



**REPUBLIC OF ALBANIA
THE ASSEMBLY**

**LAW
No. 10 221 dated 4.2.2010
ON PROTECTION FROM DISCRIMINATION¹**

(Amended by law No 124/2020)

(Updated)

Pursuant to articles 18, 78 and 83 (1) of the Constitution of the Republic of Albania, having regard to the proposal of a group of deputies,

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA
DECIDED:
CHAPTER I
GENERAL PROVISIONS**

Article 1

Object

This law regulates the implementation of and compliance with the principle of equality in relation to race, ethnicity, colour, language, citizenship, political, religious or philosophical beliefs, economic, education or social situation, gender, gender identity, sexual orientation, sex characteristics, living with HIV/AIDS, pregnancy, parentage belonging, parental responsibility, age, family or marital condition, civil status residence, health status, genetic predispositions, outer appearance, disability, affiliation with a particular group or for any other grounds.

¹Fully approximated with:

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

Article 2

Purpose

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

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

Article 3

Definitions

1. "Discrimination" is any distinction, exclusion, limitation or preference on the basis of any of the grounds referred to in Article 1 of this law whose purpose or consequence is hindering or rendering impossible the exercise, in the same manner as with others, of fundamental rights and freedoms recognised by the Constitution of the Republic of Albania, international acts ratified by the Republic of Albania as well as the laws in force.
2. "Direct discrimination" is the form of discrimination that occurs when a person or group of persons is treated in a less favourable manner than another person or another group of persons in a situation that is the same or similar, on the basis of any of the grounds referred to in Article 1 of this law.
3. "Intersectional discrimination" is the form of discrimination which happens when several grounds operate simultaneously and interact in an inseparable manner, producing distinct and specific forms of discrimination.
4. "Discrimination because of association" is the form of discrimination that occurs when there is a distinction, limitation or preference, because of association with persons who belong to the groups mentioned in Article 1 of this law, or because of a supposition of such an association
5. "Multiple discrimination" is the form of discrimination that occurs when a person or group of persons is treated in a less favourable manner than another person or another group of persons in a situation that is the same or similar, on the basis of two or more grounds that operate separately.
6. "Structural discrimination" is the form of discrimination that refers to rules, norms, routines, patterns of attitudes and behaviour in institutions and other societal structures that, intentionally or unintentionally, represent obstacles to groups or individuals in achieving the same rights and opportunities to others, which contribute to less favourable results to them, compared to others.
7. "Indirect discrimination" is the form of discrimination that occurs when a provision, criterion or practice, apparently neutral, would put a person or group of persons in less favourable conditions, on the grounds set out in Article 1 of this law, in relation to a person or another group of persons, where that provision, criterion or practice is not objectively justified by a legitimate aim, or when the means of achieving that aim are⁴ either not appropriate or not essential or in fair proportion with the condition that has caused it.

8. "Hate speech" is any form of public expression, through any means, that entails, promotion or incitement to denigration, hatred or vilification, any harassment, insult, negative stereotyping, stigmatization or threat to a person or group of persons, as well as any justification of all forms of expressions on the basis of a non-exhaustive list set forth in Article 1 of this law.
9. "Denial of a reasonable accommodation" is the form of discrimination that occurs whenever there is a denial of or objection to making essential and appropriate adjustments or changes that are necessary in a particular case and do not impose an excessive burden, for the purpose of ensuring the enjoyment and exercise, on an equal basis, of fundamental rights and freedoms, acknowledged in the national legal framework, for persons with disabilities, or when occurred in other conditions referred to in Article 1 of this law
10. "Incitement or assistance for discrimination" is the form of discrimination that occurs where one or more persons incite or assist one or more persons, including their financing, for the purpose of discrimination, on the basis of any of the grounds referred to in Article 1 of this law.
11. "Organisations with legitimate interests" are organisations registered in the Republic of Albania whose declared scope of activity is to advocate and protect human rights, or offer assistance to victims of discrimination.
12. "Declared intention for discrimination" is the form of discrimination that occurs on the basis of any of the grounds referred to in Article 1 of this law, even in the absence of a victim.
13. "Annoyance" is the form of discrimination where unwanted conduct related to any of the grounds referred to in Article 1 of this law occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment for that person, as well as any less favourable treatment based on a person's rejection of or submission to such conduct.
14. "Sexual harassment is the form of discrimination where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment;
15. "Instruction to discriminate" is instruction or request to discriminate one or more persons, on the grounds referred to in Article 1 of this law.
16. "Segregation" is a form of discrimination which occurs where a person or group of persons are segregated from the rest of the others without any objective and reasonable justification and such segregation is done on the basis of at least one of the grounds set out in Article 1 of this law.
17. "Victimisation" is an unfavourable treatment or adverse consequence as a reaction to a complaint or to a [legal] proceeding aimed at enforcing compliance with the principle of equal treatment and non-discrimination, in accordance with the provisions of Article 1 of this law, in relation to the plaintiff's claim for discrimination.

