

Pursuant to the Article 15 of the Law on changes and amendments to the Law on Gender Equality in Bosnia and Herzegovina (Official Gazette of BiH, No. 102/09); the Article 41(1)i) of the Rules of Procedure of the House of Representatives (Official Gazette of BiH, No. 33/06, 41/06, 81/06, 91/06, 97/07 and 87/09) and the Article 26(1)i) of the Rules of Procedure of the House of Peoples (Official Gazette of BiH, No. 33/06, 41/06, 91/06 and 91/07) of the Parliamentary Assembly of Bosnia and Herzegovina, the Constitutional Law Committee of the House of Representatives in the 93rd session held on 22nd February 2010 and the Constitutional Law Committee of the House of Peoples in the 54th session held on 25th March 2010 agreed on the consolidated text of the Law on Gender Equality in Bosnia and Herzegovina (Official Gazette of BiH, No. 16/03 and 102/09) identifying the dates of entering into force of the law and its amendments.

## **LAW ON GENDER EQUALITY IN BOSNIA AND HERZEGOVINA CONSOLIDATED VERSION**

### **PART I - GENERAL PROVISIONS**

#### **Article 1**

This Law shall regulate, promote and protect gender equality, guarantee equal opportunities and equal treatment of all persons regardless of gender in public and private sphere of society, and regulate protection from discrimination on grounds of gender.

#### **Article 2**

- (1) Persons of male and female sex shall be equal.
- (2) Full gender equality shall be guaranteed in all spheres of society, including but not limited to education, economy, employment and labour, social and health protection, sport, culture, public life and media, regardless of marital and family status
- (3) Discrimination on the grounds of gender and sexual orientation is prohibited.
- (4) Discrimination, in terms of this Law, shall not be considered introduction, adoption and implementation of temporary special measures aiming to remove existing inequality, promote equality and protection of gender equality.
- (5) Discrimination on grounds of gender shall not be considered a norm, criteria or practice which can be justified by achieving legal goal, proportionate to take necessary and justified measures.

### **PART II – DISCRIMINATION**

#### **Article 3**

- (1) Discrimination on grounds of gender shall be putting any person or groups of persons into less favourable position based on gender due to which rights of some persons or groups of persons are protracted or enjoyment and realisation of human rights and freedoms are not recognized.
- (2) Discrimination may occur in different forms: direct, indirect, harassment, sexual harassment, incitement to discriminate and gender based violence.

#### **Article 4**

- (1) Direct discrimination on grounds of gender shall exist when one person or group of persons has been treated, is treated or shall be treated less favourably in comparison with other person or group of persons in the same or similar situation.
- (2) Indirect discrimination on grounds of gender shall exist when there is an apparently neutral legal norm, criteria or practice equal for everyone, that has put, puts or could put a persons or group of persons of one gender in comparison with a person or group of persons of another gender into less favourable position.

#### **Article 5**

- (1) Harassment shall be considered as any unwanted behaviour based on gender that aims to harm dignity of a person, group of persons and create intimidating, hostile, degrading, humiliating or insulting environment or achieves such effect.

- (2) Sexual harassment shall be considered every unwanted form of verbal, non- verbal or physical behaviour of sexual nature that aims to harm dignity of a person or group of persons, or has such effect, especially when this behaviour creates intimidating, hostile, degrading, humiliating or offensive environment.
- (3) Incitement to discriminate based on gender, if committed intentionally, shall be equalised with discrimination in terms of Article 3 of this Law.

