

LAW OF PROTECTION FROM DISCRIMINATION

In Force From 01.01.2004

Prom. SG. 86/30 Sep 2003, amend. SG. 70/10 Aug 2004, amend. SG. 105/29 Dec 2005, amend. SG. 30/11 Apr 2006, amend. SG. 68/22 Aug 2006

Chapter one. GENERAL

Art. 1. This law settles the protection against all forms of discrimination and contributes to its prevention.

Art. 2. The objective of the law is to provide for every person the right of:

1. equality before the law;
2. equality of treatment and in the possibilities of participating in the public life;
3. effective protection from discrimination.

Art. 3. (1) This law protects from discrimination of all individuals on the territory of the Republic of Bulgaria.

(2) Associations of individuals, as well as of corporate bodies, shall exercise the rights under this law when they are discriminated on the grounds of the characteristics under art. 4, para 1 regarding their members or the persons occupied by them.

Art. 4. (1) (suppl., SG 70/04) Prohibited shall be any practice or indirect discrimination based on sex, race, nationality, ethnic belonging, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or public status, handicap, age, sexual orientation, family status, property status or any other characteristics established by a law or by an international agreement party to which is the Republic of Bulgaria.

(2) Direct discrimination is every less favourable treatment of a person on the grounds of the characteristics under para 1 as compared with another person, treated, having been treated or would be treated in similar circumstances.

(3) Indirect discrimination is placing of a person, on the grounds of the characteristics under para 1, in a less favourable position as compared with other persons by means of an ostensibly neutral provision, criterion or practice, unless this provision, criterion or practice is objectively justified in view of a legal objective, and the means of achieving the objective are appropriate and necessary.

Art. 5. Harassment on the grounds of the characteristics of art. 4, para 1, sexual harassment, incitement to discrimination, persecution and racial segregation, as well as the construction and maintenance of an architectural environment impeding the access of

handicapped persons to public places shall be considered discrimination.

Art. 6. The prohibition of discrimination shall be effective for all in exercising and protection of the rights and freedoms stipulated by the Constitution and the laws of the Republic of Bulgaria.

Art. 7. (1) Discrimination shall not be considered:

1. the different treatment of persons on the grounds of their citizenship or of persons without citizenship when this is stipulated by a law or by an international agreement party to which is the Republic of Bulgaria;

2. the different treatment of persons on the grounds of characteristics under art. 4, para 1 when these characteristics, due to the nature of a definite occupation or activity, or the conditions under which it is implemented, is an essential and defining professional requirement, the objective is legal, and the requirement does not exceed the necessary degree for its achievement;

3. the different treatment of persons on the grounds of religion, belief or sex regarding a profession carried out in a religious institution or organisation which, due to the nature of the profession or the conditions under which it is performed, the religion, belief or sex is essential and defining a professional requirement in view of the nature of the institution or organisation, when the objective is legal, and the requirement does not exceed the necessary degree for its achievement;

4. the different treatment of persons on the grounds of religion, belief or sex in religious education or training, including in education or training for the purpose of practicing a profession under item 3;

5. determining requirements for minimal age, professional experience or time of practice in hiring for work or in granting certain advantages related to the work, on condition that this is objectively justified for achievement of a legal objective and the requirements for its achievement do not exceed the necessary degree;

6. determining a maximal age in hiring for work, related to the necessity of training necessary for occupying the respective position or to the necessity of a reasonable period of occupying the position before retirement, on conditions that this is objectively justified for achievement of a legal objective and the requirements for its achievement do not exceed the necessary degree;

7. the special protection for pregnant women and mothers established by a law, unless the pregnant woman or the mother does not wish to use this protection and has informed the employer about that in writing;

8. the requirements for age and time of practice determined by the law for the purposes of retirement;

9. (suppl. - SG 68/06) the measures and the programmes under the Law of encouraging employment;

10. the different treatment of handicapped persons in carrying out training and acquiring education for satisfying specific educational needs for the purpose of equalising their possibilities;

11. determining requirements for minimal and maximal age for access to training and education, on condition that this is objectively justified for achievement of the legal objective in view of the nature of the training or education, or the conditions under which it is carried

out, and the means of achievement of this objective do not exceed the necessary ones;

12. the measures in the sphere of education and training for providing a balanced participation of women and men, inasmuch as and while these measures are necessary;

13. the special measures in favour of underprivileged persons or groups of persons on the grounds of the characteristics under art. 4, para 1, for the purpose of equalising their possibilities, inasmuch as while these measures are necessary;

14. the special protection of children without parents, underage, single parents and handicapped persons, established by a law;

15. the measures for protection of the originality and identity of the persons belonging to ethnic, religious or language minorities, and of their right, individually or jointly with other members of their group, to keep and develop their culture, to profess and practice their religion or use their language;

16. the measures in the sphere of education and training for providing the participation of persons belonging to ethnic minorities, inasmuch as and while these measures are necessary.

(2) The list of activities for which the sex is an essential and determining professional requirement in the meaning of para 1, item 2 shall be determined by:

1. an ordinance of the Minister of Labour and Social Policy in coordination with the Minister of Interior; This list shall be brought in compliance, in due time, with the occurring changes of the conditions of labour, and it shall be reviewed at least once in three years;

2. an ordinance of the Minister of Defence – for the activities and positions of the military service in the armed forces.

