

Protection Against Discrimination Act

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CHAPTER ONE

GENERAL PROVISIONS

Article 1

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

Article 2

The purpose of this Act shall be to ensure to every person the right to:

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

Article 3

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

(2) Associations of natural persons, as well as legal persons, shall benefit from the rights under this Act when they are discriminated against on the grounds referred to in Article 4 (1) regarding their members or the persons employed by them.

Article 4

(1) (Amended SG No. 70/2004 - effective 1.01.2005) Any direct or indirect discrimination on grounds of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a party, shall be banned.

(2) Direct discrimination shall be any less favourable treatment of a person on the grounds referred to in Paragraph (1), than the treatment another person is receiving, received, or would receive in comparable similar circumstances.

(3) Indirect discrimination shall be putting a person, on the grounds referred to in Paragraph (1), in a less favourable position compared to other persons through an apparently neutral provision, criterion or practice, unless the said provision, criterion or practice is objectively justified in view of a legal aim and the means of achieving this aim are appropriate and necessary.

Article 5

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

Article 6

The prohibition of discrimination shall apply to all in the exercise and protection of the rights and freedoms enshrined in the Constitution and the laws of the Republic of Bulgaria.

Article 7

(1) It shall not constitute discrimination:

1. to treat persons differently on the basis of their citizenship or of persons without citizenship where this is provided for by a law or an international treaty to which the Republic of Bulgaria is a party;

2. to treat persons differently on the basis of a characteristic relating to any of the grounds referred to in Article 4 (1), when the said characteristic, by the nature of a particular occupation or activity, or of the conditions in which it is performed, constitutes a genuine and determining occupational requirement, the aim is legal and the requirement does not exceed what is necessary for its achievement;

3. to treat persons differently on the basis of religion, belief or gender in relation to an occupation performed in religious institutions or organisations when, by reason of the nature of the occupation or the conditions in which it is performed, the religion, belief or gender constitutes a genuine and determining occupational requirement in view of the character of the institution or organisation, where the aim is legal and the requirement does not exceed what is necessary for its achievement;

4. to treat persons differently on the basis of religion, belief or gender in religious education or training, including training or education for the purpose of performing an occupation referred to in Item 3;

5. to set requirements for minimum age, work experience or length of service in employment procedures or in granting certain job-related privileges, provided that this is objectively justified for attaining a legal aim and the means for attaining it do not exceed what is necessary;

6. to set a maximum age requirement for employment connected with the need for training in order to occupy the respective position or with the need for a reasonable time limit for occupying the position before retirement, where this is objectively justified for attaining a legal aim and the means for its attainment do not exceed what is necessary;

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

8. the age requirements and the requirements for length of labour or office work set by the law for the purposes of retirement security;

9. measures as per the Employment Promotion Act;

10. to treat differently persons with disabilities in conducting training and acquiring education for satisfying specific educational needs aimed at equalizing their opportunities;

11. to set minimum and maximum age requirements for access to training and education, where this is objectively justified for achieving a legal aim in view of the nature of the training or education, or the conditions in which it is conducted, and the means for achieving this aim do not exceed what is necessary;

12. measures in the field of education and training to ensure balanced participation of men and women, in so far as and while these measures are necessary;

13. the special measures benefiting individuals or groups of persons in disadvantaged position on the basis of the grounds referred to in Article 4 (1) aimed at equalizing their opportunities, in so far as and while these measures are necessary;

14. the special protection of children without parents, juveniles, single parents and persons with disabilities established by law;

15. measures for protection of the originality and identity of persons who belong to ethnic, religious or language minorities, and their right, individually or jointly with the other members of

their group, to sustain and develop their culture, to profess and practice their religion, or to use their language;

16. measures in the field of education and training ensuring the participation of persons who belong to the ethnic minorities, in so far as and while these measures are necessary.

(2) The list of activities in which gender is a genuine and determining occupational requirement as per Item 2 of Paragraph (1) shall be established by:

a) an ordinance of the Minister of Labour and Social Policy, in consultation with the minister of Interior. This list shall be duly updated as changes occur in labour conditions and shall be revised at least once every three years;

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

Article 8

Persons who have consciously assisted in the commitment of acts of discrimination shall bear liability under this Act.

Article 9

In proceedings for protection against discrimination, after the party claiming to be a victim of discrimination proves facts which may lead to a conclusion that discrimination has occurred, the respondent must prove that the right of equal treatment has not been infringed.

Article 10

In the exercise of their powers, the state authorities and the local government authorities shall be obliged to take all possible and necessary measures to achieve the aims of this Act.

Article 11

(1) The bodies of state power, the public bodies and the local government bodies shall take measures as per Items 12 and 13 of Article 7 (1), where this is necessary to achieve the aims of this Act.

(2) The bodies of state power, the public bodies and the local government bodies shall take priority measures as per Items 12 and 13 of Article 7 (1) to equalize the opportunities of persons who are victims of multiple discrimination.

CHAPTER TWO

PROTECTION AGAINST DISCRIMINATION

Section I

Protection in Exercising the Right to Work

Article 12

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

(2) Before an employment contract is signed, the employer shall not have the right to demand from the candidate information concerning the grounds referred to in Article 4 (1), except in the cases under Article 7, or where this answers the need for screening prior to granting permission for work with classified information under the conditions and procedure of the Classified Information Safeguarding Act.

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

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

Article 13

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

(2) Where it will not lead to disproportionate difficulties in the organisation and conduct of the production process, and in cases where there exist ways to offset the objectively possible unfavourable consequences for the overall production result, the employer shall provide working conditions, in terms of working time and days off work, complying with the requirements of the religion or belief professed by a factory or office worker.

Article 14

(1) The employer shall ensure equal remuneration for equal or equivalent work.

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

(3) The assessment criteria in determining labour remuneration and the assessment of work performance shall be equal for all factory and office workers and shall be determined by collective labour agreements, or by internal rules on wages, or by the statutory terms and procedure of certifying state administration employees with no reference to the grounds under Article 4 (1).

Article 15

The employer shall provide equal opportunities to factory and office workers with no reference to the grounds under Article 4 (1) for vocational training and raising of qualifications and retraining, as well as for vocational development and promotion in position or rank by applying equal criteria in the assessment of their performance.

Article 16

The employer shall be obliged to adapt the workplace to the needs of persons with disabilities at their employment or when the disability occurs after the beginning of employment, unless the costs of such adaptation are unreasonably high and would cause serious difficulties to the employer.

Article 17

An employer who has received a complaint from a factory or office worker who believes that he/she is subject to harassment, including sexual harassment, in the workplace, shall be obliged to immediately hold an inquiry, take measures to stop the harassment, as well as to hold disciplinarily liable another factory or office worker if he/she caused the harassment.

Article 18

The employer, in cooperation with the trade unions, shall be obliged to take effective measures to prevent any form of discrimination in the workplace.

Article 19

In the event of failure to fulfil the obligation under Article 18, the employer shall bear liability under this Act for acts of discrimination committed at the workplace by a factory or office worker employed by him/her.

Article 20

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

Article 21

The employer shall apply equal criteria in exercising his/her right to unilaterally terminate the employment contract under Items 2 - 5, 10 and 11 of Article 328 (1) and Article 329 of the Labour Code, or the service relationship under Items 2, 3 and 5 of Article 106 (1) of the Civil Servants Act, notwithstanding the grounds referred to in Article 4 (1).

Article 22

The employer shall post, in a place in the enterprise accessible to the factory and office workers, the text of this Act, as well as all provisions of the internal rules and the clauses of the collective labour agreement relating to protection against discrimination.

Article 23

(1) Upon request, the employer shall provide information to a person who claims that his/her rights under this Section have been violated.

(2) The information referred to in Paragraph 1 shall contain the grounds for the decision taken by the employer, as well as other relevant data.

Article 24

(1) The employer shall be obliged, prior to employment, where this is necessary to achieve the aims of this Act, to encourage persons of a less represented gender or ethnic groups to apply to perform a given job or occupy a given position.

(2) The employer shall be obliged, other things being equal, to encourage the vocational development and participation of factory and office workers of a given gender or ethnic group where it is less represented among the factory or office workers performing a given job or holding a given position.

