ANNUAL REPORT 2017

Arbitration Service according to the German Act on Equal Opportunities for Persons with Disabilities within the Office of the Federal Government Commissioner for Matters relating to Persons with Disabilities
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An introductory welcome from Ms Verena Bentele

Federal Government Commissioner for Matters relating to Persons with Disabilities

The Arbitration Service according to Section 16 of the Act on Equal Opportunities for Persons with Disabilities (BGG) was launched in December 2016. It has now published its first annual report. It clearly shows that its range of services for settling disputes relating to equal opportunities for persons with disabilities is being gladly taken up. This is particularly welcoming news for me, as I have pushed hard for the establishment of the Arbitration Services.

The Arbitration Service can be used by both individuals and associations if they feel their right to accessibility has been infringed, or if the ban on discrimination has been violated by federal administration bodies or facilities.

Considering the fact that a total of around 150 applications were processed last year, it was still possible to reach an amicable agreement in one half of all cases for which the Arbitration Service was the responsible body.
The Arbitration Service received a comparatively high number of enquiries which do not fall under its jurisdiction. This clearly illustrates that overall there is a great need for advisory services in respect of equal opportunities for persons with disabilities, and that this extends beyond the activities of federal administration bodies or subordinate authorities. This is where the Arbitration Service plays an important role in offering referral guidance or passing applicants on to the responsible bodies in the Länder.

In the coming year, too, we will be devoting all our efforts to the subject of equal opportunities for persons with disabilities. European requirements relating to digital accessibility, for example, need to be implemented by public bodies.

To increase awareness of the arbitration procedure, I am supporting the introduction of obligations on the part of public authorities to point out the services offered by the Arbitration Service. It would also be helpful to expand the group of eligible persons to representative bodies for severely disabled persons, for instance.

The present annual report from the Arbitration Service contains much more information on the concerns of applicants in our first year of work.

I am convinced that the arbitration procedure offered is a quick and effective means of settling disputes regarding equal opportunities for persons with disabilities in the interests of all parties concerned. My wish is that the range of services on offer from the Arbitration Service finds a wider audience.

Best regards,
Verena Bentele
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“We would really like to thank you for all the hard work and effort that you put in. The way you held the meeting (...) was excellent and gave us hope of finding a good solution.”
Introduction

The Arbitration Service was set up within the office of the Federal Government Commissioner for Matters relating to Persons with Disabilities at the beginning of December 2016. At present the Arbitration Service is made up of two female arbitrators and three office staff members.

In the weeks after the service was established, priority was given to designing the website and enabling applications to be processed electronically. It goes without saying that a substantial proportion of the work was and is dedicated to clarifying points of law concerning the Act on Equal Opportunities for Persons with Disabilities (BGG). Furthermore, fundamental decisions relating to the management of application processes and the collection of statistical data had to be taken. At the same time, the first applications had already been received and these needed to be processed. In short, the work of the Arbitration Service was in some ways more like that of a start-up company. At this point, therefore, I would like to extend a heartfelt thanks to all those who supported and continue to support the Arbitration Service with valuable tips and information.

The following pages give you an overview of the legal bases and activities of the Arbitration Service according to the BGG.
1. Legal bases

Under the German Act on Equal Opportunities for Persons with Disabilities (BGG), which came into effect in 2002, federal administration bodies and facilities are required to eliminate and to prevent discrimination against persons with disabilities and to establish accessibility. The aim here is to enable persons with disabilities to live a self-determined way of life and participate equally in society.

Real life shows us that not all public authorities are always fully meeting their obligations as set out in the BGG. Furthermore, the 2014 evaluation of the BGG clearly illustrated that over the past 15 years very few persons with disabilities or associations have availed themselves of their rights guaranteed under the BGG.

The BGG was amended on 27 July 2016 to become the Act to further develop the Act on Equal Opportunities for Persons with Disabilities, and the establishment of an independent arbitration service was therefore included in Section 16 of the BGG. It offers people the chance to settle disputes relating to the rights set out in the BGG on a no-fee, low-threshold basis. The Arbitration Service was set up within the office of the Federal Government Commissioner for Matters relating to Persons with Disabilities at the beginning of December 2016. The particulars of the Arbitration Service and the arbitration procedure are regulated in the ordinance governing the Arbitration Service according to Section 16 of the Act on Equal Opportunities for Persons with Disabilities and its procedure (Behindertengleichstellungsschlichtungsverordnung – BGleiSV).

For details of individual experiences with the BGG, refer to Welti, Prof. Dr. Jur. Felix: Evaluation des Behindertengleichstellungsgesetzes – Abschlussbericht (Evaluation of the Act on Equal Opportunities for Persons with Disabilities – Final Report), Kassel 2014
2. Arbitration procedure applicants

Individuals and associations may apply for an arbitration procedure to be initiated. Pursuant to Section 16 (2) Sentence 1 BGG, persons with disabilities may contact the Arbitration Service if they believe any of their rights under the BGG has been violated by a public authority according to Section 1 (2) Sentence 1 BGG.

In addition to individuals, Section 16 (3) BGG also states that an association recognised under Section 15 (3) BGG may also apply for an arbitration procedure to be initiated, if it asserts that there has been a violation of the ban on discrimination or the obligation to establish accessibility pursuant to Section 15 (1) Sentence 1 BGG by a public authority according to Section 1 (2) Sentence 1 BGG, or a violation of the federal law requirements to establish accessibility as per Section 15 (1) Sentence 1 Number 2 BGG or of the federal law requirements governing the use of sign language or other suitable communications aids, as set out in Section 15 (1) Sentence 1 Number 3 BGG.
3. Public authorities

Public authorities may be considered as opponents in an arbitration procedure if they are obliged to fulfil obligations under the BGG. This applies to federal administration bodies and facilities, including federal public entities, institutions and foundations (Section 1 (2) Sentence 1 BGG). By making reference to federal public authorities, Section 16 (2) Sentence 1 BGG is clarifying that only these may be parties to arbitration proceedings. For this reason, Land authorities cannot be opponents in the arbitration procedure according to the BGG, even if the ban on discrimination stipulated in Section 1 (2) Sentence 2 BGG in conjunction with Section 7 BGG also applies to Land administration bodies, insofar as these execute federal law. Consequently, claims relating to a violation of the ban on discrimination cannot be contested at the Arbitration Service. In such cases, the Länder laws governing equal opportunities for persons with disabilities apply, which are also an embodiment of the ban on discrimination regulated under German basic law.

Initial experience shows that potential applicants have considerable difficulty differentiating between federal and Land administration bodies. For example, the applicability of the BGG to social insurance agencies, even if the duties they discharge are the same, depends among other things on the specific form of the administrative organisation. In terms of social insurance, federal-level providers of statutory health, pension and accident insurance and social long-term care insurance, which are regulated by the Federal Insurance Office, may oppose an arbitration claim. As a federal public entity, the Federal Employment Agency may also oppose a claim. By contrast, a differentiation should be made between the providers of basic income support for
jobseekers, i.e. whether they are joint institutions or approved local authority institutions, and to which duties the claim relates.

As a rule of principle, the Arbitration Service is not responsible for private sector enterprises. Nevertheless, Section 1 (3) BGG states that federal public authorities “should” work towards ensuring that organisations governed by private law, in which these authorities have a full or partial interest, give adequate consideration to the objectives of the BGG. The opponent in cases such as these is the public authority, and not the private organisation.

Section 1 (3) Sentences 2 to 4 BGG include the obligation of federal public authorities to ensure that the BGG is also taken into consideration when awarding grants as part of institutional support or funding. The aim of this is to ensure that persons with disabilities have the opportunity of participating equally in products or research results which are financed using public funds.
4. Obligations of the BGG

The BGG is aimed at establishing accessibility and preventing the discrimination of persons with disabilities in the public sector. Furthermore, it serves to ensure the equal treatment of persons with disabilities in the public and federal administration sectors. The following individual obligations are laid down in the BGG:

4.1 Accessibility (Section 4 BGG)

The key focus of the BGG is the establishment of accessibility as an essential prerequisite for the equal participation of persons with disabilities. The requirements governing accessibility are more precisely defined in the Regulation on Communication Aids (KHV), the Regulation on Accessible Documents in Federal Administrative Procedures (VBD), and the Regulation on the Creation of Accessible Information Technology in accordance with the BGG (BITV 2.0).

4.2 Ban on discrimination (Section 7 BGG)

Section 7 (1) BGG further defines and regulates the ban on discrimination in Article 3 (3) Sentence 2 of the Basic Law of the Federal Republic of Germany (GG), by stipulating that a public authority within the meaning of Section 1 (2) BGG may not discriminate against persons with disabilities. Discrimination occurs when persons with and without disabilities are treated differently for no compelling reason, and thus persons with disabilities are directly or indirectly disadvantaged with regard to their equal participation in society. With the amendment to the BGG, the concept of reasonable accommodation was
transposed into German law for the first time as a result of the changes to Section 7 (2) of the BGG.

According to Art. 2 of the UN Convention on the Rights of Persons with Disabilities, reasonable accommodation constitutes “necessary and appropriate changes and adaptations, which do not represent a disproportionate or costly burden and which, if they are required in a particular case, are carried out to guarantee that persons with disabilities are able to enjoy or exercise all human rights and basic freedoms on an equal footing with others.”