#### **Article 6**

- (1) Violence on grounds of gender shall be prohibited.
- (2) Violence on grounds of gender shall be considered every action that causes or may cause physical, mental, sexual or economic damage or suffering, as well as threat to such action which prevents this person or group of persons to enjoy their human rights and freedoms in public and private sphere of life.
- (3) Violence on grounds of sex shall include but shall not be limited to:
  - a) Violence occurring in family or household;
  - b) Violence occurring in wider community;
  - c) Violence committed or tolerated by authorities and other authorised bodies and individuals;
  - d) Violence on grounds of gender in case of armed conflicts.
- (4) Competent authorities shall be obliged to take appropriate measures to eliminate and prevent gender based violence in public and private sphere of life, and ensure instruments to provide protection, assistance and compensation to victims.
- (5) Competent authorities shall take appropriate measures, including, but not limiting to area of education in order to eliminate prejudices, customs and all other practices based on idea of inferiority or superiority of any gender, as well on stereotypical roles of male and female sex. This shall include, but shall not be limited to education and raising awareness among civil servants, in public and other ways.

#### **Article 7**

Victimisation as a form of discrimination shall exist when one person or group of persons is put into less favourable position due to rejection of instruction to act discriminatory, report discrimination, testify in procedure of protection from discrimination based on gender or if this person has been in any way involved into the procedure initiated because of discrimination based on gender.

#### **Article 8**

- (1) Special measures shall be introduced temporarily in order to accomplish substantive gender equality and shall not be considered discriminatory, including norms, criteria or practices that can possibly be justified by a legitimate goal, and have to be proportionate, appropriate and necessary.
- (2) Competent state, entity, cantonal bodies and local self governance units proclaim special measures through laws and other regulations, other acts, policies, strategies and plans that define specific areas of social life.

### **PART III - DEFINITIONS**

#### **Article 9**

In terms of this Law, following shall be understood as:

- a) **Sex** represents biological and psychological features that differ human beings to persons of male and female sex, and also denotes gender as sociologically and culturally conditioned difference between persons of male and female sex, and is related to all roles and features that are not conditioned or determined exclusively by natural or biological factors, but are product of norms, practice, customs and tradition and are changeable through time.
- b) **Gender equality** means that persons of male and female sex are equally present in all spheres of public and private life, they have equal status, equal opportunities for realisation of rights, and equal benefit from achieved results;
- c) **Equal treatment** of all persons of male and female sex assumes ensuring absence of discrimination on grounds of gender;

- d) **Equal opportunities for all persons regardless of gender** assumes absence of obstacles for economic, political and social participation on grounds of gender;
- e) **Discrimination in language** exists when only one grammar gender is used as a generic term;
- f) **Institutional mechanisms for gender equality** represent bodies and persons appointed by competent legislative, executive and administrative bodies of all levels of authorities in Bosnia and Herzegovina for implementation of the Law on Gender Equality in Bosnia and Herzegovina, coordinate and implement programmatic goals of Gender Action Plan of Bosnia and Herzegovina and ensure implementation of international standards in the field of gender equality;
- g) **Gender Action Plan of Bosnia and Herzegovina** is a strategy that defines programmatic goals for realisation of gender equality in all spheres of social life and labour, in public and private sphere.

## **PART - IV EDUCATION**

### **Article 10**

- (1) Everyone shall have equal rights to education, regardless of gender.
- (2) Educational institutions may not discriminate on the grounds of gender in:
  - a) terms of admission;
  - b) refusal of admission;
  - c) the way access to services, facilities and benefits is afforded;
  - d) exclusion from the educational process;
  - e) assessment of results achieved during education;
  - f) equal career opportunities and vocational specialization, training and the acquisition of diplomas and
  - g) degrees;
  - h) other potential circumstances.

### **Article 11**

- (1) The relevant authorities, educational institutions and other juristic persons shall ensure that their plans and methodology provide for the establishment of an educational system that will guarantee elimination of elements of the curriculum that contain stereotypical social roles for men and women and that result in gender discrimination and gender inequality.
- (2) Contents that promote gender equality shall be an integral part of the curriculum at all educational levels.
- (3) The relevant authorities, educational institutions and other juristic persons shall provide effective mechanisms for protection against discrimination and sexual harassment and shall take no disciplinary or other punitive measures against a person by reason that that person has brought proceedings for discrimination, harassment or sexual harassment or has given evidence in relation to discrimination, harassment or sexual harassment.

