplace policies stating that violence and harassment will not be tolerated. They should also create appropriate

[31] *Government of Germany*, Report on the Application of the Revised European Social Charter, p. 2; *Kocher,* ILO Convention No. 190, p. 8 et seq.
[32] *Kocher,* ILO Convention No. 190, p. 3.
[33] *Kasin*, Adressing work-related gender-based violence and harassment, p. 8 et seq.
[34] *Government of Germany*, Report on the Application of the Revised European Social Charter, p. 2; *ECSR,* Conclusion Germany, p. 7.
[35] *European Social Dialogue,* Framework Agreement, § 1.

procedures to handle complaints, support affected persons, and, where necessary, take disciplinary action against perpetrators.[36] While the Framework Agreement is not a binding EU directive, it is an autonomous agreement between the European social partners. The signatory organisations committed themselves to implementing the agreement within three years, in accordance with national procedures and industrial relations practices.[37]

At the international level beyond the ILO, a key instrument is the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The aim of this convention is to eliminate discrimination against women worldwide and promote the real equality of women and men. It is considered one of the most comprehensive international instruments for the protection of women's rights.[38] For labour law, Art. 11 is particularly relevant. This provision obliges contracting states to eliminate discrimination in employment and to ensure equal employment opportunities for women, equal pay for work of equal value, and the protection of health and safety in the workplace.

3. Monitoring and Support Mechanisms Against Workplace Violence

State occupational safety and health authorities monitor workplaces and advise employees within the framework of the occupational health and safety system. Employees can contact these authorities if protective measures are insufficient.[39]

The Joint German Occupational Safety and Health Strategy (Gemeinsame Deutsche Arbeitsschutzstrategie – GDA) is a national prevention strategy in occupational safety and health. It coordinates cooperation between the federal government, the Bundesländer, and the institutions of statutory accident insurance. Its aim is to improve occupational safety and health in companies, particularly through joint prevention programmes, coordinated workplace inspections, and the exchange of information between occupational safety authorities and accident insurance institutions.[40] However, it does not focus on workplace violence and harassment, and it entirely omits their gender-based dimension.

The Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes) provides information and advice to affected persons and offers examples of preventive measures against sexual harassment in the workplace. There are also many other support services, although they are not specifically focused on the workplace context. These include, for example, the nationwide helpline for violence against women and the German Society for Trans* and Intersex Persons (Deutsche Gesellschaft für Trans*- und

[36] *European Social Dialogue,* Framework Agreement, § 4.
[37] *European Social Dialogue,* Framework Agreement, § 5.
[38] *United Nations*, CEDAW, Introduction.
[39] *Kocher,* ILO Convention No. 190, p. 9.
[40] *Government of Germany*, Report on the Application of the Revised European Social Charter, p. 9.

Inter*geschlechtlichkeit e. V.). These services provide counselling, particularly easily accessible general support in cases of discrimination.

Trade unions also offer their members free legal advice and legal protection.[41]

III. Integration of harassment and violence within German anti-discrimination law

In German law, harassment and violence in the workplace are addressed through a combination of anti-discrimination law, labour law, civil law, and criminal law. Within the anti-discrimination framework, the General Equal Treatment Act (AGG) plays a central role. It explicitly recognises harassment and sexual harassment as forms of discrimination, particularly where they violate the dignity of a person or create a hostile environment. Importantly, liability under these provisions does not depend on intent; it is sufficient that the conduct has the effect of violating dignity.[42]

The AGG and related provisions protect individuals against discrimination based on specific protected characteristics, including gender, race or ethnic origin, religion or belief, disability, age, and sexual identity.[43] These protections are reinforced by the Works Constitution Act (§ 75 Betriebsverfassungsgesetz, BetrVG), which obliges employers and works councils to ensure equal treatment and prevent discrimination on the same grounds while safeguarding employees' personal dignity. Furthermore, protection extends not only to conduct by employers or colleagues but also to harassment originating from third parties, such as customers or clients.[44]

Despite these targeted protections, German law does not provide a single, comprehensive legal definition of "violence and harassment" in the workplace. Instead, relevant rules are dispersed across different legal fields, including criminal law (e.g. bodily harm or coercion), civil law (e.g. damages claims), and labour law (e.g. duties of care).[45] As a result, each legal regime captures only specific aspects of harmful conduct.

The absence of a unified definition in German law has practical implications. While various legal provisions provide protection, their fragmented nature leads to gaps and inconsistencies. No single provision fully captures the broad spectrum of conduct addressed by the ILO Convention No. 190. Consequently, the current framework is considered insufficient to meet the comprehensive requirements of ILO Convention No. 190, highlighting the need for a more integrated legal approach.[46]

[41] *Antidiskrimminerungsstelle*-Was tun bei sexueller Belästigung am Arbeitsplatz?, pp. 22 et seq.
[42] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 37.
[43] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 21.
[44] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 21.
[45] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, pp. 6-7.
[46] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 35.

IV. Additional means for workers to defend against violent incidents

Workers in Germany are not limited to anti-discrimination law when seeking protection against workplace violence. Instead, they can rely on a range of legal mechanisms across different areas of law.

First, criminal law provides protection against severe forms of violence, including bodily harm, coercion, stalking, and sexual offences.[47] Second, civil law allows victims to claim damages and compensation for violations of legally protected interests such as health or personal dignity. However, unlike anti-discrimination law, such claims generally require proof of fault, i.e. intent or negligence.[48]

Third, under employment law, employers are subject to a duty of care to protect employees from harm, including harassment and violence. This may entitle employees to demand protective measures or, in extreme situations, to refuse work.[49] Fourth, occupational health and safety law extends protection to risks arising not only from colleagues and supervisors but also from third parties encountered in the course of work.[50]

Finally, collective labour law mechanisms, particularly through works councils, provide additional avenues for prevention and redress. Employees can lodge complaints, and works councils have participatory rights aimed at ensuring compliance with anti-discrimination and protection standards.[51]

Overall, while German law offers a broad range of protective instruments, these mechanisms operate within a fragmented system. Although they collectively provide significant protection, the lack of a unified framework for violence and harassment remains a key structural limitation.

V. Statistical Data on Workplace Violence and Harassment and Its Main National Sources

Studies show that violence and harassment at work are relatively common in Germany. Sexual harassment in particular has been well documented in statistics.

A study commissioned by the Federal Anti-Discrimination Agency found that 9% of employees experienced sexual harassment at work within the past three years. The study showed that women are affected more often: 13% of women reported such experiences, compared to 5% of men.[52] In addition, 83% of those affected stated that they had experienced more than one situation of sexual harassment, showing that such incidents often occur repeatedly.[53]

[47] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 7-9.
[48] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 13.
[49] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 10.
[50] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 21.
[51] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, pp. 21-22.
[52] *Arbeitnehmerkammer Bremen*-Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz, p. 5.
[53] *Antidiskrimminerungsstelle*-Was tun bei sexueller Belästigung am Arbeitsplatz?, p. 16.

Besides sexual harassment, other forms of violence also occur in the workplace. Statistics from the German statutory accident insurance (gesetzliche Unfallversicherung) show that violence and aggression at work lead to around 16,000 reportable workplace accidents each year that result in longer periods of incapacity for work. More than one third of these violent incidents are caused by people from outside the workplace, such as customers, patients, or visitors. Around one fifth are caused by colleagues or other employees.[54]

Violence and harassment can take different forms. Verbal harassment is the most common, including, for example, suggestive comments or jokes with sexual content. In one survey, about one third of employees reported experiencing such comments or jokes. In addition, 8% reported unwanted physical closeness or touching. Another 6% stated that they had received unwanted sexualised messages, photos, or videos—forms of digital or cyber-based harassment.[55]

Studies show that some groups face a higher risk of experiencing violence or harassment at work. Women are affected by sexual harassment much more often than men. An EU-wide study shows that almost one third of women in Germany have experienced sexual harassment at some point during their working lives. Younger women are especially affected: among women aged 18 to 29, the figure is nearly 42%. People with a migration background, or those perceived as "not German" because of their appearance or name, also report higher-than-average rates of sexual harassment.[56]

Queer employees are similarly more affected. Studies indicate that about 40% of lesbian, gay, or bisexual employees and 45% of trans employees have experienced sexual harassment.[57] Employees working in workshops for people with disabilities also report sexual harassment more frequently than average: one study found that 26% had experienced such harassment within a period of three years.[58]

Violence and harassment occur more frequently in certain sectors, particularly in jobs involving close contact with customers, patients, or clients. Studies show that employees in the health and social care sector are particularly affected. One study in the nursing sector found that 49% of employees experienced physical harassment, 63% experienced verbal harassment, and 67% experienced non-verbal harassment by patients or relatives.[59] Other occupations with intensive customer contact also show higher risks—for example, bank employees, public sector workers, and employees in the transport sector.[60]

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[54] *Robert-Koch-Institut*, Gewalt und Diskriminierung am Arbeitsplatz, Gewalt und Aggressionen als Arbeitsunfälle.
[55] *Arbeitnehmerkammer Bremen*-Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz, p. 6.
[56] *Arbeitnehmerkammer Bremen*-Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz, pp. 5 et seq.
[57] *Antidiskrimminerungsstelle*-Was tun bei sexueller Belästigung am Arbeitsplatz?, p. 8.
[58] *Antidiskrimminerungsstelle*-Was tun bei sexueller Belästigung am Arbeitsplatz?, p. 17.
[59] *Arbeitnehmerkammer Bremen*-Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz, p. 7.
[60] *DGUV*, Gewalt und Belästigung in der Arbeitswelt, online unter https://www.dguv.de/de/praevention/themen-a-z/gewalt-mobbing/index.jsp.

Section II: Coverage and Personal Scope of Protection Against Workplace Violence and Harassment

In German law, the scope of application is not defined uniformly but emerges from a range of different legal regimes, each with its own personal and material limits. As a result, while the overall level of protection is relatively broad, it remains fragmented and, in certain respects, incomplete with regard to the ILO Convention No. 190. Depending on the setting in which harassment occurs, the personal and employment status of the perpetrator and the affected person as well as the type and intensity of the committed act, different groups of persons are protected by or entitled to claim remedies pursuant to OSH and antidiscrimination regulations, civil and criminal law, and other regulations to differing degrees. Employees (§ 611a BGB) are covered by mandatory social security with employer cost-sharing and the Civil Code, Occupational safety law and General Equal Treatment Act. Trainees, interns, and persons in a position similar to that of an employee are fully covered by the Occupational Safety and Health Act, Civil Code, General Equal Treatment Act, and the works constitution law.[61]

The German Constitution, the Basic Law (Grundgesetz, GG) has several relevant paragraphs for governmental protection obligations. Article 1(1) GG: Right to dignity, Article 2(1)(2) GG: Personal rights, personal freedom, Article 3(2)(3) GG: Gender equality Article 12(1) GG: Freedom of occupation.[62] The most important norms in Germany for workplace violence and sexual harassment are found in the Civil Code (BGB), Occupational Safety Law (ArbSchG) and General Equal Treatment Act (AGG). In part, criminal law and the law of tort implement constitutional obligations and apply with universal personal scope. Certain provisions of the German Criminal Code provide for the punishment of conduct that is relevant to workplace violence (e.g. §§ 184, 184i, 184k StGB). The law of tort is likewise applicable to cases of workplace violence and harassment.[63]

I. General contract and employment law

Even under general contract law, the contracting parties are obliged by general duties of care to protect their contractual partners and third parties. Although it contains no specific definition of either violence or harassment, § 241(2) BGB obliges each party to respect the rights, legal interests, and interests of the other. This protection covers, among other things, physical integrity, the general right of personality,

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[61] *Federal Anti-Discrimination Agency*, Employer obligations, https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/work-life/obligations-of-employers/obligations-of-employers.html (last visited 21 February 2026); *Federal Anti-Discrimination Agency*, Was Tun bei sexueller Belästigung am Arbeitsplatz? (2025) p. 31.

[62] *DGB*, Sexualisierte Belästigung am Arbeitsplatz verhindern! *(*2023) p. 15; *Deutscher Bundestag*, WD 6 - 3000 - 074/23, p. 4.

[63] *Linde*, Sexuelle Belästigung am Arbeitsplatz (1994) p.3; *DGB*, Sexualisierte Belästigung am Arbeitsplatz verhindern*! (*2023) p. 15; Deutscher Bundestag, WD 6 - 3000 - 074/23*,* p. 4.

as well as property and assets. As a result, contracting parties are protected from violence and harassment even without an explicit definition.

These duties apply to all contractual relationships. In employment relationships, many of these protective obligations have since been specified in special statutes (e.g. safe workplace requirements under the ArbSchG and ArbStättVO, non-discrimination duties under the AGG). Thus, § 241(2) BGB primarily functions as a residual provision for situations not yet covered by specific regulation. Historically, it has played an important role in cases involving workplace bullying (mobbing).[64]

For employment relationships (see § 611a BGB)[65], § 618 BGB fleshes out the general duty of care (cf. § 241(2) BGB) by imposing preventive obligations to protect employees from work-related risks to life and health. The provision applies to all types of service and employment contracts, including vocational training relationships, temporary agency work (between temporary worker and hirer), and private-law employment relationships in the public sector. It is also applied analogously to individuals working on-site under works contracts if the contractor's employees work on the client's premises or use the client's equipment ("on-site" contracts). § 618(2) extends the employer's duty of care to situations where employees are integrated into the employer's "household". Although this literally refers to a private household, the provision is applied analogously to employer-provided accommodation such as dormitories or shared housing. Current minimum requirements for living and sleeping areas can be derived from § 3(1) ArbStättVO in conjunction with Annex 4.4.[66]

II. Occupational safety and health law

In occupational safety and health law the personal scope of the German Occupational Safety and Health Act (ArbSchG) is even broader and covers all 'employees' under § 2(2) ArbSchG, regardless of the legal nature of their employment relationship. The term is governed by the EU law definition of "worker" and includes workers, trainees (such as interns), worker-like self-employed persons, and individuals employed in workshops for persons with disabilities. A direct contractual relationship with

[64] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 10.