Based on the definition given in the UNCRPD, reasonable accommodation according to Section 7 (2) Sentence 2 BGG constitutes “measures which are appropriate and necessary in individual cases to ensure that persons with disabilities are able to enjoy and exercise all rights on an equal footing with others, and which do not represent a disproportionate or costly burden for the public authority pursuant to Section 1 (2) BGG.”

In terms of the work of the Arbitration Service, there is a need for a specific outline definition of the legal concept of reasonable accommodation that can be applied to the provisions of the BGG. In particular, there needs to be a clear differentiation between reasonable accommodation within the meaning of Section 7 (2) BGG and cases which relate exclusively to social welfare law. A corresponding legal opinion was requested in order to obtain legally certain criteria for this.
4.3 Right to the use of sign language and other communication aids (Section 9 BGG)

Pursuant to Section 9 BGG, federal public authorities are obliged to enable persons with hearing impairments and persons with speech or language impairments the use of German sign language, sound-accompanying signs or other suitable communication aids, insofar as this serves to exercise individual rights in administrative procedures (e.g. when submitting applications or taking recourse to legal remedies). Entitled persons may also provide a sign language interpreter or another means of communication themselves and apply for a refund of the necessary costs incurred. The particulars are defined in the Regulation on Communication Aids.

4.4 Design of official notices and forms (Section 10 BGG)

In accordance with Section 10 (1) Sentence 1 BGG, public authorities must take disabilities into account when designing written official notices, decisions of general application, public-law contracts and forms. In order to exercise their rights in administrative procedures in line with the Regulation on Accessible Documents in Federal Administrative Procedures, blind and visually-impaired persons may request that documents are also made accessible to them, at no extra cost, in a form which they are able to understand.

4.5 Comprehensibility and easy-to-read language (Section 11 BGG)

Section 11 BGG takes up the requirements of the UNCRPD which also include forms that are translated into easy-to-read language for communication purposes. In accordance with Section 11 Sentence 1 BGG, public authorities should provide more information in easy-to-read language. In accordance with
Section 11 Sentence 2 BGG, the Federal Government is working to ensure that public authorities intensify the use of easy-to-read language and that skills in writing easy-to-ready language are expanded.

From the beginning of 2018, official notices, decisions of general application, public law contracts and forms shall be explained in easy-to-read language on request. Nevertheless, this does not confer a comprehensive obligation to use easy-to-read language. It is up to the public authority to decide whether and to what extent an easy-to-read explanation should be provided.

**4.6 Accessible information technology (Section 12 BGG)**

Section 12 BGG sets out the standard requirements for the design of websites and online services. Technical details are regulated in BITV 2.0 of 12 September 2011.

The standard was extended by the Act to further develop the Act on Equal Opportunities for Persons with Disabilities. At the recommendation of the Bundestag Committee on Labour and Social Affairs, the law has now clarified, for example, that apps and mobile terminal devices are also included. This clarification was necessary, as the use of smartphones and tablets is becoming more widespread and the number of administrative apps is also on the rise.

Furthermore, the standard was supplemented by Paragraph 2, which states that public authorities must also (gradually) organize an accessible range of information intended for employees, such as the Intranet and electronic transaction and file processing procedures, for example. Section 12 BGG shows that the BGG and, accordingly, the arbitration procedure can be used for disputes within an organisation (even if in practice those affected are more
likely to try to find a solution by using the services of the representative body for severely disabled persons). As clarified in Section 12 (2) Sentence 4 BGG, the regulations on the accessible equipment and maintenance of workplaces for the benefit of persons with disabilities which are stipulated in other laws, in particular Book IX of the German Social Code, remain unaffected.

In terms of digital accessibility, consideration must also be given to the Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies, which came into effect in December 2016 and which the German Federal Government must implement in 2018.
5. Procedural principles of the Arbitration Service

The Arbitration Service currently employs two arbitrators. The arbitrators are obliged to remain independent and impartial. They guarantee the confidentiality of information disclosed to them during the arbitration procedure, Section 16 (1) BGG, and Sections 3 and 4 of the ordinance on arbitration relating to matters of equality for persons with disabilities (BGleiSV).

6. Order of the arbitration procedure

The arbitration procedure is usually conducted in writing. Applications can be submitted using the online form, which is available at www.schlichtungsstelle-bgg.de. Alternatively, applications can also be submitted by e-mail or post, or they can be sent in for transcription. Applications can also be made using German sign language. On receipt of an application, the arbitrator reviews the application and involves the public authority in the procedure. The latter is requested to respond to the application within one month, Section 7 (1) Sentence 2, BGleiSV. On receipt of a statement from the public authority, the applicant is informed thereof and is again given the opportunity to react to it.

The arbitrator decides the further course of the procedure, taking the principles of impartiality and equity into account, Section 8 (1) BGleiSV. He or she assists those involved in reaching a settlement. In certain cases, the parties concerned may be invited to an arbitration meeting in which the circumstances are verbally explained. In the case of a verbal arbitration meeting, the arbitrator
may offer the use of mediation to settle the dispute, in order that an agreement can be reached.

The arbitration procedure ends when the parties concerned have been able to reach an agreement. The arbitrator otherwise submits a written arbitration proposal following a detailed review of the circumstances. If this is accepted, the arbitration procedure is terminated there and then. If the parties concerned cannot come to an agreement, the applicant is sent written notification of the unsuccessful conclusion of the arbitration procedure in accordance with Section 9 (1) BGleiSV.
7. Relationship between the arbitration procedure and other legal remedies

7.1 Individuals

Alongside other means of legal remedy and legal redress which may be considered, an arbitration procedure is an additional service offered to individuals. As a basic rule, applicants may call the Arbitration Service without having made prior contact with the authority. If an objection to an administrative act is considered during an administrative procedure, the time limit for filing the objection begins after the arbitration procedure has been concluded. This regulation prevents the time limit from expiring during an arbitration procedure. However, this only applies if the arbitration procedure was initiated within the time limit for filing the objection (Section 16 (2) Sentence 3 BGG).

There is no such regulation for legal action. Therefore an arbitration procedure has no influence on time limits for filing legal action. Anyone wishing to submit an application to the Arbitration Service following unsuccessful administrative proceedings reviewing an objection should therefore file an action at the same time, in order not to miss the time limit.

7.2 Associations

It is absolutely essential that an arbitration procedure is completed before representative action is taken against public authorities. Representative action is only permitted if no amicable agreement can be reached as part of the arbitration procedure (Section 15 (2) Sentence 5 BGG).
“(…) even though you didn’t have the opportunity to intervene directly in the process, the contact I had with you was nevertheless helpful and important.”

“It was a great help and meant a lot to me to hear another professional opinion from an outsider with no emotional involvement in the process. And for that I’d like to extend to you my warmest thanks.”
8. Experience one year on

Around one half of applications received by the Arbitration Service related to physical or digital accessibility. In cases where arbitration procedures concerned digital accessibility, applicants expressed dissatisfaction with the fact that, although existing barriers had been removed in some areas, a lack of existing controls and inspections mean they repeatedly have to keep track of their removal and report them again if necessary. The amendment of the BGG to include the implementation into national law of Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies, together with the planned feedback mechanism and monitoring in the form of random checks, promises significant future improvements in this area.

One positive aspect to note is that public authorities were, as a rule, fundamentally open to receiving information on a lack of accessibility. Overall, associations showed great interest in the establishment of the Arbitration Service. The proportion of arbitration applications involving associations within the total number of applications has been relatively low to date, however there was a slight increase in the second half of the year.

In the first few months after the launch of the Arbitration Service, the following challenges were identified:

For persons submitting an application or seeking advice, the areas in which the Arbitration Service may actually get involved are often unclear. In particular, the definition of a federal public versus Land public authority is causing difficulties (see 3 above). In the
case of applications and enquiries for which the Länder are responsible (including inclusive school education, recognition of severe disabilities, passenger vehicle aids, or the use of parking concessions, for example), the Arbitration Service offers referral guidance or passes interested parties on to the responsible Land authority with a request that it deals with the case in question.

Other affected parties would like for the Arbitration Service to be able to offer assistance with infringements of rights in the private sector. However, this would require a change to the Act on Equal Opportunities for Persons with Disabilities or to the General Act on Equal Treatment. With problems concerning private institutions, further assistance could in some cases be provided by referring applicants to other bodies (e.g. consumer arbitration services). In other respects, initial experience has shown that private enterprises are often receptive to information about accessibility deficits (with reference made to the Arbitration Service’s lack of jurisdiction).

Arbitration partners in administrative authorities frequently demonstrated a lack of awareness of the existence of discrimination against persons with disabilities. To some extent the relevant statutory requirements were not known. With regard to digital accessibility in particular, many of those responsible had no knowledge of the statutory requirements or of a standardized procedure within the federal administration sector.

