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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

NORTH MACEDONIA

LAW

ON PREVENTION AND PROTECTION

AGAINST DISCRIMINATION

adopted on 16 May 2019

ASSEMBLY OF THE REPUBLIC OF NORTH MACEDONIA

Pursuant to Article 75, paragraphs 1, 2 and 3 of the Constitution of the Republic of North Macedonia, the President of the Republic of North Macedonia and the President of the Assembly of the Republic of North Macedonia issue this

DECREE FOR PROMULGATION OF THE LAW ON PREVENTION AND PROTECTION AGAINST DISCRIMINATION (*)

The Law on Prevention and Protection against Discrimination (*), adopted by the Assembly of the Republic of North Macedonia, on its session held on 16 May 2019, is hereby promulgated.

No. 08-2888/1
16 May 2019
Skopje

President of the Republic of
North Macedonia,
Stevo Pendarovski

President of the
Assembly of the Republic of
North Macedonia,
Talat Xhaferi, MA

LAW ON PREVENTION AND PROTECTION AGAINST DISCRIMINATION(*)

I. GENERAL PROVISIONS

Article 1

Subject of Law

This Law shall regulate the prevention and prohibition of discrimination, forms and types of discrimination, procedures for protection against discrimination and the composition and work of the Commission for Prevention and Protection against Discrimination.

Article 2

Purpose of Law

The purpose of this Law shall be to ensure the principle of equality and to provide prevention and protection against discrimination in the exercise of human rights and freedoms.

* This Law complies with the following Directives of the European Parliament and the Council: Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, CELEX no. 2000L0078; Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment of men and women in the access to and supply of goods and services, CELEX no. 32004L0113 and Directive 2006/54/EC of the European Parliament and of the Council 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 (recast), CELEX no. 32006L0054.

Article 3

Law Application

(1) This Law shall apply to all natural and legal entities.

(2) This Law shall be applied by all state authorities, bodies of local self-government, legal entities with public authorities and all other legal and natural entities in the areas of:

- 1) Employment and labour relations;
- 2) Education, science and sports;
- 3) Social security, including the area of social protection, pension and disability insurance, health insurance and health care;
- 4) Justice and administration;
- 5) Housing;
- 6) Public information and media;
- 7) Access to goods and services;
- 8) Membership and activity in political parties, associations, foundations, unions or other membership-based organizations;
- 9) Culture; and
- 10) Any other areas.

(3) Entities referred to in paragraph (2) of this Article shall have an obligation to take measures or actions for promotion and advancement of equality and prevention of discrimination.

(4) All entities that are legally obliged to collect, record and process data, shall have an obligation to present such data in line with the discriminatory grounds under Article 5 of this Law, relevant in the area, aiming at promotion and advancement of equality and prevention of discrimination.

Article 4

Glossary

Certain terms used in this Law shall have the following meanings:

1. Equality shall mean the principle under which all people have equal rights, i.e. they are equal in the enjoyment and realisation of their rights and freedoms;

2. Person shall mean any natural or legal entity;

3. Person with disability shall mean any person having a long-term physical, intellectual, mental or sensory impediment, which in interaction with various social barriers may prevent the person's full and effective participation in society on an equal basis with the others;

4. Reasonable accommodation shall mean a necessary and appropriate modification and adjustment required in a particular case, which does not cause disproportionate or undue burden, aimed at ensuring the exercise or enjoyment of all human rights and freedoms of persons with disabilities on an equal basis with the others. Denying reasonable accommodation shall constitute discrimination;

5. Access to infrastructure, goods and services shall mean taking appropriate measures to ensure that persons with disabilities have access, on an equal basis with the others, to the physical environment, transportation, information and communication, including information and communication technologies and systems, to other public

facilities and services in both urban and rural areas. Denying the access and availability of infrastructure, goods and services shall constitute discrimination;

6. Marginalised group shall mean any group of individuals unified by their specific position in society, who are subject to prejudice and have special characteristics making them vulnerable to discrimination and/or violence, and less opportunity for exercise and protection of their rights and freedoms;

