

REPUBLIC



OF CYPRUS

42(I) of 2004

**THE COMBATING OF RACISM
AND OTHER DISCRIMINATION (COMMISSIONER)
LAW, 2004**
(English translation)

**Office of the Law Commissioner
Nicosia,
March, 2015**

**ΓΕΝ (Α) – L.123
62-7**

ISBN 978-9963-664-

NICOSIA

PRINTED AT THE PRINTING OFFICE OF THE REPUBLIC OF CYPRUS

Price:

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NOTE FOR THE READER

The publication at hand by the Office of the Law Commissioner is an English translation of Law No. 42(I) of 2004 enacted in Greek.

However useful the English translation of the Law is in practice, it does not replace the original text of the Law since only the Greek text of the Law published in the Official Gazette of the Republic is authentic.

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the House of Representatives and of the Commissioner for Administration;

- (b) the office of the Attorney-General of the Republic, of the Auditor-General, of the Governor of the Central Bank and of the members of their respective services and offices regarding actions which concern the exercise of authorities by the above officers as these are designated by the Constitution;

“person” means any natural person or body corporate and includes a company, partnership, society, institution or any other union or joint venture of persons, corporate or unincorporated;

“public activity sector” means the activity sector of the public service, of a public corporate body and other public person;

“public corporate body” means a public corporate or other unincorporated body created in the public interest by a law and either the funds of which are provided or guaranteed by the Republic or, if the enterprise is carried out exclusively by such body, its administration is carried out under the control of the Republic;

“public office”, “public officer”, and “public service” shall have the meaning assigned to such terms in the Public Service Laws but shall also include, an office, employee and service, as the case may be, in the Army or the Security Forces of the Republic;

“public person” means the public service, a public corporate body, Commission, Board, Institution and Commissioner appointed by law or otherwise by the President of the Republic, the Council of Ministers, or Minister, and each holder of an office for which the emoluments are under the control of the Republic.

PART I

AUTHORITIES AND DUTIES OF THE COMMISSIONER

Authorities and duties of Commissioner in public and private sector.

3.(1) The authorities and duties of the Commissioner shall be-

- (a) the combating and elimination of direct and indirect

discrimination, prohibited by law and, in general, discrimination on grounds of race, community, language, colour, religion, political or other beliefs and national or ethnic origin;

- (b) the promotion of equality in the enjoyment of rights and freedoms, referred to in section 5 regardless of race, community, language, colour, religion, political or other beliefs, national or ethnic origin;
- (c) the promotion of equal opportunities regardless of racial or ethnic origin, community, language, colour, religion, political or other beliefs, disability, age and sexual orientation, in any matters as referred to in subsection (2) of section 6;
- (d) the taking of measures and the supervision and imposition of compliance with the measures for the practical application of the laws and regulations for the time being in force by which any treatment, conduct, provision, term, criterion or practice which is specially governed or is prohibited or is not permitted which constitutes discrimination prohibited by law as provided by section 6;
- (e) the supervision of compliance with the provisions of this Law and of the regulations, codes of practice, orders, recommendations and suggestions in pursuance of this Law and orders in pursuance of the said regulations or codes of practice;
- (f) the imposition of monetary and other sanctions as prescribed in this Law and in regulations, codes of practice and orders by virtue of this Law or orders by virtue of the said regulations and codes of practice, for contravention of the provisions thereof or the recommendations and suggestions made in pursuance thereof.

(2) The Commissioner shall exercise the above authorities and duties and the powers conferred upon him by this Law in relation to the private and the public activities sector.

Powers.

4.(1) For the purposes of exercise of his authorities and duties under section 3, the Commissioner may act in accordance with,

and subject to, the provisions of this Law and of the regulations, orders, and codes of practice made thereunder and the orders made in pursuance of the said regulations and codes of practice and may exercise the powers conferred upon him by virtue thereof.

(2) For the purposes of this Law the provisions of subsection (3) of section (4) and of sections 10, 12 and 13 of the Commissioner for Administration Laws shall apply.

Discriminations covered by Law. Protected rights and freedoms.

5. Subject to the provisions of this Law, the authorities, duties and powers of the Commissioner concerning both the private and the public activities sector, shall cover the following-

- (a) Discrimination prohibited by law within the meaning of section 6, racial discrimination and indirect racial discrimination within the meaning of section 7, and, in general, discriminations on grounds of race, community, language, colour, religion, political or other beliefs and national or ethnic origin;
- (b) the enjoyment without discriminations within the meaning of section 7 of the rights and freedoms provided in Part II of the Constitution of the Republic of Cyprus and Conventions and Laws referred to herein below, hereinafter referred to as "the protected rights and freedoms" subject always to the exceptions, reservations, terms, restrictions and stipulations provided in the Constitution, the relevant Convention or the Law, as the case may be-
 - (i) any right provided by law as designated in Protocol No.12 of the European Convention on the Protection of Human Rights and Fundamental Freedoms and in the Ratification Law to the Protocol and in any law in force for the time being amending the said Ratification Law;
 - (ii) the rights and freedoms provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms, its Protocols and in the Ratification Laws to the Convention and its Protocols and in any laws in force for the time being amending the said Ratification Laws;

- (iii) the rights provided in the International Convention on the Elimination of All Forms of Racial Discrimination and its Ratification Laws and in any laws in force for the time being amending the said Ratification Laws;
- (iv) the rights provided in the Convention against Torture and other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment and in the Ratification Laws to the Convention and in any laws in force for the time being amending the said Ratification Laws;
- (v) the rights provided in the International Covenant on Civil and Political Rights and the Ratification Laws to the Covenant and in any laws in force for the time being amending the said Ratification Laws;
- (vi) the rights provided in the Framework Convention for the Protection of National Minorities and in the Ratification Laws to the Convention and in any laws in force for the time being amending the said Ratification Laws;
- (vii) the rights and freedoms provided in any other Convention or any Ratification Law, or any other law in force for the time being, for which the Council of Ministers shall at each time decide by an Order published in the Official Gazette of the Republic that the provisions of this section and of paragraph (b) thereof shall apply.

Discrimination prohibited by law.

6.(1) For the purposes of this Law, every treatment or behaviour, provision, term, criterion or practice which shall, within the framework of activities in the public and or the private sector, be specially provided for, prohibited or disallowed, by any law or regulations in force for the time being for constituting in accordance with their provisions direct or indirect discrimination for reasons of racial or ethnic origin, religion, beliefs, community, language, colour, disability, age and sexual orientation, shall constitute discrimination prohibited by law.

(2) Discrimination may be discrimination prohibited by law within the meaning of subsection (1), concerning any matter including matters appertaining to-

- (a) Conditions of access, employment, promotion and selection criteria in employment, self-employment and occupation;
- (b) access to vocational guidance, vocational training and retraining and obtaining practical work experience;
- (c) working conditions and terms of employment, dismissals and pay;
- (d) membership of and involvement in organisations of workers, employers or any organisations whose members carry on a particular profession, including the benefits provided for by such organisations;
- (e) social protection, including social security and healthcare;
- (f) education;
- (g) access to and supply of goods and services including housing.

Racial and indirect racial discrimination.

7.(1) For the purposes of this Law and subject to the provisions of paragraph (b) of section 5, the following shall constitute racial discrimination to the enjoyment of a protected right or freedom-

- (a) any treatment or conduct which by reason of race, community, language, colour, religion, political or other beliefs, national or ethnic origin and within the framework of any activity in the public and/or private sector is less favourable than the treatment or conduct which any other person receives, had received or would have received in a corresponding situation with regard to his enjoyment of a protected right or freedom;
- (b) any treatment or conduct within the framework of any activity in the private and/or private sector based on any form of discrimination mentioned in paragraph (a) and which results to or entails the elimination or the weakening of the principle of recognition or enjoyment of any protected right or freedom;
- (c) any provision, term, criterion or practice based on any form

of discrimination mentioned in paragraph (a) and which entails the elimination or the weakening of the principle of recognition or enjoyment of any protected right or freedom.

(2) For the purposes of this Law and subject always to the provisions of paragraph (b) of section 5, any provision, term, criterion or practice which is apparently neutral but nevertheless would put any persons of a specific race, community, language, colour, religion, political or other beliefs and national or ethnic origin in a disadvantageous position compared to any persons in the enjoyment of any of their protected right or freedom, shall constitute indirect discrimination to the enjoyment of a protected right or freedom.

Treatment or conduct and application of a provision, term, condition, criterion and practice not permitted by Law.

8. For the purposes of this Law-
- (a) any treatment or conduct within the framework of activities in the private and private sector constituting discrimination prohibited by law in accordance with section 6 or constituting racial discrimination to the enjoyment of a protected right or freedom in accordance with paragraphs (a) and (b) of subsection (1) of section 7;
 - (b) the application within the framework of activities in the private and public sector of any provision, term, criterion or practice constituting discrimination prohibited by law in accordance with section 6 or constituting racial discrimination to the enjoyment of a protected right or freedom in accordance with paragraph (c) of subsection (1) of section 7 or indirect racial discrimination to the said enjoyment in accordance with subsection (2) of section 7,

shall not be permitted.

