



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

FLASH REPORT

Country:	Czech Republic
Title:	A group of MPs propose a bill to amend the Anti-Discrimination Act
Date:	12 April 2019
Expert:	Jakub Tomšej
<u>Context</u>	
Issue at stake:	Class actions, burden of proof
Grounds of discrimination:	All grounds
Field of application:	Employment, Education, Social protection, Social advantages, Housing, Goods and services
Source:	Legislation
Applicable law:	Section 11 Act No. 198/2009 Coll., Anti-Discrimination Act; Section 66 Act No. 150/2002 Coll., Code of Administrative Justice; Section 133a Act No. 99/1963 Coll., Code of Civil Procedure

Content

Law development: A group of 12 members of the Chamber of Deputies of the Czech Parliament proposed an amendment to the Anti-Discrimination Act on 12 March 2019.

The bill would introduce two major changes, establishing class actions in Czech non-discrimination law and extending the rules on reversing the burden of proof.

Currently, Czech law does not envisage any class actions in non-discrimination law. According to the proposal, a right to file a class action should apply to all legal entities that are either, according to their statutes, established to protect victims of discrimination, or effectively active in that area. A class action could be filed in a situation where an infringement of non-discrimination laws may relate to a higher or undefined number of victims or where such infringement could interfere with the public interests. The aim of the class action would be for a court to determine that discrimination has occurred, and to rule that the defendant has to refrain from discrimination and remedy any consequences of the discriminatory act. Based on the proposal, the claimant would not be able to claim any compensation of damages. In cases where (a) particular victim(s) of discrimination would be identified in the lawsuit, the filing of such lawsuit would be subject to their approval.

The current rules regarding reversed burden of proof mirror the applicable EU directives: The burden of proof may be shifted onto a defendant in cases dealing with discrimination

- on the grounds of racial or ethnical origin in all areas covered by the Anti-Discrimination Act;
- on the grounds of gender, religion, belief, physical or mental disability, age and sexual orientation in the employment field;
- on the grounds of gender in the field of goods and services.

The current amendment proposes to extend the reversed burden of proof to cover the full material scope of the Anti-Discrimination Act and all discrimination grounds.

On 8 April 2019, the Government discussed the bill and approved a neutral stance to it, meaning that it did not issue any recommendation for the Parliament about the bill. The bill is now heading back to the Chamber of Deputies which should start reviewing it. The exact timeline is not known yet.

It is not yet clear what are the success chances of the bill. Many political parties (including ANO – the strongest party in the Chamber of Deputies) have not presented a joint opinion on the bill, and it will be up to individual MPs to vote according to their own opinions. The bill found, however, a clear support from the Office of the Public Defender of Rights and some NGOs.

Key points of analysis: Despite a relatively high level of protection of victims of discrimination under the Czech law, the number of discrimination lawsuits remains very low. The measures proposed by the amendment have the potential to simplify the access to judicial redress and increase the likelihood that discrimination will be proven in a lawsuit.

Internet link source: <https://www.psp.cz/sqw/text/tiskt.sqw?O=8&CT=424&CT1=0>.