7. Legitimate or objectively justified purpose shall mean the purpose for whose achievement the funds should match the actual needs in a particular case, to be specifically defined in advance, to be necessary to achieve such purpose and proportionate to the effects to be achieved;

8. Discrimination by association shall mean any distinction, exclusion or restriction of a person based on their relationship with another person or group under any discriminatory grounds;

9. Discrimination by perception shall mean any distinction, exclusion or restriction of a person based on his/her assumed affiliation with a particular group on any discriminatory grounds;

10. Multiple discrimination shall mean discrimination against a person or group on several discriminatory grounds;

11. Repeated discrimination shall mean any discrimination committed multiple times towards a person or group on any discriminatory grounds;

12. Continued discrimination shall mean any continued discrimination committed against a person or group, for a longer period of time, on any discriminatory grounds.

13. Intersectional discrimination shall mean any discrimination on two or more discriminatory grounds which are simultaneous and inextricably linked; and

14. Situation testing shall mean a method of proving discrimination by involving organised testers who are placed in a comparable situation to investigate the discrimination in various cases, processes and areas on any discriminatory grounds.

Article 5 **Discriminatory Grounds**

Any discrimination based on race, skin colour, national or ethnic origin, sex, gender, sexual orientation, gender identity, belonging to a marginalised group, language, nationality, social background, education, religion or religious belief, political conviction, other beliefs, disability, age, family or marital status, property status, health status, personal capacity and social status, or any other grounds (hereinafter: discriminatory grounds) shall be prohibited.

Article 6 **Definition of Discrimination**

Discrimination shall mean any distinction, exclusion, restriction or preference based on any discriminatory grounds, whether by doing or not, aimed at or resulting in preventing, restricting, recognising, enjoying or exercising the rights and freedoms of any person or group on an equal basis with the others. This shall cover all forms of discrimination, including disabling the reasonable accommodation and disabling the accessibility and availability of infrastructure, goods and services.

Article 7

Measures and Actions not deemed to constitute Discrimination

(1) Any measures and actions undertaken with the sole purpose to eliminate unequal enjoyment of human rights and freedoms until the de facto equality of any person or group is achieved shall not be considered as discrimination, if such differentiation is justified and fair, and the means of achieving such purpose are proportionate, i.e. appropriate and necessary.

(2) The measures and actions referred to in paragraph (1) of this Article shall be limited in time and apply until the de facto equality of persons or groups in the enjoyment of their rights is achieved.

(3) The following shall not constitute discrimination:

1) Different treatment of persons who are not citizens of the Republic of North Macedonia regarding the rights and freedoms provided by the Constitution of the Republic of North Macedonia, laws and international agreements ratified in line with the Constitution of the Republic of North Macedonia, and which derive directly from the Republic of North Macedonia citizenship;

2) Different treatment of individuals based on any discriminatory grounds resulting from the nature of their occupation or activity, or from the conditions in which such occupation is performed, which constitutes a genuine and determining occupational requirement, and where the goal is legitimate and the requirement does not exceed the level required for its realisation.

II. FORMS AND TYPES OF DISCRIMINATION

Article 8

Direct and Indirect Discrimination

(1) Direct discrimination occurs when a person or group of persons is treated, was treated or would be treated less favourably compared to another person or group in a factual or possible similar or comparable situation, on discriminatory grounds.

(2) Indirect discrimination occurs when a person or group is put at a disadvantage compared to other persons or group of persons through seemingly neutral provisions, criteria or practices, except when they arise from a legitimate aim and the means of achieving such goal are proportionate, i.e. they are appropriate and necessary.

Article 9

Calling, Incitement and Instruction to Discrimination

Calling, incitement and instruction to discrimination shall mean any activity through which discrimination is directly or indirectly called for, incited, instructed or prompted on any discriminatory grounds.

Article 10

Harassment

(1) Harassment shall mean unwanted treatment of a person or group of persons on any discriminatory grounds, whose purpose or effect is to violate the dignity or to create a threatening, hostile, humiliating or intimidating environment, approach or practice.

