

PROTECTION AGAINST DISCRIMINATION ACT

Chapter One

GENERAL PROVISIONS

Art. 1. This Act shall govern the protection against all forms of discrimination and shall facilitate its prevention.

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

1. equality before the law;
2. equality of treatment and of opportunities to participate in the life of society;
3. effective protection against discrimination.

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

(2) Associations of individuals, as well as legal entities, shall have the rights provided for under this Act where discriminated against on the grounds under Art. 4 (1) with respect to their members or employees.

Art. 4. (1) All direct or indirect discrimination on the grounds of sex, race, extraction, ethnicity, nationality, origin, religion or faith, education, beliefs, political affiliation, personal or public status, disability, age, sexual orientation, family status, property status, or any other ground provided for by law or international treaty the Republic of Bulgaria is a party to, shall be prohibited.

(2) Direct discrimination shall be treating a person on grounds provided for under Art. 4 (1) less favourably than another person is treated, has been treated, or would be treated in comparable circumstances.

(3) Indirect discrimination shall be putting a person on the grounds under Art. 4 (1), through an apparently neutral provision, criterion or practice, at a disadvantage compared with other persons, unless such provision, criterion or practice is objectively justified by a legitimate aim and the means for achieving that aim are appropriate and necessary.

Art. 5. Harassment on the grounds under Art. 4 (1), sexual harassment, incitement to discrimination, victimisation and racial segregation, as well the construction and maintenance of an architectural environment hindering the access of persons with disabilities to public places shall be deemed to be discrimination.

Art. 6. The prohibition of discrimination shall be binding on all in the exercise and protection of the rights and freedoms provided for under the Constitution and laws of the Republic of Bulgaria.

Art. 7. The following shall not constitute discrimination:

1. different treatment of persons on grounds of their nationality, or lack of nationality where provided for by law or international treaty the Republic of Bulgaria is a party to;
2. different treatment of persons based on a characteristic related to the grounds under Art. 4 (1) where, by reason of the nature of a particular occupation or activity, or of the conditions it is carried out in, such a characteristic constitutes an essential and determining occupational requirement, the aim is legitimate and the requirement does not exceed what is necessary to accomplish it;
3. different treatment of persons on grounds of religion, faith or gender with respect to an occupation carried out in religious institutions or organisations where, by reason of the nature of the occupation, or of the conditions it is carried out in, religion, faith or gender constitutes an essential and determining professional requirement in view of the nature of the institution or organisation, where the aim is legitimate and the requirement does not exceed the necessary to accomplish it;
4. different treatment of persons on the basis of religion, faith or gender in religious education or training, including training or education for the purposes of carrying out an occupation under subsection 3 above;
5. the fixing of requirements for minimum age, professional experience or length of service for recruitment or for access to certain advantages linked to employment, provided that it is objectively justified by a legitimate aim and the means to accomplish it do not exceed the necessary;
6. the fixing of maximum age requirements for recruitment linked to the training requirements of the post in question, or the need for a reasonable period of employment before retirement, provided that it is objectively justified by a legitimate aim and the means

to accomplish it do not exceed the necessary;

7. special protection measures benefiting pregnant women and mothers provided for by law, unless a pregnant woman or mother wishes not to benefit from such measures, having so advised her employer in writing;

8. requirements for age and length of service provided for by law for purposes of retirement;

9. measures provided for under the Promotion of Employment Act;

10. different treatment of persons with disabilities in training or education aimed at meeting their special educational needs in order to equalise their opportunities;

11. the fixing of requirements for minimum and maximum age for access to training or education provided that it is objectively justified by a legitimate aim in view of the nature of the training or education, or the conditions it is carried out in, and the means to accomplish such aim do not exceed the necessary;

12. measures in the fields of training and education aimed at guaranteeing the proportionate participation of women and men, as far and as long as such measures are necessary;

13. special measures benefiting disadvantaged persons or groups on the grounds under Art. 4 (1) aimed at equalising their opportunities, as far and as long as such measures are necessary;

14. special protection measures provided for by law benefiting parentless children, minors, single parents and persons with disabilities;

15. measures aimed at protecting the specific identity of persons belonging to ethnic, religious and linguistic minorities, and their right, alone or with other members of their groups, to preserve and develop their culture, to profess and exercise their religion, and to use their language;

16. measures in the fields of training or education aimed at guaranteeing the participation of persons belonging to ethnic minorities, as far and as long as such measures are necessary.

