

**REPUBLIC OF ALBANIA
THE ASSEMBLY**

LAW

No. 10 221 dated 4.2.2010

ON PROTECTION FROM DISCRIMINATION¹

In reliance on articles 18, 78 and 83 point 1 of the Constitution of the Republic of Albania, on the proposal of a group of deputies,

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

D E C I D E D:

CHAPTER I

GENERAL PROVISIONS

Article 1

Object

This law regulates the implementation of and respect for the principle of equality in connection with gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, education or social situation, pregnancy, parentage, parental responsibility, age, family or marital condition, civil status, residence, health status, genetic predispositions, restricted ability, affiliation with a particular group or for any other reason.

Article 2

Purpose

¹ Fully approximated with:

1. 32000L0043, Council Directive 2000/43/EC of 29 June 2000 "On the principle of equal treatment between persons irrespective of racial or ethnic origin".
2. 32000L0078, Council Directive 2000/78/EC of 27 November 2000 "Establishing a general framework for equal treatment in employment and occupation".
3. 32004L0113, Council Directive 2004/113/EC of 13 December 2004 "Implementing the principle of equal treatment between men and women in the access to and supply of goods and services".
4. 32006L0054, Directive of the European Parliament and of the Council 2006/54/KE of 5 July 2006 "On the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation".

The purpose of this law is to assure the right of every person to:

- a) equality before the law and equal protection by law;
- b) equality of opportunities and possibilities to exercise rights, enjoy freedoms and take part in public life;
- c) effective protection from discrimination and from every form of conduct that encourages discrimination.

Article 3 **Definitions**

1. "Discrimination" is every distinction, exclusion, limitation or preference because of any cause mentioned in article 1 of this law that has as a purpose or consequence the hindering or making impossible the exercise, in the same manner as with others, of the fundamental rights and freedoms recognised by the Constitution of the Republic of Albania, with international acts ratified by the Republic of Albania as well as with the laws in force.

2. "Direct discrimination" is that form of discrimination that occurs when a person or group of persons is treated in a less favourable manner than another person or another group of persons in a situation that is the same or similar based on any cause mentioned in article 1 of this law.

3. "Indirect discrimination" is that form of discrimination that occurs when a provision, criterion or practice, apparently neutral, would put a person or group of persons in unfavourable conditions, in connection with the causes set out in article 1 of this law, in relation to a person or another group of persons, and also when that measure, criterion or practice is not objectively justified by a legitimate aim, or when the means of achieving that aim either are not appropriate or are not essential and in fair proportion with the condition that has caused it.

4. "Discrimination because of association" is that form of discrimination that occurs when there is a distinction, limitation or preference, because of association with persons who belong to the groups mentioned in article 1 of this law, or because of a supposition of such an association.

5. "Annoyance" is that form of discrimination that occurs in the case of an undesirable conduct, when it is related to any of the causes mentioned in article 1 of this law, which has the purpose or effect of violating the dignity of a person and the creation of an intimidating, hostile, degrading, humiliating or offensive environment for that person, as well as in the case of a less favourable treatment performed as a result of an objection or failure to submit by the person infringed on by such a behaviour.

6. "Instructions to discriminate" are instructions or a request based on hierarchical relations to discriminate against one or more persons on the basis of the causes mentioned in article 1 of this law.

7. "Denial of a reasonable accommodation" is that form of discrimination that happens whenever there is a denial of or objection to making essential and appropriate regulations or changes that are necessary in a particular case and do not impose an excessive burden, for the purpose of assuring the enjoyment and exercise, on an equal basis, of the fundamental rights and freedoms for persons with restricted ability or which occurred in other conditions mentioned in article 1 of this law.

8. "Victimisation" is an unfavourable treatment or adverse consequence that comes as a reaction to a complaint or to a proceeding that aims at implementation of the principle of equality.

9. "Organisations with legitimate interests" are those organisations that have been registered in the Republic of Albania and have as the declared object of their activity the protection of human rights or which offer assistance to victims of discrimination.

