

# **THE LAW ON THE PROHIBITION OF DISCRIMINATION**

## **I. THE BASIC PROVISIONS**

### ***The subject of the Law***

#### **Article 1**

This Law shall regulate the general prohibition of discrimination, the forms and cases of discrimination, as well as the methods of protection against discrimination.

This Law shall establish the Commissioner for the Protection of Equality (hereinafter referred to as: the Commissioner), as an independent state organ, independent when it comes to performing the tasks prescribed by this Law.

### ***The terms***

#### **Article 2**

In the text of this Law:

1) the terms “discrimination” and “discriminatory treatment” shall be used to designate any unwarranted discrimination or unequal treatment, that is to say, omission (exclusion, limitation or preferential treatment) in relation to individuals or groups, as well as members of their families or persons close to them, be it overt or covert, on the grounds of race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, gender, gender identity, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, previous convictions, age, appearance, membership in political, trade union and other organisations and other real or presumed personal characteristics (hereinafter referred to as: personal characteristics);

2) the terms “person” and “everyone” shall be used to designate an individual residing on the territory of the Republic of Serbia or a territory under its jurisdiction, regardless of whether that individual is a national of the Republic of Serbia, some other state or a stateless person, as well as any legal entity registered or operating on the territory of the Republic of Serbia;

3) the term “citizen” shall be used to designate a person who is a national of the Republic of Serbia;

4) the term “public administration organ” shall be used to designate a state organ, autonomous province organ, local government organ, public company, institution, public agency and other organisations entrusted with public authority, as well as a legal entity established or financed in its entirety, or predominantly, by the Republic, an autonomous province or a local government.

All the terms used in the text of this Law in the masculine gender shall comprise feminine gender forms as well.

### ***Protected rights and persons***

#### **Article 3**

Everyone shall have the right to get efficient protection from all forms of discrimination by the authorised courts and other public administration organs of the Republic of Serbia.

A foreign person in the Republic of Serbia, in accordance with international treaties, shall have all the rights guaranteed by the Constitution and by law, with the exception of those rights that, in accordance with the Constitution and the law, are only enjoyed by the citizens of the Republic of Serbia.

It is prohibited to exercise the rights established by this Law contrary to their recognised objective, or with the intention of denying, violating or limiting the rights and freedoms of others.

## **II. THE GENERAL PROHIBITION AND FORMS OF DISCRIMINATION**

### ***The principle of equality***

#### **Article 4**

All persons shall be equal and shall enjoy equal status and equal legal protection regardless of personal characteristics.

Everyone shall be obligated to respect the principle of equality, that is to say, the prohibition of discrimination.

### ***The forms of discrimination***

#### **Article 5**

The forms of discrimination are direct and indirect discrimination, as well as violation of the principle of equal rights and obligations, calling to account, associating for the purpose of exercising discrimination, hate speech and disturbing and humiliating treatment.

### ***Direct discrimination***

#### **Article 6**

Direct discrimination shall occur if an individual or a group of persons, on the grounds of his/her or their personal characteristics, in the same or a similar situation, are placed or have been placed or might be placed in a less favourable position through any act, action or omission.

### ***Indirect discrimination***

#### **Article 7**

Indirect discrimination shall occur if an individual or a group of individuals, on account of his/her or their personal characteristics, is placed in a less favourable position through an act, action or omission that is apparently based on the principle of equality and prohibition of discrimination, unless it is justified by a lawful objective and the means of achieving that objective are appropriate and necessary.

### ***Violation of the principle of equal rights and obligations***

#### **Article 8**

A violation of the principle of equal rights and obligations shall occur if an individual or a group of persons, on account of his/her or their personal characteristics, is unwarrantedly denied rights and freedoms or has obligations imposed that, in the same or a similar situation, are not denied to or imposed upon another person or group of persons, if the objective or the consequence of the measures undertaken is unjustified, and if the measures undertaken are not commensurate with the objective achieved through them.

