

LAW ON PROTECTION AGAINST DISCRIMINATION

CHAPTER ONE

GENERAL PROVISIONS

Article 1

This Law shall regulate the protection against all forms of discrimination and shall contribute to its prevention.

Article 2

The purpose of this Law is to ensure for every person the right to:

1. equality before the law;
2. equality of treatment and of opportunities for participation in the public life;
3. effective protection against discrimination.

Article 3

(1) This Law shall protect against discrimination all natural persons on the territory of the Republic of Bulgaria.

(2) Associations of natural persons, as well as legal persons, shall enjoy the rights under this Law when they have been discriminated on the grounds, referred to in Article 4, Paragraph 1 regarding their members or the persons employed by them.

Article 4

(1) Any direct or indirect discrimination on the grounds of sex, race, nationality, ethnic origin, citizenship, origin, religion or belief, education, opinions, political belonging, personal or public status, disability, age, sexual orientation, marital status, property status, or on any other grounds, established by the law, or by international treaties to which the Republic of Bulgaria is a party, is forbidden.

(2) Direct discrimination shall be any less favourable treatment of a person on the grounds, referred to in paragraph 1, than another person is, has been or would be treated under comparable circumstances.

(3) Indirect discrimination shall be to put a person, on the grounds referred to in Paragraph 1 in a less favourable position in comparison with other persons by means of an apparently neutral provision, criterion or practice, unless the said provision, criterion or practice have objective justification in view of achieving a lawful objective and the means for achieving this objective are appropriate and necessary.

Article 5

The harassment on the grounds referred to in Article 4, Paragraph 1, sexual harassment, instigation to discrimination, persecution (victimisation) and racial segregation, as well as building and maintenance of an architectural environment hampering the access of people with disabilities to public places shall be deemed discrimination.

Article 6

The prohibition of discrimination shall act in reference to everybody, while exercising and protecting the provided by the Constitution and the laws of the Republic of Bulgaria, rights and freedoms.

Article 7

(1) Following shall not be deemed discrimination:

1. the different treatment of persons on the basis of their citizenship or of persons without citizenship when it is provided by the law or international treaty to which the Republic of Bulgaria is a party;
2. the different treatment of persons on the basis of a characteristic, related to any of the grounds, referred to in Article 4, Paragraph 1, when the said characteristics, by the nature of a particular occupation or activity, or of the conditions in which it is carried out, constitutes a genuine and determining professional requirement, the objective is lawful and the requirement does not exceed what is necessary for its achievement;
3. the different treatment of persons on the basis of religion, belief or sex in relation to an occupation, carried out in religious institutions or organisations when, by reason of the nature of the occupation or of the conditions in which it is carried out the religion, belief or sex constitutes a genuine and determining professional requirement with regard to the character of the institution or organisation, when objective is lawful and the requirement does not exceed what is necessary for its achievement;
4. the different treatment of persons on the basis of religion, belief or sex in religious education or training, including training or education for the purpose of carrying out an occupation referred to in point 3;
5. setting requirements for minimum age, professional experience or length of service in recruitment procedures or in granting certain job-related benefits, when this is objectively justified for achieving a lawful objective and the means for its achievement do not exceed what is necessary;
6. setting requirements for maximum age in recruitment procedures, which is connected with the need for training in order to occupy the respective position or with the need for a reasonable time limits of service before retirement, when this is objectively justified for achieving a lawful objective and the means for its achievement do not exceed what is necessary;
7. the special protection of pregnant women and mothers, laid down by law, unless the pregnant woman or the mother does not wish to use this protection and she has so informed the employer in a written form;
8. the age requirements and the requirements for length of service or official service, laid down by the Law for the purposes of pension insurance;
9. the measures within the meaning of the Law on Employment Promotion;
10. the different treatment of persons with disabilities during training and acquiring an education to the effect of satisfying specific educational needs aiming at equalisation of their opportunities;
11. setting requirements for minimum and maximum age for access to training and education, when this is objectively justified for achieving a lawful objective and the means for its achievement do not exceed what is necessary with a view of the nature of the training or education, or of the conditions in which it is conducted and the means for its achievement do not exceed what is necessary;
12. the measures in the field of education and training to ensure balance in the participation of men and women, insofar and until such measures are necessary;
13. the special measures benefiting individuals or groups of persons in disadvantaged position on the basis of the grounds, referred to in Article 4, Paragraph 1 aiming at equalisation of their opportunities, insofar and until such measures are necessary;
14. the special protection of children without parents, under-age persons, single parents and persons with disabilities, laid down by law;
15. the measures for protection of originality and the identity of persons, belonging to ethnic, religious or language minorities, and their right of sustaining and developing, individually or jointly with the rest of their group members, their culture, of professing and practicing their religion, or of using their own language;
16. the measures in the field of the education and training to ensure participation of persons belonging to the ethnical minorities, as far and while these measures are necessary;

