[BG] Protection Against Discrimination Act

IRIS 2003-10:1/24

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At the end of September 2003 Bulgaria adopted its Protection against Discrimination Act. The Act shall enter into force on 1 January 2004.

Until recently the prohibition of discrimination was proclaimed by a general rule of the Bulgarian Constitution and was provided for by several rules scattered among diverse regulations (such as the Penal Code, the Labour Code and some others). The legal provisions were designed in a way that made them barely effective. For example, there were no definitions of the existing forms of discrimination.

The new anti-discrimination act was also Bulgaria's response to the requirements of acquis communautaire Directive 2000/43/EC and Directive 2000/78/EC.

The first chapter contains some general provisions. An overall prohibition of discrimination is introduced, regardless of the specific personal features that may serve as grounds for discrimination. The various features (e.g. race, sex, ethnicity, age, sexual orientation, etc.) are not exhaustive. The scope of the prohibition is wide ranging: it covers both direct and indirect discrimination, racial segregation, harassment (including sexual harassment), incitement and assistance to discrimination and on persecution because of anti-discrimination activities. Then there follow sixteen cases of affirmative action defined as non-discrimination.

The next chapter provides for protection against discrimination in the fields of labour relations, educational and professional training and in connection with the exercise of some other rights. Then the mechanisms for protection are set out. A brand new agency with wide Discrimination is established. Several protection rules concerning the judicial procedures are introduced. In cases of alleged discrimination the burden of proof is on the defendant.

The final chapter deals with the various administrative sanctions.

There are several provisions, which, directly or indirectly, concern media activities. The prohibition of discrimination is proclaimed to be effective erga omnes. So it is possible that either journalists or their publishers could be held responsible for discrimination and might, therefore, run the risk of being involved mostly in acts of incitement to discrimination in their publications.

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Journalists may have an important part in initiating procedures before the Commission for Protection against Discrimination. Applications from natural or artificial persons, addressed to the Commission, are among the "triggers" to start proceedings. The messages based on journalists' investigations may therefore become essential sources of information for the Commission. But it must be noted that the Commission will not examine anonymous data.

The Act permits plaintiffs, within a month after they have lodged their claims concerning discrimination, to announce this fact in the mass media and to invite other affected persons to join proceedings.

Attention should be paid to the provisions of the Act requiring all natural and artificial persons to submit on the demand of the Commission all available information concerning a given case of discrimination. Refusals to submit information are liable to administrative sanctions. This provision might conflict with Article 10 of the European Convention for Protection of Human Rights and Fundamental Freedoms, conceived as a guarantee of the confidentiality of journalists' sources of information.

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Protection Against Discrimination Act (State Gazette, N 86/30/09/2003)

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