

[UNOFFICIAL AND DRAFT TRANSLATION
COMMISSIONED BY THE EQUAL RIGHTS TRUST]

The Law of Republic of

Armenia

On “Ensuring equality before the law”

Chapter 1

General Provisions

Article 1: The aim of the legislation and its subject of regulation

1. The purpose of this legislation is to create equal opportunities to implement the rights and freedoms of each individual and citizen without discrimination.
2. This legislation defines the concept of discrimination and its types, subjects and structures ensuring equality, as well as the status, issues and activities of the Equality Council.

Article 2: Legislation of Republic of Armenia in regards to ensuring equality before the law

1. The legislation of Republic of Armenia in regards to ensuring equality before the law consists of Armenian Constitution, international treaties ratified by the Republic of Armenia, the following law, RA Law on “Ensuring equal rights and opportunities for men and women”, other laws, as well as other legal acts, which have been prescribed by law.

Article 3: Prohibition of Discrimination

1. Discrimination is prohibited in political, economic, social, cultural and public life as well as other fields.
2. According to the legislation of Republic of Armenia, persons displaying discrimination are subject to disciplinary, civil-legal and (or) criminal liability.
3. Differentiated **անհաստատված**, different conditions and (or) situations might be created if it pursues a legitimate aim and is necessary in a democratic



society, however the means employed should be proportionate and appropriate.

Article 4: Discrimination and its types

1. Discrimination is an action, inactivity or a regulation that has been manifested by differentiation, exclusion, limitation or preference towards one's rights and freedoms, without a reasonable relationship of proportionality and necessity between the legitimate aim pursued and the means employed based on one's sex, race, colour of skin, ethnic and social origin, genetic features, language, religion, worldview, political or other views, belonging to national minority, property status, birth, disability, age or other personal or social circumstances, actual or perceived.
2. Different types of discrimination are the following: direct discrimination, indirect discrimination, incitement to discrimination, harassment, segregation, victimisation and associativediscrimination.
3. Temporary special measures and reasonable accommodation do not constitute discrimination. The procedure, timing and other specific processes related for reasonable accommodation are regulated by the legislation of the Republic of Armenia.

Article 5: Basic concepts used in law

1. In this legislation the following concepts are used:
 - 1) **Person:** Physical person, as well as a legal person, to a degree that this legislation defines his right and freedom, which is obtainable by a legal person, groups of people, who have common protected characteristics.
 - 2) **Protected Characteristics:** According to the above Act's 4th chapter, article 1, there are one or a few, as well as other personal or social characteristics.
 - 3) **Direct Discrimination:** It is a behaviour towards an individual as a result of which the person appears in a less favourable situation than the other person in similar circumstances because of one or other protected characteristics or other characteristics associated with them. Women can be the subject of less favourable treatment because of being pregnant or becoming a mother.



- 4) **Indirect discrimination:** Apparently neutral politics, treatment, conditions, standards, or practices, which if applied, a person, on grounds of one or more protected characteristics or in association with them, is placed in considerably less favourable situation compared to other persons in similar circumstances or which has disproportionately adversely affected a group of people; or an equal treatment with respect to persons who are in nature in different conditions, with the exception of cases when application of such policies, treatment, conditions, of standards and practices pursues a legitimate aim, is necessary in a democratic society and means employed are proportionate.
- 5) **Incitement to discrimination:** an order, instruction or a call directed to a person to discriminate against another person.
- 6) **Harassment** unwanted treatment against a person on grounds of one or more protected characteristics or in association with them, with the effect or purpose of creating unfriendly, hostile, offensive, humiliating or rejecting atmosphere for that person.
- 7) **Segregation:** is expressed by a decision, action or inaction, which directly or indirectly which directly or indirectly results in differentiation, separation, distinction of a person or group of persons from other persons on grounds of certain characteristics, without legitimate purpose, objective grounds or reasonable proportionality.
- 8) **Victimisation:** Intentional action or inaction, which has resulted in negative consequences for the person who filed an appeal or complaint to competent authorities for the protection of his or her rights under this law.
- 9) **Associative discrimination:** Discrimination against a person, who despite not having any of protected characteristics, is connected with a person by means of kinship, marriage or has any other links with a person or groups of people who have any of those characteristics.
- 10) **Temporary special measures:** Application of means by public bodies in regard to a person or a group of people, objective of which is to eliminate the inequality against a person or a group of people by ensuring restoration and observance of equality with other members of the society.



Article 6: Interpretation of the law

1. The provisions of this Law shall be interpreted in the light of the special care of the state towards the family, as a natural and fundamental unit of the society, rights related to the freedom of religion of religious organisations the exclusive mission of the Armenian Apostolic Holy Church, which is stipulated by the Constitution of the Republic of Armenia.