### ***The prohibition of calling to account***

#### **Article 9**

Discrimination shall exist if an individual or a group of persons is unwarrantedly treated worse than others are treated or would be treated, solely or predominantly on account of requesting or intending to request protection from discrimination, or due to having offered or intending to offer evidence of discriminatory treatment.

### ***Association for the purpose of exercising discrimination***

#### **Article 10**

It is forbidden to associate for the purpose of exercising discrimination; that is, this Law prohibits activities of organisations or groups that are aimed at violating freedoms and rights guaranteed by the Constitution, rules of international law and the law, or at inciting nationally, racially, religiously or otherwise motivated hatred, divisions or enmity.

### ***Hate speech***

#### **Article 11**

It is forbidden to express ideas, information and opinions inciting discrimination, hatred or violence against an individual or a group of persons on account of his/her or their personal characteristics, in public organs and other publications, in gatherings and places accessible to the public, by writing out and displaying messages or symbols, and in other ways.

### ***Harassment and humiliating treatment***

#### **Article 12**

It is forbidden to expose an individual or a group of persons, on the basis of his/her or their personal characteristics, to harassment and humiliating treatment aiming at or constituting violation of his/her or their dignity, especially if it induces fear or creates a hostile, humiliating or offensive environment.

### ***Severe forms of discrimination***

#### **Article 13**

The following shall be considered to constitute severe forms of discrimination:

1. causing and inciting inequality, hatred and enmity on the grounds of national, racial or religious affiliation, language, political opinions, gender, gender identity, sexual orientation or disability;
2. advocating or exercising discrimination on the part of state organs or in the course of proceedings conducted before state organs;
3. advocating discrimination through public organs;
4. slavery, trafficking in human beings, apartheid, genocide, ethnic cleansing, as well as advocating any of the above;
5. discrimination against individuals on the basis of two or more personal characteristics (multiple or intersecting discrimination);
6. discrimination that is committed a number of times (repeated discrimination) or is committed over an extended period of time (extended discrimination) against one and the same individual or a group of persons;
7. discrimination that results in severe consequences for the individual discriminated against, other persons or property, especially if it involves an act punishable by law, predominantly or solely motivated by hatred or enmity towards the aggrieved party on the grounds of a personal characteristic of his/hers.

### ***Special measures***

#### **Article 14**

Measures introduced for the purpose of achieving full equality, protection and progress of an individual or a group of persons in an unequal position shall not be considered to constitute discrimination.

## **III. SPECIAL CASES OF DISCRIMINATION**

### ***Discrimination in the course of proceedings conducted before***

## ***public administration organs***

### **Article 15**

Everyone shall have the right to equal access to and equal protection of his/her rights before courts of law and public administration organs.

Discriminatory treatment on the part of the authorised official or the official in charge acting on behalf of a public administration organ shall be considered a severe violation of duty in accordance with the law.

## ***Discrimination in the sphere of labour***

### **Article 16**

It is forbidden to exercise discrimination in the sphere of labour; that is to say, to violate the principle of equal opportunity for gaining employment or equal conditions for enjoying all the rights pertaining to the sphere of labour, such as the right to employment, free choice of employment, promotion, professional training and professional rehabilitation, equal pay for work of equal value, fair and satisfactory working conditions, paid vacation, joining a trade union and protection from unemployment.

The right to protection from discrimination referred to in paragraph 1 of this Article shall be enjoyed by a person who is employed, a person doing temporary or occasional work, or working on the basis of a contract of service or some other kind of contract, a person doing additional work, a person performing a public function, a member of the army, a person seeking employment, a student or pupil doing work practice and undergoing training without concluding a contract of employment, a person undergoing professional training and advanced training without concluding a contract of employment, a volunteer or any other person who works on any grounds whatsoever.

