

Law of the Republic of Moldova

on Equality

nr. 121 from 25.05.2012

Chapter I - GENERAL PROVISIONS

Article 1. The purpose and scope of the law

(1) The purpose of this law is to prevent and combat discrimination and ensure equality of all persons in Moldova in political, economic, social, cultural and other spheres of life, irrespective of race, color, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation or any other similar criteria.

(2) The provisions of this Act shall not extend to and shall not be construed to affect:

- a) family is based on the freely consented marriage of man and woman;
- b) the relationship of adoption;
- c) religious cults and their component parts in respect of the religious.

Article 2. General concepts

In this law, the following terms have the following meanings:

discrimination - any distinction, exclusion, restriction or preference rights and freedoms of the person or group of people, and support discriminatory behavior based on real criteria, stipulated in this Law or presumed criteria;

direct discrimination - treating a person on any of the criteria prohibitive manner less favorable treatment than someone in a comparable situation;

indirect discrimination - any provision, action, criterion or practice would disadvantage which results in a person against another person based on the criteria stipulated in this Law, except where that provision, action, criterion or practice is justified objectively, by a legitimate aim and the means of achieving that aim are proportionate, appropriate and necessary;

discrimination by association - any act of discrimination committed against a person who, although not part of a class of persons identified according to criteria stipulated in this Law, is associated with one or more persons belonging to these groups of people;

racial segregation - any action or omission directly or indirectly lead to separation or distinction of persons on the basis of race, color, national or ethnic origin;

harassment - any unwanted behavior that leads to an intimidating, hostile, degrading, humiliating or offensive environment, with the purpose or effect of violating the dignity of a person based on the criteria stipulated in this Law;

incitement to discrimination - any behavior that a person displays the media or intentional conduct of third persons to discrimination on the basis stipulated in this Law;

victimization - any action or inaction resulted in adverse consequences as a result of filing a complaint or referral to a court action to ensure implementation of this law or for the provision of information, including some evidence that relates to the complaint or action submitted by another person;

positive measures - temporary special measures taken by public authorities in favor of a person, a group of people or communities regarding development of their natural and actual equality in relation with other persons, groups of individuals or communities;

reasonable accommodation - any modification or adjustment necessary and appropriate in a particular case which does not impose a disproportionate or unreasonable when it is needed to ensure a person, in cases established by law, exercise rights and fundamental freedoms on an equal with others.

Article 3. Subjects range discrimination

Subjects in the discrimination are natural and legal persons from public and private.

Article 4. The worst forms of discrimination

The worst forms of discrimination are:

- a) the promotion or practice of discrimination by public authorities;
- b) support discrimination through mass media;
- c) placing discriminatory messages and symbols in public places;
- d) discrimination against people based on two or more criteria;
- e) discrimination committed by two or more persons;
- f) discrimination committed by two or more times;
- g) discrimination perpetrated on a group of people;
- h) racial segregation.

Article 5. Ways of eliminating discrimination

Discrimination can be eliminated by the following ways:

- a) prevent any discriminatory acts by introducing special measures, including positive measures to protect persons in conditions unfavorable to others. Positive measures will apply up to equality and social inclusion of persons or groups of persons at a disadvantage to others;
- b) mediation through amicable settlement of disputes arising from committing discriminatory acts;

- c) to sanction discriminatory behavior;
- d) material and moral damage caused as a result of the discriminatory act.

Article 6. Prohibition of discrimination

Any form of discrimination is prohibited. Or making a policy action or inaction which violates the equal rights of individuals must be removed from public authorities and punished by law.

Chapter II - SPECIAL PROVISIONS

Article 7. Prohibiting discrimination in employment

(1) Any distinction, exclusion, restriction or preference based on criteria established by this law, which have the effect of limiting or undermining equality of opportunity or treatment in employment or dismissal, direct work and training. Prohibiting discrimination based on sexual orientation will apply in employment and the employment.

(2) An employer discrimination following:

- a) placing advertisements for employment with the indication of the conditions and criteria that exclude or favor certain persons;
- b) unjustified refusal of employment of the person;
- c) unjustified refusal of admission of persons to vocational training courses;
- d) unequal remuneration for the same type and / or workload;
- e) distribution and inappropriately differentiated tasks, which arise from less favorable status of persons;
- f) harassment;
- g) any other action contrary to the law.

(3) refusal of employment, admission to courses of professional qualification or promotion of persons is considered unfounded if:

- a) require the submission of additional documents to the legally established;
- b) alleging that the person does not meet the requirements that have nothing in common with professional qualifications required to practice or to require compliance with any other illegal requirements similar consequences.

(4) The employer is required to locate in places accessible to all employees legal provisions guaranteeing equality of opportunity and treatment in the workplace.

(5) Any distinction, exclusion, restriction or preference on a particular job does not constitute discrimination where, by the specific nature of the activity in question or the conditions under which

this work is done, there are genuine and determining occupational requirements , provided that the requirements are legitimate and proportionate.

