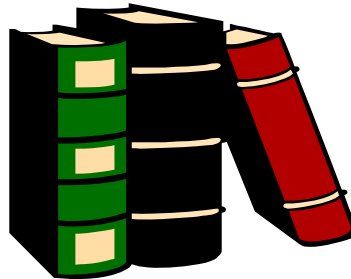




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LAW ON AMENDMENTS TO THE LAW ON GENDER EQUALITY IN BOSNIA AND HERZEGOVINA

“Official Gazette of Bosnia and Herzegovina”, 102/09

NOTE: The Law on Gender Equality in Bosnia and Herzegovina was published in the “Official Gazette of Bosnia and Herzegovina”, 16/03.

Pursuant to Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, on the 63rd session of the House of Representatives held on November 4, 2009 and on the 39th session of the House of Peoples held on December 15, 2009, passed

LAW ON AMENDMENTS TO THE LAW ON GENDER EQUALITY IN BOSNIA AND HERZEGOVINA

Article 1

In the Law on Gender Equality in Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, No. 16/03), Article 1 shall be amended to read:

“Article 1

This Law regulates, promotes and protects gender equality, guarantees equal opportunities and equal treatment to all citizens, in public as well as private life, and regulates the protection of the gender based discrimination.”

Article 2

In Article 2, paragraphs 1 and 2 shall be amended to read:

“Persons of male and female genders shall be equal.

Full gender equality shall be guaranteed in all spheres of society, including but not limiting to the fields of education, economy, employment and labor, social and health care, sports, culture, public life and media, irrespective of marital and family status.”

After paragraph 3, new paragraphs 4 and 5 shall be added to read:

“Introduction, enactment and implementation of the temporary special measures aiming to eliminate existing inequality, to promote equality and protection of the gender equality, shall not be considered discrimination.

Any norm, criterion or practice reasonably justifiable by a legitimate aim, proportionate to the necessary and justified measures taken, shall not be considered gender discrimination.”

Article 3

Article 3 shall be amended to read:

“Article 3

Gender discrimination shall be any placement in a less favorable position of a person or group on the basis of gender due to which the persons or groups are being impaired or denied recognition, enjoyment or exercise of human rights and freedoms.

In its forms, discrimination may be direct, indirect, harassment, sexual harassment, inciting to discrimination and gender based violence.”

Article 4

After Article 3, new articles 3a, 3b, 3c, 3d and 3e shall be added to read:

“Article 3a

Direct gender based discrimination exists when a person or a group has been or is or may be treated less favorably than another person or group in a same or similar situation.

Indirect gender based discrimination exists when an apparently neutral legal norm, criterion or practice, equal for all, puts or may put a person or a group of one sex at a particular disadvantage compared with persons of the other sex.

Article 3b

Harassment is every unwanted conduct on the basis of gender, with the purpose or effect of violating the dignity of a person or of a group and creates an intimidating, hostile, degrading, humiliating, offensive environment or environment achieving such result.

Sexual harassment is every unwanted form of verbal, non-verbal or physical conduct of sexual nature, with the purpose or effect of violating the dignity of a person or of a group or achieving such result, especially when such conduct creates an intimidating, hostile, degrading, humiliating or offensive environment.

Inciting to gender based discrimination, if it was committed intentionally, shall be equaled with discrimination for the purpose of Article 3 of this Law.

Article 3c

Gender based violence shall be prohibited.

Gender based violence is every conduct that causes or may cause physical, mental, sexual or economic damage or suffering, as well as threats of such conducts that inhibits a person or a group to enjoy their human rights and freedoms in public and private life.

Gender based violence shall include, but not be limited to:

- Violence occurring in a family or household;
- Violence occurring in a wider community;

- Violence perpetrated or tolerated by authority bodies and other authorized bodies and individuals;
- Gender based violence in the event of armed conflicts.

Competent authorities shall be bound to undertake appropriate measures for the elimination and prevention of the gender based violence in public and private life, and shall ensure the instruments of providing protection, assistance and compensation to victims.

Competent authorities shall be bound to undertake appropriate measures, including but not limiting to the area of education, for the elimination of bias, traditions and all other practices based on an idea of inferiority or superiority of any gender, as well as on stereotype roles of the persons of male or female genders. This includes but is not limited to education and raising awareness among the civil servants, in public and in other manners.

Article 3d

Victimization is a form of discrimination that exists when a person or a group is put in a disadvantageous position due to refuse of order for discriminatory conduct, reporting discrimination, testifying in a procedure of protection from gender based discrimination, or if they in any way have taken part in a procedure conducted due to gender based discrimination.

Article 3e

Special measures shall be introduced for the exercise of real gender equality and shall not be considered discrimination, including norms, criteria or practices that are justifiable with a legitimate objective, and have to be proportional, appropriate and necessary.

Competent state, entity, cantonal authorities and authorities of the local self-government units shall specify special measures by laws and other regulations, other acts, policies, strategies and plans regulating certain spheres of the life of society.”