Art. 8. The persons, having conscientiously assisted the acts of discrimination, shall bear responsibility according to this law.

Art. 9. In proceedings for protection from discrimination, after the party claiming to be a victim of discrimination proves facts, by which a conclusion can be made that discrimination is present, the responding party shall have to prove that the right to equal treatment has not been violated.

Art. 10. In implementing their legal capacities the state bodies and the bodies of the local independent government shall be obliged to take all possible and necessary measures for the achievement of the objectives of this law.

Art. 11. (1) The bodies of the state authority, the public bodies and the bodies of the local independent government shall take measures, in the meaning of art. 7, para 1, item 12 and 13, when it is necessary for achievement of the objectives of this law.

(2) The bodies of the state authority, the public bodies and the bodies of the local independent government shall take, with priority, measures in the meaning of art. 7, para 1, item 12 and 13 for equalising the possibilities of persons – victims of multiple discrimination.

Chapter two. PROTECTION FROM DISCRIMINATION

Section I. Protection in exercising the right to work

Art. 12. (1) In announcing a vacancy the employer shall not have the right to place requirements related to the characteristics under art. 4, para 1, except in the cases of art. 7.

(2) Before conclusion of the employment contract the employer shall not have the right to require from the applicant information for the characteristics under art. 4, para 1, except in the cases of art. 7, or where it is necessary for the needs of enquiry for obtaining permit for work with classified information under the conditions and by the order of the Law of protection of the classified information.

(3) The employer shall not have the right to refuse employment due to a pregnancy, motherhood or raising a child.

(4) The employer shall not have the right of refusal to hire for a job or to hire under less favourable circumstances a person on the grounds of the characteristics under art. 4, para 1, except in the cases of art. 7.

Art. 13. (1) The employer shall provide equal labour conditions regardless of the characteristics under art. 4, para 1.

(2) When it would not lead to excessive difficulties for the organisation and implementation of the production process, and in case where there are possible ways to compensate objectively the possible unfavourable consequences for the overall production results, the employer shall provide working conditions with regard of the working time and days off, complied with the requirements of the religion or belief professed by the employee.

Art. 14. (1) The employer shall provide equal remuneration for the same or equal work.

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

(3) The criteria for assessment of the work in determining the labour remuneration and the assessment of the job fulfilment shall be equal for all employees and shall be set by the team employment contracts or by the internal rules for the salary, or by conditions and order for giving testimonial of the employees of the state administration, determined by a normative, regardless of the characteristics under art. 4, para 1.

Art. 15. The employer shall provide for the employees equal possibilities, regardless the characteristics under art. 4, para 1, of professional training and improvement of the professional qualification and re-qualification, as well as for professional development and promotion in a position or rank, applying equal criteria in the assessment of their activity.

Art. 16. The employer shall be obliged to adapt the working place to the needs of a handicapped person on his hiring or when the handicap occurs after his hiring, except where the expenses thereof are unreasonably high and would seriously burden the employer.

Art. 17. An employer having received a complaint from an employee who considers himself subject to harassment, including sexual harassment, on the working place, shall be obliged to make immediately an enquiry, to take measures for termination of the harassment, as well as for imposing disciplinary liability if the harassment has been carried out by another employee.

Art. 18. The employer, in cooperation with the trade unions, shall be obliged to take effective measures for prevention of all forms of discrimination on the working place.

Art. 19. For failure to fulfil his obligation under art. 18 the employer shall bear responsibility under this law for acts of discrimination committed on the working place by his employees.

Art. 20. The employer shall apply equal criteria in imposing disciplinary penalties regardless of the characteristics under art. 4, para 1.

Art. 21. The employer shall apply equal criteria in exercising his right of unilateral termination of the employment contract under art. 328, para 1, item 2 – 5, 10 and 11 and art. 329 of the Labour Code, or of the official legal relations according to art. 106, para 1, item 2, 3 and 5 of the Law of the civil servant, regardless of the characteristics of art. 4, para 1.

Art. 22. The employer shall put in a place in the enterprise, accessible for the employees, the text of the law, as well as all provisions of the internal rules and of the clauses of the team employment contract regarding the protection from discrimination.

Art. 23. (1) On request, the employer shall submit information to the person claiming that his rights under this section have been violated.

(2) The information under para 1 shall contain the grounds for the decision taken by the employer, as well as other data thereto.

Art. 24. (1) The employer shall be obliged, on hiring, where necessary for achievement of the objectives of this law, to encourage applying by persons belonging to less represented sex or ethnic groups, for performance of a definite work or for occupation of a definite position.

(2) The employer shall be obliged, in equal other conditions, to encourage the professional development and the participation of the employees belonging to a definite sex or ethnic group less represented among the employees performing a definite job or occupying a definite position.

Art. 25. The territorial units of the Employment Agency shall be obliged to provide to the unemployed equal possibilities of exercising their rights guaranteed by a law regardless of the characteristics under art. 4, para 1.