(2) Sexual harassment shall mean any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect of violating the dignity or creating a threatening, hostile, humiliating or intimidating environment, approach or practice.

Article 11 **Victimisation**

Victimisation shall mean bearing the adverse consequences by a person who has taken action to be protected against discrimination, or who has reported discrimination, initiated proceedings for protection against discrimination, testified during such proceedings or otherwise participated in the procedure for protection against discrimination.

Article 12 **Segregation**

Segregation shall mean any physical separation of a person or group of persons on any discriminatory grounds, without a legitimate or objectively justified purpose.

Article 13 **More Severe Forms of Discrimination**

In terms of this Law, more severe forms of discrimination shall mean multiple discrimination, intersectional discrimination, repeated discrimination and continued discrimination.

III. COMMISSION FOR PROTECTION AGAINST DISCRIMINATION

Article 14 **Legal Status of the Commission**

(1) Commission for Protection against Discrimination is an autonomous and independent body working in accordance with its responsibilities defined by this Law (hereinafter: the Commission).

(2) The Commission is a legal entity.

(3) The Commission is based in Skopje.

Article 15 **Commission's Budget**

(1) Funds of the Commission shall be provided from the Budget of the Republic of North Macedonia, including the funds for reasonable accommodation for people with disability.

(2) Funds for Commission's operation shall be determined by the Assembly of the Republic of North Macedonia upon Commission's proposal.

(3) The Assembly of the Republic of North Macedonia shall specifically vote the section related to the Commission in the Budget of the Republic of North Macedonia.

(4) The use, allocation and assignment of such funds provided in the section of the Republic of North Macedonia's Budget allocated to the Commission, shall be independently disposed of by the Commission.

(5) The Commission may also provide funds from other sources such as donations, grants etc.

Article 16

Commission Composition

(1) The Commission shall consist of seven members appointed and dismissed by the Assembly of the Republic of North Macedonia.

(2) Commission Members shall be appointed for a mandate of five years with the right to be re-elected only once.

(3) When choosing the first composition of the Commission, four members shall be elected for a five-year mandate, while three members for a three-year mandate, with the right to be re-elected only once.

(4) From among the members referred to in paragraph (2) of this Article, the Commission shall elect its President for a one-year mandate, without the right to re-election.

(5) Commission Members should reflect the composition of society as a whole and in the election of Commission Members, the principles of adequate representation of all social groups, adequate and equitable representation of community members and gender-balanced participation shall apply.

Article 17

Requirements for Election of Commission Members

Any person who fulfils the following requirements may be elected as Commission Member:

- 1) to be a citizen of the Republic of North Macedonia;
- 2) to have acquired 240 credits according to ECTS or VII/1 level of education and to have a minimum of seven-year work experience in the area of human rights, of which five years in the area of equality and non-discrimination;
- 3) At the time of appointment, shall not have been imposed any imprisonment of more than six months or prohibition to perform a profession, activity or duty by an effective court judgement;
- 4) not to be an office-holder in a political party.

Article 18
Procedure for Election of Commission Members

(1) The Assembly of the Republic of North Macedonia shall publish a public announcement for the election of Commission Members in at least two daily newspapers circulated across the Republic of North Macedonia, one of which shall be published in the language spoken by at least 20% of the citizens speaking an official language other than Macedonian. The announcement must be published in the “Official Gazette of the Republic of North Macedonia”, on the website of the Assembly of the Republic of North Macedonia and on the Commission’s website in all the languages of the communities in the Republic of North Macedonia.

(2) The announcement referred to in paragraph (1) of this Article shall be valid for 30 days as from the date of its publication in the “Official Gazette of the Republic of North Macedonia”.

(3) The Commission of Elections and Appointments of the Assembly of the Republic of North Macedonia shall prepare a draft list of applicants after having conducted a previous public hearing, and submit it to the Assembly of the Republic of North Macedonia along with materials from all applications submitted and a Report on the Public Hearing held.