Despite the Arbitration Service’s narrow jurisdiction, which persons with disabilities cannot always easily comprehend, a positive picture can already be painted after its first year. The establishment of the Arbitration Service has resulted in the creation of a specific tool which allows claims relating to the infringement of rights according to the BGG to be raised free of charge: a service which many people are already actively using. The user-friendly process of initiating an arbitration procedure
is keeping inhibition thresholds low and has proven to be beneficial. As a result, the Arbitration Service serves the objectives of the BGG in eliminating and preventing discrimination against persons with disabilities, ensuring equal participation in society, and particularly in promoting both accessibility and the implementation of the ban on discrimination.
“I’d like to thank you both from the bottom of my heart for your understanding and quick, no-fuss commitment!”
9. Proposed amendments

With regard to the following points, discussions should be held over the coming years on whether a corresponding amendment to the Act on Equal Opportunities for Persons with Disabilities would simplify the process of submitting an application to the Arbitration Service and thus ensure even better implementation of the objectives of the Act.

9.1 Right to apply for representatives of severely disabled persons

In discussions and meetings of experts, recommendations which would also give representatives of severely disabled persons the right to apply to the Arbitration Service according to the BGG have been made numerous times. The background to this is that employees of federal authorities have rights vis-a-vis their employers. In many cases, however, employees do not wish to assert their rights themselves, because they fear negative consequences or adverse effects in terms of their career. A representative of severely disabled persons would be able to try to reach a settlement by submitting an application to the Arbitration Service, without having to name the employees concerned. During the reporting period there were three requests from representatives of severely disabled persons, where the possibility of submitting an application had to be rejected by the Arbitration Service.
9.2 The arbitration procedure has no influence on the time limits for filing legal action

If, as a result of the alleged rights infringement, administrative proceedings to review the objection to the administrative act are considered in place of arbitration, the limited period in which the objection can be lodged begins only after the arbitration procedure has ended (Section 16 (2) Sentences 2 and 3 BGG). It cannot take place during an arbitration procedure. In such cases, the application to initiate an arbitration procedure must be made within one month after the addressee has been notified of the administrative act.

Up to now there has been no regulation governing the time limits for filing legal action. If, for example, a person has received a decision on an objection and submits an application to the Arbitration Service according to the BGG, an action must be filed as a supplement to the arbitration procedure. As such, this does not meet the objective of relieving the work of the courts through arbitration procedures. It has also been shown that public authorities are less willing to reach an amicable settlement if legal action is pending. For this reason, a corresponding regulation which also allows the limitation period to be interrupted would be helpful.

9.3 Duty to provide information on the Arbitration Service

Looking at the regulations for consumer arbitration services, improvements in the work done by the Arbitration Service according to the BGG can be identified. Private enterprises, for example, must point out the responsible consumer arbitration service if they have committed themselves to taking part in a dispute resolution procedure at a consumer arbitration service, or if statutory requirements obligate them to take part.
To date no duties to provide such information have been included in the BGG or BGleiSV. In terms of the complicated definition of a federal public authority, the inclusion of a duty to provide information on the websites of the authorities which fall within the scope of the Arbitration Service could be a huge relief for those wishing to submit an application.

Within this context, provision has been made for a duty to provide such information, as part of the objectives of digital accessibility, with the implementation in 2018 of Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (Article 7 (1) Number 2 of the Directive). It can be assumed that this will also be taken into consideration when the Directive is implemented. It would be desirable, however, if such a duty to provide information could be extended beyond digital accessibility.
“Many thanks again for your support and I wish you continued success in your important work!“

“Thank you for the meeting at the BMAS Arbitration Service last week. And thank you for listening to me back then on the phone!“
10. Statistics

During the reporting period, a total of 146 applications and a large number of general enquiries were addressed to the Arbitration Service, though no statistics on individual cases were collected.

10.1 General enquiries addressed to the Arbitration Service

Potential applicants often made use of the telephone consultations offered by the Arbitration Service to explain their concerns in greater detail and ask general questions about the arbitration procedure. Most concerned the scope of the Arbitration Service’s jurisdiction and how the arbitration procedure works.

In the case of general enquiries, employees of the Arbitration Service are often confronted with the complex reality of people’s lives which they experience as stressful. Persons who feel they have been discriminated because of their disability often expressed their anger and disappointment over prevailing situations. Consequently, in addition to providing information on the jurisdiction of the Arbitration Service, it was also important in many cases to deal with the emotional consequences of the discrimination experienced and build up a relationship of trust with those looking for advice and support.

In many cases the Arbitration Service was able to provide further help over the telephone by advising callers, where applicable, to submit an application to initiate an arbitration procedure. In cases which fell outside the jurisdiction of the Arbitration Service, the arbitrators were frequently able to make recommendations over the telephone regarding agencies or bodies which persons looking for advice could contact.
10.2 Number and type of applications to initiate an arbitration procedure

<table>
<thead>
<tr>
<th>Number and type of applications</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>E-Mail</td>
<td>85</td>
</tr>
<tr>
<td>Online Form</td>
<td>46</td>
</tr>
<tr>
<td>By post</td>
<td>15</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>146</strong></td>
</tr>
</tbody>
</table>

**Explanation:** The results of the applications received show that the majority of applications submitted to the Arbitration Service were made by electronic means.

The SQAT method, with which applications are made using German sign language, has not been used up to now. This may be down to the fact that the tool is not immediately visible on the website. It can currently be found by clicking on “Contacts” and “Contact in sign language”. Plans have been made to place the tool on the homepage so as to reach a wider audience of interested persons.

SQAT is the abbreviation for Signing Question and Answer Tool
10.3 Overview of applications received by the Arbitration Service

**Explanation:** The chart shows that 84 of the 146 applications received in total were accepted. In 62 cases the Arbitration Service was not the responsible body or there was no rights infringement within the meaning of the BGG.

In the first two quarters of the year, the number of inadmissible applications was slightly above the figure for admissible applications, whereas in the third and fourth quarters there was a prevalence of admissible applications. This trend may be attributable to the fact that the Arbitration Service continued to make efforts throughout the year (e.g. in newspaper articles, information material or advisory services) to explain that arbitration procedures can only be conducted if a federal public authority is one of the parties to the arbitration proceedings. A connection cannot be clearly established, however.
10.4 Reasons for rejecting applications to initiate an arbitration procedure

<table>
<thead>
<tr>
<th>Reason</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land level</td>
<td>64%</td>
</tr>
<tr>
<td>No infringement of rights</td>
<td>20%</td>
</tr>
<tr>
<td>Private sector</td>
<td>12%</td>
</tr>
<tr>
<td>Ongoing judicial proceedings</td>
<td>4%</td>
</tr>
</tbody>
</table>

**Explanation:** The chart shows the reasons for which the Arbitration Service said it was not the responsible body in a number of applications. The majority of applications rejected related to disputes which fall under Länder laws. As the Arbitration Service is able to deal only with disputes with a federal administration authority, referral guidance was offered in these cases. As a rule, the applications were forwarded to the Land authorities responsible or to the relevant Land Commissioner for Matters relating to Persons with Disabilities, with a request that it deals with the case in question.
Eight applications concerned disputes between persons with disabilities and private legal entities. The BGG only applies here if federal public authorities, as proprietors for the most part, are able to exert influence on the private legal entity. In the cases not covered by this, some applications were forwarded to the private legal entity involved in the dispute, informing him or her of the Arbitration Service’s lack of jurisdiction; in several cases a settlement was quickly reached.

In three cases the Arbitration Service was unable to accept the application, as court proceedings had already been initiated or concluded for applications which corresponded to the subject matter of the court action. In a total of fourteen other cases, the Arbitration Service rejected the implementation of an arbitration procedure for miscellaneous reasons (e.g. no assertion of a right laid down in the BGG, etc.).
10.5 Duration of arbitration procedures concluded by the end of 2017

**Duration of arbitration procedures**

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arbitration procedures lasting up to 3 months</td>
<td>80%</td>
</tr>
<tr>
<td>Arbitration procedures lasting more than 3 months</td>
<td>20%</td>
</tr>
</tbody>
</table>

**Explanation:** As a rule, an arbitration proposal must be submitted within three months in accordance with Section 10 BGleiSV. The chart shows that the Arbitration Service was able to adhere to this rule in 80 percent of the 114 procedures concluded in total. The Arbitration Service has identified various reasons why some procedures lasted for a longer period of time:

- The public authority concerned or the applicant exceeded the monthly deadlines set out in Section 7 BGleiSV.

- In some cases several written statements had to be requested from the parties involved so that full details of the circumstances could be obtained.
• Scheduling arbitration meetings was very time-consuming, especially in cases where several public authorities were involved or several organisational units within a public authority were required to take part.

• Proposals made had to be agreed within the organisational unit following the arbitration meetings.

10.6 Subject matter of the applications

- Ban on discrimination: 47%
- Accessible information technology: 31%
- Physical accessibility: 21%
- Right to sign language and other communication aids: 1%

**Explanation:** Almost one half of applications dealt with the ban on discrimination in Section 7 BGG. In order to differentiate clearly between the subjects of disputes in an arbitration procedure and general questions of social law, a judicial appraisal, the results of which will be published in 2018, was commissioned. Another large proportion of applications, 31%, related to disputes regarding
accessible information technology. The issue here was the accessibility of websites or the use of social media by public bodies and authorities, for example, as well as non-accessible apps or application forms. In terms of physical accessibility (21%), applicants frequently complained about the lack of barrier-free access. Individual applications related to offensive or unfriendly remarks made by officials in respect of a disability, which are also covered by the ban on discrimination. To date, no application has dealt with the subject of easy-to-use language, which is also regulated in the BGG.