[65] „By the employment contract, the employee is obliged to perform work in the service of another, such work being tied to instructions and determined by others, and to do so in a relationship of personal dependency. The right to issue instructions may concern the substance, implementation, time and place at which the activities are pursued. Anyone who is not able to essentially determine their activities freely and to determine the times at which they work is tied to instructions. In this context, the degree of personal dependency will be subject also to the specific nature of the activity concerned. In determining whether or not an employment contract exists, all circumstances are to be given overall consideration. Where the factual implementation of the contractual relationship shows that the relationship is an employment relationship, the designation used in the contract is irrelevant."

[66] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 22.

the employer is not required: temporary agency workers and other external staff integrated into the employer's organisation are also covered. [67]

§ 1(2) of the German Occupational Health and Safety Act (ArbSchG) sets out three categories of exception to the Act's scope of application. First, it does not apply to employees on seagoing vessels, who are instead governed by the Maritime Labour Act (SeeArbG). Secondly, the mining sector falls outside its scope and is regulated by the Federal Mining Act (Bundesberggesetz, BBergG).

More problematic, owing to its categorical nature, is the third exception concerning employees in private households. This encompasses any individual engaged in domestic work within an employment relationship, including au pairs, childcare workers, domestic gardeners, and babysitters.

Domestic workers are therefore unable to rely on the ArbSchG or other sector-specific legislation such as the SeeArbG or the BBergG, and must instead have recourse to the general principles of contract and employment law, in particular §§ 241(2) and 618 of the German Civil Code (Bürgerliches Gesetzbuch, BGB).

In summary, the personal scope of application of the ArbSchG and that of Article 2 of the Convention largely, though not entirely, coincide, as § 1(2) ArbSchG excludes certain categories of persons who fall within the scope of the Convention.

III. Anti discrimination law

The General Equal Treatment Act protects against discrimination, including harassment and sexual harassment in the workplace. §" 1, 3, 7, 12 et seq. AGG are relevant for that.[68] § 3(4) AGG confines its scope to employment and occupation within the meaning of § 2(1) nos. 1–4 AGG, thus requiring a link to an employment relationship. This link is construed broadly, encompassing access to employment, employment and working conditions, vocational guidance and training, and participation in workers' or employers' organisations, with "working conditions" covering all circumstances connected with the employment relationship.

While it is sometimes argued that § 2(1) nos. 2–4 AGG presuppose an employment relationship within the meaning of § 611a BGB, a broader interpretation includes self-employed persons. On this view, the provision largely mirrors the scope of Article 3 of the Convention, save for travel to and from work. In the absence of a sufficient employment nexus, § 3(3) AGG operates as a residual provision, its scope

[67] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 19.
[68] *Federal Anti-Discrimination Agency*, Guide to the General Equal Treatment Act https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/EN/publikationen/agg_wegweiser_engl_guide_to_the_general_equal_treatment_act.pdf?__blob=publicationFile (last visited 04 March 2026); *DGB*, Sexualisierte Belästigung am Arbeitsplatz verhindern*! (*2023) p. 16; *Deutscher Bundestag*, WD 6 - 3000 - 074/23, p. 6.

being determined by § 2(1) AGG. Given the Convention's focus on violence and harassment in the world of work, this distinction is of limited practical relevance.

As regards legal consequences, §§ 12–16 AGG are supplemented by specific rules on personal scope in §§ 6–18 AGG. § 6(1) AGG defines "employees" broadly to include employees, trainees, and economically dependent self-employed persons ("employee-like persons"), including homeworkers, as well as applicants and former employees.[69]

In general, according to § 6 para. 1 s. 1 AGG, especially employee-like persons are covered by these regulations.[70] This includes in particular: employees, trainees, interns, temporary agency workers, public sector employees and civil servants. Especially sectors dominated by women e.g. care, social work, education, hospility industry, as persons in relationships of dependency, students and job applicants, insofar as access to employment or residual claims are concerned are part of the regulations. Women with disabilities are more commonly affected than women without disabilities.[71] Not to be forgotten are persons in precarious employment conditions due language, appearance, disabilities, migrant backgrounds, LGBTQ.[72]

IV. Works constitution law

The works constitution law (BetrVG) is crucial when it comes to the right of appeal and the works council's obligation to act against bullying, harassment, and discrimination, § 84 et seq. BetrVG.[73] § 75 of the Works Constitution Act (BetrVG) applies to "all persons employed in the establishment". This formulation is broader than the definition of "employee" in § 5(1) BetrVG (which includes employees and homeworkers, but excludes managerial staff), and also encompasses agency workers, trainees, and employee-like persons.

By contrast, the provision does not cover employees of external contractors working on the premises (e.g. under a contract for services), nor self-employed persons temporarily active in the undertaking

[69] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 16.
[70] MHdB ArbR/ Oetker § 16 Rn. 26.
[71] *Federal Ministry for Family Affairs*, Protection against Violence Strategy based on the Istanbul Convention (2025), p. 33.
[72] *Deutscher Juristinnenbund*, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), (2024), p. 6; *Arbeitnehmerkammer Bremen*, Kammer Fokus- Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz: Handlungsmöglichkeiten und Handlungsbedarfe (2025), p.8; *Götz, Isphording, Jessen, Wolter:* Sexuelle Belästigung am Arbeitsplatz: Zwei von zehn Beschäftigten berichten von Vorfällen im eigenen Arbeitsumfeld (2025) p. 2; *Federal Anti-Discrimination Agency*, Guide to the General Equal Treatment Act https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/EN/publikationen/agg_wegweiser_engl_guide_to_the_general_equal_treatment_act.pdf?__blob=publicationFile (last visited 04 March 2026).
[73] *Rotwang Law,* Workplace bullying: The complete guide for victims and companies (2025*)* https://rotwang-law.de/en/mobbing-am-arbeitsplatz-der-komplette-leitfaden-fur-betroffene-und-unternehmen/ *(last visited 04 March).*

(such as tax advisers, auditors, tradespersons, or commercial agents), corporate officers, or managerial staff.Overall, the broad personal scope of § 75 BetrVG largely, though not entirely, corresponds to Article 2 of the Convention.[74]

V. Self-employed and managers

Self-employed persons must arrange their own insurance coverage. Coverage is primarily provided by general civil and criminal law standards.[75] It includes personal accident, liability and specialized business interruption policies to address medical expenses and lost income, which is often managed through standalone workplace violence policies. Managers in general are covered through mandatory statutory accident insurance and the Occupational Safety and Health Act (ArbSchG).[76]

Section III: Employer's Preventive Responsibilities

I. General framework

There are numerous legal sources in German law that affected parties and those responsible within the company can refer to when violence and harassment take place. The two most important legal texts for this are the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG) and the Occupational Safety and Health Act (Arbeitsschutzgesetz, ArbSchG). First, the key legal requirements will be outlined, followed by a discussion of what employers can and must do. In addition, preventive measures will be listed, along with an overview of what already exists in Germany.

AGG in general includes protection against sexual harassment and goes beyond the general regulations of the Civil code.[77] According to § 12 AGG, employers must take "the necessary measures to protect against discrimination" and train their employees, point out inadmissibility of discrimination within the meaning of AGG, and work to ensure that such discrimination does not occur, § 12 para. 2 AGG.[78] If employees violate the prohibition of discrimination, the employer must take appropriate, necessary,

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[74] [illegible] setzung in deutsches Recht, p. 21.

[75] [illegible] walt und Belästigung in der Ar- [illegible], p. 4; *Federal Anti-Discrimination Agency,* Guide to the General Equal Treatment Act https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/EN/publikationen/agg_wegweiser_engl_guide_to_the_general_equal_treatment_act.pdf?__blob=publicationFile , p. 16 (last visited 04 March 2026).

[76] *Federal Anti-Discrimination Agency*, Employer obligations, https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/work-life/obligations-of-employers/obligations-of-employers.html (last vidited 21 February 2026).

[77] MHdB ArbR/ Oetker § 15 Rn. 5.

[78] *Federal Anti-Discrimination Agency*, Guide to the General Equal Treatment Act https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/EN/publikationen/agg_wegweiser_engl_guide_to_the_general_equal_treatment_act.pdf?__blob=publicationFile (last visited 04 March 2026).

and reasonable measures in the individual case to prevent further discrimination, such as issuing a warning or transferring, reassigning, or dismissing the employee (§ 12 para. 3 AGG).

It is necessary to establish a complaints office and make it known in the company, § 12 para. 5 AGG, § 13 para. 1 AGG.[79] The complaint office receives complaints on behalf of employers. It examines the complaint comprehensively, transparently, and objectively, and informs the complainant of the outcome. It recommends measures to employers in response to the discrimination and to prevent future discrimination and documents the complaint and its handling.[80]

The employer must provide victims with information and training on identified hazards and risks of violence and harassment. This includes prevention and protection measures, also on existing rights and obligations.[81] §§ 3, 4, 5 ArbSchG obliges employers to organize work in such a way that risks to life and physical and mental health are avoided as far as possible.[82] § 3 ArbSchG as the central norm is specialised by other obligatory measures. Furthermore, § 4 ArbSchG determines the standards, the other measures must be based on. Employers need to know what hazards exist to take suitable protective measures. § 5 para. 1 ArbSchG obliges them to conduct a risk assessment for each workplace. Since a hazard can arise from a wide variety of situations, § 5 para. 3 ArbSchG lists some examples of sources of danger, whereby § 3 no. 6 also includes psychological stress. §§ 3, 5 ArbSchG in conjunction with the Arbeitsstättenverordnung (Ordinance on Workplaces) fulfill the general requirement of Article 9 ILO – Convention No. 190 for "appropriate steps" and of specific measures in Article 9 lit. a), b) and c).[83]

The employer's duties to prevent, report and record workplace violence can be used for the assessment, while the most common procedure in occupational safety is risk matrix. The risk is classified according to probability of occurrence and the severity of the damage. If the probability of occurrence and severity of damage is low, the risk is also low and no action is required. If high probability of occurrence is identified and serious damage or even fatal injuries may occur, the risk is high and need for action[84].

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[79] *Arbeitnehmerkammer Bremen*, Kammer Fokus- Schutz vor sexualisierter Gewalt und Belästigung am Arbeitsplatz: Handlungsmöglichkeiten und Handlungsbedarfe (2025), p.8-9; *DGB*, Sexualisierte Belästigung am Arbeitsplatz verhindern*! (*2023) p. 16.

[80] *Federal Anti-Discrimination Agency*, Was Tun bei sexueller Belästigung am Arbeitsplatz? (2025) p. 35.

[81] *Deutscher Juristinnenbund*, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190)*,* 2024, p. 7.

[82] *Grunschild*, Gewalt am Arbeitsplatz- Neue Pflichten für den Schutz Ihrer Beschäftigten wirksam umsetzen*,* https://grunschild.de/de/ratgeber/gewalt-arbeitsplatz *(*last visited 04 March 2026); *Deutscher* Bundestag, WD 6 - 3000 - 074/23, p. 7.

[83] *Kocher,* Anforderungen bei einer Umsetzung in deutsches Recht- Rechtswissenschaftliches Gutachten (2024*)*, p. 25; *Kocher*, ILO Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work and Recommendation No. 206 (2023), p. 9.

[84]*Federal Anti-Discrimination Agency*, Employer obligations, https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/work-life/obligations-of-employers/obligations-of-employers.html (last visited 21 February 2026).

The civil law duty of care under employment contracts (derived from § 618 BGB) entails an obligation to protect employees from violence and harassment by colleagues, supervisors, customers, or third parties and to intervene in the event of incidents.[85]

Disparities exist in German legal protections and remedies for workplace violence and harassment, as General Equal Treatment Act (AGG) protects against discrimination based on protected characteristics, while general workplace bullying is not covered unless it's tied to a protected trait. Victims in either case can pursue claims for damages or have their employer ordered to cease the behaviour, but the process and available remedies can differ.[86]

II. Preventative responsibilities in detail

Employers are only required to identify and implement appropriate measures to prevent hazards that are 'work-related'. This requires both an internal and external connection to the work activity, which determines whether the ArbSchG applies in the usual manner.[87]

Especially regulated in "ArbSchG", "AGG" (prohibition of discrimination), "NachwG", BetrVG and GewO. The Written Notice Act (NachwG) stipulates that employers are legally required to provide employees with a written statement setting forth the essential terms of the employment contract between the two parties. The Trade Regulation Act (GewO) defines the scope of freedom of trade and imposes certain restrictions on it. What the Works Constitution Act (BetrVG) contains is described in No. 1. According to Article 4 I ILO- Convention No. 190 there is a right to a workplace free from violence and abuse. Article 10 ILO-Convention No. 190 contains two different obligations: it provides legal requirements for monitoring and access to complaint, but also legal protection and redress for persons concerned[88]. There are several different laws in Germany that open an avenue for complaints in case of harassment in the workplace. While measures such as the obligation for companies to install complaints mechanisms and appoint a women's affairs or equal opportunities officer or the system of workers' councils and union representation have proven somewhat effective in supporting persons who are the target of discriminatory or harassing acts, the structures are often opaque and underused[89]. No. 16 of the Recommendation mentions minimum standards for mechanisms of dispute

[85] *DGB*, Gewalt am Arbeitsplatz, https://www.dgb.de/service/ratgeber/gewalt-am-arbeitsplatz/ (last visited 04 March 2026).
[86] *Federal Anti-Discrimination Agency*, Work Life, https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/work-life/work-life-node.html (last visited 22 February 2026).
[87] *Kocher*; Anforderungen bei einer Umsetzung in deutsches Recht Rechtswissenschaftliches Gutachten (2024), p. 25.
[88] *Deutscher Juristinnenbund*, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), 2024, p.5.
[89] *Deutscher Juristinnenbund*, Policy Paper: Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), 2024, p. 12.

resolution when it comes to sexualised violence and harassment. No. 17 names hotlines for victims or cooperation with the police, which an employer can easily arrange[90].