Article 25

The territorial units of the Employment Agency shall be obliged to ensure equal opportunities to unemployed persons to use and exercise their rights guaranteed by law, notwithstanding the grounds referred to in Article 4 (1).

Article 26

All persons shall have the right to equal terms of access to an occupation or an activity, an opportunity to perform them and develop in them, notwithstanding the grounds referred to in Article 4 (1).

Article 27

The provisions of this Section shall also apply to discrimination on the grounds of gender in voluntary service in the armed forces, except for performing activities and holding positions where gender is a determining factor.

Article 28

The provisions of this Section shall also apply respectively to service relationships.

Section II

Protection in Exercising the Right to Education and Training

Article 29

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

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

Article 30

The head of the training institution shall display in an accessible place the text of this Act and all provisions of the internal rules relating to protection against discrimination.

Article 31

Upon receiving a complaint from a student who considers himself subject to harassment by a person on the teaching or non-teaching staff or a student, the head of the training institution shall be obliged to immediately hold an inquiry and take measures to stop the harassment, as well to impose a disciplinary sanction.

Article 32

The training institutions shall take appropriate measures to equalize the opportunities for effective exercise of the right to education and training of persons with disabilities, unless the costs involved are unreasonably high and would cause serious difficulties to the institution.

Article 33

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

(2) The information referred to in Paragraph (1) shall contain the grounds for the decision taken by the head or a teacher, as well as other relevant data.

Article 34

In the event of failure to fulfil the obligation under Article 29 (2), the head of the training institution shall bear liability under this Act for discrimination at the place of training by an administrative officer, a teacher or a student.

Article 35

(1) Persons providing training and education, as well as the compilers of textbooks and learning materials, shall be obliged to give information and to apply methods of training and education in a way focused on overcoming stereotypes about the role of women and men in all spheres of social and family life.

(2) Kindergartens, schools and higher schools shall include in their educational curricula and syllabi training in problems of the equality of women and men.

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

Section III

Protection in Exercising Other Rights

Article 36

The trade unions, professional and other vocational organisations and the employers' organisations may not impose requirements for subscription, membership and participation in their activity on the grounds referred to in Article 4 (1), with the exception of the requirements for education in the case of professional and vocational organisations.

Article 37

A refusal to provide goods or services, as well as the provision of goods and services of a lower quality or on less favourable terms on the grounds referred to in Article 4 (1) shall not be allowed.

Article 38

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

Article 39

(1) If the candidates for a position in the administration are of the same standard as regards the requirements for occupying the said position, the state and public bodies and the local

government bodies shall employ the candidate of the less represented gender until it reaches at least 40 per cent representation in the respective administrative units.

(2) Paragraph (1) shall also apply also to the selection of participants in, or members of, boards, expert working groups, governing, advisory or other bodies, except when those participants are elected by vote.

CHAPTER THREE

COMMISSION FOR PROTECTION AGAINST DISCRIMINATION

Article 40

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

(2) The Commission shall exercise control over the implementation of, and compliance with, this or other Acts regulating equal treatment.

(3) The Commission shall be a legal person financed from the budget with its head office in Sofia.

(4) The Commission shall present a report on its activity to the National Assembly not later than March 31 of every year, which shall include information on the activity of each of its standing specialised panels.

Article 41

(1) The Commission shall consist of nine persons, of whom at least four shall be jurists. The National Assembly shall elect five members, including the Chairperson and the Deputy Chairperson of the Commission, and the President of the Republic of Bulgaria shall appoint four members of the Commission.

(2) The members of the Commission shall serve for a five-year term.

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

Article 42

(1) Only a Bulgarian citizen may be a member of the Commission, provided he/she has:

1. graduated from a university;
2. knowledge and experience in the field of human rights protection;
3. not been convicted of an intentional public-law offence.

(2) A member of the Commission may not:

1. be a merchant, managing director, managerial agent, member of a governing or controlling body of a commercial corporation or a co operative, a trustee in bankruptcy or a liquidator;

2. hold another paid position, except when he/she is engaged in scientific or activity;

3. be a member of a governing body of a political party.

Article 43

The time during which the person has worked as a member of the Commission shall be acknowledged as length of office work as per the Civil Servants Act.

Article 44

(1) The powers of a member of the Commission shall be terminated early:

1. at the member's request;
2. in the event of the member's incapacity to perform his/her duties for more than six months;

3. in the event of conviction for an intentional public-law offence;
4. in cases of incompatibility.

(2) Should the grounds under Paragraph (1) occur, the Chairperson of the Commission or his Deputy shall make a reasoned proposal for dismissal to the National Assembly or to the President of the Republic of Bulgaria.

(3) Within one month of the termination of the powers under Paragraph (1), the National Assembly or the President of the Republic of Bulgaria shall elect, or appoint, respectively, a new member of the Commission, who shall perform the mandate of the dismissed member.

Article 45

(1) The Chairperson of the Commission shall receive a basic monthly remuneration equal to three average monthly salaries of those employed under a labour and office work employment relationship in the public sector in accordance with data from the National Statistical Institute.

(2) The Deputy Chairperson of the Commission and the members of the Commission shall receive a basic monthly remuneration equal to, respectively, 80 per cent and 75 per cent of the remuneration of the Chairperson of the Commission.

Article 46

(1) The Commission shall adopt Rules of Organisation and Procedure, which shall be promulgated in the State Gazette.

(2) The Commission shall be assisted in its work by an administration, whose structure, functions and staff number shall be determined by the Rules referred to in Paragraph (1).

Article 47

(1) The Commission for Protection against Discrimination shall:

1. ascertain violations of this or other Acts regulating equal treatment, the perpetrator of the violation and the aggrieved person;
2. decree prevention and termination of the violation and restoration of the original situation;
3. impose the sanctions envisaged and implement administrative enforcement measures;
4. issue mandatory directions for compliance with this or other Acts regulating equal treatment;
5. appeal against administrative acts decreed in contravention of this or other Acts regulating equal treatment, bring action in court and join as a concerned party in proceedings instituted under this or other Acts regulating equal treatment;
6. make proposals and recommendations to the state and municipal authorities to discontinue discrimination practices and revoke their acts issued in violation of this or other Acts regulating equal treatment;
7. maintain a public register of its decisions and mandatory directions which have entered into force;
8. issue opinions on the conformity of draft statutory act with the legislation on prevention of discrimination, as well as recommendations for adoption, revocation, amendment and supplementing of statutory acts;
9. provide independent assistance to victims of discrimination filing complaints against discrimination;
10. conduct independent research into discrimination;
11. publish independent reports and make recommendations on all matters relating to discrimination;
12. perform other competencies laid down in its Rules of Organisation and Procedure.

Article 48

(1) The Commission shall consider and take decisions on the case files submitted to it in panels determined by the Chairperson of the Commission.

(2) The Chairperson of the Commission shall appoint standing panels specialising in matters of discrimination:

1. on ethnic and racial grounds;
2. on the grounds of gender;
3. on other grounds referred at in Article 4 (1).

(3) Cases of multiple discrimination shall be considered by an enlarged five-member panel.

Article 49

(1) The Chairperson of the Commission shall:

1. represent the Commission, organise and direct its operation;
2. conclude employment contracts and appoint civil servants in the administration;
3. implement the budget of the Commission.

(2) The Deputy Chairperson shall assist the Chairperson of the Commission in the performance of his/her functions and shall deputize for him/her when the latter is absent.

CHAPTER FOUR

PROCEEDINGS FOR PROTECTION AGAINST DISCRIMINATION

Section I

Proceedings before the Commission for Protection against Discrimination

Article 50

(1) Proceedings before the Commission shall be instituted on:

1. a complaint by the aggrieved persons;
2. the initiative of the Commission;
3. tip-offs from natural and legal persons, state and municipal authorities.

Article 51

(1) The complaint or tip-off to the Commission shall be in writing. If they are written in a foreign language, they shall be accompanied by a translation in Bulgarian.

(2) The complaint or tip-off must contain:

1. the name or designation of the person submitting it;
2. the address or the registered office and address of the place of management of the person submitting it;
3. a statement of the circumstances on which the complaint or tip-off is based;
4. a statement of requests to the Commission;
5. dates and the signature of the person submitting the complaint or of his/her representative.

(3) Anonymous complaints or tip-offs shall not be considered by the Commission.