(2) The list of activities where sex is a genuine and determining professional requirement in the meaning of Paragraph 1, point 2) shall be established with:

- a) an ordinance of the Minister of Labour and Social Policy, jointly with the Minister of Interior. This list shall be duly agreed with the occurring changes in the working conditions and shall be revised at least once on every three years.

b) an ordinance of the Minister of Defence for the activities and the positions on the regular military service in the armed forces.

Article 8

Persons who have consciously assisted performing acts of discrimination shall bear responsibility under this Law.

Article 9

In proceedings for protection against discrimination, after the party, claiming to be a victim of discrimination, proves facts, sustaining the assumption of occurred discrimination, the defendant party must prove that the right to equal treatment has not been infringed.

Article 10

While exercising their powers, the state bodies and local self-governance bodies shall take all possible and necessary measures to achieve the objectives of this Law.

Article 11

(1) The bodies of state power, the public bodies and the local self-governance bodies shall take measures as referred to in Article 7, paragraph 1, points 13 and 15 when that is necessary to achieve the objectives of this Law.

(2) The bodies of state power, the public bodies and the local self-governance bodies shall take with priority measures as referred to in Article 7, paragraph 1, points 13 and 15 to equalise the opportunities of persons, victims of multiple discrimination.

CHAPTER TWO

PROTECTION AGAINST DISCRIMINATION

Section I

Protection in exercising the right to work

Article 12

(1) When a vacancy is announced, the employer shall not have the right to impose requirements related to the grounds referred to in Article 4, Paragraph 1, except in the cases under Article 7.

(2) Before conclusion of an employment contract the employer shall not have the right to request from the candidate information concerning the grounds referred to in Article 4, Paragraph 1 except in the cases under Article 7, or when this is necessary for the needs of an inquiry procedure for obtaining a permit for work with classified information, subject to the arrangements of the Law on the Protection of the Classified Information.

(3) The employer shall not have the right to refuse to employ a candidate on the grounds of pregnancy, maternity or raising children.

(4) The employer shall not have the right to refuse to employ, or to employ under less favourable conditions, person on the grounds referred to in Article 4, Paragraph 1, except in the cases under Article 7.

Article 13

(1) The employer shall ensure equal working conditions regardless the grounds referred to in Article 4, Paragraph 1.

(2) In the cases when it would not lead to a disproportionate burden on the employer in organising and carrying out the production, and in the cases when there exist ways to compensate the objectively possible unfavourable consequences for the general production result, the employer shall provide working conditions, in view of the working time and the days off, complying with the requirements of the religion or belief, professed by a worker or employee.

Article 14

(1) The employer shall ensure equal remuneration for equal work and work of equal value.

(2) Paragraph 1 shall apply for all remuneration, paid directly or indirectly, in cash or in kind.

(3) The assessment criteria in determining the labour remuneration and the assessment of the work performance shall be equal for all employees and shall be determined by collective labour agreements or by the internal administrative rules regarding the salaries, or by the legal condition and order for assessment of the servants in the state administration with no reference to the grounds under Article 4, paragraph 1.

Article 15

The employer shall provide equal opportunities to the employees, with no reference to the grounds under Article 4, paragraph 1, for vocational training and increasing their professional qualification and re-qualification, as well as for professional development and promotion in position or rank by applying equal performance criteria and indicators in the assessment of their activity.

Article 16

The employer is obliged to adapt the workplace to the needs of a person with disabilities when employing him/her or, when the disability occurs after the employment, unless the expenses for such adaptation are unreasonably excessive and they would impose serious burden on the employer.

Article 17

An employer who has received a complaint from an employee, considering him/her-self a victim of harassment, including sexual harassment, at the workplace must immediately carry out an investigation, take measures to stop the harassment, as well as impose disciplinary sanction in case the harassment has been committed by another worker or employee.

Article 18

The employer, in cooperation with the trade unions, must take efficient measures to prevent any form of discrimination at the workplace.

Article 19

In case of failure to fulfil the obligation under Article 18, the employer shall bear responsibility under this Law for acts of discrimination done at the workplace by a worker or an employee, employed by him/her.