Art. 26. The persons shall be entitled to equal conditions of access to a profession or activity, a possibility of their practicing and their development thereof, regardless of the characteristics under art. 4, para 1.

Art. 27. The provisions of this section shall also apply regarding the discrimination on the basis of sex in the military service in the armed forces, except for fulfilment of activities and occupation of positions where the sex is a determining factor.

Art. 28. The provisions of this section shall also apply respectively to the official legal relations.

Section II. Protection in exercising the right of education and training

Art. 29. (1) The Minister of Education and Science and the bodies of the local independent government shall take the necessary measures for not admitting race segregation in the educational institutions.

(2) The management of an educational institution shall take effective measures for prevention of all forms of discrimination at the educational place in the country on a part of a person from the pedagogical or non-pedagogical personnel or by a student.

Art. 30. The head of the educational institution shall put in an accessible place the text of the law, as well as all provisions of the internal rules regarding the protection from discrimination.

Art. 31. The head of an educational institution, having received a complaint of a student who considers himself a subject of harassment by a person from the pedagogical or non-pedagogical personnel or by another student, shall be obliged to enquire immediately and take measures for termination of the harassment, as well as for imposing disciplinary liability.

Art. 32. The educational institutions shall take appropriate measures for the purpose of equalising the possibilities of effective exercising of the right of education and training of handicapped persons, except where the expenses thereof are unreasonably high and would seriously burden the institution.

Art. 33. (1) On request, the head of the educational institution shall submit information to the person claiming that his rights under this section have been violated.

(2) The information under para 1 shall contain the grounds for the decision taken by the head or teacher, as well as other related data.

Art. 34. For failure to fulfil the obligation under art. 29, para 2 the head of the educational institution shall bear responsibility according to this law for discrimination on the

place of study on part of an employee of the administration, a teacher or a student.

Art. 35. (1) The persons carrying out training and education, as well as the authors of textbooks and school aids shall be obliged to submit information and apply methods of education and training in a way directed to the overcoming of stereotypes regarding the role of the woman and man in all spheres of the public and family life.

(2) The kindergartens, schools and higher schools shall include in their educational programmes and plans education on the issues of equality of women and men.

(3) Para 1 shall also apply for overcoming the negative stereotypes regarding the persons belonging to racial, ethnic and religious groups, as well s regarding handicapped persons.

Section III. Protection in exercising other rights

Art. 36. The trade union, professional and other class organisations and the organisations or employers may not place requirements for enlisting, membership and participation in their activity on the grounds of the characteristics under art. 4, para 1, except the requirements for education in the cases of class and professional organisations.

Art. 37. Not admitted shall be a refusal to submit commodities or services, as well as the submitting of commodities and services of a lower quality or under less favourable conditions on the grounds of the characteristics under art. 4, para 1.

Art. 38. The state and municipal bodies and the bodies of local independent government shall carry out a policy of encouragement of the balanced participation of women and men, as well as representative participation of persons belonging to ethnic, religious and language minorities in the management and taking decisions.

Art. 39. (1) (amend. - SG 68/06) If the applicants for occupying a position in the administration of the state and local bodies are equal with respect of the requirements for the respective position, the applicant of the less represented sex shall be appointed.

(2) (new - SG 68/06) At presence of specific circumstances regarding the equal candidate of the more represented sex besides the requirements for the position he shall be appointed if this not represent discrimination against the candidate of the less represented sex.

(2) (prev. text of para 02, amend. and suppl. - SG 68/06) Para 1 and 2 shall also apply in appointing the participants or members of boards, expert working groups, managing, counselling or other bodies, except when these participants are appointed by an election or competitive examination.

Chapter three. COMMISSION FOR PROTECTION FROM DISCRIMINATION

Art. 40. (1) The Commission for protection from discrimination, called hereinafter "the Commission", is an independent specialised state body for prevention of discrimination, protection from discrimination and providing equality of the possibilities.

(2) The Commission shall exercise control over the implementation and observance of this law or other laws settling the equality of treatment.

(3) (suppl. - SG 68/06, in force from 01.01.2007) The Commission shall be a legal person at budget support with a seat in Sofia and a primary administrator of budget credits.

(4) (new - SG 68/06) The Commission shall have its own regional representatives who shall be appointed according to conditions and order determined by the Regulation referred to in Art. 46, Para 1.

(5) (prev. text of para 04 - SG 68/06) The Commission shall present to the National Assembly every year, by March 31, a report for its activity which shall also include information for the activity of each of its standing specialised bodies.

Art. 41. (1) The Commission shall consist of 9 persons of which at least four lawyers. The National Assembly shall elect 5 of its members, including the chairman and the deputy chairman of the Commission, and the President of the Republic of Bulgaria shall appoint 4 of the members of the Commission.

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

(3) On the election or appointment of the members of the Commission shall be observed the principles of balanced participation of women and men and of participation of persons belonging to ethnic minorities.

Art. 42. (1) A member of the Commission may only be a Bulgarian citizen who:

1. has a higher education;
2. has knowledge and experience in the sphere of protection of the human rights;
3. has not been convicted for a deliberate offence of general nature.

