

THE LAW ON THE PROHIBITION OF DISCRIMINATION

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I. THE BASIC PROVISIONS

The subject of the Law

Article 1

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

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

The terms

Article 2

In the text of this Law:

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

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

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

4) the term “public administration organ” shall be used to designate a state organ, autonomous province organ, local government organ, public company, institution, public agency, **other organisation or natural person** entrusted with public authority, as well as a

legal entity established or financed in its entirety, or predominantly, by the Republic, an autonomous province or a local government.

5) the employer is a domestic or foreign legal entity and natural person in the public and private sector, which employs or hires one or more persons, that is, a person in a state authority, autonomous province authority, or local self-government authority who exercises the rights and duties of the employer on behalf of the Republic of Serbia, autonomous province, or local self-government.

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

Protected rights and persons

Article 3

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

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

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

II. THE GENERAL PROHIBITION AND FORMS OF DISCRIMINATION

The principle of equality

Article 4

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

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

Forms of discrimination

Article 5

Forms of discrimination are direct and indirect discrimination, as well as violation of the principle of equal rights and obligations, calling to account, associating for the purpose of exercising discrimination, hate speech, **harassment, humiliating treatment and sexual and gender harassment, and incitement to discrimination.**

Segregation is any act by which a natural or legal person separates, without objective and reasonable justification, other persons, or groups of persons on the basis of a personal characteristic from Article 2, paragraph 1, item 1) of this Law. Voluntary separation from other persons based on personal characteristics does not constitute segregation.

Incitement to discrimination is also a form of discrimination. Discrimination exists if an individual or a group of individuals is induced to discriminate by giving

instructions on how to undertake discriminatory actions or by inducing them to discriminate in another similar way.

Direct discrimination

Article 6

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

Indirect discrimination

Article 7

Indirect discrimination exists if an apparently neutral provision, criterion, or practice places or could place a person or group of persons, due to their personal characteristics, in a disadvantageous position compared to other persons in the same or similar situation, unless this is objectively justified by a legitimate objective, and the means to achieve that objective are appropriate and necessary.

Violation of the principle of equal rights and obligations

Article 8

A violation of the principle of equal rights and obligations shall occur if a person or a group of persons, on account of his/her or their personal characteristics, is unwarrantedly denied rights and freedoms or has obligations imposed that, in the same or a similar situation, are not denied to or imposed upon another person or group of persons, **unless this is justified by a legitimate objective, and the means to achieve that objective are appropriate and necessary.**

The prohibition of calling to account

Article 9

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

Association for the purpose of exercising discrimination

Article 10

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

Hate speech

Article 11

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

Harassment, humiliating treatment, sexual and gender harassment

Article 12

Harassment, humiliating treatment, and sexual and gender harassment, which aims at or represents a violation of the dignity of an individual or a group of individuals based on their personal characteristics, is prohibited, especially if it creates a frightening, hostile, degrading, humiliating and offensive environment.

Sexual harassment, in the sense of this Law, is any verbal, non-verbal, or physical unwanted behaviour, which aims at or constitutes a violation of an individual's dignity or personal integrity, and which causes fear or creates a frightening, hostile, degrading, humiliating, or offensive environment.

Severe forms of discrimination

Article 13

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

1. causing and inciting inequality, hatred and enmity on the grounds of national, racial or religious affiliation, language, political opinions, gender, gender identity, **sexual orientation** or disability **and age**;
2. advocating or exercising discrimination on the part of state organs or in the course of proceedings conducted before state organs;
3. advocating discrimination through public organs;
4. slavery, trafficking in human beings, **segregation**, apartheid, genocide, ethnic cleansing, as well as advocating any of the above;

5. discrimination against individuals on the basis of two or more personal characteristics, **regardless of whether the influence of individual characteristics can be delimited (multiple discrimination) or not (intersectional discrimination)**;

6. discrimination that is committed a number of times (repeated discrimination) or is committed over an extended period of time (extended discrimination) against one and the same individual or a group of persons;

7. discrimination that results in severe consequences for the individual discriminated against, other persons or property, especially if it involves an act punishable by law, predominantly or solely motivated by hatred or enmity towards the aggrieved party on the grounds of a personal characteristic of his/hers.

