



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Bulgaria
Title:	ADL draft amendments of definitions of 'indirect discrimination' and 'unfavourable treatment'
Date:	15 July 2016
Expert:	Margarita Ilieva
<u>Context</u>	
Issue at stake:	Definitions of 'indirect discrimination' and 'unfavourable treatment'
Ground of discrimination:	All grounds
Source:	Draft legislation
Field:	All fields
Applicable law:	Protection Against Discrimination Act

Content

Law development: On 8 July 2016, the government introduced into Parliament a bill to amend the Protection Against Discrimination Act (PADA). The bill features two amended provisions: new definitions for indirect discrimination and for unfavourable treatment. The proposed definition for indirect discrimination is as follows: "Indirect discrimination shall be placing a person or persons who have a [protected] characteristic, or, who without having such a characteristic, together with the former suffer less favourable treatment, or are placed at a particular disadvantage deriving from an apparently neutral provision, criterion, or practice, unless the provision, criterion, or practice are objectively justified with a view to a legitimate aim and the means to achieving that aim are appropriate and necessary." The existing definition is as follows: "Indirect discrimination shall be placing a person on grounds of [protected] characteristics in a less favourable situation compared to other persons through an apparently neutral provision, criterion, or practice, unless the provision, criterion, or practice are objectively justified with a view to a legitimate aim and the means to achieving that aim are appropriate and necessary."

The proposed definition for unfavourable treatment is as follows: "Unfavourable treatment shall be any act, action or omission that results in less favourable treatment of a person compared to another on grounds of [protected] characteristics, or that may place a person or persons who have a [protected] characteristic at a particular disadvantage compared to other persons." The existing definition is as follows: "Unfavourable treatment shall be any act, action or omission that directly or indirectly affects rights or legitimate interests."

The amendments were introduced as a follow-up to the ruling of the Court of Justice of the European Union in case C-83/14 (the "Chez" case).

Key points of analysis:

The amendments seek to clarify that indirect discrimination by association is banned, and that less favourable treatment is not restricted to rights provided for under laws.

Internet link source: <http://www.parliament.bg/bg/bills/ID/42259/> (in BG.)