

Strategic Plan

Summary

Bureau for the Implementation of Equal Treatment (BUG)

for

2018 – 2020

The Strategic Plan for 2018-2020 was prepared by Vera Egenberger and Camille Ionescu. It was passed by the Board of BUG at the 10th board meeting on the 18th of November 2017. This is an English translation of the original German document.

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A. Summary

With the Strategic Plan 2018-2020, BUG sets its thematic priorities for this period of time. Due to the experience gained in BUG's first two planning phases, the thematic priorities will be set and continued in the following fields:

- 'Racial profiling' by the Bundespolizei
- Discrimination at the access to housing
- Discrimination of transgender people

In the following field, BUG intends to develop expertise and evaluation, in order to examine whether the work on these fields should be intensified.

- AGG amendment
- Gathering of data about equality and participation
- Internal complaints office

Complaints will be supported as legal assistance to the claimant ('Beistand'); PR work will promote the complaints as well as the topics mentioned above. The influence on political decision makers will be increased to reinforce the principle of equal treatment. To keep BUG financially sound, fundraising will be continued in the following planning phase.

B. Introduction

The Bureau for the Implementation of Equal Treatment (BUG) is an association based in Berlin and registered under German law. It has been founded in spring 2009 and has more than 80 individual members. Since summer 2009 the BUG is a registered charity organisation.

The primary aim of this Strategic Plan (SP) is to focus on BUG's strategic orientation and thematic decisions during the period 2018 to 2020. Due to the limited capacities and resources of the organisation and despite the need to implement equality work as comprehensively as possible, BUG has to take decisions on how to achieve a targeted and effective use of its competences and capacity. These plans are outlined in this strategic plan. BUG directs its attention to the impact we would like to achieve and not primarily on the activities we intend to carry out. Our activities are described in separate annual work programmes.

Through the organisation's Strategic Plan (and its subsequent work programmes) we intend to give BUG a public and clearly recognisable profile.

C. Situation analysis

The General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz (AGG)) is in force since August 2006. This is the result of various EU Equal Treatment Directives 2000/43, 2000/78 and 2002/73. Although Germany was not obliged to implement those directives at such a broad level, the federal government choose to go beyond the minimum requirements in the development of the AGG. It took quite some time until the first lawsuits were brought before the courts. Only since 2010 the number of AGG complaints seems to increase. Nonetheless there is no wave of lawsuits as it was expected. From 2006 to July 2017 there were approximately 1540 complaints based on the AGG, covering all grounds of discrimination.

There are some positive examples which contributed to name cases of discrimination and bring them to justice. BUG was able to further clarify the AGG within a several years lasting process. Through a judgement of the Federal Labour Court it's clarified that persons who are infected with the HIV virus and therefore chronically sick persons are protected by the AGG. Such examples affect persons who become victims of discrimination in a positive way regarding their readiness to lodge a claim. In general the inhibition threshold to use the AGG appeared to have been decreased within the past years.

In 2016 the AGG has been in force for 10 years. Next to the federal anti-discrimination office also other institutions and associations made an assessment concerning the use of the AGG within this period and came to rather different conclusions.

Furthermore many proposals were disclosed which demand for policy compliance just like the closing of inappropriate exemptions and therefore suggest further standards of protection. BUG disclosed more detailed suggestions to this already in 2014, which were constantly developed and complemented.

In the course if the federal elections 2017 some parties showed a certain willingness to amend the AGG in the upcoming legislative period. The next four years will show, if the AGG can be extended and strengthened.

BUG will use its competences and capacities within the scope of this present Strategic Plan to support this.

D. Aim and purpose of the strategic plan

The aim and purpose of this Strategic Plan is to identify the priorities of the organisation for the period 2018 to 2020. Annual work plans will address the outlined priorities of this Strategic Plan and will identify concrete steps, actions and goals, which BUG would like to achieve with this work programme. The work plans are created by the director and adopted by the executive board.