Article 3/1

Severe forms of discrimination

Any discriminatory behaviour that is motivated by more than one ground or which is committed more than once, or which has lasted for a long period of time or had harmful consequences especially for the victim, is considered a severe form of discrimination.

Article 4

Scope

1. This law is applicable to all persons who live and stay in the territory of the Republic of Albania.
2. Albanian citizens, with a temporary or permanent residence outside the borders of the Republic of Albania, enjoy the protection that this law offers in relations with the Albanian state bodies.
3. Natural and legal foreign persons with a residence, domicile or headquarters outside the territory of the Republic of Albania enjoy the protection that this law offers in relations with the Albanian state bodies.

Article 5

Prohibition of discrimination

1. Discrimination is prohibited for the grounds referred to in Article 1 of this law and the failure to examine an appeal or procedure, according to the cases referred to in Article 3 of this law, as well as any other form of behaviour that prevents the enforcement of the principle of equal treatment.
2. Deleted

Article 6

Justified different treatment

1. The prohibition of discrimination described by this law is not applicable in cases when there is an objectively justifiable purpose corroborated by the Constitution, international acts or agreements ratified by the Republic of Albania and the legislation in force.
2. Different treatment that is based on a characteristic related to the grounds referred to in Article 1 of this law does not constitute discrimination where because of the nature of the professional activities or the conditions in which the profession or activity is conducted, those characteristics constitute an essential real and professional requirement, provided that the purpose of the different treatment is justified and the requirement is not in excess of that which is essential to realise it.

Article 7

Protection from discrimination

1. Any action or omission of public authorities or of natural or legal persons who take part in private or public sectors and life, which creates the grounds for the denial of equality against a person or group of persons, or which expose them to an unfair, unequal treatment, when they are

in the same or similar circumstances in comparison with other persons or other groups of persons constitutes discrimination.

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

3. Public authorities are obliged to promote equality and prevent discrimination during the discharge of their functions.

Article 8

Discriminating advertisements

The publication of various advertisements and announcements is prohibited if they present, explicitly or implicitly, an intent to discriminate for the grounds referred to in Article 1 of this law.

Article 9

Participation in politics

Discrimination in the exercise of the right to vote, to be elected and to be appointed to a public duty for the grounds referred to in Article 1 of this law is prohibited.

Article 10

Conscience and religion

1. Discrimination is prohibited in relation with the exercise of freedom of conscience and religion, especially when it pertains to their expression individually or collectively, in public or in private life, through worship, education, practices or the performance of rites.

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

Article 11

Positive actions

A temporary ad hoc measure that aims at speeding up the real establishment of equality, when the absence of equality has been caused by discrimination for any of the grounds referred to in Article 1 of this law, is considered a positive action and does not constitute discrimination according to this law. This measure is terminated once the objectives of the treatment and offering of equal opportunities have been achieved.