(2) The list of occupational activities for which gender is an essential and determining professional requirement within the meaning of section (1), subsection 2 shall be determined by:

1. ordinance of the Minister of Labour and Social Policy in coordination with the Minister of Internal Affairs. This list shall be brought into line with emerging transformations of the

labour market by being revised at least once every three years;

2. ordinance of the Minister of Defense, regarding professional military service activities and posts.

Art. 8. Persons who consciously abetted acts of discrimination shall be liable under this Act.

Art. 9. In protection against discrimination proceedings, after the party alleging to be a victim of discrimination establishes facts from which it may be inferred that discrimination is at hand, the respondent party must prove that the right to equal treatment was not breached.

Art. 10. In the course of exercising of their powers, state and local government bodies shall take all possible and necessary measures in order to accomplish the aims of this Act.

Art. 11. (1) Where necessary in order to accomplish the aims of this Act, state and local government bodies, as well as public bodies, shall take measures within the meaning of Art. 7 (1.13) and (1.15).

(2) State and local government bodies, and public bodies shall take, as a priority, measures within the meaning of Art. 7 (1.13) and (1.15) in order to equalise opportunities for victims of multiple discrimination.

Chapter Two

PROTECTION AGAINST DISCRIMINATION

Title I

Protection in the exercise of labour rights

Art. 12 (1) Announcing a vacancy, an employer shall have no right to set requirements linked to the grounds under Art. 4 (1), except in cases under Art. 7.

(2) Before concluding an employment contract, an employer shall have no right to require from an applicant information concerning the grounds under Art. 4 (1), except in cases under Art. 7, or where this is needed for an inquiry for purposes of obtaining a permit to

work with classified information under the terms and conditions of the Protection of Classified Information Act.

(3) An employer shall have no right to refuse employment because of pregnancy, maternity or childbearing.

(4) An employer shall have no right to refuse employment, or to employ a person under less favourable terms or conditions, on the grounds under Art. 4 (1), except in cases under Art. 7.

Art. 13. (1) An employer shall ensure equal working conditions without regard to the grounds under Art. 4 (1).

(2) Where any adverse impact on the overall output can be compensated for, an employer shall ensure working hours and days of rest in line with the requirements of employees' religion or faith, unless it will excessively burdens the organisation and implementation of the production process.

Art. 14. (1) An employer shall ensure equal remuneration for the same work or work of equal value.

(2) Section (1) shall apply to all forms of remuneration, paid directly or indirectly, in cash or in-kind.

(3) In determining remunerations, performance assessment criteria shall be the same for all employees, and shall be determined under collective employment agreements or by internal work salary rules, or by statutory terms and conditions for assessment of civil servants, without regard to the grounds under Art. 4 (1).

Art. 15. An employer shall provide employees with equal opportunities for vocational training, advanced vocational training and retraining, as well as for professional advancement and promotion in post or rank, applying the same performance assessment criteria, without regard to the grounds under Art. 4 (1).

Art. 16. Upon recruitment, or where disability occurs during employment, an employer shall adapt the workplace to the needs of a person with disabilities, unless the cost is

excessive and would seriously burden the employer.

Art. 17. Upon receipt of a complaint by an employee alleging to be a victim of harassment, including sexual harassment, in the workplace, an employer shall immediately make a check, take measures to terminate any harassment, and impose disciplinary liability where harassment was committed by an employee.

Art. 18. An employer shall take, in cooperation with trade unions, effective measures to prevent all forms of discrimination in the workplace.

Art. 19. In case of a failure to fulfil the duty under Art. 18, an employer shall be liable under this Act for acts of discrimination committed in the workplace by an employee.

Art. 20. Imposing disciplinary sanctions, an employer shall apply the same criteria without regard to the grounds under Art. 4 (1).

