

Law on Equal Opportunities of Women and Men

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I. General Provisions

Subject of the Law

Article 1

(1) This law determines the basic and special measures for the establishment of equal opportunities between women and men, the authorities, tasks and obligations of parties responsible for the obtaining of equal opportunities, the procedure for determining unequal treatment between women and men, the rights and responsibilities of the Representative for Equal Opportunities between Women and Men (hereinafter referred to as: the Representative) as the designated entity for conducting the procedure for determining unequal treatment between women and men, as well as the rights and obligations of the subjects that participate in this procedure.

(2) Issues of significance for the establishment of equal opportunities between women and men are determined with this and other laws.

Purpose of the Law

Article 2

(1) The purpose of this Law is the promotion of the principle for establishing equal opportunities between women and men in the political, economical, social, educational field, as well as in other fields of social life.

(2) The establishment of equal opportunities is an obligation of the entire society and represents the clearing of obstacles for the establishment of equal opportunities between women and men, through prevention and clearing of unequal treatment of women and men and the establishment of conditions for introducing equal participation of women and men in all spheres of social life.

Prohibition of Discrimination in Social Life

Article 3

Discrimination based on gender in the fields of employment and labor, education, social security, culture, sport is prohibited, both in the public and in the private sector, in accordance with this and other laws.

Definitions

Article 4

Certain expressions used in this Law have the following meaning:

(1) **“Equal opportunities for women and men”** shall mean the promotion of the principle of introducing equal participation of women and men in all areas of the public and the private sector, the equal status, equal treatment in the accomplishment of all rights and in the development of their individual potentials through which they contribute to social development, as well as, equal contributions from the results that have been produced from that development.

(2) **“Equal treatment”** shall mean the absence of direct and indirect discrimination based on gender, in accordance with this and other laws.

(3) **“Discrimination”** shall mean every differentiation, exploitation or limitation based on gender, which endangers or disables the fulfillment or protection of human rights and liberties.

(4) **“Direct discrimination”** shall mean the creation of unequal treatment through regulations or activities of certain subjects, based on gender, in same or similar situations in the fulfillment, respect and protection of human rights and liberties.

(5) **“Indirect discrimination”** shall mean the creation of unequal treatment for persons of different gender through regulations, standards or actions which formally prescribe equal opportunities or are seemingly neutral, but, are differently enforced and in dependence of gender, except if that is in the interest and is necessary for obtaining special protection, or is caused by objective conditions and circumstances that are not connected to gender.

(6) **“Harassment”** shall mean every inappropriate, immoral or indecent behavior, damage to personal dignity, that causes intimidation, repulsiveness, degradation, humiliation or offensive behavior.

(7) **“Sexual harassment”** shall mean every verbal, nonverbal or physical behavior of sexual character, that represents a damage to personal dignity, especially when it causes intimidation, repulsiveness, degradation, humiliation or offensive behavior.

II. types of measures for the establishment of equal opportunities

Basic Measures

Article 5

(1) Basic measures for realization of the principle of equal opportunities are normative measures from various fields that prohibit gender based discrimination and foresee an obligation to care for and to create conditions for securing equal treatment in the

realization and protection of rights and liberties, and which also foresee sanctions for the disrespect of requirements and prohibitions.

(2) Besides the measures from Paragraph 1 of this Article, basic measures also include the measures connected to the creation of policies of: the bodies of legislation, executive and judiciary, the bodies of the units of local self-government, the legal entities that have been authorized by law to perform activities of public interest, citizen associations and foundations, educational institutions, institutions in the field of social protection, medical institutions, scientific and cultural institutions, political parties and the media, which are aimed towards the establishment of equal opportunities in the aspect of informing the individual and the public, programming of activities and development strategies for special areas of social life.

Special Measures

Article 6

(1) Special measures are measures aimed towards the establishment of equal opportunities, as well as for the promotion and improvement of equal opportunities in special areas of social life.

(2) The special measures from Paragraph 1 of this Article are aimed towards the removal of objective barriers that lead to the establishment of the principle of equal opportunities of women and men or unequal status of persons of one gender in relation to persons from the other gender, as well as to give a special contribution in the form of promotion of participation of the underrepresented gender, or to remove the possibilities that contribute to unequal status based on gender.

