

ACT OF 30 JULY 1981 ON THE PUNISHMENT OF CERTAIN ACTS MOTIVATED BY RACISM OR XENOPHOBIA

MB 8 VIII 81, 14. V. 1994, 25 VI 99, 12 II 03

Art. 444

The guilty party shall be punished by a prison sentence of eight days to one year and by a fine of twenty six francs to two hundred francs, when the charges have been committed: either in public meetings or places; or in the presence of several people, in a place that is not public but accessible to a number of people who are entitled to meet or visit there; or in any place in the presence of the offended person and in front of witnesses; or through documents, printed or otherwise, illustrations or symbols that have been displayed, distributed, sold, offered for sale, or publicly exhibited; or finally by documents that have not been made public but which have been sent or communicated to several people.

Art. 1

By "discrimination" in this Act is meant any form of distinction, exclusion, restriction or preference, whose purpose or whose result is or could be to destroy, compromise or limit the equal recognition, enjoyment or exercise of human rights and the fundamental freedoms on a political, economic, social or cultural level, or in any other area of social life.

The following shall be punished by a prison sentence of one month to one year and by a fine of fifty francs to one thousand francs, or by one of these punishments alone:

- 1° Whoever incites discrimination, hatred, or violence against a person on account of his so-called race, colour, descent, origin, or nationality in the circumstances given in article 444 of the Penal Code
- 2° Whoever incites discrimination, segregation, hatred, or violence against a group, community, or the members of it on account of the so-called race, colour, descent, origin, or nationality of its members, or some of them, in the circumstances given in article 444 of the Penal Code.
- 3° Whoever announces his intention towards discrimination, hatred or violence, against a person on account of his so-called race, colour, descent, origin, or nationality in the circumstances given in article 444 of the Penal Code.
- 4° Whoever announces his intention towards discrimination, hatred, violence, or segregation against a group, community, or the members of it on account of the so-called race, colour, descent, origin, or nationality of its members, or some of them, in the circumstances given in article 444 of the Penal Code.

Art. 2

Whoever, in supplying or offering to supply a service, a good or the enjoyment of it, commits discrimination against a person on account of his so-called race, colour, descent, origin, or nationality shall be punished by a prison sentence of one month to one year and by a fine of fifty francs to one thousand francs, or by one of these punishments alone.

The same punishments shall apply when the discrimination is committed against a group, a community or the members of it, on account of the so-called race, colour, descent, origin, or nationality of its members, or some of them.

Art. 2bis

Whoever, in placing people in employment, providing professional training, offering jobs, recruitment, the performance of contracts of employment, or the dismissal of employees, commits discrimination against a person on account of his so-called race, colour, descent, origin, or nationality shall be punished by the punishments given in article 2.

The same punishments shall be applied when the discrimination is committed against a group, a community or members of it owing to the so-called race, skin colour, heritage, background or nationality of these members or of some of them.

The employer shall bear civil liability for the payment of the fines that his employees or representatives are ordered to pay.

Art.3

Whoever belongs to a group or association that clearly and repeatedly practices or advocates discrimination or segregation in the circumstances given in article 444 of the Penal Code, or who lends his assistance to any such group or association, shall be punished by a prison sentence of one month to one year and by a fine of fifty francs to one thousand francs, or by one of these punishments alone.

Art.4

Any civil servant or public official, any bearer or agent or public authority or public power, who in the exercise of his duties commits discrimination against a person on account of his so-called race, colour, descent, origin or nationality, or who arbitrarily denies any person the exercise of a right or liberty that he may claim, shall be punished by a prison sentence of two months to two years.

The same punishments shall apply when the facts are perpetrated against a group, a community or the members of it on account of the so-called race, colour, descent, origin, or nationality of its members or some of them.

If the accused shows that he acted on the orders of his superiors, in matters that come under their authority and in which he was in a subordinate position with respect to them, the punishments shall only be applied to the superiors who gave the orders.

If civil servants or public officials are accused of having ordered, allowed or facilitated the above-mentioned arbitrary acts, and if they claim that their signature was obtained unawares, they shall be required in such a case to stop the act and to denounce the guilty party, otherwise proceedings shall be taken against him personally.

If one of the above-mentioned arbitrary acts is committed by means of the false signature of a public official, the perpetrators of the forgery and those who made fraudulent or malicious use of it shall be punished by ten to fifteen years of hard labour.

Art.5

Any public utility institutions and any associations that, on the day of the facts, had had a legal personality for at least five years, with the exception of the Centre for Equal Opportunities and Opposition to Racism which is not bound by such a period, and whose statutory objective is to defend human rights or to combat discrimination, may act in law in all legal disputes that the application of this Act gives rise to, when their statutory aims are compromised.

The following may also act in all disputes that the application of article 2 bis may give rise to:

- 1° The representative employee and employer organisations, as stipulated in article 3 in the Act of 5 December 1968 on Collective Labour Agreements and Joint Representation Committees.
- 2° The representative professional associations in the sense of the Act of 19 December 1974 governing the relations between the government and the trade unions representing its own personnel.
- 3° The representative organisations of the self-employed.

When however it concerns a breach as given n articles 1, 1°,2, first paragraph, 2bis and 4, first paragraph, perpetrated against natural persons, the claim of the public utility institution, the association or the representative organisation shall only be admissible if it demonstrates that it has the consent of such persons.

Art. 5bis.

In the event of a criminal act pursuant to Articles 1, 2, 2bis, 3 and 4 of this act, the person found guilty can also be sentenced to expulsion pursuant to Article 33 of the Criminal Code.

Art. 5ter.

Without prejudice to the powers of the officers of the criminal investigation department, officials appointed by the King shall supervise the compliance with this act and the implementing decrees thereof.

Said officials shall exercise said supervision pursuant to the provisions of the Act of 16 November 1972 concerning the labour inspectorate.

Art. 6

All provisions of the First Book of the Penal Code, without excluding chapter VII and article 85, shall apply to the violations covered by this Act.