(2) A member of the Commission may not:

1. be an entrepreneur, manager, procurator, a member of a managing or control body of a trade company or cooperation, an assignee in bankruptcy or a liquidator;
2. occupy another office of profit, except for carrying out scientific activity;
3. be a member of a leadership of a political party.

Art. 43. The time during which the person has worked as a member of the Commission shall be considered official service in the meaning of the Law of the civil servant.

Art. 44. (1) The legal capacities of a member of the Commission shall be terminated ahead of term:

1. at his request;
2. for inability of fulfilling his obligations for a period longer than 6 months;
3. for conviction for a deliberate offence of general nature;
4. in cases of incompatibility.

(2) On occurrence of the circumstances under para 1 the chairman of the Commission or his deputy shall make a motivated proposal for release to the National Assembly or to the President of the Republic of Bulgaria.

(3) Within one month from termination of the legal capacities under para 1 the National Assembly or the President of the Republic of Bulgaria shall elect, respectively appoint, a new member of the Commission who will complete the mandate of the released member.

Art. 45. (1) (amend. - SG 68/06) The Chairman of the Commission shall receive basic monthly remuneration in amount of 90 percent of the basic monthly remuneration of the Chairman of the National Assembly.

(2) The deputy chairman of the Commission shall receive a basic monthly remuneration amounting to 80 percent, and the members – a remuneration of 75 percent of the remuneration of the chairman of the Commission.

Art. 46. (1) The Commission shall adopt a regulation for its structure and activity, to be promulgated in the State Gazette.

(2) In its activity the Commission shall be assisted by an administration whose structure, functions and number of personnel shall be determined by the regulation under para 1.

Art. 47. The Commission for protection from discrimination shall:

1. establish violations of this or other laws settling equality of treatment, the offender and the affected person;

2. order prevention and termination of the offence and restoration of the initial state;

3. imposed the stipulated sanctions and apply measures of administrative enforcement;

4. give obligatory prescriptions with regard of observing this law or other laws settling equality of treatment;

5. appeal administrative acts issued in violation of this or other laws settling equality of treatment, lay claims in court and intervene as an interested party to proceedings instituted pursuant to this law or other laws settling equality of treatment;

6. extend proposals and recommendations to the state and municipal bodies for termination of discrimination practices and for revoking their acts issued in violation of this or other laws settling equality of treatment;

7. maintain a public register for decisions and obligatory prescriptions issued by it and enacted;

8. give opinion on draft normative acts for their compliance with the legislation for prevention of the discrimination, as well as recommendations for adopting, revoking, amendment and supplement of normative acts;

9. provide an independent help to the victims of discrimination in filing complaints for discrimination;

10. carry out independent studies regarding the discrimination;

11. publish independent reports and make recommendations on all issues related to the discrimination;

12. carry out other competence stipulated by the regulation for its structure and activity.

Art. 48. (1) The Commission shall consider and decide on the materials filed with it by sitting members who shall be appointed by the chairman of the Commission.

(2) The chairman of the Commission shall appoint standing members who shall be specialised in the matter of discrimination:

1. on ethnic and racial grounds;
2. on sex ground;
3. on the grounds of other characteristics under art. 4, para 1.

(3) The cases of multiple discrimination shall be considered by a wider circle of five members.

Art. 49. (1) The chairman of the Commission shall:

1. represent the Commission, organise and manage its activity;
2. conclude the employment contracts and appoint the civil servants of the administration;
3. fulfil the budget of the Commission.

(2) The deputy chairman shall assist the chairman of the Commission in carrying out his functions and shall substitute him in his absence.

Chapter four.

PROCEEDINGS FOR PROTECTION FROM DISCRIMINATION

Section I.

Proceedings before the Commission for protection against discrimination

Art. 50. Proceedings before the Commission shall be instituted on:

1. complaint of the affected persons;
2. initiative of the Commission;
3. signals by individuals and corporate bodies, of state and municipal bodies.

Art. 51. (1) The complaint or the signal to the commission shall be filed in writing. When written in a foreign language they shall be accompanied by a translation into Bulgarian.

(2) The complaint or signal shall contain:

1. the name or denomination of the sender;
2. the address or seat and address of management of the sender;
3. exposition of the circumstances on which the complaint or signal is based;
4. exposition of the requests to the Commission;
5. date and signature of the person filing the complaint, or of his representative.

(3) Anonymous complaints and signals shall not be considered by the Commission.

Art. 52. (1) Proceedings shall not be instituted, and the institution shall be terminated if three years have elapsed from the offence.

(2) (amend. - SG 68/06) When it is established that a case has been instituted in court on the same dispute the Commission shall not institute proceedings.

(3) (new - SG 68/06) The proceedings before the Commission shall be terminated if the appeal or the signal is withdrawn or was not submitted within the term determined by the Commission.

Art. 53. (1) No stamp duty shall be collected for the proceedings before the Commission.

(2) The expenses incurred in the process of the proceedings shall be for the account of the budget of the Commission.

Art. 54. Upon institution of proceedings the chairman of the Commission shall assign the materials to a members body who will elect among themselves a reporter.

Art. 55. (1) The reporter shall start a procedure of enquiry, gathering all written evidence necessary for the full and thorough clarification of the circumstances, using employees and outside experts.