Article 4 Subjects

1. This law is applicable to all persons who live and stay in the territory of the Republic of Albania.

2. Albanian citizens with a temporary or permanent residence outside the borders of the Republic of Albania enjoy the protection that this law offers in relations with the Albanian state organs.

3. Natural and legal foreign persons with a residence domicile or headquarters outside the territory of the Republic of Albania enjoy the protection that this law offers in relations with the Albanian state organs.

Article 5 Prohibition of discrimination

1. Discrimination is prohibited for the causes mentioned in article 1 of this law and the failure to examine an appeal or procedure, according to the cases mentioned in article 3 of this law, as well as any other form of behaviour that hinders the implementation of the principle of equal treatment.

2. The denial of adaptations and modifications that are appropriate and necessary for persons with restricted ability constitutes discrimination.

Article 6 Justified different treatment

1. The prohibition of discrimination described by this law is not applicable in cases when there is an objectively justifiable purpose supported on the basis

of the Constitution, international acts or agreements ratified by the Republic of Albania and the legislation in force.

2. Different treatment that is based on a characteristic related to the causes mentioned in article 1 of this law does not constitute discrimination when because of the nature of the professional activities or the conditions in which the profession or activity is conducted, those characteristics constitute an essential real and professional requirement, provided that the purpose of the different treatment shall be justified and the requirement shall not exceed that which is essential to realise it.

Article 7 Protection from discrimination

1. Every action or failure to act of the public authorities or of natural or legal persons who take part in the private or public sectors and life, which creates bases for the denial of equality against a person or group of persons, or which expose them to an unfair, unequal treatment when they are in the same or similar circumstances in comparison with other persons or other groups of persons constitutes discrimination.

2. The elimination of all privileges and of unfair discrimination is guaranteed for everyone, on the basis of the personal, political, economic, social and cultural rights assured by the Constitution of the Republic of Albania and international acts ratified by the Republic of Albania as well as by the laws in force.

Article 8 Discriminating advertisements

The publication of advertisements and various announcements is prohibited if they present, openly or in an implied manner, a purpose to discriminate for the causes mentioned in article 1 of this law.

Article 9 Participation in politics

Discrimination in the exercise of the right to vote, to be elected and to be appointed to a public duty for the causes mentioned in article 1 of this law is prohibited.

Article 10 Conscience and religion

1. Discrimination is prohibited in connection with the exercise of freedom of conscience and religion, especially when it has to do with their expression

individually or collectively, in public or in private life, through worship, education, practices or the performance of rites.

2. An exception from this provision may be permitted only when a reasonable and objective justification exists. However, in every case, the permission of discrimination because of the exercise of the freedom of conscience and religion may be imposed only by law for a public interest or for the protection of the rights of others. An exception for this reason should be proportionate to the situation that has dictated the need for a discrimination. In any case, the permission of the discrimination because of the exercise of the freedom of conscience and religion cannot violate the core of the rights and freedoms and in no case may it exceed the restrictions provided in the European Convention for Human Rights.

Article 11

Positive actions

A particular temporary measure that aims at speeding up the real establishment of equality, when the absence of equality has been caused by discrimination for any cause mentioned in article 1 of this law, is considered a positive action and does not constitute discrimination according to this law. This measure is interrupted as soon as the objectives of the treatment and offering of equal opportunities have been achieved.

CHAPTER II

PROTECTION FROM DISCRIMINATION IN EMPLOYMENT

Article 12

Prohibition of discrimination

1. Discrimination against a person in connection with his right to employment is prohibited. Discrimination includes every distinction, limitation or exclusion that is based on the causes mentioned in article 1 of this law and which, among other things, is related to:

a) the announcement of free places of work;

b) the recruitment and selection of employees;

c) the treatment of employees in the work place, including their treatment during the establishing or changing of working conditions, compensation, benefits and the work environment, treatment related to professional training or during the disciplinary process or related to dismissal from work or the dissolution of the labour contract;

ç) membership in labour unions and the possibility of benefiting from the facilities that this membership secures.

2. Every kind of annoyance is prohibited, including sexual annoyance, by an employer against an employee or an applicant for work or between employees.

