THE PRINCIPLE OF NON-DISCRIMINATION AND EQUAL TREATMENT IN LABOR LAW

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Abstract: Discrimination is a complex phenomenon, which implies some confusion in taking action as well as addressing discrimination issues. Individual involvement in the process of preventing discrimination is essential, but more important is the general involvement of society. However, in order to gain the trust of society and its determination to act in the desired sense, it is necessary to involve each of us individually.
Thus, personal involvement could create a tendency for general society to be involved in the process of preventing discrimination. Discrimination encountered in labor relations is that differentiated treatment applied to employees by virtue of their actual or supposed membership, their adherence to a particular social group, or well, to a certain collective in an organization. From this point of view, it is necessary to give legitimacy to the equality of all persons living on the territory of the country, first and foremost, but also to all persons in employment, irrespective of their social group membership, equal rights and equal treatment in political, economic, social, cultural, and other spheres of social life.
Preventing discrimination in labor relations is primarily aimed at eliminating discrimination and creating favorable conditions for stopping the conflict situation present in labor law as well as in society and which is, in most cases, a state of insecurity for the population that causes the division of the groups. This primarily affects the progress and development of society, secondly it endangers the life of the individual and of the population in general.

Keywords: discrimination, equal opportunities, non-discrimination

1. Interdiction of discrimination in labor relations under national law. The principle of non-discrimination (Article 5 of C. Muncii).

The principle of non-discrimination was enshrined in the Constitution of Romania by art. 6 - Right to Identity, Art. 16 - Equality in rights, art. 32 - The Right to Teach, Art. 120 - Basic principles, but also in the framework law - O.G. no. 137/2000 on the prevention and sanctioning of all forms of discrimination, as subsequently amended and supplemented or in a series of special laws, namely Law no. 202/2002 on equal opportunities for women and men, Law no. 215/2001 of the local public administration, the Labor Code, from the necessity to ensure the legislative framework of guaranteeing the equality of all citizens before the laws, the state authorities etc. In the Romanian legislation, discrimination is defined in O.G. no. 137/2000 on the prevention and sanction of all forms of discrimination which, in art. 2, provides that discrimination means any distinction, exclusion, restriction or preference based on race, nationality, ethnicity, language, religion, social class, age, disability, chronic non-contagious disease, HIV infection or belonging to a disadvantaged category, which has the object or effect of restricting or abolishing the recognition, use or exercise, on an equal basis, of human rights and freedoms fundamental rights or rights recognized by law in the political, economic, social and cultural spheres or in any other areas of public life. Also, in terms of discrimination, it is stipulated by art. 1 al. 3 from O.G. no. 137/2000 that there is discrimination when different

treatment applies to persons in comparable situations. However, the Constitutional Court, by Decision no. 107/1995 stated that the principle of equality does not mean uniformity, so that if equal situations have to correspond to equal treatment, in different situations the legal treatment can only be different. This means that in some situations, discrimination may not be illegal. Violation of the principle of equality and non-discrimination exists when differential treatment of equal cases is applied without objective and reasonable motivation or if there is a disproportion between the aim pursued by unequal treatment and the means used. The principle of equality does not prohibit specific rules in the event of a difference in situations. Actual inequality resulting from the difference in situations may justify separate rules according to the purpose of the law. Therefore, the principle of equality leads to the emphasis on the existence of a fundamental right, the right to difference, and to the extent that equality is not natural, it implies discrimination. By this interpretation of the notion of discrimination, the legislative lacuna on the existence of discrimination if in different situations the legal treatment is not different. The Romanian legislator has created a number of specific legal provisions regarding the areas of discrimination. Thus, OUG. no. 137/2000 sanctions the facts of discrimination in the following areas: - equality in economic activity and in terms of employment and profession; - access to administrative, legal, health, other services, goods and facilities; - access to education; - freedom of movement, right to free choice of domicile and access to public places; - the right to personal dignity. Law no. 202/2002 complements the areas of discrimination provided by GEO no. 137/2000, with new areas, namely equal opportunities and treatment in terms of access to culture and information and equal opportunities for participation in decision-making. By art. 4 of the abovementioned law distinguishes between direct and indirect discrimination. Direct discrimination is the less favorable treatment applied to a person than another person in a comparable situation is, has been or would have been treated. Indirect discrimination means the situation where apparently neutral provisions, criteria or practices would place different people at a particular disadvantage compared with other persons unless the provision, criterion or practice is objectively justified by the fact that, a legitimate purpose, and the means of achieving the goal are appropriate and necessary1. In relation to direct discrimination, it appears in what is known as the exception of "genuine occupational qualifications". For example, it may not be unlawful to condition that applicants for a rabbinic position be of Jewish faith, or that applicants for a post of worker with young Roma should be Roma. In the same way, in some cases, the law allows for indirect discrimination. When the person making the complaint considers that a particular practice disproportionately disadvantages an ethnic group, then the responsible person has a legal duty to prove that the practice pursues a legitimate aim and that it is proportionate and reasonable. An example may be a construction site where all workers are required to wear safety helmets. This policy could indirectly discriminate against certain groups that are banned from covering their heads. However, the employer may justify this condition by showing that in this case the legitimate aim is to ensure the protection of workers, that the requirement is proportionate to the risk and that the wearing of hard headphones is a reasonable requirement according to the labor protection regulations. In these cases, there are no legal provisions imposing restrictions on rights or freedoms on certain criteria, but these restrictions are based on custom and rules of social cohabitation. The regulation of equality of rights in Romania has the value of a principle enshrined in art. 16 of the Constitution. The Romanian law covers a number of 15 discrimination criteria, which makes it the most complete law in this respect in Europe. These criteria are: race, nationality, ethnicity, language, religion, social status, beliefs, sex,

