



# PUBLIC DEFENDER OF GEORGIA საქართველოს სახალხო ომბუდსმანი

## LAW OF GEORGIA

### ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION

#### **Article 1 - Purpose of the Law**

This Law is intended to eliminate every form of discrimination and to ensure equal rights of every natural and legal persons under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics.

#### **Article 2 - Notion and prohibition of discrimination**

1. All forms of discrimination shall be prohibited in Georgia.
2. Direct discrimination is the kind of treatment or creating the conditions when one person is treated less favourably than another person in a comparable situation on any grounds specified in Article 1 of this Law or when persons in inherently unequal conditions are treated equally in the enjoyment of the rights provided for by the legislation of Georgia, unless such treatment or creating such conditions serves the statutory purpose of maintaining public order and morals, has an objective and reasonable justification, and is necessary in a democratic society, and the means of achieving that purpose are appropriate.
3. Indirect discrimination is a situation where a provision, criterion or practice, neutral in form but discriminatory in substance, puts persons having any of the characteristics specified in Article 1 of this Law at a disadvantage compared with another persons in a comparable situation, or equally treats persons who are in inherently unequal conditions, unless such situation serves the statutory purpose of maintaining public order and morals, has an objective and reasonable justification, and is necessary in a democratic society, and the means of achieving that purpose are appropriate.
4. Multiple discrimination is discrimination based on the combination of two or more characteristics.
5. Any action carried out for the purpose of forcing, encouraging, or supporting a person to discriminate against a third person within the meaning of this article shall be prohibited.
6. Under the conditions provided for in this article, discrimination shall exist regardless of whether a person actually has any of the characteristics defined in Article 1, on the basis of which the person was discriminated against.





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7. Temporary special measures intended to accelerate de facto equality, especially in gender, pregnancy, and maternity issues, also, with respect to persons with limited capabilities, shall not be considered discrimination.

8. Any distinction, exclusion, or preference with respect to a particular job, activity, or sphere, based on its inherent requirements, shall not be considered discrimination.

9. Differential treatment, creation of different conditions and/or situations shall be permissible if there is an overwhelming state interest and the necessity of state intervention in the democratic society.

## **Article 3 - Scope of regulation of the Law**

The requirements laid down in this Law shall apply to the actions of public institutions, organisations, and to the actions of natural and legal persons in all spheres, only if the actions are not regulated by other legal acts, which are in conformity with the provisions of Article 2(2)(3).

## **Article 4 - Measures for eliminating discrimination**

In order to eliminate discrimination, any institution shall be obliged to:

- a) bring its activity, legal acts and internal regulations, if any, into conformity with this Law and other anti-discrimination legislation;
- b) respond promptly and efficiently to any alleged act of discrimination;
- c) if an act of discrimination is confirmed, impose liability on offenders under its control according to the legislation of Georgia and internal regulations, and ensure that the consequences of discrimination are eliminated without prejudice to the rights and legitimate interests of third persons.

## **Article 5 - Interpretation and scope of the Law**

1. No provision of this Law may be interpreted as restricting the rights of religious associations on the basis of freedom of religion (including the right to religious worship), provided that the exercise of those rights does not violate public order, public safety, or the rights of other persons.

2. No provision of this Law may be interpreted as contradicting the Constitution of Georgia and the Constitutional Agreement between the State and the Apostolic Autocephalous Orthodox Church of Georgia.

3. Measures aimed at eliminating discrimination or the exercise/protection of rights by a person or a group of persons with the characteristics set forth in Article 1 of this Law shall not violate public order, public safety, and/or the rights of other persons.





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4. The rights laid down in this Law shall not be exercised with the purpose or effect of inciting hostility among persons or groups of persons with the characteristics set forth in Article 1 of this Law.

5. No provision of this Law may be interpreted as annulling any other right or freedom provided for by an international treaty ratified by the Parliament of Georgia, or as limiting it to a greater extent than it is prescribed by the treaty itself.