Article 52

(1) Proceedings shall not be instituted, and those already instituted shall be terminated, if three years have passed since the violation was committed.

(2) Should the Commission find that proceedings have been instituted in court on the same dispute, it shall not institute, or shall terminate the proceedings instituted before it.

Article 53

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

(2) Any expenses incurred during the proceedings shall be covered by the budget of the Commission.

Article 54

(1) After the institution of proceedings, the Chairperson of the Commission shall transfer the case file to a panel, which shall appoint a rapporteur from among its members.

Article 55

(1) The rapporteur shall start an investigation in which he/she shall collect written evidence necessary for the full and comprehensive clarification of the circumstances, using officers and outside experts.

(2) All persons, state and local authorities shall assist the Commission in the course of the investigation and shall be obliged to provide the required information and documents, and to give the necessary explanations.

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

(4) Should there be grounds for access to classified information, it shall be provided under the conditions and procedure of the Classified Information Safeguarding Act.

Article 56

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

1. demand documents and other information related to the investigation;
2. demand explanations from the persons investigated about matters relating to the investigation;
3. question witnesses.

(2) In the event of refusal to provide information required by the Commission, or in the event of refusal to give access to premises, as well as in other cases of not assisting the Commission, the culprits shall bear liability under this Act.

Article 57

(1) Where there is a danger that evidence may be lost or concealed or where the collection of evidence is particularly difficult, compulsory collection of evidence may be effected at the complainant's request from the persons or the premises where it is found.

(2) The compulsory collection of evidence under Paragraph (1) shall be done by permission of a Sofia City Court judge upon a request by the Chairperson of the Commission.

(3) On the day the request is entered, the judge shall issue an order which shall be enforceable forthwith.

(4) The rapporteur on the case file shall collect the evidence in co operation with the bodies of the Ministry of Interior.

(5) During the compulsory collection of evidence, the Commission may:

1. inspect sites for the purposes of the investigation;
2. collect instruments of evidence for the purposes of the investigation.

(6) The substantial evidence and the originals of the documents seized shall be returned to the persons they were seized from after the case file is closed.

Article 58

(1) The documents collected and the information received shall be used solely for the purposes of the investigation.

(2) The members of the Commission, as well as the officers and the outside experts, shall be obliged not to divulge information constituting a secret protected by the law, which has come to their knowledge while, or in connection with, the performance of their activity.

Article 59

(1) The investigation shall be conducted within a term of 30 days. In cases of factual and legal complexity, the term may be extended by up to 30 days by an order of the Chairperson of the Commission.

(2) After completion of the investigation, the parties shall be given an opportunity to get acquainted with the case file material collected.

(3) Should information on a committed offence be ascertained in the process of the investigation, the Commission shall send the case file to the prosecution office.

Article 60

(1) The rapporteur shall draw up a conclusion and submit the case file to the Chairperson of the panel, who shall call a meeting within seven days.

(2) The parties shall be summoned and the persons concerned shall be notified under the conditions and procedure of the Code of Civil Procedure.

Article 61

(1) The meetings of the Commission shall be open.

(2) Meetings may be held behind closed doors on the grounds and under the conditions and procedure of Article 105 (3) of the Code of Civil Procedure.

(3) Members of the panel may be discharged on the grounds and under the conditions and procedure of Chapter Three of the Code of Civil Procedure.

Article 62

(1) At the first meeting the rapporteur shall call the parties to conciliation. Should the parties agree, the rapporteur shall call a meeting for conciliation proceedings.

(2) Should the parties reach a settlement on the basis of equal treatment during the conciliation proceedings, the Commission shall approve it by a decision and shall close the case file.

(3) Where a settlement is reached for part of the dispute, the proceedings shall continue for the part on which no settlement was reached.

(4) The settlement approved by the Commission shall be enforceable, with the Commission exercising control over compliance with the settlement.

Article 63

(1) Where it is found that the circumstances of the case have been clarified, the chairperson of the panel shall provide an opportunity to the parties to issue an opinion.

(2) Following the factual and legal clarification of the dispute, the Chairperson of the panel shall close the meeting and shall announce the day for pronouncement of a decision.

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

Article 64

(1) Decisions shall be taken by a simple majority of the members of the panel and shall be signed by them.

(2) A member of the panel who does not agree with the decision of the majority shall sign the decision with a dissenting opinion, which he/she shall motivate.

Article 65

By the decision decreed the panel shall:

1. ascertain the violation committed;
2. ascertain the offender and the aggrieved person;
3. determine the type and amount of the sanction;
4. enforce compulsory administrative measures;

5. ascertain that no violation of the law has been committed and leave the complaint without consideration.

Article 66

The decision shall be in writing and shall contain:

1. the name of the authority issuing it;
2. the factual and legal grounds for issuing it;
3. an optional part, which shall determine the type and amount of the sanction or the compulsory administrative measure, if one should be imposed;
4. the authority before, and the term within, which the decision may be appealed.

Article 67

(1) The Commission shall control compliance with the compulsory administrative measures.

(2) The person on whom a sanction or a compulsory administrative measure has been imposed shall be obliged to take measures to implement the mandatory directions and to notify the Commission thereof in writing within a period specified in the decision, which may not be longer than one month.

(3) Should officials fail to implement the mandatory directions, the Commission shall send a report containing proposals for relevant actions to the respective state and municipal authorities.

(4) The Commission may send the decision to other bodies interested in the completed investigation, for information and/or to take relevant actions.

Article 68

(1) (Amended, SG No. 30/2006) The Commission's decisions shall be appealable to the Supreme Administrative Court under the conditions and procedure of the Administrative Procedure Code within 14 days of communicating them to the persons concerned.

(2) There shall be no time limit for an appeal for nullification of the decision.

Article 69

The decisions of the Commission shall become effective when:

- (1) they have not been appealed against within the time limit set;
- (2) the appeal submitted has not been taken into consideration;
- (3) the decision confirms the settlement reached by the parties.

Article 70

(1) (Amended, SG No. 30/2006) Any matters not provided for by this Section shall be governed by the provisions of the Administrative Procedure Code.

(2) (Amended, SG No. 105/2005) Any fines and pecuniary penalties under decisions of the Commission which have come into effect shall be collected under the conditions and procedure of the Tax and Social Insurance Procedure Code .

Section II

Judicial Proceedings

Article 71

(1) In cases other than those referred to in Section I, any person whose rights under this or other Acts regulating equal treatment have been violated may bring an action in the Regional Court demanding:

1. the violation to be ascertained;
2. the respondent to be sentenced to terminate the violation and to restore the status quo ante the violation, as well as to refrain from further violations in future;
3. compensation for damage.

(2) Trade union organisations and their units, as well as non-profit legal persons engaged in activity of benefit to the public, may bring action in court upon request from persons whose rights have been violated. These organisations may join as an interested party a pending legal action under Paragraph (1).

(3) In cases of discrimination where the rights of many people have been violated, the organisations under Paragraph (2) may bring an action on their own. The persons whose rights have been violated may join the legal action as an assisting party as per Article 174 of the Code of Civil Procedure.

Article 72

(1) The persons referred to in Article 71 (1 and 2) may, within one month of bringing action, publish this fact in print or by other written means of their own choice by sending an invitation to other aggrieved persons, trade union organisations and their units, as well as to non-profit legal persons engaged in activity of benefit to the public, to join the proceedings

(2) The persons under Paragraph (1) may join the proceedings until and up to the completion of the oral pleadings.

Article 73

(Amended, SG No. 30/2006)

Any person whose rights have been violated by an administrative act issued in contravention of this or other Acts regulating equal treatment may appeal against it before the court under the conditions and procedure laid down by the Administrative Procedure Code .

Article 74

(1) In cases under Section I, any person who has suffered damage from a violation of rights under this or other Acts regulating equal treatment may claim compensation under the general procedure against the persons and/or the authorities that inflicted the damage.

(2) Where damage has been inflicted to persons by unlawful acts, actions or lack of actions of state bodies and officials, compensation shall be claimed under the conditions and procedure of the Act on the Liability Incurred by the State for Damage Inflicted on Citizens.

Article 75

(1) Any matters not provided for by this Section shall be governed by the provisions of the Code of Civil Procedure.

(2) No stamp duty shall be collected for court proceedings under this Act and any expenses shall be covered from the court budget.