(2) All persons, state and local bodies shall render assistance to the Commission in the process of the enquiry, and they shall be obliged to submit the required information and documents and to give the necessary explanations.

(3) The presence of commercial, industrial or other secret protected by a law may not be grounds for refusal of assistance.

(4) In the presence of grounds for access to classified information it shall be submitted by the order of the Law of protection of the classified information.

Art. 56. (1) On carrying out its legal capacities the Commission shall have the right:

1. to require documents and other information related to the enquiry;
2. to require explanation by the persons of the enquiry on issues related to the enquiry;
3. to interrogate witnesses.

(2) On refusal to submit information requested by the Commission, or a refusal of access to premises, as well as in other cases of refusing assistance to the Commission the guilty persons shall bear responsibility under this law.

Art. 57. (1) Where there is a danger of losing or concealing an evidence or in case of a particular difficulty of its gathering, at a request of the claimant, the evidence may be gathered by compulsion from the persons or from the premises where it can be found.

(2) Compulsory gathering of evidence under para 1 shall be carried out by a permit of a justice of Sofia City Court at a request of the chairman of the Commission.

(3) On the day of receipt of the request the justice shall issue an order which shall be subject to immediate fulfilment.

(4) The gathering of evidence shall be carried out by the reporter on the case with the assistance of the bodies of the Ministry of Interior.

(5) On compulsory gathering of evidence the Commission may:

1. inspect sites for the purposes of the enquiry;
2. gather evidence instruments for the purposes of the enquiry.

(6) The material evidence and the originals of the seized documents shall be returned to the persons from whom they have been seized upon conclusion of the case.

Art. 58. (1) The gathered documents and the obtained information shall be used only for the purposes of the enquiry.

(2) The members of the Commission, as well as the employees and external experts, shall be obliged not to make public the information representing a secret protected by the law, having become known to them during or on occasion of the implementation of their activity.

Art. 59. (1) The enquiry shall be carried out within 30 days. In cases of factual and legal complexity the term may be extended by an order of the chairman of the Commission by up to 30 days.

(2) (new - SG 68/06) The term referred to in Para 1 shall stop running where it was found that the reporting member was impeded at the inspection of persons, state or local bodies and this represents an obstacle for the full and thorough clarification of the circumstances.

(3) (prev. text of para 02 - SG 68/06) Upon conclusion of the enquiry the parties shall be given a possibility to get acquainted with the gathered materials related to the case.

(4) (prev. text of para 03 - SG 68/06) If, in the process of the enquiry data are established for committed crime the Commission shall send the case to the prosecution.

Art. 60. (1) The reporter shall prepare a conclusion and shall present the case to the chairman of the body of members who, within 7 days, shall set a sitting.

(2) The summoning of the parties and the notification of the interested persons shall be carried out by the order of the Civil Procedure Code.

Art. 61. (1) The sittings of the Commission shall be opened.

(2) The sittings shall be held behind closed doors on the grounds and by the order stipulated by art. 105, para 3 of the Civil Procedure Code.

(3) The members of the sitting body shall be removed on the grounds and by the order stipulated by Chapter Three of the Civil Procedure Code.

Art. 62. (1) (amend. - SG 68/06) The chairman of the sitting body shall invite the parties to reconcile in the first sitting. On expression of a consent by the parties the chairman of the sitting body shall set a sitting for reconciliation proceedings.

(2) Where an agreement is reached between the parties during the reconciliation proceedings on the basis of equal treatment the Commission shall approve it by a decision and shall close the case.

(3) Where the agreement regards only a part of the dispute the proceedings shall continue for the part for which no agreement has been reached.

(4) The agreement approved by the Commission shall be subject to compulsory execution, whereas the Commission shall exercise control over the observance of the agreement.

Art. 63. (1) When he deems that the circumstances of the case have been clarified the chairman of the body of members shall provide a possibility for the parties to express opinion.

(2) Upon clarification of the dispute in factual and legal aspect the chairman of the body of members shall close the sitting and shall announce the day of announcing the decision.

(3) The decision shall be announced not later than 14 days from holding the sitting.

Art. 64. (1) The decisions shall be taken by a common majority of the members of the sitting body and shall be signed by them.

(2) A member of the sitting body who disagrees with the decision of the majority shall sign the decision with reservation which shall be motivated.

Art. 65. By the announced decision the sitting body shall:

1. establish the committed offence;
2. establish the offender and the affected person;
3. determine the kind and the size of the sanction;
4. apply compulsory administrative measures;
5. establish that no violation of the law has been committed and rest the complaint without consideration.

Art. 66. The decision shall be in writing and shall contain:

1. the name of the body having issued it;
2. the factual and legal grounds for its issuance;
3. the provisional part determining the kind and the size of the sanction or the compulsory administrative measure if such is required;
4. the body and term of appeal.

Art. 67. (1) The Commission shall exercise control over the observance of the compulsory administrative measures.

(2) The person on whom a sanction is imposed or a compulsory administrative measure shall be obliged to take measures for fulfilment of the obligatory prescriptions and inform about that, in writing, the commission within a period determined by the decision, which may not be longer than one month.