(3) The special measures from Paragraph 1 of this Article, amongst other, include:

Positive measures which give priority, in case of unequal participation of women and men in Governmental bodies of all levels, including the judiciary, legislative and the executive, the local Government, as well as all other public services, political functions, commissions and boards, including the participation in bodies that represent the state in the international level, until equal participation is not achieved. Unequal participation of women and men exists when the representation of women or men in Governmental bodies of all levels, including the judiciary, legislative and executive, local Government, as well as all other public services, political functions, commissions and boards, including the participation in bodies that represent the state in the international level, is lower than 40%.

Encouraging measures which are aimed towards securing special incentives or contributions, with the purpose to eliminate unequal participation of women and men, or unequal status based on gender.

Programmatic measures that are aimed towards awareness-raising, organizing activities and drafting and implementing action plans for promotion and improvement of equal opportunities.

III. Adoption of measures for establishing equal opportunities

Adoption of Special Measures

Article 7

Special measures are adopted in the field of education, employment, professional life, public and political activity, and in other areas within the frameworks of special areas of social life where the basis from Article 6 of this Law are given for their input and enforcement.

Adoption of Positive Measures

Article 8

(1) Positive measures are adopted by the bodies of legislative, executive and the judiciary, in accordance with the organizational structure and the methodology of work, by other bodies within the public sector, public companies, political parties and the civil sector.

(2) Subjects from Paragraph 1 of this Article are obliged to undertake positive measures within the frameworks of the periodic plans for promotion of gender equality and establishment of equal opportunities based on analyses on the status of women and men in the frameworks of their fields of action.

Adoption of encouraging and programmatic measures

Article 9

(1) Subjects from Article 8, Paragraph 1 of this Law, adopt encouraging and programmatic measures, within the framework of their authorities in accordance to this Law, as well as in accordance with their organizational structure and methodology of work.

(2) The encouraging and programmatic measures can be adopted in accordance with documents prepared on the basis of this Law, as well as on the basis of documents by the bodies of the legislative, executive and the judiciary, by other bodies of public sector, public companies, political parties or other bodies, depending on the nature and the content of the field they are active in.

Measures in the process of education and professional training for establishing equal opportunities

Article 10

(1) The education on the establishment of equal opportunities represented an integral part of the system of education and professional training, which has to obtain readiness among women and men for active and equal participation in all fields of social life.

(2) The bodies of state administration authorized to perform task from the field of education and labor, the institutions that conduct education and professional training are obliged to obtain equal treatment of women and men, especially in relations to access to education.

(3) In the process of preparation, adoption and conducting of programs for education and professional training, the preparation of course books and school aiding material, and in the process of introducing organizational innovations and modifications of pedagogical and andragogical methods, mechanisms for removing prejudices and stereotypes in connection to establishing equal opportunities, have to be secured.

(4) Subjects from Paragraph 2 of this Article are obliged to establish a system of measures for removing unequal treatment of women and men.

IV. Subjects responsible for the adoption and implementation of measures for establishing equal opportunities and their obligations

Assembly of the Republic of Macedonia

Article 11

(1) The Assembly of the Republic of Macedonia (hereinafter referred to as: the Assembly) enacts a National Action Plan for Equal Opportunities of Women and Men and decides upon the establishment of a Commission for Equal Opportunities of Women and Men.

(2) In the process of electing working bodies and in the process of determination of members of its delegations, the Assembly is obliged to respect the principle for equal participation of women and men.

Government of the Republic of Macedonia and the Bodies of State Administration

Article 12

(1) The Government of the Republic of Macedonia (hereinafter referred to as: the Government) within the framework of its responsibilities, takes care of the promotion and the establishment of equal opportunities and the achievement of the goals of this Law, through mechanisms of basic and special measures, determined with this Law.

(2) The Government is obliged to provide equal representation of women and men in the process of forming the membership of its working bodies and delegations, consultative and coordinating bodies, and other bodies, and in the process of selecting representatives in public companies and institutions.

(3) The Government is obliged to cooperate with associations of employers, syndicate and citizen associations that are active in the field of equal opportunities, with the purpose to secure suggestions and measures for accomplishing the goal of the Law.