Art. 21. Exercising the right to unilateral termination of an employment contract under Art. 328 (1.2-1.5), (1.10), (1.11), and Art. 329 of the Labour Code, or of a civil service contract under Art. 106 (1), (2), (3) and (5) of the Civil Servant Act, an employer shall apply the same criteria without regard to the grounds under Art. 4 (1).

Art. 22. An employer shall display the text of this Act, as well as all internal rules and collective employment agreement clauses pertaining to protection against discrimination in the workplace, where it is accessible to employees.

Art. 23. (1) Upon demand, an employer shall provide information to a person alleging a violation of his/her rights under this Title.

(2) The information under section (1) shall contain the grounds for any decision made by the employer, as well as other relevant data.

Art. 24. (1) Where necessary to accomplish the aims of this Act, an employer shall encourage job applications from persons belonging to the underrepresented sex or ethnic group.

(2) Where all other conditions are equal, an employer shall encourage the professional advancement and participation of employees belonging to a particular sex or ethnic group where that sex or ethnic group is underrepresented among the employees performing a particular job, or occupying a particular post.

Art. 25. The Employment Agency's territorial branches shall ensure equal opportunities for unemployed persons in the use and exercise of their statutory rights without regard to the grounds under Art. 4 (1).

Art. 26. Individuals shall be entitled to equal conditions on access to a profession or occupation, as well as equal opportunities to practice and advance in a profession or occupation without regard to the grounds under Art. 4 (1).

Art. 27. (1) The provisions of this Title shall also apply to sex discrimination in professional military service, except for activities and posts where sex is a determining factor.

Art. 28. The provisions of this Title shall apply, *mutatis mutandis*, to civil service.

Title II

Protection in the exercise of the right to education and training

Art. 29. (1) The Minister of Education and Science, and local government bodies shall take such measures as are necessary to exclude racial segregation in educational institutions.

(2) A director of an educational institution shall take effective measures to prevent all forms of discrimination in the study place by members of the teaching or administrative staff, or by students.

Art. 30. A director of an educational institution shall display the text of this Act, as well as all internal rules pertaining to protection against discrimination in an accessible place.

Art. 31. Upon receipt of a complaint by a student alleging to be a victim of harassment by a member of the teaching or administrative staff, or by another student, a director of an

educational institution shall immediately make a check, take measures to terminate any harassment, and impose disciplinary liability.

Art. 32. Educational institutions shall take appropriate measures to compensate for persons with disabilities' limited opportunities for effective exercise of their rights to education and training, unless the cost is excessive and would serious burden the institution

Art. 33. (1) Upon demand, a director of an educational institution shall provide information to a person alleging a violation of his/her rights under this Title.

(2) The information under section (1) shall contain the grounds for any decision made by the director, or by a member of the teaching staff, as well as other relevant data.

Art. 34. In case of a failure to fulfil the duty under Art. 29 (2), a director of an educational institution shall be liable under this Act for acts of discrimination in the study place committed by a member of the teaching or administrative staff, or a student.

Art. 35. (1) Providers of training or education, and drafters of textbooks and teaching materials shall present information and apply methods of training and education in a manner designed to overcome stereotypes of the roles of women and men in all spheres of public and family life.

(2) Nurseries, schools and higher education institutions shall include in their curricula and plans teaching on issues of equality between women and men.

(3) Section (1) shall also apply to overcoming negative stereotypes of racial, ethnic and religious groups, and persons with disabilities.

Title III

Protection in the exercise of other rights

Art. 36. Trade unions, guilds and other professional organisations and employers' organisations shall not set conditions on subscription, membership or participation in their

activities on the grounds under Art. 4 (1), except for education requirements in the case of guilds and professional organisations.

Art. 37. No refusal to provide goods or services, or any provision of goods or services of lesser quality, or under worse conditions on the grounds under Art. 4 (1) shall be allowed.

Art. 38. State and local government bodies, as well as public bodies shall pursue a policy of promoting balanced participation of women and men, and representative participation of persons belonging to ethnic, religious or linguistic minorities in governance and decision-making.

Art. 39. (1) Where applicants for an administrative post are equivalent with regard to the requirements for occupying such post, state, public, and local government bodies shall employ the candidate of the underrepresented sex until a 40% representation of that sex is achieved in the administrative unit in question.

