



On the Principles of Prevention and Counteracting Discrimination in Ukraine (Abstract text from 06.09.2012)

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Law of Ukraine

"On the Principles of Prevention and Counteracting Discrimination in Ukraine"

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The Law determines the organizational and legal principles for preventing and counteracting discrimination in order to ensure equal opportunities to exercise human and civil rights and freedoms.

Article 1 of the Law provides definitions of terms used in it. For example, discrimination is a decision, action or inaction that aims to create restrictions or privileges regarding a person and/or group of people based on their race, skin color, political, religious and other beliefs, gender, age, disability, ethnicity or social standing, family or financial status, place of residence, language or other factors (hereinafter referred to as "specific factors"), if they make it impossible to recognize and equally exercise human and civil rights and freedoms.

According to Article 2 of the Law, the legislation of Ukraine is founded on the principle of non-discrimination, which provides for the following, regardless of specific factors:

- ensuring the equality of rights and freedoms of persons and/or groups of people;
- ensuring the equality of persons and/or groups of people before the law;
- respect to the dignity of each person;
- ensuring equal opportunities for persons and/or groups of people.

According to Article 5 of the Law, there are following forms of discrimination:

- direct discrimination (decisions, actions or inaction that lead to a situation where a person and/or group of people receives less favorable treatment than other persons in the same situation, based on specific factors);
- indirect discrimination (decisions, actions or inaction, legal norms or evaluation criteria, conditions or practices that are formally equal, but in the course of their exercise or implementation may create restriction or privileges towards a person and/or a group of people based on specific factors; except for cases when such actions or inaction, legal norms or evaluation criteria are justified by the purpose of ensuring equal opportunities for separate persons or groups of people to exercise equal rights and freedoms granted to them by the Constitution and the Laws of Ukraine);
- enticing discrimination (orders, instructions or calls to discrimination against a person and/or group of people based on specific factors);
- repression (behavior undesirable for a person and/or group of people, the purpose or consequence of which is belittling their dignity based on specific factors, or creating a tense, hostile, offensive or contemptuous atmosphere for such person or group of people).

According to the Constitution of Ukraine, generally accepted principles and norms of international law and international agreements of Ukraine, all persons, regardless of their specific factors, have equal rights and freedoms, and equal opportunity to exercise them (Article 6 of the Law). Any forms of discrimination against persons and/or groups of people based on specific factors, on behalf of state authorities, bodies of power of the Autonomous Republic of Crimea, bodies of local self-government, their officials, or legal entities or natural persons are forbidden. Actions do not constitute discrimination if they do not restrict the

rights and freedoms of other persons, do not create obstacles for their exercise, and do not provide unfounded advantages to persons and/or groups of people based on specific factors, towards whom positive actions are taken, such as:

- special protection on behalf of the state for separate categories of people requiring such protection;
- measures aimed at preserving the identity of separate groups of people, if such measures are necessary;
- providing reliefs or compensations to separate categories of people in cases provided for by the law;
- establishing state social guarantees for separate categories of people;
- specific requirements to exercise certain human rights, as provided for by the law.

The main directions of state policy to prevent and counteract discrimination are determined in Article 7 of the Law.

Drafts of normative legal acts are prepared with obligatory consideration of the non-discrimination principle. In order to discover norms with signs of discrimination in drafts of normative legal acts, drafts of normative legal acts are subjected to anti-discrimination expert analysis. The result of anti-discrimination expert analysis of normative legal acts must be reviewed during the making of the decision to issue (adopt) the respective normative legal act. Drafts of Laws of Ukraine, acts of the President of Ukraine, and other normative legal acts prepared by the Cabinet of Ministers of Ukraine, central and local executive authorities, are subject to mandatory anti-discrimination expert analysis (Article 8 of the Law).

According to Article 9 of the Law, entities vested with authority to prevent and counteract discrimination are:

- the Verkhovna Rada of Ukraine;
- the Authorized Human Rights Representative of the Verkhovna Rada of Ukraine;
- the Cabinet of Ministers of Ukraine;
- other state authorities, the bodies of power of the Autonomous Republic of Crimea, and bodies of local self-government;
- community organizations, natural persons and legal entities.

The scope of authority of the above entities for preventing and counteracting discrimination is determined by Articles 10-13 of the Law.

Chapter III of the Law establishes liability for violation of legislation on preventing and counteracting discrimination.

The Law also introduces appropriate amendments to the Code of Administrative Proceedings of Ukraine, the Laws of Ukraine "On Collective Agreements", "On the Ukrainian Parliament Commissioner for Human Rights" and "On Court Fee".

Summary is prepared by Yaroslav the Wise Institute of Legal Information.

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