(6) The professional activities of religious cults and their component parts differential treatment is not discrimination based on religion or belief when a person's religion or belief constitutes an occupational requirement, legitimate and justified.

Article 8. Prohibition of discrimination in access services and goods available to the public

Any form of discrimination on access to:

- a) services provided by public authorities;
- b) health care and other health services;
- c) social protection services;
- d) banking and financial services;
- e) transportation services;
- f) cultural and recreational services;
- g) the sale or rental of movable and immovable property;
- h) other services and goods available to the public.

Article 9. Prohibition of discrimination in Education

(1) Educational institutions providing non-discrimination:

- a) providing access to educational institutions of all types and levels;
- b) in the educational process, including evaluation of accumulated knowledge;
- c) the scientific and didactic activity;
- d) by developing teaching materials and curricula;
- e) inform and train teachers on the methods and means to prevent acts of discrimination and to notify the competent authorities.

(2) Educational institutions may establish criteria for admission to studies based on certain restrictions, except for cases provided by law.

(3) Refusal to accept the educational institution to study a person whose qualifications do not meet the level required to be admitted is not restricting the right to education.

(4) The provisions of this Article shall not constitute a hindrance to the right educational institution which prepares a particular religious personnel to refuse registration of a person whose religious status does not satisfy the requirements for access to the institution.

Chapter III - INSTITUTIONAL FRAMEWORK FOR PREVENTION AND COMBATING DISCRIMINATION AND EQUAL INSURANCE

Article 10. Individuals with responsibilities in preventing and combating discrimination and ensuring equality

Individuals with responsibilities in preventing and combating discrimination and ensuring equality are:

- a) Council to prevent and eliminate discrimination and equality;
- b) public authorities;
- c) courts.

Article 11. Council for Prevention and discrimination and equality

(1) Council to prevent and eliminate discrimination and equality (hereinafter - Council) is a collegial body with the status of a statutory body established to ensure protection against discrimination and ensure equality of all persons who consider themselves to be victims of discrimination. Council act with impartiality and independence from public authorities.

(2) The Council shall consist of 5 members, not political affiliation, are appointed by Parliament for a period of five years, three members are representatives of civil society. At least 3 of the Council members must be licensed professionals in law.

(3) The composition of the Board may be called any citizen of the Republic of Moldova, which:

- a) has higher education;
- b) has an impeccable reputation and show a tolerant attitude towards minority groups;
- c) is a person with active defense of human rights recognized at least five years.

(4) For the appointment of candidates in the Council, Parliament established a special commission composed of members of the Commission on Human Rights and Interethnic Relations and Legal Committee, appointments and immunities, which held a public contest. The competition is organized at least 30 days before term previously appointed members.

(5) Information about the organization and holding requirements for the candidates, the necessary documents for submission to be placed on Parliament's website 30 days before the contest.

(6) The procedure and the contest are based on the following principles:

- a) open and transparent competition, ensuring free access of any person who meets the requirements;
- b) equal treatment through non-discriminatory application of selection criteria objective and clearly defined so that all people have equal opportunities;

c) diversity by ensuring gender balance and representation of ethnic and minority groups in society.

(7) Curriculum vitae of candidates wishing to participate in the contest are placed on Parliament's website for public consultation.

(8) Candidates are interviewed by the special commission established, making the reasoned opinions for each candidate selected, which then present them in Parliament. Candidates are appointed by a majority of deputies.

(9) Membership of the Council terminated the mandate expires, following the submission of resignation or on death. A Council member may be removed from office by the body appointed in circumstances that preclude execution times at the request of its mandate, adopted by a majority vote of its members for failure or improper performance of duties. New member Council shall act until the expiration of their term of office revoked.

(10) Membership of the Council shall be suspended by the body called for submission of committing a criminal prosecution in the course of business or for an offense for any reason based on discrimination.

(11) Council President is elected by majority vote of all members. A permanent Chairman. Other members of Council meetings are convened by the President. If necessary, the Council may be convened at the request of at least two members.

(12) not a permanent Council members receive an allowance of 10 percent of average salary for each meeting.

(13) In its work the Council is assisted by an administrative unit.

(14) Regulation of activity of the Council shall be approved by Parliament.

Article 12. The Board

(1) The Council shall:

- a) review compliance with standards legislation on discrimination;
- b) make proposals to amend legislation on preventing and combating discrimination;
- c) adopt advisory opinions on draft legislation compliance with legislation on preventing and combating discrimination;
- d) monitors the implementation of legislation;
- e) collect information on size, condition and trends of discrimination and develop national studies and reports;
- f) submit proposals to the general public authorities to prevent and combat discrimination and improve behavior towards people who fall under this law;

g) contribute to raising the awareness of society to eliminate all forms of discrimination in the context of democratic values;

h) cooperate with international bodies responsible for preventing and combating discrimination;

i) examine the complaints of people who consider themselves as victims of discrimination;

j) takes appropriate steps under the bodies of bringing disciplinary processes in respect of the persons in charge who have committed discriminatory acts in their work;

k) offenses with elements found discriminatory under Contravention Code;

l) to notify the prosecution for the commission of discriminatory acts that meets the elements of the offense;

m) contribute to the amicable resolution of conflicts arising from committing discriminatory acts by balancing the parties and seeking a mutually acceptable solution;

n) Perform other duties stipulated by this Law and its regulation by activity.