(2) Section (1) shall also apply to selection of participants and members of boards, expert working groups, governing, consultative or other bodies, except for elected participants.

Chapter Three

PROTECTION AGAINST DISCRIMINATION COMMISSION

Art. 40. (1) The Protection against Discrimination Commission, hereinafter called 'the Commission,' shall be an independent specialised state body for the prevention and protection against discrimination, and for the safeguarding of equal opportunities.

(2) The Commission shall oversee the implementation and compliance with this Act, as well as other laws governing equal treatment.

(3) The Commission shall be a legal entity funded by the state budget and based in Sofia.

(4) Not later than March 31 each year, the Commission shall present a report on its activity to the National Assembly, including information on the activities of each of its permanent specialised panels.

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

(2) Once fixed the Commission's composition, the National Assembly shall elect the Commission's chairperson and vice-chairperson.

(3) The term of office of Commission members shall be 5 years.

(4) The principles of balanced participation of women and men, and of participation of persons belonging to ethnic minorities shall be respected in electing, or appointing Commission members.

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

1. has completed a higher education degree;
2. possesses knowledge and experience in human rights protection;
3. was not convicted for a deliberate officially prosecuted crime.

(2) A Commission member may not:

1. be a merchant, a manager, a procurator, a member of an executive or control body of a commercial partnership or a co-operative, a bankruptcy trustee, or a liquidator;
2. hold another paid post, except for the carrying out of scientific activities;
3. be a member of a political party's governing body.

Art. 43. The period during which a person serves as a Commission member shall be acknowledged as length of service within the meaning of the Civil Servant Act.

Art. 44. (1) A Commission member's powers shall be terminated prior to expiry of his/her term of office:

1. upon his/her request;
2. in case of inability on his/her parties to discharge duties for a period longer than 6 months;
3. upon his/her conviction for a deliberate officially prosecuted crime;
4. in cases of incompatibility.

(2) In cases under section (1), the Commission's chairperson, or vice-chairperson, shall, stating the reasons, make a proposal for dismissal to the National Assembly, or to the President of the Republic.

(3) Within one month as of termination of powers within the meaning of section (1), the National Assembly, or the President of the Republic of Bulgaria shall elect, respectively, appoint a new member of the Commission to carry out the dismissed member's mandate.

Art. 45. (1) The Commission's chairperson shall receive a basic monthly remuneration in the amount of three average monthly civil servant salaries pursuant to National Statistics Institute data.

(2) The Commission's vice-chairperson shall receive a basic monthly remuneration in the amount of 80 %, and the Commission members - 75 %, of the Commission's chairperson's remuneration;

Art. 46. (1) The Commission shall adopt regulations on its structure and activity, to be published in the Official Gazette.

(2) The Commission's activity shall be assisted by an administration, the structure, functions and numbers of which shall be fixed under the regulations under section (1).

Art. 47. (1) The Protection against Discrimination Commission shall:

1. make a finding of a breach of this or other laws governing equal treatment, and establish the perpetrator and affected party;
2. order prevention or termination of a breach, and restitution of the status quo ante;
3. impose the sanctions and compulsory administrative measures envisaged;
4. issue binding instructions aimed at ensuring compliance with this or other laws governing equal treatment;
5. appeal against administrative acts contravening this or other laws governing equal treatment, bring judicial action, and, as an interested party, join judicial proceedings brought under this or other laws governing equal treatment;
6. make proposals and recommendations to state and local government bodies to

terminate discriminatory practices and to repeal acts contravening this or other laws governing equal treatment;

7. keep a public register of its final decisions and binding instructions;

8. give opinions on draft legislation's conformity with antidiscrimination legislation, and make recommendations for the adoption, repeal, amendment, or supplementation of legislation;

9. provide independent assistance to victims of discrimination in making complaints about discrimination;

10. conduct independent surveys;

11. publish independent reports and make recommendations on any issue relating to discrimination;

12. carry out activities provided for under the Regulations on the Commission's structure and activities.

Art. 48. (1) The Commission shall hear and decide cases sitting in panels appointed by the Commission's chairperson.

