

Annex 1: Table of Anti-Discrimination Laws (Western Balkans)

General Information/Scope of Law

| Jurisdiction | Name of Law | Date of Adoption | Protected Characteristics | Personal Scope | Material Scope | Recommendations |
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| Albania | Law on Protection from Discrimination | 4 February 2010 | Gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, educational or social situation, pregnancy, parentage, parental responsibility, age, family or marital condition, civil status, residence, health status, genetic predispositions, disability, affiliation with a particular group or any other reason | All persons who live and stay in the territory of the Republic of Albania | (Public and private sphere); Employment (the announcement of free places of work; the recruitment and selection of employees; the treatment of employees in the work place, including their treatment during the establishing or changing of working conditions, compensation, benefits and the work environment, treatment related to professional training or during the disciplinary process or related to dismissal from work or the dissolution of a labour contract; membership in labour unions and the possibility of benefiting from the facilities that this membership secures); education, goods and services (the ability to enter into a place where the public is permitted to enter or to use a place that is permitted to be used by the public; the ability to receive or to benefit from goods or services that have to do with health; the contribution and possibility to benefit from goods from social protection schemes, including social assistance, social insurance, protection of children, disability benefits or any another scheme of social protection or other advantage offered to the public; the opportunity to use or enter into an educational institution; systemisation in a place where housing is offered; the sale or renting of residences and other premises; banking services and the opportunity to obtain grants, loans, bank deposits or financing; facilities for entertainment, relaxation and refreshment; facilities for transport or travel; services of the free professions) | To specify that the Law prohibits discrimination based on real or assumed characteristics or criteria; To include membership in employers' organisations and professional organizations in the material scope; To clarify the meaning of "genetic predispositions", as enumerated in the list of protected characteristics; To clarify the meaning of the following part of Article 20(2)(d) pertaining to goods and services: "systemisation in a place where housing is offered" |

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| Bosnia & Herzegovina | Law on Prohibition of Discrimination | 28 July 2009 | Race, skin colour, language, religion, ethnic affiliation, national or social origin, connection to a national minority, political or any other persuasion, property, membership in trade union or any other association, education, social status and sex, sexual expression or sexual orientation, and every other circumstance Missing: disability, age | All public bodies at the level of the state, entity, canton and Brcko District of BiH, municipal institutions and bodies, and legal persons with public authorities, as well as all legal and natural persons, in all spheres of life | (Public and private sphere); Employment, education, science and sports, social protection, health protection, trainings, judiciary and administration, housing, public information and the media; membership in professional organizations, goods and services designated to public and public places, performing entrepreneurship, participation in cultural and art creations, equal participation of all citizens in public life, family, rights of a child | To include disability and age in the list of protected characteristics; To prohibit discrimination on the basis of association with any group and not only national minorities; |
| Croatia | The Anti-Discrimination Act | 15 July 2008 | Race or ethnic affiliation or colour, gender, language, religion, political or other belief, national or social origin, property, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, gender identity, expression or sexual orientation | All state bodies, bodies of local and regional self government units, legal persons vested with public authority, all legal and natural persons | (Public and private sphere); Work and working conditions; access to self-employment and occupation, including selection criteria, recruiting and promotion conditions; access to all types of vocational guidance, vocational training, professional improvement and retraining; education, science and sports; social security, including social welfare, pension and health insurance and unemployment insurance; health protection; judiciary and administration; housing; public informing and the media; access to goods and services and their providing; membership and activities in trade unions, civil society organisations, political parties or any other organisations; Access to participation in the cultural and artistic creation. | To prohibit discrimination on the basis of association with a group; To specifically include: conditions of access to employment, dismissal and pay and employment conditions in the material scope, either directly in the Law, or by referring to other legislation; To define “genetic heritage” in the Law, or refer to other legislation where it may be found. |
| Former Yugoslav Republic of Macedonia | Law on Prevention and Protection against Discrimination | 8 April 2010 | Sex, race, skin color, gender, belonging to a marginalised group, ethnic origin, language, citizenship, social origin, religion or confession, other types of belief, education, political belonging, personal or social status, mental and physical disability, age, family or marital status, property status, health condition or on any other grounds established by the law or by ratified international agreements Missing: sexual orientation | All natural and legal persons in the process of exercise of the rights and freedoms guaranteed by the Constitution and the legislation of the former Yugoslav Republic of Macedonia. | (Public and private sphere); Work and labour relations; education, science and sport; social security, including the field of social protection, pension and disability insurance, health insurance and health protection; judiciary and administration; housing; public informing and media; access to goods and services; participating and acting in syndicate, political parties, associations of citizens and foundations or any other organizations based upon participation; culture and | To include sexual orientation in the list of protected characteristics; To specify that the Law prohibits discrimination based on real or assumed characteristics or criteria; To prohibit discrimination on the basis of association; To define “belonging to a marginalized group” as enumerated in the list of protected characteristics; |

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| | | | | | other areas determined by law. | <p>To delete the following reference from Article 2: “in the process of exercise of the rights and freedoms guaranteed with the Constitution and the legislation of the Republic of Macedonia”;</p> <p>To broaden the material scope in respect of employment in line with relevant EU Equality Directives;</p> |
| Montenegro | Law on Prohibition against Discrimination | 27 July 2010 | Race, colour of skin, national affiliation, social or ethnic origin, affiliation to the minority nation or minority national community, language, religion or belief, political or other opinion, gender, gender identity, sexual orientation, health conditions, disability, age, material status, marital or family status, membership in a group or assumed membership in a group, political party or other organisation as well as other personal characteristics | All natural and legal persons to which the Montenegrin legislation is applicable | Use of facilities/buildings, public service delivery, education and vocational training, labour; access to employment, work and education (restricted to the ground of health condition); access to healthcare, the right to work and the rights related to employment relations, the right to marry, form a family and other rights from the field of marriage and family relations (restricted to the ground of disability) | <p>To include protection from discrimination on the basis of association with any group (not only national minority);</p> <p>To amend the provisions pertaining to the material scope in line with relevant EU Equality Directives;</p> |
| Serbia | Law on the Prohibition of Discrimination | 26 March 2009 | <p>Race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, gender, gender identity, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, political convictions, age, appearance, membership in political, trade union and other organisations and other real or presumed personal characteristics</p> <p>Missing: non-religious belief</p> | Everyone | (Public and private sphere); Proceedings conducted before public administration organs, labour, right to employment, free choice of employment, promotion, professional rehabilitation, equal pay for work of equal value, fair and satisfactory working conditions, paid vacation, joining a trade union and protection from unemployment, provision of public services and in the use of premises and spaces, education and professional training | <p>To include non-religious belief in the list of protected characteristics;</p> <p>To define “appearance” as enumerated in the list of protected characteristics;</p> <p>To prohibit discrimination on the basis of association;</p> <p>To include the following in the material scope: access to self-employment or an occupation; membership in employers organizations and professional organizations, as well as social advantages and housing.</p> |