§ 12 para. 1 AGG contains general clause obliging employers to take necessary measures to protect against discrimination on the grounds of the characteristics mentioned[91]. In addition to information and prevention, sanctions and other measures must be taken after an incident to ensure the future protection of the person concerned. Victims can either contact external counseling and support services, complaints offices or the employer themselves[92].

The preventive measures can be found in § 3 para. 3, 4, § 7 para. 3 AGG. The German General Equal Treatment Act requires employers to take all necessary measures to ensure a safe working environment[93]. Preventive measures are comprehensive approaches such as training courses, company agreements, complaints offices (§ 13 AGG), or notices on how to deal with sexual harassment in the workplace[94].

Article 9 d ILO-Convention stipulates that employers must provide sufficient information and training on the subject for employees, which gives the employer many possibilities e.g.: he can unequivocally condemn sexual harassment at a staff meeting (silence protects). The employer could also transfer or dismiss the harasser. When selecting supervisors, consider whether they can ensure a harassment-free environment. Furthermore, arrangements of training on the subject and agreement on a works agreement with the works council, display it, and publicize it can be useful. Employers should take the problem into account when determining working hours and inform vulnerable employees appropriately[95]. Article 4 para. 1, 2 ILO-Convention No. 190 describes obligation to act in consultation with employer and employees' associations[96]. Article 10, 10b ILO-Convention No. 190 dictates easy access to appropriate and effective remedies[97]. Employers have also discretionary power[98].

[90] *Kocher*, ILO Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work and Recommendation No. 206 (2023), p. 4.
[91] MHdB ArbR/ Oetker § 17 Rn. 13; *Linde*, Sexuelle Belästigung am Arbeitsplatz (1994) p. 4; *Deutscher Bundestag,* WD 6 - 3000 - 074/23, p. 5.
[92] *Federal Anti-Discrimination Agency,* Was Tun bei sexueller Belästigung am Arbeitsplatz? (2025) p. 31.
[93] *Federal Ministry for Family Affairs*, Protection against Violence Strategy based on the Istanbul Convention (2025), p. 34.
[94] *Federal Anti-Discrimination Agency*, Was tun bei sexueller Belästigung am Arbeitsplatz? (2025) p. 28f.
[95] *Linde*, Sexuelle Belästigung am Arbeitsplatz (1994) p. 11.
[96] *Deutscher Juristinnenbund*, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), 2024, p. 5.
[97] *Deutscher Juristinnenbund*, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), 2024, p. 12.
[98] MHdB ArbR/ Oetker § 17 Rn. 16.

Informal measures are more used by German employers than preventive measures [99].

Statistics shows that 42 percent informal processes are used. An internal ombudsman or trust office is available in 34 percent of companies, and 26 percent have defined a formal complaints and disciplinary procedure. Preventive measures are barely available, only where work councils are present[100]. The policies are monitored by the employer who decides whether training measures are implanted[101]. Article 11b, c ILO- Convention No. 190 provides for comprehensive protection strategy for establishing sanctions, enforcement and monitoring measures[102].

In contrast, § 17 para. 2 AGG in conjunction with § 23 para. 3 AGG grants the works council the right to take legal action against employers who discriminate or fail to take action against discrimination[103].

The procedures for anti-discrimination and occupational health and safety (OHS) both legally mandated but typically handled as separate. Anti-discrimination laws create framework for employers to prevent and address discrimination, while OHS laws require employers to assess hazards and ensure a healthy and safe workplace, which includes psychological well-being[104].

Especially Occupational Safety and Health Authorities (§ 17 para. 1 s. 1 ArbSchG) are responsible for overseeing the procedures. Paragraph 2 gives employees the possibility to report the violence and offer effective procedures. No. 20 Recommendation No. 206 provides gender-sensitive training for employers of authority[105]. Professional associations and accident insurance funds develop binding accident prevention regulations and information brochures, advise companies, and conduct inspections within the scope of their responsibilities e.g., after workplace accidents or occupational illnesses. They offer training courses, seminars, and industry-specific prevention programs on violence, aggression, and mobbing[106].

By requiring employers to conduct risk assessments that include psychosocial hazards. It is based on assessments, employers must implement preventive measures, such as technical, organizational, and

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[99] *Götz, Isphording, Jessen, Wolter*: Sexuelle Belästigung am Arbeitsplatz: Zwei von zehn Beschäftigten berichten von Vorfällen im eigenen Arbeitsumfeld (2025) p. 2.

[100] *Götz, Isphording, Jessen, Wolter:* Sexuelle Belästigung am Arbeitsplatz: Zwei von zehn Beschäftigten berichten von Vorfällen im eigenen Arbeitsumfeld (2025) p. 7.

[101] MHdB ArbR/ Oetker § 17 Rn. 19.

[102] *Deutscher Juristinnenbund*, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), 2024, p. 5.

[103] *DGB*, Sexualisierte Belästigung am Arbeitsplatz verhindern! *(*2023) p. 16.

[104] *Federal Ministry of Labour and Social Affairs (BMAS)*, Occupational Safety and Health (2023), https://www.bmas.de/EN/Labour/Occupational-Safety-and-Health/occupational-safety-and-health.html (last visited 03 March 2026).

[105] *Deutscher Juristinnenbund*, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), 2024, p. 7; *Kocher*, ILO Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work and Recommendation No. 206 (2023), p. 9.

[106] *DGUV,* Gewalt und Belästigung in der Arbeitswelt*,* https://www.dguv.de/de/praevention/themen-a-z/gewalt-mobbing/index.jsp (last visited 04 March 2026).

personal strategies, provide information and training to employees. Specific procedures for addressing violence, bullying, and conflict resolution are also required[107].

The Joint German Occupational Safety and Health Strategy (Gemeinsame Deutsche Arbeitsschutzstrategie – GDA) coordinates cooperation between the federal government, the federal states, and the institutions of statutory accident insurance. Its purpose is to improve occupational safety and health in companies, especially through joint prevention programs, coordinated workplace inspections, and the exchange of information between occupational safety authorities and accident insurance institutions. At the heart of the GDA is the requirement to conduct a risk assessment, which also covers psychological stress caused by violence, threats, or harassment, including sexual harassment and workplace violence.[108].

The Federal Anti-Discrimination Agency serves as a point of contact for victims. Pursuant to § 27 para. 4 AGG, the Federal Anti-Discrimination Agency prepares a report on discrimination to the Bundestag every four years for the purpose of the law according to § 1 AGG[109]. Working with perpetrators can help to avert further violence and thus contribute to general safety and to protection against violence, particularly for women. The Federal Government supports the private sector and the media in their efforts to prevent gender-based violence against women. The BKM (Beauftragte der Bundesregierung für Kultur und Medien) initiated a dialogue process in the culture and media industries that addresses conditions for respectful work and how abuse of power and violence can be specifically countered. Under the moderation of the German Cultural Council, a broad alliance from the cultural and media sectors has since developed a position paper with voluntary undertakings[110]. Since February 2023, the "Together Against Sexism" alliance has brought together more than 750 organizations, companies, and public authorities from a wide range of industries to identify sexism and sexual harassment and take countermeasures[111].

§ 5 para. 1 ArbSchG contains workplace risk assessment and § 5 para. 3 No. 6 ArbSchG psychological stress as source of risk. It's recognized as work-related health risks that require employer prevention measures. It is not always classified as a formal "occupational accident" or "occupational disease," they

[107] *Kasim*, Addressing work-related gender-based violence and harassment (2025), p. 28.
[108] *Government of Germany*, Report on the Application of the Revised European Social Charter, p. 9; *GDA*, Miteinander und systematisch für gute Arbeitsgestaltung bei psychischer Belastung- Psychische Belastung in der Gefährdungsbeurteilung https://www.gda-portal.de/DE/Betriebe/Psychische-Belastungen#doc694262c285ec843c1873af6cbodyText1 (last visited 16 March 2026).
[109] *Federal Ministry for Family Affairs*, Protection against Violence Strategy based on the Istanbul Convention (2025), p. 23; *Deutscher Bundestag,* WD 6 - 3000 - 074/23*,* p. 5.
[110] *Federal Ministry for Family Affairs*, Protection against Violence Strategy based on the Istanbul Convention (2025), p. 32.
[111] *Federal Ministry for Family Affairs*, Protection against Violence Strategy based on the Istanbul Convention (2025), p. 33.

are form of work-related psychological and physical stress that employers must assess and prevent. Employer's legal duty is to assess these risks and implement preventive measures, and affected employees have rights to protection[112]. Legal obligations are necessary to establish internal procedures and structures for the prevention and handling of violence and harassment are found in regular instruction and training, de-escalation training, communication of clear behavioral standards, involvement of staff in risk assessment, which are are mandatory for employers under the ArbSchG[113]. Monitoring occupational safety is regulated in § 21 of the Occupational Safety and Health Act (ArbSchG), which is a state responsibility. § 22 ArbSchG, the federal states can order certain measures[114].

The most important measure within a company is to promote open communication. It requires sensitivity in dealing with aggression, violence, and sexual harassment, and strengthening the entire team with appropriate prevention strategies. There must be opportunities to express suggestions for improvement. Those responsible must be obliged to discuss the issue of violence with employees on a regular basis and to raise their awareness of it. Firms should establish discussion forums and round tables to address difficult situations and jointly seek ways of alleviating them and finding solutions. Appoint specially trained employees as contact persons. Arrange regular team meetings and, as an employer, take a clear stance on dealing with violence, aggression, and sexual harassment. Employees need to know that they do not have to tolerate aggressive or violent behavior or sexual harassment. Clear instructions must be provided on how to deal with violence and aggression, and clear boundaries must be defined for inappropriate retaliation. Employees must be instructed in protective measures and carry out drills in accordance with the emergency plan. Consistent action must be taken after incidents by reporting them to the authorities or terminating employment[115].
Any incident of violence is considered a workplace accident if it causes physical or psychological injury. If the victim is unable to work for more than three days, the company must report the incident to the relevant accident insurance fund or employers' liability insurance association as a workplace accident. It is advisable to report an incident of violence by filing an accident report even if the employee is not immediately unable to work but you suspect that they may need support in coming to terms with the

[112] *Kocher, Wulfen*, Reframing Harassment as Occupational Safety and Health Issue, 2024, https://verfassungsblog.de/ilo-convention-no-190-violence-harassment/ (last visited 03 March 2026); *Götz, Isphording, Jessen, Wolter*: Sexuelle Belästigung am Arbeitsplatz: Zwei von zehn Beschäftigten berichten von Vorfällen im eigenen Arbeitsumfeld (2025) p. 7 https://doi.org/10.48720/IAB.KB.2509 (last visited on 03 march 2026).

[113] *Grunschild*, Gewalt am Arbeitsplatz- Neue Pflichten für den Schutz Ihrer Beschäftigten wirksam umsetzen, https://grunschild.de/de/ratgeber/gewalt-arbeitsplatz *(last visited 04 March 2026); DGUV,* Gewalt und Belästigung in der Arbeitswel*t,* https://www.dguv.de/de/praevention/themen-a-z/gewalt-mobbing/index.jsp *(last visited 04 March 2026).*

[114] *Deutscher Bundestag* WD 6 - 3000 - 074/23, p. 7.

[115] *DGUV*, Prävention von Gewalt und Aggression gegen Beschäftigte im Gesundheitsdienst und in der Wohlfahrtspflege *(*2018) p. 16.

experience. The psychological trauma that such an incident can cause is often underestimated. The damage to health only becomes apparent later and the inability to work occurs with a delay[116].

The event must result in injury or death whereby the term 'injury' also includes damage to, or loss of, medical aids or appliances. It must be sudden and unforeseen and by insured activity. It must be caused by external factors[117].

The federal states are also responsible for investigations and prosecution, as well as training and organizing the police, which can lead to differences within Germany. Effective, easy access to justice for all victims of violence who are affected by discrimination should be guaranteed nationwide. This requires concepts and training, especially in dealing with witnesses with mental impairments and disabilities. The difficulties and barriers in communication are problematic in this regard. Currently, not all federal states in Germany offer the option of reporting a crime to the police online or uploading digital evidence. Awareness-raising measures and training are essential for all relevant professional groups in the criminal justice system. The application and effectiveness of used measures should also be regularly documented, considering the perspective of the victims[118].

[116] *DGUV*, Prävention von Gewalt und Aggression gegen Beschäftigte im Gesundheitsdienst und in der Wohlfahrtspflege *(*2018) p. 26.

[117] *Kocher, Wulfen*, Reframing Harassment as Occupational Safety and Health Issue*,* 2024, https://verfassungsblog.de/ilo-convention-no-190-violence-harassment/ (last visited 03 March 2026); *Federal Ministry of Labour and Social Affairs (BMAS),* Occupational Safety and Health (2023), https://www.bmas.de/EN/Labour/Occupational-Safety-and-Health/occupational-safety-and-health.html (last visited 03 March 2026).

[118] *Federal Ministry for Family Affairs*, Protection against Violence Strategy based on the Istanbul Convention (2025), p. 58 f.

Section IV: Protection, Remedies, and Confidentiality

In case preventive mechanisms are lacking or insufficient to protect employees from abuse, they can use a number of different legal paths to demand protection, claim remedies or initiate sanctions against their employers and third party actors. In the German legal system, these are spread out over a number of different legal codes, ranging from criminal and administrative to civil and anti-discrimination law.

I. Forms of Protection Available to Victims of Workplace Violence and Harassment

In Germany, workers' rights are protected by the Act on the Implementation of Measures of Occupational Safety and Health to Encourage Improvements in the Safety and Health Protection of Workers at Work (Arbeitsschutzgesetz – ArbSchG) as well as a number of anti-discrimination regulations.