(2) The Commission's chairperson shall appoint permanent panels to specialise in:

1. racial and ethnic discrimination;

2. sex discrimination;

3. discrimination on other grounds under Art. 4 (1).

(3) Cases of multiple discrimination shall be heard by an extended panel consisting of 5 members.

Art. 49. (1) The Commission's chairperson shall:

1. represent the Commission, and organise and steer its work;

2. conclude employment contracts and appoint civil servants in the administration;

3. execute the Commission's budget;

(2) The vice-chairperson shall assist the chairperson in the discharge of the latter's functions his functions and shall act as a replacement when the latter is absent.

Chapter Four

PROTECTION AGAINST DISCRIMINATION PROCEEDINGS

Title I

PROCEEDINGS BEFORE THE PROTECTION AGAINST DISCRIMINATION COMMISSION

Art. 50. (1) Proceedings before the Commission shall be instituted upon:

1. complaint by an affected party;
2. the Commission's own motion;
3. signal by individuals or entities, or state or local government bodies.

Art. 51. (1) A complaint or a signal to the Commission shall be filed in writing. Where written in a foreign language, it shall be accompanied by a translation in Bulgarian.

(2) A complaint or a signal shall contain:

1. the name of the submitter;
2. the address or base, or the address of headquarters of the submitter;
3. a statement of the facts forming the basis of the complaint or signal;
4. a statement of the petition to the Commission;
5. the date and the signature of the submitter or proxy.

(3) The Commission shall not examine anonymous complaints or signals.

Art. 52. (1) No proceedings shall be instituted, and proceedings instituted shall be terminated, where 5 years have elapsed as of commission of a breach.

(2) Where it is found that a lawsuit was filed based on the same facts, the Commission shall not institute, or shall terminate proceedings instituted before it.

Art. 53. (1) No state tax shall be collected for proceedings before the Commission.

(2) Proceedings costs shall be at the expense of the Commission's budget.

Art. 54. Upon institution of proceedings, the Commission's chairperson shall assign the file to a panel, which shall appoint a rapporteur from among its members.

Art. 55. (1) The rapporteur shall initiate an inquiry procedure wherein, with assistance from staff and external experts, he shall collect the written evidence needed to fully and comprehensively clarify the facts.

(2) All persons, as well as state and local government bodies shall assist the Commission in the course of an inquiry, and shall provide information, testimonies and documents required.

(3) No commercial, production or other legally protected secret may be a reason to refuse assistance.

(4) Where there are reasons to access classified information, such information shall be provided under the terms and procedure of the Protection of Classified Information Act.

Art. 56. (1) The Commission, in the exercise of its powers, shall have a right to:

1. require documents and other information relating to an inquiry;
2. require testimonies from persons involved in an inquiry on issues relating to such inquiry;
3. examine witnesses.

(2) In cases of refusal to provide information, or access to premises required by the Commission, as well as in other cases of failure to assist it, those responsible shall be liable under this Act.

Art. 57. (1) Where there is a risk of loss or concealment of evidence, or where its collection entails particular difficulty, upon request by a complainant, such evidence may be compulsorily collected from the persons or places where it is located.

(2) Compulsory collection of evidence within the meaning of section (1) shall be carried out with permission by a Sofia City Court judge granted upon request by the Commission's chairperson.

(3) On the day a request is filed, the judge shall rule by order subject to immediate execution.

(4) The rapporteur on the case shall collect the evidence with cooperation from the Ministry of Interior authorities.

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

1. carry out inspections of premises for purposes of an inquiry;

2. collect evidence for purposes of an inquiry.

(6) Material evidence and originals of seized documents shall be returned to the persons they were seized from, upon the conclusion of a case.

Art. 58. (1) Documents collected and information obtained shall only be used for the purposes of an inquiry.

(2) Commission members, as well as staff and external experts shall not disclose any information constituting a legally protected secret obtained in the course of carrying out their activity.

Art. 59 (1) An inquiry shall be carried out within 30 days. In cases of factual or legal complexity, this period may be extended by no more than 30 days by order of the Commission's chairperson.

(2) Upon conclusion of an inquiry, parties shall be given an opportunity to examine the case file.