Article 19
Status of Commission Members

(1) Commission Members shall have the status of appointed persons who shall perform their function professionally and such function shall be incompatible with the performance of another public office, profession or political party function. The Commission Member’s public office shall be terminated. If a Commission Member was employed before his/her appointment, such employment shall be on stand.

(2) Commission Member whose term of office has expired shall serve until the appointment of a new member, but no longer than three months.

(3) Commission Members shall be entitled to salaries and other benefits in accordance with the Law on Salaries and Other Benefits of Elected and Appointed Officials.

Article 20
Dismissal and Termination of Office of a Commission Member

(1) The Assembly of the Republic of North Macedonia shall dismiss a Commission Member before the end of his/her mandate, upon a proposal from the Commission of Elections and Appointments, if:

1) The Commission Member was issued a final decision imposing a ban on performing his/her profession, activity or duty;

2) The Commission Member has been issued a final court decision sentencing him/her to more than six months of imprisonment;

3) The Commission Member has permanently lost his/her legal capacity to perform his/her office in line with the Law; and

4) The Commission Member has performed his/her office in an unprofessional, biased and unethical manner.

(2) A Commission Member's term of office shall be terminated if:

1) He/she requests this on his/her own;

2) Due to death;

3) Upon fulfilment of age retirement conditions.

(3) The fulfilment of requirements for dismissal under paragraph (1) of this Article shall be established by the Commission of Elections and Appointments by a majority vote of its total number of members upon a previously conducted public hearing, and it shall submit an initiative to dismiss a Member of the Commission for Protection against Discrimination to the Assembly of the Republic of North Macedonia, along with a Report on the Public Hearing held.

(4) When a Commission Member has been dismissed or his/her term of office ceased in accordance with the provisions of paragraphs (1) and (2) of this Article, the Assembly of the Republic of North Macedonia shall publish an announcement for appointment of a Commission Member with a mandate until the expiry of the mandate of the Member being replaced.

Article 21

Competences of the Commission

(1) The Commission shall:

1) Undertake activities for promotion, prevention and protection regarding equality, human rights and non-discrimination;

2) Monitor the implementation of this Law and issue opinions and recommendations;

3) Promote the principle of equality, freedom from discrimination and tackling all forms of discrimination by public awareness raising, information and education;

4) Contribute to the development and implementation of programmes and materials in the area of both formal and informal education;

5) Prepare and publish special thematic reports on specific issues in the area of equality and non-discrimination;

6) Provide general recommendations on specific issues in the area of equality and non-discrimination and monitor their implementation;

7) Advocate the ratification of bilateral or multilateral international agreements in the area of human rights or accession to such agreements and monitor their implementation;

8) Contribute to the preparation of the reports that the state is obliged to submit to international and regional human rights bodies and contribute to the implementation of their recommendations;

9) Promote and propose harmonisation of national legislation, regulations and practices with international and regional human rights instruments;

10) Initiate amendments to regulations to enforce and improve the protection against discrimination;

11) Provide opinions on proposals of laws relevant to the prevention and protection from discrimination;

12) Establish cooperation with natural and legal entities, as well as associations, foundations and social partners to achieve the principle of equality and promotion of prevention and protection against discrimination;

13) Cooperate with relevant national authorities of other countries, as well as with both international and regional organisations in the area of protection against discrimination;

14) Act upon applications, and give opinions, recommendations and conclusions on specific cases of discrimination;

15) Initiate ex officio proceedings for protection against discrimination;

16) Provide information to any person interested in his/her rights and opportunities of initiating judicial or other proceedings for protection against discrimination;

17) Monitor the implementation of opinions and recommendations given regarding particular cases of discrimination up until the fulfilment of such recommendations made by the Commission;

18) Initiate and appear as an intervener in court proceedings for protection against discrimination;

19) On request by the party or on its own initiative may request the court to allow the Commission to act as a friend of the court (*amicus curiae*);

20) Quarterly inform the public about discrimination cases in a manner determined by an act of the Commission;

21) Share its opinions, findings and recommendations and address the public through any media;

22) Adopt Rules of Procedure, Annual Work Plan and Programme and other acts related to its operations;

23) May establish advisory bodies of experts on specific issues related to the promotion, prevention and protection against discrimination;

24) Collect and publish statistical and other data, and establish databases related to discrimination;

25) Submit for consideration an Annual Report on its work to the Assembly of the Republic of North Macedonia by 31 March of the current year for the previous year;

26) Publish all reports, including its Financial Statement, on the Commission's website.

