

Section 7. Principle of Equal Rights

- (1) Everyone has an equal right to work, to fair, safe and healthy working conditions, as well as to fair remuneration.
- (2) The rights provided for in Paragraph one of this Section shall be ensured without any direct or indirect discrimination – irrespective of a person's race, skin colour, gender, age, disability, religious, political or other conviction, ethnic or social origin, property or marital status, sexual orientation or other circumstances.
- (3) In order to promote the introduction of the principle of equal rights in relation to persons with a disability, an employer has an obligation to take measures that are necessary in conformity with the circumstances to adjust the work environment, to facilitate the possibility of persons with a disability to establish employment relationship, perform work duties, be promoted to higher positions or be sent to occupational training or further education, insofar as such measures do not place an unreasonable burden on the employer.
- (4) It is the obligation of the work placement service provider as the employer to ensure the same working conditions and apply the same employment provisions to an employee who has been appointed for a specified period to perform work in the undertaking of the recipient of the work placement service as would be ensured and applied to an employee if an employment relationship between the employee and the recipient of the work placement service had been established directly and the employee was to perform the same work.
- (5) The working conditions and employment provisions referred to in Paragraph four of this Section shall apply to working time and rest time, remuneration, pregnant women, women during the period following childbirth up to one year, women who are breastfeeding, to the protection assigned to children and adolescents, and also to the principle of equal rights and the prohibition of differential treatment.

Section 29. Prohibition of Differential Treatment

- (1) Differential treatment based on the gender of an employee is prohibited when establishing employment relationship, as well as during the period of existence of employment relationship, in particular when promoting an employee, determining working conditions, remuneration or occupational training or further education, as well as when giving notice of termination of an employment contract.
- (2) Differential treatment based on the gender of an employee is permitted only in cases where a particular gender is an objective and substantiated precondition, which is adequate for the legal purpose reached as a result, for the performance of the respective work or for the respective employment.
- (3) If in case of a dispute an employee indicates conditions which may serve as a basis for his or her direct or indirect discrimination based on gender, the employer has the obligation to prove that the differential treatment is based on objective circumstances not related to the gender of the employee, or also that belonging to a particular gender is an objective and substantiated precondition for performance of the respective work or the respective employment.

(3¹) If in case of a dispute an employee indicates conditions which may serve as a basis for his or her direct or indirect discrimination based on language, the employer has the obligation to prove that the differential treatment is based on objective circumstances not related to the language proficiency of the employee, or also that the proficiency in a specific language is an objective and substantiated precondition for performance of the respective work or the respective employment.

(4) Harassment of a person and instructions to discriminate against him or her shall also be deemed to be discrimination within the meaning of this Law.

(5) Direct discrimination exists if in comparable situations the treatment of a person in relation to his or her belonging to a specific gender is, was or may be less favourable than in respect of another person. Less favourable treatment due to granting of a prenatal and maternity leave, or a leave to the father of a child shall be considered as direct discrimination based on the gender of a person.

(6) Indirect discrimination exists if apparently neutral provision, criterion or practice causes or may cause adverse consequences for persons belonging to one gender, except for the cases where such provision, criterion or practice is objectively substantiated with a legal purpose for the achievement of which the selected means are commensurate.

(7) Within the meaning of this Law, the harassment of a person is the subjection of a person to such action which is unwanted from the point of view of the person, which is associated with his or her belonging to a specific gender, including action of a sexual nature if the purpose or result of such action is the violation of the person's dignity and the creation of an intimidating, hostile, humiliating, degrading or offensive environment.

(8) If the prohibition of differential treatment and the prohibition against causing adverse consequences is violated, an employee, in addition to other rights specified in this Law, has the right to request compensation for losses and compensation for moral harm. In case of dispute, a court at its own discretion shall determine the compensation for moral harm.

(9) The provisions of this Section, as well as Section 32, Paragraph one and Sections 34, 48, 60, and 95 of this Law, insofar as they are not in conflict with the essence of the respective right, shall also apply to the prohibition of differential treatment based on race, skin colour, age, disability, religious, political or other conviction, ethnic or social origin, property or marital status, sexual orientation of an employee or other circumstances.

(10) In a religious organisation differential treatment based on the religious beliefs of a person is permitted in the case if a specific type of religious belief is the objective of the respective performance of work or the respective employment and a justified prerequisite taking into account the ethos of the organisation.