(3) In cases of non-fulfilment of the obligatory prescriptions by officials the Commission shall send a report with proposals for undertaking respective activities of the respective state and municipal bodies.

(4) The Commission may send the decision to other bodies related to the enquiry, for information and/or for undertaking respective activities.

Art. 68. (1) (amend. - SG 30/06, in force from 12.07.2006) The decisions of the Commission shall be subject to appeal before the Supreme Administrative Court by the order of the Administrative procedure code within 14 days from their announcement to the interested bodies.

(2) The complaint for declaring nullity of the decision shall be filed without time

restriction.

Art. 69. The decisions of the Commission shall enter into force when:

1. they have not been appealed by the set deadline;
2. the filed complaint has not been granted;
3. the decision confirms the agreement reached between the parties.

Art. 70. (1) (amend. - SG 30/06, in force from 12.07.2006) Applied for the issues not settled by this section shall be the provisions of the Administrative procedure code.

(2) (amend. - SG 105/05, in force from 01.01.2006) The fines and the proprietary sanctions under enacted decisions of the Commission shall be collected by the order of the Tax –insurance Procedure Code.

Section II. Court proceedings

Art. 71. (1) Outside the cases under section I every person whose rights, under this law or other laws, settling equality of treatment, have been violated may lay a claim before the regional court requesting:

1. establishing of the violation;
2. convicting the defendant to stop the violation and restore the state before the offence, as well as to refrain from further offences in the future;
3. indemnification for damages.

(2) The trade unions and their branches, as well as the non-profit corporate bodies carrying out socially useful activity, may lay claims on behalf of the persons whose rights have been violated, at their request. These organisations may also intervene as interested parties in pending proceedings under para 1.

(3) In cases of discrimination, when the rights of a multitude of persons have been violated, the organisations under para 2 may also lay an individual claim. The persons whose rights have been violated may intervene in the proceedings as a supporting party according to art. 174 of the Civil Procedure Code.

Art. 72. (1) The persons under art. 71, para 1 and 2 may, within one month from laying the claim, announce this fact through publications or in any written form chosen by them, extending invitation to other affected persons, to trade unions and their branches, as well as to non-profit corporate bodies carrying out socially useful activity, to intervene in the proceedings.

(2) The persons under para 1 may intervene in the proceedings until the conclusion of the pleading.

Art. 73. (amend. - SG 30/06, in force from 12.07.2006) Every person whose rights have been affected by an administrative act issued in violation of this or other laws, settling equality of treatment may appeal it in court by the order of the Administrative procedure code.

Art. 74. (1) In the cases under section I every person who has suffered a damage caused by violation of rights under this or other laws settling equality of treatment may lay a claim for indemnification by the general order against the persons and/or organisations having caused the damages.

(2) In the cases when the damages have been caused to citizens by illegal acts, actions or inactions of state bodies and officials the claim for indemnification shall be laid by the order of the Law of the responsibility of the state for damages caused by citizens.

Art. 75. (1) Applied, for issues not settled by this section, shall be the provisions of the Civil Procedure Code.

(2) For proceedings in court according to this law no stamp duties shall be collected, and the expenses shall be for the account of the budget of the court.

Chapter five. COMPULSORY ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENAL PROVISIONS

Section I. Compulsory administrative measures

Art. 76. (1) For prevention or termination of the violations under this or other laws settling equality of treatment, as well as for prevention or elimination of harmful consequences from them, the Commission, at its initiative or at the proposal of trade unions, individuals or corporate bodies may apply the following compulsory administrative measures:

1. give obligatory prescriptions to the employers and officials for removal of violation of the legislation for prevention of the discrimination;
2. stop the fulfilment of illegal decisions or orders of employers, leading or which may lead to discrimination.

(2) Where, in the cases of para 1, one and the same issue has been given enacted obligatory prescription, and there is an enacted decision of the court, contradicting each other, the decision of the court shall be fulfilled.

Art. 77. The decisions of the Commission for applying compulsory administrative measures under this section may be appealed by the order of art. 68. The appeal shall not stop the fulfilment of the compulsory administrative measure unless the court orders otherwise.

Section II. Administrative penal provisions

Art. 78. (1) Who discriminates in the meaning of this law shall be punished by a fine of 250 to 2000 levs, unless subject to a more severe penalty.

(2) Who does not present in due time evidence or information required by the

Commission, or obstructs or does not provide an access to sites for inspection, shall be punished by a fine of 500 to 2000 levs.

Art. 79. A regularly subpoenaed witness who does not appear before the Commission, for invalid reasons, in order to give a testimony shall be punished by a fine of 40 to 100 levs.

Art. 80. (1) Who does not fulfil an obligation ensuing from this law shall be punished with a fine of 250 to 2000 levs, unless subject to a more severe punishment.

(2) When the offence is committed in carrying out the activity of a corporate body a proprietary sanction of 250 to 2500 levs shall be imposed on it.

(3) For admitting an offence under para 1 the head of a corporate body – employer shall be punished by a fine of 200 to 2000 levs, unless subject to a more severe punishment.