Matters possibly covered by a provision, term, and criterion.

9. For the purposes of this Law, any provision, term or criterion, which in accordance with section 6 constitutes discrimination prohibited by Law or which in accordance with paragraph (c) of subsection(1) and subsection (2) of section 7 constitutes racial or indirect racial discrimination to the enjoyment of a protected right or freedom, may concern the following-

- (a) any provision, term and criterion to any Service Scheme, law or regulations or other legislative instrument;

- (b) any provision, term and criterion in a collective agreement, contract of employment, occupation, apprenticeship or supply of working services in cases where the employment of persons, occupation, apprenticeship or supply of working services are made with an employer acting in the private activities sector as well as in cases where the employment is made with a public person acting in the public activities sector;
- (c) any provision, term and criterion in an agreement or plans for vocational guidance, vocational training and retraining, vocational re-guidance including the gaining of professional practical experience offered by a public person or a person from the private sector;
- (d) any provision, term and criterion in the articles of a company, partnership, society, foundation, fund, association, chamber or other union or joint venture of persons, corporate or unincorporate;
- (e) any provision, term and criterion in a scheme which is available to employers, employees, apprentices or for the securing of insurance cover;
- (f) any provision, term and criterion in the participation terms and involvement in any kind of organisation, whether professional or not which operates for the benefit of the employers' interests or for the benefit of the interests of employees, workers or apprentices;
- (g) any provision, term and criterion in a contract or scheme for the supply of goods, services and housing to the public;
- (h) any provision, term and criterion in a contract or scheme for the supply of healthcare, social protection, security and allowances.

PART II

SUBMISSION OF COMPLAINTS AND FINDINGS

Power to
investigate

10.(1) Subject to the provisions of this Law, the Commissioner

complaints.

may investigate written complaints submitted to him by any person or group of persons concerning a matter referred to in section 11, make findings in relation hereto and take the measures provided for in this Law.

(2) A complaint submitted to the Commissioner under subsection (1) may have, as its object, the treatment or conduct or the application of a provision, term, criterion or practice by any person who has so acted in the private activities sector or by a public person who has so acted in the public activities sector in the exercise of power, authority or duty of the said private or public activities sector, as the case may be.

(3) The persons and groups of persons which may submit a complaint under subsection (2) shall include non-Governmental organisations, any person or group of persons of the private sector and any person who is an employee of a public person, or of the Law Office of the Republic, of the Audit Office, and of the Central Bank.

Complaints falling within the Law.

11. The Commissioner may, by virtue of section 10, act where the complaint submitted to him by a person or group of persons concerns the fact that in violation of section 8-

(a) they had experienced specific treatment or conduct-

(i) which, in accordance with section 6 it constitutes discrimination prohibited by law, and/or

(ii) in accordance with paragraph (a) of subsection (1) of section 7, it constitutes racial discrimination to the enjoyment of a protected right or freedom for the reason that such is less favourable than that which another person received, had received or would have received in a similar situation with regard to the enjoyment of the said right or freedom, or

(iii) in accordance with paragraph (b) of subsection (1) of section 7, it constitutes racial discrimination to the enjoyment of their protected right or freedom for the reason that it results to or entails the elimination or the weakening of the said right or freedom, and/or

- (b) a provision, term, criterion or practice has applied in their case –
 - (i) which in accordance with section 6 it constitutes discrimination prohibited by law, and/or
 - (ii) which in accordance with paragraph (c) of subsection (1) of section 7 it constitutes racial discrimination to the enjoyment of their protected right or freedom for the reason that it results to the elimination or the weakening of the principle of recognition or enjoyment of the said right or freedom, or
 - (iii) which in accordance with subsection (2) of section 7 it constitutes an indirect racial discrimination to the enjoyment of their protected right or freedom for the reason that it puts individuals of their own race, community, language, colour, religion, political or other beliefs or national or ethnic origin, as the case may be, in a disadvantageous position compared to other persons in the enjoyment of the said right or freedom.

Findings
by virtue of
the Law.

12.(1) Following completion of an investigation into a complaint submitted under this Law the Commissioner shall make a finding whether in violation of section 8-

- (a) there existed, as against the person or the group of persons who submitted the claim, such treatment of conduct -
 - (i) which constitutes discrimination prohibited by law in accordance with section 6, and/or
 - (ii) which constitutes racial discrimination in accordance with section 7 to the enjoyment of a protected right or freedom for the reason that it is less favourable than the one occurring, had occurred or would occur to another person in a similar situation or for the reason that it results to or entails the elimination or the weakening of the principle of recognition or enjoyment of same.
- (b) whether, in the case of a person or group of persons who

submitted the complaint, a provision, term, criterion or practice has been applied –

(i) which constitutes, in accordance with section 6 a discrimination prohibited by law;

(ii) which constitutes racial discrimination, in accordance with section 7, to the enjoyment of a protected right or freedom of above persons as mentioned in paragraph (a)(ii), or indirect racial discrimination to the said enjoyment for the reason that it puts individuals of their own race, community, language, colour, religion, political or other beliefs, or national or ethnic origin, as the case may be, in a disadvantageous position compared to other persons in the enjoyment of the right or the freedom.

(2) The Commissioner may proceed –

(a) To one or more of the findings referred to in subsection (1);

(b) to any finding or findings referred to in subsection (1), notwithstanding that for the treatment or conduct or for the application of the provision, term, criterion or practice which constituted the object of the complaint and of the investigation, the allegation raised was that it comprised or constituted, as the case may be, discrimination other than the one found by the Commissioner to exist for the particular case.

Reference
of persons
to findings.
Preparation and
transmission
or reports
with findings.

13.(1) In case of a finding in accordance with the provisions of section 12, the Commissioner shall mention in the finding-

(a) the person of the private sector or the public person, as the case may be, whose treatment or conduct or that of its employee or officer, has been found to constitute discrimination prohibited by law or that it constitutes racial discrimination to the enjoyment of a protected right or freedom, as the case may be;

(b) the person of the private sector or the public person, as the case may be, which or of which the employee or officer has

applied a provision, term, criterion or practice which was found to constitute discrimination prohibited by law or that it constitutes racial or indirect racial discrimination to the enjoyment of a protected right or freedom, as the case may be:

Provided that, in the case of treatment or conduct or application of a provision, term, criterion or practice by anyone who is an employee or officer and who acted in such manner in the exercise of power, authority or duty of the private or public activity sector, person of the private sector or public person, respectively, the Commissioner shall mention in his finding only the person of the private sector or the public person, as the case may be, of whose the person who acted as mentioned above is an employee or officer.

(2) The Commissioner shall prepare a report for the investigation setting out his finding and the reasons for which he concluded to such finding and shall communicate same to the person or group of persons who submitted the complaint, to the public person or person of the private sector referred to in his finding in accordance with subsection (1) and to the House of Representatives.

(3) The public person or the person of the private sector referred to in the finding of the Commissioner shall be responsible, by virtue of this Law, for violation of section 8, as referred to in section 12.

PART III

ORDERS PENALTIES AND RECOMMENDATIONS

Orders relating to non-supply of goods or services.

14.(1) Where the Commissioner's finding by virtue of section 12 is that a treatment or conduct has occurred which constitutes discrimination prohibited by law or that a provision, term, criterion, or practice constituting such discrimination has applied, the Commissioner may, by an order to be published in the Official Gazette of the Republic, order that any situation resulting directly from treatment or conduct or the application of a provision, term, criterion or practice which continues not to supply any goods or

services to the person or group of persons submitting the complaint, should be eliminated in such time-limit and in such manner as shall be prescribed in the order.

(2) The provisions of subsection (1) shall not apply in case of treatment or conduct in pursuance of any law or regulation or other legislative instrument. In case it falls within the provisions of this subsection, the Commissioner shall inform the Attorney-General of the Republic accordingly by communicating to him the report with his finding in accordance and for the purposes of section 39.

(3) No order shall be made by virtue of subsection (1) in case –

- (a) the situation referred to in subsection (1) has not exclusively occurred by reason of violation of the relevant law or regulations prohibiting or non-permitting or providing specifically for the particular treatment or conduct or exclusively due to the application of the particular provision, term, criterion or practice which is prohibited or not-permitted or provided specifically by them, or
- (b) no practical and direct manner exists to eliminate the situation referred to in subsection (1) or in case such manner exists, but results, as a matter of fact to undue changes in the state of affairs of third persons, or
- (c) the situation cannot be eliminated without violation of contractual obligations of the person of the private sector or the public person, as the case may be, who is referred to in the Commissioner's finding, or
- (d) for whatever reason the person or group of persons who submitted the claim does not wish an order to be issued, or
- (e) for whatever reason the situation referred to in subsection (1) does not continue anymore.