Article 20

The employer shall apply equal criteria to disciplinary sanctions notwithstanding the grounds referred to in Article 4, paragraph 1.

Article 21

The employer shall apply equal criteria in exercising his/her right to unilateral discontinuation of the employment contract as set out in Article 328, paragraph 1, points 2) - 5), 10) and 11) and Article 329 of the Labour Code, or from the civil service status under Article 106, paragraph 1, points 2), 3) and 5) of the Law on the Civil Servant notwithstanding the grounds referred to in Article 4, paragraph 1.

Article 22

The employer shall display, on a place in the enterprise accessible for the employees, the text of this Law, as well as all administrative provisions and the clauses from the collective employment agreement, related to the protection against discrimination.

Article 23

(1) The employer shall provide information to the person who claims that his/her rights have been violated under this section upon request.

(2) The information referred to in paragraph 1 must contain the justification of the decision taken by the employer, as well as other relevant data.

Article 24

(1) The employer must, at the beginning of the employment, when this is necessary to achieve the objectives of this Law, encourage persons belonging to under represented sex or ethnic group, to apply for a certain job or position.

(2) The employer is obliged, in otherwise equal conditions, to encourage the vocational development and participation of workers and employees, belonging to a certain sex or ethnic group, when the latter are under represented among the employees performing certain work or occupying definite position.

Article 25

The territorial divisions of the Employment Agency must ensure equal opportunities to the unemployed persons for use and exercise of their rights, guaranteed by the Law, notwithstanding the grounds referred to in Article 4, Paragraph 1.

Article 26

The persons shall have the right to equal conditions of access to occupation or activity, to equal opportunity to their performing and development in them notwithstanding the grounds under Article 4, paragraph 1.

Article 27

The provisions under this Section shall apply also to discrimination on the grounds of sex in the regular military service of the armed forces, unless for performing activities and occupying positions where sex is determining factor.

Article 28

The provisions under this Section shall apply also *mutatis mutandis* to the civil service relationship.

Section II

Protection in exercising the right to education and training

Article 29

(1) The Minister of Education and Science and the local self-government bodies shall take the necessary measures not to allow any racial segregation in the training institutions.

(2) The head of the training institution shall take effective measures to prevent any form of discrimination on the place of training committed by pedagogical or non-pedagogical staff or a student.

Article 30

The head of the training institution shall display the provisions of this Law, and all administrative provisions related to protection against discrimination on an accessible place.

Article 31

The head of the training institution who has received a complaint from a student, considering him/herself subjected to harassment committed by pedagogical or non-pedagogical staff or another student must immediately carry out an investigation and take measures to stop the harassment, as well impose a disciplinary sanction.

Article 32

The training institutions shall take appropriate measures in order to equalise the opportunities for efficient exercise of the right to education and training of the persons with disabilities, unless the expenses for such measures are unreasonably excessive and they would impose serious burden on the institution.

Article 33

(1) The head of the training institution shall provide information to the person who claims that his/her rights have been violated under this section, upon request.

(2) The information referred to in paragraph 1 must contain the justification of the decision, taken by the head or a lecturer, as well as other relevant data.

Article 34

In case of failure to fulfil the obligation under Article 29, paragraph 1, the head of the training institution shall bear responsibility for discrimination at the place of training by an administrative servant, lecturer or student in the meaning of this Law.

Article 35

(1) Persons, providing training or education, as well as the compilers of textbooks and learning materials, are obliged to give information and to apply methods of training and education in a way, focused on overcoming the stereotype of the roles of women and men in all spheres of the public and family life.

(2) The kindergartens, schools and high schools shall include in their educational curricula and plans training on the problems of the equality of women and men.

(3) Paragraph 1 shall apply also to overcoming the negative stereotypes towards racial, ethnic and religious groups, as well as towards persons with disabilities.

Section III

Protection in exercising other rights

Article 36

The trade unions, the vocational and other professional organisations and the employers' organisations may not impose requirements to subscription, membership or participation in their activity on the grounds referred to in Article 4, Paragraph 1, with the exception of educational requirements in cases of vocational and other professional organisations.

Article 37

A refusal to provide goods and services, as well as providing goods and services of a lower quality or under less favourable conditions on the grounds referred to in Article 4, paragraph 1 shall be forbidden.

Article 38

The state and public bodies and the bodies of local self-government shall conduct a policy to encourage the balanced participation of women and men, as well as for the representative participation of persons belonging to ethnic, religious or language minorities in the governance and the decision-making.