(3) Where, in the course of an inquiry, evidence is found of a crime committed, the Commission shall transmit the case file to the Prosecutor's Office.

Art. 60. (1) The rapporteur shall prepare an opinion and present the case file to chairperson of the panel who shall, within 1 week, appoint a hearing.

(2) Parties shall be summoned and interested parties notified under the terms and procedure of the Civil Procedure Code.

Art. 61. (1) The Commission's hearings shall be public.

(2) Hearings shall be closed under the terms and procedure of Art. 105 (3) of the Civil Procedure Code.

(3) Members of a sitting panel shall be recalled under the terms and procedure of Chapter Three of the Civil Procedure Code.

Art. 62. (1) At the first hearing, the rapporteur shall invite the parties to be settled. Where

the parties express consent to a settlement, the rapporteur shall appoint a hearing for the achievement of a settlement.

(2) Where in the settlement proceedings a settlement is reached between the parties on the basis of equality of treatment, the Commission shall approve such settlement with a ruling and shall close the file.

(3) Where a settlement only concerns a part of the dispute, the proceedings shall be continued with regard to the unsettled part.

(4) A settlement approved by the Commission shall be subject to execution, with the Commission overseeing its implementation.

Art. 63. (1) When he considers the facts of a case to be clarified, the panel's chairperson shall give parties an opportunity to present submissions.

(2) Upon clarifying the facts and legal issues of the case, the panel's chairperson shall close the hearing and announce the day a ruling will be passed on.

(3) The ruling shall be passed within 14 days as of the hearing.

Art. 64. (1) Rulings shall be adopted by a simple majority of the members of the panel, and shall be signed by them.

(2) A panel member who dissents from the majority shall sign the ruling with a reasoned dissenting opinion.

Art. 65. The ruling of a sitting panel shall:

1. make a finding of a breach committed;
2. make a finding of the perpetrator and affected party;
3. determine the type and amount of sanction;
4. impose compulsory administrative measures;
5. make a finding of no breach of the law, and dismiss the complaint.

Art. 66. The ruling shall be written, and shall contain:

1. the name of the body which issued it;
2. the factual and legal grounds it was issued on;

3. an order determining the type and amount of the sanction or compulsory administrative measure imposed;
4. the body before which, and the period within which, the ruling is subject to appeal.

Art. 67. (1) The Commission shall oversee the implementation of compulsory administrative measures.

(2) The party on which a sanction or compulsory administrative measure is imposed shall take measures to comply with any binding instructions and shall so advise the Commission in writing within a period specified under the ruling, not longer than 1 month.

(3) In case of a failure to comply with a binding instruction on the part of an official, the Commission shall forward a report containing proposals for the undertaking of corresponding action to the competent state or municipal bodies.

(4) The Commission may forward its ruling to other bodies concerned with the inquiry conducted for their information or for their taking of appropriate action.

Art. 68. (1) The Commission's rulings shall be subject to appeal before the Supreme Administrative Court under the terms and procedure of the Supreme Administrative Court Act within 14 days as of notice to the interested parties.

(2) An appeal to declare a ruling's nullity shall be lodged without limitation.

Art. 69. The Commission's rulings shall become final where:

1. no appeal is lodged within the fixed time limit;
2. an appeal lodged is dismissed;
3. a settlement reached by the parties is approved by the Commission.

Art. 70. (1) The Administrative Procedure Act shall be applicable to any issue not governed by this Title.

(2) Fines and property sanctions under final rulings of the Commission shall be collected under the terms and procedure of the Tax Procedure Code.

Title II

JUDICIAL PROCEEDINGS

Art. 71. (1) In cases other than those governed by Title I, any person whose rights under this or other laws governing equal treatment are breached may file a lawsuit with the district court, claiming:

1. a finding of a breach;
2. an order on the respondent to terminate the breach and restore the status quo ante, and to abstain from further commission of the breach;
3. an order of compensation of damages.

(2) Trade unions and their divisions, as well as non-profit public interest legal entities may file a claim on behalf of persons whose rights are breached upon their request. Such entities may also join proceedings brought under section (1) in an interested party capacity.