10.7 Results of the arbitration procedures which fall under the jurisdiction of the Arbitration Service

<table>
<thead>
<tr>
<th>Settlement reached</th>
<th>No settlement reached (attributable to applicant)</th>
<th>Settled by other means</th>
<th>No settlement reached (attributable to public authority)</th>
</tr>
</thead>
</table>
**Explanation:** A total of 52 procedures were completed during the reporting period for cases which fell under the jurisdiction of the Arbitration Service. Of these, an amicable agreement between the parties concerned was reached in 26 cases, with the aims of the applicant being achieved to some extent at least.

Where no agreement was possible, this was attributable in part to the applicants who, for example, withdrew their applications after the desired administrative act had been issued by the administrative body at the same time as the arbitration procedure, or did not report back during the procedure.

In terms of public authorities, the Arbitration Service was accepted in principle by federal public authorities. Written statements were issued in almost all cases. However, some public authorities, particularly in areas where participation benefits and services are provided, were of the view that sufficient consideration had been given to the needs of persons with disabilities in their interpretation of the prerequisite criteria and exercise of discretion and, having submitted their statement, rejected the further implementation of an arbitration procedure.
11. Public relations activities of the Arbitration Service

Following the establishment of the Arbitration Service in December 2016, a website with the electronic application procedure specified in the BGleiSV and a system of process management for implementing arbitration procedures were initially created in line with statutory requirements. Over and above this, it was also important to communicate basic information on the Act on Equal Opportunities for Persons with Disabilities, of which the public is largely unaware, and on the Arbitration Service. To this end, the new range of services was made known to persons with disabilities and to associations and stakeholders, insofar as this was possible in view of the limited human resources.

11.1 Creation of information material

The Arbitration Service has developed various types of information material. This includes, for example, (accessible) flyers in everyday language, in easy-to-read language and in Braille, as well as advertising materials and a poster. These materials can be ordered from the Arbitration Service free of charge. The process of enabling flyers to be ordered online is still in the development stage.
11.2 Presentations and events

February 2017

• Presentation of the Arbitration Service at the Advisory Council on Inclusion of the State Focal Point for Implementation of the UN Convention on the Rights of Persons with Disabilities

March 2017

• Presentation of the Arbitration Service at the Association of Severely Disabled Persons’ Representatives of supreme federal authorities

May 2017

• Presentation of the Arbitration Service at the Expert Committee on Rehabilitation and Participation of the German Association for Public and Private Welfare

• Presentation of the Arbitration Service at the event held by the Federal Ministry Focal Points for Implementation of the BGG

• Report by the Commissioner on the half-yearly report from the Arbitration Service at the Bundestag Committee on Labour and Social Affairs, and follow-up discussion

June 2017

• Presentation of the Arbitration Service at the meeting of federal/Länder policy officers at the Federal Ministry of Labour and Social Affairs

• Presentation of the Arbitration Service at the Consultation of Associations of the German Institute for Human Rights (DIMR)
July 2017

• Presentation of the Arbitration Service at the meeting of Länder Commissioners for Matters relating to Persons with Disabilities to discuss the Federal Participation Act

September 2017

• Presentation of the Arbitration Service at the social seminar of the Rhineland-Palatinate Federation of the Blind and Partially Sighted (LBSV RLP)

November 2017

• Presentation of the Arbitration Service within the Accessible Environmental Design Task Force of the Federal Association for Rehabilitation (BAR)

December 2017

• Presentation of the Arbitration Service at the Medical Law Working Group of the Berlin Bar Association

11.3 Other activities of the Arbitration Service

The employees of the Arbitration Service have also held a large number of expert discussions, for example with the Federal Anti-Discrimination Agency, Länder authorities, or associations interested in the work of the Arbitration Service.

Contact has also been made with existing arbitration bodies, whose experience helps to simplify the establishment and development of a procedure management system. A visit to the Centre of Excellence at the German Federal Travel Association (DRV), which above all ensures communication with blind and
visually-impaired persons, also produced important pointers for improving the Arbitration Service’s methods of communication.

In addition, the Arbitration Service attended the Inclusive Children’s and Youth Festival held by the Federal Government Commissioner for Matters relating to Persons with Disabilities, for example, as well as the Commissioner’s Annual Reception and the Federal Government’s Open Day, and informed visitors about the work it does.

![Pie chart showing the distribution of public relations activities.](image)

**Overview of public relations activities**

<table>
<thead>
<tr>
<th>Activity</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expert discussions</td>
<td>7%</td>
</tr>
<tr>
<td>Press releases</td>
<td>23%</td>
</tr>
<tr>
<td>Presentations</td>
<td>23%</td>
</tr>
<tr>
<td>Stands at events</td>
<td>47%</td>
</tr>
</tbody>
</table>

**Explanation:** As part of its public relations work, the Arbitration Service held 20 expert discussions with various organisations, gave 10 presentations and was represented with its own stands at 3 events during the reporting period. In total, 10 press releases from various organisations reported on the Arbitration Service. These activities increased the level of awareness of the Arbitration Service, something which was also reflected in the rising number of applications.
11.4 Press reports on the Arbitration Service

Various publications offered potential applicants information on the new range of services from the Arbitration Service:

- On 2 December 2016 Ms Bentele issued a press release to announce that the Arbitration Service had started operations. This was followed by two further press releases on the six-month and first anniversaries of the launch of the Arbitration Service.

- In March 2017 the social association VDK published an article in connection with its new campaign: “Weg mit den Barrieren” (“Break down the barriers”) on the work of the Arbitration Service.

- In March 2017 the German Evangelical Press Service issued a press release to mark 100 days of the Arbitration Service. This was preceded by a joint interview held by the Arbitration Service and the Federal Government Commissioner for Matters relating to Persons with Disabilities.

- In June 2017 an article was published in issue 6/2017 of the NDV (News Service of the German Association for Public and Private Welfare). It was entitled “The new Arbitration Service according to the Act on Equal Opportunities for Persons with Disabilities” and was written by the arbitrators.

- In June 2017 the Apotheken Umschau (Pharmacy Review) published a reference to the work done by the Arbitration Service.
• The academic paper by Dr. Werner and Ms Lutz from issue 6/2017 of the NDV was published in July 2017 in the 7/17 issue of the VDK newsletter.

• Following a presentation by the Arbitration Service at the social seminar in Rossbach/Wied in 2017, a telephone interview was sent in October 2017 in the form of a CD to various associations, organisations and commissioners who represent the interests of persons who are blind or visually impaired.

• In October 2017 both arbitrators were interviewed about their responsibilities at the Arbitration Service and about how the arbitration procedure works.
12. Examples of concluded arbitration procedures

12.1 Defective lifts

The building in which a high-profile event was being held by the Federal Government has a stair lift leading up to it alongside the steps. When the applicant moved onto the lift platform in her wheelchair, she noticed that the lift was defective and that she was unable to get it working from the platform. It was only after prolonged efforts that she was able to get someone to help her by pressing the button on the wall of the building. The public authority which was contacted showed great interest in the subject of accessibility and apologised for the inconvenience caused. It emphasized that the event was held in premises that were designated accessible and devised its own proposals for improvement to be implemented at the next event. It announced, for example, that it would check the lift before events in future, and that a person would be available in the foyer to welcome guests and offer assistance where required. The applicant was satisfied with this.

Another lift could only be used with a Euro key for reasons of safety and vandalism protection. This was not taken into consideration during reconstruction work and the lock was replaced. Once the Arbitration Service had pointed this out to the lift operator, the mistake was rectified and a new Euro lock was installed. The applicant further criticized the fact that the special door opener only offers access to a limited group of persons who have such a key.
12. Examples of concluded arbitration procedures

12.2 Limited access to public buildings

A woman submitted a claim of discrimination on the basis of her disability, as access to a public event was limited to a certain number of wheelchair users. The Arbitration Service notified the responsible public authority of her concern. The latter explained the safety considerations, which include fire safety regulations in particular, on which the restriction was based. At the same time, the public authority also stated within this context that it would make serious efforts in future to avoid discriminating against persons with disabilities and to enable equal participation. The applicant accepted this.

12.3 Communication via websites and social media

In his application, the applicant claimed that, as a blind person, he was being discriminated against by a supreme federal authority, as neither its website nor its communications via social media were accessible. The applicant had previously contacted the public authority directly but had received no response to his complaints. The Arbitration Service initially obtained a written statement from the public authority in which it made particular reference to limited personnel resources, high time pressure regarding the publication of information, and a lack of general support services for improving digital accessibility. The Arbitration Service initially explained to the public authority the existing statutory requirements which are laid down in BITV 2.0 and relate to the establishment of accessibility. The Arbitration Service subsequently invited the parties involved to an arbitration meeting, in which the views of both parties were thoroughly explained. As a result, the public authority agreed to eliminate the accessibility deficits. In this regard the applicant offered to monitor the accessibility improvement process for a few months and give the public authority regular, direct feedback on the current status as well as supportive tips and advice. The applicant said he was
satisfied in principle with the result of the arbitration procedure. What he did criticize, however, was the fact that an improvement in digital accessibility can only be achieved by the Arbitration Service in relation to barriers for which specific claims are raised. For future purposes he would like to see a comprehensive internal review of digital communications by public authorities; this review should be held by an internal audit unit within the federal administration sector and should replace the involvement of persons with disabilities, which is still currently required.