3. The implementation of special and temporary measures, based on the causes mentioned in article 1 of this law, for the purpose of speeding up equality in the field of employment, is not considered discrimination. The implementation of such measures can in no case mean maintaining unequal or different standards in a permanent manner, and the special measures are interrupted when the objective of the offering of equal opportunities and treatment is achieved.

Article 13

Obligations of the employer

1. The employer is obliged:

- a) to implement, protect and encourage the principle of equality and the prohibition of every kind of discrimination;
- b) to take necessary measures, including disciplinary measures, for the protection of employees from discrimination and victimisation, within one month from receiving knowledge [of them];
- c) to respond effectively and in compliance with this law to complaints received because of discrimination committed by his employees, within one month from receiving them.

2. The employer is obliged to raise consciousness about this law also by posting it in public premises of the work place as well as enabling a full understanding of it by his own means or with the assistance of specialised subjects.

Article 14

Duties of the Council of Ministers, the Minister of Labour, Social Issues and Equal Opportunities and the Interior Minister

The Council of Ministers, the Minister of Labour, Social Issues and Equal Opportunities and the Interior Minister are each responsible for taking measures of a positive nature in order to fight discrimination in connection with the right to employment. The measures that are taken, among others, are:

- a) raising consciousness about this law with employees and employers, among other things, by supplying information about this law;
- b) establishing special and temporary policies, on the basis of the causes mentioned in article 1 of this law, for the purpose of encouraging equality, in particular, between man and woman as well as between fully physical able persons and those who are of restricted ability.

Article 15

The rights of the employee

1. Every employee has the right to complain to the employer, to the Commissioner for Protection from Discrimination or in court, if he believes that he has suffered discrimination. This provision does not limit the right to complain to special institutions created at various sectors of employment.

2. During the period of examination of the complaint, the employee has the right to continue work according to the conditions of the contract.

3. The employee has the right to receive information at any time in connection with the treatment of a complaint as well as to receive explanations about the decisions taken by the employer in response to his complaint immediately after it is examined.

4. If the employer does not take measures to investigate and resolve a complaint about discrimination, the employee who has made the complaint has the right to interrupt work, without losing the right to pay, for as long as necessary to be protected from discrimination. The employee returns the pay received according to this article if the claimed discrimination turns out not to be proven by a final decision.

Article 16 **Implementation of the law for self-employed persons**

The provisions of chapter II of this law are applicable in connection with the conditions for acceptance into a profession and the receipt of licenses to exercise a profession, especially in cases when the persons are self-employed.

CHAPTER III **PROTECTION FROM DISCRIMINATION IN THE FIELD OF EDUCATION**

Article 17 **Prohibition of discrimination**

1. Every distinction, limitation or exclusion is prohibited based on the causes mentioned in article 1 of this law and which, among other things, is related to:

- a) the creation of public or private institutions that offer educational or professional services;
- b) the financing of public institutions that offer educational or professional services;
- c) the content of principles and criteria of educational activity, including teaching programmes and teaching methods;
- ç) the treatment of students or pupils, including acceptance, evaluation, application of disciplinary measures or their expulsion.

2. It is prohibited for a person or group of persons to be refused acceptance into a public educational institution for the causes mentioned in article 1 of this law.

3. Every kind of annoyance is prohibited, especially annoyance, of students, pupils and employees in educational institutions.

4. The implementation of special and temporary measures, based on the causes mentioned in article 1 of this law, for the purpose of speeding up equality in education, is not considered discrimination. The implementation of such measures can in no case mean maintaining unequal or different standards, in a permanent manner, and these measures are interrupted when the objective of offering equal opportunities and treatment is achieved.

Article 18

Duties of the Council of Ministers and the Minister of Education and Science

1. The Council of Ministers and the Minister of Education and Science are each responsible for taking measures of a positive nature in order to fight discrimination in connection with the right to education.