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| Kosovo ¹ | The Anti-Discrimination Law | 19 February 2004 | Sex, gender, age, marital status, language, mental or physical disability, sexual orientation, political affiliation or conviction, ethnic origin, nationality, religion or belief, race, social origin, property, birth or any other status | While Article 1 refers to “citizens of Kosovo”, Article 4 speaks of “all natural and legal persons” as regards both the public and private sectors, including public bodies, in relation to any action or inaction which violates the right or rights of any natural or legal person or persons | (Public and private sphere); Conditions for access to employment, self-employment and to occupation, including selection criteria and recruitment conditions.; access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience; employment and working conditions, including dismissals and pay; membership of, and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations; social protection, including the Social Assistance Schemes, social security and healthcare; social advantages, including but not limited to humanitarian assistance; education; access to housing, and to all other forms of property (both movable and immovable); access to and supply of goods and services which are available to the public; fair treatment before tribunals and all other organs administering justice; personal security; participation in public affairs, including the right to vote and be voted for; access to public places; and any other right set forth by applicable laws | To specify that the Law prohibits discrimination based on real or assumed characteristics or criteria; To prohibit discrimination on the basis of association; To revise Article 1 regarding the “the principle of equal treatment” of the persons referred to in this Article as “citizens of Kosovo” ² ; To delete the following reference from Article 4: “any action or inaction which violates the right or rights”. |
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¹ This designation is without prejudice to positions on Kosovo’s status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

² In UNMIK Regulation No. 2004/32, the then Special Representative of the UN Secretary-General in Kosovo, when promulgating the Law, noted that the word “citizens” should be replaced with “persons in Kosovo”, and that this should be reflected in the Law.

Definitions

| Jurisdiction | Direct Discrimination | Indirect Discrimination | Harassment | Victimization | Instruction to discriminate | Reasonable accommodation | Recommendations |
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| Albania | Direct discrimination is “that form of discrimination that occurs when a person or group of persons is treated in a less favourable manner than another person or another group of persons in a situation that is the same or similar, based on any [protected characteristic]” | Indirect discrimination is “that form of discrimination that occurs when a provision, criterion or practice, apparently neutral, would put a person or group of persons in unfavourable conditions, in connection with the [protected characteristics], in relation to a person or another group of persons, and also when that measure, criterion or practice is not objectively justified by a legitimate aim, or when the means of achieving that aim either are not appropriate or are not essential and in fair proportion with the condition that has caused it” | Annoyance is “that form of discrimination that occurs in the case of an undesirable conduct, when it is related to any of the [protected characteristics], which has the purpose or effect of violating the dignity of a person and the creation of an intimidating, hostile, degrading, humiliating or offensive environment for that person, as well as in the case of a less favourable treatment performed as a result of an objection or failure to submit by the person affected by such a behaviour” | Victimization is “an unfavourable treatment or adverse consequence that comes as a reaction to a complaint or to a proceeding that aims at implementation of the principle of equality” | Instruction to discriminate is “an instruction or a request based on hierarchical relations to discriminate against one or more persons on the basis of the causes mentioned in article 1 of this law” | “Denial of a reasonable accommodation is that form of discrimination that happens whenever there is a denial of or objection to making essential and appropriate regulations or changes that are necessary in a particular case and do not impose an excessive burden, for the purpose of assuring the enjoyment and exercise, on an equal basis, of the fundamental rights and freedoms for persons with a disability or which occurred under other conditions mentioned in article 1 of this law” | <p>To remove the following reference: “based on hierarchical relations” from the definition of instruction to discriminate;</p> <p>To explicitly forbid racial segregation;</p> <p>To remove the following reference in Article 3(5) pertaining to harassment: “an objection or failure to submit by the person affected by such a behavior”;</p> <p>To specifically state that instruction to discriminate shall be deemed to be discrimination;</p> <p>To align the definition of reasonable accommodation with the EU Equality Directives;</p> |
| Bosnia & Herzegovina | Direct discrimination is “every different treatment on [protected] grounds, i.e. every action or failure to act when a person or a group of persons is put, has been or could be put into a less favourable position unlike some other person or group of persons in similar situations ” | Indirect discrimination is “every situation, in which, an apparently neutral provision, criteria or practice has or would have the effect of putting a person or group of persons into an unfavourable or less favourable position comparing to other persons” | Harassment “shall be considered discrimination in every situation when behaviour is related to one of mentioned [protected] grounds that aims for or has an effect of harming person’s dignity and creating intimidating, hostile, degrading, humiliating or offensive atmosphere” | “A person who reported discrimination or participated in legal proceedings for protection from discrimination shall suffer the consequences of such report or participation” | “Discrimination shall also be considered instruction to discriminate and assistance to others in discrimination” | “Employers shall, based on needs in a concrete case, take appropriate measures, in order to enable a person with disability to access, participate or to be promoted, i.e. to participate in training, if such measure do not represent | <p>To specify that racial segregation shall be banned at all times.</p> <p>To enhance the definition of indirect discrimination by specifying that in case of objective justification, there is no discrimination.</p> <p>To amend the definition of victimization to bring it in line with EU Equality Directives;</p> |

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| | | | | | | an unreasonable burden for the employer” | |
| Croatia | Direct discrimination is “treatment based on any of the [protected] grounds whereby a person is, has been, or could be placed in a less favourable position than other persons in a comparable situation” | Indirect discrimination “shall be taken to occur when an apparently neutral provision, criterion or practice places or could place a person in a less favourable position on the [protected] grounds, in relation to other persons in a comparable situation, unless such a provision, criterion or practice may be objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary” | Harassment is any unwanted conduct caused by any of the [protected] grounds with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading or offensive environment. | “No person shall be placed in a less favourable position because he/she has reported, in good faith, discrimination, witnessed discrimination, refused an instruction to discriminate or participated in any manner in proceedings based on discrimination in line with provisions of this Act” | “Encouragement to discrimination, if conducted intentionally, shall be deemed to be discrimination” | A failure to enable disabled persons the following, in line with their specific needs, shall also be deemed to be discrimination: - use of publicly available resources, - participation in the public and social life, - access to the workplace and appropriate working conditions, by adapting the infrastructure and premises, by using equipment and in another manner which does not present an unreasonable burden for the person that is obliged to provide for it. | To align the provision on “adapting the infrastructure and premises” with the wording used in the EU Equality Directives on reasonable accommodation; To specify that racial segregation shall be banned at all times. To amend the definition of victimization to bring it in line with EU Equality Directives; |
| Former Yugoslav Republic of Macedonia | Direct discrimination “on the discriminatory basis is any unpleasant acting, differencing, excluding or limiting which has or shall have a consequence of suspension, violation or limitation of the equal recognition or enjoyment in the human rights and basic freedoms, compared to the treatment which has or shall have other person in same or similar conditions” | Indirect discrimination “on discriminatory basis is each putting of any person or group in unpleasant position in comparison to other persons, by adopting provisions or criteria or by undertaking certain activities or practices that are neutral by contents, except when those provisions, criteria or practices result from justified aim, and the contents for achieving that aim are adequate and necessary” | “ Harassment and degradatory behaviour is violation of the dignity of any person or group of persons, which arouse out of discriminatory basis and which aims to and results in violation of the dignity of certain person or creation of threatening, hostile, derogatory or fearful surrounding, approach or practice” | “Unfavourable behavior towards any person, bearing negative consequences as a result to the undertaking certain activities for protection against discrimination (has reported discrimination, initiated a procedure for discrimination and witnessed during the procedure)” | “Discrimination shall be deemed any activity, with which any person directly or indirectly invokes, encourages , gives directions and stimulates other person to perform discrimination” | “Adjustment of the infrastructure and of the services is adopting appropriate measures required in some particular case, in order to provide to the person with intellectual and body disability, the access, the participation and advancing in the labour process, unless these measures impose disproportionate | To amend the definition of direct and indirect discrimination so that they are in congruity with international standards; To widen the scope of the relevant provision on adjustment of infrastructure to bring it in line with the CRPD; To explicitly forbid racial segregation; To amend the definition of victimization to bring it in line with EU Equality Directives; |