Special measures

Article 14

Special measures introduced for the purpose of achieving full equality, protection, and advancement of persons or groups of persons in an unequal position are not considered discrimination.

Special measures from paragraph 1 of this article are applied until the goal for which they are prescribed is achieved, unless otherwise prescribed by law.

Employers are obliged to take appropriate measures, if necessary in a specific case, to ensure access, a reasonably adapted workplace, participation, professional training, and advancement in the work of employees who are in an unequal position compared to other employees, especially persons with disabilities, members of national minorities, women, men, persons of different sexual orientation, gender identity, elderly persons and others, unless these measures would represent a disproportionate burden for the employer. The burden is not considered disproportionate if it is reduced by appropriate public policy measures in the field of work and employment.

The public authority makes an assessment of the impact of a new regulation or policy of significance to the exercise of rights of socioeconomically vulnerable persons or groups of persons, in which it assesses their compliance with the principle of equality.

In particular, the impact assessment includes:

1) a comprehensive description of the situation in the area that is the subject of regulation with special reference to socioeconomically vulnerable persons and groups of persons;

2) assessment of the necessity and proportionality of the intended changes in regulations from the aspect of respecting the principle of equality and the rights of socioeconomically vulnerable persons and groups of persons;

3) assessment of risk to rights, obligations, and legally based interests of persons and groups of persons referred to in paragraph 3 of this Article.

III. SPECIAL CASES OF DISCRIMINATION

Discrimination in the course of proceedings conducted before public administration organs

Article 15

Everyone has the right to equal access and equal protection of their rights before courts and public authorities.

Discriminatory treatment by an authorised official or an official in charge acting on behalf of a public administration authority in the process of protecting the rights of persons before courts and public authorities is prohibited.

Discrimination in the sphere of labour

Article 16

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

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

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

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

Article 17

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

Everyone shall have the right to equal access to objects in public use (objects where the head offices of public administration organs are located, objects used in the sphere of

education, health care, social welfare, culture, sports, tourism, objects used for the purpose of environmental protection, protection against natural disasters and the like), as well as public spaces (parks, squares, streets, pedestrian crossings and other public transport routes and the like), in accordance with the law.

The prohibition of religious discrimination

Article 18

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

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

Discrimination in the sphere of education and professional training

Article 19

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

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

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

Discrimination on the grounds of sex, gender, and gender identity

Article 20

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

It is forbidden to deny rights or to grant privileges, be it publicly or covertly, in relation to sex, that is, gender or gender identity or due to gender change, that is, the adjustment of sex to gender identity, as well as due to pregnancy, maternity leave, leave for childcare or special childcare. It is forbidden to practice physical violence, exploitation, express hatred, disparagement, blackmail, and harassment pertaining to sex, **that is, gender and gender identity**, as well as to publicly advocate, support, and practice

conduct in keeping with prejudices, customs, and other social models of behaviour based on the idea of gender inferiority or superiority; that is, the stereotyped roles of the genders.

Discrimination on the grounds of sexual orientation

Article 21

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

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

Discrimination of children

Article 22

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

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

Discrimination on the grounds of age

Article 23

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

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

Different treatment based on age is not considered discrimination if it is objectively and reasonably justified by a legitimate objective, and in particular by a legitimately established employment policy, the objectives of the labour market, additional education and training, that is, professional development, and if the means of achieving that objective are appropriate and necessary, such as:

1) setting special conditions for employment, the performance of work, and additional education, that is, professional training and development, including conditions regarding earnings and termination of employment, for youth, the elderly, and persons who have an obligation to provide support or care, with the aim of encouraging their inclusion to the labour market or ensuring their protection;

2) determination of minimum requirements regarding age, work experience, or years of service for access to employment or provision of certain advantages in connection with employment;

3) determination of the maximum age limit for filling positions based on requirements related to additional education, that is, professional training and development for a specific position or on the need for a reasonable length of service before fulfilling the conditions for realizing the right to a pension.