CHAPTER FIVE

COMPULSORY ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENAL PROVISIONS

Section I

Compulsory Administrative Measures

Article 76

(1) For prevention or termination of violations under this or other Acts regulating equal treatment, as well as for prevention or elimination of the harmful consequences of such violations, the Commission, on its own initiative or on a proposal of trade union organisations, natural or legal persons may apply the following compulsory administrative measures:

1. issue mandatory directions to employers and officials to eliminate violations of the legislation for prevention of discrimination;

2. stay the execution of unlawful decisions or orders of employers or officials which lead or may lead to discrimination;

(2) Where, in cases under Paragraph 1, on one and the same matter a mandatory direction has been issued and come into effect and a court decision has come into effect and the two contradict each other, the court decision shall be executed.

Article 77

The Commission's decisions for application of compulsory administrative measures under this Section may be appealed under the conditions and procedure of Article 68. The appeal shall not stop the execution of the compulsory administrative measure unless the court orders otherwise.

Section II

Administrative Penal Provisions

Article 78

(1) A person who commits discrimination as per this Act shall be punished by a fine of BGN 250 to 2,000, unless he/she is liable to more severe punishment.

(2) A person who fails to present in time evidence or information requested by the Commission, or impedes or fails to give access to sites subject to examination, shall be punished by a fine of 500 to 2,000 BGN.

Article 79

A duly summonsed witness who fails, without good reason, to appear before the Commission to testify, shall be punished by a fine of BGN 40 to 100.

Article 80

(1) A person who fails to perform an obligation arising from this Act shall be punished by a fine of 250 to 2,000 BGN, unless he/she is liable to more severe punishment.

(2) Where the violation has been committed in the performance of the activity of a legal person, a pecuniary penalty of BGN 250 to 2,500 shall be imposed on the latter.

(3) Where the head of a legal person - an employer - has allowed a violation to be committed under Paragraph (1), he/she shall be punished by a fine of BGN 200 to 2,000, unless he/she is liable to more severe punishment.

Article 81

Where the violations under Articles 78 - 80 are repeated, a fine, respectively a pecuniary penalty, shall be imposed, which shall be double the amount of the fine or pecuniary penalty first imposed.

Article 82

(1) A person who fails to implement a decision of the Commission or the court issued under this Act shall be punished by a fine of BGN 2,000 to 10,000, unless he/she is liable to more severe punishment.

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

Article 83

Any monies collected from fines and pecuniary penalties imposed under the conditions and procedure of this Section shall be contributed to the executive budget.

Article 84

(1) Statements ascertaining violations shall be drawn up by Commission members nominated by the Chairperson of the Commission.

(2) (Amended, SG No. 30/2006) Punishments shall be imposed by a decision of the Commission for Protection against Discrimination, which punishments may be appealed under the conditions and procedure of the Administrative Procedure Code. An appeal shall stop the execution of the contested decision.

(3) Any matters not provided for by this Section shall be governed by the Administrative Violations and Sanctions Act.

ADDITIONAL PROVISION

§ 1. For the purposes of this Act:

(1) "Harassment" shall mean any unwanted physical, verbal or other conduct on the grounds referred to in Article 4 (1), aimed at, or resulting in, a violation of a person's dignity and the creation of a hostile, offensive or intimidating environment.

(2) "Sexual harassment" shall mean any unwanted physical, verbal or other conduct of a sexual nature, which violates dignity or honour and creates a hostile, offensive, degrading or intimidating environment, and in particular where refusal to accept such conduct or the compulsion thereto may influence the taking of decisions affecting the person.

(3) "Persecution" shall mean:

a) less favourable treatment of a person who has taken, or is assumed to have taken or will take, action in defence against discrimination;

b) less favourable treatment of a person when a person connected with him/her has taken, or is assumed to have taken or will take, actions for protection against discrimination;

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

(4) "Actions for protection against discrimination" may include: filing a complaint or a tip-off, bringing an action, or testifying in proceedings for protection against discrimination.

(5) "Incitement to discrimination" shall mean directly and intentionally encouraging, instructing, putting pressure or prevailing upon someone to discriminate, where the inciter is in a position to influence the person incited.

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

(7) "Less favourable treatment" shall mean any act, action or inaction which directly or indirectly affects rights or legal interests.

(8) "On the grounds referred to in Article 4 (1) "shall mean on the grounds of actual, past or present, or presumed presence of one or more of these characteristics in the person discriminated against or in a person connected or presumably connected with him/her, where this connection constitutes a reason for discrimination.

(9) "Connected persons" shall mean spouses, lineal relatives - without limitation, collateral relatives up to the fourth degree inclusive, and relatives by affinity up to the third degree inclusive; the guardian and the custodian; the ward of a guardian or a custodian; co habitants; employer and employee; persons where one participates in the management of the other's company; business partners; persons who, because of other circumstances, may be considered directly or indirectly dependent on the aggrieved person and this connection is the reason for discrimination; persons on whom the aggrieved person may be directly or indirectly dependent and this connection is the reason for discrimination; persons accompanying the aggrieved person at the moment of commission of an act of discrimination, where this connection is the reason for discrimination.

(10) "Sexual orientation" shall mean heterosexual, homosexual or bisexual orientation.

(11) "Multiple discrimination" shall mean discrimination on grounds consisting of more than one characteristic referred to in Article 4 (1).

(12) "Repeat violation" shall mean a violation committed within one year of the entry into force of a decision whereby the offender was punished for the same type of violation.

(13) "Marital status" shall mean the status of a spouse or factual co habitation and taking care of a descendant, ascendant or collateral relative up to the third degree who is a dependant due to age or disability.

(14) (New, SG No. 70/2004 - effective 1.01.2005) "Human genome" is the sum total of all genes in a single (diploid) set of chromosomes of an individual.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. Within three months of the entry into force of this Act the National Assembly shall elect and the President shall appoint their respective quotas of members of the Commission.

§ 3. Within three months of determining the composition under § 2, the Commission shall adopt the Rules of Organisation and Procedure referred to in Article 46 (1).

§ 4. § 4. This Act shall repeal:

1. Item 7 of Paragraph (1) of the Supplementary Provisions of the Labour Code, (promulgated, SG Nos. 26 and 27/1986, amended and supplemented, SG No. 6/1988, SG Nos. 21, 30 and 94/1990, SG Nos. 27, 32 and 104/1991, SG Nos. 23, 26, 88 and 100/1992, SG No. 69/1995 Constitutional Court Decision No. 12/1995; amended, SG No. 87/1995, SG Nos. 2, 12 and 28/1996, SG No. 124/1997, SG No. 22/1998, SG No. 52/1998 - Constitutional Court Decision No. 11/1998; amended, SG Nos. 56, 83, 108 and 133/1998, SG Nos. 51, 67 and 110/1999, SG No. 25/2001, SG Nos. 1, 105 and 120/2002, SG No. 18/2003);

2. Article 5a (3) of the Protection, Rehabilitation and Social Integration of Disabled Persons Act (promulgated, SG No. 112/1995; supplemented, SG No. 110/1996; amended, SG No. 123/1997, SG No. 140/1998 - Constitutional Court Decision No. 31/1998; amended, SG No. 153/1998, SG No. 31/2001, SG Nos. 75 and 120/2002);

3. Items 19 and 20 of Paragraph (1) of the Supplementary Provision of the Employment Promotion Act (promulgated, SG No. 112/2001; amended, SG Nos. 54 and 120/2002, SG No. 26/2003).

§ 5. In Article 20 (2) of the Public Education Act (promulgated, SG No. 86/1991; amended, SG No. 90/1996, SG Nos. 36, 124 and 153/1998, SG Nos. 67 and 68/1999, SG Nos. 90 and 95/2002, SG Nos. 29 and 71/2003) "by specialised methods of learning the Bulgarian language" shall be added at the end.

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

§ 7. Within three months of the entry into force of this Act the Minister of Labour and Social Policy and the Minister of Defence shall issue the ordinances referred to in Article 7 (2).

§ 8. This Act shall be in force as of January 1, 2004.