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| | | | | | | encumbrance to the employers” | |
| Montenegro | Direct discrimination “exists if a person or a group of persons, in the same or similar situation in respect to other person or group of persons, is brought or were brought, or may be brought in an unequal position by an act, action or failure to act, on any [protected] ground, unless the act, action or failure to act are objectively and reasonably justified by a legitimate purpose and achievable with the means appropriate and necessary to use for achieving that purpose, and when they are acceptable and proportionate in relation to the purpose to be achieved” | Indirect discrimination “exists if apparently neutral provision of a regulation or general act, criterion or practice is bringing or can bring a person or a group of persons into unequal position in respect to other person or group of persons, on any [protected] ground, unless the provision, criterion or practice are objectively and reasonably justified by a legitimate purpose and achievable with the means appropriate and necessary to use for achieving that purpose, and when they are acceptable and proportionate in relation to the purpose to be achieved” | Harassment , “on any [protected] ground, represents certain behaviour toward or treatment of a person who such behaviour or treatment does not want, and which has the purpose or represents violation of the personal dignity, and causes state of intimidation, inconvenience, hostility, humiliation or offensiveness” | “No one shall suffer adverse consequences for reporting the case of discrimination, giving deposition before a competent authority or offering evidence in the proceedings investigating a case of discrimination” | “The incitement or giving instruction to discriminate against certain person or a group of persons on any [protected] ground shall be deemed to be discrimination” | “Discrimination against person with disability exists also in the case when special measures to remedy limitations or unequal position this person is facing are not taken” | <p>To adapt the definition of direct discrimination to EU legislation</p> <p>To delete “inconvenience” as a possible result in the definition of harassment.</p> <p>To delete the reference to “incitement” to discriminate.</p> <p>To amend the definition of reasonable accommodation to bring it in line with international standards;</p> <p>To specify that racial segregation shall be banned at all times;</p> <p>To amend the definition of victimization to bring it in line with EU Equality Directives.</p> |
| Serbia | Direct discrimination “shall occur if an individual or a group of persons, on the grounds of his/her or their personal characteristics, in the same or a similar situation, are placed or have been placed or might be placed in a less favourable position through any act, action or omission” | Indirect discrimination “shall occur if an individual or a group of individuals, on account of his/her or their personal characteristics, is placed in a less favourable position through an act, action or omission that is apparently based on the principle of equality and prohibition of discrimination, unless it is justified by a lawful objective and the means of achieving that objective are appropriate and necessary” | “It is forbidden to expose an individual or a group of persons, on the basis of his/her or their personal characteristics, to harassment and humiliating treatment aiming at or constituting violation of his/her or their dignity, especially if it induces fear or creates a hostile, humiliating or offensive environment” | “Discrimination shall exist if an individual or a group of persons is unwarrantedly treated worse than others are treated or would be treated, solely or predominantly on account of requesting or intending to request protection from discrimination, or due to having offered or intending to offer evidence of discriminatory treatment” | - | - | <p>Insofar as this is not already the case, to amend the definitions of direct and indirect discrimination so that they explicitly refer to the protected grounds under the Law;</p> <p>To amend the definition of indirect discrimination so that the stipulation that the act shall be based on the principle of equality and prohibition of discrimination is removed;</p> <p>To amend the provision on victimization to reflect EU legislation.</p> <p>To explicitly forbid racial segregation;</p> |

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| | | | | | | | <p>To include a provision concerning the duty of reasonable accommodation;</p> <p>To include a definition for the instruction to discriminate in the Law and specify that such instruction shall be deemed to be discrimination as well;</p> |
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| Kosovo ³ | Direct discrimination “shall be taken to have occurred where one person is treated less favourably than another is, has been or would be treated in a comparable situation based on one or more [protected] grounds” | Indirect discrimination “shall be taken to have occurred where an apparently neutral provision, criterion or practice would put persons, on the basis of one or more [protected] grounds at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary” | Harassment shall be deemed to be discrimination “when an unwanted conduct takes place (including but not limited to unwanted conduct of a sexual and/or psychological nature) based on [protected] grounds which has the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment, as determined by that person” | Victimisation shall be deemed to be discrimination and “shall be taken to have occurred when any person suffers any adverse treatment or adverse consequence as a reaction to a complaint, or to proceedings, which are aimed at enforcing compliance with the principle of equal treatment as defined in Article 2(a), and/or to the provision by such person of information, evidence or assistance in connection with such complaint or proceedings” | “An instruction to discriminate against persons based on [protected] grounds shall be deemed to be discrimination” | - | <p>To specifically mention reasonable accommodation for the disabled in the Law and include it in the list of definitions under Article 3;</p> <p>To explicitly forbid racial segregation;</p> |
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³ This designation is without prejudice to positions on Kosovo’s status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