Discrimination against national minorities

Article 24

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

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

Discrimination on the grounds of political party or trade union membership

Article 25

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

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

Discrimination of disabled persons

Article 26

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

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

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

Discrimination on the grounds of health

Article 27

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

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

case of harassment, receives insults and disparagement in the course of staying at a health care institution.

Discrimination in housing

Article 27a

Discrimination in the area of housing exists if, on the basis of a personal characteristic of an individual or a group of individuals, access to housing support programs is denied or made difficult, the exercise of rights in the area of housing is denied, or conditions are required to enable access to housing support programs that are not imposed on other persons or groups of persons, that is, if another person or group of persons is unjustifiably given priority access to housing support programs.

Discrimination in the area of housing also exists when a legal entity or natural person, on the basis of a real or presumed personal characteristic from Article 2, paragraph 1, item 1) of this Law, refuses to conclude a contract on the lease or use of a residential unit.

IV. THE COMMISSIONER FOR THE PROTECTION OF EQUALITY

The procedure for electing the Commissioner

Article 28

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

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

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

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

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

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

Mandate

Article 29

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

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

The cessation of mandate

Article 30

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

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

The Commissioner shall be relieved of duty:

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

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

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

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

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

The National Assembly begins the process of electing a new Commissioner three months before the end of the Commissioner's mandate. The function of the Commissioner is performed by the Commissioner whose mandate is expiring until the election of the new Commissioner.

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

The position of the Commissioner

Article 31

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

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

The Commissioner's Expert Service

Article 32

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

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

The Commissioner shall have three assistants.

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

The Commissioner shall appoint the assistants to the Commissioner.

The Commissioner shall choose one of the assistants who will replace him/her in case of his/her absence or inability to perform duties.

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

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

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

The Commissioner's head office shall be in Belgrade.

Competencies of the Commissioner

Article 33

The Commissioner:

1) shall provide information and advice, impartially and independently, to a person who believes that he/she has suffered discrimination, about the exercise of rights and protection against discrimination;

2) shall act on complaints due to discrimination, give opinions and recommendations in specific cases and impose measures in accordance with Article 40 of this Law;

3) shall file lawsuits from Article 43 of this Law, due to the violation of rights from this Law, in his/her own name, and on behalf of the discriminated person, with the consent of that person, except when it is a group of persons, if the proceedings before the court on the same matter have not already been initiated or legally terminated;

4) shall submit a request to initiate misdemeanour proceedings due to violation of provisions prohibiting discrimination;

5) shall submit an annual and special report to the National Assembly on the situation in the field of equality protection;

6) shall warn the public about the most common, typical, and severe cases of discrimination;

7) shall monitor the implementation of laws and other regulations, initiate the adoption or amendment of regulations and give an opinion on the provisions of draft laws and other regulations with the aim of promoting equality and protection against discrimination;

8) shall establish and maintain cooperation with public authorities and organizations on the territory of the Republic of Serbia, regional, that is, international and other bodies, bodies and organizations responsible for achieving equality and protection against discrimination;

9) shall send recommendations of measures to public authorities and other persons for achieving equality and protection against discrimination;

10) shall cooperate with associations that have an interest in participating in the fight against discrimination;

11) shall organize, that is, conduct independent research in the field of promoting equality and protection against discrimination and publish professional publications, notices, and information in the field of promoting equality and protection against discrimination;

12) shall perform other tasks in accordance with the Law.