This Act was adopted by the 39th National Assembly on September 16, 2003 and the State Seal has been affixed thereto. The enforcement of this Act shall be assigned to the Council of Ministers

Promulgated, SG No. 86/30.09.2003, effective 1.01.2004, supplemented, SG No. 70/10.08.2004, effective 1.01.2005, amended, SG No. 105/29.12.2005, effective 1.01.2006, SG No. 30/11.04.2006, effective 12.07.2006

CHAPTER ONE

GENERAL PROVISIONS

Article 1

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

Article 2

The purpose of this Act shall be to ensure to every person the right to:

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

Article 3

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

(2) Associations of natural persons, as well as legal persons, shall benefit from the rights under this Act when they are discriminated against on the grounds referred to in Article 4 (1) regarding their members or the persons employed by them.

Article 4

(1) (Amended SG No. 70/2004 - effective 1.01.2005) Any direct or indirect discrimination on grounds of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a party, shall be banned.

(2) Direct discrimination shall be any less favourable treatment of a person on the grounds referred to in Paragraph (1), than the treatment another person is receiving, received, or would receive in comparable similar circumstances.

(3) Indirect discrimination shall be putting a person, on the grounds referred to in Paragraph (1), in a less favourable position compared to other persons through an apparently neutral provision, criterion or practice, unless the said provision, criterion or practice is objectively justified in view of a legal aim and the means of achieving this aim are appropriate and necessary.

Article 5

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

Article 6

The prohibition of discrimination shall apply to all in the exercise and protection of the rights and freedoms enshrined in the Constitution and the laws of the Republic of Bulgaria.

Article 7

(1) It shall not constitute discrimination:

1. to treat persons differently on the basis of their citizenship or of persons without citizenship where this is provided for by a law or an international treaty to which the Republic of Bulgaria is a party;

2. to treat persons differently on the basis of a characteristic relating to any of the grounds referred to in Article 4 (1), when the said characteristic, by the nature of a particular occupation or activity, or of the conditions in which it is performed, constitutes a genuine and determining occupational requirement, the aim is legal and the requirement does not exceed what is necessary for its achievement;

3. to treat persons differently on the basis of religion, belief or gender in relation to an occupation performed in religious institutions or organisations when, by reason of the nature of the occupation or the conditions in which it is performed, the religion, belief or gender constitutes a genuine and determining occupational requirement in view of the character of the institution or organisation, where the aim is legal and the requirement does not exceed what is necessary for its achievement;

4. to treat persons differently on the basis of religion, belief or gender in religious education or training, including training or education for the purpose of performing an occupation referred to in Item 3;

5. to set requirements for minimum age, work experience or length of service in employment procedures or in granting certain job-related privileges, provided that this is objectively justified for attaining a legal aim and the means for attaining it do not exceed what is necessary;

6. to set a maximum age requirement for employment connected with the need for training in order to occupy the respective position or with the need for a reasonable time limit for occupying the position before retirement, where this is objectively justified for attaining a legal aim and the means for its attainment do not exceed what is necessary;

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

8. the age requirements and the requirements for length of labour or office work set by the law for the purposes of retirement security;

9. measures as per the Employment Promotion Act;

10. to treat differently persons with disabilities in conducting training and acquiring education for satisfying specific educational needs aimed at equalizing their opportunities;

11. to set minimum and maximum age requirements for access to training and education, where this is objectively justified for achieving a legal aim in view of the nature of the training or education, or the conditions in which it is conducted, and the means for achieving this aim do not exceed what is necessary;

12. measures in the field of education and training to ensure balanced participation of men and women, in so far as and while these measures are necessary;

13. the special measures benefiting individuals or groups of persons in disadvantaged position on the basis of the grounds referred to in Article 4 (1) aimed at equalizing their opportunities, in so far as and while these measures are necessary;

14. the special protection of children without parents, juveniles, single parents and persons with disabilities established by law;

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

16. measures in the field of education and training ensuring the participation of persons who belong to the ethnic minorities, in so far as and while these measures are necessary.

(2) The list of activities in which gender is a genuine and determining occupational requirement as per Item 2 of Paragraph (1) shall be established by:

a) an ordinance of the Minister of Labour and Social Policy, in consultation with the minister of Interior. This list shall be duly updated as changes occur in labour conditions and shall be revised at least once every three years;

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

Article 8

Persons who have consciously assisted in the commitment of acts of discrimination shall bear liability under this Act.

Article 9

In proceedings for protection against discrimination, after the party claiming to be a victim of discrimination proves facts which may lead to a conclusion that discrimination has occurred, the respondent must prove that the right of equal treatment has not been infringed.

Article 10

In the exercise of their powers, the state authorities and the local government authorities shall be obliged to take all possible and necessary measures to achieve the aims of this Act.

Article 11

(1) The bodies of state power, the public bodies and the local government bodies shall take measures as per Items 12 and 13 of Article 7 (1), where this is necessary to achieve the aims of this Act.

(2) The bodies of state power, the public bodies and the local government bodies shall take priority measures as per Items 12 and 13 of Article 7 (1) to equalize the opportunities of persons who are victims of multiple discrimination.

CHAPTER TWO

PROTECTION AGAINST DISCRIMINATION

Section I

Protection in Exercising the Right to Work

Article 12

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

(2) Before an employment contract is signed, the employer shall not have the right to demand from the candidate information concerning the grounds referred to in Article 4 (1), except in the cases under Article 7, or where this answers the need for screening prior to granting permission for work with classified information under the conditions and procedure of the Classified Information Safeguarding Act.

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

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

Article 13

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

(2) Where it will not lead to disproportionate difficulties in the organisation and conduct of the production process, and in cases where there exist ways to offset the objectively possible unfavourable consequences for the overall production result, the employer shall provide working conditions, in terms of working time and days off work, complying with the requirements of the religion or belief professed by a factory or office worker.

Article 14

(1) The employer shall ensure equal remuneration for equal or equivalent work.

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

(3) The assessment criteria in determining labour remuneration and the assessment of work performance shall be equal for all factory and office workers and shall be determined by collective labour agreements, or by internal rules on wages, or by the statutory terms and procedure of certifying state administration employees with no reference to the grounds under Article 4 (1).

Article 15

The employer shall provide equal opportunities to factory and office workers with no reference to the grounds under Article 4 (1) for vocational training and raising of qualifications and retraining, as well as for vocational development and promotion in position or rank by applying equal criteria in the assessment of their performance.

Article 16

The employer shall be obliged to adapt the workplace to the needs of persons with disabilities at their employment or when the disability occurs after the beginning of employment, unless the costs of such adaptation are unreasonably high and would cause serious difficulties to the employer.

Article 17

An employer who has received a complaint from a factory or office worker who believes that he/she is subject to harassment, including sexual harassment, in the workplace, shall be obliged to immediately hold an inquiry, take measures to stop the harassment, as well as to hold disciplinarily liable another factory or office worker if he/she caused the harassment.

Article 18

The employer, in cooperation with the trade unions, shall be obliged to take effective measures to prevent any form of discrimination in the workplace.

Article 19

In the event of failure to fulfil the obligation under Article 18, the employer shall bear liability under this Act for acts of discrimination committed at the workplace by a factory or office worker employed by him/her.

Article 20

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

Article 21

The employer shall apply equal criteria in exercising his/her right to unilaterally terminate the employment contract under Items 2 - 5, 10 and 11 of Article 328 (1) and Article 329 of the Labour Code, or the service relationship under Items 2, 3 and 5 of Article 106 (1) of the Civil Servants Act, notwithstanding the grounds referred to in Article 4 (1).

Article 22

The employer shall post, in a place in the enterprise accessible to the factory and office workers, the text of this Act, as well as all provisions of the internal rules and the clauses of the collective labour agreement relating to protection against discrimination.

Article 23

(1) Upon request, the employer shall provide information to a person who claims that his/her rights under this Section have been violated.

(2) The information referred to in Paragraph 1 shall contain the grounds for the decision taken by the employer, as well as other relevant data.

Article 24

(1) The employer shall be obliged, prior to employment, where this is necessary to achieve the aims of this Act, to encourage persons of a less represented gender or ethnic groups to apply to perform a given job or occupy a given position.

(2) The employer shall be obliged, other things being equal, to encourage the vocational development and participation of factory and office workers of a given gender or ethnic group where it is less represented among the factory or office workers performing a given job or holding a given position.