(3) In cases of discrimination breaching the rights of many, entities under section (2) may also file a claim on their own behalf. Persons whose rights are breached may join the proceedings in an assisting party capacity within the meaning of Art. 174 of the Civil Procedure Code.

Art. 72. (1) Parties under Art. 71 (1) and (2) may, within 1 month as of the filing of a claim, make such claim public via publications or other written media of their choice, inviting other affected parties, trade unions and their divisions, and non-profit public interest entities, to join the proceedings.

(2) Persons under section (1) may join the proceedings not later than the closure of oral pleadings.

Art. 73. Any person whose rights are affected by an administrative act contravening this or other laws governing equal treatment may appeal against such act under the terms and procedure of the Administrative Procedure Act, respectively, the Supreme Administrative Court Act.

Art. 74. (1) In cases under Title I, any person who sustained damages as a result of a breach of rights under this or other laws governing equal treatment may file a claim for compensation under the generally applicable procedure against the persons and/or

bodies responsible for the damage.

(2) In cases where damages were caused to individuals as a result of unlawful acts or omissions on the part of state bodies or officials, a compensation claim shall be filed under the terms and procedure of the State Liability for Damages Inflicted on Individuals Act.

Art. 75. (1) The Civil Procedure Code shall be applicable to any issue not governed by this Title.

(2) No state tax shall be collected for judicial proceedings under this Act, and costs shall be at the expense of the court's budget.

Chapter Five

COMPULSORY ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENAL PROVISIONS

Compulsory administrative measures

Art. 76. (1) In order to prevent or terminate breaches under this or other laws governing equal treatment, as well as to prevent and remove any harmful consequences of such acts, the Commission, of its own motion or upon proposal by a trade union, an individual or an entity, may impose the following compulsory administrative measures:

1. a binding instruction to employers and officials to eliminate breaches of antidiscrimination legislation;
2. a suspension of the execution of employers' unlawful decisions or orders leading, or potentially leading, to discrimination;

(2) Where, in cases under section (1), a final binding instruction and a final judicial ruling on the same issue conflict, the judicial ruling shall prevail.

Art. 77. The Commission's ruling imposing a compulsory administrative measure under this Title shall be subject to appeal under the terms and procedure of Art. 68. An appeal shall not suspend a compulsory administrative measure's execution, unless the court orders otherwise.

Title II

Administrative penal provisions

Art. 78. (1) Whoever commits discrimination within the meaning of this Act shall be liable to a fine in the amount of BGN 250 to 2 000, unless subject to harsher penalty.

(2) Whoever fails to provide evidence or information, or hinders or fails to provide access to premises required by the Commission, shall be liable to a fine in the amount of BGN 500 to 2 000.

Art. 79. A witness duly summoned who fails for no good reason to appear before the Commission in order to testify shall be liable to a fine in the amount of BGN 40 to 100.

Art. 80. (1) Whoever fails to discharge a duty deriving from this Act shall be liable to a fine in the amount of BGN 250 to 2 000, unless subject to harsher penalty.

(2) Where a breach was committed in the course of carrying out a legal entity's activity, such entity shall be liable to a fine in the amount of BGN 250 to 2 000.

(3) An employing legal entity's manager who allows a breach under section (1) to be committed shall be liable to a fine in the amount of BGN 200 to 2 500, unless subject to harsher penalty.

Art. 81. Whoever commits a breach under the preceding provisions of this Title for a second time shall be liable to a fine or, respectively, a property sanction in an amount double that initially imposed.

Art. 82. (1) Whoever fails to comply with a ruling of the Commission or court rendered under this Act shall be liable to a fine in the amount of BGN 2 000 to 10 000, unless subject to harsher penalty.

(2) Where a breach continues for more than three months as of the final imposition of a penalty under the preceding section, a fine shall be imposed in the amount of BGN 5 000 to 20 000.

(3) A penalty under section (2) shall be imposed until a breach's harmful consequences are removed.

Art. 83. Amounts collected from fines or property sanctions imposed under this Title shall be deposited with the Republic's budget.

Art. 84. (1) Commission members appointed by the Commission's chairperson shall issue acts finding breaches.