### 12.4 Access to guided tours with a guide dog

The applicant contacted the Arbitration Service after her application to bring a guide dog to a guided tour for visitors to a public building was refused. The tour had been organised for a group of blind and visually-impaired persons. The public authority had offered to accommodate her guide dog in a crate during the event and to provide an accompanying person to support her. The Arbitration Service contacted the public authority before the event and explained that guide dogs qualify as medical aids and also outlined what opportunities for creating physical accessibility exist, including both human and dog-assisted. For its part the public authority initially pointed out the safety requirements, though in the end it accepted the applicant’s use of her guide dog for assistance. The tour of the building was held without incident to the satisfaction of the parties concerned.
12.5 Protection during security checks

In her application the applicant complained that her luggage not been adequately protected during security checks. As a result of her disability, the checks she undergoes (which are carried out by a federal agency) often take much longer than average. She also said that she was regularly unable to keep an eye on her luggage during the checks. During one check, her bag containing vitally important medication was misplaced. Fortunately, there had only been a mix-up, which was resolved shortly thereafter. The applicant submitted her application with the aim of ensuring that the public authority takes specific precautions for the supervision of luggage during checks. The Arbitration Service made the public authority aware of the needs of the applicant. At the end of the arbitration procedure, the public authority apologised for the incidents and offered to give the applicant specific assistance in future. In addition, it announced it would offer staff training and take structural measures to prevent a repeat of the situation described in the application.

12.6 Long-term care allowance in non-European countries

In another arbitration procedure, the applicant raised a claim of discrimination within the meaning of the BGG on the grounds that Section 34 of Book XI of the German Social Code, on which the entitlement to payment of long-term care allowance for persons staying in a non-European country is suspended, was not designed with the UN Convention on the Rights of Persons with Disabilities in mind. The applicant, who suffers from a serious illness and severe pain, had moved his permanent place of residence to a non-European country on the recommendation of his doctor, as his health issues were improving significantly as a result of the climate there and the costs of treatment were far
lower than in Germany. By his own account, his health insurance fund had previously informed him that he would be able to move his permanent place of residence if he returned to Germany every 6 months. When the applicant returned to Germany at the beginning of 2017, in line with what he believed was agreed with the health insurance fund, he was informed that he could not return to his home abroad, that is to say, he would not be able to receive health and long-term care insurance benefits. The Arbitration Service obtained several statements from the regulatory authorities. A settlement could not be reached as part of the arbitration procedure. The applicant took legal action, basing his request on the right to restitution under social law.

12.7 The inactive health insurance fund

A wheelchair user raised a claim based on discrimination due to the excessively long duration of a process. She contacted the Arbitration Service after her wheelchair had been irreparably damaged. Despite the fact that both the wheelchair manufacturer and her neurologist also shared this opinion, it took almost two years for her health insurance fund to approve a new wheelchair. As a result, the applicant was not able to move around independently in public spaces and had to give up her job. As the health insurance fund is not a federal administration authority, the Arbitration Service was not able to conduct an arbitration procedure within the meaning of the BGG. Nevertheless, the case was forwarded to the health insurance fund and reference made to the lack of jurisdiction of the Arbitration Service, and the application was immediately reviewed and approved, as the applicant later confirmed to the Arbitration Service.
One year of the Arbitration Service

- **December 2017**
  Arbitration Service turns one year old

- **August 2017**
  100th application to initiate an arbitration procedure

- **May 2017**
  Half-yearly report on the Arbitration Service in the Bundestag

- **January 2017**
  First arbitration procedure is completed

- **December 2016**
  Arbitration Service is established
  Arbitration Service website goes live
13. Annex

Act on Equal Opportunities for Persons with Disabilities (BGG)

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Part 1

General provisions

Section 1 Aim and responsibility of public authorities

(1) The aim of this Act is to eliminate and prevent the discrimination of persons with disabilities, to guarantee them equal participation in social life, and to enable them to lead a self-determined life. It takes their particular needs into account.

(2) Federal administration bodies and other facilities, including federal public entities, institutions and foundations, as well as bodies vested with public authority and other federal constitutional organs, insofar as they fulfil administrative functions under public law, should actively promote the objectives stated in Paragraph 1 and take them into consideration when planning measures within their respective areas of responsibility. This shall also apply to Land administration agencies, including Land public bodies, institutions and foundations, insofar as these execute federal law.

(3) Public authorities within the meaning of Paragraph 2 Sentence 1 should work towards ensuring that facilities, associations and legal persons governed by private law, in which the public authorities have an indirect, full or major interest, give adequate consideration to the objectives of this Act. If public authorities within the meaning of Paragraph 2 Sentence 1 provide grants pursuant to Section 23 of the Federal Budget Code as a means of institutional support, they should ensure, by means of an incidental provision relating to the grant award notification or by means of a contractual agreement, that the institutional grant recipients apply the fundamental principles of this Act. It must be clear from the incidental provision relating to the grant award notification or the contractual agreement which regulations are to be applied. Sentences 2 and 3 shall also apply to cases
where bodies or agencies outside of the federal administration sector are given institutional support when federal funds are being allocated. Other regulations shall remain unaffected by Sentences 1 to 4.

(4) Federal government diplomatic missions abroad shall take the objectives of this Act into consideration in the performance of their duties.

Section 2 Women with disabilities; discrimination on several grounds

(1) In order to enforce equality between women and men and to prevent women with disabilities from being discriminated on several grounds, the particular needs of women with disabilities must be taken into consideration and existing discrimination eliminated. Here, special measures to support the actual enforcement of equality for women with disabilities and to eliminate existing discrimination may be implemented.

(2) Irrespective of Paragraph 1, the particular needs of persons with disabilities, who may be affected by discrimination due to a disability and for at least one other reason stated in Section 1 of the General Act on Equal Treatment, must be taken into consideration.
Section 3 Persons with disabilities

Persons with disabilities within the meaning of this Act are persons who have long-term physical, psychological, intellectual or sensory impairments which, on interacting with attitudinal and environmental barriers, may hinder their participation in society on an equal basis with others. ‘Long-term’ is used for periods of time which are highly likely to last for more than six months.

Section 4 Accessibility

Buildings and other structures, means of transport, technical commodities, information processing systems, acoustic and visual information sources and communication facilities, as well as other areas of life designed and shaped by people, are considered to be accessible if persons with disabilities are always able to find, access and use them in the usual manner without any external assistance whatsoever and without any particular difficulty. The use of disability aids which may be required is permitted.

Section 5 Target agreements

(1) Unless precluded by special legal or regulatory requirements, target agreements aimed at establishing accessibility should be reached by associations, which are recognised under Section 15 (3), and enterprises or associations of enterprises from various sectors of the economy for their respective professional and geographical organisational area or field of activity. The recognised associations can demand the opening of negotiations on target agreements.
(2) Target agreements for establishing accessibility include in particular:

1. The selection of the parties to the agreement and other regulations governing the scope and period of validity.
2. The definition of minimum requirements on how areas of life designed and shaped by people within the meaning of Section 4 must be changed in future, in order to satisfy the right of persons with disabilities to find, access and use them.
3. The date or a time schedule for fulfilling the minimum requirements stipulated.

Furthermore, these may include an agreement on contractual penalties for non-fulfilment or for delayed performance.

(3) An association according to Paragraph 1 which requests the opening of negotiations must disclose this to the register of target agreements (Paragraph 5) and give details of the parties to the negotiations and the subject matter of the negotiations. The Federal Ministry of Labour and Social Affairs shall publish this disclosure on its website. Within four weeks of publication, other associations within the meaning of Paragraph 1 shall have the right to enter into negotiations by declaring their intention to participate to the previous parties to the negotiations. Once the participating associations of persons with disabilities have formed a joint negotiating committee, or it has been established that only one association will be involved in the negotiations, the latter must be opened within four weeks.

(4) There shall be no entitlement to negotiations pursuant to Paragraph 1 Sentence 2

1. during ongoing negotiations within the meaning of Paragraph 3 for non-participating associations of persons with disabilities,
2. in respect of enterprises which declare their intention to enter into a target agreement over which negotiations are being held by an association of enterprises,
3. for the scope and period of validity of an effected target agreement,
4. in respect of enterprises which have entered into an effected target agreement upon the unconditional assumption of all rights and obligations.

(5) The Federal Ministry of Labour and Social Affairs shall keep a register of target agreements in which the conclusion, modification and cancellation of target agreements pursuant to Paragraphs 1 and 2 are entered. The association of persons with disabilities which concludes the target agreement shall be obliged to submit a copy of the notification, which is both certified and in a form that can be recorded using information technology, to the Federal Ministry of Labour and Social Affairs within one month of concluding the target agreement, and to give notification of any changes or cancellations within one month.