Bodies of State Administration

Article 13

(1) The Ministries are obliged to submit for an opinion all materials that prescribe or relate to questions of meaning to the accomplishment of the purpose of this Law to the Ministry of Labor and Social Policy, before they are submitted to the Government for review, adoption or enactment

(2) The Ministries are obliged to determine an official person – a Coordinator, which will coordinate tasks for establishing equal opportunities that are in the authority of the body of state administration.

(3) The Coordinator from Paragraph 1 of this Article is responsible for the implementation of the obligations for establishing equal opportunities in the sense of this Law that are in the authority of the body of state administration, and for the cooperation with the authorized the Ministry of Labor and Social Policy.

(4) The Coordinator from Paragraph 1 of this Article is obliged to submit a report to the Ministry of Labor and Social Policy, once a year.

Ministry of Labor and Social Policy

Article 14

(1) The Ministry of Labor and Social Policy has the following field of activities:

promotes the status of women and men in all fields of social life;

introduces the principle of equal opportunities in main flows of reorganization, promotion, development and evaluation of political processes, at all levels and in all stages, at national and local level;

provides an opinion on the enforcement of positive measures in special fields of social life;

submits to the Government or to the authorized Ministries, proposals for enactment or amendments and supplements of laws and other regulations of significance to the establishment of equal opportunities, as well as for the adoption of other measures;

prepares the National Action Plan for Equal Opportunities of Women and Men, and follows its implementation;

in cooperation with the Ministry of Foreign Affairs, follows the implementation of international agreements that relate to equal opportunities and the promotion of the status of women;

prepares national reports on the implementation of international obligations of the Republic of Macedonia in the field of equal opportunities;

prepares analyses, reports, and other documents connected to equal opportunities;

cooperates with the Coordinators in the bodies of state administration, as well as with the Coordinators and the Commissions for Equal Opportunities formed in the units of local self-government;

cooperates with citizen association that are active in the field of equal opportunities;

submits a yearly report on activities to the Government, not later than the end of April, for the previous year.

(2) The Ministry of Labor and Social Policy provides an opinion to the periodical plans from Article 8, Paragraph 2 of this Law, if the adoption of positive measures is justified and is in accordance with Article 6 of this Law.

(3) The Ministry of Labor and Social Policy controls the implementation of positive measures in the areas in which they have been introduced.

(4) The bodies that introduced positive measures are obliged to submit a report to the Ministry of Labor and Social Policy on the implementation of the measures, in accordance with the National Action Plan for Equal Opportunities of Women and Men.

(5) The Ministry of Labor and Social Policy provides an opinion to the subjects from Article 8, Paragraph 1 of this law, on the adoption of positive measures in the areas of social life in which there is an unequal participation of women and men or an unequal status of persons of one gender.

Ombudsman

Article 15

The Ombudsman shall, within the legally determined authority, take care of the implementation of the principle of equal opportunities through legal protection of equal opportunities of women and men, when someone's rights have been taken away or have been limited by a body of state administration or by organizations with public authority.

Units of Local Self-Government

Article 16

(1) In order to achieve the goals of this Law, the units of local self-government are obliged, within the framework of their authority and, to determine and promote equal opportunities and to respect the principle of equal opportunities in the process of adoption of measures and activities that are necessary for the establishment of equal opportunities.

(2) The units of local self-government are obliged to form a Commission for Equal Opportunities and to determine a person from their employees or from other persons that are competent and expert to fulfill the obligations of the Coordinator for Equal Opportunities of Women and Men, to participate in the preparation of the National Action Plan for Equal Opportunities of Women and Men in the section that relates to the units of local self-government.

(3) The Commission for Equal Opportunities from Paragraph 2 of this Article is formed as a permanent body with the decision of the Council of the unit of local self-government, and its composition, authority, tasks, and obligations are determined with the Statute of the unit of local self-government.

(4) In the process of adopting development plans and other acts and decisions, the bodies and organs of the units of local self-government are obliged to review and take in consideration the measures and activities proposed by the Commission for Equal Opportunities and the Coordinator for Equal Opportunities.

