



## ITALIAN LAW NO. 67/2006 ON DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES: AN OVERVIEW<sup>1</sup>

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### 1. Introduction

Italian Parliament approved Law no. 67 of 1 March 2006, entitled “Provisions for the judicial protection of persons with disabilities, victims of discrimination” (published on the Italian Official Journal No. 54 of 6 March 2006). It came into force on 21 March 2006.

A brief overview on the whole Italian legal system about disability issues seems here appropriate, in order to better understand how such issues are tackled and what the meaning of this new provision within the Italian context is.

Provisions against discrimination are a very fundamental concern of the Republic. The aim of such kind of provisions is that equal treatment is granted to all citizens, who shall be able to enjoy the same rights. Under Article 3 of the Italian Constitution: (1) *All citizens have equal social status and are equal before the law, without regard to their sex, race, language, religion, political opinions, and personal or social conditions* (the so called “principle of formal equality”), and (2) *It is duty of the Republic to remove those economic and social obstacles which, limiting in fact the freedom and equality among citizens, hinder the full development of any human person and the participation of all workers in the political, economic, and social organization of the country* (the so called “principle of substantive equality”).

Italian Law No. 67/2006 introduces in the Italian legal system some provisions for the judicial protection of individuals with disabilities. It is one of the laws that the Italian Parliament has enacted as to implement the European Union law principle set out at article 13 of the Treaty of Amsterdam<sup>2</sup>. Article 13 states the principle of fight against discriminations, either based on sex, race, ethnic origin, religion, personal beliefs, handicaps, age or sexual preferences.

Law No. 67/2006 aims to grant disabled persons the same rights actually enjoyed by non-disabled persons. A scan-reading of the draft law shows the political purpose of granting further protection to people with disabili-

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<sup>2</sup> On the possible outcomes of art 13, see AART HENDRIKS, *Promoting disability equality after the treaty of Amsterdam: new legal direction and practical expansion strategies in Disability rights in Europe from theory to practice* by ANNA LAWSON and CAROLINE GOODING Eds. Hart Publishing 2005

ties, not just seeing them as people having a peculiar status, but trying to achieve a more inclusive society in its entirety.

It is worth noting that Law No. 67/2006 provides disabled persons with a general remedy against discrimination, and that such remedy adds up, and does not derogate, those other provisions containing different forms of protection. In particular, Law No. 67/2006 does not prevent the application of the laws<sup>3</sup> against discrimination in employment, article 1, paragraph 2 states.

## 2. The principles underpinning the law

The report accompanying the draft law makes reference to article 13 of the CE Treaty, and it also points out that Italian laws are like fragments regarding different aspects of disability, never treating disability as the pure object of a law. Such comment, the report says, highlights how urgent it is to draft a new law which gives a general protection to disabled persons, and still keeps in force the previous laws regarding specific sectors in force.

Article 1 states that the institutions undertake to grant, even in favour of disabled persons, that the principle of equal treatment is actually satisfied and equal opportunities are actually favoured, in accordance with the Italian Constitution.

## 3. Individuals covered by the law No. 67/2006

Article 1 of Law No. 67/2006 sets out the purpose and applicability of the new law. In particular, law No. 67/2006 favours, pursuant to article 3 of the Italian Constitution, the full pursuit of the principle of equal treatment and equal opportunities of people with disabilities, as set out at article 3 of Law No. 104 of 1992, in order to grant to disabled people full enjoyment of their respective civil, political economic and social rights.

Italian Constitution is recalled in Law 67/2006 not just for formal reasons. On the contrary, such reference makes the subject matter relevant on the constitutional level, *i.e.* on a more relevant level if compared to ordinary law. Such legal choice means that the provisions thereto cannot be neglected nor eluded.

Furthermore, the language chosen by Law 67/2006 seems appropriate to highlight that it is the person itself that is the centre of the new law: Law 67/2006 refers to “*persons with disabilities*”.

Law No. 104/1992, the framework-law on disability, states at article 3, first paragraph, that: “A handicapped person is the person having a physical, psychic or sensorial impairment, stable or progressive, which causes learning difficulties, difficulties in relating with others or of inclusion at work, leading to a process of social disadvantage or marginalization.” Such “subjective” definition, identifying what is to be labelled as disabled, created a strong distinction between impaired people and non-impaired. Thus Law No. 67/2006 recalls the framework-law in order to limit in a clear way the field of application of the new law.

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<sup>3</sup> Domestic legislative-decree no. 216/2003 implements in Italy the 2000/78 European directive against discrimination in employment.

#### 4. Meaning of the term “discrimination” under Law 67/2006

Law 67/2006 benefits from the experience of other European countries<sup>4</sup>, and reproduces definitions already drafted for European laws<sup>5</sup>.

Article 2.1 states as follows: “*The principle of equal treatment implies that no discrimination is admitted against persons with disabilities*”. Such statement doesn’t imply that disabled people receive the same treatment as non-disabled. Rather than that, it prohibits discrimination to the extent that it causes disabled individuals to be disadvantaged.

Following paragraphs of article 2 set out different kinds of discrimination, and for the first time in Italian law they define two new concepts, such as *direct discrimination* and *indirect discrimination* in regard of disabled people.

In particular, **article 2.2** gives us the first definition: “***direct discrimination*** occurs when, for reasons connected to disability, a person is treated less favourably than a non-disabled in a similar situation”. In this respect, the following comments are to be made.

The main character of direct discrimination lies in the fact that the less favourable treatment of the individual is caused, at least in part, by such person’s disability.

The first issue arising from such definition is, what a less favourable treatment is, *i.e.* what does constitute a “less favour”, so as to give rise to discrimination as set out by Law 67/2006. On the other hand, it is worth noting that actual discrimination must be evaluated with an assessment based on hypotheses. In this respect, I believe that Law 67/2006 suffers from a too vague drafting, as it requires to evaluate how a non-disabled person would be treated in a similar situation<sup>6</sup>.

The accompanying report points out that article 2, while describing the characters of the discriminatory behaviour and setting out the definition of discrimination, both direct and indirect, is aware of, and reproduces, the recent European Union law.

The European legislation, referred to in the accompanying report, is directive 2000/43/CE on equal treatment amongst people independently on race and ethnic origin, and directive 2000/78/CE, on equal treatment as regards employment and work conditions.