Article 25

The territorial units of the Employment Agency shall be obliged to ensure equal opportunities to unemployed persons to use and exercise their rights guaranteed by law, notwithstanding the grounds referred to in Article 4 (1).

Article 26

All persons shall have the right to equal terms of access to an occupation or an activity, an opportunity to perform them and develop in them, notwithstanding the grounds referred to in Article 4 (1).

Article 27

The provisions of this Section shall also apply to discrimination on the grounds of gender in voluntary service in the armed forces, except for performing activities and holding positions where gender is a determining factor.

Article 28

The provisions of this Section shall also apply respectively to service relationships.

Section II

Protection in Exercising the Right to Education and Training

Article 29

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

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

Article 30

The head of the training institution shall display in an accessible place the text of this Act and all provisions of the internal rules relating to protection against discrimination.

Article 31

Upon receiving a complaint from a student who considers himself subject to harassment by a person on the teaching or non-teaching staff or a student, the head of the training institution shall be obliged to immediately hold an inquiry and take measures to stop the harassment, as well to impose a disciplinary sanction.

Article 32

The training institutions shall take appropriate measures to equalize the opportunities for effective exercise of the right to education and training of persons with disabilities, unless the costs involved are unreasonably high and would cause serious difficulties to the institution.

Article 33

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

(2) The information referred to in Paragraph (1) shall contain the grounds for the decision taken by the head or a teacher, as well as other relevant data.

Article 34

In the event of failure to fulfil the obligation under Article 29 (2), the head of the training institution shall bear liability under this Act for discrimination at the place of training by an administrative officer, a teacher or a student.

Article 35

(1) Persons providing training and education, as well as the compilers of textbooks and learning materials, shall be obliged to give information and to apply methods of training and education in a way focused on overcoming stereotypes about the role of women and men in all spheres of social and family life.

(2) Kindergartens, schools and higher schools shall include in their educational curricula and syllabi training in problems of the equality of women and men.

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

Section III

Protection in Exercising Other Rights

Article 36

The trade unions, professional and other vocational organisations and the employers' organisations may not impose requirements for subscription, membership and participation in their activity on the grounds referred to in Article 4 (1), with the exception of the requirements for education in the case of professional and vocational organisations.

Article 37

A refusal to provide goods or services, as well as the provision of goods and services of a lower quality or on less favourable terms on the grounds referred to in Article 4 (1) shall not be allowed.

Article 38

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

Article 39

(1) If the candidates for a position in the administration are of the same standard as regards the requirements for occupying the said position, the state and public bodies and the local government bodies shall employ the candidate of the less represented gender until it reaches at least 40 per cent representation in the respective administrative units.

(2) Paragraph (1) shall also apply also to the selection of participants in, or members of, boards, expert working groups, governing, advisory or other bodies, except when those participants are elected by vote.

CHAPTER THREE

COMMISSION FOR PROTECTION AGAINST DISCRIMINATION

Article 40

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

(2) The Commission shall exercise control over the implementation of, and compliance with, this or other Acts regulating equal treatment.

(3) The Commission shall be a legal person financed from the budget with its head office in Sofia.

(4) The Commission shall present a report on its activity to the National Assembly not later than March 31 of every year, which shall include information on the activity of each of its standing specialised panels.

Article 41

(1) The Commission shall consist of nine persons, of whom at least four shall be jurists. The National Assembly shall elect five members, including the Chairperson and the Deputy Chairperson of the Commission, and the President of the Republic of Bulgaria shall appoint four members of the Commission.

(2) The members of the Commission shall serve for a five-year term.

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

Article 42

(1) Only a Bulgarian citizen may be a member of the Commission, provided he/she has:

1. graduated from a university;
2. knowledge and experience in the field of human rights protection;
3. not been convicted of an intentional public-law offence.

(2) A member of the Commission may not:

1. be a merchant, managing director, managerial agent, member of a governing or controlling body of a commercial corporation or a co operative, a trustee in bankruptcy or a liquidator;

2. hold another paid position, except when he/she is engaged in scientific or activity;

3. be a member of a governing body of a political party.

Article 43

The time during which the person has worked as a member of the Commission shall be acknowledged as length of office work as per the Civil Servants Act.

Article 44

(1) The powers of a member of the Commission shall be terminated early:

1. at the member's request;
2. in the event of the member's incapacity to perform his/her duties for more than six months;
3. in the event of conviction for an intentional public-law offence;
4. in cases of incompatibility.

(2) Should the grounds under Paragraph (1) occur, the Chairperson of the Commission or his Deputy shall make a reasoned proposal for dismissal to the National Assembly or to the President of the Republic of Bulgaria.

(3) Within one month of the termination of the powers under Paragraph (1), the National Assembly or the President of the Republic of Bulgaria shall elect, or appoint, respectively, a new member of the Commission, who shall perform the mandate of the dismissed member.

Article 45

(1) The Chairperson of the Commission shall receive a basic monthly remuneration equal to three average monthly salaries of those employed under a labour and office work employment relationship in the public sector in accordance with data from the National Statistical Institute.

(2) The Deputy Chairperson of the Commission and the members of the Commission shall receive a basic monthly remuneration equal to, respectively, 80 per cent and 75 per cent of the remuneration of the Chairperson of the Commission.

Article 46

(1) The Commission shall adopt Rules of Organisation and Procedure, which shall be promulgated in the State Gazette.

(2) The Commission shall be assisted in its work by an administration, whose structure, functions and staff number shall be determined by the Rules referred to in Paragraph (1).

Article 47

(1) The Commission for Protection against Discrimination shall:

1. ascertain violations of this or other Acts regulating equal treatment, the perpetrator of the violation and the aggrieved person;

2. decree prevention and termination of the violation and restoration of the original situation;

3. impose the sanctions envisaged and implement administrative enforcement measures;

4. issue mandatory directions for compliance with this or other Acts regulating equal treatment;

5. appeal against administrative acts decreed in contravention of this or other Acts regulating equal treatment, bring action in court and join as a concerned party in proceedings instituted under this or other Acts regulating equal treatment;

6. make proposals and recommendations to the state and municipal authorities to discontinue discrimination practices and revoke their acts issued in violation of this or other Acts regulating equal treatment;

7. maintain a public register of its decisions and mandatory directions which have entered into force;

8. issue opinions on the conformity of draft statutory act with the legislation on prevention of discrimination, as well as recommendations for adoption, revocation, amendment and supplementing of statutory acts;

9. provide independent assistance to victims of discrimination filing complaints against discrimination;

10. conduct independent research into discrimination;

11. publish independent reports and make recommendations on all matters relating to discrimination;

12. perform other competencies laid down in its Rules of Organisation and Procedure.

Article 48

(1) The Commission shall consider and take decisions on the case files submitted to it in panels determined by the Chairperson of the Commission.

(2) The Chairperson of the Commission shall appoint standing panels specialising in matters of discrimination:

1. on ethnic and racial grounds;

2. on the grounds of gender;
3. on other grounds referred at in Article 4 (1).

(3) Cases of multiple discrimination shall be considered by an enlarged five-member panel.

Article 49

(1) The Chairperson of the Commission shall:

1. represent the Commission, organise and direct its operation;
2. conclude employment contracts and appoint civil servants in the administration;
3. implement the budget of the Commission.

(2) The Deputy Chairperson shall assist the Chairperson of the Commission in the performance of his/her functions and shall deputize for him/her when the latter is absent.

CHAPTER FOUR

PROCEEDINGS FOR PROTECTION AGAINST DISCRIMINATION

Section I

Proceedings before the Commission for Protection against Discrimination

Article 50

(1) Proceedings before the Commission shall be instituted on:

1. a complaint by the aggrieved persons;
2. the initiative of the Commission;
3. tip-offs from natural and legal persons, state and municipal authorities.

Article 51

(1) The complaint or tip-off to the Commission shall be in writing. If they are written in a foreign language, they shall be accompanied by a translation in Bulgarian.

(2) The complaint or tip-off must contain:

1. the name or designation of the person submitting it;
2. the address or the registered office and address of the place of management of the person submitting it;
3. a statement of the circumstances on which the complaint or tip-off is based;
4. a statement of requests to the Commission;
5. dates and the signature of the person submitting the complaint or of his/her representative.

(3) Anonymous complaints or tip-offs shall not be considered by the Commission.