1. Anti-discrimination regulations

In the private sector, the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz – AGG) protects workers from discrimination and obliges employers to implement safeguards and preventive measures. Pursuant to § 24 of the AGG, this law also applies to employees in the public sector, subject to additional requirements deriving from their specific legal status.

While the AGG is a federal law that provides a national framework, individual Bundesländer have also implemented their own anti-discrimination legislation applicable to public sector employees[119].

The AGG defines harassment and sexual harassment in § 3 para. 3 and 4. Where such misconduct occurs in connection to one of the grounds for discrimination laid out in § 1 of the AGG, namely race or ethnic origin, gender, religion or belief, disability, age or sexual orientation it represents a discrimination within the meaning of § 3 AGG.

§ 7 AGG prohibits any discrimination of an employee based on these grounds. Pursuant to § 7 para. 3 AGG, such discrimination constitutes a breach of contractual obligations by the employer or the employee concerned.

2. Occupational Safety and Health (OSH) regulations

Under the OSH regulations (Arbeitschutzgesetz – ArbSchG), the employer is obliged to take the necessary measures of occupational health and safety to protect the safety and health of workers at work (§ 3 para. 1 ArbSchG). This includes the protection against both physical and psychological hazards[120].

[119] BUG, LGGs, https://www.bug-ev.org/themen/schwerpunkte/dossiers/positive-massnahmen/positive-massnahmen-in-deutschland/positive-massnahmen-fuer-spezifische-personengruppen/positive-massnahmen-aufgrund-des-geschlechts/bundesgleichstellungsgesetz/lggs

[120] Deutscher Juristinnenbund, Umsetzung des ILO-Übereinkommens gegen Gewalt und Belästigung in der Arbeitswelt (Nr. 190), (2024), p. 2

II. Employers' obligations

1. Anti-discrimination regulations

According to § 12 para. 1 AGG employers must take the necessary measures to ensure effective protection against discrimination. This means that they have to take preventive measures as well as react appropriately in cases in which discrimination occurs. Possible actions in cases of discrimination and harassment include issuing a formal warning, transferring the perpetrator within the company, or — in severe cases — terminating the employment relationship, with or without notice[121]. The required action depends on the severity of the violation[122]. German civil law differentiates between regular terminations and terminations without notice for a compelling reason. While the regular notice period is four weeks pursuant to § 622 para. 1 BGB, the required length of the notice period increases with the duration of the employment relationship, § 622 para. 2, 624 BGB. The law includes exceptions from this rule during the probationary period as well as under collective agreements and individual contracts. Pursuant to § 626 para. 1 BGB, the service relationship may be terminated by either party to the contract for a compelling reason without observing a period of notice if facts are given on the basis of which, having considered all circumstances of the individual case and weighed the interests of both parties to the contract against each other, the party giving notice cannot reasonably be required to continue the service relationship until the end of the notice period or the agreed end of the service relationship. The notice of termination must be given within two weeks of the date at which the terminating party gained knowledge of the facts relevant to the notice of termination and contain the reason for termination. Companies with more than 10 employees fall under the Termination Protection Act (Kündigungsschutzgesetz – KSchG). The KSchG protects employees from socially unjustified terminations. A termination is only socially justified and therefore legal, if it is based in the employee's behaviour or person or on urgent needs of the company. A termination based on the behaviour of the employee is feasible if the employee is culpable of violating their contractual obligations stemming from the employment contract. A behaviour-based termination generally requires a previous warning by the employer.

Pursuant to § 7 para. 1 AGG, employees are not permitted to suffer discrimination on any grounds referred to in § 1 of the Act, namely race or ethnic origin, gender, religion or belief, disability, age or sexual orientation. Pursuant to § 7 para. 3 AGG, any such discrimination by the employer or their employees is deemed a violation of their contractual obligations. Therefore, in severe cases especially regarding sexual harassment, such discrimination may be a sufficient reason for a termination without of the employment contract of an employee discriminating against their colleagues pursuant to § 626

[121] Brandkamp/Horn, Bedrohungsmanagement, (2025), pp. 49 f.
[122] Schlachter/Ulber, in: Erfurter Kommentar zum Arbeitsrecht (26th Ed., 2026), § 12 AGG para. 3)

para. 1 of the Civil Code[123]. The dismissal can be based in the overwhelming suspicion that a violation has occurred, but the employer has to inform the dismissed employee of the exact reasons for the dismissal[124].

Employers are furthermore required to establish an internal complaints body. The obligation to prevent and address discrimination also applies in cases in which employees are discriminated against by third parties (§ 12 para. 4 AGG). Moreover, the employer is required to react appropriately and prevent further discrimination in cases in which an employee violate the prohibition of discrimination under § 7 para. 1 AGG.

2. OSH regulations (ArbSchG)

The focus of German OSH law is preventive rather than reactive (see above). Under ArbSchG, the employer's duty to act is not contingent upon a prior complaint by an employee. Rather, the employer has to act proactively by assessing the conditions of work in the workplace based on the criteria set out in § 5 ArbSchG and implementing the necessary protective measures.

Accordingly, ArbSchG requires employers to address violence and harassment through occupational safety and health instruments. In practice, this preventive obligation is often not sufficiently fulfilled, particularly with regard to protection against violence and sexual harassment in the workplace[125]. Pursuant to § 3 para. 1 ArbSch G, the employer is obliged to regularly evaluate the preventive measures and adapt them where necessary in order to ensure the safety and health of their employees.

3. General civil law

An ancillary obligation of the employer stemming from the employment contract is the protection of the employees' safety, well-being and the protection of their rights, including the right to privacy and protection of personality rights[126]. Pursuant to § 611a in conjunction with § 241 para. 2 of the Civil Code as well as § 618 of the Civil Code, the employer has a duty of care which encompasses the creation of a safe work environment.

[123] Ahrendt, in: Schaub et al (Ed.), Arbeitsrechts-Handbuch (2025), § 36 Allgemeines Gleichbehandlungsgesetz und Mobbing, para. 46; Hördt, ArbRAktuell (2024), pp. 428-432 (428 ff.); Sartorius/Winkler, in: Bieresborn/Schafhausen (Ed.), Münchner Anwaltshandbuch Sozialrecht (6th Ed. 2024), § 13 Arbeitslosengeld, para. 234.
[124] Gravenhorst, NZA (2023), pp. 1425-1433 (1425)
[125] Von Wulfen/Kocher, *Reframing Harassment as Occupational Safety and Health Issue (*2024) https://verfassungsblog.de/ilo-convention-no-190-violence-harassment/
[126] Preis, in: Erfurter Kommentar zum Arbeitsrecht (26th Ed., 2026), § 611a BGB Arbeitsvertrag, para. 712.

III. Employees' rights and legal remedies

1. Criminal Law

Victims of workplace violence and harassment are entitled to lodge a criminal complaint with the police. In cases where they have suffered physical harm, threats, or coercion, perpetrators may be charged and sentenced to fines or time in prison.

The German criminal law system is based on a set of basic principles. The process is guided by the prosecution, which pursuant to § 152 of the German Code of Criminal Procedure (Strafprozessordnung – StPO) is both entitled and also obliged to intervene if they are informed of a criminal offence. The police assists the prosecution in their work. Moreover, pursuant to § 160 StPO, the prosecution is required to investigate the circumstances – both incriminating and exonerating – of an alleged criminal offence.

The Criminal Code exempts a number of offences from this general obligation to investigate. If the law requires the aggrieved person's request to prosecute (absolutes Antragsdelikt), proceedings may only be opened if such a request is submitted within the deadline. Other § of the Criminal Code generally require a request, but the prosecution is allowed to open proceedings without the aggrieved person's request if there is a special public interest in the prosecution (relatives Antragsdelikt).

If there are sufficient factual indications that a criminal offence has occurred, the prosecution is authorised to bring public charges (§ 152 StPO). If there is no sufficient evidence or the alleged offence is a petty or a less serious offence, the prosecution can opt for non-prosecution pursuant to § 153 ff. StPO. Once the charges are brought, the criminal procedure moves before a court of competent jurisdiction. The judge confirms that there is sufficient evidence and opens the public proceedings against the perpetrator. The court schedules public court hearings (for exceptions from this rule see below).

The aggrieved person is entitled to join the prosecution as a private accessory prosecutor under § 395 StPO. This position provides more options to actively influence the proceedings than the position of a regular witness.

If the perpetrator is found guilty, the aggrieved person may bring a civil claim against the perpetrator before the criminal court or the civil court. An assertion of rights in adhesion proceedings pursuant to § 403 StPO has the significant advantage that the facts of the case have already been asserted, no further hearings need to be conducted and this procedure is cost- and time-saving. Additionally, victims of violent crimes who suffered physical or psychological damage are entitled to social compensation by the state pursuant to § 4 in conjunction with § 13 of the Social Code Book 14 (Sozialgesetzbuch 14 – SGB XIV). This may encompass the benefits and services laid out in § 3 SGB XIV, among others

compensation payments pursuant to Chapter 9 of the Book, trauma outpatient clinic services pursuant to §s 31 following, and medical treatment pursuant to Chapter 5 SGB XIV.

The following offences might be committed in cases of workplace violence:

- If violence, harassment or sexual harassment results in bodily injury, the perpetrator may be punishable under §s 223 ff. of the German Criminal Code (Strafgesetzbuch – StGB). This applies both in cases where the harm was caused intentionally (§ 223 StGB) or negligently (§ 229 StGB). If there is no direct physical injury and the bodily harm results from the psychological harm caused by the act, a criminal complaint is only successful if the reaction to the psychological pressure is significant. This usually requires severe somatic symptoms such as shaking or severe shortness of breath . While attempted intentional causing of bodily harm is punishable pursuant to § 223 para. 2 StGB, negligent acts can't be attempted under German criminal law. § 224 ff. StGB list a number of severe cases of bodily harm which carry stricter sentences. While § 223 and 229 StGB require a request for prosecution or special public interest, this does not apply to the more severe forms of bodily harm in § 224 ff. StGB.
- § 240 StGB criminalizes coercion. This requires intent. Coercive behaviour is punishable where the perpetrator compels a person by force or threat of serious harm to do, acquiesce to or refrain from an act. The precise scope of the concept of "force" (Gewalt) remains subject to legal debate in case law and scholarship. Coercion – both completed and attempted – is only punishable if the perpetrator acted intentionally.
- Stalking is criminalised under § 238 StGB. The legal definition includes actions such as repeatedly seeking the other person's attention, trying to establish contact, interfering with their data, threatening them or someone close to them, illegally recording them or someone close to them, disseminating such pictures or other content and comparable acts. These actions have to be committed repeatedly, without authorisation and have to be suited to affect the life of the victim significantly. A harsher punishment is possible for more severe cases listed in § 238 para. 2 StGB
- § 177 criminalises sexual assault and rape. It requires the perpetrator to commit a sexual act against the expressed will of the affected person. A sexual act as defined in § 184h StGB requires a sexual dimension based on the outward appearance of the act. A sexual motivation of the perpetrator is not generally required[127]. The sexual act has to be relevant and committed against the identifiably opposing will of the affected person. Attempted assault and rape are also covered pursuant to § 177 para. 3 StGB.
- The German Criminal Code (StGB) also criminalizes sexual harassment, though according to § 184i para. 1 StGB, sexual harassment requires a physical act of sexual touching, thus creating a legal loophole for other types of sexual harassment. Pursuant to § 184i para. 3 StGB, sexual harassment is only prosecuted upon request or in cases of special public interest.
  Compared to § 184i para. 1 StGB, the definition of sexual harassment in anti-discrimination regulations, e.g. in § 3 para. 4 AGG is much broader, meaning that a person affected by sexual harassment in the workplace may be entitled to intervention from their employer as well as compensation under AGG rules even in cases in which no criminal offence has been committed according to the Criminal Code.
- If the perpetrator violates a person's privacy and rights of personality by recording them, taking pictures of them, or opening their correspondence, this can constitute a criminal offence under § 201 ff. StGB. If these pictures depict intimate parts of the body which are protected

[127] Eisele, in: Tübinger Kommentar zum Strafgesetzbuch (31st Ed. 2025), § 184h StGB, para. 6 ff.

from view, this constitutes a sexual violation under § 184k StGB. These offences can be prosecuted upon request or in cases of special public interest.

- Insult (§ 185 StGB), malicious gossip (§ 186 StGB) and defamation (§ 187 StGB) are also criminal acts that usually carry a fine, in severe cases they can also result in a prison sentence. The differentiation depends on the exact content of the statement and the audience. These offences can only be prosecuted upon the aggrieved person's request (§ 194 para. 1 StGB)
- Moreover, criminal damage (§ 303 StGB) and data manipulation (§ 303a StGB) are common offenses especially in bullying cases. § 303 and 303a StGB require a request for prosecution or special public interest.

Depending on the § violated by the action, the Criminal Court can sentence the defendant to payment of a fine or a prison sentence.

2. General Civil Law and Contract Law

If workplace violence occurs, the aggrieved person may file a civil lawsuit. As opposed to criminal lawsuits, the court does not conduct any independent investigations in these procedures. The parties are obliged to provide evidence for their claims[128]. This increases the obstacles for affected persons to enforce their rights, especially in cases where with a power imbalance between the parties or very few material pieces of evidence apart from their own witness statement.