sexual orientation, disability, age, HIV infection, non-addictive chronic diseases, refugees and asylum seekers.

Within labor relations, the principle of equal treatment for all employees and employers operates in principle as stipulated in art. 5 of the Labor Code. Equality of treatment as a specific principle of labor relations should not be confused with equal opportunities, which in reality is not desirable, an ideal that can not be achieved in practice. On the other hand, equal treatment implies a number of aspects found in practice, on the one hand prohibiting employers from committing acts or acts of discrimination against employees throughout their employment relationship; and on the other hand employees and trade unions should be prevented from using discriminatory methods against their employers. This principle is based on the constitutional norm according to which "citizens are equal before the law and the public authorities without privileges and without discrimination." As a fundamental principle of law, it gives employees the feeling that they enjoy the justice they deserve.

Discrimination involves those acts or deeds of exclusion, distinction or preference, based on certain criteria and which lead to the restriction or elimination of the recognition, use or exercise of the rights provided by labor law[1]

At present, Romanian citizenship guarantees equality between citizens, the exclusion of privileges and discrimination in the exercise of the right to work, the right to free choice of occupation, the right to fair and satisfactory working conditions, protection against unemployment, equal pay for equal work and also equitable remuneration among employees.[2]

Any type of discrimination, both direct and indirect, regardless of the criterion considered, gender, age, race, color, ethnicity, religion, etc. is therefore prohibited.

Ensuring equal treatment of employees does not imply uniformity or disregard of particularities, concrete specific requirements; on the contrary, the legislator may take into account certain things that necessarily and rationally imply a differentiated and reasonable treatment.

The principle of equality before the law is the most often invoked and applied principle, because of its constitutional enslavement, also benefiting from the supreme juridical force of the fundamental law.

2. Community Regulations on Prohibition of Discrimination in Labor Relations

Equal opportunities and treatment between women and men in the workplace

Through equality of opportunity and treatment between women and men in working relationships, the law understands non-discriminatory access to: the choice or the free exercise of a profession or activity; employment in all vacancies and job vacancies and at all levels of the professional hierarchy; equal incomes for work of equal value; information and professional counseling; programs of initiation, qualification, improvement, specialization and professional retraining; promotion at any hierarchical and professional level; working conditions that comply with the health and safety rules in the workplace, according to the legislation in force; benefits other than salary and social protection and protection measures. Employers are required to systematically inform their employees, including by displaying in visible places, their rights in respecting equal opportunities and treatment between women and men in working relationships.

[1] Dacian D., Chiciudean, R., Emrich, G., *Dreptul muncii - suport de curs*, Cluj-Napoca, 2006, p. 54
[2] O.G. nr. 137/2000

The principle of equal pay for equal work (Article 119, Treaty of the European Economic Community)

Article 119 of the Treaty establishing the European Economic Community (CEEC) establishes the principle of equal pay for equal work between men and women. For the purposes of this Article, payment means the minimum or usual wage, either in cash or in goods, which the worker receives directly or indirectly for his work from his employer.

