

# **Law No. 48/2002 (16/1/2002) On the Prevention and Sanction of All Forms of Discrimination -**

**(Ordinance amendments n. 431/2000)**

This Act, which adopts and substantially amends a previous Government Ordinance, proclaims the principle of equality between all citizens and the prohibition of all discrimination, notably those based on gender (art.1 and art. 2). Article 1 provides that the principle of equality between citizens is guaranteed in a certain number of fields, among which is included the right to be protected against any violence or abuse, the right to inherit, and the right to an equal pay for an equal work

Gender discrimination is defined as any differentiation, exclusion restriction or preference based on sex (art. 2(1)). Article 2(4) however adds that the following do not constitute discrimination:

- a. measures taken by public authorities or private persons in favour of a person, a group of persons or of a community, and aiming to ensure their natural development and the effective achievement of their right to equal opportunities, as opposed to other persons, groups of persons or communities;
- b. positive measures aiming to protect disfavoured groups.

Article 2(5) states that the elimination of all forms of discriminations is realized through the adoption of special measures of protection for those who do not enjoy equal opportunities, and through sanctions against discriminatory behaviours enumerated in the Act.

The Act applies, according to Article 3, to all natural and legal persons, public or private, and its scope includes:

- a. employment conditions;
- b. recruitment and promotion criteria;
- c. access to all levels of professional orientation, refresher courses and professional training;
- d. social protection and social security;
- e. public services or other services, access to good and facilities;
- f. education system; and,
- g. enforcement of public peace and order.

Act No. 48/2002 also gives a list of fields where gender discrimination is prohibited:

- a. Equal employment opportunities: exercise of an economic activity or of a profession (Art. 5); work relations and social care (Art. 6); hiring conditions (in this respect, employment agencies shall ensure free and equal access to all job advertisements, Art. 7); right to social security benefits (Art. 8).

b. Access to administrative, legal, health, and other public services, to goods and facilities (Art. 10).

c. Access to education (Art. 15)

d. Freedom to choose one's residence (Art. 17)

e. Access to public places (Art. 18)

f. Lastly, art. 19 prohibits behaviours which offend the dignity or create an intimidating, hostile, degrading or offending atmosphere on the basis of one's gender.

Infractions of Act No. 48/2002 are punishable by fines ranging from 1 million lei to 10 million lei if the discrimination affects a natural person; from 2 million lei to 20 million lei, if the discrimination affects a group of persons. In addition, discrimination victims are entitled to an indemnity proportionate to the damage sustained, as well as to the restoration of the status quo ante or the annulment of the situation created by the discrimination (Art. 20).

According to Article 22, NGOs operating in the Human Rights field can institute proceedings where discrimination against a community or group of persons is alleged in their field of activity. They can also represent a natural person who is the victim of discrimination.