Pursuant to § 241 para. 2 of the German Civil Code (BGB), the parties of a contractual relationship are obliged to respect the "rights, legal interests and other interests of the other party". This also includes the health, physical integrity and constitutional rights. Pursuant to § 611a in conjunction with § 241 para. 2 of the Civil Code, the employee may be entitled to compensation if the employer does not comply with their duty of care during the execution of the contract. This might be the case if the employer does not ensure the safety of the employee in the workplace[129]. The individual obligations of the employer are specified in other laws such as the Equal Treatment Act or the Ordinance on Workplaces (Arbeitsstättenverordnung – ArbStättVO). Therefore, the Civil Code provides compensation claims for violence and harassment even without a explicit clause, both in general contractual settings and in work settings. Even if the harassment is not enacted by the employer themselves but a colleague, the employer can be held liable if they failed to comply with their protective duties as well as for misconduct of their employees pursuant to § 278 para. 1 of the Civil Code if the misconduct occurred in close connection with the assigned task of the colleague. This is especially the case if the perpetrator is tasked with ensuring the safety of the affected person or exercise authority on behalf of the employer[130]. For work settings, these compensation claims have been laid out more concretely in anti-

[128] Preis, in: Erfurter Kommentar zum Arbeitsrecht (26th Ed., 2026), § 611a BGB Arbeitsvertrag, para. 713; Bettinghausen, NJOZ (2023), pp. 65-69 (67); Muthorst, in Mangold/Payandeh (Ed.), Handbuch Antidiskriminierungsrecht (Mohr Siebeck, 2022), § 19 Beweisrecht, pp. 804-834, para. 4 ff.
[129] Bettinghausen, NJOZ (2023), pp. 65-69 (66); Göpfert/Stöckert, CCZ (2022), pp. 382-388 (385)
[130] Bettinghausen, NJOZ (2023), pp. 65-69 (67)

discrimination regulations such as the AGG (see below). Pursuant to § 7 para. 3 of the Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz – AGG), any discrimination within the meaning of the AGG by an employer or employee is deemed to be a violation of their contractual obligations. In cases in which the AGG does not cover the specific situation, claimants can fall back on § 241 para. 2 BGB. This has most commonly been applied in cases relating to bullying[131].

Compensation claims based on violation of the provisions of the work contract against the employer may be filed pursuant to § 280 para. 1 in conjunction with § 241 para. 2 BGB. If damages are awarded, the state that existed before the contractual violation has to be reinstated (e.g. by financial compensation) pursuant to § 249 ff. BGB. Immaterial damages may be covered under the conditions of § 253 para. 2 BGB.

Besides contractual law, torts law will be applicable in most cases of workplace violence. The central norm in German torts law, § 823 para. 1 BGB provides that damages can be awarded for any illegal action targeted at the life, body, health, freedom, property or other right. This especially includes personality rights (§ 823 para. 1 BGB in conjunction with Art. 1 para. 1, Art. 2 para. 1 of the Basic Law (Grundgesetz – GG)[132]. Pursuant to § 823 para. 2 BGB, aggrieved persons can be awarded damages if a law intended for their protection (eg OSH regulations or criminal law) from harm has been violated and this has resulted in damage[133]. § 825 BGB contains a specific claim for damages related to sexualised acts. Pursuant to § 826 BGB, a person who, in a manner offending common decency, intentionally inflicts damage on another person is liable to the other person to provide compensation for the damage. While these claims may be applicable parallel to contractual claims in cases of rights violations by the employer, for claims against colleagues or third party actors they will often be the only available option. In cases of misconduct by colleagues or third party actors, this conduct might be attributed to the employer in cases of organisational fault pursuant to §s 823 para. 1 or 831 of the Civil Code[134]. Moreover, violations by other employees may be attributed to the employer pursuant to § 31 or 278 BGB, especially in cases in which the perpetrator is a supervisor or enacting the harassment in close connection with their assigned tasks[135].

Depending on the damage caused, employees are able to claim material compensation pursuant to the specific claims detailed above in conjunction with § 249 BGB – meaning a compensation of the financial damage caused, eg repair costs, replacement costs, healing treatment cost – or immaterial

[131] Kocher, Eva/Schwartzer, Miriam/von Wulfen, Vanessa, Die ILO- Konvention Nr. 190 über die Beseitigung von Gewalt und Belästigung in der Arbeitswelt und die Empfehlung Nr. 206, p. 10
[132] Preis, in: Erfurter Kommentar zum Arbeitsrecht (26th Ed., 2026), § 611a BGB Arbeitsvertrag, para. 713.
[133] Bettinghausen, NJOZ (2023), pp. 65-69 (67)
[134] Bettinghausen, NJOZ (2023), pp. 65-69 (67)
[135] Preis, in: Erfurter Kommentar zum Arbeitsrecht (26th Ed., 2026), § 611a BGB Arbeitsvertrag, para. 716; Mengel, in Mengel (Ed.), Compliance und Arbeitsrecht (2nd Ed. 2022), § 6 Persönlichkeitsschutz, para. 32.

compensation pursuant to § 253 BGB – meaning a compensation for pain of other non-material damages. Due to the often severe psychological effects of harassment and violence in the workplace, a claim for compensation of immaterial damages is more likely to occur especially in cases of sexual harassment[136].

Moreover, the employee can demand the remediation of persisting discrimination by the employer pursuant to § 12 para. 3 AGG or based on the principle of good faith pursuant to § 242 BGB. The exact measure taken are up to the discretion of the employer. The employee is not entitled to demand a specific kind of resolution if there are different applicable option[137].

If the employees safety is severely at risk and the employer doesn't react appropriately, the employee has the option of terminating the work contract without notice for a compelling reason (§ 626 BGB). The employee is entitled to partial remuneration pursuant to § 628 para. 1 BGB, if the termination was prompted by conduct in breach of contract by the other party. In this case, there is also an option for compensation of damages pursuant to § 628 para. 2 BGB.

3. Anti-discrimination legislation

Employers are obliged to protect their employees against discrimination (see above).

If discriminatory incidents occur, employees have the right to complain to the competent body pursuant to § 13 AGG. As opposed to regulations in the field of criminal law, anti-discrimination law does not require any intention to discriminate. A discrimination within the meaning of the AGG occurs if an action has a discriminatory effect rather than expressed motive[138]. Where an employer fails to take suitable action to stop harassment or sexual harassment in the workplace, the affected employees have the right to refuse performance to the extent necessary for their own protection (§ 14 AGG).

In cases of discrimination, employees are entitled to compensation under § 15 AGG. The claim has to be submitted within 2 months after the discriminatory event (§ 15 para. 4 AGG). A lawsuit has to be filed in front of the competent civil court within 3 months after the claim has been submitted (§ 61b para. 1 of the Code on Employment Court Procedure (Arbeitsgerichtsgesetz – ArbGG). Pursuant to § 15 para. 1 AGG, an employee may file a compensation claim against the employer regarding material damages. This may be granted depending on the responsibility of the employer for the material damages. Additionally, employees may bring compensation claims against the employer regarding immaterial

[136] Mengel, in Mengel (Ed.), Compliance und Arbeitsrecht (2022), § 6 Persönlichkeitsschutz, para. 32.
[137] Preis, in: Erfurter Kommentar zum Arbeitsrecht (26th Ed., 2026), § 611a BGB Arbeitsvertrag, para. 716.
[138] Ahrendt, in: Schaub et al (Ed.), Arbeitsrechts-Handbuch (2025), § 36 Allgemeines Gleichbehandlungsgesetz und Mobbing, para. 45, 47.

damages pursuant to § 15 para. 2 AGG, which may be granted regardless of the responsibility of the employer.

While the burden of proof falls on the employee when compensation claims are brought under general civil law, § 22 AGG lessens the requirements regarding the required evidence. Claimants can provide evidence that indicates rather that proves with certainty that a discriminatory act occurred. If they are able to prove such indices, the employer in turn is required to provide proof that no discriminatory act occurred.

Violations by third-party individuals may be attributed to the employer pursuant to §s 31 and 278 of the German Civil Code (Bürgerliches Gesetzbuch – BGB).

If employees assert their AGG rights, any retaliations are prohibited according to § 16 AGG (see below).

Not only the federal state, but also individual states have implemented a number of anti-discrimination laws with differing scopes.

Berlin is currently the only state that has an anti-discrimination law covering administrative actions. The State Anti-Discrimination Act (Landesantidiskriminierungsgesetz – LADG) protects against discrimination by state authorities and state-owned companies. It does not cover employment or civil law.

Since the 1990s, all states have also implemented Equal Opportunities Laws aimed at public employees[139]. While some state-antidiscrimination laws targeted at employees in the public sector include prohibitions of discriminatory and harassing conduct (eg § 12 of the Berlin State Equal Opportunities Act that states that defines sexual harassment as a discrimination and a violation of duty or § 20 if the Saarland Equal Opportunities Act that obliges the employer to prevent sexual harassment in the workplace, imposes reporting guidelines and requires supervisors and offices to react appropriately to reports of such harassment), they do not entitle employees to compensation or other legal remedies beyond prevention measures by the employer.

4. OSH regulations

Workers are entitled to sue their employers for an assessment of work-related hazards pursuant to § 5 para. 1 ArbSchG in conjunction with § 618 of the Civil Code.

[139] A full list can be found at https://www.bug-ev.org/themen/schwerpunkte/dossiers/positive-massnahmen/positive-massnahmen-in-deutschland/positive-massnahmen-fuer-spezifische-personengruppen/positive-massnahmen-aufgrund-des-geschlechts/bundesgleichstellungsgesetz/lggs, last accessed 05.01.2026

The protection remains insufficient in most cases since health hazards related to mobbing and harassment are often not considered relevant by employers. Especially gendered aspects of occupational health and safety regularly remain unexamined[140].

While employees can report their employers for failure to adhere to OSH guidelines pursuant to § 17 ArbSchG, there is no individual legal remedy in the ArbSchG. Certain violations of the ArbschG carry fines and criminal penalties, but these can't be claimed by individual employees.

5. Workers Constitution Act

§ 75 of the Workers Constitution Act (Betriebsverfassungsgesetz – BetrVG) obliges Work Councils as well as employers to ensure that there is no discrimination of persons currently working in the company, regardless of employment status[141]. This does not require a specific complaint by an individual employee. Pursuant to § 89 BetrVG a Work Council has to get active to ensure OSH guidelines are followed.

Pursuant to § 84 BetrVG, workers are entitled to lodge a complaint with the competent body within the company if they have been discriminated against, treated unfairly or otherwise put at a disadvantage by the employer or other employees. The employee may call on a member of the works council for assistance or mediation. The employer is obliged to inform the employee about the steps taken to, whether they consider the complaint justified, and to remedy the grievance pursuant to § 84 para. 2 BetrVG.

Moreover, the employee may complain to the works council pursuant to § 85 BetrVG. The work council is obliged to review the complaint and – if they consider the complaint justified – to petition the employer to resolve the complaint. In severe cases, the work council may demand that the employer reassign or dismiss the perpetrator, § 104 s. 1 BetrVG

As detailed in § VI on the role of third parties (see below),these regulations lead to better protection for employees in companies that fall under the Workers Constitution Act.

IV. Protection from retaliation

Since 2023, employees reporting misconduct within the work environment have been protected under the Act for Better Protection of Whistleblowers (Hinweisgeberschutzgesetz – HinSchG), which also prohibits retaliations against individuals reporting misconduct and places the burden of proof that any

[140] European Agency for Safety and Health at Work, Gender issues in safety and health at work, (2003), https://osha.europa.eu/sites/default/files/TE5103786ENC_-_Gender_issues_in_safety_and_health_at_work.pdf, pp. 62 ff.; Gümbel/Nielbock, Die Last der Stereotype, (2012)

[141] Kocher, Eva/Schwartzer, Miriam/von Wulfen, Vanessa, Die ILO- Konvention Nr. 190 über die Beseitigung von Gewalt und Belästigung in der Arbeitswelt und die Empfehlung Nr. 206, p. 21

sanctions or disadvantageous decisions are not made in retaliation for the whistleblowing on the person who took the detrimental measure, § 36 HinSchG. In cases in which retaliation occurs, the affected person is entitled to compensation for damages pursuant to § 37 HinSchG. A significant limitation of Whistleblower protection in the case of harassment in the workplace is the material scope of the HinSchG. While it covers information related to criminal actions or breaches of the law that are subject to fines, insofar as they breached provisions that serve to protect life, limb or health or the rights of employees or their representative bodies (§ 2 para. 1 No. 1 and 2 HinSchG), it does not apply to cases of discrimination that do not cross the threshold of criminal conduct. The reason for this is the fact that breaches of the Equal Treatment Act are not subject to fines[142].

Employees are protected from retaliation or termination if they exercise their legal rights, § 612a BGB. If an employee working is terminated illegally, they can file a termination protection suit under § 4 KSchG before the Labour Court. This suit has to be filed within three weeks. If an employee files a termination protection suit, they are obliged to leave the company once their regular notice period pursuant to § 622 BGB expires. If the Workers' Council refused to accept the termination pursuant to § 102 para. 3 BetrVG, or the termination is obviously illegal, the employee may continue working for the company during the court proceedings. In case the court determines the termination to violate the law, the employee may demand reinstatement as well as payment of wages as well as damages.

Pursuant to § 12 para. 1 AGG, employers are obliged to implement the necessary measures to prevent discrimination in the workplace. Harassment and sexual harassment constitute such discriminatory behaviour according to § 3 para 3 and 4 AGG.

As part of these preventative measures, employers have to install a complaint office, § 12 para. 5, § 13 para. 1 AGG. This complaint office should operate independently and provide an effective and safe way for complaints. In reality, many companies have not installed such an office. There are no legal sanctions for failure to comply with this obligation. In cases where such an office has been installed, they are often not sufficiently independent. The lack of independence from regular company structures can prevent employees from lodging complaints, especially if they feel like they might be sanctioned or their complaint might not be handled with the necessary confidentiality.

While sanctioning an employee for lodging a complaint is illegal pursuant to § 16 AGG, potential complainants often fear repercussions from employers or colleagues as well as disadvantages that might affect their career going forward. If the employer retaliates against a complainant in a case covered by AGG, the employee can not claim compensation under § 15 AGG. Rather, they have to rely on compensation claims derived from general Civil law, namely § 280 para. 1 in conjunction with § 241 para. 2 of

[142] Gravenhorst, NZA (2023), 1425-1433 (1428 f.)

the Civil Code or § 823 para. 2 of the Civil Code in conjunction with § 16 AGG. They face a reduced burden of proof, but still have to provide evidence that at least indicate that the employer has taken retaliatory action against them. Additionally, the retaliating measure is void.