Equal pay without discrimination based on sex means:

that payment for the same work in units of products will be calculated on the basis of the same unit of measurement; that payment for work in the time unit will be the same for the same activity.[3]

The European Court of Justice has recognized the right to equal treatment as a fundamental right in Community law.

Beginning with 1975, while there has been a persistence in the application of this article, six directives have been drafted in the field.[4]

Of the six directives, five were drafted on the basis of Art. 119 of the Treaty of Rome and concern equal work, and the sixth, elaborated on the basis of art. 118 A regulates the protection of pregnant women and nursing mothers in the workplace.

As interpreted by the Luxembourg Court, these directives grant individuals the rights directly applicable, even in the absence of national regulations which translate into the text of the directives.[5]

Under Community law, the principle of equality between men and women is of fundamental importance. By directives, this principle has been explained, so that it is applicable to any situation that arises on the labor market, the derived community acts (directives) obviously pursue the definition of rights.

Equal pay for work of equal value (Directive 75/117 / EEC)

Directive no. 75/117 / C.E.. on the assessment of the Member States' legislation on the application of the principle of equal pay for male and female workers provides that the application of this principle must lead to the alleviation of any discrimination based on sex, same work or work which is assigned equal value.[6] If a professional classification system for remuneration is used in some countries, it must be fundamentally based on common criteria for both men and women.

Article 2 requires Member States to introduce into their national legal systems those measures that are necessary to enable employees who consider themselves affected by non-application of the principle of equal pay to shed their claims through a judicial process after a possible appeal to other competent authorities.[7]

[3] Nicolae Voiculescu, Dreptul muncii. Reg. interne si comunitare, Ed. Wolters Kluwer, Bucuresti, 2007, pag. 90
[4]Andrei Popescu, Reglementari ale relatiilor de munca, Ed. Tribuna economica, Bucuresti, 1998, pag. 163
[5]Idem, pag. 164
[6]Ibidem
[7]Nicolae Voiculescu, Drept comunitar al muncii, Ed. Rosetti, Bucuresti, 2005, pag. 113
[8]Nicolae Voiculescu, Dreptul muncii. Reg. interne si comunitare, Ed. Wolters Kluwer, Bucuresti, 2007, pag. 287

At the same time, Member States have the obligation to take the necessary measures to protect workers against any dismissal that would constitute an employer's reaction to an enterprise complaint or legal action, following the principle of equal pay.[8]

The principle of equal pay for work of equal value was introduced in the Romanian Labor Code by Emergency Ordinance no. 55/2006. In the wording of paragraph (3) of art. 6 introduced by this normative act for equal work or equal value, any discrimination on the grounds of sex is prohibited for all elements and conditions of remuneration.

The principle of equal treatment between men and women (Directive 76/207 EC)

Directive 76/207 C.E.E. on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions establishes the obligation for Member States to insert in their national legislation the provisions necessary to ensure equal treatment treatment between men and women in terms of access to employment, training, professional promotion, as well as in terms of working conditions.

The principle of equal treatment is defined in art. 2 which states that there will be no discrimination on the grounds of sex either directly or indirectly, by reference in particular to material status or family.

The Directive has the merit of introducing into the Community legislation the concepts of indirect discrimination and positive action in favor of women. Of course, the directive also contains a derogation from principle for activities that, due to their nature or the environment in which they are carried out, the sex of the worker is a determining factor.[9]

A distinct paragraph permits the adoption of provisions on the protection of women, particularly with regard to pregnancy and maternity, as an exception.

The principle of equal treatment in matters of social security (Directive 79/7 / ECE)

Directive 79/7 / ECE. on the progressive implementation of the principle of equal treatment between men and women in the field of social security was the extension of the principle of equal treatment in a new field, that of social security. It applies to workers, a broadly understood category, comprising employees and self-employed, ill and injured, involuntary unemployed looking for a job, retired and disabled.

The right to sue is recognized by any person who considers himself the victim of discrimination.