The Rules of Procedure

Article 34

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

V. PROCEEDINGS BEFORE THE COMMISSIONER

Lodging a complaint

Article 35

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

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

An organisation engaged in the protection of human rights, or another person may lodge a complaint on behalf of and with the agreement of the person whose rights have been violated. **An association or organization that deals with the protection of human rights can file a complaint on behalf of a group of persons whose rights have been violated even without the consent of the individuals who make up that group if the violation refers to an unspecified number of persons of a social group that is related by a personal characteristic from Article 2, paragraph 1 item 1) of this Law .**

A complaint can also be submitted by the inspection in the name and with the consent of the person whose right has been violated in accordance with the law governing the field of inspection supervision.

Article 36

The Commissioner does not act on the complaint:

- 1) if he/she determines that he/she is not competent;**
- 2) if the complainant has not eliminated the deficiencies in the complaint within the set deadline;**
- 3) if the proceedings before the court on the same matter have been initiated or legally terminated;**
- 4) in case of death of the complainant or deletion from the register if it is a legal entity;**
- 5) if it is obvious that there is no violation of the rights to which the applicant indicates;**
- 6) if he/she has already acted in the same matter in accordance with Article 33 of this Law, and no new evidence has been submitted;**

7) if it is determined that due to the passage of time, it is impossible to achieve the purpose of the action;

8) if the reconciliation procedure has been successfully completed;

9) if the complainant abandoned the complaint;

10) in other cases, prescribed by Law.

In all cases, except for the case from item 4) paragraph 1 of this article, the Commissioner will notify the complainant in writing.

Determination of the state of facts

Article 37

If the conditions for further action on the complaint are met, the Commissioner delivers the complaint to the person against whom it was filed, within 15 days from the day of receipt of a proper complaint.

The Commissioner determines the state of facts by reviewing all the evidence that is important for action and decision-making and by taking statements from the complainant, the person against whom the complaint was filed, as well as other persons.

If the person against whom the complaint was filed eliminated the consequences of the action that was the reason for filing the complaint, and the complainant agrees that the consequences have been eliminated, the Commissioner does not proceed further with the complaint.

The complainant shall give the consent referred to in paragraph 3 of this article no later than 15 days from the date of receipt of the Commissioner's letter.

If the complainant does not give consent or does not make a statement within the time limit referred to in paragraph 4 of this article, the Commissioner continues the proceedings on the complaint.

Reconciliation

Article 38

The Commissioner, during the procedure leading to the adoption of an opinion, may propose the implementation of a negotiation procedure to reach an agreement, in accordance with the law regulating the mediation procedure in resolving disputes. This procedure is free of charge for the complainant before the Commissioner.

If the procedure referred to in paragraph 1 of this procedure has not been successfully completed within the time limit provided by law, the Commissioner continues the proceedings on the complaint.

Opinion and recommendations

Article 39

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

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

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

Measures

Article 40

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

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

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

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

Records on protection against discrimination

Article 40a

The Commissioner keeps records on protection against discrimination, which consist of data on:

- 1) cases arising in the work of the Commissioner;**
- 2) anonymized legally binding judgments and decisions made in connection with discrimination and violation of the principle of equality that the courts submit to the Commissioner in accordance with Article 40b paragraph 1 item 2) of this Law.**

The Commissioner is the handler of personal data, which he/she processes within the records from paragraph 1, item 1) of this article, and which include: name, surname, address, electronic address, as well as other personal data that are necessary for the Commissioner's actions, especially data that refer to the personal characteristic, that is, an assumed personal characteristic as a basis for discrimination from Article 2, paragraph 1, item 1) of this Law.

The purpose of keeping records from paragraph 1 of this article is to assess the situation in the area of protection against discrimination.

Data from the records referred to in paragraph 1 of this article are kept and stored in electronic form in accordance with the law governing the protection of personal data.