Section 6 Sign language and communication of persons with hearing or speech/language impairments

(1) German sign language is recognised as a language on its own.

(2) Sound-accompanying signs (signed German) are recognised as a form of communication of the German language.

(3) In line with applicable legislation, persons with hearing impairments (deaf and hard-of-hearing persons) and persons with speech impairments are entitled to use German sign language, sound-accompanying signs or other suitable communication aids.
Part 2

Equality and accessibility obligations

Section 7 Ban on discrimination for public authorities

(1) A public authority within the meaning of Section 1 (2) must not discriminate against persons with disabilities. Discrimination occurs when people with and without disabilities are treated differently for no compelling reason, and thus persons with disabilities are directly or indirectly disadvantaged with regard to their equal participation in society. Discrimination also occurs in the case of harassment within the meaning of Section 3 (Paragraphs 3 and 4) of the General Act on Equal Treatment as amended, subject to the proviso that Section 3 (4) of the General Act on Equal Treatment is not limited to the scope of Section 2 (1) Numbers 1 to 4 of the General Act on Equal Treatment. In the event of a violation of an obligation to establish accessibility, a rebuttable presumption that discrimination has taken place shall apply.

(2) The failure to provide reasonable accommodation for persons with disabilities represents discrimination within the meaning of this Act. Reasonable accommodation constitutes measures which are appropriate and necessary in individual cases to ensure that persons with disabilities are able to enjoy and exercise all rights on an equal footing with others, and which do not represent a disproportionate or costly burden for the public authority pursuant to Section 1 (2).

(3) Special measures to reduce and eliminate discrimination are permitted in areas where persons with disabilities still face discrimination compared with persons without a disability. The particular needs of women with disabilities must be taken into account when applying laws governing the actual enforcement of equality between women and men.
(4) Special bans on discrimination for the benefit of persons with disabilities which are stipulated in other laws, in particular Book IX of the German Social Code, shall remain unaffected.

Section 8 Establishment of accessibility in the construction and transportation sectors

(1) New, converted or extended buildings which are intended for civil use and are the property of the Federal Government, including federal public entities, institutions and foundations, must be designed such that they are accessible in accordance with the generally recognised rules governing technology and engineering practice. Deviations from these requirements are permitted if another solution allows accessibility requirements to be met in the same way. This shall not affect the provisions of Länder laws, particularly building regulations.

(2) As part of construction project investments pursuant to Paragraph 1 Sentence 1, the Federal Government, including federal public entities, institutions and foundations, should identify structural barriers in parts of buildings that are not directly affected by this construction work, provided they are used by the public, and should remove these barriers, taking the structural circumstances into account, provided that their removal does not constitute an unreasonable economic burden.

(3) Up to 30 June 2021 all supreme federal authorities and constitutional bodies shall compile reports on the accessibility status of the buildings which are used by them and are the property of the Federal Government, including federal public entities, institutions and foundations, and should draw up binding, verifiable action plans and time schedules for the further removal of barriers.
(4) The Federal Government, including federal public entities, institutions and foundations, shall be obliged to take accessibility into account when renting buildings or premises which it uses. In future, only accessible buildings, or buildings in which the structural barriers can be removed while taking the structural circumstances into account, may be rented, provided that their rental does not result in an unreasonable economic burden.

(5) Other buildings or other structures, public paths, spaces and roads, as well as public transport facilities and modes of public transport, must be designed such that they are accessible in accordance with the applicable federal statutory requirements. Other statutory requirements of the Länder shall remain unaffected.

Section 9 Right to the use of sign language and other communication aids

(1) In line with the ordinance pursuant to Paragraph 2, persons with hearing impairments and persons with speech impairments shall have the right to communicate with public authorities within the meaning of Section 1 (2) Sentence 1 using German sign language, sound-accompanying signs or other suitable communication aids for the purpose of asserting their rights in administrative procedures. Entitled persons can, at their request, have public authorities provide suitable communication aids within the meaning of Sentence 1 free of charge or have them bear the costs thereof.

(2) The Federal Ministry of Labour and Social Affairs shall determine on the basis of an ordinance, which does not require the approval of the Bundesrat,

1. the reason and extent of the entitlement to the provision of suitable communication aids,
2. the manner and form of the provision of suitable communication aids,
3. the principles for the appropriate remuneration or reimbursement of the necessary costs of using suitable communication aids,
4. suitable communication aids within the meaning of Paragraph 1.

**Section 10 Design of official notices and forms**

(1) Public authorities within the meaning of Section 1 (2) Sentence 1 must take disabilities into account when designing official notices, decisions of general application, public-law contracts and forms. In order to exercise their rights in administrative procedures in line with the ordinance pursuant to Paragraph 2, blind and visually-impaired persons may request that official notices, public-law contracts and forms are also made accessible to them, at no extra cost, in a form which they are able to understand.

(2) The Federal Ministry of Labour and Social Affairs shall determine on the basis of an ordinance, which does not require the approval of the Bundesrat, on which occasions and in which manner and form the documents stated in Paragraph 1 are made accessible to blind and visually-impaired persons.

**Section 11 Comprehensibility and easy-to-read language**

(1) Public authorities within the meaning of Section 1 (2) Sentence 1 should communicate with persons with intellectual or psychological disabilities in an easily comprehensible language. In particular, they should explain to them, on request, official notices, decisions of general application, public-law contracts and forms in an easily comprehensible manner.

(2) In the event that the explanation according to Paragraph 1 is insufficient, public authorities within the meaning of Section 1
(2) Sentence 1 should, on request, explain official notices, decisions of general application, public-law contracts and forms to persons with intellectual or psychological disabilities.

(3) The costs of providing explanations to the required extent in accordance with Paragraph 1 or 2 shall be borne by the relevant public authority as per Paragraph 1. The required extent shall be determined on the basis of the individual needs of the entitled persons.

(4) Public authorities within the meaning of Section 1 (2) Sentence 1 should provide more easy-to-read information. The Federal Government shall work towards ensuring that the public authorities stated in Sentence 1 use easy-to-read language more intensively and also develop and expand their skills in compiling easy-to-read texts.

Section 12 Accessible information technology

(1) In line with the regulation to be enacted pursuant to Sentence 2, public authorities within the meaning of Section 1 (2) Sentence 1 shall gradually develop their websites and the services they offer online, as well as the graphic program interfaces, including apps and other features for mobile terminal devices, which they provide and which are displayed by means of information technology, to the extent that they can be used by persons with disabilities at all times without any restrictions. The Federal Ministry of Labour and Social Affairs shall determine on the basis of an ordinance, which does not require the approval of the Bundesrat, and in line with technical, financial and administrative/organizational possibilities,

1. the group of persons to which the ordinance applies,
2. the technical standards to be applied and the date from which their application shall be binding,
3. the areas and types of official information to be created and designed.
(2) Public authorities within the meaning of Section 1 (2) Sentence 1 shall gradually organize an accessible range of Intranet-based information intended for employees as well as their own accessible electronic administrative processes, including electronic transaction processing and electronic file management. To this end, the subject of accessibility must already be taken into consideration during the planning, development, tender and procurement stages, in accordance with the generally recognised rules governing technology and engineering practice, particularly in the case of new acquisitions, extensions or revisions. The accessible design requirement may be disregarded if its implementation demands a disproportionately high degree of technical effort. The regulations on the accessible equipment and maintenance of workplaces for the benefit of persons with disabilities which are stipulated in other laws, in particular Book IX of the German Social Code, shall remain unaffected. Up to 30 June 2021, the supreme federal authorities shall compile reports on the accessibility status of the information offered and of administrative procedures pursuant to Sentence 1, and draw up binding, verifiable action plans and time schedules for the further removal of barriers.

(3) The Federal Government shall work towards ensuring that commercial providers of websites and graphical program interfaces, which are displayed by means of information technology, design their products in line with the technical standards pursuant to Paragraph 1 on the basis of target agreements according to Section 5.
Part 3

Federal Centre of Expertise on Accessibility

Section 13 Federal Centre of Expertise on Accessibility

(1) A Federal Centre of Expertise on Accessibility shall be set up at the Deutsche Rentenversicherung Knappschaft-Bahn-See (pension insurance organisation for the mining, rail and maritime industries).

(2) The Federal Centre of Expertise on Accessibility shall be the central contact point for all matters relating to accessibility for public authorities within the meaning of Section 1 (2). Upon request, it shall also offer advice to businesses, associations and civil society groups and organisations. Its duties shall include:

1. Operating as the central point of contact and offering initial advice,
2. Providing, bundling and developing supporting information regarding the establishment of accessibility
3. Assisting those involved with target agreements pursuant to Section 5 using the financial and human resources available,
4. Building up a network,
5. Monitoring research projects to improve the data situation and to establish accessibility
6. Raising awareness through public relations work.

A group of experts, most of whom shall be representatives of associations of persons with disabilities, shall advise the Federal Centre of Expertise on Accessibility.

