

## Work and Discrimination on the Workplace in the Republic of Croatia

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### ABSTRACT

Recruitment is a procedure that is carried out under the Labor Act. The Labor Act is the basic legal act governing employment relationships. Labor relations are regulated in a modern way, which implies respect for the demand of markets based on supply and demand, but it should be accentuate that the Labor Act is not the only one which law regulating them. This means that international standards have been adopted to ensure social rights in employment, but also the accomplished constitutional right to work, while respecting the autonomy of social partners to regulate their relationships. One of the international standards is the prohibition of discrimination in the workplace.

**Keywords:** *Employment, Labor Law, Work, Discrimination*

### INTRODUCTION

Work is an organized human activity that can fulfill personal or common needs. Human activity can be considered as a physical but also an intellectual work with which is realised a certain goal. For example, a worker performs his job for an employer, and for his job receives a salary. In addition, work should be considered as one of the fundamental human rights guaranteed by the Constitution.

### RECRUITMENT

Recruitment is a procedure that is performed in the Republic of Croatia under the Labor Law regardless of the professional qualifications of the employee. The Labor Law [1] is the basic legal act with which governing employment relationships. Along with it, labor relations regulate several laws, several international documents (the Conventions and the Charters), and collective collective agreements.

Very important legal sources in the employment process are the Employment Mediation Act and Unemployment Rights [2] and the Law on Foreigners [3].

The Employment Mediation Act and Unemployment Rights regulate, of course, employment, but also professional routing, additional education in order to increase the employment of the labor force, unemployment insurance, active labor market action in order to promote the spatial and professional mobility of the work force and the new employment and

self-employment and the organization of the Croatian Employment Bureau [4].

The Law of Foreigners says that an foreigners can establish a working relationship in the Republic of Croatia based on a work permit. Croats with or without foreign nationality are not considered foreigners. The work permit for foreigners to be valid upon expiry of the period for which it was issued, termination of employment and by deducting. If a foreign citizen requests and obtains Croatian citizenship, he then acquires the rights and obligations arising from it. If an foreigner gets Croatian citizenship while employed on the basis of a work permit, the employer depends on his future status. This would mean that the employer could dismiss him, but he could also offer him a contract of employment.

Here it is important to point out that through the adoption of the Labor Law in an independent Republic of Croatia, working relations regulated in a modern way, while respecting the market demands (and labor markets), founded on supply and demand, have been harmonized by working system with those in the European Union [5].

Labor legislation of the Republic of Croatia has accepted international standards for the protection of social rights in employment and the constitutional right to work, while respecting the autonomy of social partners to regulate their relations. The Labor Law defines the core labor law corps that is guaranteed by the state

sanction. It is a system of rights that can be upgraded by applying contractual freedom in individual and collective employment. The same law regulates the procedures, the ways of access to rights and the realization of the worker's interest, the interests of the employer, negotiations, conciliations, court proceedings and arbitrations.

Thus, work and work rights are regulated, implemented and protected. The process of creating new legal norms in working relationships is persistent, demanding, complex, variable and, of course, applicable to many subjects, actions and deadlines [6]. It can not be stopped. Violation of norms has the effect of pronouncement sanctions on offenders.

### DISCRIMINATION

In the widest sense of the word, discrimination means distinction or discernment.

Fundamental equality in the essence of all human beings implies equally human dignity and the inalienable human rights founded on it [7]. It is the ontological basis of the ethical principle of equality of all human beings which forbids discrimination, or requires non-discrimination. People who do not have a particular characteristic are no less or no more persons than others and, consequently, they reluctantly apply the ethical requirement for respect for their fundamental equality, ie human dignity and inalienable human rights founded upon them.

One of the fundamental principles in every civilized society is the principle of equality which affirms the view that all people are equal in the rights and that they are worthy of equal, dignified treatment, independently of their differences based on their native or acquired personal qualities [8]. Any treatment of an individual by reason of such distinctions is excluded and/or restricted and thereby endangers or prevents the realization of social rights or gives priority to other persons by excluding and/or limiting the latter in the exercise of their social rights represents discrimination, which is also a violation of the dignity of that person. The principle of equality of opportunity and treatment is an integral part of the right to work.

By concluding the Stabilization and Association Agreement, the Republic of Croatia has undertaken the obligation to align its legal

system with the requirements of the European Union. In the area of combating discrimination, these requirements are set out in two particularly relevant Directives [9]. Directive 2000/43 / EC [10] implements the principle of equality of treatment irrespective of racial or ethnic origin and Directive 2000/78 / EC [11] defines the general framework for the implementation of this principle in the field of employment and work area. The Government of the Republic of Croatia with its Conclusion of 31 May 2007 initiated the process of drafting a single anti-discrimination law proposal that is part of the Action Plan for Harmonization of Legislation and Creation of Special Administrative Capacities for the Adoption and Implementation of the European Union acquis in the Negotiating Area of Chapter 19. - Social Policy and Employment . The Anti-Discrimination Act [12] was adopted in July 2008. The Office of the Ombudsman took over the task of the central body for combating discrimination.