Different treatment, exclusion or giving priority on account of the specific character of a job, for which an individual's personal characteristic constitutes a genuine and decisive precondition for performing the said job, if the objective to be achieved is justified, shall not be considered to constitute discrimination, nor shall undertaking protective measures towards certain categories of persons referred to in paragraph 2 of this Article (women, pregnant women, women who have recently given birth, parents, underage persons, disabled persons and the like) be considered to constitute discrimination.

## ***Discrimination in the provision of public services and in the use of premises and spaces***

### **Article 17**

Discrimination in the provision of public services shall be considered to occur if a legal or physical entity, within the framework of its/his/her activities or profession, refuses to provide a service on the grounds of a personal characteristic of an individual or a group of persons, or if the said entity, in order to provide the service in question, requires the fulfilment of some condition that is not required of other individuals or group of persons, or if the said entity unwarrantedly gives priority to another individual or a group of persons when it comes to providing a service.

Everyone shall have the right to equal access to objects in public use (objects where the head offices of public administration organs are located, objects used in the sphere of education, health care, social welfare, culture, sports, tourism, objects used for the purpose of environmental protection, protection against natural disasters and the like), as well as public spaces (parks, squares, streets, pedestrian crossings and other public transport routes and the like), in accordance with the law.

## ***The prohibition of religious discrimination***

### **Article 18**

Discrimination shall be considered to occur in the case of conduct contrary to the principle of free expression of faith or beliefs or if an individual or a group of persons is denied the right to acquire, maintain, express and change faith or beliefs, or the right to express, be it privately or publicly, or act in accordance with his/her beliefs.

The conduct of priests, that is to say, religious officials, which is in keeping with a religious doctrine, beliefs or the objectives of churches and religious communities entered in the register of religious communities, in accordance with the law regulating the freedom of religion and the status of churches and religious communities, shall not be considered to constitute discrimination.

### ***Discrimination in the sphere of education and professional training***

#### **Article 19**

Everyone shall have the right to pre-school, primary school, secondary school and higher education and professional training under equal circumstances, in accordance with the law.

It is forbidden to obstruct or prevent entry into an educational institution to an individual or a group of persons on the grounds of his/her or their personal characteristics, or to exclude them from these institutions, to obstruct or prevent their attendance of classes and participation in other educational activities, to categorise pupils on the basis of personal characteristics, to maltreat them and unwarrantedly differentiate among them in other ways, and to treat them in an unequal manner.

It is forbidden to discriminate against educational institutions that operate in accordance with the law and other regulations, and against persons who use or have used the services of these institutions in accordance with the law.

### ***Discrimination on the grounds of gender***

#### **Article 20**

Discrimination shall be considered to occur in the case of conduct contrary to the principle of the equality of the genders; that is to say, the principle of observing the equal rights and freedoms of women and men in the political, economic, cultural and other aspects of public, professional, private and family life.

It is forbidden to deny rights or to grant privileges, be it publicly or covertly, pertaining to gender or gender change. It is forbidden to practise physical violence, exploitation, express hatred, disparagement, blackmail and harassment pertaining to gender, as well as to publicly advocate, support and practise conduct in keeping with prejudices, customs and other social models of behaviour based on the idea of gender inferiority or superiority; that is, the stereotyped roles of the genders.

### ***Discrimination on the grounds of sexual orientation***

#### **Article 21**

Sexual orientation shall be a private matter, and no one may be called to publicly declare his/her sexual orientation.

Everyone shall have the right to declare his/her sexual orientation, and discriminatory treatment on account of such a declaration shall be forbidden

### ***Discrimination of children***

#### **Article 22**

Every child, that is, every minor, shall have equal rights and protection in the family, society and the state, regardless of his/her personal characteristics, or those of his/her parents, guardians or family members.

It is forbidden to discriminate against a child or a minor on the grounds of his/her health, being born in or out of wedlock, to publicly advocate giving priority to children of one gender over the other, as well as differentiating among children on the grounds of the financial situation, profession and other characteristics related to the social position, activities, expressed opinions or beliefs of the child's parents, guardians and family members.