Exceptions from the Principle of Anti-Discrimination

| Jurisdiction | Exceptions | Positive Action | Genuine and Determining Occupational Requirement | Ethos Based on Religion or Belief | Nationality | Recommendations |
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| Albania | <p>The prohibition of discrimination “is not applicable in cases when there is an objectively justifiable purpose supported on the basis of the Constitution, international acts or agreements ratified by the Republic of Albania and the legislation in force”</p> <p>“distinctions in compensation and benefits” established on the basis of protected grounds do not constitute discrimination when “the distinctions are reasonable and in proportion to a risk that is assessed on the basis of current and statistical data that can be verified and are closely linked to the risk”</p> <p>“the prohibition of discrimination is not applicable to the setting of a particular age for the possibility of social benefits, goods, facilities and services”</p> <p>The prohibition of discrimination is not applicable to the setting of a particular age for the possibility of social benefits, goods, facilities and services</p> | <p>“The elimination of all privileges and of unfair discrimination is guaranteed for everyone, on the basis of the personal, political, economic, social and cultural rights assured by the Constitution of the Republic of Albania and international acts ratified by the Republic of Albania as well as by the laws in force”</p> <p>“A particular temporary measure that aims at speeding up the real establishment of equality, when the absence of equality has been caused by discrimination for any [prohibited] ground is considered a positive action and does not constitute discrimination according to this law. This measure is interrupted as soon as the objectives of the treatment and offering of equal opportunities have been achieved”</p> <p>“The implementation of special and temporary measures, based on the [prohibited] causes, for the purpose of speeding up equality in the field of employment” and “in education is not considered discrimination. The implementation of such measures can in no case mean maintaining unequal or different standards in a permanent manner, and the special measures are interrupted when the objective of the offering of equal opportunities and treatment is achieved”</p> <p>The Council of Ministers, the Minister of Labour, Social Issues and Equal Opportunities and the Interior Minister are responsible for taking measures of a positive nature in order to fight discrimination in connection with the right to employment. The Council of Ministers and the Minister of Education and Science are responsible for taking measures of a positive nature in order to fight discrimination in connection with the right to education</p> | <p>“Different treatment that is based on a [protected] characteristic does not constitute discrimination when because of the nature of the professional activities or the conditions in which the profession or activity is conducted, those characteristics constitute an essential real and professional requirement, provided that the purpose of the different treatment shall be justified and the requirement shall not exceed that which is essential to realise it”</p> | <p>“Permission of a discrimination because of the exercise of the freedom of conscience and religion may be imposed only by law for a public interest or for the protection of the rights of others”</p> | - | <p>To clarify the meaning of the exception relating to “distinctions in compensation and benefits”;</p> |

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| <p>Bosnia & Herzegovina</p> | <p>The following measures shall not be considered discriminatory if: “they define maximum age as the most appropriate for terminating working relation and determine age as a condition for retirement”; “putting into a less favourable position while defining rights and obligations from the family relation when defined with the Law, and especially in order to protect rights and interests of children, which has to be justified with legitimate purpose, protection of public moral, along with favouring marriage in accordance with provisions of the family law”;</p> | <p>Measures which “come out of implementation or adoption of temporary special measures designed to prevent or compensate damages that persons suffer on [protected] grounds especially members of vulnerable groups, like persons with disabilities, members of national minorities, women, pregnant women, children, youth, elders and other socially excluded persons, civilian victims of war, victims in criminal proceedings, displaced persons, refugees and asylum seekers; i.e. to enable their full participation in all spheres of life”</p> | <p>Measures which “are based on features related to [protected] grounds when in limited circumstances due to nature of concrete professional activities or context in which these are implemented, such feature represents real and defining condition in terms of choice of occupation. This exception shall be a subject to occasional examinations”</p> | <p>Measures shall not be considered discriminatory “when establishing an employment relation, membership, and taking actions that are in compliance with preaching and operating of registered churches and religious communities in BiH, and other public or private organizations working in accordance with the Constitution and laws, if demanded by religious doctrines, beliefs or goals”</p> <p>Measures which “are based on distinction, exclusion or giving advance in relation to employment as a staff member of an institution that is done in compliance with doctrines, basic presumptions, dogmas, beliefs or learning of actual confession or religion, having in mind that every distinction, exclusion or giving advance is done consciously in order not to hurt religious feelings of members of that confession or religion”</p> | <p>Measures “based on citizenship in a way prescribed by the Law”</p> | <p>To clarify the wording of the provision referring to the exception in relation to staff members of certain institutions</p> |
| <p>Croatia</p> | <p>Placing in a less favourable position shall not be deemed discrimination in the following cases: “when such a conduct is set forth by law with the aim to preserve health and to prevent criminal acts and misdemeanours, and when the means used are appropriate and necessary for the aim to be achieved; “granting of privileges to pregnant women, children, young people, older persons, persons with caring responsibilities who regularly</p> | <p>“positive action, i.e. when such a conduct is based on provisions of laws, subordinate regulations, programmes, measures or decisions with the aim to improve the status of ethnic, religious, language or other minorities or other groups of citizens or persons discriminated on the [protected] grounds”</p> | <p>Placing in a less favourable position “in relation to a particular job, when the nature of the job is such or the job is performed under such conditions that its characteristics related to any of the [protected] grounds present an actual and decisive condition for performing that job, provided that the purpose to be achieved is justified and the condition appropriate”</p> | <p>Placing in a less favourable position “in relation to occupational activities, entering into membership and acting in conformity with the canon and mission of a church and religious congregation entered into the Register of Religious Congregations of the Republic of Croatia, and</p> | <p>Placing in a less favourable position “on the grounds of nationality pursuant to separate regulations”</p> | |

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| | <p>fulfil their caring duties, and disabled persons with a view to their protection, when such a conduct is based on provisions of laws, subordinate regulations, programmes and measures”; “on the grounds of age and sex in the course of determining insurance premiums, insurance amounts and other insurance conditions in line with relevant and accurate statistical data and rules of actuarial calculations, in which case costs related to pregnancy and motherhood may not justify differences”; “fixing of minimum conditions of age and/or professional experience and/or level of education limit for access to a certain employment or for acquiring other advantages linked to employment when it is provided for in separate regulations”; “fixing of a suitable and appropriate maximum age as a reason for the termination of an employment and prescribing a certain age as a condition for acquiring the right to retirement”; “placing in a less favourable position when regulating the rights and obligations arising from family relations when it is stipulated by law, particularly with the aim to protect the rights and interests of children, which must be justified by a legitimate aim, protection of public morality and favouring marriage in line with Family Act provisions”</p> | | | <p>any other public or private organization which acts in conformity with the Constitution and laws, if this is required by the religious doctrine, beliefs or objectives”</p> | | |
| <p>Former Yugoslav Republic of Macedonia</p> | <p>It shall not be deemed discrimination: “setting the marriage, illegitimate community and family exclusively as heterosexual community, i.e. of one man and one woman”; “achievement of the principle of freedom of speech, public performance, opinion and public informing granted with the Constitution”; “setting up requirements for minimum age, professional experience or length of service in the recruitment procedures or in granting certain job-related benefits”; “setting up requirements for maximum</p> | <p>The affirmative measures: “for the benefit of any person, group of persons or community in order to eliminate or to diminish the actual inequalities (...) in order to ensure their natural development and effective exercise of their right to equal opportunities in comparison to other persons, groups of persons and communities”; “affirmative measures which aim to protection of the marginalized groups in order to eliminate or to diminish the actual inequalities”; “the special protection of pregnant woman and mother, stipulated by law, except when the pregnant woman or mother does not wish to</p> | <p>Different treatment of “persons on the basis of characteristics related to any discriminatory ground, when the said characteristics, by the nature of the particular occupation or activity, or of the conditions in which it is carried out, constitute a genuine and determining requirement, the objective is lawful, and the requirement does not exceed the necessary level for its achievement”</p> | <p>The “different treatment of persons on the basis of religion, belief, sex or other characteristics in relation to occupation carried out in religious institutions or organizations when, by reason of nature of the particular occupation or activity or of the conditions in which it is carried out the religion, belief, sex or</p> | <p>The “different treatment of persons which are not citizens of the Republic of Macedonia related to the rights and freedoms granted with the Constitution, with the legislation and international</p> | <p>To delete the grounds of “sex or other characteristics” from the exception pertaining to employers with an ethos based on religion or belief;</p> |