Application of article 2 seems not easy because, apart from behaviours openly discriminatory, it seems difficult to assess whether a disabled is treated less favourably in comparison with a wholly hypothetical situation<sup>7</sup>.

While in openly discriminatory cases it is possible to judge that such treatment would not have been received by a non-disabled, there is a number of uncertain situations in which it is not clear at all whether the treatment received is discriminatory or not. We believe that such uncertain cases constitute the “grey area” of the defini-

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<sup>4</sup> For a comparative overview see THERESIA DEGENER, *Disability Discrimination Law: a global comparative approach in Disability rights in Europe from theory to practice* by ANNA LAWSON and CAROLINE GOODING Eds. Hart Publishing 2005

<sup>5</sup> See, *e.g.*, European directive 2000/78/CE.

<sup>6</sup> Nevertheless, one more question remains unanswered, on whether such law also applies to cases of worse treatment on a disabled individual, in comparison with the treatment received by another individual having a different kind of impairment.

<sup>7</sup> See STEVEN L. WILLBORN, *A Nested Model of Disability Discrimination*, [www.legalessays.com](http://www.legalessays.com) ( 1999 ) for the peculiarities of definitions in the field of disability discrimination and the outcomes of an hypothetical evaluation in this particular case.

tion, and we also think that it is unlikely that all of such cases will be covered by the effects of the law in comment.

Case-law will give a relevant contribution in this respect, and it will be helpful to fill this definition with actual meaning and to clear its application to further cases. No case-law is available yet on the point, given that Law 67/2006 has not been challenged yet. Therefore, it is not possible yet to look at how judges have interpreted Law 67.

**Article 2.3** of law 67/2006 also sets out the definition of “**indirect discrimination**”, for the first time in Italian law. Indirect discrimination means that “*a provision, a criterion, a practice, an act, a pact or behaviour apparently neutral put a person with disabilities in a position of disadvantage in comparison with other people*”.

Such provision aims at sanctioning as many cases of discrimination as possible, considering that discrimination may show in a number of different ways in actual life. The main feature of such definition lies in this: while direct discrimination requires a link with the condition of disability, definition of indirect discrimination is designed so as to include those cases which at first sight appear neutral.

These are cases in which a situation, seemingly for reasons not connected with impairment, causes on a disabled individual a disadvantage. It is crucial to highlight that disability only by appearances does not influence such definition. In addition, it is not correct to interpret the definition so that any provision, criterion, practice, act, pact or behaviour entitles the disabled to bring the action described therein, if it caused a position of disadvantage.

On the contrary, disability is part of the definition. While in direct discrimination disability is taken into account as regards the cause of the discrimination, in indirect discrimination disability comes into play later, *i.e.* as regards the actual effect that constitutes a disadvantage.

Not every source of disadvantage for an impaired individual necessarily constitutes a discriminatory provision. On the contrary, the behaviour can be assessed as discriminatory only with reference to the specific person concerned.

Legal scholars<sup>8</sup> have noticed, but in respect of discrimination against foreign people, the contradiction between direct and indirect discrimination is not always easy to understand and it is partly asymmetrical with the distinction between discriminatory acts on the basis of gross negligence or wilful default, on the one hand, or totally unwanted actions.

**It would not be correct to define as negligent indirect discriminations, and wilful direct discriminations.** The distinction based on directness deals with the way, direct or indirect, how the discriminatory effect actually takes place. The second distinction described herein above, on the other hand, deals with the mental capability of the person acting through a discriminatory behaviour.

It is still possible, theoretically, that a person makes an indirect discrimination with the exclusive purpose of pursuing the forbidden effect, and such person would make at the same time a wilful default action and an indirect discrimination.

Article 2.4 adds up that some further behaviours are considered as if they were actual discriminations. Such behaviours are **harassment** or *unwanted behaviours, made for reasons related to disability, which infringe*

<sup>8</sup> See MOROZZO DELLA ROCCA, P., *Gli atti discriminatori nel diritto civile, alla luce degli artt. 43 e 44 del t.u. sull'immigrazione*, in *Dir. famiglia* 2002, 1, 112.

*dignity and liberty of a person with disabilities, or create an environment of threat, humiliation and hostility in its respect.*

Therefore, even “**harassment**” is considered as discriminations, and as a result prohibited. Such nuisances, nevertheless, must be related with the condition of disability. It seems to me that a clear reference to mobbing is made in this provision. The concept of mobbing is taken from labour law, and reproduced in Law 67/2006 in respect of disability as a general issue, independently on the work environment.

Moreover, the Italian Parliament was fully aware that it was extending the field of application of a number of provisions established in labour law, and I believe that it also wanted to export in its new law the sensitivity for discrimination, which belongs to labour law. Such interpretation is confirmed by reading the accompanying report. It explains that: “It is necessary to provide legal procedures and instruments able to grant effectivity to the equality of opportunities and equal treatment of people with disabilities whenever they face discrimination even in contexts different from employment”<sup>9</sup>. In fact the accompanying report clarifies that this law aims to extend the juridical protection - already granted for disabled victims of discrimination in employment - to all those situations non-related with work and to satisfy the need for a complete and general system preventing discrimination against persons with disabilities in each sector of social life.

Width and indefiniteness of the definitions contained in Law 67/2006 arises from the fact that such definitions were borrowed from other countries’ laws on discrimination. In particular, they come from definitions which have a proper background in their home-country, due to a long development as regards the key-concepts (for an example, consider the *Disability Discrimination Act* (DDA) adopted in the United Kingdom in 1995)<sup>10</sup>.

## 5. Civil procedure aspects of the protection of the rights of disabled persons

Once aims and definitions have been ascertained, it is appropriate to focus on trial procedure aspects introduced by Law 67 which are quite peculiar indeed.

Due the subject covered by this statute, the Legislator chooses to adjust the procedure to be used in the actions covered by law 67/2006 in order to make its enforcement more efficient. As a result we have the peculiarities listed below to occur in such cases<sup>11</sup>.

Law 67 contains a number of provisions as regards procedure. I will group them together in sections below, so to point out the main features.

### 5.1. The special procedure

Because of the legislative technique chosen by the government, the system for the enforcement of rules against discrimination is based on pre-existing procedural tools: article 3.1 of Law 67 states that the special procedure for anti-discrimination provided for by the 1998 Immigration Act<sup>12</sup> in respect of immigrants and for-

<sup>9</sup> In addition, it must be noted that implementation in Italy of European directive 2000/78/CE was only referred to discrimination of disabled in their work environment.