E. The vision of BUG

1. Vision

The Bureau for the Implementation of Equal Treatment (BUG) has a vision of a German society free from discrimination, which's proclaimed principle of equality and equal treatment of people living in Germany is realised in all areas of life.

2. Mission

In order to realise this vision, BUG advocates the use, implementation and reinforcement of the General Equal Treatment Act (AGG). To this end, in strategically important cases the organisation provides legal assistance by supporting lawsuits and legal proceedings which have the potential to foster legal certainty and contribute to the development of the law. BUG campaigns for the legal, political and social implementation of legal precedents and case law, seeking to put an end to discriminating structures, regulations and procedures. This aim is also pursued through lobbying, information sharing and outreach work.

By networking relevant stakeholders, BUG fosters the development of synergies and facilitates strategic exchanges.

3. The fundamental principles of the organisation

'Committed to human rights and equality – acting independently'

The basis and starting point of BUG's work is the belief that all people are equal before the law and should therefore be treated equally in comparable situations. International human rights law, in particular the UN Convention on the Elimination of all Forms of Racial Discrimination (CERD), the European Convention on Human Rights (ECHR) with its 12th additional protocol, the European legal system, the Basic Law of the Federal Republic of Germany and the General Equal Treatment Act (AGG), are acknowledged and used as frames of reference. Another important point of reference is the right to equal treatment and to non-discrimination, as expressly laid down in EU law.

The BUG was established and operates independently of political parties or foundations, organisations pursuing ideological aims or organisations which are part of or close to the government. It is particularly important that the work undertaken by the BUG is kept strictly independent of state structures. This is essential, if BUG's work is to be devoted exclusively and without restriction to equal treatment as set out in the relevant EU directives and the AGG.

In addition, BUG safeguards the interests of those it represents who have experienced discrimination and seeks to protect them in all its activities. If they wish to, individuals supported by BUG in legal proceedings, may remain anonymous. BUG will fully implement current law regarding the protection of personal data.

4. Motto of the organisation: ,Litigation not lamentation'

The BUG motto means not simply complaining about or "lamenting" an intolerable situation, but to actively put an end to an unacceptable situation using legal and political means.

With its motto BUG wants to support people who suffered discrimination to overcome their victimhood and show that one can influence its alleged destiny by court action and accompanying lobby work. BUG won't lament but litigate!

F. Goals of the Bureau for the Implementation of Equal Treatment

The organisation is based on an explicit human rights based approach, which views non-discrimination and equal treatment as human rights. Human rights are not only a social duty, but an inviolable right.

In the hope of achieving a largely discrimination-free society, the organisation pursues the following goals:

1. Clarifying, strengthening and expanding non-discrimination legislation and the legal concepts contained therein
2. Creating and promoting legal precedents
3. Obtaining legal certainty

4. Educating and informing the population about legal means of combating discrimination, and raising public awareness of the AGG
5. Influencing political decision-making processes in the non-discrimination field
6. Further developing political and social non-discrimination strategies in an innovative manner
7. Enshrining the principle of equality and equal treatment measures in the relevant areas of life
8. Strengthening synergies between stakeholders in the field of equality advocacy on a national and international level.
9. Implementing a more sensitive handling of and sensitisation for discrimination
10. Promoting an objectification of the German public debate on equality and non-discrimination

These goals are based on the idea that an increasing amount of complaints in court can clarify the different concepts of law in the context of cases of discrimination as well as establish precedents. Courts will examine new cases on the basis of already decided cases and establish a new legal practice in this way. Lawyers then can apply the established argumentation for new cases. This will increase the legal certainty. Cooperation with further organisations on equal treatment is requested and intended.

BUG's PR work will form a basis to raise awareness of the precedents among lawyers, affected people, politicians and the media. BUG's lobbying will influence decision makers and therefore political decisions relevant for equal treatment.

In order to eliminate discrimination for the long term, BUG will initiate public debates and influence discriminatory institutions if necessary. Therefore, discriminatory structures and regulations need to be analysed. Eventually, if it seems to be helpful, these can be denounced in public, but only by the suggesting alternatives.