(4) The Commissioner, shall, prior to the issuance of an order by virtue of subsection (1), investigate whether there exists any reason referred to in subsection (3) for not issuing the order, and in case he shall determine, on the basis of the evidence of the

report already in front of him that such reason exists, he shall not issue an order and shall, at the same time of communication of his report, inform the persons referred to in subsection (2) of section 13 accordingly.

Issuance and publication of order relating to the non-supply of goods or services.

15.(1) Where the Commissioner shall ascertain by virtue of subsection (4) of section 14 that no reason referred to in subsection (3) of the said section exists for an order not to be issued, the Commissioner may issue an order if he deems it expedient whereupon at the same time of communication of his report he shall inform the persons referred to in subsection (2) of section 13 that he intends to act to that effect and, thereafter, he shall issue and publish an order.

(2) Where the Commissioner shall not be in a position to judge, on the basis of the evidence of the investigation already in front of him, as to whether there exists any reason referred to in subsection (3) of section 14 for the non-issuance of an order or whether it shall be expedient to issue an order, then simultaneously with the communication of his report to the persons mentioned in subsection (2) of section 13 –

- (a) he shall inform them that he may issue an order unless any reason referred to in subsection (3) of section 13 for not issuing an order exists or unless he deems expedient to issue an order, as the case may be, and
- (b) he shall invite them to appear before him at a designated place and time and to inform him whether any reason referred to in subsection (3) of section 13 for not issuing an order, exists or whether a reason exists for which it would not be expedient to issue same, as the case may be, providing all the necessary data and documents evidencing and supporting their position.

(3) Where the Commissioner shall ascertain, on the basis of information, data and documents referred to in subsection (1) that no reason mentioned in subsection (3) of section 13 for not issuing an order exists and where he deems that it is proper to issue an order, the Commissioner shall so inform the persons referred to in subsection (2) of section 13 and shall proceed to the issuance and publication of his order in the Official Gazette of

the Republic. In the case where the Commissioner ascertains that a reason for not issuing an order exists or that he does not consider it appropriate to issue an order, the Commissioner shall so inform the above persons.

Manner designated in order for elimination of a situation of non-supply of goods or services.

16.(1) The manner designated by the Commissioner in his order by virtue of subsection (1) of section 14 for the elimination of a situation where goods or services are not supplied, shall be that by which, in his discretion, and from a practical point of view, the relative situation which is the direct result of the treatment or conduct or of the application of a provision, term, criterion or practice which in accordance with the Commissioner's finding it constitutes a discrimination prohibited by law, ceases directly to exist for the person or group of persons who submitted the complaint.

(2) For the purposes of subsection (1), the Commissioner may, inter alia, order that a specific good or service should be supplied including housing, education and sanitary care in case the situation resulting from the treatment or conduct or the application of the provision, term, criterion or practice constitutes the non-supply of such goods or services.

(3) The Commissioner shall designate in his order issued and published by virtue of subsection (1) of section 14, the public person or person of the private sector, as the case may be, who has a duty to comply with the order in the light of his finding.

Fine after investigation of a complaint.

17.(1) The Commissioner may, on the basis of the data of the investigation, impose on the public person or person of the private sector, who in accordance with subsection (3) of section 13 is responsible for violation of section 8, any monetary sanctions for the violation, in the form of a fine and order such person to pay the fine imposed and may, in addition or alternatively, proceed to a recommendation to the above person in accordance with section 21.

(2) The Commissioner shall not impose a fine by virtue of subsection (1) in the case where he issues an order by virtue of section 14 or where, for the specific treatment or conduct or application of a provision, term, criterion or practice, the relevant public person or person of the private sector is subject to criminal

sanctions or in case of treatment or conduct in compliance with any law, regulations or other legislative instrument, or application of any provision, term, criterion or practice set out by any Service Scheme, law or regulations, or other legislative instrument.

Imposition of fine.

18.(1) The Commissioner may, by virtue of subsection (1) of section 17, impose on the public person or person of private sector and order same to pay as follows –

- (a) In case of a finding that the relevant treatment or conduct or the provision, term, criterion or practice applied constitutes a discrimination prohibited by law, a fine not exceeding five hundred, ninety eight euros.
- (b) In case of a finding that the relevant treatment or conduct or the provision, term, criterion or practice applied constitutes racial or indirect racial discrimination in the enjoyment of a protected right or freedom, a fine not exceeding four hundred, twenty seven euros.

Communication of order for payment of fine.

19. An order by the Commissioner for the payment of a fine by virtue of sections 17 and 18 shall be communicated to the public person or person of the private sector on whom the fine was imposed and to the person or group of persons who submitted the complaint, simultaneously with the transmission of the Commissioner's report and or the information which may also be given to them in accordance with subsection (2) of section 15, that no order shall be issued by virtue of section 14.

Imposition of more than one fine.

20.(1) The Commissioner may not impose more than one fine to a public person or a person of the private sector, by virtue of section 18, where in accordance with his finding-

- (a) The particular treatment or conduct constitutes a prohibited discrimination as well as racial discrimination, or the opposite;
- (b) the particular provision, term, criterion or practice applied –
 - (i) Constitutes discrimination prohibited by law as well as racial discrimination or indirect racial discrimination, or the opposite;

(ii) constitutes racial discrimination as well as indirect racial discrimination.

(2) In case of a finding in accordance with paragraphs (a) and (b)(i) of subsection (1), the Commissioner may impose a fine only in relation to the treatment or conduct or the provision, term, criterion or practice constituting discrimination prohibited by law.

Recommendations following investigation of a complaint.

21.(1)The Commissioner may, by virtue of subsection (1) of section 17, and where he deems expedient, proceed to any of the following recommendations in relation to a finding which covers any corresponding situation as mentioned below –

- (a) In case where in accordance with his finding, there existed treatment or conduct constituting discrimination prohibited by law in accordance with section 6 he may proceed to a recommendation to a public person or person of the private sector referred to in his finding to take within a time-limit designated in the recommendation, certain practical measures indicated in the recommendation which shall in the future avert the repetition of such treatment or conduct as that in the finding as against the person or the group of persons who submitted the complaint and persons who are or may be put in a similar position as against the above person mentioned in the finding;
- (b) in case where in accordance with his finding there existed as against the person or the group of persons who submitted the complaint treatment or conduct which in accordance with section 7, it constitutes racial discrimination to the enjoyment of their protected right or freedom for the reason that it is less favourable than the one which occurs, occurred or would occur to another person in a similar situation in the enjoyment of the said right or for the reason that it results to or entails the elimination or the weakening of the principle of recognition or the enjoyment of their said right or freedom, he may proceed to a recommendation to the public person or the person of the private sector referred to in his finding, to take within a time-limit prescribed in the recommendation certain practical measures indicated by him in the

recommendation, by which –

- (i) to ensure for the person or the group of persons submitting the complaint and for the persons who are or may be put in a position similar to them as against the person referred to in the finding, the enjoyment of their protected right or freedom without treatment or conduct as that in the finding which constitutes racial discrimination to its enjoyment, and or
- (ii) to avert in the future, for the person or group of persons who submitted the complaint and for persons who are or may be put in a position similar to them as against the person referred to in the finding, the repetition of treatment or conduct as that of the finding, which constitutes racial discrimination to the enjoyment of their protected right or freedom;
- (c) in case where, in accordance with his finding a provision, term, criterion or practice was applied which in accordance with section 6 it constitutes discrimination prohibited by law, he may proceed to a recommendation towards the relevant person referred to in his finding, to cease, within a prescribed time-limit, to invoke or apply the provision, term, criterion or practice as far as it concerns the person or the group of persons who are or may be put in a position similar to them as against the person referred to in the finding;
- (d) in case where in accordance with his finding, a provision, term, criterion or practice has been applied, which in accordance with section 7 it constitutes racial discrimination to the enjoyment of a protected right or freedom as referred to in paragraph (b), or it constitutes an indirect racial discrimination in the enjoyment of a protected right or freedom for the reason that it puts individuals of the race, community, language, colour, religion, political or other beliefs or national or ethnic origin of the person or group of persons who submitted the complaint in a disadvantageous position compared to other persons in the enjoyment of their said right or freedom, he may proceed to a recommendation towards the person referred to in his finding to eliminate or replace within the time-limit prescribed in the recommendation, the provision, term, criterion or practice in such manners which are in his

discretion appropriate indicated in the recommendation as far as the person or group of persons submitting the claim is concerned as well as the persons who are or may be put in a position similar to them as against the person referred to in the finding.

(2) For the purposes of paragraphs (c) and (d) of subsection (1), a provision, term and criterion may, inter alia, concern a provision, term and criterion in contracts, articles, plans and participation terms referred to in paragraphs (b) to (g) of section 9.