### ***Discrimination on the grounds of age***

#### **Article 23**

It is forbidden to discriminate against individuals on the grounds of age.

The old shall have the right to dignified living conditions, without discrimination, and especially the right to equal access and protection from neglect and harassment in the course of receiving health care services and other public services.

### ***Discrimination against national minorities***

#### **Article 24**

It is forbidden to discriminate against national minorities and their members on the grounds of religious affiliation, ethnic origin, religious beliefs and language.

The manner of realising and protecting the rights of members of national minorities shall be regulated by a special law.

### ***Discrimination on the grounds of political party or trade union membership***

#### **Article 25**

It is forbidden to discriminate against an individual or a group of persons on the grounds of his/her or their political beliefs, or membership or non-membership of a political party or a trade union.

Limitations pertaining to persons performing certain state functions, as well as limitations necessary to prevent advocating or pursuing fascist, Nazi or racist activities, prescribed in accordance with the law, shall not be considered to constitute discrimination as referred to in paragraph 1 of this Article.

### ***Discrimination of disabled persons***

#### **Article 26**

Discrimination shall be considered to occur in the case of conduct contrary to the principle of observing the equal rights and freedoms of disabled persons in political, economic, cultural and other aspects of public, professional, private and family life.

The manner of realising and protecting the rights of disabled persons shall be regulated by a special law.

As regards the judicial protection of disabled persons from discrimination, Articles 41, 42, 43, 44, 45 and 46 of this Law shall also apply.

### ***Discrimination on the grounds of health***

#### **Article 27**

It is forbidden to discriminate against an individual or a group of persons on the grounds of his/her or their health, and to discriminate against their family members.

The discrimination referred to in paragraph 1 of this Article shall be considered to occur especially if an individual or a group of persons is unwarrantedly denied health care services, has special conditions imposed for the provision of health care services, is denied diagnosis and has information withheld pertaining to his/her or their current health condition or the already undertaken or intended measures for treatment or rehabilitation, and, in the case of harassment, receives insults and disparagement in the course of staying at a health care institution.

## **IV. THE COMMISSIONER FOR THE PROTECTION OF EQUALITY**

### ***The procedure for electing the Commissioner***

#### **Article 28**

The Commissioner shall be elected by a majority vote of the overall number of representatives of the people, acting upon a proposal submitted by the committee authorised to deal with constitutional matters (hereinafter referred to as: the Committee).

A proposal for electing the Commissioner shall be decided upon by a majority vote of the overall number of Committee members.

Each group of representatives of the people at the National Assembly shall have the right to propose a candidate for the post of the Commissioner to the Committee.

Any national of the Republic of Serbia may be elected to the post of the Commissioner provided that he/she fulfils the following conditions:

1. being a graduate of law;
2. having a minimum of ten years' working experience in legal matters pertaining to the area of human rights protection;
3. having high moral and professional qualities.

The Commissioner may not perform any other public or political function or any political activity, in accordance with the law.

### ***Mandate***

#### **Article 29**

The Commissioner shall be elected for a period of five years.

One and the same person may be elected Commissioner twice at the most.

### ***The cessation of mandate***

#### **Article 30**

The Commissioner's function shall cease: upon the expiry of his/her mandate; if he/she submits a resignation notice in writing to the National Assembly; if he/she fulfils the conditions for retirement, in accordance with the law; if he/she is relieved of duty, and in case of death.

The decision to relieve the Commissioner of duty shall be passed by the National Assembly.

The Commissioner shall be relieved of duty:

1. if he/she performs his/her work unprofessionally and negligently;
2. when it is established, by an enforceable court decision, that the Commissioner has committed a criminal offence punishable by prison sentence, when the nature of the offence makes him unworthy and unfit to perform the function of Commissioner;
3. if he/she loses his/her citizenship;
4. if he/she performs another public function or professional activity, if he/she performs another duty or a job that could influence his/her independence, or if he/she acts contrary to the law regulating conflict of interest when it comes to performing public functions.