2. The Council of Ministers and the Minister of Education and Science, among other things, each take measures for:

- a) raising consciousness about this law in the educational system, among other things, including information about it in teaching programmes;
- b) including concepts and actions against models of discriminating behaviour in teaching programmes;
- c) educating the entire population, in particular, by taking measures in favour of women and girls, minorities, persons of restricted ability as well as persons who are or have more possibility of being the object of discrimination for the causes mentioned in article 1 of this law;
- ç) respecting and assuring the right to education in the languages of minorities, as well as in appropriate manners for persons with restricted ability.

Article 19

Duties of the director of an educational institution

The director of an educational institution is responsible for taking measures of a positive nature in the respective institution, in order to fight discrimination in connection with the right to education. The measures that are taken, among other things, are:

- a) raising consciousness about this law within the institution, among other things by posting the law in a visible place;
- b) the fight against models of discriminating behaviour that constitute or encourage discrimination within the institution;
- c) taking necessary measures, including disciplinary measures, for the protection of employees from discrimination and victimisation, within one month from receiving knowledge;
- ç) the effective treatment of complaints about discrimination in the institution, examining every complaint within 30 days from its submission;
- d) imposing disciplinary measures against any person who is verified to have performed a discriminatory act when such a thing is appropriate, proportional and in conformity with the competences of the director.

CHAPTER IV
PROHIBITION OF DISCRIMINATION IN THE FIELD OF GOODS AND SERVICES

Article 20
Goods and services

1. A natural or legal person who offers goods or services to the public, whether or not for payment, is prohibited from discriminating against another person who seeks to achieve or use them:

a) by refusing to give a person or group of persons goods or services for the causes mentioned in article 1 of this law;

b) by refusing to offer a person goods or services in a similar manner, or with similar qualities, or in conditions similar to that in which those goods or services are offered to the public in general.

2. Point 1 of this article is especially applicable to:

a) the ability to enter into a place where the public is permitted to enter or to use a place that is permitted to be used by the public;

b) the ability to receive or to benefit from goods or services that have to do with health;

c) the contribution and possibility to benefit from goods from social protection schemes, including social assistance, social insurance, protection of children, disability benefits or any another scheme of social protection or other advantage offered to the public;

ç) the ability to use or enter into an educational institution;

d) systemisation in a place where housing is offered;

dh) the sale or renting of residences and other premises;

e) banking services and the possibility of obtaining grants, loans, bank deposits or financing;

ë) facilities for entertainment, relaxation and refreshment;

f) facilities for transport or travel;

g) services of the free professions.

3. It is prohibited for a natural or legal person who offers goods and services to the public not to accept or to oppose the realisation of changes or accommodations that are necessary and appropriate, which aim at enabling a person of restricted ability to benefit from those goods and services, so long as the modifications or adjustments do not impose a disproportionate or unlawful burden on the person who offers the goods and services.

4. Refusal according to point 1 of this article also includes situations when the refusal in fact is based on the causes mentioned in article 1 of this law, but other reasons are declared by the discriminating subject or no reason is declared as a reason for the refusal.

5. Distinctions in compensation and benefits, established because of the causes mentioned in article 1 of this law, do not constitute discrimination when

these distinctions are reasonable and in proportion to a risk that is evaluated on the basis of current and statistical data that can be verified and are closely linked to the risk.

6. Costs related to pregnancy and motherhood may not be a reason for distinctions in compensation and benefits of the individual.

7. The prohibition of discrimination is not applicable to the setting of a particular age for the possibility of social benefits, goods, facilities and services, if there exist reasonable and objective criteria for the determination, without infringing the core of the right to benefits and when the determination aims to achieve a lawful purpose for a public interest, or to protect the rights of others, always in a fair proportion to the situation that has caused the determination.

CHAPTER V THE COMMISSIONER FOR PROTECTION FROM DISCRIMINATION

Article 21 The commissioner

1. The commissioner for Protection from Discrimination, below the commissioner, assures the effective protection from discrimination and from every other form of conduct that incites discrimination. The commissioner is a public legal person.

2. The commissioner is supported by the Office of the Commissioner for Protection from Discrimination (office). The office has its personnel and necessary equipment to support the commissioner in fulfilling the duties assigned by law.