If employees lodge a complaint pursuant to the Workers Constitutional Act, any sanctioning due to the complaint is also prohibited under § 84 para. 3 of the Workers Constitutional Act. Similarly, retaliation is prohibited in case of reporting by the employee to the relevant authorities pursuant to § 17 para. 2 s. 2 ArbSchG.

VI. Legal safeguards to protect the privacy and confidentiality of victims throughout the reporting and investigation process

German legal provisions on workplace safety as well as anti-discrimination regulations contain a number of prohibitions regarding retaliatory measures. These also cover communication within the company in the event of a complaint.

If a person affected by violence in the workplace files a criminal complaint, they generally have the right to join the prosecution to participate actively in the trial. This requires them to provide their personal details. But not only private accessory prosecutors are required to provide their personal details in the context of a criminal trial. Reporting a crime, especially in the personal sphere, generally requires transparency regarding the identity of the victim. There is a possibility to provide a different address (eg lawyer) while filing a report, though many criminal lawyers are hesitant to provide their address for clients' correspondence. Courts have the option and in cases concerning minors the obligation to restrict public access, especially in cases concerning minors or intimate details, in cases of sexual assault concerning minors or when there is a threat to the safety of a witness pursuant to § 48 of the Youth Courts Act – JGG) and § 171b of the Courts Constitution Act (Gerichtsverfassungsgesetz – GVG). Moreover, the court can opt to question witnesses without the presence of the accused pursuant to § 247 of the Criminal Procedure Act as well as questioning witnesses in a separate space pursuant to § 247a of the Criminal Procedure Act. In cases of sexualised violence, in a deviation from general criminal procedural law, recorded questioning (§ 58a of the Criminal Procedures Act) can be reviewed during hearings instead of a new witness statement during court proceedings to prevent secondary victimisation, § 255a Criminal Procedures Act.

VII. Workers' Right to Remove Themselves from Imminent and Serious Danger

Under § 14 AGG, employees are entitled to refuse performance without loss of pay in cases in which an employer does not take the necessary and adequate steps to stop harassment or sexual harassment

in the workplace, if this is necessary for their protection. They remain entitled to their salary during this period[143].

Under OSH regulations, the employer has to ensure, that the employee can protect themselves from dangers and remove themselves from the workplace to avoid health risks without any negative repercussions (§ 9 ArbschG).

Moreover, workers has a right to retention pursuant to § 273 BGB[144]. § 273 BGB can be claimed in cases in which the employer is culpable of disregarding their contractual obligations to ensure the safety of their employees under § 241 para. 2 BGB. An employee might be entitled to refuse service if the employer or another employee that falls under § 278 BGB endangers their health or their personality rights. The Federal Labour Court (Bundesarbeitsgericht – BAG) requires employees to inform their employers directly and clearly about the reason for refusing service and their exact demand in order for the employer to be able to respond to this demand and fulfil their contractual obligation. If the employee fails to do so they are not entitled to refuse service. In cases in which the employee fulfils this obligation and there are sufficient reasons for a refusal of service pursuant to § 273 BGB, they are not considered in breach of contract and therefore entitled to receive their salary even for the time period during which they did not work[145].

In severe cases, employees may claim a exclusion of the duty of performance pursuant to § 275 para. 3 BGB[146] if their health is endangered by hazardous work conditions[147]. If the employee refuses service under such circumstances, they are still entitled to receive their regular salary.

A significant caveat for the exercise of these rights stems from the legal uncertainty for employees. Often, it is not obvious whether they are allowed to refuse service under specific circumstances. If an employee refuses service without sufficient grounds, they may be considered in violation of their contractual obligations, incurring a warning from their employer, pay cuts or in severe cases even a behaviour-based termination of the employment contract.

[143] Gravenhorst, NZA (2023), pp. 1425-1433 (1428)
[144] Bundesarbeitsgericht Urt. v. 08.05.1996, Az.: 5 AZR 315/95
[145] Bettinghausen, NJOZ (2023), pp. 65-69 (68)
[146] Greiner, in: Erfurter Kommentar zum Arbeitsrecht (26th Ed., 2026), § 611a BGB, para. 772
[147] Kocher, Eva/Schwartzer, Miriam/von Wulfen, Vanessa, Die ILO- Konvention Nr. 190 über die Beseitigung von Gewalt und Belästigung in der Arbeitswelt und die Empfehlung Nr. 206, p. 30

Section V: Domestic, Third Party and Cyber Violence and Work Implications

I. Domestic Violence

Domestic violence is a widespread problem that can also affect the workplace, especially if the workplace is in a domestic sphere, in the home of the employee, or both parties work for the same company[148]. Art. 10 lit. (f) of the ILO Convention No. 190, in conjunction with No. 18 of the Recommendation No. 206, requires Member States to recognise the effects of domestic violence on the world of work and, where appropriate and practicable, to mitigate them.[149] Concrete approaches through which states and employers may address the effects of domestic violence on employees can be found in ILO Recommendation No. 206. Examples include:

- leave for victims of domestic violence, e.g., for medical treatment, legal proceedings, or protective measures;
- flexible work arrangements, such as adjustments to working hours or the place of work.[150]

So far, there are no explicit regulations targeting employers' responsibilities in the context of domestic violence. Central to the general recognition of domestic violence is the Act on Protection against Violence (Gewaltschutzgesetz, GewSchG), which allows courts to issue protective orders against perpetrators—for example, contact bans or restraining orders—which may also extend to the workplace.[151]

Employers in Germany are not legally obliged to recognise or manage domestic violence as a separate category. Only a non-specific duty of care and a general duty to protect against foreseeable risks follow from § 12 I AGG and §§ 3 and 5 ArbSchG, which aim to ensure a safe workplace.[152] German labour law does not provide specific statutory workplace entitlements or protections for victims of domestic violence. Some employers have voluntarily introduced workplace policies.[153]

The German law generally operates under the assumption that the domestic or private sphere and the workplace are separated and the employer is not supposed to interfere in the private life of their employees[154]. Breaking this boundary between the private and the employment sphere, the Regional Labour Court in Lower Saxony confirmed a verdict issued by the Labour Court in Hannover in which it found the termination of an employment contract for vocational training by the employer justified after the terminated employee had sexually harassed a colleague outside the workplace. The court as well as the employer justified this decision with the fact that the affected individual would have been forced

[148] Brandkamp/Horn, Bedrohungsmanagement, (2025), pp. 55 ff.
[149] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 45.
[150] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 45.
[151] *Federal Ministry,* Greater Protection in Cases of Domestic Violence, pp. 10 et seq.
[152] Cleff le Divellec, Safe at home, Safe at Work, p. 4.
[153] Cleff le Divellec, Safe at home, Safe at Work, p. 4.
[154] Göpfert/Stöckert, CCZ (2022), pp. 382-388

to attend classes and work together with the perpetrator for the of their vocational training period and would therefore have been confronted with him permanently. Moreover, there was reason to believe that similar incidents would occur in the future. The appeal for this case is still pending in front of the Federal Labour Court as of March 2026.[155]

II. Labour law approach to cyber violence (internet-based harassment)

Cyber violence is not recognized as an independent or explicitly regulated category of labour law. As established in Section I, there is also no statutory definition of *cyber violence*. Legally, cyber violence in the employment context in Germany is therefore addressed through existing legal categories: harassment and sexual harassment under § 3 AGG, the employer's duties of protection under § 12 AGG, as well as occupational health and safety duties under the ArbSchG. Moreover, § 13 AGG expressly clarifies that employees may lodge complaints if they feel disadvantaged by employers, supervisors, colleagues, or third parties.[156]

III. Preventative measures against cyber violence

There is no explicit legal obligation requiring employers to adopt cyber-violence-specific preventive measures. However, employers must conduct risk assessments under the Occupational Safety and Health Act, which include psychosocial and digital risks where relevant. Employers are also expected to implement internal policies against harassment and discrimination, which may include rules on electronic communication, reporting procedures, and complaint mechanisms (see above).

IV. Third party violence/harassment and labour law protection

Under § 12(4) AGG, employers have a duty to protect employees from discrimination by third parties. § 13 AGG further reinforces this by explicitly granting all persons affected by violence from third parties the right to file a complaint.

German law distinguishes between third party violence and domestic violence. The distinction primarily follows the social and legal context. Violence by third parties is predominantly treated in German law as a work-related risk when it arises in connection with work through customers, patients, passengers, pupils, users, or other external persons.[157]

Domestic violence, on the other hand, is addressed in German law mainly as a matter of civil, family, and criminal law, with the Protection Against Violence Act (Gewaltschutzgesetz, GewSchG) serving as

[155] LAG Niedersachsen, judgment of 28 Februar 2024, case 2 Sa 375/23, ECLI:DE:LAGNI:2024:0228.2Sa375.23.00.
[156] Baranksa/ Picard, Sicher am Arbeitsplatz, sicher Zuhause, Sicher im Internet, p. 37.
[157] Baranksa/ Picard, Sicher am Arbeitsplatz, sicher Zuhause, Sicher im Internet, p. 10 et seq.

the central protective instrument. Its connection to the world of work is recognised, but so far it has been regulated only indirectly in legal terms.[158]

In Germany, employers are generally required to assess risks to the safety and health of employees and to take appropriate protective measures. These obligations also extend to safety and health risks posed by third parties. Compared with the current German legal framework, ILO Convention No. 190—particularly in conjunction with Recommendation No. 206—contains significantly more specific requirements for the prevention and risk management of violence in the workplace (Art. 9 (a–d)).[159]

Under § 13 AGG, employees have the right to file a complaint if they feel disadvantaged or harassed in connection with their employment relationship. This right also applies when the harassment originates from third parties, such as customers or patients. Once a complaint has been filed, the employer is obliged to take measures to prevent further harassment. This duty arises from § 12 AGG, which requires employers to take appropriate measures to protect employees from harassment.

If the employer does not take sufficient protective measures, employees may temporarily refuse to perform their work. This right derives from § 14 AGG (right to refuse performance). Affected persons may also claim damages or compensation if the employer has violated their duty of protection pursuant to § 15 AGG.

In cases of discrimination by external third parties, § 12(4) AGG obliges employers only to 'protect the employees'. The weakened wording—without an enumeration of concrete examples—makes clear that employers' obligations are also more limited in such situations. Possible measures may include informing the third party about the AGG's non-discrimination requirements, issuing a ban from the premises, or terminating business relations.

If the violence and/or harassment is perpetrated by colleagues or external third parties (e.g. customers), tort claims are initially directed against the perpetrators themselves; however, in certain cases the employer may also be liable for damages under the principles of organisational fault pursuant to § 823(1) Civil Code and/or § 831 Civil Code.

In a case decided by the Regional Labour Court of Baden-Württemberg, the employer was ordered to pay compensation of €1,500 under § 15(2) AGG because he accepted—without objection—a client's request to be assisted by a man instead of the female architect assigned to her. The court held that this

[158] Baranksa/ Picard, Sicher am Arbeitsplatz, sicher Zuhause, Sicher im Internet, pp. 5, 37.
[159] *Kocher, Schwartzer, Von Wulfen*, Anforderungen bei einer Umsetzung in deutsches Recht, p. 5.

constituted unlawful discrimination under § 7(1) AGG and clarified that, pursuant to § 12(4) AGG, employers must protect employees from discrimination even when it originates from third parties.[160]

Section VI: Roles and Responsibilities of Third Parties in counteracting violence at workplaces

I. Third-Party Actors: Roles and Responsibilities

The prevention and effective response to violence and harassment in the world of work requires the involvement of multiple actors beyond the individual employment relationship. In addition to employers and employees, trade unions, workers' representatives and non-governmental organisations (NGOs) play an important role in shaping preventive structures, supporting victims and influencing regulatory development. Their involvement corresponds to the governance approach of ILO Convention No. 190, which emphasises social dialogue and the participation of workers' organisations in developing policies to combat violence and harassment in the workplace.[161]

In the German legal system, these actors operate within a legal framework that combines constitutional guarantees, labour law institutions and occupational safety regulations. Their functions range from collective representation and monitoring to victim support and policy advocacy.

1. Trade Unions

Trade unions occupy a central position in the German labour relations system as collective representatives of employees. Their activities are protected by the constitutional guarantee of freedom of association under Article 9(3) of the German Basic Law (GG).[162] This provision ensures the right of workers and employers to form associations to safeguard and improve working and economic conditions.

One key responsibility of trade unions lies in their collective representation and protective function. Through collective action and negotiation, trade unions represent employees' interests vis-à-vis employers and advocate for safe and non-discriminatory working environments. In this context, violence and harassment can be addressed as part of broader efforts to ensure dignity and equality at work.

Another central role concerns collective bargaining. Under the Collective Agreements Act (TVG), trade unions negotiate collective agreements that regulate wages, working time and other employment conditions. Although explicit provisions on workplace violence and harassment are not always common in

[160] LAG Baden Württemberg, judgement of 20 November 2024, case 10 Sa 13/24, ECLI:DE:LAGBW:2024:1120.10SA13.24.00

[161] ILO Convention No. 190 concerning the elimination of violence and harassment in the world of work (2019), Art. 4(3).

[162] Dürig/Herzog/Scholz/*Scholz*, 108. EL August 2025, GG Art. 9 Rn. 154.

collective agreements, the collective bargaining framework provides an institutional mechanism through which such protections can be introduced and strengthened. Until now, there is no major collective agreement containing explicit provisions on workplace violence and harassment.