(3) A time-limit designated by the Commissioner in a recommendation by virtue of subsection (1), may not exceed a period of eighteen months from the date of the recommendation.

(4) The provisions of subsection (1) shall not apply in case of treatment or conduct by application of any law or regulations or other legislative instrument or application of a provision, term or criterion set out in any Service Scheme, law or regulations, or other legislative instrument. In case it falls within the provisions of this subsection, the Commissioner shall inform the Attorney-General of the Republic accordingly by communicating to him the report with his finding in accordance with and for the purposes of section 39.

Decision in relation to recommendation. Consultations and communication of recommendation.

22.(1) The Commissioner shall decide whether he shall proceed to a recommendation by virtue of section 21, and on the indications to which he intends to proceed, having taken into consideration the data of the investigation and his findings in such investigation, but he shall not proceed to a recommendation except following his consultation with the person or group of persons submitting the complaint and the person referred to in his finding, as regards the issues of prescribing time-limits, indications of practical measures, ceasing of invoking of or application of provisions, terms, criteria or practices, as well as manners for elimination or substitution of same.

(2) In each case where the Commissioner decides to proceed to a recommendation he shall inform the persons referred to in subsection (1) of his decision and for the content of his recommendation to which he intends to proceed, simultaneously with the communication to them of his report and of any order by

him for payment of a fine, requiring them to attend for the consultation mentioned in the said subsection at a place and time as shall be specified by him.

(3) The Commissioner shall take a final decision for the indications he shall proceed with in the light of the consultations referred to in subsection (1), and shall, thereafter, communicate the recommendation to the persons referred to in the said subsection having set out first, in the recommendation, the date on which he took his final decision.

Recourse to the Supreme Court.

23. Subject to the provisions of Article 146 of the Constitution and the case law relating thereto, any orders, fines and recommendations by virtue of this Law and by virtue of any rules and codes of practice made thereunder, shall be subject to annulment by the Supreme Court of Cyprus by virtue of the above Article, on a recourse made in the manner prescribed by the Article, against the order, imposition of fine or recommendation, as the case may be, by any person of the private activities sector whose existing legitimate interest within the meaning of Article 146 is directly affected by the relevant order, imposition of fine or recommendation.

PART IV

COMPLIANCE WITH ORDERS AND RECOMMENDATIONS

Supervision of compliance of persons with orders.

24.(1) The Commissioner shall have power and duty to supervise the compliance of persons with his orders published in the Official Gazette of the Republic by virtue of section 15.

(2) For the purposes of subsection (1), every public person or person of the private sector who in accordance with subsection (3) of section 16 shall have a duty to comply with a Commissioner's order and every person or group of persons submitting the investigated complaint as well as every employee or officer of the above mentioned, shall be obliged to provide the Commissioner with every information and document required.

(3) Regarding the supervision referred to in subsection (1), the Commissioner, upon expiry of the time-limit prescribed in his published order may carry out an investigation in order to

ascertain whether compliance exists and whether anything has been received in order for compliance to exist and what shall follow in such a case, if for any reason it shall not be possible to ascertain and ensure such matters without carrying out an investigation.

Fine for non-compliance with order.

25. Where the Commissioner shall ascertain, upon expiry of the time-limit prescribed in the published order, that the situation which he ordered to cease to exist, has not ceased to exist, the Commissioner may impose monetary sanctions in the form of a fine for non-compliance with an order on a public person or person of the private sector who in accordance with subsection (3) of section 16 has a duty to comply with the order and to order such person to pay the fine in the case where he shall also ascertain that the said person -

(a) omitted anything necessary for the situation to disappear prior to the expiry of the time-limit prescribed in the order, and or

(b) continues to omit anything necessary for the disappearance of the situation, after the expiry of the time-limit.

Order for payment of fine for non-compliance with order.

26.(1) The Commissioner may impose the following fine, on the person ascertained by him not to have complied or which does not comply with his order, in accordance with section 25 and order such person to pay the said fine -

(a) for the omission in paragraph (a) of section 25, a fine not exceeding five hundred, ninety eight euros, and or

(b) for the omission in paragraph (b) of section 25, a fine not exceeding eighty five euros per day, for each day during which the omission continues after the expiry of the time-limit prescribed in his order.

(2) Before the Commissioner shall decide on the amount of the administrative fine which he shall impose on and order the relevant public person or person of the private sector to pay by virtue of subsection (1) he shall inform the person to appear before him for the above purpose and shall decide on the amount after having heard his representations on the matter.

(3) Any imposition of fine and any order by the Commissioner for the payment of such fine by virtue of this section, shall be communicated to the relevant public person or person of the private sector on which the fine was imposed and which is ordered to pay such fine.

Supervision of compliance of persons with recommendations.

27.(1) The Commissioner shall have power and duty to supervise the compliance of persons with recommendations to which he proceeds by virtue of sections 17, 21 and 22 and with recommendations published by virtue of section 28.

(2) For the purposes of subsection (1), every public person or person of the private sector to which recommendation is made, as well as every employee and officer of same, and the person or group of persons submitting the claim which was investigated, shall be obliged to provide the Commissioner with any information and document required from them at any time before the expiry of the time-limits prescribed in the recommendation and in the relevant publication of the recommendation by virtue of section 28 as well as at any time after the expiry of each time limit.

(3) Regarding the supervision referred to in subsection (1), the Commissioner may, at any time after the expiry of the time-limit prescribed in the recommendation or which is specified in the publication of the recommendation, as the case may be, carry out an investigation in order to ascertain the existence of compliance, if for any reason, it shall not be possible to ascertain and ensure same without the carrying out of an investigation.

Publication of recommendation in the Official Gazette of the Republic.

28. Where the Commissioner shall ascertain, as referred to in subsection (3), that a public person or person of the private sector as the case may be, has not complied with his recommendation within the time-limit prescribed in the recommendation and continues not to comply, he shall proceed with the publication of the recommendation in the Official Gazette of the Republic and shall specify a time-limit in the publication not exceeding ninety days from the date of publication on which the above person has a duty to comply with the recommendation.

Fine for non-compliance with a

29.(1) The Commissioner may impose on a public person or a person of the private sector who in accordance with section 28

published
recommendation.

has a duty to comply with his recommendation published in the Official Gazette of the Republic, to pay monetary sanctions in the form of a fine for non-compliance with the published recommendation and to order same to pay the fine, in case that he-

- (a) ascertains –
 - (i) that any measure indicated in the recommendation has not been completed within the time-limit specified in the publication, and or
 - (ii) that any provision, term, criterion, or practice in a contract, plan, articles or participation term, as the case may be, required by the recommendation to cease, has not within the time-limit specified by the publication ceased to be invoked or applied, or any of the above provision, term, criterion or practice as indicated in the recommendation has not been eliminated or substituted within the said time-limit, and
- (b) ascertains also that the relevant public person or person of the private sector –
 - (i) omitted anything necessary for the compliance with the recommendation prior to the expiry of the time-limit prescribed in the publication, or
 - (ii) continues to omit anything necessary for the compliance with the recommendation even after the expiry of the time-limit prescribed in the publication.

Imposition
of fine.

30.(1) The Commissioner may impose the following fine, on the person who in accordance with section 29 has not complied with his recommendation and may order such person to pay a fine –

- (a) for omission of paragraph (b)(i) of section 29, a fine not exceeding five hundred, ninety eight euros, and or
- (b) for omission of paragraph (b)(ii) of section 29, a fine not exceeding eighty five euros per day, for each day during which the omission continues after the expiry of the time-limit prescribed in the publication.

(2) Before the Commissioner shall decide on the amount of the fine which he shall impose on and order the relevant public person or person of the private sector to pay by virtue of subsection (1), he shall inform the person to appear before him for the above purpose and shall decide on the amount after having heard his representations on the matter.

(3) Any order by the Commissioner by virtue of this section shall be communicated to the public person or person of the private sector on which the fine was imposed and which was ordered to pay such fine.

Publication of ascertainment of non-compliance with a published recommendation.

31.(1) The Commissioner shall publish in the Official Gazette of the Republic his ascertainment referred to in section 29 that the relevant public person or person of the private sector has omitted or continues to omit what is necessary for the existence of compliance with his recommendation after the expiry of the time-limit prescribed in the publication of his recommendation.

(2) A publication of an ascertainment by virtue of subsection (1) shall be made only after the Commissioner shall have communicated his order to the relevant public person or person of the private sector, to pay an administrative fine by virtue of section 30 for his non-compliance with the recommendation.

(3) In each case of compliance after the ascertainment is published by virtue of this section the event of compliance shall be published by the Commissioner in the Official Gazette of the Republic.