The procedure for relieving the Commissioner of duty shall be initiated upon a proposal submitted by a minimum of one-third of the number of representatives of the people.

The Committee shall establish whether there exist grounds for relieving the Commissioner of duty and inform the National Assembly of this.

The Committee shall also inform the National Assembly if the Commissioner submits a request to cease performing his/her function, and of the conditions for the cessation of his/her mandate on account of having qualified for retirement, in accordance with the law.

The National Assembly shall pass a decision to relieve the Commissioner of duty by a majority vote of the overall number of representatives of the people.

Following the cessation of the Commissioner's mandate, the National Assembly shall elect a new Commissioner within three months of the date of the cessation of the previous Commissioner's mandate.

### ***The position of the Commissioner***

#### **Article 31**

The Commissioner shall have the right to a salary equal to that of a judge of the High Court of Cassation, as well as the right to reimbursement of the expenditures made in connection with performing his/her function.

The Commissioner shall enjoy the immunity enjoyed by representatives of the people at the National Assembly.

### ***The Commissioner's Expert Service***

#### **Article 32**

The Commissioner shall have an expert service to help him/her in performing the work he/she is authorised for.

The Commissioner shall pass an act, to be approved by the National Assembly, which shall regulate the organisation and the work of his/her expert service.

The Commissioner shall have three assistants.

An assistant to the Commissioner shall be in charge of an area of work in its entirety, in accordance with the act regulating the organisation and systematisation or work activities.

The Commissioner shall appoint the assistants to the Commissioner.

The Commissioner shall decide independently, in accordance with the law, on employing the expert service staff members, on the basis of the needs for professional and efficient discharge of the work he/she is authorised to do.

The regulations pertaining to employment in state organs shall apply accordingly to the expert service staff.

The funds required for the work of the Commissioner, his/her assistants and expert service shall be provided from the budget of the Republic of Serbia, acting on a proposal submitted by the Commissioner.

The Commissioner's head office shall be in Belgrade.

### ***The authority of the Commissioner***

#### **Article 33**

The Commissioner:

1. shall receive and review complaints pertaining to violations of provisions of this Law, provide opinions and recommendations in specific cases, and pass measures in accordance with the provisions of Article 40 of this Law;

2. shall provide information to the person lodging a complaint concerning his/her rights and the possibility of initiating court proceedings or some other proceedings for the purpose of protection, or recommend reconciliation;

3. shall file charges in accordance with article 43 of this Law, pertaining to violations of rights guaranteed by this Law, in his/her own name, and with the agreement and on behalf of



the person discriminated against, unless proceedings before a court of law have already been initiated or concluded by passing an enforceable decision;

4. shall submit misdemeanour notices on account of violations of rights guaranteed by this Law;

5. shall submit an annual report and special reports to the National Assembly about the situation concerning the protection of equality;

6. shall warn the public of the most frequent, typical and severe cases of discrimination;

7. shall monitor the implementation of laws and other regulations, initiate the passing or amending of regulations for the purpose of implementing and developing protection against discrimination, and provide opinions concerning the provisions of draft laws and other regulations pertaining to the prohibition of discrimination;

8. shall establish and maintain cooperation with organs authorised to ensure equality and the protection of human rights on the territory of an autonomous province or a local government;

9. shall recommend measures to public administration organs and other persons aimed at ensuring equality.

### ***The Rules of Procedure***

#### **Article 34**

The Commissioner shall pass the Rules of Procedure to regulate more closely the manner of his/her work and procedure.

## **V. THE PROCEDURE OF APPLYING TO THE COMMISSIONER**

### ***Lodging a complaint***

#### **Article 35**

A person who considers him/herself discriminated against shall lodge a complaint in writing to the Commissioner or, under exceptional circumstances, orally for the record, without being obligated to pay a tax or any other charges.

Along with the complaint, evidence of the discrimination that has been suffered must be submitted.

An organisation engaged in the protection of human rights or another person may lodge a complaint on behalf of and with the agreement of the person whose rights have been violated.