## **PART - V EMPLOYMENT, WORK AND ACCESS TO ALL TYPES OF RESOURCES**

### **Article 12**

- (1) Everyone shall be equal on the basis of gender in the employment process.
- (2) All forms of discrimination on the grounds of gender in the employment process, the advertisement of vacancies, selection procedures, employment and dismissal are contrary to the provisions of the Law other than in the cases stipulated by Article 3 paras. 5 and 6 of this Law.

### **Article 13**

- (1) Prohibited discrimination on the grounds of gender at work and in employment is defined as:
  - a) failure to pay equal wages and other benefits for the same work or work of equal value;
  - b) failure to ensure promotion at work on equal terms;
  - c) failure to provide equal opportunities for education, training and professional qualifications;
  - d) failure by an employer to provide work premises, ancillary facilities and equipment appropriate to the biological and physical needs of employees of both sexes;

- e) different treatment on the grounds of pregnancy, childbirth or exercising the right to maternity leave,
  - f) including failure to enable an employee to return to the same job or another job of the same seniority with equal pay after the expiry of maternity leave, as well as different treatment for men and women in regard to deciding how to take up maternity leave following the birth of a child;
  - g) any unfavourable treatment of a parent or guardian in balancing their commitments in family and professional life;
  - h) organizing work, the allocation of tasks or other conditions of work or dismissal from work so that on the grounds of gender or marital status an employee is left in a less favourable position than other employees;
  - i) any other act constituting any form of direct or indirect discrimination as defined in Article 3 paras. 3 and 4 of this Law.
- (2) An employer is required to undertake effective measures to prevent harassment, sexual harassment and gender discrimination at work and in employment as set out in para. 1 of this Law, and may undertake no measures against an employee by reason that that employee has brought proceedings for harassment, sexual harassment or discrimination on the grounds of gender.

#### **Article 14**

- (1) General and specific collective agreements should comply with the provisions of this Law and ensure equal opportunities regardless of gender.
- (2) Trade unions and associations of employers will have a particular role to play in ensuring equal protection of the right to work and equal conditions of recruitment and shall ensure that there is no discrimination on the grounds of gender among their members, either direct or indirect.

#### **Article 15**

- (1) Everyone regardless of gender has an equal right to work for gain, which includes equal treatment in access to all economic resources, privatization, access to credit and other forms of financial assistance, licences and registration of businesses, and the conditions in which they are obtained.
- (2) Equal treatment and equal opportunities and the elimination of discrimination shall also be assured for women in rural areas, so that they may secure subsistence for themselves and their families.

### **PART VI - SOCIAL WELFARE**

#### **Article 16**

- (1) Everyone has equal rights to social welfare regardless of gender.
- (2) Discrimination on the grounds of gender in the exercise of all forms of social rights stipulated by current legislation is prohibited, in particular:
  - a) when applying to exercise any social welfare right;
  - b) in the process of ascertaining social rights and the manner in which they may be exercised and in
  - c) identifying beneficiaries;
  - d) when the exercise of ascertained rights ceases.

#### **Article 17**

The relevant authorities shall ensure that laws and other regulations and the mechanisms relating to access to and enjoyment of social welfare are non-discriminatory on the grounds of gender, both directly or indirectly.

### **PART VII - HEALTH CARE**

#### **Article 18**

- (1) Everyone has an equal right to health care and access to health care services, including those relating to family planning, regardless of gender.

- (2) Health care institutions shall undertake all necessary steps to prevent discrimination on the grounds of gender in the enjoyment of all forms of health care.
- (3) The relevant authorities shall undertake all necessary steps to protect and advance the reproductive health of women.