Art. 81. When the offences under art. 78 – 80 are repeated a fine shall be imposed, respectively a proprietary sanction, in double size of the initially imposed one.

Art. 82. (1) Who does not fulfil a decision of the Commission or of the court, provided according to this law, shall be punished by a fine of 2000 to 10 000 levs, unless subject to a more severe punishment.

(2) (amend. - SG 68/06) If, after the expiration of three months from the enactment of the decision under para 1, the violation continues, a fine of 5000 to 20 000 levs shall be imposed.

Art. 83. The collected sums from imposed fines and proprietary sanctions by the order of this section shall be deposited to the republican budget.

Art. 84. (1) The acts for establishing the offences shall be issued by members of the Commission appointed by the chairman of the Commission.

(2) (amend. - SG 30/06, in force from 12.07.2006) The penalties shall be imposed by a decision of the Commission for protection from discrimination, which may be appealed by the order of the Administrative procedure code. The appeal shall stop the fulfilment of the contested decision.

(3) Applied for issues not settled by this section shall be the Law of the administrative offences and sanctions.

Additional provisions

§ 1. In the meaning of this law:

1. "Harassment" is every unwanted conduct on the grounds of the characteristics under art. 4, para 1, expressed physically, verbally or in other way, having a purpose or as a result impairment of the dignity of the person and creating a hostile, offending or threatening environment.

2. "Sexual harassment" is any unwanted conduct of sexual nature, expressed

physically, verbally or in other way impairing the dignity and honour and creating hostile, offending or threatening environment and, in particular, where the refusal to accept similar conduct or the compulsion for it may influence the taking of decisions affecting the person.

3. "Persecution" is:

a) less favourable treatment of a person who has undertaken, or it is supposed that he has undertaken or will undertake an action for protection from discrimination;

b) less favourable treatment of person when a related person has undertaken or it is believed that he has undertaken or will undertake actions for protection from discrimination;

c) less favourable treatment of a person having refused to discriminate.

4. "Actions for protection from discrimination" may include: filing of a complaint or signal, laying a claim or witnessing in proceedings for protection from discrimination.

5. "Incitement to discrimination" is a direct and deliberate encouraging, giving instruction, exercising pressure or incitement to discrimination, when the instigator is in a position to influence the incited.

6. "Racial segregation" is the issuance of an act, the carrying out of action or inaction, leading to a compulsory segregation, separation or division of a person on the grounds of his race, ethnic belonging or skin colour.

7. "Unfavourable treatment" is every act, action or inaction which directly or indirectly affects rights or legal interests.

8. "On the grounds of the characteristics under art. 4, para 1" means on the grounds of the actual, present or past, or supposed presence of one or more of these characteristics of the discriminated person or of a person to whom he is related, or it is supposed that he is related, where this relation is a reason for discrimination.

9. "Related persons" are: the spouses, the relatives on direct line – without restriction, on the collateral line – up to fourth degree including, and the relatives by marriage – up to third degree including; the guardian and the trustee; the warden and the person in care; persons living by marital principles; employer and employee; the persons, one of whom participates in the management of the company of the other; the partners; persons who, due to other circumstances, may be considered directly or indirectly dependable by the affected person, and this relation is a reason for discrimination; persons by whom the directly or indirectly affected may be dependable, and this relation is a reason for discrimination; persons accompanying the affected by the moment of committing an act of discrimination, when this relation is a reason for discrimination.

10. "Sexual orientation" means a heterosexual, homosexual or bisexual orientation.

11. "Multiple discrimination" is a discrimination on the grounds of more than one of the characteristics under art. 4, para 1.

12. "Repeated violation" is the violation committed within one year from the enactment of the decision by which the offender has been punished for an offence of the same kind.

13. "Family status" means marital status or factual cohabitation and taking care of a dependent descendent due to an age or handicap, ascendant or relative by the collateral line up to third degree.

14. (new, SG 70/04) "Human genome" is the combination of all genes in a single (diploid) composition of chromosomes of a person.

15. (amend. - SG 68/06) "Specific circumstances" means circumstances related to social, health and family status, age, etc. which shall not lead to discrimination on the basis of sex.

Transitional and concluding provisions

§ 2. Within three months from the enactment of the law the National Assembly shall elect, and the President shall appoint his quota of the members of the Commission.

§ 3. Within three months from determining the members under § 2 the Commission shall adopt the regulation for its structure and activity according to art. 46, para 1.

§ 4. This law revoked:

1. paragraph 1, item 7 of the additional provisions of the Labour Code (Prom. SG 26/1 Apr 1986, prom. SG 27/4 Apr 1986, amend. SG 6/22 Jan 1988, amend. SG 21/13 Mar 1990, amend. SG 30/13 Apr 1990, amend. SG 94/23 Nov 1990, amend. SG 27/5 Apr 1991, amend. SG 32/23 Apr 1991, amend. SG 104/17 Dec 1991, amend. SG 23/19 Mar 1992, amend. SG 26/31 Mar 1992, amend. SG 88/30 Oct 1992, amend. SG 100/10 Dec 1992, amend. SG 69/4 Aug 1995, suppl. SG 87/29 Sep 1995, suppl. SG 2/5 Jan 1996, suppl. SG 12/9 Feb 1996, suppl. SG 28/2 Apr 1996, amend. SG 124/23 Dec 1997, suppl. SG 22/24 Feb 1998, amend. SG 52/8 May 1998, amend. SG 56/19 May 1998, amend. SG 83/21 Jul 1998, suppl. SG 108/15 Sep 1998, amend. SG 133/11 Nov 1998, amend. SG 51/4 Jun 1999, suppl. SG 67/27 Jul 1999, amend. SG 110/17 Dec 1999, amend. SG 25/16 Mar 2001, amend. SG 1/4 Jan 2002, amend. SG 105/8 Nov 2002, amend. SG 120/29 Dec 2002, amend. SG 18/25 Feb 2003);

