

Law on ensuring equal opportunities for women and men

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The Parliament adopts this organic law.

Chapter I

General provisions

Article 1. Scope of law

The scope of this Law pertains to ensuring the exercise by women and men of their equal rights in the political, economic, social, cultural, and other spheres of life, rights guaranteed by the Constitution of the Republic of Moldova, with a view to preventing and eliminating all forms of discrimination based on the criterion of sex.

Article 2. Basic terms

In the meaning of this Law, the following basic terms shall mean:

complex approach to equality between women and men – integration of the principle of equality between women and men into policies and programs from all spheres and at all levels of adoption and implementation of decisions;

affirmative actions – special temporary actions to speed up the attainment of real equality between women and men, intended to eliminate and prevent discrimination or disadvantages that emanate from existent attitudes, behaviors and structures;

discrimination on the criterion of sex – any distinction, exception, limitation, or preference that is aimed at or followed by a limitation or impediment of recognition, exercise, and/or implementation of fundamental human rights and freedoms, based on equality between men and women;

direct discrimination on the criterion of sex – any action that in similar situations discriminates against a person in comparison to another person of another sex, also by reason of pregnancy, maternity, or paternity;

indirect discrimination on the criterion of sex – any action, rule, criterion, or practice, identical for women and men but that has an effect or result that is unequal for one of the sexes, except for affirmative actions;

equal opportunities – absence of barriers in participation in activities from the political, economic, social, cultural, or other spheres of life, based on equality between women and men;

equality between women and men – equality in rights, equal opportunities in exercising one's rights, equal participation in all spheres of life, equal treatment of women and men;

gender – social aspect of relations between women and men, which is manifested in all spheres of life;

sexual harassment – any form of physical, verbal, or nonverbal behavior, of sexual nature, which abases a person or creates an unpleasant, hostile, degrading, humiliating, or insulting environment;

sex – the aggregate of anatomic and physiological characteristics that differentiates human beings as women and men;

gender unit – a specialist vested with duties to promote equality between women and men in the institution where he/she is employed.

Article 3. Subjects of legal relations in the sphere of equality between women and men

The subjects of legal relations aimed at ensuring equality between women and men are: the state, legal persons, and natural persons (regardless of age).

Article 4. Legal framework

(1) Legal relations in the sphere of equality between women and men shall be regulated by the Constitution of the Republic of Moldova, by this Law, and by other normative acts, as well as by international treaties to which the Republic of Moldova is a party.

(2) In case of a discrepancy between the provisions of this Law and those of international treaties to which the Republic of Moldova is a party, the international treaties shall prevail.

Article 5. Prohibition of discrimination on the criterion of sex

(1) In the Republic of Moldova, women and men enjoy equal rights and freedoms and are guaranteed equal opportunities to exercise these rights and freedoms.

(2) The promotion of a policy or the performance of actions that do not ensure equal opportunities between women and men shall be deemed discriminatory and shall be removed by the competent public authorities, in accordance with the legislation.

(3) Discrimination may be direct or indirect.

(4) Actions that restrict or exclude in any aspect the equal treatment of women and men shall be deemed discriminatory and are prohibited.

(5) Any legal act containing discriminatory provisions, based on the criterion of sex, shall be declared null by the competent bodies.

(6) The following shall not be deemed discriminatory:

a) measures to ensure certain special conditions for women during the period of pregnancy, recuperation, and/or breast-feeding;

b) qualification requirements for activities in which special characteristics based on sex constitute a decisive factor, given the specific conditions and way of carrying out the respective activities;

c) special advertisements for employment of persons of a certain sex in the work place where, given the nature or special conditions of performing the job, as provided by law, special characteristics based on sex are decisive;

d) affirmative actions.

Chapter II

Ensuring equal opportunities between women and men in the public domain

Article 6. Equal access to public office

(1) When establishing conditions for holding central and local public office, it is necessary to ensure equal opportunities for participation of women and men in the competition for employment.

(2) The establishment of direct or indirect restrictions based on the criterion of sex when announcing, organizing, or admitting entry to a competition for public office shall be prohibited, except as provided by this Law.

(3) The heads of central and local public administration authorities and other officials must ensure equal access to public office in conformity with professional requirements, without differentiation on the criterion of the sex of the applicants.

(4) The announcement and organization of competitions exclusively for persons of a certain sex is not allowed.

Article 7. Equal opportunities in the electoral sphere, in the activity of political parties and other socio-political organizations

(1) The Central Election Commission, election councils and district bureaus shall ensure the observance of the principle of equality between men and women in the electoral sphere.

(2) Parties and other socio-political organizations must contribute to ensuring equal rights and opportunities between their members, women and men, by means of:

a) ensuring representation of women and men in the composition of their management bodies;

b) ensuring representation in the lists of candidates of women and men, without discrimination on the criterion of sex.

Article 8. Equal opportunities in mass-media

(1) Mass-media shall contribute to the promotion of the principle of equality between women and men within society by developing programs and materials to overcome gender stereotypes.

(2) Any public discourse or materials that present the image of women or men in a manner that abases them shall be deemed unacceptable and shall be counteracted in accordance with this Law.