## **PART VIII - SPORT AND CULTURE**

### **Article 19**

- (1) Everyone has equal rights and opportunities to participate in and have access to sport and cultural life regardless of gender.
- (2) The relevant authorities, institutions and juristic persons are required to undertake all possible measures to prevent discrimination on the grounds of gender and to ensure equal opportunities for:
  - a) access to branches of sport or culture;
  - b) the development and provision of support for individual branches of sport or culture;
  - c) the granting of community awards for outstanding achievement in sport and culture within the same branch of sport or culture.

## **IX PUBLIC LIFE**

### **Article 20**

- (1) State bodies at all levels of organizations of authorities, and local self- government bodies, including legislative, executive and judicial authorities, political parties, legal persons with public authorities, legal persons that are in the state's property or under the state's control, entities, cantons, cities or municipalities whose work is under control of a public body, shall ensure and promote equal gender representation in process of managing, decision making and representation. This obligation shall exist for all authorized proponents during elections of representatives and delegations to international organisations and bodies.
- (2) Equal representation of women and men shall exist in case when one of sexes is represented with at least 40% in bodies from paragraph 1 of this Article.
- (3) Discrimination on grounds of gender shall be considered situation in which there is no equal representation from paragraph 2 of this Article.
- (4) Subjects given in paragraph 1 of this Article, in order to achieve equal gender representation are obliged to adopt temporary special measures prescribed with Article 6 of this Law.

## **PART X - THE MEDIA**

### **Article 21**

- (1) Everyone shall have the right of access to the media regardless of gender.
- (2) The public expression concerning presentation of any person in an offensive, depreciatory or demeaning manner in regard to gender is prohibited.
- (3) The media are required in their programming to raise awareness on gender equality.

## **PART XI - STATISTICAL RECORDS**

### **Article 22**

- (1) All statistical data and records collected, recorded and processed in state bodies at all levels, public services and institutions, state and private corporations and other entities must be gender disaggregated.
- (2) Statistical data and information collected, recorded and processed pursuant to para. 1 of this Article must be an integral part of statistical records and accessible to the public.

## **PART XII - COURT PROTECTION**

### **Article 23**

- (1) Every person who considers to be victim of discrimination or finds that a certain right has been violated due to discrimination shall be able to seek for protection of that right in the procedure in which this right shall be decided as a main issue, and shall be able to seek for protection in a special proceedings for protection from discrimination in compliance with the Law on Prohibition of Discrimination (“Official Gazette of Bosnia and Herzegovina” No, 59/09).
- (2) A victim of discrimination according to provisions of this Law shall have the right to compensation according to regulations defining obligations.
- (3) All decisions of competent judicial bodies related to violation of some provisions of this Law, shall be delivered to the Agency for Gender Equality of Bosnia and Herzegovina by the courts at the BiH level, Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of the Republika Srpska by the Entities’ courts.

## **PART XIII OBLIGATIONS OF COMPETENET AUTHORITIES**

### **Article 24**

- (1) Authorities at the state and entity level, cantonal bodies, local self- governance units, legal persons with public authorities, legal persons who are mainly in the state’s property shall be obliged to take all appropriate and needed measures in order to implement provisions prescribed by this Law according to areas, but not limited to:
  - a) Introducing programs of measures for achieving gender equality in all spheres and at all levels of authorities;
  - b) Adoption of new or changing and amending existing laws and other regulations in order to harmonize them with provisions of this Law and international standards for gender equality;
  - c) Implementation of activities and measures from the Gender Action Plan of Bosnia and Herzegovina through regular programs of work and ensuring budget resources;
  - d) Collecting data, keeping records, analysing and presenting statistical data classified according to gender.
- (2) Integral part of program measures to achieve gender equality in all spheres shall include, but shall not be limited to:
  - a) Analysing gender equality in specific area
  - b) Implementation of adopted state policies through action plans for gender equality
  - c) Measures for removal of identified gender inequality in a specific area.
- (3) Competent legislative, executive bodies and administrative bodies at all levels of authorities in Bosnia and Herzegovina shall be obliged to establish adequate institutional mechanism for equality that shall implement the Law on Gender Equality in Bosnia and Herzegovina, coordinate realisation of programmatic goals from the Gender Action Plan of Bosnia and Herzegovina and ensure implementation of international standards in gender equality area.
- (4) Competent state, entity and cantonal authorities and local self government units shall be obliged to deliver all sorts of regulations from their jurisdiction to get opinion from institutional mechanisms for gender equality from paragraph 3 of this Article for these to be harmonised with provisions of the Law on Gender Equality in Bosnia and Herzegovina.