Submission of judgments and court decisions

Article 40b

Courts are obliged to:

1) keep records of final judgments and decisions made in lawsuits for protection against discrimination, of final judgments and decisions made in misdemeanour proceedings for violation of provisions prohibiting discrimination, and of final judgments and decisions made in criminal proceedings for criminal offenses related to discrimination and violation of the principle of equality;

2) submit to the Commissioner, for the previous year, and no later than March 31 of the current year, anonymized legally binding judgments and decisions made in lawsuits for protection against discrimination, anonymized legally binding judgments and decisions made in misdemeanour proceedings for violation of provisions prohibiting discrimination and anonymized legally binding judgments and decisions in criminal proceedings for criminal offenses related to discrimination and violation of the principle of equality.

The records from paragraph 1, item 1) of this article also contain data diversified by the basis of discrimination, areas of social relations, types of decisions, provisions of the law to which the violations relate, and other data of importance for assessing the situation in the area of protection against discrimination.

The manner of keeping court records for judgments and decisions from paragraph 1 of this article and the manner of submitting them to the Commissioner shall be prescribed by the minister responsible for justice.

VI. JUDICIAL PROTECTION

Judicial jurisdiction and procedure

Article 41

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

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

The proceedings shall be conducted urgently.

Judicial review shall always be allowed.

Jurisdiction

Article 42

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

Lawsuits

Article 43

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

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

Temporary measure

Article 44

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

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

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

The rules concerning the burden of evidence

Article 45

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

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

Each party may use data from registers and administrative registers to prove the facts in respect of which it bears the burden of proof.

The provisions of para. 1–3 of this Article are accordingly applied to the proceedings before the Commissioner.

Lawsuits initiated by other persons

Article 46

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

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

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

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

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

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

VII. MONITORING

Monitoring the implementation of the Law

Article 47

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

The Commissioner's annual report

Article 48

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

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

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

Special report

Article 49

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

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

VIII. THE PENAL PROVISIONS

Article 50

The authorised official or the person in charge within the framework of a public administration organ shall be fined in the amount of **20,000 to 100,000** dinars for committing a discriminatory act (Article 15 paragraph 2).

Article 51

A legal entity or an entrepreneur shall be fined in the amount of **50,000 to 500,000** dinars for violating the principle of equal opportunity of employment or exercising all the rights in the sphere of labour under equal conditions (Article 16 paragraph 1) on the grounds of personal characteristics, in the case of a person doing temporary and occasional work, a person doing additional work, a student or a pupil undergoing vocational practice, a person undergoing professional training and development without concluding a contract of employment, or a volunteer.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 1 of this Article.

Article 52

A legal entity or an entrepreneur shall be fined in the amount of **50,000 to 500,000** dinars if, within the framework of its/his/her activities, it/he/she refuses to provide services, demands that conditions should be fulfilled for the provision of services that are not required of other persons or groups of persons, or if it/he/she unwarrantedly gives priority to another person or a group of persons when providing services (Article 17 paragraph 1), on the grounds of the personal characteristics of a person or a group of persons.

A legal entity or an entrepreneur, owner or user of an object in public use or a public space shall be fined in the amount of **50,000 to 500,000** dinars for denying access to the said object or public space to an individual or a group of persons on the grounds of their personal characteristics (Article 17 paragraph 2).

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 1 of this Article.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 2 of this Article.

Article 53

The person in charge within the framework of a public administration organ shall be fined in the amount of **20,000 to 100,000** dinars for acting contrary to the principle of free expression of faith or belief; that is to say, if he/she denies an individual or a group of persons the right to acquire, maintain, express and change faith or belief, as well as the right to express, or act in accordance with, their beliefs (Article 18).

A legal entity or an entrepreneur shall be fined in the amount of **50,000 to 500,000** dinars for a violation referred to in paragraph 1 of this Article.

The person in charge within the framework of a legal entity and a physical person shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 1 of this Article.

Article 54

An educational institution shall be fined in the amount of **50,000 to 500,000** dinars if it unwarrantedly obstructs or prevents an individual or a group of persons from being enrolled, on the grounds of his/her or their personal characteristics, or excludes them from the institution in question (Article 19 paragraph 2).

