



Equal Treatment in employment - New Legal Framework

December 20, 2016

Law 4443/2016 has been enacted on 9.12.2016, implementing the Equal Treatment Directive 2000/43/EU and the General Framework Directive 2000/78/EU, which establishes a general framework for the protection of equal treatment in employment, in combination with Directive 2014/54/EU on the facilitation of the exercise of rights conferred on employees in the context of freedom of movement. The main provisions of the new law are the following:

1. General provisions - Prohibition of discrimination:

The new law provides that any kind of direct or indirect discrimination on the grounds of racial or ethnic origin, religion, disability, age or sexual orientation as regards employment and occupation is prohibited.

Said prohibition is applicable to all employees, including job candidates, both private and public sector, in relation to the conditions for access to employment (including selection criteria and recruitment conditions), employment terms and conditions (including dismissals and payment), as well as to participation in collective bodies.

Harassment is now considered as a discriminatory behavior under the new legal framework, including behaviors which violate the dignity of another

person and create an intimidating, hostile, degrading, humiliating or offensive environment.

2. Justified different treatment:

A differentiation based on a characteristic related to the grounds referred hereinabove does not constitute discrimination, in cases where, due to the nature of the specific occupational activities or of the context in which these are carried out, such a characteristic constitutes a genuine, legitimate and justified occupational requirement.

3. Justified different treatment based on age:

Differences of treatment on grounds of age do not constitute discrimination in

case they are objectively and reasonably justified by a legitimate employment policy or the specific objectives of the local labour market.

Such differences may also refer to:

- (a) the establishment of special conditions on access to employment and vocational training, including the payment terms and the termination of the employment relationship, for young people, older workers and employees who support other persons, in order to promote their professional integration or to safeguard their protection,
- (b) the determination of minimum age limits, professional experience or seniority in employment,
- (c) the determination of maximum age limits for recruitment, based on the required education for the specific job position or the need for a reasonable period of employment before retirement.

4. Protection against discriminatory acts:

Any person who has suffered a discriminatory behavior, in violation of the principle of equal treatment, is entitled to seek legal protection even after the termination of the respective employment relationship.

The new law also protects employees against dismissal or any other retaliation act on behalf of their employer, following the employee's complaint with regard to the application of the principle of equal treatment.

Associations, organizations or other legal entities, including the social partners and trade unions, which aim to ensure the compliance with the principle of equal treatment regardless of race, colour, nationality, origin, religion or belief, disability or age, family status, sexual orientation, identity or gender, may represent and support the complainant before the competent courts and administrative authorities, following the complainant's written consent.

6. Burden of proof:

The new legal framework provides that the burden of proof in case of a discrimination claim lies with the respondent and not the claimant. More specifically, the respondent is obliged to prove the non-existence of any discriminatory behavior, provided that the claimant has presented valid evidence which lead to the presumption that a discriminatory behavior has taken place. Said obligation does not apply in criminal cases.

7. Sanctions:

Any employer, who violates the legal provisions regarding the principle of equal treatment, shall be held liable



towards the Labour Inspection Authority and shall face the administrative sanctions provided in article 24 of law 3996/2011.

8. Final provisions:

As of the 9th of December 2016, the provisions of the previous law 3304/2005 are being abolished.

The provisions of the new law are also applicable to all pending cases related to infringements of the provisions of law 3304/2005.

As of the issuance of the new law, any provisions which are contrary to the principle of equal treatment, which are included in employment contracts or collective labour agreements, internal regulations of companies, articles of association of organizations, independent professional associations and trade unions, are prohibited, are being abolished and are considered as null and void.

Contact

For any further comment or query, please contact the KG lawyer you are in contact with or the Employment Law practice team.

Ioanna Kyriazi (Partner)

E-mail: L.Kyriazi@kglawfirm.gr (Athens office)

Anastasia Kerveridou (Associate)

Email: A.Kerveridou@kglawfirm.gr

Elena Schiza (Junior Associate)

Email: E.Schiza@kglawfirm.gr



KYRIAKIDES GEORGOPOULOS
Law Firm

Main (Athens) Offices

28, Dimitriou Soutsou str.,
115 21, Athens
Greece
Tel: +30 210 8171500
Fax: +30 210 68 56 657/8

Thessaloniki Branch

17, Ethnikis Antistaseos
551 34 Thessaloniki
Greece
Tel: +30 2310 441552

www.kglawfirm.gr

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