## **PART IV- MONITORING AND SUPERVISION OF IMPLEMENTATION OF THIS LAW**

### **Article 25**

- (1) The Ministry for Human Rights and Refugees (hereinafter: the Ministry) shall keep under review implementation of this Law.
- (2) In order to monitor implementation of this Law, the Agency for Gender Equality of Bosnia and Herzegovina (hereinafter: the Agency) shall be formed under the auspices of the Ministry for Human Rights and Refugees of Bosnia and Herzegovina.

- (3) The Agency shall be organized and shall operate pursuant to a separate ruling to be moved by the Ministry specified in para. 1 of this Article and issued by the Council of Ministers of Bosnia and Herzegovina.

#### **Article 26**

- (1) The Agency for Gender Equality of Bosnia and Herzegovina shall perform following tasks within its jurisdiction:
  - a) Present and analyse status of gender equality in Bosnia and Herzegovina on basis of reports developed by the Agency and reports from entities' gender centres and produces annual report for the Council of Ministers of Bosnia and Herzegovina. On grounds of results from analysis and monitoring, the Agency shall produce special reports, opinions, suggestions and recommendations to be delivered to competent bodies at the state level.
  - b) Determine methodology for developing report on gender equality in Bosnia and Herzegovina;
  - c) Initiate and coordinate development of the Gender Action Plan of Bosnia and Herzegovina, in cooperation with entities' gender centres, which is adopted by the Council of Ministers of Bosnia and Herzegovina;
  - d) Monitor application and coordinate activities with all relevant subjects in the Gender Action Plan of Bosnia and Herzegovina implementation process from Article 21, paragraph 3 of this Law;
  - e) Cooperate with institutional mechanisms for gender equality in institutions at the state level;
  - f) While preparing drafts and proposals of laws, by laws and other norms, strategies, plans and programs, and before these are delivered to the Council of Ministers of Bosnia and Herzegovina, provide opinion on compliance of these acts with the Law and international standards on gender equality;
  - g) Provide initiative and participate in preparation of laws, by laws and other acts, strategies, plans and programs, that are adopted at the state level, in order to determine measures for achieving gender equality in all spheres of social life;
  - h) Give initiative to initiate procedure to change and amend regulations in case of incompliance with provisions of this Law, domestic and international standards in gender equality;
  - i) Consider depositions and complaints of citizens that point to violation of a certain right from this Law;
  - j) The Agency for Gender Equality of Bosnia and Herzegovina shall adopt Unified Rules for Consideration of Depositions and Complaints of Citizens from paragraph 9 of this Article;
  - k) Present and coordinate activities, within its jurisdiction, at international and regional level;
  - l) Monitor implementation of this Law, and together with the Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of the Republika Srpska shall prepare reports on fulfilment of international obligations in gender equality sphere;
  - m) Cooperate within its jurisdiction with non-governmental organizations that deal with protection of human rights and freedoms;
  - n) Perform activities in order to promote gender equality;
  - o) Perform all other duties in order to implement this Law.