Trade unions also provide legal advice and representation to their members. Employees who experience harassment or discrimination may face significant barriers in pursuing legal claims. Trade unions therefore support members by offering legal counselling and representation before labour courts. This function strengthens access to justice for employees affected by workplace misconduct.[163]

In addition, trade unions contribute to education, prevention and awareness-raising. Through training programs and workshops, unions inform employees about their rights and raise awareness about issues such as sexual harassment, bullying and psychosocial risks at work. These activities contribute to preventive workplace cultures. Several training courses on the prevention of sexual harassment are offered for works council members and are a mandatory part of education for Youth and Trainee Representatives in the Union ver.di.[164]

Finally, trade unions play an important role in political advocacy and legislative processes. Through participation in consultations and policy debates, they influence labour law reforms and contribute to the development of strategies for combating workplace violence. This role corresponds with the emphasis in ILO Convention No. 190 on tripartite cooperation between governments, employers and workers' organisations.

2. Workers' Representatives and Works Councils

In Germany, trade unions and works councils both represent employees but have different roles. Trade unions are independent organizations that operate across entire industries. Workers voluntarily join them, and their main task is to negotiate collective agreements about wages, working hours, and working conditions with employers. They can also organize strikes if negotiations fail.

Works councils, in contrast, represent employees within a single undertaking. They are elected by the workforce and cooperate with management on workplace issues such as working time, hiring, dismissals, and health and safety. Unlike trade unions, works councils cannot negotiate wages or organize strikes. Their rights and responsibilities are governed by the Works Constitution Act (Betriebsverfassungsgesetz – BetrVG).

Works councils have a statutory duty to monitor compliance with labour and occupational safety law. According to § 80(1) no. 1 BetrVG, they must ensure that laws, collective agreements and workplace

[163] § 19 Satzung ver.di; § 27 Satzung GEW, Richtlinie Rechtsschutz GEW p. 66.
[164] https://verdi-bub.de/seminar/3056 (17.03.2026); ver.di BuB Seminarplan 2026 pp. 182, 364.

regulations that benefit employees are properly implemented. This includes monitoring compliance with anti-discrimination law and occupational safety obligations.

Works councils also possess co-determination rights in occupational health and safety matters. Under § 87(1) no. 7 BetrVG, they participate in decisions concerning workplace measures aimed at preventing accidents and protecting employees' health. These competences may include measures addressing psychosocial risks such as bullying, harassment or violence in the workplace.

Works councils play a central role as internal complaint bodies in cases of workplace harassment, including sexual harassment. Their function is rooted in their general duty to safeguard employees and ensure compliance with principles of equity and non-discrimination within the establishment. Pursuant to § 75(1) and (2) of the Works Constitution Act (BetrVG), the works council is obliged to protect employees from discrimination and to promote the free development of their personality, which includes protection against sexual harassment.

Employees who experience harassment are entitled to lodge complaints not only with the employer but also directly with the works council. According to § 85 BetrVG, the works council is required to receive and examine such complaints and, where appropriate, to take action vis-à-vis the employer. In this context, the works council effectively functions as a complaint body within the meaning of § 84 BetrVG, providing an accessible and potentially less formal avenue for employees to raise concerns and seek support. This institutional role is explicitly preserved under § 13(2) of the General Equal Treatment Act (AGG), which clarifies that the statutory complaint mechanisms under the AGG do not affect the rights of employee representative bodies. Legal scholarship confirms that this provision particularly refers to the complaint procedures established under the BetrVG framework.[165]

Once a complaint has been submitted to the works council, the employer is obliged under § 84(2) BetrVG to inform the employee about the handling of the complaint and, if it is deemed justified, to take appropriate remedial action. This ensures that complaints are not only heard but also acted upon within the organisational structure. Furthermore, § 84(3) BetrVG guarantees protection against retaliation: employees must not suffer any disadvantages as a result of filing a complaint with the works council.[166] This protection is crucial for the effectiveness of complaint mechanisms, as fear of reprisals remains a significant barrier to reporting workplace harassment. Overall, the works council thus serves as a key intermediary institution that facilitates access to justice, strengthens enforcement of employee rights, and contributes to the prevention and redress of workplace violence and harassment.

[165] ErfK/*Schlachter*, 23. Aufl. 2023, AGG § 13 Rn. 3.
[166] *Gravenhorst*, NZA 2023, 1425.

Works councils also play a role in occupational risk assessments. According to § 5 of the Occupational Safety and Health Act (ArbSchG), employers must assess risks associated with work activities, including psychological stress. Violence and harassment can therefore be addressed as part of psychosocial risk management.[167]

By negotiating works agreements, works councils are abled to address workplace harassment. In several companies, there are workplace agreements in place to prevent sexual harassment in the workplace.[168] A works agreement is a formal, legally binding agreement between an employer and the works council within a German company, regulated by the Works Constitution Act (BetrVG). Its legal foundation is primarily set out in § 77 BetrVG, which governs the conclusion, form, and binding effect of such agreements. The content of works agreements is often based on the co-determination rights of the works council pursuant to § 87 BetrVG, while § 88 BetrVG provides for voluntary agreements in areas beyond mandatory participation. In cases of conflict between employer and works council, § 76 BetrVG establishes the conciliation committee, whose decisions may substitute for a work agreement. Furthermore, § 77(3) BetrVG enshrines the primacy of collective agreements, limiting the regulatory scope of works agreements.

Legal scholarship has emphasised the relevance of occupational safety law for addressing workplace harassment. Kocher and von Wulfen note that violence and harassment in the workplace are closely connected to psychosocial risks and therefore fall within the broader framework of occupational safety regulation.[169]

3. Non-Governmental Organisations

In addition to the institutional actors within labour relations, non-governmental organisations play an important complementary role in combating workplace violence and harassment. Unlike trade unions or works councils, NGOs generally do not possess formal regulatory powers. Instead, their activities focus on expertise, victim support and advocacy.

One central function of NGOs is the provision of confidential counselling and psychosocial support for individuals affected by harassment or violence. Such services are particularly important for workers who may hesitate to report incidents internally due to fear of retaliation or lack of trust in workplace procedures.

[167] ADS, Strategien gegen rassistisches Mobbing und Diskriminierung im Betrieb Handreichung für Betriebsräte und Gewerkschaften, 2015.
[168] ADS, Strategien gegen rassistisches Mobbing und Diskriminierung im Betrieb Handreichung für Betriebsräte und Gewerkschaften, 2015; *Nägele*/*Pagels*/*Berger*, Beispiele Guter Praxis zur Prävention und Intervention von sexueller Belästigung im Arbeitsleben, 2021, p. 29; Oertelt-Prigione/Jenner, Prävention sexueller Belästigung Praxiswissen Betriebsvereinbarungen, 2017.
[169] *Kocher*, ILO Convention No. 190.

NGOs also provide specialised support for vulnerable groups, including women, migrant workers or individuals in precarious employment relationships. These groups often face increased risks of harassment due to structural inequalities in the labour market.

Another important role of NGOs lies in public awareness and advocacy. Through campaigns, publications and research projects, NGOs contribute to public debates on workplace discrimination and harassment. Their work often highlights structural deficiencies in existing protection systems.

Furthermore, NGOs contribute to research and policy development. According to Kocher and von Wulfen, civil society organisations play an important role in documenting experiences of violence and harassment at work and in contributing expertise to policy discussions surrounding the implementation of ILO Convention No. 190.[170]

II. Functions of Third-Party Actors in the Implementation Process

Beyond their institutional roles, trade unions, works councils and NGOs perform several cross-cutting functions in the implementation of measures addressing workplace violence and harassment.

1. Monitoring and Oversight

These actors contribute to monitoring the prevalence and patterns of workplace violence and harassment. Works councils must monitor compliance with labour law and Works Council Agreements.[171] By collecting complaints and documenting cases, they help identify structural risks and enforcement gaps. This monitoring function is particularly important because official statistics often underreport incidents of workplace harassment.[172]

Intermediary actors such as unions and NGOs can therefore serve as an important link between employees and regulatory institutions.[173]

2. Policy and Regulatory Development

Trade unions and works councils participate directly in policy development within the workplace through collective agreements and works agreements.[174] These instruments may establish complaint procedures, prevention policies and training obligations.

[170] *Kocher*/Schwartzer/Von Wulfen, 2023.
[171] § 80(1) no. 1 BetrVG
[172]ILO Convention No. 190, Art. 10; Recommendation No. 206, p. 14–16.
[173] Kocher, ILO Convention No. 190.
[174] BetrVG, § 87 (1) no.7; TVG.

At the national level, social partners contribute to policy development through social dialogue, a process emphasised in ILO Convention No. 190.[175] NGOs often contribute expert knowledge and practical recommendations in such processes.[176]

3. Awareness-Raising and Prevention

Educational and preventive activities represent another key field of action. Training programmes organised by unions, works councils and NGOs inform employees about their rights and responsibilities. [177]

These activities help promote a "zero-tolerance culture" toward violence and harassment in the workplace. Employers are also legally required to implement preventive measures under § 12 of the General Equal Treatment Act (AGG).

4. Support for Victims and Enforcement of Rights

Third-party actors also play a crucial role in supporting victims and facilitating access to justice. Employees may seek confidential advice from works councils, trade unions or NGOs before pursuing formal complaints or legal action.[178]

Works councils may accompany internal complaint procedures, while trade unions may provide legal representation before labour courts. These mechanisms complement the legal protections provided by the General Equal Treatment Act, which protects employees from retaliation when asserting their rights.[179]

III. Competent Authorities and Their Powers in Germany

In Germany, the enforcement of legal protections against workplace violence and harassment is not limited to social partners and civil society actors but is also ensured by a range of public authorities operating within the framework of occupational safety and health (OSH) law. These institutions collectively contribute to prevention, supervision and enforcement, particularly where violence and harassment are understood as psychosocial risks at work.[180]

1. Occupational Safety Authorities

The primary responsibility for enforcing occupational safety law lies with the state labour inspectorates, which operate at the level of the Bundesländer. Their mandate is based on the Occupational Safety and

[175] ILO Convention No. 190, Art. 4(3).
[176] *Kasim*, Adressing work-related gender-based violence and harassment.
[177] ILO Convention No. 190 Art. 9; ILO Recommendation No. 206; ver.di BuB Seminarplan 2026 pp. 182, 364.
[178] ILO Convention No. 190, Art. 10(b), (c); ILO Recommendation No. 206, p. 14-17.
[179] §§ 13,14,16 AGG; §§ 84-85 BetrVG.
[180] Kollmer/Klindt/Schucht/*Schucht*, 4. Aufl. 2021, ArbSchG § 20a.

Health Act (ArbSchG). Under § 21 ArbSchG, these authorities are empowered to conduct workplace inspections, carry out investigations and monitor compliance with statutory safety obligations. This includes reviewing whether employers have conducted adequate risk assessments pursuant to § 5 ArbSchG, which explicitly encompasses psychosocial risks such as workplace violence and harassment.

In case of violation of OSH law, the competent authority can request the company hand over information and documents (§ 22(1) ArbSchG) and order the company to fulfil specific requirement if deemed necessary (§ 22(3) ArbSchG). When violating such an administrative order, a company can be obliged to pay penalties or fines pursuant to §§ 25, 26 ArbSchG if they do not comply with the administration's directions. Sanctions in the form of fines may also be based on § 19 Social Code Book VII (Sozialgesetzbuch VII – SGB VII) in conjunction with § 209 SGB VII or § 9 of the Ordinance on Workplaces (Arbeitsstättenverordnung – ArbStättV).

In cases in which the perpetrator is a civil servant, an administrative procedure may be initiated by the employer in cases of harassment or violence committed in the workplace. Pursuant to § 77(1) in conjunction with § 61(1) clause 3 of the Federal Public Employee Act (Bundesbeamtengesetz – BBG) as well as § 47 in conjunction with § 33 of the Act Governing the Status of Public Employees in the States (Beamtenstatusgesetz – BeamtStG) criminal convictions or violations of other legal obligations such as the Equal Treatment Act (AGG) may incur administrative charges that lead to consequences regarding the employment relationship, such as demotions[181].

2. Accident Insurance Bodies and DGUV

In addition to state authorities, the German system of statutory accident insurance plays an important role in occupational safety enforcement and prevention. The accident insurance institutions, coordinated under the umbrella of the German Social Accident Insurance (DGUV), are responsible for preventing work-related accidents, occupational diseases and work-related health hazards.[182]

Their functions include issuing binding accident prevention regulations, providing guidance to employers, and conducting inspections in cooperation with state authorities. Psychosocial risks, including violence and harassment, are increasingly recognised within this preventive mandate. Furthermore, accident insurance bodies support rehabilitation and compensation where workplace incidents lead to health impairments, including psychological harm.

3. Federal Institute for Occupational Safety and Health

At the federal level, the Federal Institute for Occupational Safety and Health (Bundesanstalt für Arbeitsschutz und Arbeitsmedizin – BAuA) performs a scientific and advisory role. While it does not

[181] Berlin Administrative Court, judgment of 29 April 2022, case VG 85 K 3/20 OB
[182] https://www.dguv.de/de/praevention/vorschriften_regeln/vorschriften/index.jsp (17.03.2026)

exercise direct enforcement powers, it contributes significantly to policy development and evidence-based regulation. BAuA conducts research on working conditions, including psychosocial risks, and develops guidelines, risk assessment tools and recommendations for employers and policymakers.[183]

Through its research and policy advice, BAuA helps to operationalise legal requirements—such as the obligation to assess psychosocial risks under § 5 ArbSchG—and thereby strengthens the overall framework for preventing and addressing workplace violence and harassment.[184]

4. Federal Anti-Discrimination Agency

The Federal Anti-Discrimination Agency (ADS) operates within the legal framework of the General Equal Treatment Act (AGG) and fulfills a primarily advisory and supportive role in addressing discrimination. Its core mandate is to ensure that individuals who experience discrimination have access to reliable information about their rights and available courses of action. In this context, the agency provides confidential, case-specific counselling to affected persons, helping them to assess whether their experiences fall under the legal definition of discrimination as outlined in the AGG.[185]

Beyond individual counselling, the ADS contributes to a broader structural understanding of discrimination by conducting research and monitoring developments in German society. The findings generated through these activities inform the agency's policy recommendations, which are directed at legislators and public institutions with the aim of improving anti-discrimination measures and legal protections. In addition, the ADS engages in public awareness-raising efforts, seeking to sensitize society to various forms of discrimination and to promote a culture of equality and inclusion.[186]

Individuals can report cases of discrimination directly to the ADS through accessible channels such as online forms or written submissions. Upon receiving a report, the agency evaluates the case and provides tailored advice regarding possible legal and non-legal responses. This may include informing the individual about deadlines for legal claims, referring them to specialized counselling centres or legal professionals, and, in some instances, facilitating informal resolution processes between the parties involved.[187]

However, it is important to note that the ADS does not possess binding enforcement powers. Unlike courts or regulatory authorities, it cannot impose sanctions, issue legally binding decisions, or compel parties to act. Its role is therefore limited to guidance, mediation support, and policy advocacy rather

[183] https://www.baua.de/DE/Die-BAuA/Aufgaben/Aufgaben_node.html (17.03.2026)
[184] https://www.gda-portal.de/DE/GDA/Traeger/Traeger_node.html (17.03.26)
[185] *Kocher*, ILO Convention No. 190.
[186] https://www.antidiskriminierungsstelle.de/DE/was-wir-machen/bericht-an-den-bundestag/bericht-an-den-bundestag-node.html (17.03.2026)
[187] https://www.antidiskriminierungsstelle.de/DE/ueber-uns/unsere-aufgaben/unsere-aufgaben-node.html (17.03.2026)

than direct legal enforcement. As such, the effectiveness of its interventions largely depends on the willingness of affected individuals to pursue further action through legal or institutional channels.