Article 39

(1) If the candidates for a position in the administration are equivalent in view of the requirements for occupying the position, the state and public bodies and the bodies of local self-government shall employ the candidate of the under represented sex until the achievement of a 40% representation in the respective administrative units.

(2) Paragraph 1 shall apply also in the selection of participants or board members, expert working groups, governing, counsellor or other bodies, unless those participants are determined by means of election.

CHAPTER THREE

COMMISSION FOR PROTECTION AGAINST DISCRIMINATION

Article 40

(1) The Commission for protection against discrimination, hereinafter called "The Commission", shall be an independent specialised state body for prevention of discrimination, protection against discrimination and ensuring equal opportunities.

(2) The Commission shall exert control over the implementation and compliance with this or other laws regulating equality of treatment.

(3) The Commission is a legal person on budget support with head office in Sofia.

(4) The Commission shall report annually to the National Assembly on its activities not later than March 31 of the following year.

Article 41

(1) The Commission is a collegial body comprised of 9 persons, of which at least 4 jurists. The National Assembly selects 5 and the President of the Republic appoints 4 of the members of the Commission.

(2) The mandate of the members of the Commission is 5 years.

(3) In selection or appointment of the Commission members the principles of balanced participation of women and men and participation of persons belonging to ethnic minorities shall be respected.

Article 42

(1) A member of the Commission may be only Bulgarian citizen who has:

1. completed higher education;
2. knowledge and experience in the field of human rights protection;

3. not been convicted of deliberate crime of general nature.

(2) Member of the Commission may not:

1. be a sole-proprietor, manager, procurator or member of executive or controlling bodies of commercial companies or co-operations, syndic or liquidator;
2. hold another paid position, except when he/she practices scientific or activities;
3. be a political party governing body member.

Article 43

The time, during which the person has worked as a member of the Commission, shall be acknowledged as time of service in the meaning of the Law on the Civil Servant.

Article 44

(1) The powers of a member of the Commission shall be terminated pre-term:

1. upon the member's request;
2. in case of inability to fulfil his/her obligations for more than six months;
3. in the event of conviction for deliberate crime of general nature;
4. in cases incompatibility.

(2) In occurrence of the provisions under Paragraph 1, the Chair of the Commission shall make a motivated proposal for dismissal to the National Assembly or to the President of the Republic.

(3) Within one-month period from the termination of the powers under paragraph 1, the National Assembly or the President of the Republic of Bulgaria shall select, or respectively appoint, a new member of the Commission who will perform the mandate of the dismissed member.

Article 45

(1) The Chair of the Commission shall receive a basic monthly remuneration equal to three average monthly salaries of the employees working under a labour contract or civil service status in the public sector in accordance with data from the National Institute of Statistics.

(2) The Deputy of the Commission shall receive a basic monthly remuneration equal to 80%, and the members of the Commission - 75% from the remuneration of the Commission's chairperson.

Article 46

(1) The Commission shall adopt Rules of Procedure, which shall be published in the *State Gazette*.

(2) The Commission shall be assisted in its work by an administration. The structure and functions of the administration, as well as the number of its staff, shall be laid down in the Rules of Procedure, referred to in paragraph 1.

Article 47

(1) The Commission for protection against discrimination shall:

1. find out violations of this and other laws, which regulate the equality of treatment, the offender and the affected person;
2. state prevention from and termination of the violation and restoration of the initial situation;
3. impose the provided sanctions and enforce administrative compulsory measures;
4. issue obligatory prescriptions for compliance with this and other laws, which regulate the equality of treatment;
5. appeal against the administrative acts, which are in contravention to this and other laws, which regulate the equal treatment, initiate claims before the court and act as a concerned party in proceedings under this and other laws, which regulate the equal treatment;

6. issue proposals and recommendations to the state and local self-government bodies to terminate discrimination practices and to revoke their acts, which have been issued in contravention to this and other laws, which regulate the equal treatment;
7. maintain a public register of the adopted and entered in force decisions and obligatory prescriptions;
8. issue statements on the conformity of the legal act drafts with the legislation for prevention of discrimination, as well as recommendations for adopting, revoking, amending and supplementing legal acts;
9. provide independent assistance to the victims of discrimination in constituting complaints against discrimination;
10. conduct independent researches related to discrimination;
11. publish independent reports and provide recommendations on all issues related to discrimination;
12. carry out other competencies, provided in the Rules of Procedure.

Article 48

- (1) The Commission shall consider and take decisions about the filings in panels, which shall be appointed by the Chair of the Commission.
- (2) The Chair of the Commission shall appoint permanent panels, which shall be specialised in discrimination issues:
 1. on ethnic and racial grounds;
 2. on the grounds of gender;
 3. on other grounds, referred to in Article 4, paragraph 1.