#### **Article 27**

- (1) The Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of the Republika Srpska shall monitor application of the Law at entities' level and perform following tasks for that purpose:
  - a) Monitor compliance of laws and other acts, policies, strategies, plans and programs adopted at entity level, with domestic and international standards for gender equality;
  - b) Provide opinion on compliance of laws and other acts, policies, strategies, plans and programs that are adopted at entity level with provisions of this Law and other domestic and international standards for gender equality and initiate harmonisation;
  - c) Monitor and analyse status of gender equality in entities;
  - d) Prepare and develop regular and special reports on gender equality, prepare and develop information, opinions and recommendations to be delivered to entities' governments and other competent bodies;

- e) Receive and process requests, complaints and depositions of persons and groups of persons in which they point out violations of a certain right from this Law in compliance with unified rules from Article 23, paragraph 1, subparagraph 10 of this Law;
  - f) Cooperate with institutional mechanisms from Article 21, paragraph 3 of this Law;
  - g) Present and coordinate activities, within their jurisdiction, at regional level;
  - h) Cooperate with non-governmental organizations that deal with protection of human rights and freedoms;
  - i) Provide expertise and advisory support and assistance to all institutions in the system and other partners.
- (2) The Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of the Republika Srpska shall perform other duties in relation to improvement and promotion of gender equality in entities.

#### **Article 28**

The relevant authorities and other state institutions, employers, and other juristic and natural persons are required to provide all necessary information and facilitate the inspection of documentation at the request of the Agency, the FBiH Gender Centre and the RS Gender Centre forthwith, or within fifteen days at the latest.

#### **Article 29**

A person who, on grounds of sex, commits violence, harassment or sexual harassment that endanger serenity, mental health or body integrity shall be punished with a fine or imprisonment for a term of six months up to five years.

### **PART XV – PENAL PROVISIONS**

#### **Article 30**

- (1) A fine of from 1,000 KM to 30,000 KM shall be imposed on a juristic person for the following misdemeanours:
  - a) failure to undertake appropriate steps and use effective protective mechanisms against discrimination on the grounds of gender, harassment and sexual harassment;
  - b) failure to undertake appropriate steps to eliminate and prevent prohibited discrimination on the grounds of gender at work and in employment as defined by Articles 7 and 8 of this Law;
  - c) failure to introduce curricula and methodologies in educational institutions that will guarantee elimination of stereotypical contents that give rise to gender discrimination and gender inequality;
  - d) failure to provide gender disaggregated statistical data and information collected, recorded and processed.
  - e) failure to make available statistical data provided in accordance with this Law to the public.
  - f) public presentation of any person in an offensive, depreciatory or demeaning manner with regard to gender.
- (2) A responsible person within a legal entity shall also be imposed a fine of from KM 100 to KM 1000 for a breach from the paragraph 1 of this Article, as well as individuals who work independently with resources belonging to citizens.
- (3) No provision in this Article can be interpreted as limitation or reduction of the right to initiate criminal or civic proceedings, under conditions regulated by this Law.
- (4) Criminal proceedings as per provisions of this Law shall be carried out by competent bodies responsible for the proceedings in the Entities and the District Brcko of Bosnia and Herzegovina, until the appropriate Law of offences in Bosnia and Herzegovina is brought.
- (5) The Budget of Bosnia and Herzegovina institutions shall benefit from the fines.
- (6) Rulings on misdemeanours shall be enforced pursuant to the current laws of the Entities or Brcko District Bosnia and Herzegovina as the case may be.



**Article 31**

The prosecution and passing of a verdict in cases of criminal offences and misdemeanours as defined by this Law are of an urgent nature and shall take priority in the operations of the relevant authorities.

**PART XVI - TRANSITIONAL AND CONCLUDING PROVISIONS**

**Article 32**

- (1) The Ministry for Human Rights and Refugees shall move that the Agency for Gender Equality of Bosnia and Herzegovina be formed within three months from the entry into force of this Law.
- (2) All State and Entity laws and other relevant regulations shall be brought into conformity with the provisions of this Law within six months at the latest.

**Article 33**

The consolidated version of the Law shall be published in the Official Gazette of Bosnia and Herzegovina.