The Commissioner shall forward the complaint to the person against whom it has been lodged within 15 days of having received it.

#### **Article 36**

The Commissioner shall take steps concerning a complaint unless proceedings pertaining to the matter in question have been initiated before a court of law or an enforceable decision has been passed.

The Commissioner shall not take any steps concerning a complaint if it is evident that no violation of rights pointed to by the person having lodged the complaint has actually occurred, if he/she has already taken steps concerning the same matter and no new evidence has been provided, and if he/she establishes that, in view of the time elapsed since the violation of rights in question, no useful purpose will be served by acting upon the complaint.

### ***Establishing the facts of the case***

#### **Article 37**

Having received a complaint, the Commissioner shall establish the facts of the case by reviewing the evidence submitted and by taking statements from the person who lodged a complaint, the person against whom the complaint was lodged, and other persons if need be.

The person against whom the complaint was lodged may make a statement concerning the claims made in the complaint within 15 days of having received it.

### ***Reconciliation***

#### **Article 38**

The Commissioner shall propose a reconciliation procedure, in accordance with the law regulating the mediation procedure, before taking other steps in the proceedings.

### ***Opinion and recommendations***

#### **Article 39**

The Commissioner shall give his/her opinion on whether there has been a violation of the provisions of this Law within 90 days of the day of receiving a complaint, of which he/she shall inform the person who submitted the complaint and the person against whom the complaint was submitted.

If he/she decides that there has been a violation of the provisions of this Law, the Commissioner shall issue a recommendation to the person against whom the complaint was submitted, suggesting a way of redressing the violation in question.

The person to whom the recommendation is addressed shall be obligated to act upon it and to redress the violation in question within 30 days of the day of receiving it and to inform the Commissioner of it.

### ***Measures***

#### **Article 40**

If the person to whom a recommendation is addressed fails to act upon it, that is, if he/she fails to redress the violation in question, the Commissioner shall caution him/her.

Should the person referred to in paragraph 1 of this Article fail to redress the violation in question within 30 days of having been cautioned, the Commissioner may inform the public about it.

The measure of caution referred to in paragraph 1 of this Article shall be issued by passing a decision against which it is not allowed to lodge a complaint.

The provisions of the law regulating general administrative proceedings shall apply accordingly to the procedure involving the Commissioner.

## **VI. JUDICIAL PROTECTION**

### ***Judicial jurisdiction and procedure***

#### **Article 41**

Anyone who has suffered discriminatory treatment shall have the right to initiate a lawsuit.

The provisions of the law regulating litigation proceedings shall apply accordingly to such a lawsuit.

The proceedings shall be conducted urgently.

Judicial review shall always be allowed.

### ***Jurisdiction***

## **Article 42**

In proceedings initiated for the purpose of protection against discrimination, apart from the local court of general jurisdiction, the court situated in the area where the plaintiff's head office or residence is located shall also have jurisdiction over the proceedings.

## ***Lawsuits***

### **Article 43**

Through a lawsuit referred to in Article 41 paragraph 1 of this Law, the plaintiff may demand:

1. imposing a ban on an activity that poses the threat of discrimination, a ban on proceeding with a discriminatory activity, or a ban on repeating a discriminatory activity;
2. that the court should establish that the defendant has treated the plaintiff or another party in a discriminatory manner;
3. taking steps to redress the consequences of discriminatory treatment;
4. compensation for material and non-material damage;
5. that the decision passed on any of the lawsuits referred to in items 1-4 of this Article be published.

## ***Temporary measure***

### **Article 44**

The plaintiff may demand, when initiating a lawsuit, in the course of the proceedings and after the termination of the proceedings, until the court decision is enforced, that the court should pass a temporary measure in order to prevent discriminatory treatment, with a view to eliminating the danger of violence or some major irreparable damage.

The proposal for passing a temporary measure must prove the likelihood of the necessity of doing so in order to eliminate the danger of violence or irreparable damage.

