



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

### FLASH REPORT

<b>Country:</b>	Bulgaria
<b>Title:</b>	Supreme Courts' joint interpretative ruling on jurisdiction in discrimination cases filed directly with courts (no prior equality body proceedings)
<b>Date:</b>	12 June 2019
<b>Expert:</b>	Margarita S. Ilieva
<b>Context</b>	
<b>Issue at stake:</b>	Competent court – civil as opposed to administrative
<b>Grounds of discrimination:</b>	All grounds
<b>Field of application:</b>	All fields
<b>Source:</b>	National court decision
<b>Applicable law:</b>	Protection Against Discrimination Act, Article 71

### Content

**Decision of the court:** On 16 January 2019, the Supreme Court of Cassation and the Supreme Administrative Court rendered a joint interpretative ruling to the effect that, in all cases where no prior proceedings before the equality body, the Protection Against Discrimination Commission, had been carried out, all discrimination claims are to be heard by the civil courts, as opposed to the administrative courts.<sup>1</sup> The latter are only competent to hear compensation claims against public bodies in cases resolved by the equality body in terms of a finding of discrimination. This ruling is in line with a literal reading of the Protection Against Discrimination Act (as admitted in the ruling itself). Prior to that, in 2015, the two supreme courts had interpreted the law conversely, to the effect that the administrative courts, and not the civil courts, were competent to hear discrimination claims against public bodies regardless of whether there had been prior equality body proceedings or not. The new ruling expressly invalidates this 2015 construction, admitting that it was overly broad and lacked legal grounds.

**Key points of analysis:** The case law has been contradictory on this point for years. It is to be hoped that the present ruling will contribute to clarifying the matter in a sustainable manner, as litigants are burdened by protraction of their matters due to jurisdiction disputes between the courts.

### **Internet link source:**

[http://www.vks.bg/Dela/2016\\_01\\_VKS\\_VAS\\_%D0%BF%D0%BE%D1%81%D1%82%D0%B0%D0%BD%D0%BE%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5.pdf](http://www.vks.bg/Dela/2016_01_VKS_VAS_%D0%BF%D0%BE%D1%81%D1%82%D0%B0%D0%BD%D0%BE%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5.pdf) (in Bulgarian).

---

<sup>1</sup> Supreme Court of Cassation and Supreme Administrative Court, Joint Interpretative Ruling No. 1/2019 of 16 January 2019.