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| | <p>age in recruitment procedures, which is connected to the need for training or to the needs of rational time limitations related to the retirement provided for in the law”; “setting up requirements for minimum and maximum age for access to certain levels of training and education, when the same is objectively justified for achieving lawful objective”</p> | <p>use this protection and has notified the employer for the same in written form”; “the measures provided for in the Law on Employment Promotion”; “different treatment of persons with disabilities during training and acquiring education to the effect of satisfying special educational needs aiming at equalization of the opportunities”; “the measures aimed to providing balance in the participation of men and women until this measures are required”; “special measures which benefit the persons or the groups in less favourable situation result on any discriminatory basis in order to equalization of their opportunities, until that measures are satisfied”; “special protection, stipulated by law, of children without parents, under aged persons, single parents and persons with disabilities”; “measures for protection of originality and identity of the persons belonging to ethnic, religious and language minorities and their right to sustain and develop, individually or jointly, their own identity together with other members in their group and to stimulate conditions for promotion of that identity”; “measures in the field of the education and the training which should provide participation of the persons from ethnic minorities until that measures are required”</p> | | <p>other characteristics constitute a genuine and determining requirement, when the objective is lawful, and the requirement does not exceed necessary level for its achievement”</p> <p>The “different treatment of the persons on the basis of religion, belief, sex or other characteristics in relation to education and training for the purposes of the carrying out of the occupation connected to certain religion;</p> <p>“if the participants or bodies of churches and of religious communities, citizen organizations, political parties, syndicate and other organizations entered in register in line with the Constitution and legislation, shall act according to their own doctrine, beliefs and/or objectives set up in their statutes, programmes and/or regulations”</p> | <p>agreements to which the Republic of Macedonia is a party, and which directly arise out of the citizenship of Republic of Macedonia”</p> | |
| Montenegro | - | <p>“Special measures aimed at creating conditions for the realization of national, gender and overall equality and protection of persons being in unequal position on any ground”</p> <p>“Taking measures of protection according to certain criteria of persons”</p> | <p>“Distinction, exclusion or giving preference is not considered to be discrimination if so require the peculiarities of the particular work in which personal characteristic of a person represent real and decisive condition of doing the work, if the purpose to be achieved that way is justified, as well as taking measures of protection according to certain criteria of persons”</p> | - | - | <p>To amend the definition of genuine and determining occupational requirement and specifically state that such requirement is permissible only when “the requirement is proportionate”;</p> <p>To clarify: “taking measures of protection according to certain criteria of persons”</p> |

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| Serbia | “Limitations pertaining to persons performing certain state functions, as well as limitations necessary to prevent advocating or pursuing fascist, Nazi or racist activities, prescribed in accordance with the law, shall not be considered to constitute discrimination” | <p>“Measures introduced for the purpose of achieving full equality, protection and progress of an individual or a group of persons in an unequal position shall not be considered to constitute discrimination”</p> <p>“undertaking protective measures towards certain categories of persons (women, pregnant women, women who have recently given birth, parents, underage persons, disabled persons and the like) [shall] be considered to constitute discrimination”</p> | “Different treatment, exclusion or giving priority on account of the specific character of a job, for which an individual’s personal characteristic constitutes a genuine and decisive precondition for performing the said job, if the objective to be achieved is justified, shall not be considered to constitute discrimination” | “the conduct of priests, that is to say, religious officials, which is in keeping with a religious doctrine, beliefs or the objectives of churches and religious communities” shall not be considered to constitute discrimination” | “A foreign person in the Republic of Serbia, in accordance with international treaties, shall have all the rights guaranteed by the Constitution and by law, with the exception of those rights that, in accordance with the Constitution and the law, are only enjoyed by the citizens of the Republic of Serbia” | <p>To amend the definition of genuine and determining occupational requirement and specifically state that such requirement is permissible only when “the requirement is proportionate”;</p> <p>To clarify the meaning of the exception pertaining to the “conduct of priests” stipulated in Article 18 of the Law.</p> |
| Kosovo ⁴ | - | “With a view to ensuring full equality in practice, a measure to prevent or compensate for disadvantages linked to one or more [protected] grounds shall not be deemed to be discrimination, provided that it is also in compliance with international human rights standards” | “a difference of treatment which is based on a characteristic related to one or more [protected] grounds shall not be defined as discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a real and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate” | - | - | |

⁴ This designation is without prejudice to positions on Kosovo’s status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

Anti-Discrimination Bodies

| Jurisdiction | Name | Competences | Independence/Funding | Measures | Recommendations |
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| Albania | The Commissioner for Protection from Discrimination | Examine complaints from persons or groups of persons; examine complaints from organisations that have a lawful interest to act in the name and with the written consent of individuals or groups of individuals; perform administrative investigations; impose administrative sanctions; encourage the principle of equality and non-discrimination, especially by sensitising and informing about those issues, also including the offering of written information; monitor the implementation of the law; take polls in connection with discrimination; make recommendations to the competent authorities, especially by proposing the approval of new legislation or the amendment or reform of existing legislation; publish reports and make recommendations about any kind of issue related to discrimination; address public opinion directly about any kind of issue related to discrimination; at the request of the court examining a case, set out an opinion in writing on any kind of issue that is related to discrimination; contribute to reporting and to submit reports to international and regional bodies; represent a complainant in the judicial organs in civil cases, with his approval; inform about the right of protection from discrimination and the legal means available; hold a regular dialogue in connection with issues of discrimination with the respective social groups, including non-governmental organisations; conduct consciousness-raising and educational activities that aid in the implementation of this law | <p>“The Commissioner is independent in the exercise of duty and is subject only to the Constitution and law”</p> <p>The Commissioner is elected by a majority of all members of the Assembly;</p> <p>The Commissioner submits a report at least once a year before the commissions of the Assembly;</p> <p>The Commissioner is prohibited from being part of a political organization or party, from carrying out political, state and professional activity, and from taking part in the leading organs of social, economic and commercial organizations;</p> <p>The Commissioner has his own independent budget, which is financed from the State Budget and from various donations</p> | <p>The Commissioner expresses himself by a decision</p> <p>The decision contains appropriate measures and regulations</p> <p>If the person against whom the complaint was submitted does not inform the Commissioner or does not implement the decision, the Commissioner imposes a measure of a punishment by fine (ranging from 10,000 to 80,000 lek)</p> <p>As a final means, especially when the natural or legal subject does not comply with the decision of the Commissioner or does not pay the fine within three months after the time period set by the Commissioner and the sanction has not been objected to in court, the Commissioner may ask the competent authorities to remove or suspend the license or authorisation of the natural or legal subject to conduct his activity</p> | |
| Bosnia &Herzegovina | Ombudsman for Human Rights of Bosnia and Herzegovina | Receive individual and group complaints related to discrimination; provide needed information to natural and legal persons who filed a complaint for discrimination about their rights and obligations, and possibilities of judicial and other forms of protection; propose initiation of the process of mediation in compliance with provisions of the Law on Mediation; collect and analyze statistical data on discrimination cases; deliver annual and if necessary extraordinary reports on discrimination; inform the public on discrimination manifestations; conduct surveys in the field of discrimination on its own initiative; give opinions and recommendations aiming to prevent and combat discrimination, and suggest appropriate legal and other solutions to the competent institutions in BiH; have the right to initiate and participate in | <p>The Ombudsman of Bosnia and Herzegovina (BiH) shall deliver annual reports to the Parliamentary Assembly of BiH, the Federation of BiH Parliament, the Republika Srpska National Assembly and Brcko District Assembly;</p> <p>The budget of the BiH Ombudsman shall have a special budget line necessary for the functioning of a special department/ special departments for combating discrimination</p> | | To ensure that competences of the Ombudsperson also relate to discrimination complaints in the private sphere, if not already the case; |

