

Pursuant to the Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina- House of Representatives, at the 63rd session of 4 November 2009 and at the 39th session of House of Peoples of 15 December 2009 adopts the following:

LAW

ON CHANGES AND AMENDMENTS TO THE

LAW ON GENDER EQUALITY IN BOSNIA AND HERZEGOVINA

Article 1

Article 1 of the Law on Gender Equality in Bosnia and Herzegovina (BiH Official Gazette, No. 16/03) shall be changed to read as follows:

“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

Article 2, paragraphs 1 and 2 shall be changed to read as follows:

“Persons of male and female sex shall be equal.

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”.

Paragraph 3 shall be followed by paragraphs 4 and 5:

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.

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.”

Article 3

Article 3 shall be changed to be read as follows:

“Article 3

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.

Discrimination may occur in different forms: direct, indirect, harassment, sexual harassment, incitement to discriminate and gender based violence.”

Article 4

Article 3 shall be followed by Articles 3a, 3b, 3c, 3d and 3e:

“Article 3a

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.

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 3b

Harassment shall be considered every 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.

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.

Incitement to discriminate based on gender, if committed intentionally, shall be equalised with discrimination in terms of Article 3 of this Law.

Article 3c

Violence on grounds of gender shall be prohibited.

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.

Violence on grounds of sex shall include but shall not be limited to:

- Violence occurring in family or household;
- Violence occurring in wider community;
- Violence committed or tolerated by authorities and other authorised bodies and individuals;
- Violence on grounds of gender in case of armed conflicts.

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.

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 3d

“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 3e

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.

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.”

Article 5

Article 4 shall be changed to read as follows:

Article 4

“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- male and female** 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 BiH for implementation of the Law on Gender Equality in BiH, coordinate and implement pro-

grammatic goals of Gender Action Plan of BiH and ensure implementation of international standards in the field of gender equality;

- g) **Gender Action Plan of BiH** 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.”

Article 6

Article 15 shall be changed to read as follows:

“Article 15

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.

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.

Discrimination on grounds of gender shall be considered situation in which there is no equal representation from paragraph 2 of this Article.

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.”

Article 7

Article 17 shall be deleted.

Article 8

Article 19 shall be changed to read as follows:

“Article 19

“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 (BiH Official Gazette, 59/09).

A victim of discrimination according to provisions of this Law shall have the right to compensation according to regulations defining obligations.

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 for the FBiH and Gender Centre for the RS by the Entities’ courts.

Article 9

Article 20 shall be deleted.

Article 10

Title of Chapter 15 shall be changed to read as follows: “OBLIGATIONS OF COMPETENT AUTHORITIES”

Article 21 shall be changed to read as follows:

“Article 21

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:

- Introducing programs of measures for achieving gender equality in all spheres and at all levels of authorities;
- 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;
- Implementation of activities and measures from the Gender Action Plan of BiH through regular programs of work and ensuring budget resources;
- Collecting data, keeping records, analysing and presenting statistical data classified according to gender.

Integral part of program measures to achieve gender equality in all spheres shall include, but shall not be limited to:

- Analysing gender equality in specific area
- Implementation of adopted state policies through action plans for gender equality
- Measures for removal of identified gender inequality in a specific area.

Competent legislative, executive bodies and administrative bodies at all levels of authorities in BiH shall be obliged to establish adequate institutional mechanism for equality that shall implement the Law on Gender Equality in BiH, coordinate realisation of programmatic goals from the GAP of BiH and ensure implementation of international standards in gender equality area.

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 BiH.”

Article 11

Article 23 shall be changed to read as follows:

“Article 23

The Agency for Gender Equality of Bosnia and Herzegovina shall perform following tasks within its jurisdiction:

1. Present and analyse status of gender equality in BiH on basis of reports developed by the Agency and reports from entities’ gender centres and produces annual report for the Council of Ministers of BiH. 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.
2. Determine methodology for developing report on gender equality in BiH;
3. Initiate and coordinate development of the GAP of BiH, in cooperation with entities’ gender centres, which is adopted by the Council of Ministers of BiH;
4. Monitor application and coordinate activities with all relevant subjects in the GAP implementation process from Article 21, paragraph 3 of this Law;
5. Cooperate with institutional mechanisms for gender equality in institutions at the state level;
6. 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 BiH, provide opinion on compliance of these acts with the Law and international standards on gender equality;
7. 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;
8. 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;
9. Consider depositions and complaints of citizens that point to violation of a certain right from this Law;
10. The Gender Equality Agency shall adopted Unified Rules for Consideration of Depositions and Complaints of Citizens from paragraph 9 of this Article;
11. Present and coordinate activities, within its jurisdiction, at international and regional level;
12. Monitor implementation of this Law, and together with GCs from the FBiH and RS shall prepare reports on fulfilment of international obligations in gender equality sphere;
13. Cooperate within its jurisdiction with NGOs that deal with protection of human rights and freedoms;
14. Perform activities in order to promote gender equality;

15. Perform all other duties in order to implement this Law.

Article 12

Article 24 shall be deleted.

Article 13

Article 25 shall be changed to read as follows:

“Article 25

The FBiH Gender Centre and RS Gender Centre shall monitor application of the Law at entities’ level and perform following tasks for that purpose:

1. Monitor compliance of laws and other acts, policies, strategies, plans and programs adopted at entity level, with domestic and international standards for gender equality;
2. 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;
3. Monitor and analyse status of gender equality in entities;
4. 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;
5. 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;
6. Cooperate with institutional mechanisms from Article 21, paragraph 3 of this Law;
7. Present and coordinate activities, within their jurisdiction, at regional level;
8. Cooperate with NGOs that deal with protection of human rights and freedoms;
9. Provide expertise and advisory support and assistance to all institutions in the system and other partners.

The FBiH Gender Centre and RS Gender Centre shall perform other duties in relation to improvement and promotion of gender equality in entities.”

Article 14

Article 27 shall be changed to read as follows:

“Article 27

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.“

Article 15

The Constitutional Legal Committee of the House of Representatives and Constitutional Legal Committee of the House of Peoples shall be obliged to determine consolidated version of the Law on Gender Equality in BiH.

Article 16

This Law shall enter into force on the eight day from the day of its publication in “BiH Official Gazette”.

PA BiH No. 461/09
15 December 2009
Sarajevo

Chairman of House of Representatives of the BiH Parliamentary Assembly
Dr. Milorad Zivkovic

Chairman of the House of Peoples of the BiH Parliamentary Assembly
Sulejman Tihic