(3) The Federal Ministry of Labour and Social Affairs shall be responsible for the technical supervision of the execution of the duties mentioned in Paragraph 2.
Part 4

Remedies

Section 14 Powers of representation in administrative or social law procedures

If the rights of persons with disabilities as set out in Section 7 (1), Section 8 (1), Section 9 (1), Section 10 (1) Sentence 2, or Section 12 (1) are violated, associations according to Section 15 (3) which are not party to the proceedings themselves may apply for legal protection on their behalf and with their consent; the same shall apply to violations of federal law requirements, which provide for an entitlement to the establishment of accessibility within the meaning of Section 4 or to the use of sign language or other communication aids within the meaning of Section 6 (3). In such cases, as with persons seeking legal redress, all procedural requirements must be made available to the persons with a disability themselves.

Section 15 Right to representative action

(1) An association recognised in accordance with Paragraph 3 may, with no infringement of its rights having taken place, take legal action in line with the Code of Administrative Court Procedure and the Social Courts Act on establishing a violation of

1. the ban on discrimination for public authorities according to Section 7 (1) and the obligation of the Federal Government to establish accessibility in Section 8 (1), Section 9 (1), Section 10 (1) Sentence 2 and Section 12 (1),

2. the requirements of federal law to establish accessibility in Section 46 (1) Sentences 3 and 4 of the Federal Electoral Code, Section 39 (1) Sentences 3 and 4 of the European Electoral Regulations, Section 43 (2) Sentence 2 of the Social Insurance Election Regulations, Section 17 (1)
Number 4 of Book I of the Social Code, Section 4 (1)
Number 2a of the Licensing Act, Section 3 Number 1 Letter d of the Community Transport Financing Act, Section 3 (1)
Sentence 2 and Section 8 (1) of the Federal Trunk Roads Act, Sentence 8 (3) of the Construction and Operation of Railways Regulations, Sections 19d and 20b of the Civil Aviation Act, or
3. federal law requirements governing the use of sign language or other suitable communication aids in Section 17 (2) of Book I of the Social Code, Section 57 of Book IX of the Social Code, and Section 19 (1) Sentence 2 of Book X of the Social Code.

Sentence 1 shall not apply if a measure has been adopted as a result of a decision in a litigious procedure in an administrative or social court.

(2) An action may only be filed if the association is affected in its statutory duties by the measure or by an omission. Insofar as a person with a disability is able to or would have been able to pursue his or her own rights independently through an action for modification of rights or an action for specific performance, such action as per Paragraph 1 may only be filed if the association can assert that the measure or the omission is a case of general significance. This is particularly applicable if there has been a number of cases of a similar nature. The requirements of Part 8 of the Code of Administrative Court Procedure shall apply accordingly to legal action pursuant to Paragraph 1 Sentence 1, subject to the proviso that preliminary proceedings are required if the contested measure has been adopted by one of the supreme federal or supreme Land authorities; the same shall apply to omissions. Before filing an action pursuant to Paragraph 1 against a public authority according to Section 1 (2) Sentence 1, the association recognised under Paragraph 3 must take part in an arbitration procedure in line with Section 16. Legal action
is only permitted if no amicable agreement can be reached during the arbitration procedure and if this has been verified in accordance with Section 16 (7). The arbitration procedure shall substitute any preliminary proceedings to be conducted before legal action is instituted.

(3) The Federal Ministry of Labour and Social Affairs may grant recognition at the proposal of the members of the Advisory Council on the Participation of Persons with Disabilities, who are appointed in accordance with Section 64 (2) Sentence 2 Numbers 1, 3 or 12 of Book IX of the Social Code. It should grant recognition if the proposed association
1. promotes the interests of persons with disabilities in an ideal manner and not on a temporary basis, in accordance with its articles of association,
2. is appointed to represent the interests of persons with disabilities at a federal level based on the composition of its members or member associations,
3. has been in existence for at least three years at the time of recognition and has been active within the meaning of Number 1 during this period,
4. guarantees the orderly discharge of its duties, whereby the nature and scope of its previous activities, its members and its performance must be taken into account, and if it
5. is exempt from corporation tax on the grounds that it pursues public-benefit purposes in accordance with Section 5 (1) Number 9 of the Corporation Tax Act.

Section 16 Arbitration Service and arbitration procedure; power to make statutory instruments

(1) An Arbitration Service shall be set up within the office of the Federal Government Commissioner for Matters relating to Persons with Disabilities in accordance with Part 5; it shall be responsible for the extrajudicial resolution of disputes as set out in Paragraphs 2 and 3. It shall have an office in which
neutral arbitrators are employed. The procedure conducted by
the Arbitration Service must ensure in particular that
1. the Arbitration Service is independent and impartial,
2. the rules of procedure for interested parties are accessible,
3. the parties involved in the arbitration procedure receive a
   full and fair hearing and are able to present facts and
   evaluations in particular,
4. the arbitrators and other employees of the Arbitration
   Service guarantee the confidentiality of information made
   known to them during the arbitration procedure, and
5. accessible communication with the Arbitration Service is
   possible.

(2) If a person is of the view that one of his or her rights pursuant
to this Act has been infringed by a public authority according to
Section 1 (2) Sentence 1, he or she may submit an application
to the Arbitration Service for the initiation of an arbitration
procedure. If, as a result of the alleged rights infringement,
administrative proceedings to review the objection to the
administrative act are also considered, the time limit within
which the objection must be lodged begins only after the end
of the arbitration procedure pursuant to Paragraph 7. In cases
relating to Sentence 2, the application to start an arbitration
procedure must be made within one month after the aggrieved
party has been notified of the administrative act.

(3) An association recognised under Section 15 (3) may submit an
application to the Arbitration Service to initiate an arbitration
procedure, in accordance with Paragraph 1, if it believes a
violation on the part of a public authority according to Section 1
(2) Sentence 1
1. against the ban on discrimination or the obligation to establish
   accessibility pursuant to Section 15 (1) Sentence 1 Number 1,
2. against the ban on discrimination or the obligation to establish
   accessibility pursuant to Section 15 (1) Sentence 1 Number 1, or
3. against federal law requirements governing the use of sign language or other suitable communication aids pursuant to Section 15 (1) Sentence 1 Number 3, has taken place.

(4) Applications pursuant to Paragraphs 2 and 3 may be submitted in text form or put down in writing at the Arbitration Service. The latter shall forward a transcript of the arbitration application to the public authority, in order that the arbitration procedure may be conducted.

(5) Throughout all phases of the procedure, the arbitrator shall work towards achieving an amicable settlement between the parties concerned. He or she may submit an arbitration proposal. The arbitration proposal should be based on applicable law. The arbitrator may offer the use of mediation.

(6) The arbitration procedure shall be free of charge for the parties concerned.

(7) The arbitration procedure shall end when the parties concerned have reached an agreement, or if the arbitration application is withdrawn, or if it is established that an agreement cannot be reached. If no agreement can be reached, the arbitration procedure shall end when the applicant receives confirmation from the Arbitration Service that no amicable agreement could be reached.

(8) The Federal Ministry of Labour and Social Affairs shall be authorized, on the basis of an ordinance which does not require the approval of the Bundesrat, to arrange the particulars of the office, its staff and the arbitration procedure in accordance with Paragraphs 1, 4, 5 and 7, and to issue other regulations concerning
the costs of the procedure as well as compensation. The ordinance shall also regulate further details relating to the activity reports of the Arbitration Service.

**Part 5**

**Federal Government Commissioner for Matters relating to Persons with Disabilities**

**Section 17 Office of the Federal Government Commissioner for Matters relating to Persons with Disabilities**

(1) The Federal Government shall appoint a commissioner for matters relating to persons with disabilities.

(2) The commissioner must be provided with the personnel and equipment required to fulfil his or her duty.

(3) With the exception of cases of dismissal, the office tenure shall end upon a new Bundestag convening.

**Section 18 Task and powers**

(1) The commissioner’s duty shall be to work towards ensuring that the Federal Government meets its responsibility to guarantee equal living conditions for persons with and without disabilities in all areas of social life. In exercising this duty, he or she shall seek to ensure that different living conditions of women with disabilities and men with disabilities are taken into consideration and gender-specific discrimination is eliminated.

(2) In order to exercise this duty in accordance with Paragraph 1, the federal ministries shall involve the commissioner in all legislative and regulatory processes and in other important
projects which concern or affect issues relating to the integration of persons with disabilities.

(3) All federal authorities and other federal public bodies shall be obliged to support the commissioner in the fulfilment of his or her duties, and in particular to provide the information required and to allow access to the relevant files. The provisions governing the protection of personal data shall remain unaffected.

Part 6

Participation funding

Section 19 Participation funding

As part of the available budget resources, the Federal Government shall fund measures by organisations which meet the requirements of Section 15 (3) Sentence 2 Numbers 1 to 5, aimed at increasing the participation in public affairs of persons with disabilities.
Ordinance governing the Arbitration Service in line with Section 16 of the Act on Equal Opportunities for Persons with Disabilities and the arbitration procedure (Ordinance on arbitration relating to matters of equality for persons with disabilities - BGleiSV)

Section 1 Scope and aim

(1) With regard to arbitration procedures according to Section 16 of the Act on Equal Opportunities for Persons with Disabilities, this Ordinance shall adopt rules governing the office, staffing, procedure, costs of the procedure, and activity report.

