

ANNEX:

Ministry of Justice

DRAFT

**The Law of the Republic of  
Armenia  
“On Ensuring Equality Before the Law”  
Chapter 1  
General Provisions**

**Article 1. The aim of the law and subject of regulation**

1. The purpose of this law is to ensure equal opportunities for implementation of the rights and freedoms of every individual and citizen with no discrimination.

2. This law defines the concept of discrimination and its types, subjects and mechanisms for ensuring equality before the law, as well as the status, objectives and activities of the Equality Council.

**Article 2. Legislation of the Republic of Armenia on ensuring equality before the law**

1. The legislation of the Republic of Armenia on ensuring equality before the law consists of Constitution of the Republic of Armenia, international treaties ratified by the Republic of Armenia, the present law, RA Law on “Ensuring equal rights and opportunities for men and women”, Constitutional Law of the Republic of Armenia "On Human Rights Defender", other laws, as well as other legislative acts in cases prescribed by law.

**Article 3. Prohibition of Discrimination**

1. Discrimination in political, economic, social, cultural and other areas of public life is prohibited.

2. Persons discriminating against others are subject to disciplinary, civil and/or criminal liability as per the legislation of the Republic of Armenia.

3. Differentiated treatment, different conditions and/or situations can be created if it pursues a legitimate aim and is necessary in a democratic society, and the means employed are proportionate and appropriate.

#### **Article 4. Discrimination and its types**

1. Discrimination is an action, inactivity, regulation, treatment or policy that has been manifested by differentiation, exclusion, limitation of or preference towards person's rights and freedoms, without a reasonable proportionality between the legitimate aim pursued, its necessity and purpose in a democratic society 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. Types of discrimination are: direct discrimination, indirect discrimination, incitement to discrimination, harassment, segregation, victimisation and associative discrimination and failure to provide reasonable accommodations to persons with disabilities.

3. Temporary special measures and reasonable accommodation are means to ensure equal treatment, equal rights and opportunities. The definition, procedure, timing and other specificities related to reasonable accommodation are regulated by the legislation of the Republic of Armenia.

#### **Article 5. Basic concepts used in law**

1. The following concepts are used in the present law:

1) **Person:** Physical person, as well as a legal person, to a degree the rights and freedoms defined in present law are applicable to the legal person, groups of people, who have common protected characteristics.

2) **Protected Characteristics:** one or more mentioned in part 1 of Article 4 of the present law, as well as other personal or social characteristics.

3) **Direct Discrimination:** a manifested behaviour, inaction, regulation, treatment or policy 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 more protected characteristics or other characteristics associated with those.

4) **Indirect discrimination:** Apparently neutral politics, inaction, regulation, treatment or policy, which, if applied, on grounds of one or more protected characteristics or in association with them, disproportionately adversely affects a group of people; or an equal treatment with respect to persons being in different conditions, with the exception of cases when conditions specified in Paragraph 2 of Article 4 of this law are applied.

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 results in differentiation, separation, distinction of a person or group of persons from other persons on grounds of certain characteristics, with the exception of cases when conditions specified in Paragraph 2 of Article 4 of this law are applied.

8) **Victimisation:** Intentional action or inaction, which has resulted in negative consequences for the person who filed an appeal or complaint to competent authorities or published a case of alleged discrimination for the protection of his or her rights in the frame of the present law.

9) **Associative discrimination:** Discrimination against a person, who despite not bearing any of the protected characteristics, is connected by means of kinship, marriage or has any other links with a person or groups of people who bear any of those characteristics.

10) **Temporary special measures:** Application of means by equality bodies in regard to a person or a group of people, aimed at eliminating the actually existing inequality between a person or a group of people and the society, and restoration and observance of equal opportunities with other members of the society.

## **Article 6. Ensuring Equality Before the Law**

1. The subjects of 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 before the law, national, local self-governed bodies and legal entities should:

- 1) Ensure, that their activities, legal acts and internal regulations are in accordance with the legislation of the Republic of Armenia on equality before the law.
- 2) Exclude any promotion of discrimination and intolerance in their activities, educational, informational and entertainment materials and in other publications.