Article 52

(1) Proceedings shall not be instituted, and those already instituted shall be terminated, if three years have passed since the violation was committed.

(2) Should the Commission find that proceedings have been instituted in court on the same dispute, it shall not institute, or shall terminate the proceedings instituted before it.

Article 53

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

(2) Any expenses incurred during the proceedings shall be covered by the budget of the Commission.

Article 54

(1) After the institution of proceedings, the Chairperson of the Commission shall transfer the case file to a panel, which shall appoint a rapporteur from among its members.

Article 55

(1) The rapporteur shall start an investigation in which he/she shall collect written evidence necessary for the full and comprehensive clarification of the circumstances, using officers and outside experts.

(2) All persons, state and local authorities shall assist the Commission in the course of the investigation and shall be obliged to provide the required information and documents, and to give the necessary explanations.

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

(4) Should there be grounds for access to classified information, it shall be provided under the conditions and procedure of the Classified Information Safeguarding Act.

Article 56

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

1. demand documents and other information related to the investigation;
2. demand explanations from the persons investigated about matters relating to the investigation;

3. question witnesses.

(2) In the event of refusal to provide information required by the Commission, or in the event of refusal to give access to premises, as well as in other cases of not assisting the Commission, the culprits shall bear liability under this Act.

Article 57

(1) Where there is a danger that evidence may be lost or concealed or where the collection of evidence is particularly difficult, compulsory collection of evidence may be effected at the complainant's request from the persons or the premises where it is found.

(2) The compulsory collection of evidence under Paragraph (1) shall be done by permission of a Sofia City Court judge upon a request by the Chairperson of the Commission.

(3) On the day the request is entered, the judge shall issue an order which shall be enforceable forthwith.

(4) The rapporteur on the case file shall collect the evidence in co operation with the bodies of the Ministry of Interior.

(5) During the compulsory collection of evidence, the Commission may:

1. inspect sites for the purposes of the investigation;
2. collect instruments of evidence for the purposes of the investigation.

(6) The substantial evidence and the originals of the documents seized shall be returned to the persons they were seized from after the case file is closed.

Article 58

(1) The documents collected and the information received shall be used solely for the purposes of the investigation.

(2) The members of the Commission, as well as the officers and the outside experts, shall be obliged not to divulge information constituting a secret protected by the law, which has come to their knowledge while, or in connection with, the performance of their activity.

Article 59

(1) The investigation shall be conducted within a term of 30 days. In cases of factual and legal complexity, the term may be extended by up to 30 days by an order of the Chairperson of the Commission.

(2) After completion of the investigation, the parties shall be given an opportunity to get acquainted with the case file material collected.

(3) Should information on a committed offence be ascertained in the process of the investigation, the Commission shall send the case file to the prosecution office.

Article 60

(1) The rapporteur shall draw up a conclusion and submit the case file to the Chairperson of the panel, who shall call a meeting within seven days.

(2) The parties shall be summoned and the persons concerned shall be notified under the conditions and procedure of the Code of Civil Procedure.

Article 61

(1) The meetings of the Commission shall be open.

(2) Meetings may be held behind closed doors on the grounds and under the conditions and procedure of Article 105 (3) of the Code of Civil Procedure.

(3) Members of the panel may be discharged on the grounds and under the conditions and procedure of Chapter Three of the Code of Civil Procedure.

Article 62

(1) At the first meeting the rapporteur shall call the parties to conciliation. Should the parties agree, the rapporteur shall call a meeting for conciliation proceedings.

(2) Should the parties reach a settlement on the basis of equal treatment during the conciliation proceedings, the Commission shall approve it by a decision and shall close the case file.

(3) Where a settlement is reached for part of the dispute, the proceedings shall continue for the part on which no settlement was reached.

(4) The settlement approved by the Commission shall be enforceable, with the Commission exercising control over compliance with the settlement.

Article 63

(1) Where it is found that the circumstances of the case have been clarified, the chairperson of the panel shall provide an opportunity to the parties to issue an opinion.

(2) Following the factual and legal clarification of the dispute, the Chairperson of the panel shall close the meeting and shall announce the day for pronouncement of a decision.

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

Article 64

(1) Decisions shall be taken by a simple majority of the members of the panel and shall be signed by them.

(2) A member of the panel who does not agree with the decision of the majority shall sign the decision with a dissenting opinion, which he/she shall motivate.

Article 65

By the decision decreed the panel shall:

1. ascertain the violation committed;
2. ascertain the offender and the aggrieved person;
3. determine the type and amount of the sanction;
4. enforce compulsory administrative measures;
5. ascertain that no violation of the law has been committed and leave the complaint without consideration.

Article 66

The decision shall be in writing and shall contain:

1. the name of the authority issuing it;
2. the factual and legal grounds for issuing it;
3. an optional part, which shall determine the type and amount of the sanction or the compulsory administrative measure, if one should be imposed;
4. the authority before, and the term within, which the decision may be appealed.

Article 67

(1) The Commission shall control compliance with the compulsory administrative measures.

(2) The person on whom a sanction or a compulsory administrative measure has been imposed shall be obliged to take measures to implement the mandatory directions and to notify the Commission thereof in writing within a period specified in the decision, which may not be longer than one month.

(3) Should officials fail to implement the mandatory directions, the Commission shall send a report containing proposals for relevant actions to the respective state and municipal authorities.

(4) The Commission may send the decision to other bodies interested in the completed investigation, for information and/or to take relevant actions.

Article 68

(1) (Amended, SG No. 30/2006) The Commission's decisions shall be appealable to the Supreme Administrative Court under the conditions and procedure of the Administrative Procedure Code within 14 days of communicating them to the persons concerned.

(2) There shall be no time limit for an appeal for nullification of the decision.

Article 69

The decisions of the Commission shall become effective when:

- (1) they have not been appealed against within the time limit set;
- (2) the appeal submitted has not been taken into consideration;
- (3) the decision confirms the settlement reached by the parties.

Article 70

(1) (Amended, SG No. 30/2006) Any matters not provided for by this Section shall be governed by the provisions of the Administrative Procedure Code.

(2) (Amended, SG No. 105/2005) Any fines and pecuniary penalties under decisions of the Commission which have come into effect shall be collected under the conditions and procedure of the Tax and Social Insurance Procedure Code .

Section II

Judicial Proceedings

Article 71

(1) In cases other than those referred to in Section I, any person whose rights under this or other Acts regulating equal treatment have been violated may bring an action in the Regional Court demanding:

1. the violation to be ascertained;
2. the respondent to be sentenced to terminate the violation and to restore the status quo ante the violation, as well as to refrain from further violations in future;
3. compensation for damage.

(2) Trade union organisations and their units, as well as non-profit legal persons engaged in activity of benefit to the public, may bring action in court upon request from persons whose rights have been violated. These organisations may join as an interested party a pending legal action under Paragraph (1).

(3) In cases of discrimination where the rights of many people have been violated, the organisations under Paragraph (2) may bring an action on their own. The persons whose rights have been violated may join the legal action as an assisting party as per Article 174 of the Code of Civil Procedure.

Article 72

(1) The persons referred to in Article 71 (1 and 2) may, within one month of bringing action, publish this fact in print or by other written means of their own choice by sending an invitation to other aggrieved persons, trade union organisations and their units, as well as to non-profit legal persons engaged in activity of benefit to the public, to join the proceedings

(2) The persons under Paragraph (1) may join the proceedings until and up to the completion of the oral pleadings.

Article 73

(Amended, SG No. 30/2006)

Any person whose rights have been violated by an administrative act issued in contravention of this or other Acts regulating equal treatment may appeal against it before the court under the conditions and procedure laid down by the Administrative Procedure Code .

Article 74

(1) In cases under Section I, any person who has suffered damage from a violation of rights under this or other Acts regulating equal treatment may claim compensation under the general procedure against the persons and/or the authorities that inflicted the damage.

(2) Where damage has been inflicted to persons by unlawful acts, actions or lack of actions of state bodies and officials, compensation shall be claimed under the conditions and procedure of the Act on the Liability Incurred by the State for Damage Inflicted on Citizens.

Article 75

(1) Any matters not provided for by this Section shall be governed by the provisions of the Code of Civil Procedure.

(2) No stamp duty shall be collected for court proceedings under this Act and any expenses shall be covered from the court budget.