PART V

EXAMINATION OF ISSUES EITHER EX PROPRIO MOTU OR UPON REQUEST AND SUGGESTIONS OF THE COMMISSIONER

Power to examine issues either ex proprio motu or upon request.

32. The Commissioner may examine issues ex proprio motu and upon request of persons or groups of persons referred to in subsection (2) of section 34.

Ex proprio motu examination of issues.

33.(1) The Commissioner may examine issues ex proprio motu by virtue of section 32 as follows-

(a) Whether in a particular case which has come to his knowledge in any way –

(i) a treatment or conduct or application of a provision, term, criterion or practice which in accordance with section 6 constitutes discrimination prohibited by law has been committed by a public person or person of the private sector or employee or officer of them;

(ii) a treatment or conduct or application of a provision, condition, criterion or practice which in accordance with section 7 constitutes racial or indirect racial discrimination to the enjoyment of a protected right or freedom has been committed by a public person or person of the private sector or employee or officer of them;

(b) whether a provision, term, criterion or practice applied by a public person or person of the private sector, comprises of or constitutes, as the case may be, a discrimination prohibited by law in accordance with section 6 or racial or indirect racial discrimination to the enjoyment of a protected right or freedom in accordance with section 7;

(c) whether a provision, term, criterion or practice which a public person or person of the private sector intends to adopt, comprises of or constitutes, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom in accordance with sections 6 and 7.

(2) Where, following examination of an issue by virtue of subsection (1), the Commissioner proceeds to any ascertainment referred to in paragraphs (a) to (c) of subsection (3) hereinbelow, he shall inform the Attorney-General of the Republic accordingly by communicating to him his ascertainment in accordance with and for the purposes of section 39 and shall not proceed to any recommendation by virtue of section 35.

(3) The Commissioner shall act as provided in subsection (2)

–

- (a) Where he shall ascertain a treatment or conduct which in his opinion, it comprises of or constitutes, as the case may be, a discrimination prohibited by law or racial discrimination to the enjoyment of a protected right or freedom and that it concerns a treatment or conduct by application of any law or regulations, or other legislative instrument;
- (b) where he shall ascertain that a provision, term or criterion was or is applied which in his opinion comprises of or constitutes, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom and that the provision, term or criterion is set out by any Service Scheme, law or regulations, or other legislative instrument;
- (c) where he shall ascertain that the public person intends to adopt a provision, term, criterion or practice which in his opinion comprises of or constitutes, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom and that the said person intends to adopt a provision, term, criterion or practice in any Service Scheme, law or regulations or other legislative instrument.

Examination
of issues upon
request.

34.(1) The Commissioner may examine issues by virtue of section 32 upon the written request of any person or group of persons referred to in subsection (2), as follows–

- (a) Whether an intended treatment or conduct of the person or the group of persons submitting a request in relation to an issue which relates to or concerns them in an official capacity or which concerns an issue of their authority comprises of or constitutes in accordance with sections 6 and 7, as the case may be, a discrimination prohibited by law or racial discrimination to the enjoyment of a protected right or freedom;
- (b) whether a provision, term, criterion or practice which the person or group of persons submitting the request intends to apply in relation to an issue which relates to or concerns

them in an official capacity or which concerns an issue of their authority, comprises of or constitutes in accordance with sections 6 and 7, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom;

- (c) whether a provision, term, criterion or practice which a public person or person of the private sector intends to apply in relation to an issue which relates to or concerns them in an official capacity, the person or group of persons submitting the request or which concerns an issue of their authority, comprises of or constitutes, in accordance with sections 6 and 7, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom.

(2) The persons or groups of persons which may submit an issue to the Commissioner for examination by virtue of subsection (1), shall be the non-Governmental organisations, chambers, organisations, committees, associations, bodies, foundations, trade unions, funds and boards operating for the benefit of professions or for the benefit of any other nature of business or for the benefit of employers, employees or self-employed persons or in favour of any organised group or any group or category of persons, any municipal council or Mayor, the public corporate bodies and any Commissioner or authorised member of the administration of a Committee, Council or Institution appointed by the President of the Republic, the Council of Ministers, the House of Representatives or by a Minister in pursuance of any law or otherwise.

(3) Where, following the examination of an issue by virtue of subsection (1), the Commissioner proceeds to any ascertainment referred to in paragraphs (a)-(c) of subsection (4) hereinbelow, he shall inform the Attorney-General of the Republic accordingly, by communicating to him his ascertainment in accordance with and for the purposes of section 39 and shall not proceed to any suggestion by virtue of section 36.

(4) The Commissioner shall act as provided in subsection (3) -

- (a) where he shall ascertain an intended treatment or conduct

which in his opinion comprises of or constitutes, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom and that it concerns a treatment or conduct intended by application of any law or regulations, or other legislative instrument;

- (b) where he shall ascertain that a provision, term or criterion is intended to apply which in his opinion, comprises of or constitutes as the case may be, discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom and that the provision, term or criterion is set out in any Service Scheme, law or regulations or other legislative instrument;
- (c) where he shall ascertain that a public person intends to adopt a provision, term, criterion or practice which in his opinion comprises of or constitutes, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom and that the said person intends to adopt a provision, term, criterion or practice in any Service Scheme, law or regulations or other legislative instrument.

Suggestions
after ex-
proprio
motu examination
of an issue.

35.(1) Following an ex proprio motu examination of an issue by virtue of sections 32 and 33, the Commissioner may proceed, where he deems expedient, to any of the following suggestions, in relation to his opinion covering any corresponding case as referred to hereinbelow:

- (a) where he considers that in a particular case a treatment or conduct by a public person or person of the private sector, or employee or officer of them existed which constitutes in accordance with section 6 a discrimination prohibited by law, he may suggest to the public person or person of the private sector as the case may be, to take specific practical measures as indicated in his suggestion by which a repetition in the future of such treatment or conduct constituting discrimination prohibited by law against a person who has experienced same and against persons who are or may be put in a position similar to him against the above public person or person of the private sector, as the

case may be, shall be avoided;

- (b) where he considers that the treatment or conduct referred to in paragraph (a) constitutes in accordance with section 7 racial discrimination to the enjoyment of a protected right or freedom of the person referred to in paragraph (a) for the reason that it is less favourable than that which occurs, occurred, or shall occur to any person in an analogous situation of the right or freedom or for the reason that it results to or entails the elimination or the weakening of the principle of recognition or enjoyment of the said right or freedom, he may suggest to the public person or person of the private sector to take specific practical measures indicated in his suggestion by which –
 - (i) it shall be secured for the person who experienced treatment or conduct and the persons who are or may be put in a position similar to him against a public person or person of the private sector, the enjoyment of his right or freedom without such treatment or conduct as it would constitute racial discrimination to its enjoyment, and or
 - (ii) it shall be avoided in the future for the above persons, any repetition of treatment or conduct such as that which would constitute racial discrimination to the enjoyment of their related protected right or freedom;
- (c) where he considers that in a particular case, a public person or person of the private sector or employee or officer of them has applied a provision, term, criterion or practice which in accordance with section 7 it constitutes discrimination prohibited by law, he may suggest to the public person or person of the private sector to cease to invoke or apply the provision, term, criterion or practice as far as it concerns the person to whom it was applied as well as far as it concerns the persons who are or may be put in a position similar to it against a public person or person of the private sector;
- (d) where he considers that a provision, term, criterion or practice applied as referred to in paragraph (c), constitutes

racial discrimination to the enjoyment of a protected right or freedom of the above persons as referred to in paragraph (b) or indirect racial discrimination to its enjoyment for the reason that it puts individuals of their own race, community, language, colour, religion, political or other beliefs or national or ethnic origin, as the case may be, in a disadvantageous position compared to other persons in the enjoyment of the said right or freedom, he may suggest to the public person or person of the private sector, such manners which in his discretion deems appropriate for the elimination or substitution of the relevant provision, term, criterion or practice so that it shall cease to constitute racial or indirect racial discrimination to the said enjoyment for the person to whom it was applied and for persons who are or may be put in a position similar to it against the public person or person of the private sector;

- (e) where he considers that a public person or person of the private sector applies a provision, term, criterion or practice constituting discrimination prohibited by law, in accordance with section 6, or constituting in accordance with section 7, racial or indirect racial discrimination to the enjoyment of a protected right or freedom as referred to in paragraphs (b) and (d), he may as regards the first case, suggest to the said person not to apply or invoke the provision, term, criterion or practice which constitutes discrimination prohibited by law and to suggest to him as regards both cases such manners which in his discretion are appropriate for its elimination or substitution so that the provision, term, criterion or practice applied by it, ceases to constitute or comprise of, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of the said right or freedom;
- (f) where he considers that a public person or person of the private sector intends to adopt a provision, term, criterion or practice which in accordance with sections 6 and 7 it comprises of or constitutes, as the case may be, discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom, he may suggest to the said person not to adopt

the provision, term, criterion or practice and or to suggest to him any alternative provisions, terms, criteria or practices which may be available for that particular case and which in his discretion are appropriate, and which do not comprise of or constitute, as the case may be discriminations prohibited by law or racial or indirect racial discriminations to the enjoyment of a protected right or freedom.