The crucial aim is to encourage companies, administrations and service providers to implement regulations and laws on equal treatment, in order to prevent discrimination step by step. For example, this can be achieved by company agreements, affirmative action and positive obligations.

G. With whom we work

- 1. Beneficiaries of the services of BUG**
- 2. Target groups of the work**
- 3. Direct und active partner of BUG**
 - a) Anti-discrimination counselling offices
 - b) Anti-discrimination Agency (ADS)
 - c) Interest groups of communities affected by discrimination
 - d) NGOs in the area of non-discrimination

- e) Attorneys-at-law
- f) Lawyers Associations
- g) Integration Counsellors / Offices for Multicultural Affairs
- h) Trade unions
- i) Research Institutes and Universities of Law
- j) Consumer Organisations / Tenant Protection Associations

4. Supporters and sponsors of BUG

- a) Foundations, with a focus on equality
- b) Members of BUG
- c) Individuals willing to support ‘testing¹ procedures’ of BUG

H. Geographical area of activity

The geographic scope of the Bureau for the Implementation of Equal Treatment is Germany. This means that the Bureau potentially works in all federal states (‘Länder’) in situations where national issues are relevant towards the EU, the Council of Europe or the United Nations. BUG works internationally as well.

I. Utilized legal instances

In its legal proceedings BUG will approach first and second instance courts. If there is no positive judgment, BUG will make use of federal court levels. If needed it will also approach the European Court of Justice, the European Court of Human Rights and UN Committees as for example the CERD.

J. Central recitals

1. Which key topics provide the greatest impact?

Through the last 9 years of experience we can now better estimate in which area BUG can have constructive impact concerning protection from discrimination and where law suits may have a positive effect. BUG has to estimate how many tasks and goals can realistically be set and which of them can be executed by the available capacity.

During its fourth planning phase and based on an analysis of the current potentials in Germany BUG came to the conclusion that the following areas should be given special attention over the four years to come:

- a) *Religious Discrimination*
- b) *‘Racial Profiling’ by federal police force*
- c) *Discrimination regarding the access to housing*
- d) *Discrimination of Sinti and Roma*
- e) *Discrimination of transgender people*
- f) *Ethnic Discrimination in access to recreational facilities*

¹ Testing will be explained further on page 22.

Legal requirements, which are missing at the present AGG but should be included in a long term perspective, emerge increasingly through the use of the AGG. Based on the amendment papers developed in the last years BUG will perform lobby work as The Bureau for the Implementation of Equal Treatment or in cooperation with other associations to strengthen the legal protection against discrimination in the upcoming planning phase. This is understood as a long term task, since it will probably take several years.

Besides BUG will cover thematic areas that only indirectly connect to the narrow context of the law, but strengthen legal protection against discrimination including:

- a) *AGG amendment*
- b) *Data collection in the field of discrimination*
- c) *Internal complaints office*
- d) *Positive measures*

2. Which mix of methods facilitates the attainment of our goals?

The following methods form basis of the BUG activities with the aim to achieve our set targets.

- a) Strategic litigation and creating test cases
- b) Political lobbying inter alia with focus on legal policy
- c) Networking with relevant stakeholders in the non-discrimination field

3. How do we choose strategic cases to achieve our goals?

The following principles are used in the selection of strategic lawsuits²:

- a) The case falls within the legal framework of the AGG or contradicts the principle of equality of Art. 3 III GG
- b) The case is strategic in the legal sense or promises to become strategic³
- c) The case falls within the thematic scope of the Strategic Plan
- d) The case has potentials to lobbying
- e) The case falls into a work area which is covered by sponsors or offers new funding sources

There are three avenues to identify cases:

- a) Clients, associations or lawyers request assistance whether BUG can take a case on. The cases are then assessed along above listed criteria.
- b) BUG announces a certain case constellation and reaches out to people that may have had such discrimination experience.
- c) BUG initiates situations where discrimination can be proven (testing) in order bring a well-documented lawsuit to the court.

