

# **IMPACT ASSESSMENT OF THE LAW ON PROTECTION FROM DISCRIMINATION**

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## **SUMMARY**

The common elements of national anti-discrimination legislation are defined in the Constitution, while specific mechanisms for its implementation are defined in the context of the anti-discrimination policy of the EU. The Law on Protection from Discrimination provides a legal definition of the terms "direct discrimination" and "indirect discrimination". The concepts of "harassment", "sexual harassment", "incitement to discrimination", "persecution" and "racial segregation" are also defined as forms of discrimination. The Bulgarian anti-discrimination law also defines the term "multiple discrimination". The methods of protection against multiple, as well as against discrimination based on any of the other indications are the same. The proceeding in front of the commission is easy, quick, available and free, which makes it preferable to the judicial proceedings.

One of the main problems is the frequent appearance of 'hidden multiple discrimination', which is recognized as monodiscrimination. Thus, an inaccurate or false idea of the extent of the discrimination forms in the public consciousness, which leads to the attenuation of the civil society's sensitivity to the grave problem - multiple discrimination in employment.

For the regulatory impact assessment on social relations was conducted a public opinion survey. Of particular interest in this context are the empirical characteristics of anti-discrimination legal awareness.

The main objective of the research, conducted at the Institute For Legal Studies at, the Bulgarian Academy of Sciences, was to examine public opinion and the opinion of affected by discrimination citizens about the existence of a status quo in the state, the implementation of anti-

discrimination legislation (international standards and norms contained in treaties ratified by Bulgaria, as well as existing national anti-discrimination legislation) and its effectiveness. The method of collecting information is indirect survey (a standard face-to-face interview) at the location of the respondents. There were developed two questionnaires - one for the survey and one for the in depth interview.

The survey shows a relatively good level of awareness of discrimination issues in general and of multiple discrimination issues in particular. As far as discrimination is an antipode of equality, the respondents were asked, "In which law was the principle of equality proclaimed?" The majority of respondents (62.9%) are aware that in the basic law the principle of equality (non-discrimination) is recognized as a fundamental right. However, the fact that 5.4% of respondents said that there is no such principle or that there is no equality at all should not be disregarded, because according to those respondents the principle is only formally proclaimed. The discrepancy between the constitutionally enshrined rights and their implementation in practice is obvious. This result proves that legal regulation by itself is not enough, and a mechanism for its implementation is needed. At the question "Which form of discrimination is most common?" the most popular response is "ethnicity" (49%). As far as indicators "education", "people with disabilities" and "property status" are concerned the distribution is almost equal (between 5% and 6%), while 29% responded that all forms of discrimination are equally common. The survey showed that citizens have a fairly clear and accurate idea of the existence of certain institutions in Bulgaria, whose purpose is to limit discrimination. It remains unclear though, whether the special Commission for Protection from Discrimination is capable of solving the problem and whether its intervention is enough.

To the question "You think discrimination is:" the highest percentage of respondents (39%) said that discrimination is a violation of fundamental legal, moral and religious norms. This means that public consciousness perceives discrimination as a form of social deviation. Particular attention deserves the percentage of answers that discrimination is a result of the inequality in society (23%). Most disturbing is the fact that 34% of the respondents believe that discrimination is something normal.

The conclusion is that psychological attitudes and value orientations of the respondents are much more strongly influenced by the specific mechanisms for the implementation of anti-discrimination legislation, than by the level of awareness of its existence. The study shows that

there is no direct relationship between the level of awareness, forming the psychological attitudes, value orientations and general attitude to anti-discrimination policy on the one hand and readiness for behaviour - on the other. The data shows that declared anti-discriminatory attitudes are not always supported by anti-discriminatory behaviour.

In cases of violated right of sexual orientation there is a significantly higher percentage of respondents who are ready to seek help - 34% of respondents said they would turn to the court, and 56% - to the Commission for Protection against Discrimination. This percentage is an indicator of the activity of this Commission, as well as for the recently extended perimeter of the acts, defined by the legislature as discriminatory. The study showed that there is no direct relationship between the level of awareness of discrimination, on the one hand, and the attitude and willingness for conduct - on the other. Overall the surveyed population was disturbed by both mono and multiple discrimination in our country, as well as the inefficiency of the authorities. Evidence for that is the high percentage of respondents that in case of discriminatory behaviour against them would not turn for help to any institution.

In the probing of opinions on discrimination by sex, ethnicity, disability and sexual orientation prevails the rather traditional understanding that the most discriminated against in this country are Roma people, women, and disabled people. Overall attitudes towards these groups is moderately discriminative, while attitudes towards homosexuals - strongly rigorous. The conclusion is that there is generally negative attitude towards institutional discrimination, but some fluctuations in readiness for discriminatory/anti-discriminatory behaviour in a particular situation.

Citizens are especially sensitive to forms of discrimination, which violate not only legal, but also moral or religious norms. At the same time the negative attitude towards the "different" is still traditional for the Bulgarian society. It is no accident that a significant percentage of the respondents said that homosexual activities should be subject to even criminal liability. Quite a large part of the respondents is sensitive to ethnic inequality is. Fundamentally the Roma problem has a key role in the analyses in this country over the past 20 years. There is, however, an interesting tendency related to acts of positive discrimination. The anti-discrimination attitude is theoretically declared, but does not exist in practice. The observed tendency toward improvement of the mechanisms for counteraction with various forms of discrimination and the alignment to EU standards should obviously continue in the future.