(2) The provisions of subsection (1) shall not apply in relation to cases falling within the provisions of subsections (2) and (3) of section 33.

Suggestions following examination of issue upon request of persons or groups of persons.

36.(1) Upon examination of an issue which a person or group of persons has requested the Commissioner to examine by virtue of sections 32 and 34, the Commissioner may, where he deems expedient, proceed to any of the following suggestions in relation to his opinion which covers a corresponding case referred to hereinbelow-

- (a) Where he considers that an intended treatment or conduct of a person or group of persons submitting the request comprises of or constitutes in accordance with sections 6 and 7, as the case may be, discrimination prohibited by law or racial discrimination to the enjoyment of a protected right or freedom, he may suggest to them not to proceed to the treatment or conduct and or to suggest to them any alternative manners of treatment or conduct which may in his discretion be available and appropriate and which in such case, they do not comprise of or constitute, as the case may be, discrimination prohibited by law or racial discrimination to the enjoyment of a protected right or freedom;
- (b) where he considers that a provision, term, criterion or practice which the person or group of persons submitting the request intends to apply or adopt or a public person or person of the private sector for whom the request was submitted, as the case may, comprises of or constitutes in accordance with sections 6 and 7, discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom, he may suggest

to the above person or group submitting the request and to the public person or person of the private sector for whom the request was submitted, as the case may be, not to apply or adopt the provision, term, criterion or practice and or to eliminate or substitute same by such manners as shall in his discretion be alternative and appropriate so that it shall cease to comprise or constitute, as the case may be, a discrimination as referred to above.

(2) The provisions of subsection (1) shall not apply in relation to cases falling within the provisions of subsections (3) and (4) of section 34.

Communication of opinions and suggestions of the Commissioner.

37. The opinions and any suggestions of the Commissioner by virtue of sections 35 and 36 shall be communicated to the relevant public person or person of the private sector, to the person or group of persons and to the House of Representatives.

Information in relation to adoption of suggestions. Mention in the annual reports of the Commissioner.

38.(1) A public person, a person of the private sector and person or group of persons to which the Commissioner makes suggestions in accordance with sections 35 and 36, shall inform the Commissioner in case his suggestions have been adopted.

(2) Where the information referred to in subsection (1) shall not be given within eighteen months from the date the Commissioner communicated his suggestions to the persons referred to in the said subsection, he may consider that his suggestions have not been adopted and may proceed to a mention for this event in his immediately next annual report to be submitted to the President of the Republic in accordance with section 54.

(3) Where, before the expiry of the period of eighteen months referred to in subsection (2), the relevant person shall inform the Commissioner that his suggestions have not been adopted and shall explain the reasons, the Commissioner shall mention in his report referred to in the above subsection, the fact that he was informed of the reasons for non-adoption of his suggestions and shall set them out in his report, together with the mention made therein, of the fact that his suggestions were not adopted.

(4) Where at any time after the submission of the report in which a mention is made of the fact that the suggestions of the

Commissioner were not adopted, the Commissioner is informed by the relevant person that his suggestions were not adopted, he shall make a mention of the fact in his immediately next relative report following the information.

Actions of
Attorney-
General
of the Republic.

39.(1) Where the Commissioner shall find or ascertain, following an investigation of the complaint by virtue of sections 10 and 11 or examination of an issue by virtue of sections 32, 33 and 34 or, in any case in the exercise of any of his authority, duty or power by virtue of this Law and the regulations, orders, codes of practice issued thereunder and of orders by virtue of the said regulations or codes that the provision, term or criterion which was or is applied to or is intended to apply comprises or constitutes, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom and that the said provision, term or criterion is set out by any Service Scheme, law or regulations or other legislative instrument, he shall inform the Attorney-General of the Republic of the above by communicating to him simultaneously, if any, any relevant finding, ascertainment and report of his.

(2) The provisions of subsection (1) shall apply also to the cases below –

(i) in the case of a provision, term or criterion which as referred to in the above subsection (1) comprises or constitutes discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom, which is intended to be adopted by any Service Scheme, law or regulations, or other legislative instrument;

(ii) in the case of treatment or conduct by application of a provision, term or criterion which is set out in any law or regulations or other legislative instrument and comprises or constitutes, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom.

(3) The Attorney-General of the Republic, having studied the issue communicated to him by virtue of subsections (1) and (2) shall

advise the Minister who is competent for such issue and or the Council of Ministers, for the measures which may be taken, taking into consideration any relevant international obligations of the Republic and the international conventions which it has ratified including those of paragraph (b) of section 5 and shall, in any case, prepare any legislation which is relevant to his advise.

(4) Where the Commissioner shall find or ascertain, following an investigation or examination referred to in subsection (1) or in the exercise of any authority, duty or power, referred to in the subsection, that the treatment or conduct or provision, term, criterion or practice which comprises or constitutes, as the case may be, a discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom, it may be required to be examined as to whether it should become subject to any legislative regulation, he shall inform the Attorney-General of the Republic of the above by communicating to him simultaneously, if any, any relevant finding, ascertainment and report thereof.

(5) The Attorney-General of the Republic, having studied the issue communicated to him by virtue of subsection (4), shall advise the Minister who is competent for this issue and or the Council of Ministers as to whether a legislative regulation should apply and or may legislatively apply, taking into consideration any relevant international obligations of the Republic and any international conventions which it has ratified including those of paragraph (b) of section 5 and shall, in any case, prepare any legislation which is relevant to his advice.

PART VI

CODES OF PRACTICE, CONSULTATIONS, SURVEYS AND STATISTICS

Preparation of codes of practice.

40.(1) Subject to the provisions of this section, the Commissioner may, from time to time, prepare codes of practice.

(2) Codes of practice prepared by the Commissioner by virtue of this section shall be inserted by way of Appendix to regulations issued by the Commissioner with the approval of the Council of

Ministers by virtue of section 42.

(3) Codes of practice by virtue of subsections (1) and (2) impose the taking of such practical measures as the Commissioner considers necessary to be taken from time to time by public persons and persons in the private sector, concerning any activity by such persons referred to in the code, for the purpose of-

- (a) facilitating and promoting the practical implementation of any laws and regulations for the time being in force, specially governing or prohibiting, or not permitting, any treatment or conduct, provision, term, criterion or practise, for the reason that it constitutes direct or indirect discrimination on grounds of race, or ethnic origin, religion, beliefs, community, language, colour, disability, age and sexual orientation;
- (b) promoting equality of opportunities regardless of racial or ethnic origin, religion, beliefs, community, language, colour, disability, age and sexual orientation on any matter as referred to in subsection (2) of section 6;
- (c) promoting equality in the enjoyment of protected rights and freedoms, regardless of race, community, language, colour, religion, political or other beliefs, racial or ethnic origin;
- (d) eliminating any direct or indirect discrimination on grounds of race, community, language, colour, religion, political or other beliefs and racial or ethnic origin.

(4) Before preparing a code of practice under this section, the Commissioner shall have consultations and discuss the matter with any public person, or person of the private sector, or person or group of persons referred to in subsection (2) of section 34, who may have competence concerning any matter or activity referred to in the code. The consultations are carried out in meetings attended by all concerned, or in separate meetings with them.

(5) For the preparation of a code of practice, the Commissioner may take into account any survey or statistics

carried out under section 44.

Publication and public discussion of codes of practice.

41.(1) The Commissioner shall, by publication in the Official Gazette of the Republic, notify a code of practice prepared by virtue of section 40 and by such publication he shall require every public person or person of the private sector who is interested in the code to attend for public discussion of the code on a date and time specified in the publication.

(2) The procedure for the carrying out of the public discussion shall be designated by regulations made by virtue of this Law.

(3) Any opinions of public persons or persons of the private sector who are interested in a code of practice notified by publication in the Official Gazette of the Republic may also be sent to the Commissioner in writing before the carrying out of the public discussion.

(4) The Commissioner, having studied the opinions expressed at the public discussion and any opinions which may have been communicated to him in writing by virtue of subsection (3), may

—

- i. Amend the published code after consultation and discussion on the issue with the persons referred to in subsection (4) of section 40, or
- ii. adopt the published code without any amendment, or
- iii. prepare a new code, or
- iv. not proceed to any further action in relation to the code:

Provided that for the preparation of a new code as provided for in paragraph (c), the provisions of subsection (4) of section 40 and all the provisions of this section shall apply.

Issue of regulations with code of practice.

42.(1) The Commissioner may, with the approval of the Council of Ministers, issue regulations to which a code of practice shall be inserted as an Appendix which following a public discussion, it was adopted or amended by the Commissioner, as the case may be, by virtue of paragraphs (a) or (b) of subsection (4) of section 41.