The Labor Act say that direct or indirect discrimination in the field of work and working conditions is prohibited, including selection criteria and conditions for employment, promotion, vocational guidance, vocational training and retraining, in accordance with this Law and specific laws.

Direct discrimination refers to any action that is conditioned by some of the base on which a person is placed or was placed or could be placed in a disadvantageous position by another person in a comparable situation.

Indirect discrimination exists when a certain neutral provision, criterion or practice is attributed to a person because of its specific attributes, status, commitment, belief, or value system that are the basis for prohibiting discrimination, or placing it in a disadvantage compared to other persons.

### DISCRIMINATION IS PROHIBITED IN RELATION TO:

1. Conditions for employment, including criteria and conditions for selecting candidates for the performance of a particular job, in any branch of activity and at all levels of professional hierarchy,
2. Advancement in work,
3. Access to all types and levels of vocational training, qualification and retraining,

4. Conditions of employment and labor and all employment and labor rights, including equality of the pay,

5. Termination of employment contract,

6. Rights of Members and Activities in Associations of Workers or Employers or in any other professional organization, including the privileges resulting from such membership.

The provisions of the collective agreement, the rules of procedure and employment contracts which establish discrimination on any of these grounds are null and void.

The collective bargaining of a worker's obligation to pay contributions of solidarity under the provisions of Article 197 of the Labor Law is not considered to be discrimination on the basis of non-membership in the Union.

Discrimination is not considered to be a distinction, exclusive or giving priority to a particular job when it is a job done or a job is carried out under such conditions that the characteristics associated with some of the above mentioned arguments are matters and a decisive condition for doing business, provided that the purpose sought to achieve this is justified and the condition is measured.

All measures envisaged by the Labor Act or by a special law and provisions of the Labor Act or by special laws, collective agreements, labor regulations and labor contracts relating to special protection and assistance to certain categories of workers, in particular those concerning the protection of the disabled, older workers, pregnant women and women who use any of the rights to maternity protection, as well as provisions relating to the special rights of parents, adoptive parents and social workings, are not considered as discrimination or it should not be the foundation of discrimination.

Harassment is any unwanted behavior caused by any of the above foundations that is intended or really represents a violation of the dignity of a person seeking employment and workers, caused by a fear or hostile, humiliating or offensive environment.

Sexual harassment is any verbal, nonverbal or fiatish sexual behavior that is intended or really represents a violation of the dignity of a person seeking employment and workers, caused by a fear or hostile, humiliating or offensive environment.

In such cases of discrimination, a person seeking employment may claim damages under the general rules of compulsory right, and a worker under the provisions of Article 109 of the Labor Act that deals with the employer's liability for damage caused to a worker.

If a person seeking employment or a worker in the case of a dispute, outlining the facts justifying the suspicion that the employer has acted contrary to the prohibition of discrimination based on the Labor Act, the employer must prove that there was no discrimination.

### FUNDAMENTAL OBLIGATIONS AND RIGHTS FROM EMPLOYMENT

A person who is employed is obliged to give a job to a worker and to pay for his paid work, and the employee is obliged to carry out the work personally according to the employer's instructions given to the nature and type of work.

The employer has the right to specify the place and manner of work, while respecting the rights and dignity of the worker.

The employer is obliged to provide the worker with conditions for safe work in accordance with a special law and other regulations.

A worker is a natural person who carries out certain tasks for the employer.

The employer is a natural or legal person for whom a worker performs certain tasks.

In the employment relationship, the employer and the employee are obliged to comply with the provisions of this and other laws, international treaties concluded and ratified in accordance with the Constitution of the Republic of Croatia and published and in force, other regulations, collective agreements and rules of procedure.

Before entering the work, the employer is obliged to allow a worker to become familiar with employment regulations and to become familiar with the organization of work and the protection of health and safety at work.

Occupational health and safety regulations, collective agreements and work regulations must be made available to workers in a suitable manner.

The termination, validity, termination or other question relating to the employment contract, collective agreement or agreement concluded between the workers' council and the employer

and not regulated by this or other law shall be applied in accordance with the nature of the contract, the general rules of the Law on Obligations.

Employers, workers' councils, unions and employers' associations may agree on terms of employment which are more favorable to workers than the conditions laid down in the Labor Law or other law.

Employers, employers' associations and unions may, by collective agreement, stipulate conditions of employment that are less favorable than the conditions laid down in the Labor Law, unless expressly provided for by this or other law.

If a labor law is regulated differently by a labor contract, a labor rule book, an agreement concluded between a workers' council and an employer, a collective agreement or by a law, the right to work must be favorable to the worker, unless otherwise provided by the Labor Act or other law.

### CONCLUSION

Recruitment is a procedure that is carried out under the Labor Act. The Labor Law is the basic legal act which governing employment relationships. Employment relationships are regulated in a modern way, but it should be noted that the Labor Law is not the only law which governing them. In working legislation are incorporated international standards in the field of social security, but we must say that is realised the constitutional right to work, while respecting the autonomy of social partners to regulate their relationships. One of the most important international standards is the prohibition of discrimination in the workplace.

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### NOMENCLATURE

NN = Narodne novine = National newspaper