4. How do we facilitate decision-makers to improve policy and practice?

² Further details can be found in the relevant information sheet.

³ e.g. affect any aspect of the case with a need for clarification in the AGG or touches a legal concept with a need for clarification, the existing interpretation of the concept is far too narrow, bears the capacity to develop jurisprudence or to work educationally.

If required BUG will reach out to relevant decision makers and hold lobbying meetings. This shall take place in a constructive setting to ensure envisaged outcomes can be met. BUG intends to convince with well-founded arguments. It aims not only at 'converted' people, but especially on people holding up change. Depending on the situation BUG will directly or indirectly make use of people supporting its objectives. BUG would like to convince through its expertise and make use of opportunities to develop sound advice that can possibly be used by other organisations as lobbying instruments.

After a successful completion of any complaint BUG does not stop its activities. It takes any necessary further steps until the discriminatory patterns or systems have been changed.

5. How do we embed the work of BUG into the existing framework of equality work in Germany?

There is a colourful variety of local, regional and national organisations, associations, networks, etc. in Germany that have taken up the cause on equality and non-discrimination. This existing structure should be made or kept accessible to BUG. Local anti-discrimination counselling offices for example have access to people that experienced discrimination, which the BUG does not naturally have. We therefore rely on mutual support and networking in order to achieve synergies.

The BUG is aware that so far no other organisation has the resources and skills to handle lawsuits in a strategic fashion. BUG is also aware that a constructive cooperation with other actors in equality work facilitates high quality work with a sustainable impact.

6. How do we identify future trends and developments?

BUG closely monitors current developments and trends concerning equal treatment and assess their relevance to BUG's work. Therefore scenarios brought to BUG by affected persons are central. Like this BUG is able to identify determine key topics. Only this way BUG is able to develop and maintain a clear profile and maintain mutual support of other organisations active in the field.

7. How do we ensure the best possible organisational capacities?

A 'healthy' and stable organisational structure is required to gain influence and positive impact in policy and practice. A constructive way of working and a pragmatic approach was achieved during the consolidation phase by solid statutes, a professionally and competent management and prudent and helpful (board) members. Internal rules are clearly defined and transparent in order to maintain the organisation operational and to establish clear rules and responsibilities. A transparent and accountable management has in the past provided the board to shoulder its accountability and donors of BUG have been satisfied - both on the implementation of activities and financial administration.

8. How do we secure necessary resources?

Since 2009 BUG gained experience in fundraising in the following areas:

- a) Core funding
- b) Project-related funding

Although BUG would not like to apply for a project funding, it has to continue doing so because there are limited other options. Nevertheless the promotion of BUG increased

between 2009 and 2015. Since then it decreased again. The annual budget plan and the financial report each demonstrate the subsidy amount and can be found on the website. So far it was just possible to acquire momentary means for the staff.

9. How do we document our results and achievements?

The organisation has set itself systematic goals and clearly formulates them. The Strategic Plan is a key instrument for doing so. All envisaged activities indicate a goal that shall be achieved. In the work programmes those objectives are specified and concrete methods and deadlines are set, when these targets should be met. This allows BUG to evaluate whether, when and up to which level defined goals are achieved.

The above-listed central recitals indicate the main focus of BUG during the period 2018-2020. They form the basis and justification for the formulation of aims and objectives for the organisation. The plans and objectives of BUG in the following chapters are seen as appropriate responses to the above challenges of the organisation. The central goal of BUG is to bring positive change with regard to equal treatment for people in Germany.

K. Strategic objectives for 2018 - 2020

The primary purpose of this Strategic Plan for the period 2018 to 2020 is to achieve visible and measurable results with regard to the overall objectives as well as the programmatic and structural goals of BUG.