Article 49

- (1) The Chair of the Commission shall:
 1. represent the Commission, organise and steer the work of the Commission;
 2. sign, amend and terminate the labour contracts and appoint the civil servants in the administration;
 3. execute the budget of the Commission;
- (2) The Deputy shall assist the Chair of the Commission in exercising his/her functions and shall substitute him/her in his/her absence.

CHAPTER FOUR

PROCEEDINGS FOR PROTECTION AGAINST DISCRIMINATION

Section 1

Proceedings before the Commission for protection against discrimination

Article 50

- (1) Proceedings before the Commission shall be instituted after:
 1. a complaint by the affected persons;
 2. initiative of the Commission;
 3. signals from natural or legal persons, state and local self-government bodies.

Article 51

- (1) The complaint or signal to the Commission shall be in written form. In case they are written in foreign language they shall be accompanied with translation in Bulgarian.
- (2) The complaint or signal should contain:
 1. the name or designation of the person submitting the complaint;

2. the address or the head-office and the address of management of the person submitting the complaint;
3. statement of the reasons, on which the complaint or signal is grounded;
4. statement of what is demanded from the Commission;
5. date and signature of the person submitting the complaint or of his/her representative.

(3) Anonymous complaints or signals shall not be examined by the Commission.

Article 52

(1) Proceedings shall not be instituted, and those already instituted shall be terminated, in case of three years have past after the occurrence of the violation.

(2) In case the Commission discovers that proceedings in court have been initiated on the same case, it does not institute, or terminate the proceedings, instituted before it.

Article 53

(1) No state fees shall be collected for proceedings before the Commission.

(2) The expenses done during the proceedings shall be covered by the budget of the Commission.

Article 54

(1) After the institution of proceedings the Chair of the Commission shall transfer the claim file to respective panel, which shall appoint a rapporteur between its members.

Article 55

(1) The rapporteur shall start an investigation in which he/she shall collect written evidences, necessary for the complete and comprehensive clarification of the circumstances in which he/she shall use servants and additional experts.

(2) All persons, state and local self-government bodies shall assist the Commission in the process of the investigation and they shall be obliged to provide the required information and documents, and to give the necessary explanations.

(3) The presence of commercial, industrial or other secret information, protected by the law may not be used as a reason to refuse assistance.

(4) In case there are reasons for access to classified information, it shall be provided in accordance to the Law on the Protection of the Classified Information.

Article 56

(1) In exercising its powers the Commission shall have the right to:

1. require documents and other information, related to the investigation;
2. require explanations from the investigated persons about issues, related to the investigation;
3. examine witnesses.

(2) In case of refusal to provide information required by the Commission or a refusal to provide access to premises as well as other cases of not providing assistance to the Commission, the guilty persons shall bear responsibility under this Law.

Article 57

(1) In case there is a danger evidence to be lost or hidden or in case of extremely complicated collection of evidence, upon complainant's request, the evidence may be collected through a compulsion over the persons or the premises, where it is.

(2) The compulsory collection of evidence under Paragraph 1 shall be conducted with permission from a Sofia City Court judge upon a request from the Chair of the Commission.

(3) In the day of the entry of the request, the judge issues an order, which shall be immediately enforced.

- (4) The rapporteur shall collect the evidence for the investigation in co-operation with Ministry of the Interior bodies.
- (5) During compulsory collection of evidence, the Commission may:
 1. examine sites for the purposes of the investigation;
 2. collect means of evidence for the purposes of the investigation.
- (6) The substantial evidence and the originals of the documents taken shall be returned back to the persons, which they have been taken from, after completion of the investigation.

Article 58

- (1) The collected documents and information shall be used only for the purposes of the investigation.
- (2) The members of the Commission as well as the servants and the additional experts shall be obliged not to communicate the information, which constitutes a secret protected by the law, which they have received during the or in relation to performing their activity.

Article 59

- (1) The investigation shall be carried out in 30-days period. In cases, which present factual or legal complexity, this period may be prolonged with up to 30 additional days with an order issued by the Chairperson.
- (2) After completion of the investigation the parties shall be given an opportunity to get acquainted with the materials collected during the investigation.
- (3) If in the process of the investigation, evidence for a committed crime has been found, the Commission shall send the claim file to the prosecution.

Article 60

- (1) The speaker shall prepare a conclusion and shall submit the claim file to the chair of the panel, who shall call a session meeting in term of 7 days.
- (2) The summons of the parties and the notifying of the concerned persons shall be carried out in accordance with the provisions of the Civil Procedure Code.