<sup>10</sup> On the DDA see, for a general overview, CAROLINE GOODING *Blackstone's guide to the Disability Discrimination Act 1995*. London: Blackstone Press, 1996; KARON MONAGHAN. *Blackstone's guide to the disability discrimination legislation*, Oxford University Press, 2005.

<sup>11</sup> It is important to underline that the legal tools provided for in Law 67 add up to those already available under general law.

<sup>12</sup> i.e. law-decree No 286 of 25 July 1998.

foreign people shall be used in claims concerning discrimination against people with disabilities. This procedure has been chosen as it is more rapid and effective than the ordinary one<sup>13</sup>.

Article 3.1 of Law 67 states that: “*The judicial protection against acts and behaviours under the terms of article 2 of the present law is provided according to provisions of article 44, paragraphs 1-6 and 8, of the law containing provisions concerning immigration and rules on conditions of foreign people, covered by the law-decree No 286 of 25 July 1998*”.

Such law openly aims at granting to disabled individuals a quick and effective judicial protection. The recent prohibition of discriminatory acts is assisted by a strong – apparently, at least – legal sanction, and it pushes legal scholars to reconsider certain key issues. Among them, a crucial feature regards judicial protection granted against actions made by public authorities, *i.e.* what in Italy is defined as “public administration”. Secondly, accessibility is a relevant issue. Effectiveness of Law 67 can also be measured if compared to other laws regarding disability.

Scholars have commented on the special procedure provided for by article 44 of the consolidated act on immigration, which is applied in disability cases as well. One Author<sup>14</sup> said that the person discriminated is protected with a quick and efficient judicial tool, which can enable such person concerned, under paragraph 1, not only to *cease discrimination*, but also to obtain “any other kind of act which is suitable for the purpose of *removing the effects of the discrimination* suffered, depending on actual circumstances”. A good example of such big variety of actions is the so called “disapplication” of public acts, which means to leave acts of the “public administration” unapplied. Another case, scholars report, is the injunction to the “public administration” to restore or acknowledge the interest injured..

The action is brought filing a petition before the local court. The competent court is the one located in the place of residence of the applicant. <sup>15</sup> Such special procedure is quicker also in the inquest phase of the legal proceedings. The court exercises its powers of investigation less formally than in general proceedings. In addition, it is worth to point out that, in accepting the appeal, the judge issues the urgent orders which seem to be most appropriate and those are immediately executing, which means they must be applied immediately<sup>16</sup>.

Moreover, such judicial acts issued by the court are assisted **by a criminal sanction**, given that everyone not executing orders issued by the judge undergoes criminal law consequences under article 388 of Italian Criminal Code which involve fine and imprisonment .

Article 3 of Law 67/2006 recalls some parts of article 44 of the consolidated immigration act. In particular we shall consider article 44.1 which states that the action brought against discrimination can be filed not only towards private entities, but against the “public administration”<sup>17</sup> as well. This is a strong derogation to Italian trials, because it attributes the judicial venue to civil courts even for cases regarding acts of the “public administration”.

<sup>13</sup> The same procedure is to be used in the case of discrimination on work. See, on the EU website monitoring the implementation of anti-discrimination directives all around Europe [http://ec.europa.eu/employment\\_social/fundamental\\_rights/public/pubst\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/public/pubst_en.htm) , REPORT ITREP05.pdf for the situation in Italy

<sup>14</sup> The statement is from MOROZZO DELLA ROCCA, *Gli atti discriminatori nel diritto civile, alla luce degli artt. 43 e 44 del t.u. sull'immigrazione, cit.*

<sup>15</sup> This constitutes an exception to the ordinary rules for determining the judicial venue, and it makes it easier for the individual to file a petition even if the discrimination has happened in a different city, and it supersedes the ordinary rule that links the court cognizance to the place of residence of the defendant.

<sup>16</sup> Under article 44.4 .

<sup>17</sup> Which means, in general, public authorities.

Art.44. 5, recalled as well, provides that *interim measures* can be issued by the judge, in the form of a court decree, even without investigation. Such part of the provision is recalled by Law 67 as well. The parties have a term of 15 days to attend the hearing before the court in accordance with such *interim measures*.<sup>18</sup>

The accompanying report marks out that the protection of disabled people is stronger due to the extraordinary powers given to courts in case the petition is granted. If the petition is successful, **the court can decide on the restoration for non economic damages and make an order so to remove the effects of the discrimination.**

## 5.2. The burden of proof

One more aspect must be underlined in legal proceedings under Law 67/2004, as regards the burden of proof. **Article 3.2** states that *the complainant, in order to prove the existence of a discriminatory behaviour against him- or herself, can make reference to factual elements, which are relevant, precise and concordant, and the judge shall evaluate such elements within the terms and conditions set out at article 2729, paragraph 1, of the Italian civil code.*

Law states therefore that the proof to be given must cover the existence of the discriminatory behaviour itself. In this respect, it must be noted that article 2729 of the Italian civil code, recalled by said article 3, states as follows: *those presumptions which are not established by way of law are left to the free ascertainment of the judge, who shall not admit any presumption other than relevant, precise and concordant.*

In accordance with the proposed interpretation, reference to article 1729 seems redundant. In particular, the “factual elements” referred to under article 3 of Law 67/2006 are not defined<sup>19</sup>. Law 67 just states that the complainant must prove the facts that constitute the discriminatory behaviour. But it is clear that the complainant is also entitled to prove discrimination through the methods set out at article 2729, because article 2729 is called an “ordinary proof tool” and has a general application.

In spite of the language contained in the provision, which seems to limit factual elements to proof of the discrimination only, I believe that it would be appropriate to read the provision as including injury, *i.e.* the provision also allows factual elements to be used for proving the injury suffered<sup>20</sup>.

<sup>18</sup> The applicant has a term of 8 days to notify the petition and the judicial decree to the other party. At the hearing the court can either confirm or modify, or revoke the decisions issued by court decree. Judicial decrees can be claimed against under the terms and conditions set out at article 739, paragraph 2, of the Italian code of civil procedure, *i.e.* within 10 days, starting from the notification date (not from the simple communication) of the judicial decision. In respect of claims, articles 737, 738 e 739 of the Italian code of civil procedure apply.