CHAPTER II
PROTECTION AGAINST DISCRIMINATION IN EMPLOYMENT

Article 12

Prohibition of discrimination

1. Discrimination against a person in relation with his right to employment is prohibited. Discrimination includes any differentiation, limitation or exclusion on the basis of the grounds referred to in Article 1 of this law which, among other things, is related to:

- a) announcement of vacancies;
- b) recruitment and selection of employees;
- c) treatment of employees in the work place, including their treatment during the establishing or changing of working conditions, compensation, benefits and the work environment, treatment related to professional training or during the disciplinary process or related to dismissal or termination of the employment contract;
- ç) membership in unions and the possibility of benefiting from the facilities that such membership secures.

2. Any harassment is prohibited, including sexual harassment???, by an employer against an employee or a job applicant or between employees.

3. The implementation of ad hoc and temporary measures, on the basis of the grounds referred to in Article 1 of this law, for the purpose of speeding up equality in the field of employment, is not considered discrimination. The implementation of such measures may in no case mean maintaining unequal or different standards permanently, and the ad hoc measures are discontinued when the objective for offering equal opportunities and treatment is achieved.

Article 13

Obligations of the employer

The employer is obliged to:

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

2. The employer is obliged also to raise the awareness about this law by posting it in premises with public access at the workplace as well as enabling a full understanding of it by his own means or with the assistance of specialised entities.

Article 14

Duties of the Council of Ministers, the Minister responsible for labour and social issues and the Minister responsible for internal affairs

The Council of Ministers, the Minister responsible for labour and social issues and the Minister responsible for internal affairs are each responsible for taking measures of a positive nature in order to fight discrimination in connection with the right to employment. The measures that are taken, among others, are:

- a) raising the awareness about this law of employees and employers, among other things, by supplying information about this law;
- b) establishing special and temporary policies, on the basis of the grounds referred to in Article 1 of this law, for the purpose of promoting equality, in particular, between a man and a woman as well as between fully physical able persons and those who have a disability.

Article 15

Rights of the employee

Any employee has the right to complain to the employer, to the Commissioner for Protection from Discrimination or a court, if he or she believes to have suffered discrimination. This provision does not limit the right to complain to special institutions, set up in various sectors of employment.

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

3. The employee is entitled to receive information at any time in connection with the handling of the complaint as well as to receive explanations about the decisions taken by the employer in response to his or her complaint, immediately after it is examined.

4. Where the employer does not take measures to investigate and resolve a complaint about discrimination, the employee who has made the complaint has the right to terminate the work, without losing the right to pay, for as long as necessary to protect him or herself from discrimination. The employee shall return the pay received according to this article if the claimed discrimination does not result as proven by a final decision.

Article 16

Implementation of the law for self-employed persons

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

CHAPTER III
PROTECTION FROM DISCRIMINATION IN THE FIELD OF EDUCATION

Article 17

Prohibition of discrimination

1. Any differentiation, limitation or exclusion on the basis of the grounds referred to in Article 1 of this law is prohibited, which, among other things, is related to:
 - a) creation of public or private institutions that offer educational or professional services;
 - b) financing of public institutions that offer educational or professional services;
 - c) content of principles and criteria of educational activity, including teaching programmes and teaching methods;
 - ç) treatment of students or pupils, including admission, evaluation, application of disciplinary measures or their expulsion.
2. It is prohibited for a person or group of persons to be refused admission into a public educational institution for the grounds referred to in Article 1 of this law.
3. Any kind of harassment is prohibited, especially sexual harassment of students, pupils and employees in educational institutions.
4. The implementation of ad hoc and temporary measures, on the basis of the grounds referred to in Article 1 of this law, for the purpose of speeding up equality in the field of education, is not considered discrimination. The implementation of such measures may in no case mean maintaining permanently unequal or different standards, and such measures are discontinued when the objective for offering equal opportunities and treatment is achieved.

Article 18

Duties of the Council of Ministers and the Minister responsible for education and science

The Council of Ministers and the Minister responsible for education and science are each responsible for taking measures of a positive nature in order to fight discrimination in relation to the right to education.