Member States are entitled to exclude some areas from the scope of the Directive, namely the determination of retirement age, the benefits granted to children who have grown up children, the rights granted to spouses, bonuses granted to the spouse in case of legal dependence on long-term disability, work accidents or dangerous diseases.

The principle of equal treatment between men and women engaged in an activity in a self-employed capacity (Directive 86/613 / EEC)

Directive 86/613 / EEC. seeks to ensure the application of the principle of equal treatment between men and women engaged in an activity as self-employed or contributing to the pursuit of such an activity in relation to those aspects not covered by Directives 76/207 and 79/7. So it is complementary to the directives mentioned above.

[9] Andrei Popescu, Reglementari ale relatiilor de munca, Ed. Tribuna economica, Bucuresti, 1998, pag. 165
[10].Idem, pag. 166

The Directive applies to all persons who carry out a profitable activity on their own behalf, including farmers and members of their liberal professions and their non-employed spouses or partners.

Member States are called upon to take all necessary measures to ensure that all provisions contrary to the principle of equal treatment are abolished, with particular reference to the establishment, equipment, launching or expansion of an activity, financial facilities.[10]

It is also required to introduce those measures that are necessary to enable all persons who consider themselves affected by non-application of the principle of equal treatment in their independent activities to pursue their claims by judicial process after an appeal has been lodged with the competent authorities

Special protection for pregnant, lactating or lactating workers (Directive 92/85 / EEC)

Directive 92/85 / EEC. on the implementation of measures to promote the improvement of the safety and health at work of pregnant workers, lagos or nursing workers provides for the protection of women in employment, in the course of their qualification or in the apprenticeship period who are also pregnant, have recently given birth or nursing and bringing their status to the employer's knowledge.[11]

Member States must incorporate in their internal legal order the measures necessary to allow any worker who considers himself / herself to have been injured by failing to comply with the obligations arising out of the Directive, to have a legal remedy and / or to use other competent courts.[12]

The principle of equal treatment in occupational social security schemes (Directive 86/378 / EEC)

Directive 86/378 / EEC. on the application of the principle of equal treatment for women and men in occupational social protection mechanisms (in the occupational pension scheme) prescribes equal treatment, regardless of sex, for employees and self-employed.

The Directive was also drafted with the observation of Art. 100 and art. 235 of the EC Treaty. It is complementary to Directive 79/7 / ECE. because it promotes the principle of equal treatment in the occupational pension system, which exists in parallel with the public pension system.

Harmonized Romanian legislation on non-discrimination based on sex.

The fight against discrimination on the labor market has intensified nationally since Romania joined the European Union in 2007 and is addressed not only from the point of view of guaranteeing and respecting human rights but also from the point of view of economic growth.[13]

The Labor Code, in its turn, included the principle of equal treatment of all employees and employers as a fundamental principle of labor relations, prohibiting any form of direct or indirect discrimination (Article 5).[14]

At international level, Romania has assimilated, through ratification, standards adopted within the UN, the International Labor Organization or the Council of Europe. These have been

[11] Nicolae Voiculescu, Drept comunitar al muncii, Ed. Rosetti, Bucuresti, 2005, pag. 118
[12]Nicolae Voiculescu, Dreptul muncii. Reg. interne si comunitare, Ed. Wolters Kluwer, Bucuresti, 2007, pag. 293
[13]Revista romana de Dreptul Muncii, 5 din 2011, iulie august, Ed. Wolters Kluwer Romania, pag. 86
[14]Nicolae Voiculescu, Drept comunitar al muncii, Ed. Rosetti, Bucuresti, 2005, pag. 127

taken into account, along with community standards, in the adoption of legislation in recent years.

Thus, the Labor Code, enumerates, fixes at art. 5 as a fundamental principle of labor law the principle of equal treatment towards all employees and employers.

It also prohibits any discrimination against an employee, whether direct discrimination, including acts and acts of distinction, exclusion, restriction or preference which have as their object or effect the refusal, restriction or removal of the recognition, use or exercise of the rights provided for in labor law, or indirectly understood by acts and deeds apparently based on criteria other than those prescribed by law, but which produce the effects of direct discrimination.

However, the provisions of principle of the Labor Code are largely dealt with in OG. no. 137/31 August 2000 on the Prevention and Punishment of All Forms of Discrimination.

