

## **The Law of Ukraine On the principles of prevention and combating discrimination in Ukraine**

This Law determines organizational and legal principles of prevention and combating discrimination, aimed at ensuring equal opportunities for exercise of human and citizens' rights and freedoms.

### ***Article 1. Definition of terms.***

1. For the purposes of this Law the terms below shall have the following meaning:

1) antidiscrimination expertise - analysis of draft legal acts, as a result of which conclusion on their compliance to the principle of non-discrimination shall be given;

2) discrimination - a situation in which the individual and / or group of persons because of their race, skin color, political, religious or other beliefs, sex, age, disability, ethnic or social origin, nationality, and marital status, place of residence, linguistic or other features that existed, exist and can be real or imagined (the - some signs) suffered, incurred or may incur limitations in any form, established by this Law except the cases when such limitation has legal, objectively reasonable goal, ways to achieve what are appropriate and objective;

3) indirect discrimination - a situation where, as a result of the use of formally neutral law, evaluation criteria, rules, requirements or practices for the individual and / or group of persons because of their specific characteristics, have arisen or may arise less favorable conditions, except where their implementation or application is aimed at legitimate, objectively reasonable goals, which achievement ways are appropriate and necessary;

4) instigation to discrimination - directions, instructions or appeals to discrimination of individuals or groups of persons on the grounds of their certain attributes;

5) positive actions - special temporary measures implemented according to the Law and pursuing legitimate, substantiated objective aimed at elimination of legal and factual inequality in opportunities of individuals or groups of persons to exercise equal rights and freedoms vested in them by the Constitution and laws of Ukraine;

5<sup>1</sup>) aiding discrimination – any conscious aid in actions or omissions in the result of which discrimination emerged;

6) direct discrimination – situation in which a persons and/or a group of persons based on their particular features was treated, is treated or may be treated less favourable than with other person and/or a group of persons in similar situation, except the situations when its implementation or application is aimed at legitimate, objectively reasonable goals, which achievement ways are appropriate and necessary;

7) harassment - undesired for an individual or a group of persons behavior, objective or consequence of which is humiliation of their human dignity on the certain grounds or formation in respect of such person of tense, hostile, abusive or disrespectful environment.

### ***Article 2. Principle of non-discrimination in the legislation of Ukraine***

1. Legislation of Ukraine is based on the principle of non-discrimination, which provides for, regardless of particular attributes:

1) equality of rights and freedoms of individuals or groups of persons;

2) equality before the law of individuals or group of persons;

3) respect for dignity of every human being;

4) equal opportunities to individuals or groups of persons.

### ***Article 3. Legislation on prevention and combating discrimination***

1. Legislation on prevention and combating discrimination consists of the Constitution of Ukraine, this Law and other legal acts.

2. If an international treaty of Ukraine, consented by the Verkhovna Rada of Ukraine as binding, establishes other rules than provided for by this Law, the rules of international treaties shall take precedence.

#### ***Article 4. Scope of the Law***

1. This Law shall apply to the relationship between legal persons of public and private law whose physical location is registered on the territory of Ukraine and natural persons that stay within the territory of Ukraine.

Application of this Law shall extend to such spheres of public life:  
public and political activity;  
civil service and service in the bodies of local self-government;  
judiciary;  
labour relations, including the application of the principle of reasonable accommodation by the employer;  
healthcare;  
education;  
social security;  
housing relations;  
access to goods and services;  
other spheres of public life.

#### ***Article 5. Forms of discrimination***

1. Forms of discrimination are:  
direct discrimination;  
indirect discrimination;  
incitement to discrimination;  
aiding in discrimination;  
harassment.

#### ***Article 6. Prohibition of discrimination***

1. According to the Constitution of Ukraine, the universal principles and provisions of international law and international treaties of Ukraine all persons, regardless of their particular attributes, enjoy equal rights and freedoms, as well as equal opportunities for their exercise.

2. The forms of discrimination as defined in Article 5 of this Law, by public authorities, authorities of the Autonomous Republic of Crimea, local governments and their officials, legal entities of public and private law, or by individuals are prohibited.

3. Such actions, which do not restrict rights and freedoms of other persons and impair their exercise, as well as do not provide unjustified privileges to individuals and/or groups of persons on the grounds of their certain attributes, in respect of which positive actions are taken, shall not be regarded as discrimination, namely:

special protection by the state of particular categories of persons, that require such protection;  
carrying out of measures aimed at preservation of the identity of particular groups of people, when such measures are necessary;  
provision of subsidies to particular groups of people in cases, provided for by the law;  
provision of state social guarantees to particular groups of people;

special requirements, provided for by the law, in respect of exercise of certain rights of persons.

#### ***Article 7. Main directions of State Policy on preventing and combating discrimination***

The national policy on preventing and combating discrimination is focused on:  
prevention of discrimination;  
application of affirmative actions;  
creating conditions for the timely detection of discrimination and ensuring effective protection of persons and/or groups of persons who have suffered from discrimination;  
education and propaganda among the population of Ukraine of respect of persons regardless of their specific characteristics, increasing educational activities in this area.

#### ***Article 8. Anti-discrimination expertise***

1. Elaboration of legislative drafts shall be carried out with mandatory consideration of the principle of non-discrimination.

2. In order to identify the norms in drafts of pieces of legislation that contain elements of discrimination, the anti-discrimination expertise of drafts shall be carried out.