The Council of Ministers and the Minister responsible for education and science, among other things, each takes measures for:

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

Article 19

Duties of the head of an educational institution

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

- a) raising the awareness about this law within the institution, among other things, by posting the law in a visible place;
- b) countering patterns of discriminating behaviour that constitute or incite discrimination within the institution;
- c) taking necessary measures, including disciplinary measures, to protect employees against discrimination and victimisation, within one month from receiving knowledge;
- ç) effectively handling of complaints about discrimination in the institution, examining every complaint within 30 days from submission;
- d) imposing disciplinary measures against any person who is verified to have committed a discriminatory action, as appropriate, proportional and in conformity with the competences of the director.

CHAPTER IV

PROHIBITION OF DISCRIMINATION IN THE FIELD OF GOODS AND SERVICES

Article 20

Goods and Services

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

- a) by refusing to give a person or group of persons goods or services on the basis of the grounds referred to in Article 1 of this law;
- b) by refusing to offer a person goods or services in a similar manner, or with similar qualities, or in conditions similar to those in which the goods or services are offered to the public in general.

2. Paragraph 1 of this Article is especially applicable to:

- a) the ability to enter into a place where the public is permitted to enter or to use a place that is permitted to be used by the public;
- b) the ability to receive or to benefit from goods or services related to health;
- c) the contribution and possibility to benefit from goods from social protection schemes, including social assistance, social insurance, protection of children, disability benefits or any other scheme of social protection or other advantages offered to the public;
- ç) the opportunity to use or enter into an educational institution;
- d) accommodation in a place where housing is offered;
- dh) the sale or letting of residences and other premises;
- e) banking services and the opportunity to obtain grants, loans, bank deposits or financing;
- ë) facilities for entertainment, relaxation and refreshment;

- f) facilities for transport or travel;
- g) services of the free professions.

3. It is prohibited for a natural or legal person offering goods and services to the public not to accept or to oppose the realisation of modifications or accommodations that are necessary and appropriate, aimed at enabling a person with a disability to benefit from those goods and services, so long as such modifications or accommodations do not impose a disproportionate or unlawful burden on the person offering the goods and services.

4. Refusal according to paragraph 1 of this Article also includes situations when such refusal is in fact based on the grounds referred to in Article 1 of this law, but other reasons are declared by the discriminating subject or no reason is declared as a reason for the refusal.

5. Differentiations in compensation and benefits, established because of the grounds referred to in Article 1 of this law, do not constitute discrimination when the differentiations are reasonable and in proportion to a risk that is assessed on the basis of current and statistical data that can be verified and are closely linked to the risk.

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

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

CHAPTER V COMMISSIONER FOR PROTECTION FROM DISCRIMINATION

Article 21

Commissioner

The Commissioner for Protection from Discrimination, hereinafter the Commissioner, ensures the effective protection from discrimination and from any other form of conduct that incites discrimination. The Commissioner is a public legal person.

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

3. The Assembly decides on the salary of the Commissioner, the organisational structure and the salary scale for the employees of the Office. The employees of this office enjoy the status of the civil servant.

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

Article 22

Status

The Commissioner is independent in the exercise of the duties and is subject only to the Constitution and law.

Article 23

Method for the election of the Commissioner

1. The Commissioner is elected by a majority of all the members of the Assembly.
2. Possible candidates for Commissioner are proposed to the Assembly by a group of deputies.
3. Before taking office or retaking office, the Commissioner takes an oath before the Assembly.
4. The formula of the oath is: "I swear that during the performance of my duties, I will always protect the principle of equality in compliance with the Constitution and laws of the Republic of Albania".

Article 24

Conditions for election as Commissioner

Any Albanian citizen that meets the following requirements may be elected Commissioner:

- a) has high moral integrity and distinguished activity in the community;
- b) holds a university diploma of the second cycle or equivalent to it;
- c) has work experience not less than 5 years in the field of human rights and freedoms and law;
- ç) has not been convicted by a final decision for the commission of a criminal offence;
- d) is not a deputy in the legislature of the Assembly that proposes or elects him.