(2) The Commission shall ensure accessibility when performing its competences referred to in paragraph 1 of this Article.

Article 22
Commission's Professional Service

(1) A Professional Service shall be established to perform professional, administrative and technical activities of the Commission.

(2) The Commission shall adopt special acts regulating the internal organisation and work systematisation (job description) of the Professional Service.

(3) Staff members of the Commission's Professional Service shall have the status of administrative officers, and provisions under the Law on Administrative Officers shall apply to them.

IV. PROCEDURE FOR PREVENTION AND PROTECTION AGAINST
DISCRIMINATION BEFORE THE COMMISSION FOR PREVENTION AND
PROTECTION AGAINST DISCRIMINATION

Article 23
Commission's Actions

(1) Persons believing they have suffered discrimination may file an application to the Commission in writing or orally, recorded in a report, without the obligation to pay any taxes or fees.

(2) A person believing to be discriminated may be represented before the Commission by an association, foundation or union upon prior consent given to either of them.

(3) Any associations, foundations, unions or other civil society organisations that have a justified interest in protecting the interests of a particular group or deal with protection against discrimination as part of their activities, may file an application if it is likely that the actions of a certain natural or legal person have discriminated a higher number of people.

(4) The Commission shall initiate proceedings ex officio if any circumstances or facts, as well as information obtained through rumours, give rise to a grounded suspicion that the authorities referred to in Article 3 paragraph (2) of this Law have committed discrimination based on any discriminatory grounds.

Article 24
Elements, Language and Deadlines of the Application

(1) An application shall contain the following elements: information on the applicant, information on the person against whom the application is filed, circumstances and facts underlying the application, information on legal actions previously lodged by the applicant, if any, and a signature of the applicant.

(2) If the application does not contain the elements referred to in paragraph (1) of this Article or it is unclear, the Commission shall oblige the applicant to clarify it further within eight days as from the date of receipt of the application.

(3) The provisions of the Law on Use of Languages shall apply to proceedings before the Commission. The sign language may also be used in direct communication with the Commission.

(4) Parties who do not understand Macedonian and its Cyrillic alphabet shall have the right to an interpreter.

(5) The application may be filed no later than six months of becoming aware of the act of discrimination or no later than one year as from the date when the violation occurred.

(6) The Commission may initiate proceedings even after the deadline if it determines that it is a case which concerns a larger group of people or when the effect thereof continues or affects the public interest.

(7) The Commission shall submit the application to the person against whom it was filed within 5 days of the receipt thereof, while the person may plead on application allegations within 8 days of the receipt thereof.

Article 25

Prevention of Conflict of Interest

A Commission Member shall be exempted from the work on the case upon his/her own request or by a majority vote of the Commission, if:

1) In the case for which the procedure has been initiated he/she was previously involved, is or was a party, co-owner, i.e. co-payer, witness, expert witness, attorney or legal representative of the party;

2) With the party, legal representative or attorney of the party, he/she is related by blood in a straight line, while in terms of side-line blood relation, up to the fourth degree, and regarding spouse or spouse relatives, up to the second degree even when the marriage was terminated; and/or

3) With the party, legal representative or attorney of the party, he/she has a relation of a guardian, adoptive parent, adopted person, foster parent or dependent.

Article 26

Burden of Proof

The complainant claiming that discrimination has been committed under the provisions of this Law shall state all the facts making such claim likely. If the Commission determines the claim is likely, then the burden of proof shall be transferred to the person against whom the application was filed.

Article 27

Commission's Decisions

(1) The Commission shall give its opinion within 60 days as of the date of filing the application and deliver it to both the complainant and the person against whom the application was filed.