Chapter III

Ensuring equal opportunities between women and men in the socio-economic sphere

Article 9. Equal access to employment

(1) The state guarantees equal rights and opportunities, as well as equal treatment of women and men, in employment.

(2) The employer shall perform hiring through methods that ensure equal access of women and men to a position, including through affirmative actions.

Article 10. Employer's cooperation with employees and trade union representatives

(1) The employer shall cooperate with employees and trade union representatives with a view to establishing internal regulations that will prevent and exclude cases of discrimination based on the criterion of sex during work.

(2) Procedures necessary to ensure equality between women and men may be included as duties of the employer and the employee in individual labor contracts, in collective bargaining contracts and in collective agreements.

(3) In order to ensure equality between women and men, the employer shall:

a) ensure equal opportunities and treatment to all persons, corresponding to the profession and without any discrimination on the criterion of sex, upon hiring, upon enhancement of professional skills, and upon promotion;

b) apply the same evaluation criteria as regards quality of work, sanctioning, and dismissal;

c) ensure equal remuneration for labor of equal value;

d) undertake measures to prevent sexual harassment of women and men at their place of work, as well as to prevent persecution for submitting complaints against discrimination to the competent body;

e) ensure equal conditions for women and men as regards combining service duties with family obligations;

f) introduce provisions prohibiting discrimination based on the criterion of sex into the regulations for organization and operation of the unit.

Article 11. Discriminatory actions by an employer

(1) The following actions by an employer shall be deemed discriminatory:

a) placing advertisements for employment with requirements and criteria that imply priorities given to one of the sexes, except for cases specified in Article 5, paragraph 6, subparagraph c;

b) refusing, without basis, to employ persons of a certain sex;

c) establishing a more favorable work schedule for employees, on the basis of their sex, except for cases provided by legislation;

d) refusing, without basis, to admit a person into a program for enhancement of professional skills based on reasons of his/her sex, or altering or canceling a labor contract or terms of employment based on the same reasons;

e) applying different conditions of remuneration for work of equal value, based on the criterion of sex;

f) distributing differently labor tasks, based on the criterion of sex, which result in a less favorable status;

g) creating impediments or adverse conditions for a person who submitted a complaint of discrimination based on the criterion of sex to the competent body;

h) requesting, without basis, information concerning civil status of candidates.

(2) Despite compliance with the conditions, the refusal of employment, enhancement of professional skills, or promotion of persons of a certain sex shall be deemed ungrounded if made under the following pretexts:

a) requiring the submission of additional documents not specified in the advertisement;

b) failing to comply with criteria elaborated at the given moment;

c) existence of family obligations;

d) nonconformity with other conditions that do not have anything in common with the professional skills required for performing the solicited job, except for cases specified in Article 5, paragraph 6, subparagraph c;

e) any other conditions with similar consequences.

(3) The employer bears the obligation to prove lack of intention of direct or indirect discrimination of a person who considers himself/herself to have been discriminated against.

(4) A person who considers himself/herself to have been discriminated against due to the fact that the employer hired, promoted or granted another person privileges based on the criterion of sex or committed other discriminatory actions, is entitled to request the written submission of the reasons for the decision.

(5) The employer is required to answer a person who considers himself/herself to have been discriminated against within 30 days after submission of such request. Otherwise, the person is entitled to initiate a lawsuit, in accordance with the legislation.

Article 12. Equal access to entrepreneurial activity

The state shall ensure equal opportunities to women and men to perform entrepreneurial activity.

Chapter IV

Ensuring equal opportunities between women and men in education and healthcare

Article 13. Equal access to education

(1) Educational and training institutions shall ensure equality between women and men:

- a) by means of access to education and/or training;
- b) in the educational and/or training process, also through evaluation of accumulated knowledge;
- c) in didactic and scientific-didactic activity;
- d) through developing didactic materials and curricula, in conformity with the principle of equality between women and men;
- e) by including gender education as a component part of the educational system;
- f) by educating girls and boys in the spirit of partnership and mutual respect.

(2) Educational and training institutions may not establish admission principles based upon direct or indirect restrictions based on the criterion of sex, except for cases provided for in this Law.

(3) In derogation to paragraph 2 above, the state, through educational and training institutions, shall undertake affirmative actions to promote balanced participation of women and men in exercising specific professions, where over-representation of persons of a certain sex has been ascertained.

(4) This article shall apply as well to the educational and training institutions of force bodies [Translation Note: *i.e.*, institutions of defence, law enforcement, military, security, intelligence].

Article 14. Equal access to healthcare

Any form of discrimination based on the criterion of sex is prohibited as regards access of women and men to all levels of medical assistance and all programs for prevention of diseases and promotion of health.

Chapter V

Institutional framework for ensuring equal opportunities

between women and men

Article 15. Authorities vested with duties in the field of ensuring equality between women and men

The following shall be vested with duties in the sphere of equality between women and men:

- a) Parliament;
- b) Government;
- c) Governmental Committee for equality between women and men;
- d) Ministry of Health and Social Protection (specialized body);
- e) ministries and other central administrative authorities (gender units);
- f) local public administration authorities (gender units).