Article 25

Tenure in office

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

Article 26

Reporting

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

Article 27

End of the mandate

The mandate of the commissioner ends when:

- a) the five-year term ends;
- b) the Commissioner is discharged;
- c) the Commissioner submits a written resignation to the Assembly;
- ç) the Commissioner dies.

Article 28

Cases of discharge of the Commissioner

The commissioner is discharged from duty only in cases when:

- a) the Commissioner has been convicted by a final court decision for the commission of a criminal offence;
- b) the fact of incapacity to exercise the duty for more than three months is proven;
- c) he commits activity in conflict to the provisions of this law, with the Constitution and the legislation in force.

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

Article 29

Election of the commissioner

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

Article 30

Incompatibility with the function of Commissioner

The Commissioner may not be part of a political organisation or party, carry out political, state and professional activity, and take part in steering bodies of social, economic and commercial organisations. The Commissioner may teach and publish literary and scientific works, without affecting the exercise of his or her functions in a normal manner.

Article 31

Ensuring later work for the Commissioner

Upon the end of the function, according to items “a” and “c” of Article 27 of this law, a Commissioner who, at the time of appointment, had worked in a state function or public position, is entitled to re-assume the function or position that he or she held before the election as Commissioner. Where this is not possible, the Commissioner is ensured a position equivalent to what he or she had before the election as Commissioner.

Article 32

Powers

1. The Commissioner has the power to:

- a) examine complaints from persons or groups of persons that claim they have been discriminated against, as provided in this law and in the law "On gender equality in the society";

- b) examine complaints from organisations that have a lawful interest to act in the name of and upon the written consent of individuals or groups of individuals who claim that discrimination has occurred or on their behalf for matters related to collective interests;
 - c) perform administrative investigations after the receipt of credible information about a violation of this law;
 - ç) impose administrative sanctions according to the specification of this law;
 - d) promote the principle of equality and non-discrimination, especially by sensitising and informing about those issues, including the provision of written information among other things about this law, in the Albanian language, in the languages of minorities, as well as in forms usable by persons with a disability;
 - dh) monitor the implementation of this law as well as the law "On gender equality in the society";
 - e) conduct polls on discrimination;
 - ë) make recommendations to competent authorities, especially by proposing the approval of new legislation or the amendment or reformation of existing legislation;
 - f) publish reports and make recommendations about any issue related to discrimination;
 - g) address the public opinion directly about any issue related to discrimination;
 - gj) at the request of the court examining a case, set out an opinion in writing on any issue related to discrimination;
 - h) contribute to reporting and, as the case may be, submit reports to international and regional bodies;
 - i) present a suit, to the defence of the principle of equality and non-discrimination, on issues related to collective interests;
 - i/1) set in motion the Constitutional Court when during his or her activity, the Commissioner finds that the law or the normative act violates the fundamental rights and liberties of the individuals.
 - j) inform about the right of protection from discrimination and the legal means available for such protection;
 - k) hold a regular dialogue on issues of discrimination with the respective social groups, including non-governmental organisations;
 - l) conduct awareness-raising and educational activities that contribute to the implementation of this law.
2. All public institutions and private entities are obliged to support the Commissioner in the fulfilment of his duties, especially by supplying information as necessary and guaranteeing access to information.
 3. For the examination of complaints addressed to him or her, the Commissioner applies the norms provided for in the Code of Administrative Procedures, except for procedures specified in this law.
 4. The obligation referred to in paragraph 2 of this Article is fulfilled in compliance with the legislation governing the right to information and the protection of personal data.