The court shall be obligated to decide on a proposal for passing a temporary measure forthwith, or within three days of the day of receiving the proposal at the very latest.

## ***The rules concerning the burden of evidence***

### **Article 45**

If the court establishes that a direct act of discrimination has been committed, or if that fact is undisputed by the parties to the lawsuit, the defendant may not be relieved of responsibility by supplying evidence that he/she is not guilty.

If the plaintiff proves the likelihood of the defendant's having committed an act of discrimination, the burden of providing evidence that no violation of the principle of equality or the principle of equal rights and obligations has occurred shall fall on the defendant.

## ***Lawsuits initiated by other persons***

### **Article 46**

The lawsuits referred to in Article 43 items 1, 2, 3 and 5 may be initiated by the Commissioner and an organisation engaged in the protection of human rights or the rights of a certain group of people.

If discriminatory treatment solely affects a particular person, the plaintiffs referred to in paragraph 1 of this Article may initiate a lawsuit only with his/her consent given in writing.

A person who had deliberately exposed him/herself to discriminatory treatment intending to directly verify the application of the regulations pertaining to the prohibition of discrimination in a particular case may initiate a lawsuit referred to in Article 43 items 1, 2, 3 and 5 of this Law.

The person referred to in paragraph 3 of this Article shall be obligated to inform the Commissioner of what he/she intends to do, unless the circumstances do not allow it, and to inform the Commissioner in writing of the action undertaken.

If the person referred to in paragraph 3 of this Article has not initiated a lawsuit, a court may hear him/her as a witness.

The person referred to in paragraph 3 of this Article may not be subjected to the claim of shared responsibility for the damage resulting from a discriminatory act.

## **VII. MONITORING**

### ***Monitoring the implementation of the Law***

#### **Article 47**

The Ministry in charge of human and minority rights shall monitor the implementation of this Law.

### ***The Commissioner's annual report***

#### **Article 48**

The Commissioner shall submit an annual report to the National Assembly on the situation concerning the protection of equality, containing an evaluation of the work of public administration organs, providers of services and other persons, any failures perceived and recommendations for their elimination.

The report may contain remarks pertaining to the implementation of laws and other regulations, or concerning the need to pass or amend regulations for the purpose of implementing or developing protection from discrimination.

The report shall contain a summary, which is to be published in "The Official Gazette of the Republic of Serbia".

### ***Special report***

#### **Article 49**

If there should exist reasons of particular importance, the Commissioner may, of his/her own initiative or upon a request of the National Assembly, submit a special report to the National Assembly.

Such a report shall contain a summary, which is to be published in the "The Official Gazette of the Republic of Serbia".

## **VIII. THE PENAL PROVISIONS**

#### **Article 50**

The authorised official or the person in charge within the framework of a public administration organ shall be fined in the amount of 10,000 to 50,000 dinars for committing a discriminatory act (Article 15 paragraph 2).

#### **Article 51**

A legal entity or an entrepreneur shall be fined in the amount of 10,000 to 50,000 dinars for violating the principle of equal opportunity of employment or exercising all the rights in the sphere of labour under equal conditions (Article 16 paragraph 1) on the grounds of personal characteristics, in the case of a person doing temporary and occasional work, a person doing additional work, a student or a pupil undergoing vocational practice, a person undergoing

professional training and development without concluding a contract of employment, or a volunteer.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

#### **Article 52**

A legal entity or an entrepreneur shall be fined in the amount of 10,000 to 100,000 dinars if, within the framework of its/his/her activities, it/he/she refuses to provide services, demands that conditions should be fulfilled for the provision of services that are not required of other persons or groups of persons, or if it/he/she unwarrantedly gives priority to another person or a group of persons when providing services (Article 17 paragraph 1), on the grounds of the personal characteristics of a person or a group of persons.

A legal entity or an entrepreneur, owner or user of an object in public use or a public space shall be fined in the amount of 10,000 to 100,000 dinars for denying access to the said object or public space to an individual or a group of persons on the grounds of their personal characteristics (Article 17 paragraph 2).