<sup>19</sup> While, in the case of discrimination against immigrants, the consolidated act of 1998 at article 44.9 specifies that *factual elements used to prove may consist even in statistics concerning engagements, salary levels, given grades and duties, transfers career improvements, firings enacted previously by the same employer*, no such reference on statistics about previous behaviours is made in the case of discrimination against disabled people. It has been argued that The major weakness in the procedural system assisting the anti-discrimination legislation lies in the rule on the burden of proof, where the legislator continues to be very prudent. According to the Decrees[implementing EU directives against discrimination] (identical wording, articles 4.3 and 4.4 respectively), if the person who considers himself or herself wronged by discrimination submits elements of fact suitable to establish “serious, exact and consistent elements” about the existence of a direct or indirect discrimination, also on the basis of statistical data, the judge can evaluate such elements on the basis of the rule of the Civil Code (article 2729.62) allowing a “prudent appreciation” of presumptions. The absence of an explicit shift in the burden of proof has been raised in parliament by members of the majority, but without significant impact on the final text. The absence of decisions on the basis of the new decree does not allow to evaluate which approach the judges will have in evaluating evidence. (*Report on measures to combat discrimination directives 2000/43/ec and 2000/78/ec country report Italy* ALESSANDRO SIMONI December 2004, These full reports are available on the European Commission’s website: [http://europa.eu.int/comm/employment\\_social/fundamental\\_rights/policy/aneval/mon\\_en.htm](http://europa.eu.int/comm/employment_social/fundamental_rights/policy/aneval/mon_en.htm))

<sup>20</sup> Injury, anyway, can be restored even in the absence of a proof on its exact amount, by equity pursuant to article 1226 of the Italian civil code, and judge can use circumstantial evidence.

The complainant bears a burden to prove both, discrimination and injury as well. It is nevertheless sufficient that injury is proved by simple circumstantial evidence.

Furthermore, Law 67 says that the judge shall evaluate such factual elements *within the terms and conditions* set out at article 2729. Such language gives rise to the question, what such terms and conditions are. Article 2729, last paragraph, provides that *presumptions cannot be admitted in the cases in which law prevents proof from being given by way of witnesses*.

The question arises, therefore, on what level of restriction this provision causes in relation to Law 67/2006. In my opinion such a limit can easily be overcome, given that courts actually have wide powers to decide on actions to be taken.

The accompanying report explains that *article 3, paragraph 2, grants a further protection to disabled people, and makes remedies more effective, in accordance with European directives, through the special tool of the “presumptive proof”*. Such vagueness in the drafting language may be acceptable on the political side, but is not appropriate if contained in a legal provision.

On the basis of the above, I believe that Law 67 is not really innovative in respect of principles concerning the burden of proof within Italian legal system, there is no shifting of the burden nor special advantages given in this case despite the declaration about the so called presumptive proof. It is clear, on the other hand, that Law 67 shows a favour for those people who are potential victims of discrimination.

Some legal scholars have observed that *“the judge shall be careful in considering such circumstantial evidence as full proof, and shall refer to legal elements, factual elements and case law<sup>21</sup>”*.

### **5.3. Persons entitled to enforce the protection provided**

Entitlement to enforce the protection, and relative standing to sue, require to be further examined. The final provision of Law 67/2006 states that, in addition to disabled individuals concerned, certain entities are also entitled to bring the action for the enforcement of the protection under Law 67, in the name and on behalf of the victim of discrimination.

Such bodies are associations and entities as set out by a decree of the ministry for equal opportunities, together with the ministry of employment, on the basis of (i) the purpose set out in the by-laws of the relevant association and (ii) the stability thereof, provided that such entities are granted a notarised power of attorney. The accompanying report underlines that article 4 contains a relevant provision, which extends entitlement to enforcement against discrimination to associations and entities incorporated for the purpose of protection of disabled people.

Such a width in the title to bring an action is depending on (a) power of attorney granted by the disabled, or (b) an interest of such entities in joining trials for injuries filed by the disabled, or (c) the autonomous decision made by such bodies to file a claim for annulment of illegitimate public acts.

I think it is good that the bodies entitled are to be appointed by a decree of the ministry for equal opportunities, together with the ministry of employment, on the basis of the purpose set out in the by-laws of the relevant association and the stability thereof.

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<sup>21</sup> See P. C. CRAPANZANO, *commento alla legge 67 2006*, su [www.altalex.com](http://www.altalex.com)



The Parliament who drafted such law put such elements as a measure of the structural adequacy of the entities involved. Law 67 tried to prevent potential abuse of title to the action, and it carefully selected the entities actually able to represent disabled people's interest.

Some Authors<sup>22</sup> noticed that protection of group interest is crucial in anti-discrimination policy, as movements for the civil rights<sup>23</sup> of minorities have always reckoned.

Some words need to be spent on the power of attorney requested. For the actions provided for under article 2, such power of attorney is necessary. In the absence of such power of attorney, any action brought by the entities under article 2 is null and void.

In my opinion, it appears unlikely that a person grants a power of attorney, while the same person has not decided to act independently, maybe for a sort of panic. For this reason, the limitation of the power of attorney is detrimental to the good performance of the judicial protection.

In particular, autonomous action of entities in the name of group interests is not allowed in case of "nuisances", which recall mobbing. I think that a group action would have been appropriate in order to successfully fight nuisance, given that a hostile environment for the discriminated person will certainly cause the victim to not bring any action, neither on his or her own, nor through associations.

#### 5.4. Filing a petition before the so called *administrative* courts under Italian law

**Article 4.2** of Law No. 67/2004 lists cases in which "[...] *the associations and entities set out at paragraph 1 are entitled to join pending cases. They are entitled to join trials for injuries suffered from disabled people and they can also file a petition before administrative courts for the annulment of acts prejudicial to those people's interest*".

Reference to administrative courts may be read in different ways. I will try to sum them up herein below, and then analyse which of them best fits the purpose of law 67.

At first sight, such provision seems to change the Parliament's position on the judicial venue in disability cases. Law 67, we had noted above, recalls article 44, paragraph 1, of the consolidate immigration act, and sets out a civil courts cognizance in discrimination cases, even in the event that an action is brought against an act issued or made by a "public administration" (which, as said above, constitutes a derogation to ordinary rules on judicial venue). It is not correct, on the contrary, to accept such view.

A second option is to deem that reference is made to acts which cannot be classified as *discriminatory* in advance, but still have an *administrative* nature. I do not share this view either, because it is far away from the principles on which Italian law protection system is based.