Article 7: Ensuring Equality before the law

1. The subjects ensuring equality before the law are the following:
 - 1) state and local self-governing bodies and their officials in exercising their powers as defined by the Constitution, laws and other legal acts of the Republic of Armenia ;
 - 2) Legal entities and individual entrepreneurs in exercising their functions and rights.
 - 3) The Human Rights Defender
2. In order to ensure equality, national, local self-governed bodies and legal entities should ensure that:
 - 1) Their activity, legal acts and internal regulations are in accordance with the legislation of the Republic of Armenia on equality before the law.
 - 2) In their activities, educational, informational and entertainment materials and in other publications exclude any discrimination and promotion of intolerance.
 - 3) By law and other legal acts, react to any alleged discrimination.
 - 4) In case the fact of discrimination is confirmed, impose liability on persons having manifested according to law and their internal provisions, and ensure elimination of consequences of discrimination in accordance to the scope of their powers and functions.

Article 8: Legal and judicial protection against discrimination

1. Each individual who has any foundation to think that he/she has been subject to, has the right to apply to court, the Human Rights Defender or a respective



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administrative body to restore his rights and demand compensation for financial and moral damages.

2. Any negative attitude or oppression against a person who has applied to relevant bodies to be protected from discrimination is prohibited.
3. The authority considering the complaint on discrimination must ensure the immunity of applicant's private and family life in accordance with the requirements of the law of the Republic of Armenia on "Personal Data Protection".

Article 9: Distribution of burden of proof

1. When reviewing a complaint about the discrimination by the court, the Human Rights Defender or other State body, the applicant or the plaintiff represents the data and arguments that seem to justify discrimination and the obligation to prove the absence of discrimination is brought to the defendant or to the person against whom the complaint is made.

Chapter 2

Ensuring Equality before the law in separate fields

Article 10: Prohibition of discrimination in employment field:

1. In employment settings it is prohibited to demonstrate any distinction, exclusion, restriction or preference against a person without objective reason, as a result of which the working relationship is violated and the person is deprived of equal rights and opportunities compared to others.
2. National and local self-governed bodies and legal persons should exclude discrimination in employment relations, amongst which are the following sectors:
 - 1) Job announcement and competition
 - 2) Accepting employment, transfer to another job and promotion
 - 3) Probation and training
 - 4) Working conditions of the employee
 - 5) Salary, additional remuneration, guarantees and rewards



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- 6) Disciplinary liability
 - 7) Termination of employment relations
 - 8) Providing information on employment relations
 - 9) Membership in trade unions
3. The actions mentioned in the first part of this article are not discrimination, as long as they stem from inherent occupational requirements. Inherent occupational requirements shall mean, distinction, exclusion, restriction or privilege deriving from the nature and peculiarities of a particular occupation, constitutes substantial and determining occupational requirement, if such a requirement pursues a legitimate aim and is proportionate.

Article 11: The responsibilities of the employer in the field of ensuring equality before the law

1. In the field of ensuring equality before the law the employer must:
 - 1) In work relationships apply, protect and promote equality before the law, ensure equal opportunities and prohibit any type of discrimination.
 - 2) Take actions in work relationships aimed at preventing discrimination and imposing liability against people who have manifested discrimination.

Article 12: Prohibition of discrimination while supplying publicly available products and services

1. Discrimination is prohibited while supplying publicly available products and services.
2. The prohibition of discrimination as defined in this chapter applies to those legal relationships that are formed in promotion of goods and services in the following areas:
 - 1) Public Services.
 - 2) Medical care and services offered to the public.
 - 3) Social Security and assistance.
 - 4) Banking Services, insurance, grants, loans, credit and financial services.
 - 5) Transport services.
 - 6) Culture, entertainment services and sport.
 - 7) Real estate purchase and renting.



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8) Commercial and specialist activities.

9) Education and Science.

Article 13: Prohibition of discrimination while involved in economic activities

1. Discrimination is prohibited in economic activities, including the following:

- 1) Registration of a legal person or individual entrepreneur
- 2) Tax and credit policy.
- 3) Inspections and supervision.
- 4) Suspension, termination and liquidation of a business.