(2) The Commissioner shall have power to supervise the

application of a code of practice which constitutes an Appendix to the regulations issued by virtue of this section and to supervise the compliance of its provisions and procedure designated in the regulations and may investigate, in a manner and procedure designated in the regulations, any complaints for non-compliance with the provisions of the code and to impose and order the payment of fines and other monetary or non-monetary sanctions which are designated in the regulations with respect to the said compliance.

(3) Any regulations issued by virtue of this section, may provide for the matters referred to in subsection (2) and, generally, for the better application of the code of practice which constitutes an Appendix thereto.

(4) Without prejudice to the generality of subsection (3), the regulations referred to in the said subsection may provide, inter alia, the following in relation to a code of practice which constitutes an Appendix thereto -

- (a) for manners and supervisory procedure of the application of the code by the Commissioner and the compliance of persons to its provisions, as well as for the powers of the Commissioner which are related to these issues,
- (b) the designation of fines and other monetary or non-monetary sanctions, which the Commissioner may impose and order to be paid for non-compliance with the provisions of the code,
- (c) for the commission of criminal offences for non-compliance with the provisions of the code of practice and for the designation of punishments with respect to their commission,
- (d) for the designation of dates of entry into force of the code or any of its provisions, in case that such shall be different from the date of entry into force of the regulations,
- (e) for submission of complaints for non-compliance with the provisions of the code, for manners and investigations, procedures and for recommendations, orders, suggestions

and fines which he may issue or impose, as the case may be, following an investigation of the said complaints,

- (f) for issue of orders by the Commissioner for the better application of the code and for compliance with its provisions.

(5) Regulations issued under this section shall be laid before the House of Representatives and the provisions of subsection (3) of section 53 shall thereafter apply.

Contacts and consultations of the Commissioner with persons or groups of persons.

43. For the purposes of this Law, the Commissioner shall make contacts and shall have consultations at fixed periods of time with public persons and persons of the private sector and persons and groups of persons referred to in subsection (2) of section 34 and shall make contacts and shall have consultations at fixed periods of time at which persons or groups of persons of different or conflicting interests shall be jointly present with a view to promote mutual understanding between them and to conclude agreements and or reach to consensus solutions in relation to the taking of measures with a view to achieve the purposes referred to in subsection (3) of section 40.

Surveys and statistics of the Commissioner.

44.(1) The Commissioner shall carry out surveys and statistics for any issue falling within his authorities and duties by virtue of this Law and may carry out same with respect to any activity in any public or private activities sector or any practice in the said activities sector.

(2) Every survey and statistic carried out by virtue of this subsection (1) shall be published in the Official Gazette of the Republic and shall be communicated to the President of the Republic, to the Council of Ministers, the House of Representatives and the Attorney-General of the Republic.

PART VII

PROCEDURES FOR THE INVESTIGATION OF COMPLAINTS, FOR THE EXAMINATION OF ISSUES AND FOR THE SUPERVISION OF COMPLIANCE WITH ORDERS AND RECOMMENDATIONS

- RELATED MATTERS -

Investigation
of complaints.

45.(1) The Commissioner may, with respect to the investigation of complaints under sections 10 and 11, obtain from any person including employees and officers of public persons and persons of the private sector, any information, data and documents which he shall deem relevant to the investigation.

(2) The persons referred to in subsection (1) shall provide either by oral or written testimony before the Commissioner, and whether under oath or by statement, in the manner followed in any judicial proceedings, any information, data and documents.

(3) For the purposes of subsections (1) and (2), the Commissioner may –

(a) summon and mandate in a manner designated in the regulations, any persons, employees, and officers to appear before him as witnesses and require the provision, presentation and deposit of any data, documents, books, plans and archives from them,

(b) examine witnesses and accept any written and oral testimony, notwithstanding that such testimony may not have been approved in any civil or criminal proceedings,

(c) decide on the procedure to be followed in each investigation.

(4) The Commissioner shall have the power of limitation or control of any abuse of procedure which shall exist before him.

(5) Every public person or person of the private sector and each employee or officer thereof as well as each witness, may, in a procedure before the Commissioner, be accompanied by a lawyer.

(6) Each public person or person of the private sector whose treatment or conduct or the application of a provision, term, criterion or practice constitutes a complaint under examination, may summon any witnesses in the manner designated in the regulations and examine and cross-examine any witnesses whether in person or through his lawyer and in any way require such witness to submit in general any relevant written and or

oral testimony subject to the Commissioner's power by virtue of the provisions of subsection (4).

(7) The provisions of subsection (6) shall apply also in relation to a person who is an employee or officer of the public person or person of the private sector referred to in the said subsection, in each case where, during the procedure before the Commissioner, an allegation shall exist or arise that the treatment or conduct or the application of a provision, term, criterion or practice has been done by a specific employee or officer of the above persons.

Investigation of complaints in relation to a provision, term, criterion or practice.

46.(1) Where the Commissioner shall deem that the investigation of a complaint submitted to him exclusively concerns the question whether a condition, term, criterion or practice applied comprises of or constitutes, as the case may be, discrimination prohibited by law or racial or indirect racial discrimination to the enjoyment of a protected right or freedom, he may, in lieu of the investigation provided for in section 45, investigate the complaint through interviews and the taking of written statements.

(2) For the purposes of investigating a complaint by virtue of subsection (1), the Commissioner may –

- (a) obtain any information, data, documents, books, plans and archives which he deems relevant to the investigation from plaintiffs as well as from any person including employees and officers of public persons and persons of the private sector who, at his discretion, may know any facts or circumstances in relation to the complaint investigated or may have, in their possession, any data, documents, books, plans or archives in relation thereto,
- (b) demand in writing from any person, employee and officer referred to in paragraph (a), to attend to the investigation of the complaint at a designated place and time for interview and the taking of written statement and or for the presentation of data, documents, books, plans or archives.

(3) A written statement prepared by the Commissioner on the basis of an interview of a person, shall be read to the person and shall be signed by such person, unless he is illiterate and in such a case he shall lay his fingerprints thereon. In case of a person

refusing to sign a statement, the Commissioner shall make a note of such fact at the end of the statement together with the reason for refusal, if verified, and shall sign the statement.

(4) During the interview of each person under this section the lawyer of such person may also be present. The Commissioner shall inform each person of such right together with the demand addressed to him under subsection (2) to attend the interview and or to present data, documents, books, plans or archives.

Investigation of compliance of persons with orders and recommendations. Examination of issues.

47.(1) The Commissioner, in order to exercise the following powers under this Law, may carry out interviews and take written statements-

- (a) with respect to the exercise of his power under subsection (2) of section 24, to investigate in order to ascertain whether compliance with his published order under section 14 exists,
- (b) with respect to the exercise of his power under subsections (2) and (3) of section 27, to investigate in order to ascertain whether compliance with his recommendation under sections 17, 21, 22 and 28 exists,
- (c) with respect to the exercise of his power under section 32, 33 and 34 to examine issues ex proprio motu and upon a written request.

(2) For the purposes of subsection (1), the provisions of subsections (2), (3) and (4) of section 46 shall apply.

Provisions concerning testimony in all investigations and examinations carried out under this Law.

48. Notwithstanding the provisions of any other law, in any investigation or examination of an issue, as the case may be, under sections 45, 46 and 47, the following provisions shall apply

- (a) It shall not be permitted for any public person or his employee or officer to invoke the duty of confidentiality, unless it concerns the granting of information or answer to a question or presentation of a document or part of it which refers to the relations between the Republic and any other state or international organisation or to defence or security

or the foreign policy of the Republic or it relates according to certification of the Secretariat of the Council of Ministers, to the procedure, consultations or the decisions of the Council of Ministers or Ministerial or other Committee appointed by the Council of Ministers;

- (b) notwithstanding the provisions of paragraph (a), the Minister may give a written notification to the Commissioner that, in his opinion, the disclosure of a particular document or particular information, shall adversely affect the defence or security of the Republic or shall harm the public interest and in such a case the Commissioner shall not notify such document or information to any person.

Provisions concerning the carrying out of all investigations and examinations under this Law.