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 2 of this Article.

#### **Article 53**

The person in charge within the framework of a public administration organ shall be fined in the amount of 5,000 to 50,000 dinars for acting contrary to the principle of free expression of faith or belief; that is to say, if he/she denies an individual or a group of persons the right to acquire, maintain, express and change faith or belief, as well as the right to express, or act in accordance with, their beliefs (Article 18).

A legal entity or an entrepreneur shall be fined in the amount of 10,000 to 100,000 dinars for a violation referred to in paragraph 1 of this Article.

The person in charge within the framework of a legal entity and a physical person shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

#### **Article 54**

An educational institution shall be fined in the amount of 10,000 to 100,000 dinars if it unwarrantedly obstructs or prevents an individual or a group of persons from being enrolled, on the grounds of his/her or their personal characteristics, or excludes them from the institution in question (Article 19 paragraph 2).

The person in charge within the framework of an educational institution shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

#### **Article 55**

A legal entity that denies a right or recognises benefits pertaining to gender, or exploits an individual or a group of persons on the grounds of gender, shall be fined in the amount of 10,000 to 100,000 dinars (Article 20 paragraph 2).

An entrepreneur who denies a right or recognises benefits pertaining to gender, or perpetrates acts of physical or other forms of violence, exploits, expresses hatred, disparages,

blackmails or harasses an individual or a group of persons on the grounds of gender shall be fined in the amount of 10,000 to 100,000 dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 2 of this Article.

#### **Article 56**

A legal entity or an entrepreneur that requires of an individual or a group of persons to publicly express their sexual orientation or who prevents them from expressing their sexual orientation in accordance with this Law (Article 21) shall be fined in the amount of 10,000 to 100,000 dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

#### **Article 57**

A legal entity or an entrepreneur that discriminates against a child or a minor on the grounds of being born in or out of matrimony, or publicly advocates giving priority to children of one gender over the other, and differentiates among children on the grounds of the financial situation, profession and other characteristics related to the social position, activities, expressed opinion or belief of the child's parents, guardians and family members (Article 22 paragraph 2), shall be fined in the amount of 10,000 to 100,000 dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

#### **Article 58**

A legal entity or an entrepreneur that discriminates against individuals or obstructs the provision of health care or other public services to them on the grounds of age (Article 23 paragraph 1) shall be fined in the amount of 10,000 to 100,000 dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

#### **Article 59**

A legal entity or an entrepreneur that discriminates against an individual or a group of persons on the grounds of his/her or their political beliefs, or membership or non-membership of a political party (Article 25 paragraph 1) shall be fined in the amount of 10,000 to 100,000 dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

#### **Article 60**

A legal entity or an entrepreneur that unwarrantedly denies an individual or a group of persons health care services on the grounds of his/her or their personal characteristics, imposes special conditions for the provision of health care services, denies them diagnosis and withholds information pertaining to their current health condition and to the already undertaken or intended measures for treatment or rehabilitation, and that harasses, insults and disparages

them in the course of staying at a health care institution (Article 27 paragraph 2) shall be fined in the amount of 10,000 to 100,000 dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a health care worker, shall be fined in the amount of 5,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

## **IX. THE TRANSITIONAL AND FINAL PROVISIONS**

### ***Electing the Commissioner***

#### **Article 61**

The National Assembly shall elect the Commissioner within 60 days of the day when the provisions of Articles 28 through 40 of this Law start to be applied.

### ***Passing of acts by the Commissioner***

#### **Article 62**

The Commissioner shall pass an act regulating the organisation of his/her expert service and the Rules of procedure within 45 days of the day of his/her election.

### ***The coming into effect of this Law***

#### **Article 63**

This Law shall come into effect on the eighth day after the day of being published in "The Official Gazette of the Republic of Serbia", with the exception of Articles 28 through 40, which will start being applied as of January 1st 2010.