Article 61

- (1) The sessions of the Commission shall be open.
- (2) The sessions shall be held in camera upon the reasons and under the provisions of Article 105, paragraph 3 of the Civil Procedure Code.
- (3) The members of the panel may be removed upon the reasons and under the provisions of Chapter Three of the Civil Procedure Code.

Article 62

- (1) At the first session the rapporteur shall invite the parties to achieve a settlement. In case of agreement, expressed by the parties, the speaker shall call settlement proceedings session.
- (2) In case of achieving an agreement between the parties on the basis of equal treatment during the settlement proceedings, the Commission shall approve it by a decision and shall terminate further proceedings.
- (3) If the agreement is achieved only for part of the dispute, the proceedings shall continue for the unsettled part.
- (4) The settlement approved by the Commission shall be enforced and the Commission exercise control over the compliance with the settlement.

Article 63

- (1) In case of deciding the circumstances of the case are clarified, the chair of the panel shall provide an opportunity to the parties to communicate a statement.
- (2) After factual and legal clarification of the case, the chair of the panel shall close the session and shall announce the day for the pronouncement of the decision.

(3) The decision shall be pronounced not later than 14 days after the holding of the session.

Article 64

(1) The decisions shall be taken with a simple majority by the members of session panel and shall be signed.

(2) A member of the panel who dissents with the decision of the majority shall sign the decision with a special opinion, which he shall motivate.

Article 65

With the stated decision the panel shall:

1. ascertain the committed violation;
2. ascertain the offender and the affected person;
3. determine the kind and the amount of the sanction;
4. enforce coercive administrative measures;
5. ascertain that no violation of the law has been committed and leave the claim without consideration.

Article 66

The decision shall be in written and shall contain:

1. the name of the authority that issued it;
2. the factual and legal grounds for its issuing;
3. operative part, in which the kind and the amount of the sanction or the coercive administrative measure, if such should be imposed;
4. the authority and the term before and within which the decision may be appealed.

Article 67

(1) The Commission shall carry out a control over the compliance with the coercive administrative measures.

(2) The person to whom the coercive administrative measure has been imposed shall be obliged to take measures to implement the obligatory prescriptions and to communicate the Commission in written in term specified in the decision, which may not be longer than 1 month.

(3) In case of not implementing by the persons in-charge the obligatory prescriptions, the Commission shall send a report containing proposals for undertaking relevant measures to the respective state and local self-government bodies.

(4) The Commission may send the decision to other authorities, which are interested in the completed investigation, for information, or to undertake relevant actions.

Article 69

The decisions of the Commission shall enter into force, if:

- (1) they have not been appealed against within the term;
- (2) the appeal submitted has not been taken into consideration;
- (3) the achieved settlement among the parties has been proved by the decision.

Article 70

(1) On issues, which are not regulated by the provisions in this Section, the provisions of the Law on the Administrative Proceedings shall apply.

(2) The fines and property sanctions on the enforced decisions of the Commission shall be collected under the provisions of the Tax Procedure Code.

Section II

JUDICIAL PROCEEDINGS

Article 71

(1) Besides the cases under Section I, any person whose rights under this or other laws regulating the equal treatment have been violated may lodge a claim before the Regional Court through which to demand:

1. the violation to be ascertained;
2. the defendant to be sentenced to terminate the violation and to restore the status quo as it was before the violation, as well as to restrain in future from further violations;
3. compensations for damages.

(2) The trade unions organisations and their units, as well as the non-for-profit legal persons carrying out activities beneficial to the public may, upon request from persons whose rights have been violated, lodge a claim before the court. These organisations may step in as a concerned party into a pending legal action under Paragraph 1.

(3) In cases of discrimination when rights of many people have been violated, the organisations under Paragraph 2 may lodge an independent claim. The persons whose rights have been violated may step into the legal action as an assisting party as referred to in Article 174 from the Civil Procedure Code.

Article 72

(1) The persons referred to in Article 71, Paragraphs 1 and 2 may, within one month period from the lodging of the claim, communicate this fact to the public by means of publications or by other, chosen by them, written means through sending an invitation to other affected persons, trade unions organisations and their units, as well as non-for-profit legal persons carrying out activities beneficial to the public to, step into the proceedings

(2) The persons under Paragraph 1 may step into the proceedings not later than the completion of the oral competitions.