CHAPTER FIVE

COMPULSORY ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENAL PROVISIONS

Section I

Compulsory Administrative Measures

Article 76

(1) For prevention or termination of violations under this or other Acts regulating equal treatment, as well as for prevention or elimination of the harmful consequences of such violations, the Commission, on its own initiative or on a proposal of trade union organisations, natural or legal persons may apply the following compulsory administrative measures:

1. issue mandatory directions to employers and officials to eliminate violations of the legislation for prevention of discrimination;

2. stay the execution of unlawful decisions or orders of employers or officials which lead or may lead to discrimination;

(2) Where, in cases under Paragraph 1, on one and the same matter a mandatory direction has been issued and come into effect and a court decision has come into effect and the two contradict each other, the court decision shall be executed.

Article 77

The Commission's decisions for application of compulsory administrative measures under this Section may be appealed under the conditions and procedure of Article 68. The appeal shall not stop the execution of the compulsory administrative measure unless the court orders otherwise.

Section II

Administrative Penal Provisions

Article 78

(1) A person who commits discrimination as per this Act shall be punished by a fine of BGN 250 to 2,000, unless he/she is liable to more severe punishment.

(2) A person who fails to present in time evidence or information requested by the Commission, or impedes or fails to give access to sites subject to examination, shall be punished by a fine of 500 to 2,000 BGN.

Article 79

A duly summonsed witness who fails, without good reason, to appear before the Commission to testify, shall be punished by a fine of BGN 40 to 100.

Article 80

(1) A person who fails to perform an obligation arising from this Act shall be punished by a fine of 250 to 2,000 BGN, unless he/she is liable to more severe punishment.

(2) Where the violation has been committed in the performance of the activity of a legal person, a pecuniary penalty of BGN 250 to 2,500 shall be imposed on the latter.

(3) Where the head of a legal person - an employer - has allowed a violation to be committed under Paragraph (1), he/she shall be punished by a fine of BGN 200 to 2,000, unless he/she is liable to more severe punishment.

Article 81

Where the violations under Articles 78 - 80 are repeated, a fine, respectively a pecuniary penalty, shall be imposed, which shall be double the amount of the fine or pecuniary penalty first imposed.

Article 82

(1) A person who fails to implement a decision of the Commission or the court issued under this Act shall be punished by a fine of BGN 2,000 to 10,000, unless he/she is liable to more severe punishment.

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

Article 83

Any monies collected from fines and pecuniary penalties imposed under the conditions and procedure of this Section shall be contributed to the executive budget.

Article 84

(1) Statements ascertaining violations shall be drawn up by Commission members nominated by the Chairperson of the Commission.

(2) (Amended, SG No. 30/2006) Punishments shall be imposed by a decision of the Commission for Protection against Discrimination, which punishments may be appealed under

the conditions and procedure of the Administrative Procedure Code. An appeal shall stop the execution of the contested decision.

(3) Any matters not provided for by this Section shall be governed by the Administrative Violations and Sanctions Act.

ADDITIONAL PROVISION

§ 1. For the purposes of this Act:

(1) "Harassment" shall mean any unwanted physical, verbal or other conduct on the grounds referred to in Article 4 (1), aimed at, or resulting in, a violation of a person's dignity and the creation of a hostile, offensive or intimidating environment.

(2) "Sexual harassment" shall mean any unwanted physical, verbal or other conduct of a sexual nature, which violates dignity or honour and creates a hostile, offensive, degrading or intimidating environment, and in particular where refusal to accept such conduct or the compulsion thereto may influence the taking of decisions affecting the person.

(3) "Persecution" shall mean:

a) less favourable treatment of a person who has taken, or is assumed to have taken or will take, action in defence against discrimination;

b) less favourable treatment of a person when a person connected with him/her has taken, or is assumed to have taken or will take, actions for protection against discrimination;

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

(4) "Actions for protection against discrimination" may include: filing a complaint or a tip-off, bringing an action, or testifying in proceedings for protection against discrimination.

(5) "Incitement to discrimination" shall mean directly and intentionally encouraging, instructing, putting pressure or prevailing upon someone to discriminate, where the inciter is in a position to influence the person incited.

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

(7) "Less favourable treatment" shall mean any act, action or inaction which directly or indirectly affects rights or legal interests.

(8) "On the grounds referred to in Article 4 (1)" shall mean on the grounds of actual, past or present, or presumed presence of one or more of these characteristics in the person discriminated against or in a person connected or presumably connected with him/her, where this connection constitutes a reason for discrimination.

(9) "Connected persons" shall mean spouses, lineal relatives - without limitation, collateral relatives up to the fourth degree inclusive, and relatives by affinity up to the third degree inclusive; the guardian and the custodian; the ward of a guardian or a custodian; cohabitants; employer and employee; persons where one participates in the management of the other's company; business partners; persons who, because of other circumstances, may be considered directly or indirectly dependent on the aggrieved person and this connection is the reason for discrimination; persons on whom the aggrieved person may be directly or indirectly dependent and this connection is the reason for discrimination; persons accompanying the aggrieved person at the moment of commission of an act of discrimination, where this connection is the reason for discrimination.

(10) "Sexual orientation" shall mean heterosexual, homosexual or bisexual orientation.

(11) "Multiple discrimination" shall mean discrimination on grounds consisting of more than one characteristic referred to in Article 4 (1).

(12) "Repeat violation" shall mean a violation committed within one year of the entry into force of a decision whereby the offender was punished for the same type of violation.

(13) "Marital status" shall mean the status of a spouse or factual co habitation and taking care of a descendant, ascendant or collateral relative up to the third degree who is a dependant due to age or disability.

(14) (New, SG No. 70/2004 - effective 1.01.2005) "Human genome" is the sum total of all genes in a single (diploid) set of chromosomes of an individual.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. Within three months of the entry into force of this Act the National Assembly shall elect and the President shall appoint their respective quotas of members of the Commission.

§ 3. Within three months of determining the composition under § 2, the Commission shall adopt the Rules of Organisation and Procedure referred to in Article 46 (1).

§ 4. § 4. This Act shall repeal:

1. Item 7 of Paragraph (1) of the Supplementary Provisions of the Labour Code, (promulgated, SG Nos. 26 and 27/1986, amended and supplemented, SG No. 6/1988, SG Nos. 21, 30 and 94/1990, SG Nos. 27, 32 and 104/1991, SG Nos. 23, 26, 88 and 100/1992, SG No. 69/1995 Constitutional Court Decision No. 12/1995; amended, SG No. 87/1995, SG Nos. 2, 12 and 28/1996, SG No. 124/1997, SG No. 22/1998, SG No. 52/1998 - Constitutional Court Decision No. 11/1998; amended, SG Nos. 56, 83, 108 and 133/1998, SG Nos. 51, 67 and 110/1999, SG No. 25/2001, SG Nos. 1, 105 and 120/2002, SG No. 18/2003);

2. Article 5a (3) of the Protection, Rehabilitation and Social Integration of Disabled Persons Act (promulgated, SG No. 112/1995; supplemented, SG No. 110/1996; amended, SG No. 123/1997, SG No. 140/1998 - Constitutional Court Decision No. 31/1998; amended, SG No. 153/1998, SG No. 31/2001, SG Nos. 75 and 120/2002);

3. Items 19 and 20 of Paragraph (1) of the Supplementary Provision of the Employment Promotion Act (promulgated, SG No. 112/2001; amended, SG Nos. 54 and 120/2002, SG No. 26/2003).

§ 5. In Article 20 (2) of the Public Education Act (promulgated, SG No. 86/1991; amended, SG No. 90/1996, SG Nos. 36, 124 and 153/1998, SG Nos. 67 and 68/1999, SG Nos. 90 and 95/2002, SG Nos. 29 and 71/2003) "by specialised methods of learning the Bulgarian language" shall be added at the end.

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

§ 7. Within three months of the entry into force of this Act the Minister of Labour and Social Policy and the Minister of Defence shall issue the ordinances referred to in Article 7 (2).

§ 8. This Act shall be in force as of January 1, 2004.

This Act was adopted by the 39th National Assembly on September 16, 2003 and the State Seal has been affixed thereto. The enforcement of this Act shall be assigned to the Council of Ministers