49. In relation to the carrying out of an investigation or the examination of an issue, as the case may be, under sections 45, 46 and 47 the following shall apply-

- (a) the investigation or examination of an issue shall not be public and in any case it shall not be accepted as testimony against any person before any court or in any other investigation or procedure, any statement, testimony or answer to a question or declaration given or made by any person during the carrying out of an investigation or the examination of an issue,
- (b) save to the extent of what is provided otherwise in this Law, during the carrying out of an investigation, or the examination of an issue, no one shall be obliged to answer to a question if the answer may incriminate him in relation to a criminal or disciplinary offence or if it constitutes a breach of the confidential communication between attorney – client or in any case to answer to a question or to submit any document which he would not be obliged to answer or submit in any proceedings before any court,
- (c) during or at the end of an investigation or examination of an issue, the Commissioner thinks that a criminal or disciplinary offence may have been committed by any person he shall inform the Attorney-General of the Republic accordingly or the public person which is competent for the

matter of the disciplinary offence as the case may be,

- (d) the carrying out of an investigation or the examination of an issue and the finding or opinion or ascertainment of the Commissioner thereto, as well as the imposition of any sanctions or the taking of any measures or suggestions of him after an investigation or examination, shall not affect and shall not be affected by any duty or power of any public person in an investigation or further investigation of a matter to which the said public person may have already proceeded, or any finding, conclusion or decision thereof,
- (e) the carrying out of an investigation or examination of an issue or the finding or the opinion or ascertainment of the Commissioner after an investigation or examination of an issue, shall not affect or limit any right of exercise of any legal remedy in a court or of a hierarchical recourse before any administrative authority or in the carrying out of an investigation in any other procedure which is provided by law, administrative act or rule of law and does not affect or limit in any manner the said legal remedy, recourse or procedure or the said law, administrative act or rule of law or the remedies provided by virtue thereof,
- (f) no investigation or examination of an issue shall be carried out or shall continue where, with respect to an issue which is the object of the investigation or examination, any proceedings are pending before any court or the examination of a hierarchical recourse pending before any administrative authority in accordance with any law:

Provided that the Commissioner shall decide at his discretion whether he shall carry out or continue an investigation or examination of an issue after the final outcome of the said judicial proceedings or of the hierarchical recourse.

Criminal offences in relation to investigation of complaints, the examination of issues and the investigation of

50.(1) Any person who, in relation to an investigation under section 45 -

- (a) without reasonable cause, omits or refuses to comply with a summon to appear before the Commissioner or to submit,

compliance with orders and recommendations.

present or deposit any data, document, book, plan or archive;

- (b) while being a witness, refuses without reasonable cause to answer to any reasonable question put to him;
- (c) while being a witness, refuses without reasonable cause to answer to any reasonable question put to him;
- (d) obstructs or attempts to obstruct any person from appearing before the Commissioner or to be examined by him,

is guilty of a criminal offence.

(2) Any person who in relation to an investigation or examination of an issue under sections 46, 47 and 48–

- (a) without reasonable cause does not comply with the Commissioner's demand under paragraph (b) of subsection (2) of section 46;
- (b) without lawful cause omits to provide any information required by the Commissioner in relation to the investigation or the examination which he knows, or omits to provide any data, document, book, plan or archive required by the Commissioner in relation to the investigation or examination which he has in his possession or under his control or in any way, wilfully obstructs the provision of them;
- (c) provides the Commissioner with any information, which he knows to be inaccurate or for which he has reasonable ground to believe that it is not accurate;
- (d) without lawful cause obstructs in any way the investigation or examination of an issue by the Commissioner;
- (e) insults, obstructs or harasses the Commissioner, or any person participating in an investigation or examination of an issue,

is guilty of a criminal offence.

(3) Any person who is guilty of a criminal offence in contravention of any paragraph of subsections (1) and (2) is liable to imprisonment not exceeding six months or to a fine not exceeding seven hundred sixty eight euros or to both such punishments.

Criminal offences in relation to plaintiffs or persons providing information etc. to the Commissioner and members of their families.

51.(1) Any person who by reason of the fact that another person or group of persons has submitted or intends to submit to the Commissioner a complaint under section 10, or a request for the examination of an issue under section 34, or has provided or intends to provide to the Commissioner for the purposes of this Law any information, document, or data or has given or intends to give a testimony before him or has given or intends to give him a statement –

- (a) refuses to employ the other person, the group or a member of such group or any member of their families or he dismisses or threatens to dismiss such person from his job,
- (b) refuses to supply to the other person, group or a member of its group or to any member of their families, any goods or services or threatens that he shall not supply to such person any goods or services or incites others not to supply him any goods or services, or
- (c) influences, intimidates or compels the other person or the group or member of the group or any member of their families or threatens that he shall influence, intimidate or compel that other person, or
- (d) imposes on the other person or the group or member of the group or on any member of their families any monetary or financial or other kind of punishment or sanction or exclusion or limitation,

is guilty of a criminal offence.

(2) Any person who is guilty of a criminal offence in contravention of any paragraph of subsection (1) shall be liable to imprisonment not exceeding six months or to a fine not exceeding seven hundred sixty eight euros or to both such punishments.

Collection of administrative

52.(1) In case of failure to pay an administrative fine ordered by

finer as civil debts.

the Commissioner to be paid to him under this Law or under any regulations or orders thereunder or any orders made under the said regulations, the Commissioner shall take legal measures and shall collect the owed amount as a civil debt owed to his Office.

(2) In any judicial proceedings for the purposes of subsection (1), or in relation to recourse under Article 146 of the Constitution referred to in section 23 of this Law, the Commissioner shall be represented by a practicing lawyer.

(3) The Commissioner shall keep a separate Treasury of his Office into which all the amounts from fines and any other monetary sanctions which are paid or collected as a civil debt under this Law and or under any regulations or orders made thereunder shall be deposited.

PART VIII

REGULATIONS, FISCAL PROVISIONS, REPORTS, ENTRY INTO FORCE AND MISCELLANEOUS

Regulations.

53. (1) The Commissioner may, with the approval of the Council of Ministers, issue regulations for the better carrying into effect of the provisions of this Law.

(2) Without prejudice to the generality of subsection (1) and the provisions of section 42, the regulations referred to in subsection (1) may provide, inter alia, for the following:

- (a) the issue of recommendations orders and suggestions by the Commissioner for the better carrying into effect of the provisions of this Law and the regulations made thereunder,
- (b) the designation of fines and other monetary or non-monetary sanctions which the Commissioner may impose and to order that such be paid to him for non-compliance with the provisions of this Law, the regulations, orders, recommendations and suggestions thereunder and any orders, recommendations and suggestions under the said regulations,

- (c) the commission of criminal offences for non-compliance with the provisions of this Law, the regulations, orders, recommendations and suggestions thereunder and any orders, recommendations and suggestions under the said regulations and for the designation of sanctions for their commission,
- (d) the collection procedure by the Commissioner of the amounts of fines and monetary sanctions and any other amounts paid under this Law or the regulations and orders thereunder,
- (e) the form of orders, recommendations, suggestions and publications in the Official Gazette of the Republic or forms which may be required for carrying into effect of the provisions of this Law, of the regulations, orders, recommendations and suggestions thereunder and any orders, recommendations and suggestions under the said regulations,
- (f) the manner and supervisory procedure for carrying into effect of and complying with the provisions of this Law and the regulations, orders, recommendations and suggestions thereunder and any orders, recommendations and suggestions under the said regulations,
- (g) for any matter which is required or may be prescribed or in relation to which this Law provides for the issue of regulations.

(3) Regulations made under this Law shall be laid before the House of Representatives. If, within sixty days from their laying the House of Representatives does not by resolution thereof, amend or annul, in whole or in part the Regulations so laid, they shall then soon after the expiry of the period hereinbefore mentioned, be published in the Official Gazette of the Republic and they shall come into force at a time of entry into force designated in the Regulations or in case of no designated time of entry into force, from the time of their publication in the Official Gazette of the Republic. In the event of their amendment, in whole or in part, by the House of Representatives, such

Regulations shall be published in the Official Gazette of the Republic as so amended thereby, and they shall come into force at a time of entry into force designated in the Regulations or in case of no designated time of entry into force, from the date of their publication in the Official Gazette of the Republic.

Report.

54.(1) The Commissioner shall submit annually to the President a report for his activities under this Law together with remarks and suggestions.

(2) The Commissioner shall communicate the above Report to the Council of Ministers, the House of Representatives and the Attorney-General of the Republic and, thereafter, shall publish it.

Entry into force of this Law.

55. This Law shall enter into force on the date of accession of the Republic to the European Union.

Liability of body corporate.

56.(1) Where a criminal offence referred to in this Law or in regulations made thereunder is committed by a private law body corporate, the liability for the offence shall lie, except on the body corporate itself, on the general manager or manager or managing Director of the body corporate.

(2) A criminal prosecution for an offence referred to in subsection (1), may be directed against the body corporate and against all or any person referred to in the said subsection.

(3) Where an act or omission of a body corporate shall bear in accordance with this law or any regulations thereunder, an order for payment of an administrative fine from the Commissioner, the liability for the act or omission and for the payment of the administrative fine shall lie, except on the body corporate itself, on the persons referred to in subsection (1).

Note: The sums in CYPE pounds wherever found in the text have been converted into Euros according to the provisions of P.I. 312/2007 issued pursuant to the Adoption of the Euro Law, [L.33(I)/2007, as amended].