The third view is that such provision includes petition for annulment of an administrative act, not just disapplication neither refund for damages. Some legal scholars have suggested such view<sup>24</sup>, and I think it is preferable because it complies with the ordinary criteria for judicial venue in Italy.

It must be said that, on the one hand, in the so called *civil* trials under Italian law the appropriate term used is

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<sup>22</sup> See P. MOROZZO DELLA ROCCA, *Gli atti discriminatori nel diritto civile, alla luce degli artt. 43 e 44 del t.u. sull'immigrazione, cit.*

<sup>23</sup> For a deep analysis on the minority group approach, see SANDRA FREDMAN, *Disability equality: a challenge to the existing anti-discrimination paradigm* in *Disability rights in Europe from theory to practice* by ANNA LAWSON and CAROLINE GOODING Eds. Hart Publishing 2005

<sup>24</sup> P. C. CRAPANZANO, *op. cit.*

*intervention*, which assumes that a trial has already been commenced by individuals, while, on the other hand, in case that actions are brought for the purpose of the annulment of *administrative* acts, the said associations themselves are entitled to bring an action. The term *petition* may also suggest that it does not necessarily have to be an already commenced trial, where instead an action can even be commenced by an association itself, upon its own decision.

**Article 4.3** states that “*the associations and entities set out under paragraph 1 are also entitled to bring an action against the discriminatory behaviours referred to in paragraphs 2 and 3 of article 2, in case such behaviours regard a group of people*”. In such provision, some features should be pointed out.

First, class associations, as set out by the Ministry, can commence a legal proceeding on their own, *i.e.* without any power of attorney by individuals, nor joining pending trials, only if, and to the extent that, the discriminations alleged regard a group of people. This means that class associations are only permitted when discrimination is against a number of people, not an individual. Second, the language of the provision suggests that such entities are entitled to claim only against discrimination. Class action does not include, on the contrary, nuisance, *i.e.* those unwanted behaviours, related to disability, which infringe dignity and liberty of a disabled individual, or and create a feeling of intimidation, humiliation and hostility against this person.

## 6. Effects of the judicial decree

It is now time to examine what the potential effect of a successful action is in this regards, article 3.3 of Law 67/2006 states as follows:

“By accepting the appeal, the judge, provides, if requested, for the compensation for damages, even when no financial loss is involved, and orders the termination of the behaviour, conduct or discriminatory act, if still existing, and adopts any adequate measure, according to circumstances, to remove the effects of discrimination, including the adoption, prior to the expiration of the time limit established in the measure itself, of a plan for the removal of the identified discriminations.”

The language above shows that the judge has been granted huge powers in order to remove the discrimination. A judge can give a judicial order issued by civil courts to the persons responsible, and the contents of such an order can be independently decided on by the judge.

Such power of making an injunction is provided for in either case, of actions made by private people or the public administration. Such a view must necessarily be double-checked against the general principle governing administrative law in Italy. Such principles state that it is not possible, under Italian law, that a judicial order directs the *public administration* to do something.

The provision above speaks of a discriminatory behaviour, conduct or act. Such wide language aims at sanctioning as many discriminatory situations as possible, in any way enacted.

Through such a tool, Law 67 enables judges to actively operate in order that the *person*, as main character of the protection law, may really fulfil his/herself. This purpose is also the reason why the contents of the judicial decision are totally left to the judge’s discretion, who shall formulate its decision in relation to the actual case to be assessed.

Our attention should now focus on the part of the commented provision which states that, in addition to an order to cease the discriminatory situation, the judge can also adopt any other measure which may be deemed suitable to remove the unfair treatment that gave rise to discrimination.

This is a strong type of protection, as also noted by the accompanying report, because the judicial decision, in case the petition is granted, can not only decide on compensation for damages, also non-economic damages, but order as well any suitable action for the removal of the discrimination.

A good example of the variety of ways in which discrimination can take place is the policy of some airlines regarding air transportation of disabled people.

Remedies provided for under Law 67 include compensation for damages. In this regards, law states that compensation can be asked also for non-economic damage.

The notion of non-economic damage in respect of discrimination against disabled people is not limited to the concept of *pretium doloris* suffered by the disabled because of the discrimination: it seems more appropriate to class the damage relevant for the subject matter as a form of existential damage. Italian law defines as existential damage a very peculiar kind of injury.

The category of existential damage has been formulated by legal scholars, but it was first identified by courts, in connection with the arising of new kinds of situations likely to be protected. Such new concept covers the cases that do not properly fall within the field of application of the abused category of “damage to health”.

A recent case which involved existential damage was recently decided in Calabria with reference to the rights of disabled people.<sup>25</sup>

In order to better understand the meaning of existential damage, it is useful to remind that legal scholars and case-law have distinguished what constitutes a moral damage and what constitutes an existential damage. Moral damage is intended as a damage directed to a person’s internal feeling. It is, therefore, a feeling. Existential damage, on the contrary, is directed to the outside, *i.e.* it resolves in an action or omission different to the fact of being into a relationship (with other people and with the environment outside the single person), in any case involving activities non related to remuneration or assets. Economic damage, on the contrary, is based upon goods or assets (which may have been, for example, destroyed, deteriorated, not given back).

The notion of existential damage made it possible to identify the possibility of a protection for certain daily situations that, even if deprecated and felt as deeply unfair by the social feeling, cannot be classed under traditional concepts of Italian law. The above mentioned judicial decision considered that:

“Remained in fact not covered by traditional damages categories a sector which , according to the increasing attention given by the legal system to the value of the human being under his relational aspect, was understood as relevant not only under sociological or psychological point of view but even under a legal perspective: a broad area of injuries striking the “normality of life” where such normality is intended in the positive way of “quality of life”

Such judicial decision is relevant for our analysis as it shows how courts apply the principle of protection of disabled people, *i.e.* how such principle is understood by the entity who is responsible for the correct interpretation and application of law and individual rights. The principle above is a wide and flexible concept, that necessarily has to proportion with the final purpose of the pursuit of a good life quality.

## 7. Courts’ powers: some critical features

<sup>25</sup> See the sentence issued by Giudice di Pace di Gioiosa Jonica on 07/10/2006.

Some further aspects need to be pointed out in relation to the special powers granted to courts in relation to discrimination against people with disabilities. First of all, the question is to what extent can courts order a certain behaviour to the person responsible for breach of the newly created prohibition of discrimination. In particular, this is not an issue in relation to private bodies, but it does rise doubts as regards public authorities.