3) React to any alleged discrimination as provisioned by the present law and other legislative acts.

4) In case the fact of discrimination is confirmed, according to law and their internal provisions impose liability on persons manifested discrimination, and ensure elimination of consequences of discrimination in within the scope of their powers and functions.

### **Article 7. Legal and judicial protection against discrimination**

1. Any individual who has foundations to think that he/she has been subject to discrimination, has the right to apply to the court, the Human Rights Defender or a respective administrative body to restore his/her rights, to demand compensation for material 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 protection of personal data of an applicant as per the provisions of the law of the Republic of Armenia on “Personal Data Protection”.

### **Article 8. Distribution of burden of proof**

1. When reviewing a complaint or claim about the discrimination by the court, the Human Rights Defender or other State body, the applicant or the plaintiff presents the data and arguments that *prima facie* justify existence of behavior qualified as discrimination or regulation, and the obligation to prove the absence of discrimination is brought to the defendant or to the person against whom the complaint is filed.

## **Chapter 2**

### **Ensuring Equality Before the Law in separate fields**

#### **Article 9. Prohibition of discrimination in working relations**

1. In working relations it is prohibited to demonstrate any distinction, exclusion, restriction or preference against a person without objective reason, as a result of which the equality before the law in working relationship is violated and the person is deprived of equal rights and opportunities compared to others.

2. National and local self-governing bodies, legal and physical persons should exclude discrimination in working 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, vacations and business trips
- 5) Salary, additional remuneration, guarantees and rewards
- 6) Disciplinary liability and promotions
- 7) Termination of employment relations
- 8) Providing information on working 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 derive 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 necessary to carry out the occupations..

4. In the field of ensuring equality before the law the employer must:

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

#### **Article 10. 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) Public Medical care and services.
- 3) Social Security and assistance.
- 4) Banking and Financial Services, insurance, grants.
- 5) Transport services.
- 6) Culture, entertainment services and sport.
- 7) Real estate purchase and renting.
- 8) Commercial and professional activities.
- 9) Education and Science.
- 10) Media.

## **Article 11. Prohibition of discrimination in economic activities**

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

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

## **Chapter 3**

### **Equality Council**

#### **Article 12. Status and members of Equality Council**

1. The Equality Council is a consultative body adjunct to the Human Rights Defender, with a purpose to assist the Human Rights Defender in 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 as per provisions of the present Law, and shall operate on the basis of these laws, the Rules of Procedure of the Equality Council and other legal acts.

3. The Equality Council consists 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 among human rights activists and scientists.

4. The Equality Council shall carry out its activities through sessions, called up on at least once a month.

5. The organizational and technical aspects of the work of the Equality Council shall be ensured by the Secretariat of the Office of the Human Rights Defender.

#### **Article 13. Selection of members of Equality Council**

1. The procedure for applying to Human Rights Defender to become a member of the Equality Council shall be published on the Human Rights Defender's website at least 30 days before the deadline for submitting an application.

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 person, who:

- 1) Is a citizen of the Republic of Armenia.
- 2) Has at least three years of experience in the field of human rights defence or at least 5 scientific works related to protection of human rights.
- 3) Is not a member of a political party.
- 4) Has conviction for an intentionally committed crime or the conviction is quashed or extinguished.

4. Biography of the applicants shall 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 members of the Council is less than the minimum number specified in part 3 of Article 14 of the present Law.

#### **Article 14. Termination of powers of members of Equality Council**

1. Human Rights Defender 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 an intentionally committed crime by a court verdict or
- 5) Violating the requirements of the law, as well as The Rules of Procedure of the Equality Council

#### **Article 15. Equality Council's objectives and functions:**

1. The objectives of the Equality Council are to assist The Human Rights Defender in his activities towards ensuring equality before the law and prevention of discrimination in the Republic of Armenia

2. The 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 (by the permission of the complainant) 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 a supportive position (amicus curiae) on the discrimination cases to the Constitutional and Cassation Courts of the Republic of Armenia based on a request by the latter.