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| | | proceedings for protection from discrimination for misdemeanours; monitor legislations and provide advice to legislative and executive bodies; raise awareness on issues related to racism and racial discrimination in society; improve policy and practices aiming to ensure equal treatment | | | |
| Croatia | Ombudsman/special ombudsmen | Receive reports of all the natural and legal persons; provide necessary information to natural and legal persons that have filed a complaint on account of discrimination with regard to their rights and obligations and to possibilities of court and other protection; if the court proceedings have not yet been initiated, examine individual reports and take actions falling within his/her competence required for elimination of discrimination and protection of rights of discriminated persons; warn the public about the occurrence of discrimination; with the parties' consent, conduct mediation with a possibility of reaching an out-of-court settlement; file criminal charges related to discrimination cases to the competent state attorney's office; collect and analyze statistical data on discrimination cases, inform the Croatian Parliament on the occurrence of discrimination in annual and, when required, extraordinary reports; conduct surveys concerning discrimination, give opinions and recommendations, and suggest appropriate legal and strategic solutions to the Government of the Republic of Croatia | <p>The Ombudsman shall inform the Croatian Parliament on the occurrence of discrimination in annual and, when required, extraordinary reports;</p> <p>The Ombudsman shall perform his/her duties with independence and autonomy. Any form of influence on the Ombudsman's work shall be forbidden.</p> <p>In the exercise of his/her powers, the Ombudsman shall act in accordance with the constitutional and legal provisions and international legal acts on human rights and freedoms accepted by the Republic of Croatia</p> <p>In the performance of his/her duties the Ombudsman shall adhere to the principles of fairness, equality and morality and shall act impartially and in accordance with standards of good administration.</p> | <p>"take actions falling within his/her competence required for elimination of discrimination and protection of rights of discriminated persons"</p> <p>file criminal charges related to discrimination cases to the competent state attorney's office;</p> | |

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| Former Yugoslav Republic of Macedonia | Commission for Protection against Discrimination | Act upon complaints, give opinion and recommendations in cases of discrimination; give information to complainant on his/her rights and opportunities for initiating court or other procedure; initiate a procedure in front the competent bodies; submit annual report to the Assembly of the former Yugoslav Republic of Macedonia; inform the public regarding cases of discrimination and undertake activities for promotion and education of equality, human rights and non-discrimination; monitor the implementation of the Law, initiate amendments of regulations because of implementation and improvement of the protection against discrimination; establish cooperation with bodies authorized for establishing equality and protection of human rights in the local self-government; give recommendations to state bodies for undertaking measures for administration of equality; give opinions on draft laws significant for the protection against discrimination; collect statistical and other data, form data bases, conduct studies, researches and trainings in relation to discrimination; cooperate with national bodies of other countries, as well as with international organizations in the area of protection against discrimination and adopt rules of procedure and other acts for internal organization of the work | The Commission for protection against discrimination is an autonomous and independent body; The Commission consists of seven members; The members are appointed by the Assembly of the Republic of Macedonia with a five-year mandate and a right to be re-elected; | The Commission issues an opinion regarding the alleged discrimination; The Commission recommends a manner for eliminating the infringements of the right; If the person to whom the recommendation is given does not act upon the recommendation, or does not eliminate the infringement of the right, the Commission may initiate a procedure in front a competent body for determining its responsibility; | |
| Montenegro | Protector of Human Rights and Freedoms | Provide required information to the complainant who considers to be discriminated by the natural or legal person, about his/her rights and duties, as well as about possibilities of court protection; conduct conciliation proceeding; inform the public about the important issues of discrimination; if necessary, carry out the researches in the field of discrimination; keep separate records of submitted complaints with regard to discrimination; collect and analyze statistical data on cases of discrimination; undertake actions to raise awareness on issues related to discrimination | | | To ensure full independence of the Human Rights Protector in relevant legislation To consider the expansion of the competences of the Human Rights Protector to the private sphere as well for cases involving discrimination; |
| Serbia | The Commissioner for Protection of Equality | Receive and review complaints, provide opinions and recommendations in specific cases, and pass measures; provide information to the person lodging a complaint concerning his/her rights and the possibility of initiating court proceedings or some other proceedings for the purpose of protection, or recommend reconciliation; file law suits in his/her own name, and with the agreement and on behalf of the person discriminated against, unless proceedings before a court of law have already been initiated or concluded by passing an enforceable decision; submit misdemeanour notices on account of violations of rights guaranteed by this Law; submit an | The Commissioner shall be elected by a majority vote of the overall number of representatives of the people, acting upon a proposal submitted by the committee authorised to deal with constitutional matters; The Commissioner may not perform any other public or political function or any political activity; | The Commissioner shall give an opinion on whether there has been a violation of rights; If the Commissioner decides that there has been a violation of the provisions of this Law, the Commissioner shall issue a recommendation to the person against whom the complaint was submitted, suggesting a way of redressing the violation in question; | To explicitly include the conduct of surveys in the Commissioner's competences. |