A. Programmatic goals

- 1. Create precedents (1, 2, 3, 4, 6, 7, 9)**
- 2. Influence the implementation of political and social equal treatment (5, 6, 7, 8, 9, 10)**
- 3. Achieve synergies (1, 2, 4, 5, 6, 8, 9, 10)**

B. Structural goals

- 4. Develop organisational structures**
- 5. Strengthen organisational capacities**
- 6. Secure funding**

The following chapter identifies medium-term goals that BUG within the timeframe of this Strategic Plan (2018-2020) intends to implement. Besides BUG develops annual work plans which are built upon this strategic plan. These indicate specific goals, activities and timetables for implementation in all listed areas.

A. Programmatic goals

1. Create precedents

a) Choose strategic lawsuits (1, 2)⁴

Objective 1:

Lawsuits with strategic potential are detected

⁴ The numbers indicate which aim BUG wants to achieve with the named activity.

Objective 2:

BUG searched actively for strategic lawsuits

To work in a focussed way, BUG searches proactive for cases concerning the key topics, if they are not brought to it. This takes place through communication with the ADS and Non-discrimination offices, the website of BUG or through the contact with relevant organisations.

Objective 3:

Strategic lawsuits are initiated

b) Filing of strategic lawsuits (1, 2, 3, 4)

The following activities are the key tasks of BUG. BUG holds the role of an initiator, mediator and coordinator. It ensures that necessary expertise is integrated in the event of court action, communication between the participants takes place and work is implemented on schedule. Concerning this BUG could gain experience throughout the last years, which is appreciated by its clients.

The overarching goal is to influence the AGG in a positive way and to create a strong legal protection against discrimination.

As listed above BUG will accompany cases of the following thematic fields in court through third party assistance:

- a) *Religious Dsicrimination*
- b) *'Racial Profiling` through Federal Police*
- c) *Discrimination regarding the access to living space*
- d) *Discrimination of Sinti and Roma*
- e) *Discrimination of transgender people*

Furthermore BUG will accompany the juridical work with presswork and based on positive decisions and obtained precedents BUG will do lobby work.

Objective 1:

Identify attorneys with expertise in the AGG

Objective 2:

Ensure extensive support for clients

Objective 3:

Provide professionally competent lawyers to clients

Objective 4:

Bundle expertise

Objective 5:

Accompany pre-litigation procedure

Objective 6:

Develop a comprehensive line of argumentation

Objective 7:

Present Amicus Curiae⁵ to the court

Objective 8:

Verify policy compliance of the AGG

Objective 9:

Use of options of international legal remedies

- International legal standards were quoted in the typeset
- Take international legal action

Objective 10:

Support selectively the filing of complaints without third party

- c) **Follow up judgements (6, 7, 9)**

Objective 1:

Interrupt discrimination patterns and identify responsibilities of relevant stakeholders

- d) **Develop and strengthen skills (1, 2, 3, 6)**

Objective 1:

Develop skills and knowledge of lawyers in applying the AGG

2. Influence the implementation of equality policies

- a) **Explore potentials for action (6)**

Objective 1:

Detect developments in the subject area in timely fashion

- b) **Carry out lobbying work (1, 6, 7, 9, 10)**

Objective 1:

Use information from lawsuits in interaction with political deputies (ADS, ministries, political parties, parliament)

Objective 2:

Make use of the follow up of concrete lawsuits in interaction with relevant stakeholders

Objective 3:

⁵ Amicus Curiae is a legal report, which can be presented to the court by an uninvolved party and can (but does not have to) be taken into account by the judge.

Strengthen the AGG

Objective 4:

Stop `Racial Profiling` as a form of institutional racism/discrimination through adequate rules of procedure

Objective 5:

Further anti-discrimination paragraphs are added to further State Licensing Acts (Landesgaststättengesetz)

Objective 6:

Initiate discussions on horizontal issues

Objective 7:

Use shadow reports as a lobbying tool

Objective 8:

Accompany negotiations about the 5th Equal Treatment Directive

c) Accompany lawsuits with PR work (5, 6, 9, 10)

Objective 1:

Publicise the work of BUG

- i. Cooperation with media
- ii. Website
- iii. Thematic files
- iv. Facebook
- v. Revise information materials
- vi. Produce information materials
- vii. Articles about BUG topics
- viii. Newsletter
- ix. Legwork to studies and investigations