(5) The bodies of the units of local self-government are obliged to cooperate with the associations of employers, syndicate, non-governmental organization and citizen associations that are active in the field of equal opportunities in order to obtain proposals and measures for the accomplishment of the goal of the Law.

Article 17

The Commission for Equal Opportunities from Article 16 of this Law is obliged to submit a report on its work to the Ministry of Labor and Social Policy, at least once a year.

Political Parties

Article 18

(1) A Plan for Equal Opportunities is adopted by the political parties once in every two years, which determines the methods and measures for promotion of equal participation of women and men in the bodies of the party, in their lists of candidates for elections in the units of local self-government, in the Assembly and for election of the President of the Republic of Macedonia.

(2) Before the adoption, the political parties submit the Draft version of the Plan for Equal Opportunities to the Ministry of Labor and Social Policy.

(3) After the adoption of the Plan for Equal Opportunities, the political parties are submitting it to the Ministry of Labor and Social Policy.

Media

Article 19

(1) The Media, through their programmatic concepts, should contribute to the development and awareness-raising of equal opportunities, as well as to the equal participation of women and men in the creation of programmatic concepts and contents.

(2) The public broadcast and presentation of a person in the media should be done in an inoffensive, non-degrading or non-humiliating manner, based on gender.

Presentation of Statistical Data

Article 20

The Assembly, the Government, the bodies of state administration, the bodies of the judiciary and the other state bodies, the bodies of the units of local self-government, the legal entities which have been allowed by law to perform activities of public interest, the citizen associations, the foundations, the public companies, the educational institutions, the institutions in the field of social protection, the medical institutions, the political parties, the media, the companies, and the other subjects that are obliged by law to collect, record and work with statistical data are obliged to present this data on human resources in accordance to gender affiliation.

V. National Action Plan for Equal Opportunities of Women and Men (NAPEO)

Article 21

(1) The Government proposes to the Assembly a National Action Plan for Equal Opportunities of Women and Men (hereinafter referred to as: the Action Plan) in accordance to the proposals made by the bodies of state administration, the authorized sector,, the bodies of the units of local self-government, the associations of employers, the syndicate, citizen associations and other organizations and individual experts.

(2) The Action Plan consists the general principles for equal opportunities in accordance with the content of the long-term programmatic documents, and especially the:

guidelines and measures for the accomplishment of the goals in special areas of social life, among other, in the areas of employment, social security and medical protection, education, family relations and representation of women and men in public life;

responsibility for implementing measures for achieving the goals;

content, authorized bodies and persons responsible for the preparation and implementation of periodic plans that are in function to implement the tasks from the Action Plan in special areas of social life;

data which is gathered, edited, connected, recorded, analyzed, and presented separately in accordance to their gender structure, within the framework of the activities of the State Statistical Office;

methodology of following and reporting on the enforcement of the Action Plan;

necessary resources for the implementation of measures from the Action Plan, sources and ways of securing of such resources.

Periodical Plans for Implementation of the Action Plan

Article 22

(1) The Periodical Plan for Implementation of the Action Plan is an act determines the planned activities for the special areas of social life, for a period of two years.

(2) The Ministry of Labor and Social Policy is obliged to prepare a draft Periodical Plan in accordance with the recommendations from the bodies of state administration contained in the reports for the previous two-year period, and to submit it to the Government for adoption.

(3) The bodies of state administration are obliged to submit the reports from Paragraph 2 of this Article, to the Ministry of Labor and Social Policy, not later than two months before the expiration period for the previous Periodical Plan.

(4) The Government prepares a report on the implemented measures and activities from the Action Plan, once per year, and publishes it in manner that it is available to the public.

VI. Procedure for Determining Unequal treatment of women and men

Determined Person to Lead the Procedure

Article 23

(1) The procedure for determining unequal treatment of women and men, based on a written initiative submitted by individuals, citizen associations, syndicates, and other legal entities (hereinafter referred to as: the Procedure), is lead at the Ministry of Labor and Social Policy.

(2) The procedure at the Ministry of Labor and Social Policy is lead by a Representative.

(3) The Representative is a person employed as a civil servant at the Ministry of Labor and Social Policy, and is responsible to lead the procedures for determining unequal treatment of women and men.