Results of the anti-discrimination expertise of drafts are subject to mandatory consideration when taking the decision on the adoption (approval) of the relevant piece of legislation.

Draft laws of Ukraine, acts of the President of Ukraine and other normative legal acts developed by ministries and other central executive authorities, public collegial bodies, authorities of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations are subject of compulsory anti-discrimination expertise.

3. The rules of conducting the anti-discrimination expertise by bodies of executive power shall be defined by the Cabinet of Ministers of Ukraine.

#### ***Article 9. Bodies vested with authorities in respect of prevention and combating discrimination***

1. Bodies vested with authorities in respect of prevention and combating discrimination shall include:

Verkhovna Rada of Ukraine;

Ukrainian Parliament Commissioner for Human Rights;

Cabinet of Ministers of Ukraine;

other state bodies, the bodies of power of the Autonomous Republic of Crimea, the bodies of self-government;

public organizations, legal and natural persons.

2. Bodies vested with powers in the sphere of prevention and combating discrimination in order to pursue the objective of this Law in their activity may take positive actions.

#### ***Article 10. Powers of the Ukrainian Parliament Commissioner for Human Rights in the sphere of prevention and combating discrimination***

1. The Ukrainian Parliament Commissioner for Human Rights within the framework of execution of parliamentary control over observance of human and citizen's constitutional rights and freedoms and protection of rights of everyone staying in the territory of Ukraine and within its jurisdiction shall prevent any form of discrimination and take actions in order to prevent discrimination, namely:

exercise control over observance of the principle of non-discrimination in different spheres of public life, in particular in private sphere;

appeal to the court for discrimination, in order to protect the public interest, and personally or through a representative participate in litigation in the cases and manner as provided for by the law;

monitor and summarize results of observance of the principle of non-discrimination in different spheres of life;

consider petitions of individuals or groups of persons concerning discrimination;

record and generalize instances of discrimination in all spheres of life;

make proposals on improving legislation on preventing and combating discrimination, application or termination of application of positive actions;

issue opinions in cases of discrimination upon a court request;

elucidate in the annual report issues concerning prevention and combating discrimination and observance of the principle of non-discrimination;

cooperate with international organizations, and relevant bodies of foreign countries in the sphere of observance of international standards of non-discrimination;

exercise other powers, provided for by the Constitution and laws of Ukraine;

***Article 11. Powers of the Cabinet of Ministers of Ukraine in the area of prevention of and counteraction to discrimination.***

The Cabinet of Ministers of Ukraine:

- ensures unified state policy aimed at respect of the non-discrimination principle in all areas of public relations;
- directs and coordinates functioning of ministries, other central and local bodies of executive power related to ensuring prevention of and counteraction to discrimination;
- implements the non-discrimination principle when adopting legal acts;
- approves regulations on anti-discrimination expertise of draft legal acts by bodies of executive power;
- executes other powers in this area defined by the law.

***Article 12. Powers of other State bodies, bodies of the Autonomous Republic of Crimea and bodies of local self-government in the area of prevention of and counteraction to discrimination***

State bodies, bodies of the Autonomous Republic of Crimea and bodies of local self-government within their competence:

- make proposals on improving legislation related to prevention of and counteraction to discrimination;
- perform positive actions;
- implement the non-discrimination principle in their activities;
- cooperate with public associations on respect of non-discrimination principle;
- facilitate scientific researches in the area of counteraction to and prevention of discrimination;
- conduct educational activities related to counteraction to and prevention of discrimination.

***Article 13. Rights of public organizations, natural and legal entities in the sphere of prevention and combating discrimination***

1. Public organizations, natural and legal entities shall have the right to:

participate in drafting of decisions of state bodies, the bodies of power of the Autonomous Republic of Crimea and the bodies of local self-government in the sphere of prevention and combating discrimination;

delegate their representatives to consultative and advisory bodies on the question of prevention and combating discrimination in case of their creation under state bodies, the bodies of power of the Autonomous Republic of Crimea and the bodies of local self-government;

carry out a monitoring in respect of the issue of prevention and combating discrimination;

represent in courts the interests of individuals and groups of persons, that were discriminated;

carry out a public anti-discrimination expertise of draft legal acts;

carry out other activity in accordance with the legislation in the sphere of observance of the principle of non-discrimination.

2. Procedure of carrying out of anti-discrimination expertise of draft legal acts by the bodies, defined in this Article, is determined by the Cabinet of Ministers of Ukraine.

#### ***Article 14. Appeals against decisions, actions or inaction on discrimination***

1. A person who believes that he/she has suffered from discrimination shall have a right to appeal to the state bodies, authorities of the Autonomous Republic of Crimea, local governments and their officials, the VR Commissioner for Human Rights of Ukraine and/or to the Court in the manner prescribed by law.

2. The use of mentioned right cannot be a basis for prejudice and may not cause any negative effects on the person who uses such a right.

#### ***Article 15. Compensation of moral and material damage resulting from discrimination.***

1. A person has the right to compensation of material and moral damages caused by discrimination.

2. The procedure of compensation of material and moral damages shall be defined by Civil Code and other laws of Ukraine.

#### ***Article 16. Liability for violation of the legislation in the sphere of prevention and combating discrimination***

1. Persons liable for violation of the legislation on prevention and combating discrimination bear civil, administrative and criminal responsibility.