Article 5

Article 4 shall be amended to read:

“Article 4

For the purpose of this Law, the following definitions shall apply:

- Gender** means biological and psychological characteristics by which the persons of male and female sexes differ, and denotes gender as sociologically and culturally conditioned difference between the persons of male and female sexes and relates to all roles and characteristics that are not conditioned or determined exclusively by natural and biological factors, but are rather product of norms, practice, customs and tradition and are changeable over time;

- b) **Equality of sexes** means that the persons of male and female sexes are equally present in all spheres of public and private life, that they have equal statuses, equal opportunities to exercise all rights, as well as equal benefit from results achieved;
- c) **Equal treatment of all persons of male and female sexes** implies ensuring gender based discrimination;
- d) **Equal opportunities of all persons irrespective of sex** implies absence of impediments for economic, political and societal participation on the basis of sex;
- e) **Discrimination in language** exists when one grammatical gender is exclusively used as a generic notion;
- f) **Institutional mechanisms for gender equality** represent bodies and persons established by competent legislative, executive and administrative authorities of all levels of authority in Bosnia and Herzegovina for the implementation of the Law on Gender Equality in Bosnia and Herzegovina, coordination and realization of the program objectives from the Gender Action Plan of Bosnia and Herzegovina and ensuring implementation of the international standards in the sphere of gender equality;
- g) **Gender Action Plan of Bosnia and Herzegovina** is the strategy defining program objectives for realization of the gender equality in all areas of social life and work, in both public and private spheres.”

Article 6

Article 15 shall be amended to read:

“Article 15

State bodies at all levels of organization of authority and bodies of local self-governance, including legislative, executive and administrative authorities, political parties, legal persons with public authorizations, legal persons owned by or under control of the State, entities, cantons, cities or municipalities, or over whose operation a public body exerts control, shall ensure and promote balanced representation of both sexes in the management and decision-making and in representation. This obligation stands also for all authorized proponents in selection of representatives and delegations in international organizations and bodies.

Equal gender representation exists when one of sexes is represented in at least 40% in bodies referred to in paragraph 1 of this Article.

Situation when there is equal representation referred to in paragraph 2 of this Article shall be considered to be gender based discrimination.

With objective of realizing the equal representation of sexes and eliminating discrimination, bodies referred to in paragraph 1 of this Article shall be bound to enact special measures specified in Article 6 of this Law.”

Article 7

Article 17 shall be deleted.

Article 8

Article 19 shall be amended to read:

“Article 19

Everyone who believes that they are victims of discrimination or that some of their rights have been violated by discrimination may request protection of these rights in a procedure where such rights are decided as main issue, and may also request protection in a separate procedure for protection against discrimination pursuant to the Law on Protection Against Discrimination (“Official Gazette of BiH”, No. 59/09).

Victim of discrimination, pursuant to the provisions of that Law, is entitled to compensation for damage in accordance with the regulations regulating the obligations.

All decisions of the competent judicial bodies made for the violation of this Law, the courts at the level of Bosnia and Herzegovina shall communicate to the Gender Equality Agency of Bosnia and Herzegovina, whereas the courts in the entities of Bosnia and Herzegovina shall communicate them to the Gender Center of the Federation of Bosnia and Herzegovina and Gender Center of Republika Srpska.”

Article 9

Article 20 shall be deleted.

Article 10

The title of Chapter XV shall be amended to read: “RESPONSIBILITIES OF THE COMPETENT BODIES OF THE AUTHORITIES”

Article 21 shall be amended to read:

“Article 21

Bodies of the authority at the state and entity levels, cantonal bodies and bodies of the local self-governance units, legal persons with public authorizations, legal persons majority of which is owned by the state, shall be bound to undertake within their responsibilities all appropriate and required measures for the implementation of the provisions stipulated by this Law and Gender Action Plan of Bosnia and Herzegovina, including but not limited to:

- Adopting sets of measures aimed at achieving gender equality in all areas and on all levels of government;
- Adopting new or amending existing laws and other regulations in order to harmonize them with provisions of this Law and international gender equality standards;
- Carrying out activities and measures from the Gender Action Plan of Bosnia and Herzegovina through regular programs, with securing budgetary assets;

- Ensure collection, maintenance, analysis and presentation of the statistics classified by gender.

Integral part of the sets of measures aimed at achieving gender equality in all areas shall include, but shall not be limited to:

- Analysis of the situation of genders in a certain area;
- Implementation of adopted state policies through action plans for gender equality;
- Measures for elimination of detected gender inequality in a certain area.

Responsible legislative, executive and administrative bodies of all levels of authority in Bosnia and Herzegovina shall be bound to establish appropriate institutional mechanisms for gender equality to implement the Law on Gender Equality in Bosnia and Herzegovina, coordinate realization of program objectives from the Gender Action Plan of Bosnia and Herzegovina, and ensure implementation of the international standards in the area of gender equality.