The person in charge within the framework of an educational institution shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 1 of this Article.

Article 55

A legal entity that denies a right or recognises benefits pertaining to gender, or exploits an individual or a group of persons on the grounds of sex, that is, **gender, gender identity or due to gender change** shall be fined in the amount of **50,000 to 500,000** dinars (Article 20 paragraph 2).

An entrepreneur who denies a right or recognises benefits pertaining to gender, or perpetrates acts of physical or other forms of violence, exploits, expresses hatred, disparages, blackmails or harasses an individual or a group of persons on the grounds of gender shall be fined in the amount of **50,000 to 500,000** dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 2 of this Article.

Article 56

A legal entity or an entrepreneur that requires of an individual or a group of persons to publicly express their sexual orientation or who prevents them from expressing their sexual orientation or **discriminates them based on sexual orientation**, in accordance with this Law (Article 21) shall be fined in the amount of **50,000 to 500,000** dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of **20,000 to 100,000 dinars** for a violation referred to in paragraph 1 of this Article.

Article 57

A legal entity or an entrepreneur that discriminates against a child or a minor on the grounds of being born in or out of matrimony, or publicly advocates giving priority to children of one gender over the other, and differentiates among children on the grounds of the **health, disability, sexual orientation, gender identity, sexual characteristics, ethnic origin, national affiliation**, financial situation, profession and other characteristics related to the social position, activities, expressed opinion or belief of the child's parents, guardians and family members (Article 22 paragraph 2), shall be fined in the amount of **50,000 to 500,000** dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 1 of this Article.

Article 58

A legal entity or an entrepreneur that discriminates against individuals or obstructs the provision of health care or other public services to them on the grounds of age (Article 23 paragraph 1) shall be fined in the amount of **50,000 to 500,000** dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of **20,000 to 100,000 dinars** for a violation referred to in paragraph 1 of this Article.

Article 59

A legal entity or an entrepreneur that discriminates against an individual or a group of persons on the grounds of his/her or their political beliefs, or membership or non-membership of a political party **or union** (Article 25 paragraph 1) shall be fined in the amount of **50,000 to 500,000** dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a physical person, shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 1 of this Article.

Article 60

A legal entity or an entrepreneur that unwarrantedly denies an individual or a group of persons health care services on the grounds of his/her or their personal characteristics, imposes special conditions for the provision of health care services, denies them diagnosis and withholds information pertaining to their current health condition and to the already undertaken or intended measures for treatment or rehabilitation, and that harasses, insults and disparages them in the course of staying at a health care institution (Article 27 paragraph 2) shall be fined in the amount of **50,000 to 500,000** dinars.

The person in charge within the framework of a legal entity or a public administration organ, as well as a health care worker, shall be fined in the amount of **20,000 to 100,000** dinars for a violation referred to in paragraph 1 of this Article.

PROVISIONS NOT INCLUDED IN THE "CONSOLIDATED TEXT" OF THE LAW

*Law on Amendments and Supplements to the Law on Prohibition of Discrimination:
"Official Gazette of RS", No. 52/2021-4*

Article 27

Bylaw regulating the manner of keeping records of final judgments and decisions in lawsuits for protection against discrimination, final judgments and decisions in misdemeanour proceedings due to violation of provisions prohibiting discrimination, and final judgments and decisions in criminal proceedings for criminal offenses related to discrimination and violation of the principle of equality, as well as the manner of submitting them to the Commissioner (Article 40b paragraph 3 of this Law), shall be adopted within six months from the date of coming into effect of this Law.

Article 28

Proceedings started before the entry into force of this Law will be completed according to the provisions of the Law on Prohibition of Discrimination ("Official Gazette of RS", number 22/09) and the general acts according to which they were started.

Article 29

This Law shall come into effect on the eighth day after the day of being published in the "Official Gazette of the Republic of Serbia".