### **Article 6 - Monitoring the elimination of discrimination and the process of ensuring equality**

1. The Public Defender of Georgia shall monitor issues regarding elimination of discrimination and ensuring equality.

2. To exercise the powers under the legislation of Georgia, the Public Defender shall:

a) discuss the applications and complaints of natural and legal persons or groups of persons, who consider themselves to be victims of discrimination;

b) examine acts of discrimination based on applications or complaints, as well as on his/her own initiative and make appropriate recommendations;

c) prepare and forward general proposals to relevant institutions or persons on the issue of preventing and combating discrimination;

d) for the purposes of this Law, prepare opinions regarding necessary legislative changes and submit them to the Parliament of Georgia as legislative proposals;

e) invite a victim of discrimination and an alleged discriminating person, and try to settle the case by mutual agreement of the parties;

f) submit recommendations to relevant institutions or persons to restore the rights of victims of discrimination if the parties fail to reach an agreement and if there is sufficient evidence of discrimination;

g) be authorised to apply to a court, as an interested person, according to the Administrative Procedure Code of Georgia, and request the issue of an administrative legal act or the performance of an action, unless an administrative body responds to or shares a recommendation and there is sufficient evidence of discrimination;

h) record and analyse statistical data on discrimination cases;

i) organise events to raise public awareness of discrimination;





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j) cooperate with various international governmental and non-governmental organisations, local non-governmental organisations and the representatives of local civil society on discrimination issues.

### **Article 7 - Special report of the Public Defender of Georgia**

1. The Public Defender of Georgia shall prepare and publish once a year a special report on combating and preventing discrimination, as well as on equality situation in the country.
2. A special report of the Public Defender of Georgia shall contain general evaluation, opinions, and recommendations on combating and preventing discrimination, as well as on equality situation in the country. The report shall also include information on detected serious violations and implemented measures.

### **Article 8 - Hearing a case by the Public Defender of Georgia**

1. A person who submits an application/complaint to the Public Defender of Georgia shall indicate the facts that provide grounds for the alleged discriminatory action and shall present relevant evidence.
2. A person shall submit the facts and relevant evidence to the Public Defender of Georgia that give reason to suspect discrimination, as a result of which the alleged discriminating person shall bear burden of proving that discrimination did not occur.
3. If the Public Defender of Georgia considers it to be necessary, it may schedule an oral hearing and invite both parties to settle the case by mutual agreement. If the case is settled by mutual agreement, the Public Defender of Georgia shall monitor the fulfilment of the obligations determined by the settlement agreement.
4. Any administrative, local self-government and state body (including the Prosecutor's Office, investigation and court bodies) shall be obliged to transfer materials, documents, other information and explanations related to the case hearing to the Public Defender within 10 calendar days after request as provided for by law. If information is provided voluntarily by private persons, the persons may request reimbursement of the expenses of making copies and postal service related to the provision of information.
5. The Public Defender of Georgia shall examine the application/complaint as determined by the legislation of Georgia.





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### **Article 9 – Decisions by the Public Defender of Georgia**

1. The Public Defender of Georgia shall suspend proceedings if due to the same alleged discrimination:
  - a) the dispute is pending in court;
  - b) administrative proceedings are under way;
  - c) criminal proceedings are under way.
2. The Public Defender of Georgia shall terminate proceedings if due to the same alleged discrimination:
  - a) there is a court decision on the case;
  - b) the act of discrimination was not confirmed after examination of the application/complaint.
3. If the Public Defender of Georgia confirms the act of discrimination after examining an application/complaint and if the consequences of the discrimination are not eliminated, the Public Defender of Georgia shall end the proceedings with a recommendation regarding activities to be performed to restore violated equality.

### **Article 10 - Application to the court**

1. Any person considering himself/herself to be a victim of discrimination, may bring a court action against the person/institution which he/she considers to have committed the discrimination and may claim for moral and/or material damages.
2. The procedure for bringing a court action is governed by the Civil Procedure Code of Georgia.

### **Article 11 - Participation of a third party in the proceedings**

1. An organisation, institution, or association, engaged in the protection of persons from discrimination, may apply to the Public Defender of Georgia with the request to be permitted as a third party in the trial provided for by this Law.
2. The Public Defender of Georgia may satisfy a request provided for by the first paragraph of this article only with consent of the person who considers himself/herself to be a victim of discrimination.

### **Article 12 - Protecting the persons using the procedures defined in this Law**

1. No person may be subject to any negative treatment or influence for submitting an application or a complaint to relevant bodies or for cooperating with them in order to protect himself/herself from discrimination.





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2. Relevant bodies shall ensure the confidentiality of the information related to victims of discrimination according to the Law of Georgia on Personal Data Protection during and after implementation of the procedures defined in this Law. Confidential information may not be given to a third person without consent of the victim of discrimination, unless otherwise directly defined by law.

3. If the requirements of this article are violated, the victim of discrimination may apply to the Public Defender of Georgia.

## **Article 13 - Entry into force**

This Law shall enter into force upon promulgation.

President of Georgia

Giorgi Margvelashvili

Kutaisi

2 May 2014

No 2391-II