Section 32. Job Advertisement

(1) A job advertisement (a notification by an employer of vacant positions) may not apply only to men or only to women, except for the cases where belonging to a particular gender is an objective and substantiated precondition for the performance of respective work or for the respective employment.

(2) It is prohibited to indicate age limitations in a job advertisement except for the cases where, in accordance with the law, persons of a certain age may not perform the respective work.

(2¹) It is prohibited to indicate language skills in a specific foreign language in a job advertisement, except for the case where it is reasonably necessary to be able to perform the work duties.

(2²) If in case of a dispute an employee indicates conditions which may serve as a basis for his or her direct or indirect discrimination based on language, the employer has the obligation to prove that the differential treatment is based on objective circumstances not related to the language proficiency of the employee, or also that the proficiency in a specific language is an objective and substantiated precondition for performance of the respective work or the respective employment.

(3) A job advertisement shall include:

1) the given name and surname of an employer – natural person – or the name (firm) and registration number of a legal person, or the name (firm) and registration number of a recruitment undertaking, which assesses the suitability of applicants on behalf of the employer and carries out the selection procedure;

2) the total gross monthly or yearly sums of the wage of the respective profession or the envisaged amplitude of the hourly salary rate.

Section 33. Job Interview

(1) A job interview is an oral or written inquiry prepared by the employer to assess the suitability of an applicant.

(2) A job interview may not include such questions by the employer as do not apply to performance of the intended work or are not related to the suitability of the employee for such work, as well as questions which are directly or indirectly discriminatory, in particular questions concerning:

1) pregnancy;

2) family or marital status;

3) a previous conviction, except for the cases where this may be of essential importance with respect to the work to be performed;

4) religious conviction or belonging to a religious denomination;

5) affiliation with a political party, employee trade union or other public organisation;

6) national or ethnic origin.

(3) An employer has the obligation to familiarise an applicant with the applicable collective agreement in the undertaking and the working procedure regulations insofar as it relates to performance of the intended work, as well as to provide other information of significance for entering into an employment contract.

(4) An applicant has the obligation to provide information to the employer on the state of his or her health and occupational preparedness insofar as this is of significance for entering into an employment contract and for the performance of the intended work.

Section 34. Violation of Prohibition of Differential Treatment when Establishing Employment Relationship

(1) If, when establishing employment relationship, an employer has violated the prohibition of differential treatment, an applicant has the right to bring an action to a court within three months from the date of receipt of refusal of the employer to establish the employment relationship with the applicant.

(2) If the employment relationship has not been established due to the violation of the prohibition of differential treatment, the applicant does not have the right to request the establishment of such relationship on a compulsory basis.

Section 48. Violation of the Prohibition of Differential Treatment when Giving Notice of Termination of an Employment Contract during the Probationary Period

If an employer when giving a notice of termination of an employment contract during the probationary period has violated the prohibition of differential treatment, an employee has the right to bring an action to a court within one month from the date of receipt of a notice of termination from the employer.

Section 60. Equal Remuneration

(1) An employer has the obligation to specify equal remuneration for men and women for the same kind of work or work of equal value.

(2) If an employer has violated the provisions of Paragraph one of this Section, the employee has the right to request the remuneration that the employer normally pays for the same work or for work of equal value.

(3) An employee may bring the action referred to in Paragraph two of this Section to court within a three-month period from the day he or she has learned or should have learned of the violation of the provisions of Paragraph one of this Section.

Section 95. Violation of the Prohibition of Differential Treatment in Determining Working Conditions, Occupational Training or Further Education or Promotions

(1) If an employer in determining working conditions, occupational training or further education has violated the prohibition of differential treatment, the respective employee has the right to request the termination of such differential treatment.

(2) If an employer in determining working conditions, occupational training or further education or promotion of an employee has violated the prohibition of differential treatment, the respective employee has the right to bring an action in a court within a three-month period from the day he or she has learned or he or she should have learnt of the violation of the prohibition of differential treatment.

Section 149. Annual Paid Leave

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(6) After annual paid leave, an employee has the right to such improvements to working conditions and employment provisions to which he or she would have been entitled if he or she had not be on leave. This provision applies also to the leave referred to in Sections 151, 153, 154, 155, 156 and 157 of this Law, as well as to employees during sick leave or during the non-performance of work due to other justifiable reasons.