(2) Along with the written opinion referred to in paragraph (1) of this Article, and after it has established discrimination, the Commission shall propose measures to eliminate such violations of the right.

(3) The person to whom such recommendation is addressed shall act on the recommendation and eliminate the violation of the right within 30 days as of such recommendation receipt, or within a longer period if there are particularly justifiable reasons but no longer than six months, and inform the Commission thereon.

(4) If the person to whom the recommendation is addressed fails to act upon the recommendation in accordance with paragraph (3) of this Article, the Commission shall submit a request to initiate infringement proceedings before the competent Misdemeanour Court.

(5) The Commission shall make either a conclusion not to act or to terminate the procedure upon the application in case a procedure on the same matter has already been initiated or is being initiated before the court in parallel with its procedure or if its procedure has been effectively completed, and it shall inform the complainant thereon.

(6) The Commission shall make a conclusion not to initiate a procedure regarding an application that has already been acted upon, and on which new facts and circumstances have not been offered, and it shall inform the applicant thereon.

(7) The Commission shall make a conclusion for non-initiation or termination of procedure if the applicant decides to withdraw the application during the proceedings.

(9) The Commission shall make a conclusion for non-initiation or termination of procedure if during the procedure the complainant died unless his/her successors demand the continuation of such procedure commenced.

Article 28

General Recommendation for Protection against Discrimination

The Commission shall, on its own initiative, indicate a general recommendation in case of discrimination committed against a larger number of persons.

Article 29

Inspection of Documents and Premises

(1) While performing the duties within its competence, the Commission may directly inspect the documents and premises of all legal entities, state authorities, local self-government bodies, other authorities and organisations exercising public authority, and request and obtain from them copies of any documents pertaining to any particular case concerned, as well as from public institutions and services that avail of data and information on cases and general practices of discrimination, while respecting the right to privacy.

(2) Commission Members and Administrative Office staff shall have official identification. The form, content, procedure and manner of issuance, usage and revocation of official identification shall be prescribed by the Commission's general act.

Article 30

Collecting Data and Information from Natural and Legal Persons

(1) Any natural and legal entities, state authorities, local self-government bodies, other bodies and organisations exercising public powers, and any public facilities and services shall, at Commission's request, provide information on specific cases of discrimination and general discriminatory practices within 8 (eight) days as of the date of receipt of the application.

(2) The Commission may summon for an interview any person who can provide specific information on cases of discrimination.

Article 31

Cooperation with Institutions that act upon Applications for Protection against Discrimination and Human Rights

(1) In the performance of the activities within its competence, the Commission shall cooperate with institutions acting on applications for protection against discrimination and human rights in specific cases of discrimination.

(2) The Commission shall realise the cooperation of paragraph (1) of this Article through Memoranda of Cooperation publicly published on the Commission's website.

V. COURT PROTECTION

Article 32

Jurisdiction and Procedure

(1) Any person deeming to be discriminated against may file an application before the competent civil court.

(2) Provisions of the Law on Civil Procedure shall apply during the procedure, unless otherwise regulated by this Law.

(3) The procedure shall be urgent.

Article 33

Territorial Jurisdiction

Besides the court of general territorial jurisdiction, the court in whose area the plaintiff's residence or registered office is located shall also have territorial jurisdiction in the procedure for protection against discrimination.

Article 34

Lawsuit

The lawsuit as in Article 32 paragraph (1) of this Law may be used to request:

- 1) To establish that the defendant has violated the plaintiff's right, i.e. that the action the defendant has taken or has failed to take constitutes discrimination;
- 2) To prohibit the undertaking of actions which violate or may violate the plaintiff's right;
- 3) To oblige the defendant to take actions that eliminate the discrimination or its consequences;
- 4) To compensate both tangible and intangible damage caused by the violation of rights protected by this Law; and
- 5) To publish in the media the operative part of the judgment establishing discrimination in an accessible format at the expense of the defendant.

(2) Requests as in paragraph (1) of this Article may be submitted together with requests for protection of other rights decided upon in a civil procedure if all such requests are interconnected and if the same court has actual and local jurisdiction for them.