(2) At the beginning of each year, until March 15, the Council shall submit a general report on the situation in preventing and combating discrimination. The report is published on the Council website.

Article 13. Method of filing the complaint to Council

(1) The act of discrimination of whether the Council is initiated ex officio or upon request of interested persons, including on the trade unions and associations active in promoting and protecting human rights.

(2) complaint about discrimination act is before the Council. The complaint must contain a description of the intrusion of a person, when this violation occurred, the facts and any evidence supporting the complaint, name and address of a file. The complaint may be submitted to the Council within one year after the commission of the offense or the date on which the commission may take notice of them.

(3) Filing a complaint against the Council is not a mandatory preliminary procedure to address the court.

Article 14. Rejection of complaint

Council rejects the complaint if:

a) does not contain information identifying the person who made it;

b) does not contain the information listed in art. 13 para. (2);

c) is a repeated complaint that does not contain information and new evidence.

Article 15. Examination of Appeals

(1) The complaint shall be examined within 30 days of the submission, with possibility of extension, which does not exceed 90 days. When examining the complaint, the Council has the right to request relevant data and information from people that are alleged to have committed discriminatory acts. The burden of proving that the act does not constitute discrimination is people that are alleged to have committed the discriminatory act.

(2) At the request of the Council, businesses and individuals shall:

- a) to provide copies of requested documents necessary for the complaint;
- b) provide information and verbal explanations and, where appropriate, by the facts that form the subject of complaint.

(3) All data, information and documents related to discriminatory actions or behavior referred the complaint to be made available to the Council within 10 days. Unjustified failure of the information requested by the Council shall be punished as required by law and is interpreted by the Council against the person who has not requested data.

(4) After examining the complaint, the Council shall adopt a reasoned decision by a majority of its members. Council Decision includes recommendations to ensure the restoration of the rights of victims and prevent similar future events.

(5) The decision shall be communicated to the person who committed the discriminatory act and the person who made the complaint within 5 days. Council is informed within 10 days on the measures taken.

(6) If you disagree with the measures taken by the person who committed the discriminatory act, the Council has the right to address a superior body to take appropriate measures and / or inform the public.

(7) Council decisions shall be published on its website, respecting personal privacy.

(8) If the complaint is registered during the examination commission of acts constituting the offense, the competent organs Council submit for examination protocol and case materials.

(9) If the facts examined contain elements of crime, the Council immediately sent the prosecution materials.

Article 16. Competence of public

In order to prevent discriminatory acts, public authorities, according to their functional skills, the following functions:

- a) examine complaints of persons who consider themselves as victims of discrimination;
- b) coordinate in combating discrimination decentralized and decentralized structures;
- c) contribute to the education and awareness to prohibit discrimination in the fields of competence;

d) perform other duties in accordance with legislation.

Chapter IV - LIABILITY FOR ACTS OF DISCRIMINATION

Article 17. Liability for acts of discrimination

Acts of discrimination are subject to disciplinary, civil, administrative and criminal legislation in force.

Article 18. The right to protection for the victim of discrimination

(1) Any person who is considered a victim of discrimination is entitled to submit an action in court and request:

- a) determining whether violation of his rights;
- b) prohibiting further violations of their rights;
- c) restoring the previous situation violation of his rights;
- d) material and moral damage caused to him and to recover costs;
- e) a declaration of invalidity of the act which led to discrimination.

(2) Actions in court to protect those who consider themselves to be victims of discrimination may submit and unions or associations in the promotion and protection of human rights.

(3) At the request of the victim of discrimination, to prohibit the spread of information about privacy and identity. Registration, maintenance and use of personal information on victims of discrimination are made according to special rules of confidentiality set by law.

Article 19. Burden of proof

(1) The person submitting an action in court to present facts from which the assumption of a fact of discrimination.

(2) The burden of proving that discrimination is not the defendant's actions, except actions which attract criminal liability.

Article 20. Limitation

Limitation period for bringing an action in court under this Act is one year from the date of commission of the offense or the date on which the commission may take cognizance of them.

Article 21. Fees

Individuals who submit an action in court for acts of discrimination are exempted from payment of fees.

Article 22. Financing

(1) public authorities charged with implementing this law and are financed from funds within the approved annual budget and the budgets of administrative-territorial.

(2) activities to prevent and combat discrimination can be funded from other sources not prohibited by law.

Chapter V - FINAL

Article 23

(1) This Law shall come into force since January 1, 2013.

(2) Government within six months after entry into force of this law:

- a) Submit proposals to bring legislation into conformity with this Law;
- b) adopt normative acts for implementation of this law.

Deputy Chairperson of the Parliament

Liliana

PALHOVICI

Nr. 121. Chisinau, 25 May 2012.