Article 73

(1) Any person whose rights have been violated by an administrative act issued in contravention to the provisions of this or other laws regulating the equal treatment may appeal it before the Court following the provisions of the Law on the Administrative Proceedings, accordingly under the Law on the Supreme Administrative Court.

Article 74

(1) In the cases under Section I, any person who has suffered damages from violation of rights under this or other laws regulating the equal treatment may lodge a claim for compensation following the general provisions against the persons and/or the bodies who have caused the damages.

(2) In the cases when the damages have been caused to persons by illegal acts, actions or lack of actions of state bodies and officials, the damage claim shall be lodged following the provisions of the Law on the Responsibility of the State for Damages Caused to Citizens.

Article 75

(1) On issues, which are not regulated by the provisions in this Section, the provisions of the Civil Procedure Code shall apply.

(1) No state fees shall be collected for court proceedings under this Law and the expenses shall be covered by the budget of the Court.

CHAPTER FIVE

COERCIVE ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENAL PROVISIONS

Section I

Coercive administrative measures

Article 76

(1) For prevention and termination of the violations of this or other laws regulating the equal treatment, as well as for prevention and removal of the harmful consequences of such violations, the Commission, on its own initiative or after a proposal of trade unions, natural or legal persons may apply the following coercive administrative measures:

1. to give obligatory prescriptions to the employers and the officials to remove violations of the legislation for prevention of discrimination;
2. to stop the execution of illegal decisions or orders of employers or officials, which lead or may lead to discrimination;

(2) The Commission's decisions for applying coercive administrative measures under the provisions of this Section may be appealed following the provisions of Article 68. The appeal proceedings shall not stop the execution of the compulsory administrative measure unless the Court orders otherwise.

Section II

Administrative Penal Provisions

Article 78

(1) A person who commit discrimination, within the meaning of this Law, shall be punished with a fine of 250 to 2 000 BGN, unless he/she is liable to more severe punishment.

(2) A person who does not present in term evidence or information demanded by the Commission, or impedes, or do not provide access to sites subject of examination shall be punished with a fine of 500 to 2 000 BGN.

Article 79

A regularly subpoenaed witness who fails to appear without good reasons before the Commission to testify shall be punished with a fine of 40 to 100 BGN.

Article 80

(1) A person who does not implement an obligation deriving from this Law shall be punished with a fine of 250 to 2 000 BGN, unless he/she is liable to more severe punishment.

(2) When the violation has been committed during performing the activity of a legal person, the latter shall be imposed with a material sanction of 250 to 2 500 BGN.

(3) For permission to commit violation referred to in Paragraph 1, the head of the legal person shall be punished with a fine of 200 to 2 000 BGN unless he/she is liable to more severe punishment.

Article 81

In case the violations under Articles 78 – 80 are committed for the second time, a fine, respectively a material sanction of double size of the amount of the initially imposed fine/sanction shall be imposed.

Article 82

(1) A person who does not implement the provisions of a Commission's or Court decision issued under this Law shall be punished with a fine of 2 000 to 10 000 BGN, unless he/she is liable to more severe punishment.

(2) In case the violation continue after three months of the entry into force of the punishment measure under Paragraph 1, a fine shall be imposed of 5 000 to 20 000 BGN.

Article 83

The sums collected from imposed fines or material sanctions following the provisions of this Section shall be entered into the republican budget.

Article 84

- (1) The acts for ascertaining of violations shall be constituted by members of the Commission determined by the Chair of the Commission.
- (2) The punishments shall be imposed by a decision of the Commission for protection against discrimination, and they may be appealed following the provisions of the Law on the Supreme Administrative Court. The appeal procedure shall stop the implementation of the decision that was appealed against.
- (3) On issues, which are not regulated by the provisions in this Section, the provisions of the Law on the Administrative Violations and Punishments shall apply.

ADDITIONAL PROVISION

§ 1. For the purpose of this Law:

1. "Harassment" shall be any unwanted conduct on the grounds referred to in Article 4, Paragraph 1, expressed in a physical, verbal or any other manner, which has the purpose or effect of violating the person's dignity or creating a hostile, degrading, humiliating or intimidating environment, attitude or practice.

2. "Sexual harassment" shall be any unwanted conduct of sexual character expressed physically, verbally or in any other manner, which violates the dignity or honour or creates hostile, degrading, humiliating or intimidating environment and, in particular when the refusal to accept such conduct or the compulsion thereto could influence the taking of decisions, affecting the person.