3) Shall assist the Human Rights Defender also in:

a. Sending consultative explanations and recommendations for the purpose of summarizing the results of the study based on the results of the studies and analysis of information on human rights and freedoms to national and local self-government bodies, organizations and their officials

b. raising public awareness to ensure equality before the law and protect from all forms of discrimination and prevent all forms of discrimination.

c. conducting research and studies about discrimination as well as developing the Human Rights Defender's annual report in regard to issues of equality and elimination of all forms of discrimination.

## **Chapter 4**

### **FINAL AND TRANSITIONAL PROVISIONS**

#### **Article 16. Final and transitional provisions**

1. The present law enters into force on the 10<sup>th</sup> day after its official publication, with the exception of Article 8, which shall enter into force six months after the date of its official publication.

2. The Equality Council shall be formed and its first session shall be initiated within six months after entering into force of this Law.

3. Provisions concerning reasonable accommodations shall enter into force within the timeframes prescribed by the legislation of the Republic of Armenia.



**THE LAW OF THE REPUBLIC OF ARMENIA  
“ON MAKING SUPPLEMENTS TO THE ADMINISTRATIVE PROCEDURE CODE  
OF THE REPUBLIC OF ARMENIA”**

**Article 1.** Complete Section 5 of the Administrative Procedure Code of the Republic of Armenia of 5 December 2013 with Chapter 31.4 with the following content:

**CHAPTER 31.4**

**DISCRIMINATION PROCEEDINGS**

**Article 1. Discrimination Cases**

Discrimination cases shall be subject to the jurisdiction of the Administrative Court in the course of implementation of administrative action.

**Article 2. Applying to the Administrative Court**

1. Any natural person may apply to the Administrative Court with discrimination cases, if he/she considers that in the course of implementation of administrative action his/her rights and freedoms envisaged by the Law "On Ensuring Equality Before the Law" of the Republic of Armenia have been violated by an administrative action body or its official through adopted administrative act or committed act or inaction. including if:

- a. obstacles have been raised to implement these rights and freedoms;

b. necessary conditions for the implementation of the rights were not provided, but they are to be provided due to the Constitution, international treaties, law or other legal acts;

- 2) he/she has been illegally imposed a liability on;
- 3) he/she has been illegally imposed an administrative liability on.

2. Persons in protected characteristic groups, as well as legal entities, may also apply to the Administrative Court with discrimination cases, insofar as the rights and freedoms provided by the legislation on ensuring equality before the law of RA are applicable to them.

### **Article 3. Requirements for Statement of Claim on Discrimination Cases**

1. Statement of claim on discrimination cases, among the requirements of Article 73 of this Code, shall also include:

- 1) data and facts on a case that he/she qualifies or considers as discriminatory;
- 2) evidence, if any, proving discriminatory nature of the case;
- 3) claim of a plaintiff for restoration of his/her rights, compensation for material and non-material damage.

2. Regarding cases provided for in this Chapter, the plaintiff provides data and facts that substantiate the case that he/she qualifies or considers as discriminatory, and the defendant is obliged to prove the circumstance excluding discrimination.

### **Article 4. Judicial Acts of the Administrative Court on Discrimination Cases**

1. On cases provided for in this Chapter, the Administrative Court shall make one of the following judicial acts:

- 1) on restoration of rights of the plaintiff;
- 2) on imposing an obligation to compensate the plaintiff for material and non-material damages.

**Article 5.** This Law shall enter into force on the day following its official publication.

**THE LAW OF THE REPUBLIC OF ARMENIA  
“ON MAKING SUPPLEMENTS TO THE CIVIL PROCEDURE CODE OF THE  
REPUBLIC OF ARMENIA”**

**Article 1.** Complete Article 202 (1) of the Civil Procedure Code of the Republic of Armenia of 9 February 2018 (hereinafter referred to as “Code”) with Paragraph 8 with the following content:

"8) Discrimination cases."

**Article 2.** Complete the Code after Chapter 27.1 with Chapter 27.2 with the following content:

**CHAPTER 27.2  
DISCRIMINATION PROCEEDINGS**

**Article 234.5. Terms of Examination of Discrimination Cases**

1. Discrimination cases are heard and resolved within three months after the statement of claim was accepted.

**Article 234.6. Requirements for Statement of Claim**

1. The plaintiff includes in the statement of claim such facts and arguments, that substantiate the case that he/she qualifies or considers as discriminatory, and the defendant is obliged to prove the circumstance excluding discrimination.

