

Federal Disability Act - Chapter IIb

Editorial comment: *The Disability Ombudsman strongly advocates gender-sensitive writing which is reflected by the following translation being complemented by gender-sensitive wording. The original text in German language does not adhere to gender-sensitive wording.*

The Disability Ombudsman

§ 13b. The Federal Minister of Labour, Social Affairs and Consumer Protection is tasked with nominating an Ombudsman for Equal Opportunities for Persons with Disabilities (Disability Ombudsman)

Duties of the Disability Ombudsman

§ 13c. (1) The Disability Ombudsman is responsible for giving advice and support to persons with disabilities, who, according to the Federal Anti-Discrimination Act for Persons with Disabilities [Bundes-Behindertengleichstellungsgesetz, BGBl. I No. 82/2005], or according to section 7a through 7q of the Anti-Discrimination Act for Persons with Disabilities in Employment [Behinderteneinstellungsgesetz, BGBl. No. 22/1970], with regards to the relevant version respectively, feel discriminated against.

To fulfill his duties, the Disability Ombudsman can host consulting hours or consulting days throughout the federal territory.

With regards to his or her duties, the Disability Ombudsman acts unaffiliated, independently and with paramount authority.

(2) Notwithstanding section 19 (2-10) of the Federal Anti-Discrimination Act for Persons with Disabilities, the Disability Ombudsman is authorized to conduct research and investigations regarding discrimination against persons with disabilities, publish reports and make recommendations concerning any aspect of discrimination against persons with disabilities.

(3) The Disability Ombudsman is obliged to annually report his or her activities in written form to the Federal Minister of Labour, Social Affairs and Consumer Protection as well as orally report to the Federal Disabled Persons' Advisory Board. [section 8]

Appointment of the Disability Ombudsman

§ 13d. (1) The Disability Ombudsman is appointed for the period of four years. A reappointment is possible. At the end of the term of office, the incumbent Disability Ombudsman has to continue proceedings until his or her successor is appointed, with this interim period being allocated to his or her successor's term of office.

(2) Proceeding the appointment of the Disability Ombudsman, the Federal Minister of Labour, Social Affairs and Consumer Protection is obliged to publically announce the vacancy. Persons with disabilities are explicitly invited to apply for the position.

(3) The prerequisite for an appointment as Disability Ombudsman is that any candidate must provide full legal competence in addition to the following requirements:

1. Extended experience and knowledge concerning the issues of persons with disabilities, equal opportunity and relevant legislation.

2. Knowledge of labour and social legislation.

3. Practical knowledge with regards to the duties of the Disability Ombudsman.

In case of equal professional adequacy between candidates, a disabled person is to be preferably appointed.

(4) After the closing date for applications, the Federal Minister of Labour, Social Affairs and Consumer Protection is obliged to consult with the Federal Disabled Persons' Advisory Board's [section 8] recommendations.

The association according to section 10 (1) sentence 6 has to conduct a hearing for the shortlisted candidates.

(5) The Disability Ombudsman is obliged to fulfill his duties with diligence and – as far as he or she is not subject to the obligation of discretion under article 20 of the Federal Constitution [B-VG] – is obliged to discretion concerning any company and trade secrets as well as personal data and family relations.

(6) The Federal Minister of Labour, Social Affairs and Consumer Protection has to depose the Federal Ombudsman for Persons with Disabilities upon his or her request or in case of negligence in his or her duties.

(7) The Federal Minister of Labour, Social Affairs and Consumer Protection is obliged to appoint an attendant of his or her department as the Disability Ombudsman's deputy, who, in cases of urgent and important hindrance, acts as a substitute for up to twelve months. The Disability Ombudsman has to report his or her hindrance to the Federal Minister of Labour, Social Affairs and Consumer Protection. Section 13c (3-6) and section 13e (2) are applicable

Administration and expenses

§ 13e. (1) To carry on day-to-day duties, the Ministry of Labour, Social Affairs and Consumer Protection is tasked with providing a bureau and also has to pay for the expenses in personnel and material costs. The Social Ministry Service Department's province offices are tasked with supporting the Disability Ombudsman in fulfilling his or her duties, specifically regarding the conduction of consultation days as needed.

(2) In case an employee of the federal government is appointed to Disability Ombudsman, he or she shall be eligible to the off-hours needed to fulfill the Disability Ombudsman's duties while maintaining his or her remuneration.

This usage is to be communicated to his or her superior. He or she is entitled to a reimbursement of travel expenses in accordance to the applicable regulations.

(3) In any other case, the person appointed to Disability Ombudsman is eligible to compensations and reimbursement of travel expenses. Therefore, the provisions for jurors and lay judges contained in the Federal Act on the Reimbursement of Fees [Gebührenanspruchsgesetz 1975, BGBl. No. 136] shall apply accordingly.

The Federal Minister of Labour, Social Affairs and Consumer Protection is tasked with assigning the amount of compensations in mutual agreement with the Federal Minister of Finance.