2. Art. 5a, para 3 of the Law of protection, rehabilitation and social integration of the disabled (Prom. SG 112/27 Dec 1995, suppl. SG 110/30 Dec 1996, amend. SG 123/23 Dec 1997, amend. SG 140/27 Nov 1998, amend. SG 153/23 Dec 1998, amend. SG 31/30 Mar 2001, amend. SG 75/2 Aug 2002, amend. SG 120/29 Dec 2002);

3. paragraph 1, item 19 and 20 of the additional provision of the Law of encouraging the employment (prom., SG 112/01; amend., SG 54 and 120/2002; SG 26/2003).

§ 5. In art. 20, para 2 of the Law of the public education (prom., SG 86/1991; amend., SG 90/1996; SG 36, 124 and 153/1998; SG 67 and 68/1999; SG 90 and 95/2002; SG 29 and 71/2003) at the end is added "by a specialised methodology for mastering Bulgarian language".

§ 6. Art. 88 of the Law of the defence and the armed forces of the Republic of Bulgaria (Prom. SG 112/27 Dec 1995, amend. SG 67/6 Aug 1996, amend. SG 122/19 Dec 1997, amend. SG 70/19 Jun 1998, amend. SG 93/11 Aug 1998, amend. SG 152/22 Dec 1998, amend. SG 153/23 Dec 1998, amend. SG 12/12 Feb 1999, suppl. SG 67/27 Jul 1999, amend. SG 69/3 Aug 1999, amend. SG 49/16 Jun 2000, suppl. SG 64/4 Aug 2000, amend. SG 25/16 Mar 2001, amend. SG 1/4 Jan 2002, amend. SG 40/19 Apr 2002, amend. SG 45/30 Apr 2002, amend. SG 119/27 Dec 2002, amend. SG 50/30 May 2003) is revoked.

§ 7. Within three months from the enactment of the law the Minister of Labour and Social Policy and the Minister of Defence shall issue the ordinances under art. 7, para 2.

§ 8. The law shall enter into force on January 1, 2004.

Transitional and concluding provisions TO THE TAX-INSURANCE PROCEDURE CODE

(PROM. – SG 105/05, IN FORCE FROM 01.01.2006)

§ 88. The code shall enter in force from the 1st of January 2006, except Art. 179, Para 3, Art. 183, Para 9, § 10, item 1, letter "e" and item 4, letter "c", § 11, item 1, letter "b" and § 14, item 12 of the transitional and concluding provisions which shall enter in force from the day of promulgation of the code in the State Gazette.

Transitional and concluding provisions TO THE ADMINISTRATIVE PROCEDURE CODE

(PROM. – SG 30/06, IN FORCE FROM 12.07.2006)

§ 142. The code shall enter into force three months after its promulgation in State Gazette, with the exception of:

1. division three, § 2, item 1 and § 2, item 2 – with regards to the repeal of chapter third, section II "Appeal by court order", § 9, item 1 and 2, § 15 and § 44, item 1 and 2, § 51, item 1, § 53, item 1, § 61, item 1, § 66, item 3, § 76, items 1 – 3, § 78, § 79, § 83, item 1, § 84, item 1 and 2, § 89, items 1 - 4 § 101, item 1, § 102, item 1, § 107, § 117, items 1 and 2, § 125, § 128, items 1 and 2, § 132, item 2 and § 136, item 1, as well as § 34, § 35, item 2, § 43, item 2, § 62, item 1, § 66, items 2 and 4, § 97, item 2 and § 125, item 1 – with regard to the replacement of the word "the regional" with the "administrative" and the replacement of the word "the Sofia City Court" with "the Administrative court - Sofia", which shall enter into force from the 1st of May 2007;

2. paragraph 120, which shall enter into force from the 1st of January 2007;

3. paragraph 3, which shall enter into force from the day of the promulgation of the code in State Gazette.

Transitional and concluding provisions TO THE LAW ON AMENDMENT AND SUPPLEMENTATION OF THE LAW OF PROTECTION FROM DISCRIMINATION

(PROM. - SG 68/06)

§ 11. The appointment proceedings that have started before entering into force of this Law related to Art. 39 shall be completed under the former order.

§ 12. The resources for rising the remuneration of the Chairman, the Deputy

Chairman and the Members of the Commission shall be within the limits of the budget of the Commission for Protection from Discrimination for 2006.

.....

§ 15. Paragraph 4, item 1 shall enter into force from 1 January 2007.