3. The Assembly decides on the pay of the commissioner, the organisational structure and the classification of pay for the employees of the Office of the Commissioner for Protection from Discrimination. The employees of this office enjoy the status of civil servant.

4. The Commissioner has his own independent budget, which is financed from the State Budget and from various donations.

Article 22 Status

The commissioner is independent in the exercise of duty and is subject only to the Constitution and law.

Article 23 Manner of election of the commissioner

1. The commissioner is elected by a majority of all the members of the Assembly.

2. Possible candidates for commissioner are proposed to the Assembly by a group of deputies.

3. Before taking office or taking office again, the commissioner takes an oath before the Assembly.

4. The formula of the oath is: **“I swear that during the performance of my duties, I will always protect the principle of equality in compliance with the Constitution and laws of the Republic of Albania”**.

Article 24 **Conditions for being elected commissioner**

Any Albanian citizen who meets the following requirements may be elected commissioner:

- a) to have high moral qualities and distinguished activity in the community;
- b) to have a university diploma;
- c) to have distinguished activity and knowledge in the field of human rights and freedoms and law;
- ç) not to have been convicted by a final decision for the commission of a criminal offence;
- d) not to be a deputy in the legislature of the Assembly that proposes or elects him.

Article 25 **Length of time in office**

The commissioner is elected for a mandate of five years, with the right to be re-elected only once.

Article 26 **Reporting**

The commissioner submits a report at least once a year before the commissions of the Assembly. The report includes an analysis about the implementation of this law in general, as well as the work of the commissioner and the office.

Article 27 **End of the mandate**

The mandate of the commissioner ends when:

- a) the five year term ends;
- b) he is discharged;

- c) he submits a written resignation to the Assembly;
- ç) he dies.

Article 28
Cases of discharge of the commissioner from duty

1. The commissioner is discharged from duty only in cases when:
 - a) he has been convicted by a final court decision for the commission of a criminal offence;
 - b) he is mentally or physically incapable of exercising his functions;
 - c) he commits activity in opposition to the provisions of this law, with the Constitution or with the legislation in force.

2. A motion for the discharge of the commissioner is proposed by no fewer than 1/3 of the deputies of the Assembly. A decision for the discharge of the commissioner from duty is taken by a majority of the votes of all the members of the Assembly.

Article 29
Election of the commissioner

The Assembly elects a new commissioner within one month from the place becoming vacant. When the five year mandate of the commissioner ends, he stays in office until the new commissioner is elected.

Article 30
Incompatibility with the function of commissioner

The commissioner is prohibited from being part of a political organisation or party, from carrying out political, state and professional activity, and from taking part in the leading organs of social, economic and commercial organisations. The commissioner may exercise teaching activity and the publication of literary and scientific works, without affecting the exercise of his functions in a normal manner.

Article 31
Assuring later work for the commissioner

With the end of the function according to letters “a” and “b” of article 27 of this law, a commissioner who, at the time of appointment, had worked in a state function or public work, has the right to reassume the function or work that he had before his election as Commissioner. When this is not possible, he is assured work equivalent to what he had before his election to the duty of commissioner.

Article 32
Competences

1. The commissioner has the competence:

- a) to examine complaints from persons or groups of persons who claim that they have been discriminated against as provided in this law;
- b) to examine complaints from organisations that have a lawful interest to act in the name and with the written consent of individuals or groups of individuals who claim that discrimination has occurred;
- c) to perform administrative investigations after the receipt of credible information about a violation of this law;
- ç) to impose administrative sanctions according to the specification of this law;
- d) to encourage the principle of equality and non-discrimination, especially by sensitising and informing about those issues, also including the offering of written information among other things about this law, in the Albanian language, in the languages of minorities, as well as in formats usable by persons of restricted ability;
- dh) to monitor the implementation of this law;
- e) to take polls in connection with discrimination
- ë) to make recommendations to the competent authorities, especially by proposing the approval of new legislation or the amendment or reform of existing legislation;
- f) to publish reports and make recommendations about any kind of issue related to discrimination;
- g) to address public opinion directly about any kind of issue related to discrimination;
- gj) at the request of the court examining a case, to set out an opinion in writing on any kind of issue that is related to discrimination;
- h) to contribute to reporting and, as the case may be, to submit reports to international and regional bodies;
- i) to represent a complainant in the judicial organs in civil cases, with his approval in compliance with point 3 of article 34 of this law;
- j) to inform about the right of protection from discrimination and the legal means available or this protection;
- k) to hold a regular dialogue in connection with issues of discrimination with the respective social groups, including non-governmental organisations;
- l) to conduct consciousness-raising and educational activities that aid in the implementation of this law.

