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EUROPEAN UNION FOR ARMENIA

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**Reasonable
accommodations for
employees with disabilities**





Although disability is caused by health problems, it is manifested as a result of interactions with the environment, as well as the attitude of society, **when full and effective participation in public life on an equal basis with others is hindered.**

For example, when studying, students with hearing or vision impairment might not be able to or might have difficulties in learning educational materials or participating in examinations without supportive technologies, despite having the same cognitive and analytical abilities as others. A machine operator who uses a wheelchair might not be able to perform their work if the machine can only be operated on while standing. While their skills and experience could allow them to be a leading specialist in conditions tailored to their needs.

Accordingly, **activities aimed at eliminating environmental barriers can minimize difficulties a person might encounter while working.**

Under the UN Convention on the Rights of Persons with Disabilities and the RA Law on the Rights of Persons with Disabilities, the Republic of Armenia undertook a number of obligations concerning the general design of buildings, **provision of accessibility of public transport, inclusive education, deinstitutionalization, employment, introduction of the practice of a personal assistant, and reasonable accommodations.** The State undertakes to ensure reasonable accommodations ranging from general accessibility to assuring rights of a specific individual. In order to implement this commitment, the State has introduced a system of incentives and responsibility.

In particular, on 23 February 2023, the RA Government approved the **Employment Promotion Action**, whereby it supports all employers who hire persons with disabilities. Employers who hire employees with first or second degree¹ disabilities for at least a year will **receive reimbursement for 12 months on end**. The reimbursement will amount to 100% of the employee's income tax, but shall not exceed 50 thousand AMD monthly.

In addition, **companies can receive a lump sum of 500 thousand AMD** to ensure reasonable accommodations for the employee.

According to Article 245 of the RA Labor Code, provision of workplace accessibility (provision of reasonable accommodations in the workplace) for employees with disabilities is safeguarded by law.

The term "**reasonable accommodation**" used in the RA Labor Code is defined in the RA Law on the Rights of Persons with Disabilities as necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.² At the same time, the law enshrines that refusing to ensure reasonable accommodations can also be considered as disability-based discrimination.³ Article 20 of the Law stipulates that a reasonable accommodation shall be ensured based on an application, through a dialogue with the employer or head of the educational institution, in a manner and timeframe specified in a contract, **and an objective justification shall be presented in a written form in**

¹ Or persons with profound or severe functional limitations

² Article 3, part 1, clause 14 of the Law on the Rights of Persons with Disabilities

³ Ibid, Article 3, part 1, clause 14

case of rejection. Rejection shall not be considered a discrimination, if it is justified that the negotiated form of the reasonable accommodation is not possible, does not fit the purpose, is disproportionate or generates undue burden, while the procedure for ensuring reasonable accommodations is determined by the Government.

The procedure for ensuring reasonable accommodations not only specifies terms and application procedure, but also **imposes an obligation** on the employer or head of the educational institution to participate in negotiations regarding provision of reasonable accommodations. In case of refusing to participate in negotiations and interactive dialogues or refusing to provide reasonable accommodations without justification, when it generates a risk of losing the job, a labor dispute arises between the employer and employee. This allows both the employee and the employer to protect their rights in the frame of labor rights and **places the issue within the remit of the Health and Labor Inspectorate.** Non-fulfillment of the contract in provision of reasonable accommodations can be grounds for the Health and Labor Inspectorate to institute proceedings only when the employee submits a complaint.⁴

The legislative requirement of reasonable accommodations was enshrined in the Americans with Disabilities Act of 1990, while the UN adopted the Convention on the Rights of Persons with Disabilities in 2006, **which was signed by the Republic of Armenia in 2010.**

Due to a lack of understanding of the rights of persons with disabilities, both employers and employees may have an unfavorable attitude to the

⁴ Are labor rights of persons with disabilities not violated?
<https://disabilityinfo.am/19584/>

idea of reasonable accommodations. It is often perceived as undue, unnecessary extravagance or preferential treatment, which is unfair to others. In such conditions, the requirement for reasonable accommodations and employees availing themselves of accommodations can encounter harassment and ill-treatment. This puts persons with disabilities in a complex dilemma: to claim reasonable accommodations guaranteed by law and perhaps face ill-treatment by employers and coworkers or to remain silent, unable to fully perform work and risk losing their job.

While reasonable accommodation has long been considered an integral part of labor law at the international level and a norm that should be available to all, it often remains misperceived at the local level. This mainly concerns conditional 2nd and 3rd world countries, where labor remuneration remains at a low level, allowing for a relatively high current profit for the employer, without contributing to the sustainable development of society and own entrepreneurship.

In cooperation with the Ministry of Labor and Social Affairs, organizations protecting rights of persons with disabilities and advocating for inclusive development have developed a short guide on what reasonable accommodations can be used, for example, for persons with amputations.⁵

Questions that need to be considered by employers

- What difficulties does the employee have?
- How do those difficulties affect the employee and their work performance?
- What types of work are particularly problematic due to their difficulties?

⁵ The publication also presents examples of reasonable accommodations that can be used for persons with certain disability degrees, Reasonable accommodations in workplace for persons with amputations <https://disabilityinfo.am/16924/>

- What reasonable accommodations can reduce or eliminate those issues? Are all resources used for possible accommodations?
- Was a consultation conducted with the employee regarding possible accommodations?
- When accommodations have already been made, would it be helpful to meet with the employee to assess effectiveness and the need for additional accommodations?
- Do other employees need awareness raising or training?

Below are examples of reasonable accommodations

- Use of technologies for lifting, reaching, pushing and pulling items or arranging things in a way that requires minimal physical effort.
- Redistribution of certain obligations among employees through reorganization of work.
- Opportunity of periodic rest breaks to get up and move around.
- A modified break schedule to do leg stretching exercises, if necessary.
- Use of reminders to get up and move.
- Availability of mobile desks (for working both in a sitting and in a standing position).
- Ergonomic adjustable office chair.
- Installation of additional handles in lavatories or corridors.
- Opportunity to work from home, in which case an employee can lie down, move freely.

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Who to apply when your labor rights have been violated?

**Health and labor
Inspection body:**

Hotline: 81-07

Electronic application link:

www.employeeprotect.am/am/repor

**Helsinki Citizens'
Assembly-Vanadzor**

Free legal consultation: 077 342268

Electronic application link:

www.facebook.com/DecentWorkNow

www.arhmiutyun.am/contact

Human rights defender

Hotline: 116

Regional offices

www.ombuds.am/am/site/ApplyTeamAdress

**Ministry of Labor and
Social affairs**

Hotline: 114

Electronic application link

www.e-request.am/hy