Initiation of the Procedure

Article 24

(1) The procedure is initiated by submitting a written initiative to the Representative.

(2) The Representative can also initiate the procedure in accordance to his/her personal initiative.

(3) Individuals, citizen associations, syndicates and other legal entities can submit a written initiative for initiation of the procedure to the Representative for an enacted individual legal act or an action that was conducted by subjects from the public and private sector, which constitutes a contradiction of the prohibition from Article 3 of this Law.

(4) The leading of the procedure is free of charge.

(5) The regulations on the protection of secrecy of personal information are enforced during the procedure.

Initiative for Initiating the Procedure

Article 25

(1) The initiative from Article 24 of this Law is submitted in a written form, within the shortest possible time period, but, not later than one year after the violation has been performed.

(2) The Representative can initiate a procedure even after the deadline from Paragraph 1 of this Article, if it is determined that the case is of great importance and that it would be necessary and purposeful to initiate the procedure.

Non-Initiation of Procedure

Article 26

The Representative for Equal Opportunities shall not initiate a procedure upon written initiatives, from which it is clearly obvious that there is no case of unequal treatment of women and men in the sense of this Law, for what the submitter of the initiative shall be informed in written about the reasons for non-initiation of procedure, within 30 days from the day the initiative was submitted.

Course of Procedure

Article 27

- (1) The procedure is lead in a written form.
- (2) In exceptions, the Representative can invite the subjects involved in the case of unequal treatment for a conversation, if it is determined that it would aid the clearing of the case.
- (3) The Representative can ask from the subject against whom the procedure for determining unequal treatment of women and men has been initiated, to submit a written explanation, within 15 days from the day the request was delivered.
- (4) If the subject from Paragraph 3 of this Article does not submit the requested explanation, the Representative shall present the opinion based on the information that were at disposal.

Obligation for Cooperation with the Representative

Article 28

All subjects that shall be addressed by the Representative are obliged to deliver the required documents and information, as well as to provide all necessary explanations.

Duration of the Procedure

Article 29

- (1) The procedure should be conducted within a period of 60 days from the day the written initiative was submitted.
- (2) The time period from Paragraph 1 of this Article can be prolonged for an additional 30 days if it is required by the complexity of the case.

Termination of the Procedure

Article 30

The Representative shall terminate the procedure upon the written request made by the submitter, if the submitter is not interested for the future leading of the procedure or if he/she is not able to conduct the procedure to its end due to lack of documents and information.

Written Opinion

Article 31

(1) The procedure ends with the submitting of a written opinion which contains the actual condition determined by the Representative and his/her opinion on the circumstances of the case, in the sense of whether there is unequal treatment of women and men in accordance to this Law.

(2) The Representative submits the written opinion to the subject involved in the case.

(3) In the written opinion from Paragraph 1 of this Article, the Representative may include the irregularities that were determined in the concrete case and to provide recommendations on how to remove these irregularities, and may also ask from the party against which the procedure for unequal treatment of women and men was initiated to inform him/her on the undertaken measures, within a certain time period.

Annual Report

Article 32

Each year, but not later than 31 March for the previous year, the Representative prepares a report on his/her activities, which is submitted to the Ministry of Labor and Social Policy.

VII. LEGAL PROTECTION OF THE DISCRIMINATED PERSONS

Cases for Referral

Article 33

(1) The Representative submits the written opinion from Article 31 of this Law to the authorized body for inspections, to the Ombudsman or to another authorized body that performs supervision of the enforcement of legal provisions that regulate equal opportunities in cases when the subject against which the procedure for determining unequal treatment was initiated did not remove the determined irregularities, in accordance with the written opinion of the Representative, or if the Representative was not notified by the subject against which the procedure for determining unequal treatment was initiated within the determined time period, when the case, in accordance to the opinion of the Representative, contains all the characteristics of discrimination, in accordance to this Law.

(2) For an authorized body for inspection from Paragraph of this Article shall be considered the body for inspection that is authorized, in accordance with law, to conduct supervision over the enforcement of laws and bylaws, collective agreements, as well as, of general acts in cases when certain actions that are considered to be discrimination in accordance with the provisions of this Law have happened.