Article 33
Procedures

1. A person or group of persons who claim that they have been discriminated against, or an organisation with legitimate interests that claims discrimination in the name of a person or group of persons, may submit a complaint together with available evidence to the Commissioner, in writing or in exceptional cases verbally, in a way that minutes can be taken.
2. An organisation with legitimate interests may ask for an administrative investigation to be carried out by way of available credible information, and may represent a person or group of persons, upon prior written consent or when official records are taken in the presence of an employee of the institution, to represent the person or the group of persons.
3. The complaint shall contain at least:
 - a) the name of the claimant;
 - b) an explanation of how the claimant can be contacted;
 - c) the subject that is claimed to have committed the discrimination or an explanation about the impossibility of identifying him;
 - ç) an explanation of the claimed discrimination;
 - d) measures requested of the Commissioner;
 - h) date and signature of the claimant or his or her representative.The complaint is not accepted if it:
 - a) repealed
 - b) constitutes an abuse of the right of complaining before the Commissioner, or is incompatible with the provisions of this law;
 - c) the same case is being examined in the framework of another complaint or a prior decision has been taken on it and there are no new data;
 - ç) is openly ungrounded or there is insufficient information to make an investigation possible;
 - d) all the facts that constitute the essence of the complaint happened before the entry of this law into force;
 - dh) is submitted later than three years from the occurrence of the discrimination or later than two years from receiving the knowledge of the discriminatory behaviour.
5. Natural or legal persons against whom the complaint has been filed are notified in writing by the Commissioner within 15 days from the day of receipt of the complaint.
6. The Commissioner does not charge the claimant with any tariff for examining the complaint.
7. On receipt of the complaint, the Commissioner verifies the facts. For this purpose, the Commissioner may ask the claimant and the person against whom the complaint has been filed to submit written presentations within 10 working days from the day the parties receive notice. When considering it as necessary, the Commissioner also takes information from any other person or source.
- 7/1. Where the claimant presents facts to endorse the claim for discriminatory behaviour and on which grounds it may be presumed that there has been discrimination, the other party, against which the complaint has been filed, is bound to prove that the facts do not constitute discrimination.

7/2. Where for determining or clarifying the facts, related to the examination of the complaint, special knowledge is required, the Commissioner may ask for a specialised opinion by experts in certain fields.

7/3. Where the complaints submitted to the Commissioner, addressed to the same entity, have the same object, they may be merged into one single complaint.

7/4. When the Commissioner is informed that the claimant has filed a suit in the court to determine discrimination, while the same complaint has been submitted to the Commissioner and the case is still under examination, the Commissioner decides to dismiss the case.

8. When the Commissioner sees it as appropriate, he or she holds a public hearing session and invites the parties and any other interested person.

9. When the Commissioner sees it as appropriate, he or she seeks to reach a conciliation agreement between the claimant and the person against whom the complaint was submitted.

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

11. If the commissioner orders adjustments or measures, the person against whom the complaint was submitted reports within 30 days before the Commissioner about the actions undertaken for the implementation of the decision. If the person against whom the complaint was submitted fails to inform the Commissioner or to implement the decision, the Commissioner imposes a sanction by a fine for the person against whom the complaint was submitted. The sanction by fine is repealed if the person against whom the complaint was submitted implements the decision within seven days after the sanction was imposed.

12. When imposing a measure, the Commissioner ensures that it will be:

a) effective and preventative; and

b) proportionate with the situation that caused the imposition of the sanction. If a fine is imposed, the Commissioner determines the amount of the fine while taking into account:

i) the nature and scope of the violation and the effect on the victim; and

ii) personal and financial circumstances of the offender, especially taking into account all sources of income, and if the offence is committed by a private legal person, the balance sheet assets and profit, as well as the total payroll;

c) if the same violation discriminates against several persons, only one fine is imposed, yet taking into account the requirements of “b” in this article.

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

a) a natural person, from 10,000 to 60,000 lek;

b) a legal person, from 60,000 to 600,000 lek;

c) a natural person in a legal entity that is responsible for the violation, from 30,000 to 80,000 lek;

ç) a person who exercises a public function and is responsible for the violation on the basis of this law, from 30,000 to 80,000 lek.

d) a natural or legal person committing one or more severe forms of discrimination, double the fine amount specified in items a”, “b”, “c” and “ç” of paragraph 13 of Article 33.