Objective 2:

Public relations at EU level

d) Strengthen BUG's profile (4)

Objective 1:

BUG is perceived as the NGO concerning the AGG and strategical process control

3. Achieve synergies

a) National networking (2, 8, 10)

Objective 1:

Network expertise concerning anti-discrimination work of NGOs

- i. Network NGOs in the field of racism
- ii. Network associations of Sinti and Roma
- iii. Network lawyers in the field of discrimination

Objective 2:

Cooperate with anti-discrimination/ counselling offices

Objective 3:

Cooperate with lawyers

Objective 4:

Integrate domain expertise

Objective 5:

Work with tenant protection organisations and legal practitioner organisations

Objective 6:

Stay in close contact with minority community organisations

Objective 7:

Include ADS and other relevant organisations

b) Bundle expertise (6, 8, 9)

Objective 1:

Connect extern expertise for innovative approaches to fight discrimination

- i. Bundle expertise concerning the topic independent complaint office for the police
- ii. Bundle expertise concerning collection of equality data

c) Create publicity for innovative approaches (4, 5, 9)

Objective 1:

Feed new equality approaches into expert discussion

d) International network (1, 8)

Objective 1:

Use of international network

B. Unpredictable Undertakings

As not all activities can be planned and foreseen, the organisation has to be flexible to an acceptable extend. Up to 20% of the activities may be unpredictable, however, should be available as labour and financial resources. The BUG is of the opinion that the Strategic Plan as well as the targeted budget should provide sufficient flexibility in order to take this into

account. In year-end reports, additional activities are listed in order to make them visible to the Board and doors.

C. Structural objectives

While thematic priorities can be directly linked to objectives of the organisation, this is not possible to the same extent with structural objectives. Structural issues, such as fundraising, are decisive for the general function and the survival of the organisation. It will not be possible to achieve thematic objectives without a solid structural foundation and the well-functioning of the organisation.

4. Strengthen the structure of BUG

Objective 1:

Develop a competent staff

Objective 2:

Appropriately use competences of the board and members

Objective 3:

Internal decisions are taken transparently

Objective 4:

The performance of BUG is appreciated

5. Professional planning and evaluating

Objective 1:

Ensure systematic and strategic planning

Objective 2:

Provide annual work programmes

Objective 3:

Ensure quality assurance and evaluation

Objective 4:

Achieve annually set goals and present to board

Objective 5:

Increase competencies concerning the AGG of staff

6. Secure funding

Objective 1:

Ensure sufficient funding

Objective 2:

Achieve constructive cooperation with donors

L. Attachment 1: Thematic priorities within 2018-2020 at a glance

Thematic priorities	2018	2019	2020
1. Create precedents			
1. a) Choose strategic cases			
1. b) Lodge strategic complaint			
1. c) Revise judgements			
1. e) Develop and strengthen skills			
2. To take influence on implementation of equal treatment			
2. a) Explore opportunities for action			
2. b) Lobbying			
2. c) Accompany lawsuits with PR work			
2. d) Strengthen profile of BUG			
3. Achieve synergies			
3. a) National network			
3. b) Bundle expertise			
3. c) Create publicity for innovative approaches			
3. d) International Network			

Structural priorities	2018	2019	2020
4. Strengthen the structure of BUG			
Groom competent staff			
Use expertise of membership			
Transparent decision making			
5. Ensure professional planning and evaluation			
Ensure systematic and strategic planning			
Ensure annual work programmes			
Ensure quality assurance and evaluation			
Achieve annually set goals			
Increase competence of staff concerning the AGG			
6. Secure funding			
Ensure funding			
Achieve constructive cooperation with donors			

<i>White:</i>	<i>no priority</i>	2	2	2
<i>Light gray:</i>	<i>low priority</i>	11	11	11
<i>Dark gray:</i>	<i>medium priority</i>	8	8	8
<i>Black:</i>	<i>absolute priority</i>	3	3	3