### 7.1. the private sector

It is interesting to understand to what extent such an order can properly be enforced towards a private body or provider of goods and services. Under the principles of Italian law, private bodies and individuals must unconditionally obey to court orders. What is new in Law 67/2006 is that, courts are granted much wider powers, *i.e.* courts can adopt any act that they may deem appropriate for the case concerned for the purpose of actually enforcing the protection set out by the law.

Law 67/2006 does not really introduce major changes in the pre-existing legal framework of judicial powers and duties of private subjects, except for the new provision under which courts have an extra-power **to determine what concrete behaviour** the condemned party should take.

Furthermore, **no punitive damages are admitted** in discrimination cases. On the other hand, the actual measurement of the injuries suffered may lead to a huge amount, given that certain entities are entitled to bring an action and that they act in the name and on behalf of a number of individuals, so that they are able to cause a considerable pressure over the person responsible for the discrimination, also in comparison with the size of the restoration.

Such entities are also entitled to bring an action independently (in those cases set out by the law), to the extent that they represent a public interest. Courts shall be bound to take this into consideration for the purpose of the compensation of the damage.

It might be said such provision aims at having a deterrent effect – even if only from an economic perspective – for all those discriminating behaviours or practices common towards people with disabilities.

Something must now be said on the publication of the judicial measures. Art. 3.4 states that “The judge may order, only once, on a national leading daily newspaper or on one of the major daily newspaper having a very wide circulation on the territory, the publication of the measure under paragraph 3, at the expense of the defendant.”

The power to order the publication of the judicial measure is very peculiar, given that its purpose goes far beyond the restoration of the injured reputation of the discriminated individual. Legal scholars<sup>26</sup> have commented on such power as regards discrimination towards foreign people. The court of Bologna had condemned a real estate agency to refund discrimination damages, because such agency imposed people to declare that they were foreigners while registering to a web site. The court decided for the publication of the judgement on the web site.

Such decision was criticised because article 44 of the legislative decree 286 grants to courts the power to issue atypical measures for the sole purpose of removing the effects of the discrimination, not for punishment nor for dissuasive purposes. In addition, such provision does not provide for the power of ordering publication of the measures issued. In that case it was hard to understand why publication could be useful against discrimination.

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<sup>26</sup> see. P. MOROZZO DELLA ROCCA *Gli atti discriminatori nel diritto civile, cit.*

The reason is that the agency had put an announcement for special apartment-sales reserved to non-foreign people. It is important to fight discrimination *in its context*.

On the contrary, Law 67/2006 contains more detailed provisions in this regards, as set out in paragraph 4 (commented above). Law considers it relevant that the discriminatory behaviours are made known to the public. It is therefore appropriate to ask what paragraph 4 of article 3 of Law 67/2006 is aimed at. From a different perspective, it should also be ascertained what nature has the judicial power to order publication of the measures issued, and to what extent such power can be enacted.

Such power probably tries to operate on the social awareness of the problem of discrimination towards disabled people. The Parliament has eventually realised that even if directed to an individual, discrimination is a public problem, tied to the context and to personal relationships. For this reason the law seemingly opted for a sanction where discrimination occurs, *i.e.* in the reference social context.

The interest of the disabled to avoid discriminatory malpractices can be seen as the interest of an “oppressed minority group in society”, in accordance with the theory of the social model of disability<sup>27</sup>.

Someone may think that the judicial powers under paragraph 4 are already provided for by paragraph 3. I believe that such provision, instead, means that such law is aware that discrimination must be fought in the context where it happens.

## 7.2. the public sector

It must be said that there is a principle in Italian law for which no one can order to public authorities to make something, not even courts, because Italian public authorities should be independent on any external power.

In this respect, application of the substantive equality principle may probably better address a correct interpretation of the law provision. Under European Law principles, the Italian government has a duty to comply with the substantive equality principle.

The main concern in such regard is that Italian scholars may base on the prohibition for courts to impose direct obligations on public authorities, so as to deny to disabled people the due protection in case of infringements made by public authorities.

In this event, Italian courts would certainly have a duty to cease to apply (so called “disapplication”) the domestic provision conflicting with the European Union law.

It is worth in this regard to recall the notion of *disapplication* of the domestic provision conflicting with European law, because such disapplication purely consists of imposing an obligation to public authorities to do something specific.

In this case, conflict between domestic provision (on which a public authority has base its actions) and a European law gives rise to a legal duty of such public authority to disapply the domestic contrasting provision, or, in other words, to act differently.

Such an example shows that it is reasonable to deem that, given that ascertainment by courts of a breach of the anti-discrimination provision causes an order to the relevant public authority to act in a certain way, courts are actually entitled to order to such public authority to comply with the anti-discrimination provision, and to set

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<sup>27</sup> See OLIVER, M. (1990). *The Politics of Disablement*. Basingstoke: Macmillan. OLIVER, M. (1996). *Understanding Disability: from theory to practice*. Basingstoke: Macmillan; PRIESTLEY, M. (2003): *Disability: A life course approach* (Cambridge, UK: Polity

out suitable measures in order to allow such compliance. Courts can order the **adoption of a plan for the removal of discrimination**, to be completed within a term. Such a provision takes into account that discrimination may arise due to a variety of factors, and that such factors must be removed and faced through a suitable planning and understood as a whole.

Plans for the removal of discrimination can probably still comply with the above described Italian law principle under which no one can impose obligations on public authorities. Such order to adopt a removal plan is not an order to adopt a specific behaviour, but could be seen as an order to comply with Law 67 in general.

Courts actually impose on public authorities just the duty to comply with the terms and conditions set out in Law 67. In addition, such an obligation would only regard the adoption of a plan, and such plan would be adopted by the public authorities in full independence and discretion, so that such authority would freely decide on contents and methods of the removal of the barriers. In this way, I think that the court order to public authorities to adopt a removal plan for barriers does not infringe the principle of independence of public administration in Italy.

In addition, in those cases where the prohibition of discrimination is stated by the law, it is hard to understand under what substantive justice criterion an unlawful behaviour of the public authorities can be deemed to be acceptable. This would indeed infringe rights stated in every treaty about human rights, and reckoned so far as basic principle of legal civilisation.

It cannot be forgotten, moreover, the special criminal sanction provided for in relation to the measures issued by courts in discrimination judgements.