2. All public institutions and private subjects are obliged to support the commissioner in the fulfilment of his duties, especially by supplying information needed by him.

3. For the examination of complaints addressed to him, the commissioner applies the norms provided in the Code of Administrative Procedure, except for the procedures that are provided by this law.

4. The obligation mentioned in point 2 of this article is fulfilled in compliance with law no. 9887 dated 10.3.2008 "On the protection of personal data".

Article 33

Procedures

1. A person or group of persons who claim that they have been discriminated against, or an organisation with legitimate interests that claims discrimination in the name of a person or group of persons, may submit a complaint together with available evidence to the commissioner, in writing or in exceptional cases orally, so that minutes can be taken.

2. An organisation with legitimate interests submits a special power of attorney to represent the person or group of persons.

3. The complaint contains at least:

- a) the name of the complainant;
- b) an explanation of how the complainant can be contacted;
- c) the subject who is claimed to have committed the discrimination or an explanation about the impossibility of identifying him;
- ç) an explanation of the claimed discrimination;
- d) the measures requested of the commissioner;
- dh) the date and signature of the complainant or his representative.

4. The complaint is not accepted if:

- a) if it anonymous;
- b) it constitutes abuse of the right of complaining to the commissioner, or is incompatible with the provisions of this law;
- c) the same case is being examined in the framework of another complaint for a prior decision has been taken on it and there are no new data;
- ç) it is openly without a basis or there is insufficient information to make investigation possible;
- d) all the facts that constitute the essence of the complaint happened before the entry of this law into force;
- dh) it is submitted later than three years from the occurrence of the discrimination or later than one year from receipt of knowledge of this fact by the injured party.

5. The natural or legal persons against whom the complaint has been submitted are notified in writing by the commissioner within 15 days from the day of receipt of the complaint.

6. The commissioner does not charge the complainant with any tariff for examining the complaint.

7. On receipt of the complaint, the commissioner verifies the facts. For this purpose, the commissioner may ask the complainant and the person against whom the complaint has been made to submit written presentations within 30 days from the day the parties receive notice. When he considers it necessary, the commissioner also takes information from any other person or source.

8. When he considers it appropriate, the commissioner holds a public hearing session and invites the parties and every other interested person.

9. When he considers it appropriate, the commissioner seeks to reach a conciliation agreement between the complainant and the person against whom the complaint was submitted.

10. The commissioner expresses himself by a decision, which is made known to the parties within 90 days from the date of receipt of the complaint or, if a public hearing session has been held, within 90 days from the day of the session. The decision contains appropriate measures and regulations, also setting a time period for performing them.

11. If the commissioner orders regulations or measures, the person against whom the complaint was submitted reports within 30 days before the commissioner in connection with the actions undertaken for the implementation of the decision. If the person against whom the complaint was submitted does not inform the commissioner or does not implement the decision, the commissioner imposes a measure of a punishment by fine for the person against whom the complaint was submitted. The sanction by fine is repealed if the person against whom the complaint was submitted implements the decision within seven days after the sanction was imposed.

12. When he imposes a measure, the commissioner assures that it will be:

- a) effective and preventative; and
- b) proportionate with the situation that caused the imposition of the measure. If a fine is imposed, the commissioner determined the amount of the fine while taking into account:
 - i) the nature and field of action of the violation and the effect on the victim, and
 - ii) the personal and financial circumstances of the violator, especially taking into account all sources of income, and if the violation is committed by a private legal person, the balance sheet assets and profit are taken into account, as well as the total payroll;
- c) if the same violation discriminates against several persons, only one fine is imposed, but taking into account the requirements of letter "b" of this article.