5. Other Competent Institutions

Other institutions may become involved depending on the nature of the incident. Criminal offences such as assault or sexual violence fall under the jurisdiction of police and public prosecutors under the German Criminal Code (StGB).[188]

In addition, labour courts and civil courts adjudicate disputes concerning compensation, damages or termination of employment relationships. Where workplace violence leads to health consequences, statutory accident insurance institutions may also play a role in recognising occupational injuries.

IV. Immediate Measures in Cases of Acute Danger

When violence or harassment creates an immediate threat to life, health or safety, public authorities may adopt urgent protective measures. Under § 22 ArbSchG, occupational safety authorities may issue binding administrative orders requiring employers to eliminate hazards. Such measures may include prohibiting specific work processes or temporarily shutting down dangerous operations.

Administrative orders may also be declared immediately enforceable under § 80(2) no. 4 of the Administrative Court Procedure Act (VwGO) when urgent action is required to protect public safety. Nevertheless, the effectiveness of these mechanisms depends on whether workplace violence and harassment are recognised in practice as occupational safety risks within regulatory enforcement.

[188] German Criminal Code (StGB), e.g. §§ 177, 184i, 223

Section VII: Implementation Challenges and Good Practices

I. Main challenges in implementing legal, institutional, and workplace-level measures to prevent and address violence and harassment at work

Despite numerous legislative attempts to combat harassment and violence in the workplace over the past years, the phenomenon remains widespread in Germany. In a 2015 study 17 percent of women and 7 percent of men reported experiencing sexual harassment in the workplace. A 2019 study showed that 13 percent of women and 5 percent of men experienced sexual harassment in the workplace in the past three years.[189] These numbers were confirmed by a 2025 report published by the German Institute for Employment Research (IAB).[190]

The IAB study also showed that significant portion of surveyed companies had not established a formalised complaint mechanism. Around 38 % of the surveyed businesses reported having neither a preventive strategy nor procedure to handle complaints of sexual harassment. 45 % of surveyed businesses reported only having a complaints mechanism and 3 % only having preventive measures while only 12 % of companies reported having both preventive measures as well as a complaints structure. Only 15 % of surveyed companies reported conducting trainings or other preventive measures over the past two years, with bigger companies being more likely to provide training for staff and management than smaller businesses. Additionally, the research showed that companies with a workers' council were more likely to implement preventive measures regarding sexual harassment[191].

One of the main challenges in implementing reporting mechanisms is the fact that there are no legal consequences for non-compliance with anti-discrimination legislation (eg preventive measures, reporting mechanisms)[192]. Even when the requirements of anti-discrimination law are not fulfilled, the relevant authorities cannot sanction or fine the employer[193].

Even when companies establish an anti-discrimination complaint office, these offices are often underutilised. Reasons for this are an incomprehensive understanding of discrimination within organisations, worries regarding negative consequences and the concern that the affected employee will not

[189] Schröttle/Meshkova/Lehmann, Umgang mit sexueller Belästigung am Arbeitsplatz – Lösungsstrategien und Maßnahmen zur Intervention, (2019), https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/publikationen/Expertisen/umgang_mit_sexueller_belaestigung_am_arbeitsplatz.html

[190] Götz/Isphording/Jessen/Wolter, Sexuelle Belästigung am Arbeitsplatz: Zwei von zehn Beschäftigten berichten von Vorfällen im eigenen Arbeitsumfeld, (2025), https://iab.de/en/publications/publication/?id=14823266, p. 2 f.

[191] Götz/Isphording/Jessen/Wolter,, Sexuelle Belästigung am Arbeitsplatz: Zwei von zehn Beschäftigten berichten von Vorfällen im eigenen Arbeitsumfeld, (2025), https://iab.de/en/publications/publication/?id=14823266, p. 6

[192] Antidiskriminierungsstelle des Bundes (Federal Anti-Discrimination Agency – ADS), Beschwerdestellen bei Diskriminierung (2025), https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/publikationen/Expertisen/beispiele_guter_praxis_beschwerdestellen.html, p. 19

[193] Gravenhorst, NZA (2023), 1425-1433 (1427)

be in control during the complaints procedure[194]. Especially women often don't trust in the ability of the company to handle cases of sexual harassment adequately[195].

Despite the prohibitions of retaliation contained in several legislative acts, many affected individuals fear repercussions if their report harassment or violence in the workplace. These can reach from social exclusion within a team to abuses of authority by supervisors. The current protection mechanisms are insufficient in this regard.

These problems could be mitigated by strong support structures in the private, public and employment sphere. This includes supportive social networks, independent and confidential counselling services, support organisations for affected individuals as well as effective complaints mechanisms within companies that are underlined by a clear positioning of employers.

Another significant barrier for effective reporting mechanisms are the short reporting deadlines in anti-discrimination regulations. Pursuant to § 15 para. 4 AGG, a discrimination complaint has to be submitted within two months after the discriminatory action occurred. This short deadlines often results in cases of discrimination going unreported due to reluctance of affected persons to seek support or complain, a lack of free time to use existing support structures such as independent organisations, misunderstandings or unclear definitions of what constitutes discrimination or a late realisation that a certain behaviour was in fact discriminatory.

These issues could be addressed by reforming the preventive obligations laid out in anti-discrimination, OSH and other regulations. Moreover, the Federal Anti-Discrimination Agency has stated that a more extensive coverage of different forms of discrimination would be necessary, since the law doesn't incorporate all the legal developments of the last years, esp. judgements in anti-discrimination cases. This includes a reform of evidence laws. Employees who refuse service pursuant to § 14 AGG are currently not covered by the privilege concerning evidence pursuant to § 16 AGG[196].

II. Structural, Cultural, and legal barriers hindering the effective functioning of preventive or remedial measures

The effectiveness of preventive and remedial measures in Germany, particularly under the Equal Treatment Act, is limited by a combination of structural, legal, and cultural barriers.

[194] Antidiskriminierungsstelle des Bundes (Federal Anti-Discrimination Agency – ADS), Beschwerdestellen bei Diskriminierung, (2025), https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/publikationen/Expertisen/beispiele_guter_praxis_beschwerdestellen.html, p. 27

[195] Götz/Isphording/Jessen/Wolter, Sexuelle Belästigung am Arbeitsplatz: Zwei von zehn Beschäftigten berichten von Vorfällen im eigenen Arbeitsumfeld, (2025), https://iab.de/en/publications/publication/?id=14823266, p. 5

[196] Berghahn/Klapp/Tischbirek, Evaluation des AGG (2016)

Structurally, reporting mechanisms remain weak and underutilized. Although the AGG provides for internal complaint bodies within organizations and access to external advisory institutions, these mechanisms often lack independence, visibility, and enforcement power. Many individuals affected by discrimination choose not to report incidents due to fear of retaliation, professional disadvantages, or social stigma. This is exacerbated by the short limitation period of two months to file claims, which places a significant burden on victims to act quickly, often without adequate legal knowledge or support.

Another major structural issue lies in the limited role of collective representation structures, such as Antidiskriminierungsverbände. These organizations face strict legal requirements to qualify for participation in legal proceedings and are generally not allowed to bring independent claims on behalf of victims. This has been criticized by the Federal Anti-Discrimination Agency for Years. Instead, they may only support individuals in court. The absence of broad collective redress mechanisms, such as class actions, means that discrimination is primarily addressed on an individual basis, even when there are numerous cases, indicating a structural problem within an organisation. This weakens enforcement, particularly in cases of systemic discrimination, where individual victims may lack the resources or motivation to pursue litigation.

From a legal perspective, an important gap exists in the relationship between anti-discrimination law and whistleblower protection. Violations of the AGG are not clearly covered under the German Whistleblower Protection Act (HinSchG)[197]. As a result, individuals reporting discrimination may not benefit from the robust protections granted to whistleblowers in other areas of law. This fragmentation discourages reporting and undermines trust in existing mechanisms.

A further legal and cultural complication is the concept of so-called “AGG-Hoppers.” This term refers to individuals who allegedly apply for jobs without genuine intent, aiming instead to provoke discriminatory rejections and claim compensation. While courts have recognized such behaviour as an abuse of rights in certain cases, this is not a widespread problem. Rather, a few individuals have filed a number of cases. Still, the broader discourse around AGG-Hoppers has had a chilling effect since it places complainants under a general suspicion of abuse of AGG rights. It contributes to doubts toward discrimination claims and may keep victims from asserting their rights for fear of not being taken seriously.

Culturally, discrimination is often underreported due to normalization, lack of awareness, and power imbalances in workplaces and institutions. Many individuals are unaware of their rights or doubt the effectiveness of legal remedies. Together, these structural, legal, and cultural barriers significantly hinder the practical functioning of Germany’s anti-discrimination framework.

[197] Antidiskriminierungsstelle des Bundes, Beispiele guter Praxis, p. 75

III. Examples of effective practices, policies, or innovative strategies from Germany and their evaluation

Germany established the Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes – ADS) under the part 6 of the AGG in 2006. The ADS is a specialized body under the definition of European Council Directive 2004/43/EG. The ADS provides confidential guidance to individuals experiencing workplace discrimination or harassment based on protected characteristics such as gender, ethnicity, religion, disability, age, or sexual orientation. It informs victims about their legal rights, available remedies, possible legal action, and refers them to other specialized where necessary. In cases where individuals seek resolution, the agency can request statements from involved parties and facilitate amicable dispute resolution, helping resolve conflicts without lengthy legal proceedings. The agency is not authorized to implement sanctions in cases in which such a resolution is not possible. Besides supporting individuals affected by discrimination, the ADS conducts studies on discrimination in Germany, implements preventive and educational initiatives, Through the work of ADS, its cooperation with NGOs and civil society actors, as well as studies conducted by other scientific institutions it has been possible to create a more complete assessment of discriminatory structures and collect data on discrimination in Germany[198].

In 2025, the ADS published a guide for employers covering different aspects regarding the establishment of an internal complaints mechanism for cases of discrimination. In this guide, the ADS recommends the creation of a shared understanding of discrimination and discriminatory behaviour within the organisation, a clear positioning of employers, visibility of the complaints office and its work for employees, and strict confidentiality during the complaints procedure. Ideally, this should be a mechanism consisting of two pillars: a neutral complaints office handling cases in the interest the organisation/employer as well as a person or office that affected individuals can turn to for confidential support that focusses on their needs and concerns[199].

One of the best practice examples mentioned by the ADS in its guidelines is Alice Salomon Hochschule Berlin, a public college in Berlin. The complaint mechanism that was installed in 2021. It combines accessible reporting mechanisms with an integrated institutional structure. Key innovative elements include the possibility of anonymous complaints and withdrawal of complaints, immediate protective measures during ongoing investigations, and jurisdiction extending to digital environments and off-campus incidents when they affect participation in university life. The model also emphasizes

[198]Landesstelle für Gleichbehandlung – gegen Diskriminierung (Berlin State Office for Equal Treatment and against Discrimination – LADS), Ombudschaft als Interventionsinstrument in der Antidiskriminierungsarbeit, (2018), https://www.berlin.de/sen/lads/_assets/recht/bf-expertiseombudschaft.pdf?ts=1755063424, pp. 35 f.

[199] Antidiskriminierungsstelle des Bundes (Federal Anti-Discrimination Agency – ADS), Beschwerdestellen bei Diskriminierung (2025), https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/publikationen/Expertisen/beispiele_guter_praxis_beschwerdestellen.html, pp. 31 ff.

institutional learning, with regular coordination between the complaint office, anti-discrimination advisors, and a university-wide network to identify structural gaps and improve policies.

Another example is Ford-Werke GmbH, a car manufacturer with more than 10.000 employees in Germany. The company established an AGG complaints office in 2006. It is cited as a best practice example due to its clear and formalized complaint procedure covering discrimination, mobbing, sexual harassment, and stalking as well as its parity-based governance structure, in which representatives of employees and management jointly operate the advisory body to ensure independence and trust among staff members. Members receive specialized training in mediation and anti-discrimination law and participate in regular supervision and reflection sessions to maintain professional standards. The system is based on confidentiality, victim-centred procedures, and shared control of the complaint process between complainants and the complaints office, allowing complainants to guide how their cases proceed. Additionally, the structure is integrated into broader corporate diversity management, including a diversity committee and employee networks, which helps translate individual complaints into organizational learning and structural reforms. As part of a multinational corporation, employees also have access to a global compliance reporting system.

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