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| | | annual report and special reports to the National Assembly about the situation concerning the protection of equality; warn the public of the most frequent, typical and severe cases of discrimination; monitor the implementation of laws and other regulations, initiate the passing or amending of regulations for the purpose of implementing and developing protection against discrimination, and provide opinions concerning the provisions of draft laws and other regulations pertaining to the prohibition of discrimination; establish and maintain cooperation with organs authorised to ensure equality and the protection of human rights on the territory of an autonomous province or a local government; recommend measures to public administration organs and other persons aimed at ensuring equality. | The Commissioner shall be relieved from duty if he/she performs another duty or a job that could influence his/her independence; The Commissioner shall enjoy immunity. | If the person to whom a recommendation is addressed fails to act upon it, that is, if he/she fails to redress the violation in question, the Commissioner shall caution him/her; Should the person fail to redress the violation in question within 30 days of having been cautioned, the Commissioner may inform the public about it | |
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| Kosovo ⁵ | Ombudsperson of Kosovo | Investigate alleged violations of human rights; draw attention to cases when the institutions of Kosovo violate human rights and make recommendation to stop such cases and when it is necessary to express his/her opinion on attitudes and reactions of the relevant institutions relating to such cases; inform about human rights and to make efforts to combat all forms of discrimination through increasing of awareness, especially through information and education and through the media; inform the Government, the Assembly and other competent institutions of Kosovo on matters relating to promotion and protection of human rights and freedoms; publish notifications, opinions, recommendations, proposals and his/her own reports; recommend the promulgation of new laws in the Assembly, modification of the laws in force and promulgation or amendment of administrative and sub-legal acts by the institutions of Kosovo; to prepare annual reports, periodical reports and others on the situation of human rights and freedoms in Kosovo; recommend to the Assembly the harmonization of legislation with international standards for human rights and freedoms and their effective implementation; cooperate, in accordance with the Constitution and legislation in force, with all organizations, local and international institutions dealing with protection of human rights and freedoms | Article 3 of the Law on the Ombudsperson sets out that the Ombudsperson is an independent institution and that “provisions of this Law apply to protect the rights, freedoms and interests of all persons in the Republic of Kosovo and abroad from illegal actions or failure to act of the bodies of public authorities of the Republic of Kosovo” | “Issues a decision in which his findings and recommendations are submitted” | To consider the expansion of the competences of the Ombudsperson to the private sphere as well for cases involving discrimination |
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⁵ This designation is without prejudice to positions on Kosovo’s status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

Judicial Remedies

| Jurisdiction | Judicial Proceedings | Legal Standing/Third Party Intervention | Burden of Proof | Remedies | Sanctions | Recommendations |
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| Albania | <p>“Every person or group of persons who claim that discrimination has been exercised against them (...) may submit a lawsuit to the competent court according to the definitions of the Code of Civil Procedure for indemnification according to law or, as the case may be, to make a criminal denunciation before the organs competent for criminal prosecution”</p> <p>“The lawsuit should be brought no later than five years from the occurrence of discrimination and no later than three years from the day of knowing about the discriminatory behaviour”</p> | <p>“An organisation with a lawful interest” which has “as the declared object of their activity the protection of human rights or which offer assistance to victims of discrimination” may submit a complaint to the Commissioner;</p> <p>“An organisation with a lawful interest or the Commissioner may submit a lawsuit in the name of a person or group of persons, provided that the Commissioner or organisation shall have the consent by special power of attorney or by declaration before the court of the person or group of persons injured by the discrimination”</p> | <p>“After the plaintiff submits the evidence on which he bases his claim and on the basis of which the court may presume discriminating behaviour, the defendant is obligated to prove that the facts do not constitute discrimination according to this law”</p> | <p>“Indemnification includes, among other things, the correction of the legal violations and their consequences through return to the prior situation, appropriate compensation for the property and non-property damages or through other appropriate measures”</p> | - | <p>To allow third-party intervention in support of complainants</p> <p>To revise the provision pertaining to burden of proof to align it with the requirements of the relevant EU Directives.</p> |
| Bosnia &Herzegovina | <p>“Discriminated person shall be able to seek protection of his/her rights through existing judicial and administrative proceedings”</p> <p>“Court and other bodies conducting proceedings are obliged to take urgent actions in proceedings, ensuring that all claims about discrimination are investigated as soon as possible”</p> <p>“When all claims are based on the same factual and legal ground, claims can be submitted</p> | <p>During court proceedings, “a third party can join a person or group of persons claiming to be victims of discrimination in the capacity of a body, organization, institution, association or other person whose scope of activities includes protection from discrimination of persons or group of persons whose rights are being decided upon within the proceeding”</p> <p>“The court shall allow participation of a third party only with consent of a person in whose case the third party wants to intervene”</p> | <p>“In cases when a person or group of persons provide facts in proceedings, corroborating allegations that prohibition of discrimination is violated; alleged offender shall have a duty to prove that the principle of equal treatment or prohibition of discrimination has not been breached”</p> | <p>Determination that “a respondent violated a plaintiff’s right to equal treatment” (lawsuit for determining discrimination);</p> <p>Prohibition of “undertaking actions that violate or can violate plaintiff’s right to equal treatment, i.e. to perform actions to remove discrimination or its consequences (lawsuit for prohibiting or ending discrimination)”;</p> <p>Compensation for “material and non-</p> | <p>Fines ranging from 450 to 10,000 KM; relating to specific acts.</p> <p>“Decision on a minor offence prescribed by this Law shall be published in all media available in the whole territory of Bosnia and Herzegovina”</p> | <p>To assess how effective this system of remedies and sanctions is</p> |

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| | <p>cumulatively in a single lawsuit which shall be decided in civil law proceedings”</p> <p>“Deadline for submitting the lawsuit is 3 months after finding about violation of a right and latest one year as of the day a violation was committed”</p> <p>“Regardless of the outcome of the proceedings, the third party shall cover its expenses for participation in the civil proceedings”</p> | | | <p>material damage (lawsuit for compensation)”;</p> <p>Publishing “a verdict which finds a violation of the right to equal treatment on the expense of the respondent, in case when discrimination is committed through media (printed and electronic)”</p> | | |
| Croatia | <p>“Any person who considers that his/her right has been violated on account of discrimination may request protection of that right in the proceedings deciding upon that right as the main issue, and he/she may also request protection in special proceedings “</p> <p>“Special proceedings for the purpose of protection against discrimination in the area of work and employment shall be deemed to be litigations arising from labour relations”</p> <p>“The court and other bodies conducting the proceedings shall urgently undertake actions within the proceedings, endeavouring to investigate discrimination-related statements as soon as possible”</p> | <p>In litigation “a plaintiff may be joined by an intervenor, being a body, organisation, institution, association or another person that, within its scope of activities, deals with the protection of the right to equal treatment in relation to groups whose rights are decided upon in the proceedings. The court shall decide on the participation of an intervenor by applying accordingly the provisions of the Civil Procedure Act”</p> <p>“The court shall allow participation of the intervenor only with the plaintiff’s consent”</p> <p>“Associations, bodies, institutions or other organisations set up in line with law and having a justified interest in protecting collective interests of a certain group, or those which within their scope of activities deal with the protection of the right to equal treatment, may bring a legal action against a person that has violated the right to equal treatment, if they make plausible that the defendant’s conduct has violated the right to equal treatment of a larger number of persons who predominantly belong to the group whose rights the plaintiff defends”</p> | <p>“If a party in court or other proceedings claims that his/her right to equal treatment pursuant to provisions of this Act has been violated, he/she shall make it plausible that discrimination has taken place. In this case, it shall be for the respondent to prove that there has been no discrimination”</p> | <p>Establishing that “the respondent has violated the plaintiff’s right to equal treatment or that the action the respondent has undertaken or failed to undertake may directly result in the violation of the right to equal treatment (action for determination of discrimination)”;</p> <p>Prohibiting “the undertaking of activities which violate or may violate the plaintiff’s right to equal treatment, or to carry out activities which eliminate discrimination or its consequences (action for prohibition or elimination of discrimination)”;</p> <p>Compensating for “proprietary and non-proprietary damage caused by the violation of the rights protected by this Act (action for</p> | <p>Fines ranging from HRK 5,000 to HRK 300,000; relating to specific acts</p> | <p>To assess how effective this system of remedies and sanctions is</p> <p>To specify the time-limit for initiating anti-discrimination lawsuits, in the law or by reference to other legislation</p> |