Chapter 3

Council of Equality

Article 14: Status and members of Council of Equality

1. The Council of Equality is consultative body adjunct to the Human Rights defender, the purpose of which is to assist the Human Rights defender with ensuring equality and protection from any type of discrimination. The Equality Council is based on principles of equality, impartiality, publicity, transparency, accessibility and representation.
2. The Equality Council shall be established by the constitutional law of the Republic of Armenia On "The Human Rights Defender" and in the manner prescribed by this Law and shall operate on the basis of these laws, the Rules of Procedure of the Equal Rights Council and other legal acts.
3. Equality Council is made of at least 7 members, who are selected for a period of 3 years by the Human Rights Defender and can be re-appointed for one time only, they work on voluntary basis. The Human Rights Defender selects the members of the Council who are human rights activists and scientists.
4. Human Rights Defender confirms the Rules of Procedure of the Council of Equality.
5. The Equality Council shall carry out its activities through sittings at least once a month.
6. The organisational and technical aspects of the work of the Equality Council shall be ensured by the Secretariat of the Office of the Human Rights Defender.

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Article 15: Election of members of Equality Council

1. The procedure for applying to become a member of the Equality Council shall be published at least 30 days before the deadline for submitting an application on the Human Rights Defender's website.
2. Applications for inclusion in the Equality Council are submitted both by non-governmental organizations and by self-nomination.
3. An application for the appointment of a member of the Equality Council may be submitted by people who:
 - 1) Are a citizen of Republic of Armenia.
 - 2) Have at least three years of experience in the field of human rights defence or scientific work related to protection of human rights.
 - 3) Are not a member of a political party.
4. Biography of the applicants will be published on the Human Right's Defender's website.
5. In case of early termination of the powers of a member of the Equality Council, an application for a vacant position shall be submitted in the manner prescribed by this Article if the number of board members is less than the minimum number specified in Article 14 (3) of this Law.

Article 16: Termination of powers of members of Equality Council

1. Human Rights Defence can terminate the powers of members of Equality Council earlier if:
 - 1) The member of the council applies for it.
 - 2) The citizenship of Republic of Armenia is terminated or
 - 3) Death of a member of the council, being declared absent or deceased by court verdict entered into force,
 - 4) conviction for a crime committed intentionally by a court verdict or
 - 5) violating the requirements of the law, as well as the work of the Equality Council



Article 17: Equality Council's objectives and functions:

1. The objectives of the Equality Council are to assist The Human Rights Defender with implementation of equality and equal opportunities and prevention and elimination of discrimination in the Republic of Armenia
2. Equality Council:
 - 1) Shall assist the Human Rights Defender in considering the complaints relating to the areas prescribed by Part 1 of the present article and shall present its advisory opinion to the Human Rights Defender relating to violations identified therein.
 - 2) If necessary, shall submit to the Human Rights Defender the recommendations to carry out the specific powers reserved by the Constitutional Law of the Republic of Armenia "On the Human Rights Defender". The Council may also recommend the Human Rights Defender to submit to the Constitutional and Cassation Courts of the Republic of Armenia an amicus curiae about the discrimination cases.
 - 3) Shall also assist the Human Rights Defender in:
 - a. providing consultation to organisations as well as state and local self-governing bodies.
 - b. raising public awareness to prevent all forms of discrimination.
 - c. conducting research and studies about discrimination as well as developing the Human Rights Defender's annual in regard to issues of equality and elimination of discrimination.

Chapter 4

FINAL AND TRANSITIONAL PROVISIONS:

Article 18: Final and transitional provisions

1. This law will be in power 10 days after its official publication.
2. The Human Rights Defender, within two months after enforcing this law, shall form the Equality Council and initiate its first sitting.



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The law of Republic of Armenia on

«Making amendments in the Civil Procedure Code of of the Republic of Armenia»

Article 1: Article 48 (1) of the Civil Procedure Code of the Republic of Armenia of June 17, 1998 shall be supplemented with the new sentence as follows: "When considering a complaint in relation to discrimination, the plaintiff presents data and arguments that seem to justify discrimination. The obligation to prove the lack of discrimination is the responsibility of the defendant."

Article 2: This law is enforced 10 days after its official publication.

The law of Republic of Armenia

«Making amendments in the Administrative Procedural Law of the Republic of Armenia»

Article 1: To add Article 29 (2) of the Administrative Procedure Code of the Republic of Armenia of December 5, 2013 to the following new paragraph 5:

«5) Complaint on discrimination and discriminatory evidence and evidence of any alleged discrimination against the defendant in regards to absence of discrimination»:

Article 2: This law is enforced 10 days after its official publication.

The law of Republic of Armenia on

«Making amendments in the Civil Code of Legislation of the Republic of Armenia»

Article 1: Add new Article 162.1(2) of the Civil Code of the Republic of Armenia of 5 May 1998 (hereinafter referred to as the Code) with the following new paragraph 10: "The right to not be subject to discrimination".

Article 2: Replace "9" with "10" in Point 2 of Part 7, Article 1087.2 of the Code.

Article 3: This law will be enforced 10 days after its official publication.



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