Another relevant normative act is Law no. April 202/19 April 2002 on equal opportunities for women and men.[15]

Working conditions

Since the beginning of the creation of the internal community market, the importance of its social dimension has been felt. It is not just the freedom of movement of people, goods, services and capital, but also any other element that helps to increase the well-being of European Union citizens and, in particular, those who work within it. The construction of a strong and dynamic Europe is based so much on the recognition of a "foundation" of social rights. In this respect, Community rules regulate in detail the aspects of working conditions, such as workers' safety, wages and working hours, working relationships, etc.

The Court of Justice has ruled that in order to prove that a measure is objectively justified, the employer must demonstrate that the actions leading to a differentiated treatment:

- correspond to a "real business need";
- are appropriate to achieve the objective pursued by the enterprise;
- are necessary to achieve the intended purpose.

Thus, for example, because of the conditions for exercising the activity of a policeman, sex can be considered as a determining condition, so that a Member State, taking into account the requirements of public order and the internal situation characterized by frequent attacks, can entrust the general tasks only armed men.

The Romanian law also considers that the provisions of the law on equal treatment of women and men and the prohibition of discrimination of any kind can not be interpreted "in the sense of restricting the employer's right to refuse to employ a person who does not meet the usual requirements and standards in the area in question, as long as the refusal is not an act of discrimination, therefore follows:

- the basic criterion for employment remains professional capacity;
- it is not discriminatory to impose certain conditions, the performance of which is mandatory for performing the respective activity;
- the employer may conclude a contract of employment by taking into account the employee's religion, sex, race or social background in those circumstances in which he believes in good faith that such particularities would be necessary for the normal conduct of the operations required to perform the work contract in question;

[15] Ioan Micle-Interzicerea discriminării în raporturile de muncă conform dreptului naţional şi european articol publicat în Revista Română de Dreptul Muncii nr.1/2006 pag.34

[16] Ioan Micle Dreptul Muncii curs universitar ediţie revizuită Editura Universităţii Aurel Vlaicu Arad 2017

- However, the employer can not unduly introduce his / her own criteria, which are very important to the usual ones in that field.

3. Infringement and criminal liability of the employer for compliance with the principle of equal treatment and prohibition of discrimination in labor relations. "[16]

A.Privilitary liability.

"The contraventional liability of the employer for non-observance of the principle of equal treatment and the prohibition of discrimination in labor relations" The first point of this chapter was the subject of the discussion on the regulation and the specific nature of contravention of labor law. Counter-guarantee liability is a form of autonomous legal liability, an institution of administrative law, which is not confused with disciplinary liability, nor with

the criminal one. Contraventions in the Labor Code are only sanctioned with a fine. Title XI of the Labor Code contains the chapter entitled "Counterfeiting Liability", where several offenses are regulated, to which the provisions of the special legislation apply: Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments by Law no. 180/2002, as amended by Law no. 202/2010 on some measures for speeding up the settlement of lawsuits and Law no. 76/2012 for the implementation of Law no. 134/2010 on the Code of Civil Procedure. In the national legislation, contraventions related to the non-observance of the principle of equal treatment in labor relations are indicated in the Government Ordinance no. 137/200015 on the prevention and sanctioning of all forms of discrimination. 15 Government Ordinance no. 137/2000 was republished in the Official Gazette of Romania, Part I, no. 99 of 8 February 2007 and subsequently amended and supplemented by: - Government Emergency Ordinance no. 75/2008 regarding the establishment of measures for solving some financial aspects in the justice system, approved with amendments and completions by Law no. 76/2009, published in the Official Gazette of Romania, Part I, no. 231 of April 8, 2009; - Law no. 61/2013 amending Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination, published in the Official Gazette of Romania, Part I, no. 158 of March 25, 2013; - Correction regarding the republished form of the Government Ordinance no. 137/2000, published in the Official Gazette of Romania, Part I, no. 133 of 24 February 2014. By the Constitutional Court Decision no. 1.325 of 4 December 2008 on the unconstitutionality exception of the provisions of the Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination, 16 is sanctioned by a fine of 1,000 lei to 30,000 lei, if the discrimination concerns a natural person, respectively a fine from 2,000 lei to 100,000 lei, if the discrimination concerns a group of people or a community on any grounds related to exclusion, restriction or preference, based on race, nationality, ethnicity, language, religion, social category, beliefs, sex, sexual orientation, age, disability, chronic non-contagious disease, infection HIV, belonging to a disfavoured category, and any other criterion that has the purpose or effect of restricting, removing the recognition, use or exercise, on an equal basis, of human rights and fundamental freedoms or of rights recognized by law. The violation of the provisions of Law no.202 / 2002 implies the disciplinary, material, civil, contraventional or criminal liability of guilty persons, it is mentioned in the provisions of art. 45 of the abovementioned law. Consequently, they constitute contraventions and are sanctioned with a fine from 1,500 lei to 15,000 lei, violation of the provisions of art. 6 (2) to (4): "2. Any discrimination against persons