Article 16. Competence of Parliament

The Parliament shall be competent to:

- a) adopt a legislative framework that ensures equality between women and men in all spheres;
- b) monitor the implementation of the principle of equality between women and men in all directions and at all levels of state policy;
- c) examine reports of the Government and ombudsmen as regards the situation in the field, in accordance with the legislation.

Article 17. Competence of Government

In order to take a complex approach to equality between women and men, the Government shall:

- a) ensure integration of the principle of equality between women and men into policies, strategies, programs, normative acts, and financial investments;
- b) approve national plans and programs regarding equality between women and men and monitor their implementation;
- c) submit periodically to the Parliament reports on the situation and activity in the field, in accordance with the legislation.

Article 18. Governmental Committee for equality between women and men

The Governmental Committee for equality between women and men is a consultative body, created by the Government, which operates based upon regulations approved by the latter, with the following duties:

- a) promoting equality between women and men, with a complex approach;
- b) coordinating the activity of central and local public administration authorities as regards issues of equality between women and men;
- c) developing cooperation between state structures and civil society on issues of equality between women and men.

Article 19. Competence of central specialized public authorities

(1) The Ministry of Health and Social Protection is the central public authority vested with the duty to develop and promote policies in the field of equality between women and men.

(2) Within the Ministry of Health and Social Protection, duties specified in paragraph 1 shall be assigned to a specialized body, with the following functions:

- a) development and coordination of draft normative acts based on the principle of equality between women and men, proposition of amendments to normative acts in order to bring them into conformity with this Law;
- b) coordination and monitoring of the implementation of international instruments at the national level;
- c) submission of proposals to integrate the principle of equality between women and men into strategies, programs, and financial investments, as well as reports in the field;
- d) elaboration and coordination of program implementation, organization of media campaigns, and research and other actions as regards equality between women and men;
- e) coordination of activity of gender units;
- f) collaboration with non-governmental organizations, foundations, trade unions, employers' unions, and international bodies that contribute to the implementation of equality between women and men;

g) performance of other duties in the field, in accordance with the legislation.

(3) Gender units shall operate within central public administration authorities.

(4) The gender unit shall:

a) monitor the observance of legislation in the field of equality between women and men within central public administration authorities;

b) submit proposals to integrate the principle of equality between women and men into the policies and activity plans of central public authorities;

c) examine petitions of legal entities and natural persons as regards cases of discrimination based on the criterion of sex;

d) submit periodically to specialized bodies reports on activity on issues of equality between women and men;

e) perform other duties in the field, in accordance with the legislation.

Article 20. Competence of local public administration authorities

(1) Local public administration authorities shall be competent to:

a) ensure integration of the principle of equality between women and men into policies, programs, normative acts, and financial investments at the local level;

b) monitor the implementation of programs, organize awareness campaigns, and perform research and other actions concerning equality between women and men at the local level;

c) collaborate with nongovernmental organizations, foundations, trade unions, employers' unions, and international organisms that contribute to the implementation of equality between women and men;

d) other duties in the field, in accordance with the legislation.

(2) Gender units shall operate within the framework of local public administration authorities (bodies of social assistance).

(3) The gender unit shall:

a) submit proposals to integrate the principle of equality between women and men into policies, programs, and normative acts of local public administration, as well as into the budgets of territorial-administrative units;

b) collaborate with nongovernmental organizations and other organizations as regards the problem of equality between women and men;

c) examine petitions of legal entities and natural persons as regards cases of discrimination based on the criterion of sex;

- d) monitor the activity of local public administration authorities in the field;
- e) submit periodically reports on work performed to local public administration authorities;
- f) perform other duties in the field, in accordance with the legislation.

Article 21. Ombudsmen

The Ombudsmen shall ensure the guaranty and observance of equality between women and men as an integral part of constitutional human rights and liberties, in accordance with the legislation.

Article 22. Gender statistics

(1) The National Bureau of Statistics shall collect, process, and summarize statistical data separately by sexes.

(2) Central and local public administration authorities, parties, other socio-political organizations, and legal and natural persons that carry out entrepreneurial activity shall submit to the National Bureau of Statistics necessary information separately by sexes.

Article 23. Financing

(1) Public authorities vested with implementation of this Law shall be funded from the state budget and from the budgets of territorial-administrative units within the limits of financial means established on a yearly basis.

(2) Activities in the field may be also funded from other sources that are not legally prohibited.

Chapter VI

Liability

Article 24. Liability for discrimination based on the criterion of sex

(1) Persons subject to forms of discrimination based on the criterion of sex, as set out in this Law, are entitled to reparation of damage according to the conditions established by legislation.

(2) The subjects of legal relations who commit actions of discrimination based on the criterion of sex shall bear liability established by law for the breach of legislation in the field of equality between women and men.

Chapter VII

Final provisions

Article 25

Within 6 months, the Government:

- a) shall submit to the Parliament proposals for bringing effective legislation into conformity with this Law;
- b) shall draw up and approve all normative acts necessary to implement this Law.

SPEAKER

OF THE PARLIAMENT Marian LUPU

Chisinau, 9 February 2006.

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