3. "Persecution" ("victimisation") shall be:

a) less favourable treatment of a person, who has undertaken or is supposed to have undertaken, or will undertake an action in defence against discrimination.

b) less favourable treatment of a person when a related person has undertaken or is supposed to have undertaken, or will undertake the actions for protection against discrimination.

c) less favourable treatment of a person who has refused to discriminate in the conditions.

4. "Actions for protection against discrimination" may include: submission of a petition or a signal; filing of a claim or witnessing in a proceedings on protection against discrimination;

5. "Instigation to discrimination" shall be direct and purposeful encouragement, instruction, exertion of pressure or prevailing upon someone to discriminate when the instigator is in a position to influence the instigated.

6. "Racial segregation" shall be the issuing of an act, the performing of an action or omission, which leads to compulsory separation, differentiation or dissociation of persons based on their race, ethnicity or skin colour.

7. "Less favourable treatment" shall be any act, action or lack of action, affecting directly or indirectly rights or legal interests;

8. "On the grounds, referred to in Article 4, Paragraph 1" shall mean on the grounds of the actual present or past, or presumed presence of one or more of these features in the discriminated person or in a related person, or a supposedly related person when this constitutes the reason for the discrimination;

9. "Related persons" shall be the spouses, relatives of direct descent without limitation, collateral relatives up to fourth level inclusive and in-law relatives up to third level inclusive; the guardian and the trustee; the guarded and the paternalised; concubines; employer and employee; persons where one is part of the management of the other; business partners; persons who, because of other circumstances may be considered directly or indirectly dependant on the claimant and the dependence is the reason for discrimination; persons, on whom the claimant could be directly or indirectly dependant and that is the reason for the discrimination; persons accompanying the claimant at the moment of undertaking act of discrimination when this connection is the reason for the discrimination;

10. "Sexual orientation" shall mean heterosexual, homosexual or bisexual orientation.
11. "Multiple discrimination" shall be discrimination on grounds, including more than one of those referred to in Article 4, Paragraph 1.
12. "Recurring infringement" shall be the infringement made within a year's time of the enforcement of the punishment for an equal infringement of this Law.
13. "Marital status" shall mean the status of a spouse or factual living together, and taking cares for dependent because of age or disability descending, upward or collateral relative up to third level.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. Within a three-month period from the entry into force of this Law the National Assembly shall elect and the President shall appoint their quotas of members of the Commission.

§ 3. Within a three-month period from the determination of the members under §2, the Commission shall adopt the Rules of Procedure referred to in Article 46, Paragraph 1.

§ 4. This Law shall repeal:

1. Paragraph 1, point 7) of the Supplementary Provisions of the Labour Code, (published SG No 26 and 27/1986, amm. and suppl. SG No 6/1988, SG No 21, 30 and 94/1990, SG No 27, 32 and 104/1991, SG No 23, 26, 88 and 100/1992, SG No 69/1995 – Decision No 12 of the Constitution Court/1998, amm. SG No 56, 83, 108 and 133/1998, SG No 51, 67 and 110/1999, SG No 25/2001, SG No 1, 105 and 120/2002, SG No 18/2003)

2. Article 5a, Paragraph 3 of the Law on the Protection, Rehabilitation and Social Integration of Disabled Persons (published SG No112/1995, suppl. SG No 110/1996, amm/ SG No 123/1997, SG No 140/1998 – Decision No 31 of the Constitution Court/1998, amm. SG No 153/1998, SG No 31/2001, SG NO 75 and 120/2002).

3. Paragraph 1, points 19) and 20) of the Supplementary Provisions of the Law on the Encouragement of Employment (published SG No 112/2001, amm. SG No 54 and 120/2002, SG NO 26/2003).

§ 5. Article 20, paragraph 2 of the Law on the National Education (published SG No 86/1991, amm. SG No 90/1996, SG No 36, 124, 153/1998. SG No 67 and 68/1999, SG No 90 and 95/2002, SG No 29 and 71/2003) is supplemented with "with specialised methodology for learning Bulgarian language".

§ 6. Article 88 of the Law on the Defence and Armed Forces of the Republic of Bulgaria (published SG No 112/1995, amm. SG No 67/1996, SG NO 122/1997, SG No 70, 93, 152 and 153/1998, SG No 12, 67 and 69/1999, SG NO 49 and 64/2000, SG No 25/2001, SG No 1, 40, 45 and 119/2002, SG No 50/2003) shall be revoked.

§ 7. Within three-month period from entry into force of this Law the Minister of labour and Social Policy and the Minister of the Defence shall issue the ordinances referred to in Article 7, Paragraph 2.

§ 8. This Law shall enter into force of 1 January 2004.