on grounds of sex shall be deemed to be discriminatory. 3. Any form of discrimination based on sex shall be prohibited. It is forbidden that decisions on a person be affected by the acceptance or rejection by the person concerned of conduct relating to harassment or sexual harassment. " The same fine shall be sanctioned also by the violation of the provisions of art. 816, art.9 alin (1) 17, art. 10 paragraph (1) and (3) 18 as well as the provisions of Articles 11 to 14 regarding the obligations published in the Official Gazette of Romania, Part I, No. 872 of 23 December 2008, it was found that the provisions of Government Ordinance 137/2000 on the prevention and sanctioning of all forms of discrimination are unconstitutional insofar as it is understood that the courts have the power to cancel or refuse the application of normative acts as they are discriminatory and to replace them with norms created by legal means or by provisions contained in other normative acts Employers are obliged to ensure equal opportunities and treatment between employees, women and men, in working relationships of any kind, including

by introducing provisions to prohibit discrimination based on sex in the organization and functioning regulations and in the internal regulations of the units.

Employers are required to keep their employees informed, including by displaying in visible places their rights in respecting equal opportunities and treatment between women and men in working relationships. " The provisions of art. 9, paragraph (1): "Discrimination is prohibited by the use by the employer of practices which the employer has to ensure equal opportunities and treatment of employees, women and men, in working relationships of any kind, including by introducing provisions for the prohibition of discrimination based on sex in the organization and functioning regulations and in the internal regulations of the units. In the comparative law, for example, in the provisions of the Labor Code of the Republic of Moldova we do not find any mentions regarding the contravention, but the Parliament has adopted a Code of Contravention of the Republic of Moldova. The French Labor Code, unlike the Romanian Labor Code, does not make any reference to the employer's contravention of non-observance of equal treatment and the prohibition of discrimination in labor relations. In Spain, references to contravention of labor law are found in Law no. 31/1995 on the prevention of occupational risks.

B. Criminal liability of the employer for compliance with the principle of equal treatment and the prohibition of discrimination in the employment relationship.

The regulation and specificity of criminal liability in labor law is regulated in Art. 264-265 of the Labor Code, art. 218 of the Social Dialogue Law no. 62/2011, art. 111 of Law no. 76/2002 on the unemployment insurance system and the stimulation of employment, art. 6 of the Law no. 241/2005 on the prevention and combating of tax evasion, as well as art. 287, paragraph (1), lit. d) and e), art. 349 and the provisions of art. 350 of the New Penal Code. disadvantages people of a particular gender in relation to employment relationships, relating to: the announcement, organization of competitions or examinations and the selection of candidates for vacant positions in the public or private sector; terminating, suspending, modifying and / or terminating the employment or service legal relationship; the establishment or modification of the duties in the job description; setting remuneration; non-wage benefits as well as social security; information and professional counseling, programs for initiating, qualification, retraining, specialization and professional retraining; assessment of individual performance; professional promotion; applying disciplinary measures; the right to join the trade union and the access to the facilities granted by it; any other conditions of work, according to the legislation in force ". The provisions of art. 10: "(1) Maternity can not be a reason for discrimination;

It is forbidden to ask a job applicant to submit a pregnancy test and / or to sign an undertaking that she will not be pregnant or will not be born during the life of the individual employment contract. equal treatment and the elimination of discrimination in labor relations are not specified in terms of criminal liability. In Law no. 202/2002 on equal opportunities for women and men, republished in 2013, within the provisions of art. 36 specifies the criminal liability in the sense that: "the violation of the provisions of the present law entails disciplinary, material, civil, contraventional or criminal liability, as the case may be, of guilty persons.