



THE PECULIARITIES OF CIVIL JUDICIAL PROTECTION AGAINST DISCRIMINATION

The work deals with issues related to civil action against discrimination in the Italian legal system.

The author begins the analysis with the definition of the concept of “discrimination”. This is a notion that cannot be inferred from domestic law, but must be reconstructed on the basis of the regulatory sources of supranational law. There are numerous regulatory sources adopted by European institutions – most of all directives – that introduce various types of anti-discrimination measures, which the national legislator has subsequently incorporated into domestic law.

The first difficulty in identifying a form of judicial protection stems, on the other hand, from the absence of a single type of anti-discrimination action, since adaptation to the various directives has introduced a corresponding number of actions at the domestic level.

The paper then examines the main procedural issues arising from the bringing of anti-discrimination actions in the Italian legal system. First, the author examines the capacity to act; she then analyses the much-debated issue of the distribution of the burden of proof. The author then discusses the content of the court’s decision and its possible consequences in the domestic legal system.

The peculiarities of the proceedings and the interpretative solutions adopted in each case obviously take into account the numerous rulings of the European Court of Human Rights in relation to various cases of discrimination.