2. The plaintiff may include in the statement of claim an obligation for the defendant to eliminate discrimination consequences, as well as a claim on compensating for damages.

**Article 234.7. Acceptance of Statement of Claim**

1. The court shall decide on the issue of acceptance of the statement of claim within three days after its submission.

**Article 234.8 Deadline for the Response to the Statement of Claim**

1. The response to the statement of claim is provided within one week after receiving the decision on accepting the statement of claim.

**Article 234.9. Implementation of Special Provisional Measures**

1. In the event of obvious discriminative actions and the need to ensure equality before the law, the court may, at the request of a party, apply for special provisional measures within the Law "On Ensuring Equality before the Law".

**Article 234.10. Court Verdict on Discrimination Cases**

1. With the verdict on the full or partial satisfaction of the claim, the court recognizes the fact of discrimination, and in case of a relevant claim, the defendant shall be obliged to eliminate the consequences of discrimination, unless it is impossible to eliminate the consequences of discrimination.

**Article 3.** This Law shall enter into force on the 10<sup>th</sup> day following its official publication.

**THE LAW OF THE REPUBLIC OF ARMENIA  
“ON MAKING AMENDMENTS AND SUPPLEMENTS TO THE CIVIL CODE OF  
THE REPUBLIC OF ARMENIA”**

**Article 1.** Complete the Article 162.1 (2) of the Civil Code of the Republic of Armenia of 5 May 1998 (hereinafter referred to as “Code”) with Paragraph 10 with the following content:

"10) right of being protected from discrimination".

**Article 2.** Replace "9" with "10" in 7 (2) of Article 1087.2 of the Code.

**Article 3.** This Law shall enter into force on the 10<sup>th</sup> day following its official publication.

**THE LAW OF THE REPUBLIC OF ARMENIA**  
**"ON MAKING SUPPLEMENTS TO THE CONSTITUTIONAL LAW 'ON THE**  
**HUMAN RIGHTS DEFENDER'"**

**Article 1.** Complete Article 2 of the Constitutional Law of the Republic of Armenia HO-1-N of 16 December 2016 "On the Human Rights Defender" (hereinafter referred to as "Law") with Paragraph 5.

"5. The Defender shall: monitor the application of the provisions of the Law "On Ensuring Equality Before the Law", ensure equality, prevent all forms of discrimination and protect the rights of victims of discrimination within the powers specified in the Constitution and this Law."

**Article 2.** Complete the Law with Article 30.2.

**Article 30.2.** Powers of the Defender while ensuring equality

1. According to Article 2 (5) of this Law, the Defender shall be entitled to:

- 1) Monitor the application of the provisions of the Law "On Ensuring Equality Before the Law";
- 2) Make public reports on the rights of individuals subjected to discrimination;
- 3) Submit recommendations to the competent authorities on the development of legal acts on ensuring equality before the law or draft legal acts on ensuring equality before the law or corresponding practices;
- 4) Submit to the Constitutional and Cassation Courts a supplementary observation (*amicus curiae*) on discrimination cases on the basis of a request from that courts;
- 5) Exercise other powers prescribed by this Law.

2. A specialized subdivision shall be set up within the Defender's Staff in order to exercise the powers specified in Article 2 (5) of this Law.

**Article 3.** Complete Article 33 of the Law with Paragraph 4.

"4. According to the Law, the Defender establishes the Equality Council, which is an advisory body under the Human Rights Defender. The aim of the Council is to, within his/her jurisdiction, protect people from all forms of discrimination and ensure equality before the law. The Defender shall approve the procedure of the functioning of the Council."

#### **Article 4. Final and Transitional Provisions**

1. This Law shall enter into force on the 10<sup>th</sup> day following its official publication.
2. Article 30.2 (2) and Article 3 completed with Article 2 of this Law shall enter into force six months after the date of official publication.