(2) The Commission shall impose sanctions by a decision subject to appeal under the terms and procedure of the Supreme Administrative Court Act.

(3) The Administrative Breaches and Sanctions Act shall apply to any issue not governed by the Title.

ADDITIONAL PROVISION

§ 1. Within the meaning of this Act:

1. "Harassment" shall mean any unwanted conduct related to the grounds under Art. 4 (1) expressed physically, verbally or in any other manner, having the purpose or effect of violating the dignity of a person and of creating a hostile, offensive, or intimidating environment.

2. "Sexual harassment" shall mean any unwanted conduct of a sexual nature expressed physically, verbally or in any other manner violating the dignity and honour of a person, and creating a hostile, offensive, degrading, or intimidating environment and, in particular, when a refusal to accept such conduct, or the pressure to accept it could influence the taking of decisions affecting that person.

3. "Victimisation" shall mean:

a.) less favourable treatment of a person who has undertaken, or is presumed to have undertaken, or to undertake in the future any action for protection against discrimination;

b.) less favourable treatment of a person where a person associated therewith has undertaken, or is presumed to have undertaken, or to undertake in the future any action for protection against discrimination;

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

Action for protection against discrimination may include the making of a complaint or

signal, the filing of a lawsuit, or testifying in protection against discrimination proceedings.

4. "Incitement to discrimination" shall mean direct and deliberate encouragement, instruction, exertion of pressure, or persuasion of someone to commit discrimination where the inciting party is in a position to influence the incited one.

5. "Racial segregation" shall mean the issuing of an act, the commission of an action, or an omission leading to forced division, separation, or isolation of persons on grounds of their race, ethnicity or skin colour.

6. "Less favourable treatment" shall mean any act, action or omission, directly or indirectly affecting rights or legal interests.

7. "On the grounds under Art. 4 (1)" shall mean on grounds of the actual, past or present, or presumed fact of one or more of these characteristics given in a discriminated person, or in a person actually, or presumably associated with the later, where such association is a reason for discrimination.

8. "Associated persons" shall mean spouses, relatives of direct descent without limitation, collateral relatives up to fourth degree inclusive and relatives by marriage up to third degree inclusive; legal guardians and persons under guardianship; cohabitating partners; employers and employees; persons participating in each other's companies' management; business associates; others who may be considered directly or indirectly dependent on a victim of discrimination due to other circumstances where such dependence is a reason for discrimination; persons on whom a victim of discrimination may be directly or indirectly dependent, and such dependence is a reason for discrimination; persons accompanying a victim of discrimination at the time an act of discrimination is committed where this association is a reason for discrimination;

9. "Sexual orientation" shall mean heterosexual, homosexual or bisexual orientation.

10. "Multiple discrimination" shall mean discrimination on more than one of the grounds under Art. 4 (1).

11. "A breach committed for the second time" shall mean a breach committed within 1 year as of a final ruling imposing a sanction on a perpetrator for a breach of that same

type.

12. "Family status" shall mean marital status, or a factual cohabitation with, and a caring responsibility for offspring or parents, including grandchildren and grandparents, or for a collateral relative up to third degree inclusive, who is dependent due to age or a disability.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. Within 3 months as of entry into force of this Act, the National Assembly shall elect, and the President shall appoint, their quotas of the Commission members.

§ 3. Within 3 months, the Commission shall adopt the regulations on its structure and activity under Art. 46 (1).

§ 4. This Act shall repeal § 1 (7) of the Additional Provisions of the Labour Code, Art. 5a (3) of the Protection, Rehabilitation and Social Integration of Invalids Act, § 1 (19) and (20) of the Additional Provisions of the Encouragement of Employment Act.

§ 5. Art. 20 (2) of the National Education Act shall be supplemented with the words "under a specialised methodology for Bulgarian language teaching" in fine.

§ 6. Art. 88 of the Defence and Armed Forces of the Republic of Bulgaria Act shall be repealed.

§ 7. Within 3 months as of entry into force of this Act, the Minister of Labour and Social Policy, and the Minister of Defence, shall issue the ordinances under Art. 7 (2).

§ 8. This Act shall enter into force on 1 January 2004.