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| | | | | damages)”; Publishing in the media “the ruling establishing the violation of the right to equal treatment, at the respondent’s cost” | | |
| Former Yugoslav Republic of Macedonia | <p>“The person considering that some right has been infringed because of discrimination is entitled to submit a lawsuit in front competent court”</p> <p>“The provisions from the Law on civil procedure are adequately applied to the procedure”</p> <p>“The procedure is urgent”</p> | <p>In a litigation procedure a “body, organization, institution, association or another person, which in the frame of his/her activity deals with protection of the right of equal treatment may join as third party from the party of the person claiming to be a victim of discrimination, whose rights are being decided in the procedure”</p> <p>“The court shall decide on the matter of participation of a third party by applying the provisions from the Law on civil procedure”</p> <p>“Associations and foundations, institutions or other organizations from civil society, that have a justified interest for protection of collective interests of certain group or in the frames of its activity they deal with protection of the rights to equal treatment, may file a lawsuit and in the procedure in front of the court to act as co litigants against the person who violated the right to equal treatment, if they make it probable that with the treatment of the defendant, the right to equal treatment has been violated to larger number of persons”</p> | <p>“If the party in a court proceeding shall claim that in accordance with the provisions of this Law his/her right to equal treatment has been violated, he/she is obliged to state all the facts and evidence justifying his/her claim. Providing evidence that there has been no discrimination is on the burden of the opposing party”</p> | <p>Determination that the respondent “violated the right of the plaintiff to equal treatment, i.e. the action that he/she has undertaken or overlooked may directly lead to violation of the right to equality in the acting”;</p> <p>Prohibiting “undertaking actions violating or actions that may violate the right of the plaintiff to equal treatment, i.e. to perform actions for eliminating the discrimination or its consequences”;</p> <p>“Compensating the pecuniary and non-pecuniary damages caused by violating the rights protected by this Law”</p> <p>Announcing “the verdict in which one determines the violation of the rights to equal treatment in the media on expense of the respondent”</p> | <p>Fines ranging from EUR 400 to EUR 10000; relating to specific acts</p> | <p>To assess how effective this system of remedies and sanctions is</p> <p>To revise the provision pertaining to burden of proof to align it with the requirement of the EU Directives;</p> |
| Montenegro | <p>“Anyone who considers to be damaged by discriminatory treatment of an authority and other legal and natural person shall be entitled to the court protection, in accordance with the law”</p> | <p>“The lawsuit may be filed, on behalf of discriminated persons, also by organizations or individuals who are dealing with the protection of human rights” (except for compensation);</p> | <p>“If the plaintiff proved the likelihood of respondent committing an act of discrimination, the burden of proving that due to that act the violation of equality in rights and equality before the law did not occur, passes on the respondent”</p> | <p>Establishing the “fact that the respondent has acted discriminatory against the plaintiff”;</p> <p>Prohibiting “exercising the activity that bears potential threat of discrimination, i.e. prohibition of repetition</p> | <p>Fine ranging from two hundred to three hundred times the minimum wage in Montenegro; relating to specific acts</p> | <p>To assess how effective this system of remedies and sanctions is</p> <p>To expand the types of cases leading to the imposition of fines</p> <p>To allow third-party</p> |

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| | <p>“The proceeding shall be initiated by filing a lawsuit”</p> <p>“The provisions of the law regulating civil proceeding shall be accordingly applied”</p> <p>“The proceeding is urgent”</p> <p>“The lawsuit may be filed within 90 days from the day of cognition for the committed discrimination”</p> | | | <p>of discrimination activity”;</p> <p>“Compensation of damage, in accordance with the law”;</p> <p>In “case discrimination is performed through the media, publication in the media, on the expense of respondent, of the judgment establishing discrimination”</p> | | <p>intervention in support of complainants, and in compensation cases</p> <p>To revise the provision pertaining to burden of proof to align it with the requirements of the relevant EU Directives</p> |
| Serbia | <p>“Anyone who has suffered discriminatory treatment shall have the right to initiate a lawsuit”</p> <p>“The provisions of the law regulating litigation proceedings shall apply accordingly to such a lawsuit”</p> <p>“The proceedings shall be conducted urgently”</p> | <p>The lawsuits (except for lawsuits for compensation) may be initiated by the Commissioner and an organisation engaged in the protection of human rights or the rights of a certain group of people”</p> <p>“If discriminatory treatment solely affects a particular person, these plaintiffs may initiate a lawsuit only with his/her consent given in writing”</p> | <p>“If the plaintiff proves the likelihood of the defendant’s having committed an act of discrimination, the burden of providing evidence that no violation of the principle of equality or the principle of equal rights and obligations has occurred shall fall on the defendant”</p> | <p>Imposing a ban on an activity that poses the threat of discrimination, a ban on proceeding with a discriminatory activity, or a ban on repeating a discriminatory activity;</p> <p>Establishing that the respondent has treated the plaintiff or another party in a discriminatory manner;</p> <p>Taking steps to redress the consequences of discriminatory treatment;</p> <p>Compensation for material and non-material damage;</p> <p>Publishing the decision passed;</p> | <p>Fines from 5,000 to 100,000 dinars; relating to specific acts</p> | <p>To assess how effective this system of remedies and sanctions is</p> <p>To allow third-party intervention in support of complainants and in compensation cases</p> <p>To revise the provision pertaining to burden of proof; as it currently refers to “proving” the likelihood which would appear to go beyond the mere establishment of facts required by the Equality Directives.</p> |

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| Kosovo ⁶ | Any claim of discrimination shall be “decided or adjudicated in accordance with applicable law by administrative bodies and courts of competent jurisdiction, which have jurisdiction over the concrete issue covered by the claim” | “Associations, organisations or other legal entities may institute or support legal actions either on behalf of a claimant or claimants, with their consent, for utilising any judicial and/or administrative procedure for the enforcement of obligations under this Law” | “When persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment” | “Compensation for both pecuniary and non-pecuniary damages, suffered by victims of violations which compensation may include restitution of all rights and other remedies, provided within the applicable Law which the competent body deems appropriate” | Fines ranging from EUR 500 to EUR 10000; relating to specific acts | To include in the Law an indication of the role of courts and types of proceedings related to discrimination complaints before courts, along with references to the appropriate courts and procedures, and a list of claims To allow third-party intervention in support of complainants |
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⁶ This designation is without prejudice to positions on Kosovo’s status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.