Authority of the Bodies for Inspection

Article 34

(1) If the authorized body for inspection determines that in the case for which the Representative made a written opinion, this and other laws that regulate equal opportunities have not been enforced, a decision that orders compliance with the recommendations from the Representative is enacted for a time period that is determined by the authorized body for inspection, which cannot be longer than 15 days from the day the decision was enacted.

(2) The decision from Paragraph 1 of this Article is delivered by the authorized body for inspection to the subject to which the Representative's opinion has been submitted within the concrete case where the inspection supervision has been made and to the Representative, within a period of 15 days from the day the decision is enacted.

Article 35

(1) An appeal against the decision of the authorized body for inspection may be submitted to the authorized Commission within the Government, within a period of eight days from the day the decision was received.

(2) The appeal from Paragraph 1 of this Article does not postpone the execution of the decision.

(3) The decision upon the appeal is enacted within a period of 15 days from the day the appeal was received.

Article 36

(1) If the authorized body for inspection determines that by violating this and other laws that regulate equal opportunities, a misdemeanor or a criminal act have been committed, it is obliged to submit a request for initiation of a misdemeanor procedure, that is, report for pressing criminal charges.

(2) The body to which the request or report from Paragraph 1 of this Article have been submitted, is obliged to submit its decision to the authorized body for inspection.

Legal Protection

Article 37

In case of disrespect of the prohibition for discrimination determined with Article 3 of this Law, the person which considers that a certain right of his/hers have been violated with an individual act or action based on gender, has the right to seek protection of his/hers rights in an administrative and judicial procedure, in the manner and under the conditions determined by law.

Damage Compensation

Article 38

The person, for which it has been determined by a decision of an authorized body or other legal entity that certain right of his/hers has been violated with an individual act or action based on gender, has the right to seek damage compensation in accordance with the Law on Obligations.

Burden of Proof

Article 39

(1) When a person which considers itself to be a victim of discrimination presents facts from which it could be assumed that certain discrimination has occurred, then the person which is blamed to have discriminated is obliged to prove that he/she did not violate the principle of equal treatment.

(2) The regulation from Paragraph 1 of this Article is not enforced for criminal procedures.

Article 40

Citizen associations, associations of employers and syndicates can represent the persons from Article 39, Paragraph 1 of this Law, upon their request, in an administrative procedure for the purpose of protection of their rights which were removed or limited on the basis of gender.

IX. Supervision over the enforcement of the law

Article 41

The Ministry of Labor and Social Policy conducts supervision over the enforcement of the provisions of this Law.

X. Penal Provisions

Article 42

Subjects that will not submit their periodical plans for establishment and promotion of equal opportunities for an opinion to the Ministry of Labor and Social Policy before the start of implementation of the positive measures from Article 8 of this Law, or will not submit the requested documents and information to the Representative, shall be punished for misdemeanor with a fine from 100,000 to 200,000 denars.

Article 43

The responsible person within the bodies of the units of local self-government that will not appoint a Coordinator for Equal Opportunities in accordance with the obligation from Article 17, Paragraph 2 of this Law, shall be punished for misdemeanor with a fine from 10,000 to 15,000 denars.

XI. Final and transitional provisions

Article 44

(1) The Ministry of Labor and Social Policy shall determine a Representative for Equal Opportunities of Women and Men within a period of six months from the day this Law enters in force.

(2) The bodies of state administration shall determine a Coordinator from Article 13 of this Law within a period of three months from the day this Law enters in force.

(3) The units of local self-government shall form a Commission for Equal Opportunities and shall determine a Coordinator for Equal Opportunities within a period of six months from the day this Law enters in force.

(4) The bodies of state administration, other bodies of state authority, the bodies of the units of local self-government, the legal entities that perform activities in the form of public authorities, citizen associations, public companies, educational institutions, institutions from the field of social protection, medical institutions, political parties, the media, and the scientific and cultural institutions listed in this Law shall submit action plans with special measures to the authorized Sector for Equal Opportunities within the Ministry of Labor and Social Policy within a period of one year from the day this Law enter in force.

Article 45

This Law shall enter in force on the eight day from the day it is published in the “Official Gazette of the Republic of Macedonia.”