(2) The aim is to enable applicants of an arbitration procedure according to Section 16 (2 or 3) of the Act on Equal Opportunities for Persons with Disabilities and the public authority according to Section 1 (2) Sentence 1 of the Act on Equal Opportunities for Persons with Disabilities (parties to an arbitration procedure) to attain a speedy, mutual, extrajudicial and no-fee settlement of the dispute.

Section 2 Arbitration Service

(1) The Arbitration Service shall be organised within the office of the Federal Government Commissioner for Matters relating to Persons with Disabilities in accordance with Part 5 of the Act on Equal Opportunities for Persons with Disabilities. It must employ at least two arbitrators, who shall be entrusted with the extrajudicial resolution of disputes in line with Section 16 (2 and 3) of the Act on Equal Opportunities for Persons with Disabilities and who shall be responsible for conducting the procedure in a fair and impartial manner.

(2) An office for the Arbitration Service shall be organised within the office of the Federal Government Commissioner for
Matters relating to Persons with Disabilities in accordance with Part 5 of the Act on Equal Opportunities for Persons with Disabilities.

Section 3 Arbitrators and distribution of responsibilities

(1) The arbitrators must be qualified to hold judicial office. They must have the specialist knowledge, skills and experience required to resolve disputes which fall under the jurisdiction of the Arbitration Service and to conduct mediation. The arbitrators shall be independent and shall not be bound by instructions.

(2) Each arbitrator must have an appointed representative arbitrator.

(3) The distribution of responsibilities shall be determined by the arbitrators before the start of each financial year. Changes to the distribution of responsibilities shall be permitted for good reason only.

(4) The arbitrators shall be appointed for a period of four years by the Federal Ministry of Labour and Social Affairs, with the involvement of the Federal Government Commissioner for Matters relating to Persons with Disabilities according to Part 5 of the Act on Equal Opportunities for Persons with Disabilities. Once this period has expired, the arbitrators shall remain in office until their successor has been appointed. An arbitrator may be re-appointed to the position.

(5) The Federal Ministry of Labour and Social Affairs may only recall an arbitrator, with the involvement of the Commissioner for Matters relating to Persons with Disabilities according to Part 5 of the Act on Equal Opportunities for Persons with Disabilities, if

1. facts are presented which render it unlikely that he or she is able to exercise his or her duty as an arbitrator in an independent and impartial manner,
2. he or she is prevented from exercising his or her duty as an arbitrator for more than a temporary period, or
3. a comparably significant reason is given.

(6) An arbitrator may not take action to resolve a dispute if there are reasons which may justify suspicion of his or her impartiality. In such cases, his or her representative shall assume responsibility for the procedure.

Section 4 Confidentiality

The arbitrators and others involved in the execution of the arbitration procedure shall be bound to secrecy, unless otherwise provided by law. This obligation relates to everything which is made known to them in the performance of their duty. Section 4 Sentence 3 of the Mediation Act shall apply accordingly.

Section 5 Application to initiate an arbitration procedure

(1) The application to initiate an arbitration procedure in line with Section 16 (2 or 3) of the Act on Equal Opportunities for Persons with Disabilities may be submitted in text form or put down in writing at the office of the Arbitration Service. It must include a description of the circumstances, the intended objective, the name and the address of the applicant and of the public authority concerned.

(2) The Arbitration Service shall prepare an application form and make it available in an accessible form on its website. This application form may be used to submit an application.

(3) The applicant may withdraw his or her application at any time without reason.
Section 6 Rejection of an arbitration procedure

The execution of an arbitration procedure shall be rejected by the arbitrator if the dispute does not fall within the jurisdiction of the Arbitration Service. The arbitrator shall send notification of the rejection in text form to the applicant and to the public authority, provided the latter has already received the application. The reason(s) for the rejection must be provided in a brief and intelligible form.

Section 7 Full and fair hearing

(1) The Arbitration Service shall send a copy of the arbitration application to the relevant opponent. The opponent may respond within one month of notification. The Arbitration Service shall pass this response on to the applicant and leave it up to him or her to comment on it within one month of notification, if the public authority does not remedy the situation.

(2) The arbitrator may invite the parties concerned to an arbitration meeting and discuss the dispute verbally with them, taking due account of the relevant circumstances, with the aim of reaching an amicable settlement between the parties during the arbitration meeting.

Section 8 Procedure and arbitration proposal

(1) The arbitrator shall determine the further course of the procedure at his or her own discretion, taking the principles of neutrality and equity into account. He or she shall assist those involved in reaching an amicable settlement. The arbitrator may submit an arbitration proposal to the relevant parties or offer the use of mediation as a means of resolving the dispute. He or she may propose the involvement of the Federal Government Commissioner for Matters relating to Persons with Disabilities.
according to Part 5 of the Act on Equal Opportunities for Persons with Disabilities, or of other expert authorities. This can only be considered if both parties agree to it.

(2) If the parties concerned opt for mediation, the arbitrator shall in most cases act as the mediator. In the event of a settlement between the parties as part of a mediation process, Section 2 (6) Sentence 3 of the Mediation Act shall apply, subject to the proviso that the settlement reached is documented in a concluding agreement and signed by the parties involved.

(3) If an amicable settlement between the parties cannot be reached, the arbitrator shall submit to them a proposal for settling the dispute (arbitration proposal), which is based on the circumstances arising from the arbitration procedure. It must be aligned with applicable legislation and must be suitable for resolving the dispute between the parties to an appropriate extent. The reason(s) for the arbitration proposal must be provided in a brief and intelligible form.

(4) The Arbitration Service shall submit the arbitration proposal in text form to the parties concerned.

(5) In submitting the arbitration proposal, the Arbitration Service shall inform the parties of the legal consequences of accepting the proposal and of the fact that the proposal does not necessarily correspond to the result of court action. It shall point out the possibility of not accepting the proposal and of taking recourse to a legal remedy.

(6) The Arbitration Service shall give the parties concerned an appropriate time limit for accepting the arbitration proposal. It should not exceed one month following notification of the arbitration procedure. Notification of acceptance shall be provided to the Arbitration Service in text form. The Arbitration Service shall end the procedure upon expiry of the time limit.
Section 9 Conclusion of the procedure

(1) The arbitration procedure shall end when the parties concerned have reached an amicable settlement or have accepted an arbitration proposal in accordance with Section 8 and have received notification from the Arbitration Service as per Paragraph 2.

(2) The Arbitration Service shall give each of the parties concerned a copy of the concluding agreement reached by them or the arbitration proposal accepted by them as per Section 8 in text form, and shall inform them that the arbitration procedure is thereby concluded.

(3) If the parties concerned cannot reach a settlement in accordance with Section 8, the Arbitration Service shall notify the applicant in text form of the unsuccessful conclusion of the arbitration procedure. This shall serve as confirmation that no amicable agreement pursuant to Section 16 (7) Sentence 2 of the Act on Equal Opportunities for Persons with Disabilities could be reached. The same shall apply in the event that the Arbitration Service rejects an application to conduct an arbitration procedure in accordance with Section 6.

Section 10 Duration of procedure

The Arbitration Service shall work towards ensuring a speedy execution of the procedure. As a rule, an arbitration proposal should be submitted within three months of receipt of the application.

Section 11 Accessible communication

The Arbitration Service shall guarantee accessible means of communication within the meaning of the Act on Equal
Opportunities for Persons with Disabilities with the parties concerned. The Regulation on Communication Aids and the Regulation on Accessible Documents in Federal Administrative Procedures shall apply to the procedure conducted by the Arbitration Service.

**Section 12 Costs of the procedure**

The Arbitration Service shall not reimburse any costs to the parties concerned with the exception of travel expenses pursuant to Section 13.

**Section 13 Travel expenses**

The necessary travel expenses, which are incurred by an arbitration procedure applicant who accepts an invitation from the Arbitration Service in line with Section 7 (2), shall be borne upon submission of an application in accordance with the Federal Act on Travel Expenses, unless they can already be covered under other regulations. Necessary costs according to Sentence 1 shall include the relevant travel expenses for a required accompanying person. The costs of travel from a country outside of Germany shall not be reimbursed. The opponent’s travel expenses shall not be reimbursed.

**Section 14 Activity report**

The Arbitration Service shall compile an annual activity report. It shall forward this to the Federal Ministry of Labour and Social Affairs and to the Federal Government Commissioner for Matters relating to Persons with Disabilities according to Part 5 of the Act on Equal Opportunities for Persons with Disabilities by March of the following year.
Section 15 Information from the Arbitration Service

(1) The Arbitration Service shall maintain a website, on which at least this ordinance, an application form pursuant to Section 5 (2) Sentence 1 and its activity reports according to Section 14, together with clear and comprehensible information, and in particular that which relates to the duties, jurisdiction, contact details and availability, office hours, arbitrators and rundown of the arbitration procedure, shall be published in an accessible manner.

(2) Upon request, the information shall be provided in text form in accordance with Paragraph 1.
Legal notice

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