Competent state, entity and cantonal authorities, as well as the authorities of the local self-government units shall be bound to communicate, prior to sending them into the legal procedure, all regulations and other acts falling within their competence to the institutional mechanisms for gender equality referred to in paragraph 3 of this Article to obtain their opinion, for the purpose of harmonization with the provisions of the Law on Gender Equality in Bosnia and Herzegovina.”

Article 11

Article 23 shall be amended to read:

“Article 23

Gender Equality Agency of Bosnia and Herzegovina shall, within its competences, carry out the following tasks:

1. Monitor and analyze the gender equality situation in Bosnia and Herzegovina on the basis of reports made by the Agency and reports of the entity gender centers and reports annually to the Council of Ministers of Bosnia and Herzegovina. On the basis of the results and monitoring, it shall make special reports, opinions, suggestions and recommendations for the referral to the competent bodies at the state level;
2. Determine methodology of preparing reports on gender equality in Bosnia and Herzegovina;
3. Initiate and coordinate preparation of the Gender Action Plan of Bosnia and Herzegovina, in cooperation with entity gender centers, which is to be adopted by the Council of Ministers of Bosnia and Herzegovina;
4. Monitor implementation and coordinate activities with all relevant participants in the process of implementation of the Gender Action Plan of Bosnia and Herzegovina referred to in Article 21, paragraph 3 of this Law;

5. Cooperate with the institutional mechanisms for gender equality in the institutions at the State level;
6. In the procedure of preparation of draft and proposals of laws, by-laws and other normative acts, strategies, plans and programs, and prior to sending them to the Council of Ministers of Bosnia and Herzegovina, provides opinion on harmonization of the said acts with these laws and international gender equality standards;
7. Initiate and take part in preparation of laws, by-laws and other acts, strategies, plans and programs that are enacted at the level of Bosnia and Herzegovina, with objective of determining measures for achieving gender equality in all spheres of social life;
8. Initiate opening procedure for amendments to the regulations in the event of noncompliance with provisions of this Law, national and international gender equality standards;
9. Receive and process pleas, appeals and petitions of the persons and groups pointing at violations of a right from this Law;
10. Gender Equality Agency of Bosnia and Herzegovina shall enact Single rules for receiving and processing the pleas, appeals and petitions of the persons and groups referred to in paragraph 9 of this Article;
11. Present and coordinate activities, within its competences, at the international and regional levels;
12. Monitor implementation of this Law and in cooperation with the Gender Center of the Federation of Bosnia and Herzegovina and Gender Center of Republika Srpska shall prepare reports on fulfillment of international obligations in the sphere of gender equality;
13. Cooperate within its competence with nongovernmental organizations dealing with protection of human rights and freedoms;
14. Carry out gender equality promotion activities;
15. Carry out other tasks wit objective of implementation of the Law.”

Article 12

Article 24 shall be deleted.

Article 13

Article 25 shall be amended to read:

“Article 25

Gender Center of the Federation of Bosnia and Herzegovina and Gender Center of Republika Srpska shall monitor the implementation of the Law on entity level and for that purpose shall particularly carry out the following tasks:

1. Monitor the harmonization of laws and other acts, strategies, plans and programs that are enacted at the entity level with national and international gender equality standards;
2. Provide opinion on harmonization of laws and other acts, strategies, plans and programs that are enacted at the entity level with provisions of this Law and other national and international gender equality standards, and undertake initiatives for harmonization;
3. Monitor and analyze the gender equality situation in the entities;
4. Prepare and make regular and special reports on the gender equality situation in certain areas, prepare and make information, opinions and recommendations that they communicate to the entity governments and other competent authorities and bodies;
5. Receive and process pleas, appeals and petitions of the persons and groups pointing at violations of a right from this Law in accordance with the Single rules referred to in Article 23, paragraph 1, subparagraph 10 of this Law;
6. Cooperate with the institutional mechanisms referred to in Article 21, paragraph 3 of this Law;
7. Present and coordinate activities, within its competences, at regional level;
8. Cooperate with nongovernmental organizations dealing with protection of human rights and freedoms;
9. Provide expert and advisory support and assistance to all institution of the system and to other partners.

Gender Center of the Federation of Bosnia and Herzegovina and Gender Center of Republika Srpska shall also carry out other tasks in relation to improvement and promotion of gender equality in the entities.”

Article 14

Article 27 shall be amended to read:

“Article 27

Any person who commits gender based violence; harassment or sexual harassment by which peace, mental health and physical integrity may be jeopardized, shall be sentenced to 6 months to 5 years of imprisonment.”

Article 15

Constitutional-Legal Commission of the House of Representatives and the Constitutional-Legal Commission of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina are hereby authorized to jointly prepare consolidated version of the Law on Gender Equality in Bosnia and Herzegovina.

Article 16

This Law shall enter into force on the eighth day from the day of its publishing in the “Official Gazette of Bosnia and Herzegovina”.