### **8. Discrimination enacted by negligence of duty: will law no 67 help in enforcement of (existing) duties concerning Access?**

There are further issues that arise in relation to the provisions examined so far. Such issues are ancillary to those discussed above, but they seem essential for the purpose of properly understanding the terms and limits of the protection granted by law 67/2006. I will hereby give an outline of the issues still controversial, above all with respect to their respective implications, for the purpose of giving a framework of the most complex matters connected with the introduction of Law 67/2006 in the Italian legal system.

Italian legal system contains a number of duties related to certain behaviours. In some cases provisions have a general field of application (e.g., obligation to enter into a contract with anyone asks for it by public shops), in other cases provisions are directed to avoid that disabled people are in non favourable conditions (e.g., duty to build without architectural barriers: but there is not an explicit duty of positive actions in terms of adjustments for private service providers or citizens<sup>28</sup>).

There is no doubt that, as a matter of fact, the negligence of duty by the person in charge for the compliance with the provision causes a practical situation equal to the active conduct leading to discrimination under Law 67/2006. Can such events be deemed as falling within the provisions of Law 67/2006? This question turns to become, is it possible to challenge such events through the legal instruments provided for by Law 67/2006?<sup>29</sup>

<sup>28</sup> On the issue of positive obligations see OLIVER DE SCHUTTER, *Reasonable Accommodation and Positive Obligations in the European Convention of Human Rights in Disability rights in Europe from theory to practice* by ANNA LAWSON and CAROLINE GOODING Eds. Hart Publishing 2005

<sup>29</sup> It has been argued that "A law which simply prohibited direct and indirect discrimination against disabled people would therefore seem to be too blunt a tool with which to tackle the disabling barriers against people with impairments. It would not impose any clear obligation on employers, service providers and others to consider the particular person with an impairment who wished to work for them or to use their service and to identify methods by which any obstacles preventing their full participation could be circumvented

A deeper analysis shows that duties to enter into a contract and to remove architectural barriers already existed in the law regulating the subject matter. What is really interesting to examine is whether Law 67/2006 has introduced anything really new if compared to the pre-existing regulation.

Public law provisions, which regulate public authorities' relationships under Italian law, have proved to be largely insufficient to cover disabled people's needs. It was already provided for in Italian law that public buildings' restructuring had to comply with accessibility requirements.

**But if compliance would have lacked, law did not provide disabled citizens with any remedy suitable to force the public authorities (or private subjects) to build or restructure the building in compliance with the law.**

Before Law 67/2006 the only remedy provided for by the Italian legal system was ( the public sanction which Public Administration shall apply i.e.,) **the closure of the unlawful building to the public**. A question then arises: why should a disabled person resort to such an abnormal remedy ( moreover useless indeed), given that it would not satisfy the practical access needs of the disabled person, and it would moreover prevent the public to use the said building.

Law 67/2006 outlined an instrument capable of greater practical effects, far from the old remedies only suitable to remove and prohibit. Before Law 67/2006 it was not clear whether the duties provided for in relation to the public building actually gave rise to a specific right of the disabled person.

Law 67/2006 has instead acknowledged and regulated a right of disabled people to not be discriminated.

Nor can be ignored that a new category of injury had recently been created, which is neither physical nor moral injury: **existential injury**, which occurs in situations which make life more difficult. The proper right of disabled people has now been acknowledged, so that those prior duties, formerly seen as simple duties under public/administrative law within the Italian legal system, became now actual criteria for the assessment of the awareness in the process of causing a damage event under a civil law point of view.

The connection between the fact that caused discrimination and the discrimination suffered by the disabled has a number of reasons. The causation relevant under Law 67 can also derive from negligence of duty, under the Italian criminal law principle for which *not avoiding an event that one has a duty to avoid equals to cause it*.

The acknowledgement of the right to not be discriminated implies that all of the traditional elements of the restoration obligation can be ascertained in this kind of duty: unlawful behaviour; causation connection; and injury, even in the discrimination cases caused by negligence of duty.

It is exactly in the discrimination cases caused by negligence of duty that the other legal instrument appears crucial: the adoption, by court, of *any other measure that the court may deem appropriate in order to remove the effects of the discrimination*.

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or removed". ( ANNA LAWSON, *Reasonableness and its Role in Disability Equality Law*, Paper delivered at a Research seminar for the ReasonableAcces EU Project, Leeds, April 2006). The argument, referred to UK legal system, is strong even in Italy (given the absence of positive duties of adjustments upon private subjects) but – as the courts should aim **to remove the effects of discrimination** (i.e. disadvantage) – the order issued at the end of trial can be to remove obstacles (this would be in accordance with the principles underpinning the Italian legal system).

The effects of the discrimination can only be removed by adopting the behaviours provided for by law 67/2006, *i.e.* by complying with those duties unlawfully neglected. Therefore, this is a way to actually obtain compliance with the law and respect for the disabled peoples' individual rights. It is clear that such a goal could not have been achieved through the previous destructive laws.

It is now appropriate to recall the concept of “**passive discrimination**”. I already said above that passive discrimination means discrimination following not to an act, fact of active behaviour, but a passive action, or omission, by a certain person. Such concept can be easily clarified, for the purposes of this paper, through a simple example.

Let us take into account administrative law and public bodies. In this field, it is strongly unlikely that discriminatory active acts or facts are made. Civil law scholars have observed that it is easy to assume that no public officer would ever enact discriminatory behaviours. It is more likely that public bodies enact policies which are actually, but not formally, discriminatory<sup>30</sup>.

With reference to this notation from Morozzo Della Rocca, it can be added that those acts, “seemingly neutral”, which lead to a practical discrimination are the object of paragraph 3 of article 2 of Law 67/2006, under the concept of indirect discrimination.

It is interesting moreover to recall a comment to a recent decision issued in relation to judicial venue as regards cognizance of unlawfulness of a discriminatory administrative act. Many legal scholars believe that ordinary civil courts (which are different to the so called *administrative* courts under Italian law) can not censure public authorities' behaviour. This opinion is nevertheless not shared by all. Neither do I agree with it.

Traditional view is based upon a distinction of *legal subjective position* amongst individual rights (*diritti soggettivi*), traditionally falling under ordinary jurisdiction, and legitimate interests (*interessi legittimi*), falling under the so called *administrative* jurisdiction.