(3) The decision ordering disclosure in the media shall be mandatory for the publisher of the media in which to publish the operative part of the judgment, regardless of whether such publisher was a party in the proceedings.

Article 35

Action for Protection against Discrimination of Public Interest (actio popularis)

(1) Any associations, foundations, unions or other civil society organisations and informal groups that have justified interest in protecting the interests of a particular group or that deal with protection against discrimination as part of their activities may file a complaint if it is likely that the defendant's actions have discriminated against a larger number of people.

(2) The complaint referred to in paragraph (1) of this Article may be put forward in order to:

- 1) Establish that the defendant has committed discrimination against the group whose interests are represented by the plaintiff, i.e. that the action the defendant has taken or overlooked may directly lead to discrimination against the group;
- 2) Forbid activities that discriminate the group whose interests are represented by the plaintiff;
- 3) Oblige the defendant to take actions that eliminate the discrimination or its consequences;
- 4) Publish in the media the operative part of the judgment establishing the discrimination in an accessible format at the expense of the defendant.

Article 36

Security Measures

Before the beginning of, or during the procedure related to the claim, the court may, upon a proposal of the party, determine security measures even without hearing the other party in order to eliminate immediate unlawful damage threat or prevent violence or eliminate irreparable damage.

Article 37
Burden of Proof

(1) The plaintiff claiming that discrimination has been committed under the provisions of this Law, shall state the facts that make the claim likely, and then the burden of proof shall shift to the defendant to prove that there was no discrimination committed.

(2) The provision of paragraph (1) of this Article shall not apply in misdemeanour and criminal proceedings.

Article 38
Evidence

(1) In addition to the evidence stipulated by the Law on Civil Procedure, in court proceedings for protection against discrimination, statistical data and/or data obtained through situation testing may also be used.

Article 39
Court Fees

(1) Persons initiating court proceedings for protection against discrimination shall be exempt from paying the costs of court fees.

(2) The cost of court fees for persons as in paragraph (1) of this Article shall be borne by the Budget of the Republic of North Macedonia.

Article 40
Third Party Participation

(1) In the proceedings regarding the complaint under Article 34 of this Law, any authority, organisation, institution, association or trade union or another person dealing with the protection of rights to equality and non-discrimination within its activity may join as an intervener on the side of the person claiming to be discriminated against and whose rights are decided in the proceedings.

(2) Intervener's participation shall be decided by the court, which shall apply the provisions of the Civil Procedure Law.

VI. PENALTY PROVISIONS

Article 41

(1) A fine of 3,000 Euros in MKD equivalent shall be imposed on any legal entity found to have committed discrimination under Articles 4, 8, 9, 10, 11 and 12 of this Law.

(2) A fine amounting to 30% of the fine weighted for the legal entity shall be imposed for the violation as in paragraph (1) of this Article on the person responsible in the legal entity.

(3) A fine of 500 to 1,000 Euros in MKD equivalent shall be imposed for a violation as in paragraph (1) of this Article on the official of any state authority, the mayor of the local self-government unit or the authorised person entrusted with performing public authority.

(4) A fine of 400 to 800 Euros in MKD equivalent shall be imposed on any natural person for a violation as in paragraph (1) of this Article.

Article 42

(1) A fine of 5,000 Euros in MKD equivalent shall be imposed on any legal entity found to have committed discrimination under Article 13 of this Law.

(2) A fine amounting to 30% of the fine weighted for the legal entity shall be imposed for the violation as in paragraph (1) of this Article on the person responsible in the legal entity.

(3) A fine of 700 to 1,500 Euros in MKD equivalent shall be imposed for the violation as in paragraph (1) of this Article on the official of any state authority, the mayor of the local self-government unit or on the authorised person entrusted with performing public authority.

(4) A fine of 800 to 1,500 Euros in MKD equivalent shall be imposed on any natural person for the violation as in paragraph (1) of this Article.

Article 43

(1) A fine of 3,000 Euros in MKD equivalent shall be imposed for a violation by the legal entity that will act contrary to Articles 29 and 30 of this Law.