14. The decision to impose a sanction by fine also sets a reasonable time frame within which the fine is paid.

15. As a last resort, especially when the natural or legal subject does not comply with the decision of the Commissioner or does not pay the fine within three months after the time frame set by the Commissioner and the sanction has not been challenged in court, the Commissioner may ask competent authorities to remove or suspend the license or authorisation of the natural or legal subject to exercise the activity.

16. Where the decision of the Commissioner is returned by the postal service with the note "destination unknown" or "destination not found" and, as a result, the claimant and the subject against which the complaint is filed may not be informed on the measures taken by the Commissioner, the summary of the decision shall be posted at the Commissioner's premises.

17. State media operators are obliged to publish the summary of final decisions of the Commissioner on hate speech.

18. Decisions of the Commissioner may be appealed to the competent court in accordance with the rules set out in the legislation in force on administrative disputes.

Article 33/1

Execution of Commissioner's fines and decisions

1. Fines shall be paid by the offender not later than 45 days from their communication. Beyond this deadline, the decision becomes an executive title and shall be executed obligatorily by the bailiff office, upon the request of the Commissioner.

2. The fine is deposited into the State Budget.

CHAPTER VI

PROCEDURES BEFORE THE COURT

Article 34

Subjects with the right to submit a lawsuit for discrimination

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

The submission of a complaint before the Commissioner is not a condition to submitting a lawsuit and it does not constitute an impediment for the affected person to turn to the court or the bodies of criminal prosecution.

3. An organisation with a lawful interest may submit a lawsuit in the name of a person or group of persons, provided that the organisation has the consent by special power of attorney or by declaration before the court of the person or group of persons affected by the discrimination.
4. The Commissioner and organisations with lawful interests may file a lawsuit before the competent court for the protection of the principle of equality and non-discrimination on issues related to collective interests.

Article 35

Individual liability

Any person is liable on the basis of the provisions of this law, when by his actions or omissions, has committed a discriminatory act within the meaning of this law. Individual liability does not exclude the responsibility of the state or of the private legal person.

Article 36

Procedure before the court

1. The lawsuit is submitted to the competent court by one of the subjects specified in Article 34 of this law not later than five years from the day when the behaviour claimed to be discriminatory occurred and not later than three years from the day when the injured party receives knowledge of this behaviour.
2. The injured party has no obligation to notify the Commissioner before submitting a lawsuit for discrimination to a court of law.
3. The court notifies the Commissioner of the submission of every lawsuit about discrimination.
4. The court may ask the Commissioner, at any phase of the proceeding, to submit a written opinion, the results of his or her investigation if an investigation has been made, or any other information of relevance for the case.
5. The plaintiff has the obligation to bring evidence in support of the lawsuit, using any lawful evidence that may show discriminating behaviour.
6. After the plaintiff submits evidence to support the claim and on whose basis the court may presume discriminating behaviour, the defendant is obligated to prove that the facts do not constitute discrimination according to this law.

Article 37

Decision of the court

- The decision of the court sets the indemnification when the court decides that there is a violation of this law, including a time period for making the indemnification.
2. The decision of the court is communicated to all the interested parties, including the commissioner.
 3. The imposition of measures according to this law does not exclude the imposition of measures according to other laws.

Article 38

Indemnification

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

CHAPTER VII

FINAL AND TRANSITIONAL PROVISIONS

Article 39

Bylaws

The Commissioner is responsible for issuing rules of functioning of the Office within three months from the date of appointment.

The Council of Ministers is responsible for issuing bylaws for the implementation of Article 18 of this law within six months from its entry into force.

Article 40

Entry into force

This law enters into force 15 days after its publication in the Official Journal.

Promulgated with decree no. 6433 dated 24 February 2010 of the President of the Republic of Albania, Bamir Topi