

# Equal Treatment and Protection Against Discrimination

The Public Defender of Rights is active in the area of implementation of the right to equal treatment and protection against discrimination. In this context, we must note that **discrimination is a concept defined by law. This means that discrimination is not any unfair differentiation among various persons, but only certain differentiation defined by law.**

## 1. What is discrimination?

According to law, **discrimination is a disadvantage based on prohibited grounds, occurring in the area of legal relationships where such a disadvantage is prohibited** (see below). A sense of personal injustice is not sufficient for a certain treatment to be considered discriminatory and, therefore, illegal. The above-mentioned legal preconditions must be met. Typical examples of discriminatory treatment include, for example, refusal to employ women because they care for children, refusal to wait on Romani people in restaurants, refusal to employ people because they will soon retire, etc.

We should also note that even **harassment** (creating a hostile and humiliating environment, e.g., by ridiculing the disability of an employee or a student at school), including sexual harassment, **persecution**, as well as **instruction** and **incitement** to discrimination are also considered discrimination by law.

At the workplace, discrimination may occur in very specific forms: mobbing and bossing. For more details, see the leaflet "Emotional Abuse at Work: Mobbing, Bossing and Discrimination".<sup>1</sup>

## 2. What are "grounds of discrimination" and in what areas is discrimination prohibited?

According to the Antidiscrimination Act,<sup>2</sup> discrimination occurs only if a person is treated differently in one of the fields where different treatment is prohibited by the law (e.g. health care, education) on one of the prohibited grounds (e.g. age, sexual orientation). If you believe that you have been disadvantaged on one of the grounds included in the left column **and, at the same time**, you have been disadvantaged in one of the areas included in the right column, you may be a victim of discrimination. Grounds of discrimination may occur in any of the areas delimited by the law (for illustration, see table below):

<b>Grounds of discrimination:</b>	<b>Areas:</b>
Race, ethnicity, nationality	Employment, occupation, service relationship
Sex	Access to employment and self-employment
Sexual orientation	Education
Age	Social security
Disability	Health care
Religion	Membership of professional associations and unions
Beliefs, worldview	Goods and services, including housing

<sup>1</sup> You can find the information leaflet on the Defender's web site at [www.ochrance.cz](http://www.ochrance.cz) in the section "Problems and their Solution".

<sup>2</sup> Act No. 198/2009 Coll., on equal treatment and legal remedies for protection against discrimination and on amendment to certain laws (the Antidiscrimination Act), as amended.

Other laws include further grounds of discrimination, such as **language, social origin, membership of political parties and movements, marital and family status, family responsibilities, and others.**

Specific **examples of discrimination** include the following situations: refusal to take on an employee due to his/her disability; termination of employment due to the employee's age; refusal to pay remuneration to a pregnant employee; refusal to provide health-care services due to the patient's sexual orientation; refusal to enrol children for preschool education due to their Romani ethnicity; refusal to issue a credit card to a client over 70; termination of lease of an apartment due to the tenant's religion etc.

To get a better idea of what can be seen as discrimination, see the individual cases which the Defender addressed in the past on the Defender's web site.<sup>3</sup> In case of doubt, you may contact the staff of the Equal Treatment Department of the Office of Public Defender of Rights. Contact details are available on the web site.<sup>4</sup>

### **3. How to deal with discrimination?**

Some areas where discrimination is prohibited are supervised by administrative authorities:

- If you are discriminated against by your employer, you may submit a complaint to the District Labour Inspectorate.<sup>5</sup> You may do the same when you are discriminated against as an applicant for a job.<sup>6</sup>
- An aggrieved consumer may contact the Czech Trade Inspection Authority or the Czech National Bank, as applicable.
- If you encounter discrimination in the education system, you may contact the Czech School Inspectorate etc.

**Following this procedure, you can achieve remedy of the shortcomings, but you may not request satisfaction or compensation for damage in money.** At this point, it is useful to note that the Public Defender of Rights is competent to investigate into the practice of governmental authorities. If you believe that an authority has not addressed your complaint about discrimination in conformity with law, you may contact the Defender.

**In addition to submitting a complaint to the competent administrative authority (if there is any), you may file a lawsuit with a court.** As a victim of discrimination, by means of such a lawsuit, you may claim not only termination of the discriminatory conduct and remedy of its consequences, but also reasonable satisfaction (e.g. apology). You may also claim compensation for intangible damage in money.

In order to succeed in the court proceedings, it is necessary that you have at least some **evidence** available. Victims of discrimination must be able to prove that they were subjected to disadvantageous treatment. **If you know in advance** (e.g. based on previous experience) **that you might be subjected to discriminatory conduct** (you are about to attend a job interview or a meeting with a real estate agent), **try to record it.** Under certain circumstances, an audio recording may serve as evidence and testimonies of witnesses are also important. We also recommend that you use a written mode of communication (e.g. application into a selection procedure).

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<sup>3</sup> <http://www.ochrance.cz/diskriminace/pripady-ochrance/>

<sup>4</sup> <http://www.ochrance.cz/kontakty/>

<sup>5</sup> [www.sujp.cz](http://www.sujp.cz)

<sup>6</sup> For more information on the Labour Inspectorate, see the information leaflet "Employment Relationships and the Labour Inspectorate", which is also available online at [www.ochrance.cz](http://www.ochrance.cz) in the section "Problems and their Solution".

#### **4. How does the Public Defender of Rights assist victims of discrimination?**

Pursuant to the Public Defender of Rights Act, the Defender provides victims of discrimination with **methodological assistance**:

- the Defender assesses whether the given conduct may actually amount to discrimination according to the Antidiscrimination Act;
- the Defender advises the victim on further steps, on whom the victim can contact and how to submit an application to initiate proceedings on the grounds of discrimination.

If you intend to submit a complaint to the Defender to investigate discriminatory conduct, you should specify as accurately as possible what you see as discriminatory and supplement your complaint with all evidence that can prove the discrimination. If you fail to do so, it will be very difficult for the Defender to assess whether any discrimination in fact occurred.

Matters in which the Defender cannot assist you:

- payment of expenses associated with any lawsuit and legal costs;
- representation of victims of discrimination before courts (for more information, see the Defender's information leaflet "Do you Need Legal Aid?"<sup>7</sup>).

#### **5. What other roles does the Defender play in the fight against discrimination?**

In the area of equal treatment, the Defender's activities also include research and issuance of recommendations and opinions on current topics related to discrimination (also available on the Defender's web site). The Defender also communicates with European organisations active in the area of equal treatment and shares useful information with them.

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<sup>7</sup> Available at [www.ochrance.cz](http://www.ochrance.cz) in the section "Problems and their Solution".