(2) A fine amounting to 30% of the fine weighed for the legal entity shall be imposed for the violation of paragraph (1) of this Article on the person responsible in the legal entity.

(3) A fine of 500 to 1,000 Euros in MKD equivalent shall be imposed for a violation as in paragraph (1) hereof on the official of any state authority, the mayor of the local self-government unit or an official entrusted with performing public authority.

(4) A fine of 400 to 800 Euros in MKD equivalent shall be imposed on any natural person for a violation as in paragraph (1) of this Article.

Article 44

The amount of the fine shall be determined according to the Law on Misdemeanours.

Article 45
Misdemeanour Authority

Regarding any violations stipulated by this Law, the misdemeanour procedure shall be conducted and the misdemeanour sanction shall be imposed by the state administration body responsible for labour affairs (hereinafter: the Misdemeanour Authority).

Article 46
Establishment and Operation of the Misdemeanour Commission

(1) The misdemeanour procedure under Article 45 of this Law before the misdemeanour authority shall be conducted by the Commission deciding on misdemeanours (hereinafter: the Misdemeanour Commission) established by the Minister heading the state administration body responsible for labour affairs.

(2) The Misdemeanour Commission shall be composed of authorised officers employed in the state administration body responsible for labour affairs, one of whom shall act as President of the Misdemeanour Commission.

(3) The Misdemeanour Commission shall be composed of three members of whom at least one member shall be a law graduate who has passed the bar exam, and three members shall have work experience of at least four years in the area of human rights and non-discrimination.

(4) The Misdemeanour Commission shall be elected for a term of five years, with a right to re-election of its members.

(5) Any member of the Misdemeanour Commission may be dismissed as follows:

- Upon the expiration of office as a member,
- Upon his/her request,
- Upon meeting the requirements for retirement due to age in accordance with law,
- If found to be permanently incapacitated,
- If found to have violated the misdemeanour procedure regulations by a final decision,
- If he/she does not fulfil the obligations arising from his/her work in the Misdemeanour Commission, and
- If he/she has not reported the existence of a conflict of interest regarding any case decided by the Misdemeanour Commission.

(6) The Misdemeanour Commission shall have the right to present evidence and collect data required to establish the misdemeanour, and to perform other tasks and undertake actions specified by this Law, the Law on Misdemeanours and/or other laws.

(7) Misdemeanour Commission Members shall be independent in the work of the Misdemeanour Commission and make decisions based on their expertise and independent conviction.

(8) The Misdemeanour Commission shall work in a panel and decide by a majority vote of the total number of its members.

(9) The Misdemeanour Commission shall adopt its Rules of Procedure.

Article 47

(1) The Misdemeanour Commission shall conduct misdemeanour proceedings in accordance with the provisions of the Law on Misdemeanours.

(2) Regarding anything that is not regulated by this Law in terms of the misdemeanour proceedings and imposing a misdemeanour sanction, the provisions of the Law on Misdemeanours shall apply.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 48

(1) The mandate of the Members of Commission for Protection against Discrimination shall cease as at the day of entry into force of this Law, and they shall continue to work until the election of new Commission Members, but no longer than three months.

(2) The public announcement for selection of Commission Members shall be published within two weeks as from the date of entry into force of this Law.

Article 49

Proceedings commenced by the date of entry into force of this Law shall be completed under the provisions of this Law.

Article 50

The Commission shall adopt all its regulations stipulated by this Law within six months from the date of entry into force of this Law.

Article 51

Laws containing provisions relating to the prevention and protection against discrimination shall have to be harmonised with the Law on Prevention and Protection against Discrimination within two years from the date of entry into force of this Law.

Article 52

With the entry into force of this Law, the Law on Prevention and Protection against Discrimination (“Official Gazette of the Republic of Macedonia” No. 50/10, 44/14, 150/15, 31/16 and 21/18) shall cease to be valid.

Article 53

This Law shall enter into force on the day of its publication in the “Official Gazette of the Republic of North Macedonia”.