Such a distinction, typical of Italian law, should be soon replaced by new legal categories deriving from European Union law. I think that it should be appropriate to better outline the allocation of *ordinary* and *administrative* jurisdiction. This would certainly push courts to better assess the behaviours enacted by public authorities, by virtue of their role as guardian of individual rights. And this would probably leave behind the obscure category of *legitimate interests*.

In the subject matter law definitely wanted to devote to ordinary courts any assessment power on whether certain behaviours are discriminatory or not. It is also clear that the law intended not to provide for any distinction based upon the nature of the individual rights as individual rights (*diritti soggettivi*) or legitimate interests (*interessi legittimi*).

I therefore believe that courts shall only comply with the law if they will verify each and every step of the behaviour enacted by the public authorities.

## 9. A final word Public authorities attitudes and new hopes

Law 67 eventually shows a different attitude in regulating disability issues. It for the first time provides discrimination towards disabled as a civil law injury<sup>31</sup>.

<sup>30</sup> see P. MOROZZO DELLA ROCCA *Gli atti discriminatori nel diritto civile*, cit.

<sup>31</sup> Likewise, in the context of racial discrimination, see P. MOROZZO DELLA ROCCA *Gli atti discriminatori nel diritto civile*, cit.



As a consequence, it is crucial to understand the difference between *illegitimacy* and *unlawfulness* of behaviours enacted by public authorities in breach of the principle of equality.

Some legal scholars have commented on the consolidated act on immigration. It is useful to recall such comments here, given that Law 67 introduces those remedies provided for in the immigration matter as regards disability issues. It has been said that, during the past few years of application of legislative decree 286/1998, actions taken by public authorities have not been easily challenged, due to Italian traditional law principles<sup>32</sup>. The consolidated act on immigration could have nevertheless been a good occasion for Italian courts to make decisions also towards public authorities, because the immigration law had vested courts with the power to judge over every case of discrimination, even if caused by public bodies.

As a matter of fact, the results of the application of the immigration consolidated act were not positive. No condemnation judgements have been issued so far by Italian courts for a public authority discriminatory behaviour towards immigrants.

I therefore believe that such lack of effectiveness could also occur in discrimination cases regarding disabled people, under Law 67/2006. Italian courts just seem not brave enough.

Such aspect plays a relevant role in the effectiveness of the protection granted by Law 67. Theoretical individual rights are now better set out, but practical measures against discrimination are far away to be enforced. Solution of such problem is up to the Italian legal system. It should be considered in priority over the application aspect, which is the court's duty. I strongly believe that law should clarify this point, so that courts are pushed to acknowledge disabled peoples' individual rights.

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<sup>32</sup> *Ibidem*.

**ANNEX I****Law no. 67 of 1 March 2006<sup>33</sup>****Provisions for judicial protection of persons with disabilities, victims of discrimination.  
(Italian Official Journal No. 54 of 6 March 2006)<sup>34</sup>**

The Chamber of Deputies and the Senate of the Italian Republic have passed;

THE PRESIDENT OF THE ITALIAN REPUBLIC

Carries

the following law:

**Article 1**

(Aims and scope)

1. This law, under the terms of article 3 of the Constitution, promotes the full implementation of the principle of equal treatment and equal opportunity towards persons with disabilities covered by article 3 of Law No. 104 of 5 February 1992, in order to ensure them the full enjoyment of their civil, political, economic and social rights.
2. In case of discrimination against persons with disabilities concerning job access and working conditions, the provisions, contained in the law-decree No. 216 of 9 July 2003, implementing the Directive 2000/78/CE on equal treatment in employment and working conditions, are maintained

**Art. 2**

(Context of discrimination)

1. The principle of equal treatment implies that no discrimination can be applied to persons with disabilities.
2. Direct discrimination occurs when, due to disability, a person is treated less favourably than the way a non-disabled person is, has been or would have been treated in a similar situation.
3. Indirect discrimination occurs when an apparently neutral provision, criterion, practice, act, pact or behaviour put a person with disabilities in a disadvantaged position with respect to other persons.
4. Discriminations are to be considered also those harassments, i.e. undesired behaviours and acts put into being in connection with disability which violate the dignity and freedom of a person with disabilities and create a feeling of intimidation, humiliation and hostility against this person.

**Art. 3**

(Judicial protection)

1. The judicial protection against acts and behaviours under the terms of article 2 of the present law is provided according to provisions of article 44, paragraphs 1-6 and 8, of the law containing provisions concerning immigration and rules on conditions of foreign people, covered by the law-decree No 286 of 25 July 1998.
2. The complainant, in order to demonstrate the existence of a discriminatory behaviour against his prejudice, may bring before the court matters of fact, which need to be serious, precise and consistent, to be evaluated by the judge under the terms of article 2729, first paragraph, of the Civil Code.
3. By accepting the appeal, the judge, provides, if requested, for the compensation for damages, even when no financial loss is involved, and orders the termination of the behaviour, conduct or discriminatory act, if still existing, and adopts any adequate measure, according to circumstances, to remove the effects of discrimination, including the adoption, prior to the expiration of the time limit established in the measure itself, of a plan for the removal of the identified discriminations.

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<sup>33</sup> Text in force from 21 March 2006

<sup>34</sup> Non official translation edited by Ginevra Peruginelli from:  
<http://www.ittiq.cnr.it/BancheDatiGuide/Disabilita/LawNo67of1March2006.html>

4. The judge may order, only once, on a national leading daily newspaper or on one of the major daily newspaper having a very wide circulation on the territory, the publication of the measure under paragraph 3, at the expense of the defendant.

Art. 4

(Legitimation to act)

1. The organisations and bodies, on the basis of their statutory mission and stability, identified by the law-decree of the Ministry for equal opportunity, jointly with the Ministry of Work and Social Policy are as well allowed to act in the discriminated person's own name and behalf. Such ability is regulated by article 3, provided these organisations are delegated before a notary public or through a private authorised signed document, otherwise nullity shall be declared.

2. Those organisations and bodies under paragraph 1 may participate in trials for sustained damage by persons with disabilities and present an administrative plea claiming the nullity of acts adversely affecting those persons' interests.

3. Those organisations and bodies under paragraph 1 are also admitted to act against discriminatory acts covered by paragraphs 2 and 3 of article 2, when these are addressed against a whole category of persons.

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This law, equipped with the State seal, will be part of the Official Collection of normative acts of the Italian Republic. Everybody is obliged to observe it and make it observed as a law of the State.

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