13. Every person who violates the provisions of this law is punished by a fine as follows:

- a) a natural person, from 10,000 to 60,000 lek;
- b) a legal person, from 60,000 to 600,000 lek;
- c) a natural person within a legal person who is responsible for the violation, from 30,000 to 80,000 lek;
- ç) a person who exercises a public function and is responsible for the violation on the basis of this law, from 30,000 to 80,000 lek.

14. The decision to impose a measure of punishment by fine also sets a reasonable time period within which the fine is paid.

15. As a final means, especially when the natural or legal subject does not comply with the decision of the commissioner or does not pay the fine within three months after the time period set by the commissioner and the sanction has not been objected to in court, the commissioner may ask the competent authorities to remove or suspend the license or authorisation of the violator to conduct his activity.

16. A natural or legal subject against whom a measure of punishment by fine is taken has the right to appeal to the competent court according to the Code of Civil Procedure.

17. The fine is deposited into the State Budget.

CHAPTER VI PROCEDURES BEFORE THE COURT

Article 34

Subjects who have the right to submit a lawsuit for discrimination

1. Every person or group of persons who claim that discrimination has been exercised against them for one of the causes mentioned in article 1 of this law may submit a lawsuit to the competent court according to the definitions of the Code of Civil Procedure for indemnification according to law or, as the case may be, to make a criminal denunciation before the competent organs for criminal prosecution.

2. The submission of a complaint before the commissioner is not a condition to submitting a lawsuit and it does not constitute an impediment for the injured person to turn to the court or the organs of criminal prosecution.

3. An organisation with a lawful interest or the commissioner may submit a lawsuit in the name of a person or group of persons, provided that the commissioner or organisation shall have the consent by special power of attorney or by declaration before the court of the person or group of persons injured by the discrimination.

Article 35

Individual responsibility

Every person has responsibility on the basis of the provisions of this law, when by his actions or failures to act, he has committed a discriminatory act within the meaning of this law. Individual responsibility does not exclude the responsibility of the state or a private legal person.

Article 36

Procedure before the court

1. The lawsuit is submitted to the competent court by one of the subjects provided in article 34 of this law no later than five years from the day when the behaviour claimed to be discriminatory happened and no later than three years from the day when the injured party receives knowledge of this behaviour.

2. The injured party has no obligation to notify the commissioner before submitting a lawsuit for discrimination in court.

3. The court notifies the commissioner of the submission of every lawsuit about discrimination.

4. The court may ask the commissioner, at any phase of the proceeding, to submit a written opinion, the results of his investigation if an investigation was made, or any other information that has importance for the case.

5. The plaintiff has the obligation to bring evidence in support of the lawsuit, using every kind of lawful evidence that may show discriminating behaviour.

6. After the plaintiff submits the evidence on which he bases his claim and on the basis of which the court may presume discriminating behaviour, the defendant is obligated to prove that the facts do not constitute discrimination according to this law.

Article 37 Decision of the court

1. The decision of the court sets the indemnification, if the court decides that there is a violation of this law, also including a time period for making the indemnification.

2. The decision of the court is communicated to all the interested parties, including the commissioner.

3. The imposition of measures according to this law does not exclude the imposition of measures according to other laws.

Article 38 Indemnification

Indemnification includes, among other things, the correction of the legal violations and their consequences through return to the prior situation, appropriate compensation for the property and non-property damages or through other appropriate measures.

CHAPTER VII

FINAL AND TRANSITIONAL PROVISIONS

Article 39 Subordinate legal acts

1. The Commissioner is charged with issuing rules of the functioning of the office within three months from the date of his appointment.

2. The Council of Ministers is charged with issuing subordinate legal acts in implementation of article 18 of this law within six months from its entry into force.

Article 40 Entry into force

This law is goes into force 15 days after publication in the Official Journal.

S P E A K E R
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