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# **CREATING THE SOCIETY OF GENDER EQUALITY: INTERNATIONAL EXPERIENCE**

**LAWS OF FOREIGN COUNTRIES  
ON GENDER EQUALITY**

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This book is an updated and expanded edition of the book “International experience of gender transformations. Laws of foreign countries on gender equality» published in 2004. It addressed the international experience in formation and implementation of the state gender policy. This is an attempt to show the directions and peculiarities of formation and implementation of the gender policy and gender legislation in different countries of the world, especially where they have gained wide-scale implementation and significant development.

This book offers state laws on gender equality from different of regions of the world.

This book is aimed for specialists in different areas interested in the gender approach to their analysis and in determining the prospects of development, for practitioners engaged in gender transformations in real life, and all scholars who are working on crucial problems of modern gender knowledge.

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# CONTENTS

<b>Preface.....</b>	<b>4</b>
<b>Introduction. Role of international experience in gender transformations.....</b>	<b>7</b>
<b>Chapter 1. Development of the process of the international consolidation in ensuring of gender equality</b>	
1. Factors of urgency of gender transformations in the 20 <sup>th</sup> –21 <sup>st</sup> centuries.....	14
2. Gender in the international documents at the threshold of the new millennium as an achievement of the international experience of gender transformations.....	22
3. Peculiarities of formation of the European approach to gender transformations and its implementation.....	49
4. Conceptual vision of gender equality.....	68
<b>Chapter 2. International gender strategies and mechanisms of their implementation</b>	
1. Establishment of the society of gender equality as the international strategy.....	75
2. Global tendencies of establishing gender equality.....	76
3. Gender transformations of the global scope.....	77
4. International mechanisms for ensuring of gender equality.....	79
<b>Chapter 3. Ensuring of equal rights and opportunities in legislation of national societies</b>	
1. Gender legislation as urgent need .....	97
2. Constitutional securing of equal rights and opportunities in national societies.....	102
3. Special focused laws on equal rights and opportunities: purposiveness and expansion of the sphere of action.....	113
4. Gender-legal expert evaluation of the legislation.....	136
<b>Chapter 4. National organizational-and-legal mechanisms for ensuring of equality between women and men</b>	
1. Concerning the issue of «national» and «state» mechanism for ensuring gender equality.....	145
2. Governmental mechanism for ensuring of gender equality.....	147
a. President: role in ensuring of gender equality.....	153
b. Parliament: ensuring of gender transformations.....	155
c. Position of the ombudsman for equal opportunities.....	190
d. Governmental structures for ensuring of gender equality.....	195
3. Local structures for ensuring of gender equality.....	221
4. National action plans and state programmes on gender development.....	226
5. Gender budgeting.....	239

<b>Chapter 5. Laws on gender equality of Ukraine and of foreign countries.....</b>	<b>242</b>
Ukraine.....	243
Norway.....	252
Sweden.....	258
Iceland.....	280
Lithuanian Republic.....	295
Germany.....	304
Japan.....	318
Slovenia.....	326
Bosnia and Herzegovina.....	334
<b>Chapter 6. Canada. Action platform for the new century. Report of the Canadian government. Action platform for the new century: Federal plan for gender equality.....</b>	<b>346</b>



# Preface

During the last decades, the world has been experiencing growth of the gender thought and activities directed at gender transformations. They are breaking the humanity's everyday stereotypes that have been sedimenting for centuries. This is taking place in the context of the growing dynamics of innovations in all spheres of human life. Such a process, conditioned by social needs, is bound to face obstacles and contradictions; it comes across certain complications and even certain counteraction from traditionalist and retrograde forces. But the progressive thought and action have such a potential, such positive energy, that, despite all obstacles, they possess their rightful place in the historical movement forward.

The gender thought manifests a new approach and a new vision of the world transformations. Without them, it would be impossible to ensure the progress, to establish freedom, justice, and tolerance. Establishing of gender equality is a logical continuation and to a significant degree a substantial content of establishing of equality of nations, classes, countries, political parties, non-governmental associations.

Gender equality is a precondition for blossoming and development of democracy. Creating a new society built on principles of justice and development is possible only if the place and role of personality of woman and man are treated as equal in their rights, freedoms, duties, opportunities, chances, responsibilities and productivity. Such an approach underlies the activity of the international and European structures oriented at coordination of mutual connections and joint actions, search for active communicative technologies for the long-term period and development of communicative practices.

Nowadays establishing a national society is impossible outside the international and European commonwealth. But to join the international structures and to act according to the needs of the time, it is necessary to have the qualities of their level, share their principles and to introduce their standards. This is the foundation of approach to selection of the topic and preparation and writing of this book.

This book aimed to study and generalize the international experience of establishing gender equality through activity of the international structures as forms of collective activity, the limits of its legal ensuring in different countries of the world. The author strove to share with her readership everything she considers regular, special and individual in establishment of gender in this or that country.

The current international experience on gender equality gives a wide range of the gender legislation adopted already in most countries of the world. The task here lies not in accents (or not in accents as much), not in concentration of attention on its shortcomings or weaknesses. To the contrary, the major aspiration here was to concentrate on what is positive and original, on peculiarities of the structures and the content of the adopted legislative acts, on their interesting aspects and modern orientations towards the progress. The focused laws on equality of rights and opportunities, which have been adopted in numerous countries of Europe and the world, are of significant interest from the point of view of timely reflection of the international legislation and of the international experience of the countries of the world concerning legislative regulation of gender, as well as from the point of view of reflection of what is national, immanently specific to this country or region.

The identified direction of the analysis determines also the structure of the book. As long as the analysis concentrates on the general gender problems similar for all countries

of the world, as well as on peculiarities of their country and regional reflection, the major aspiration was to generalize the state of the existent gender legislation as reflection of the accumulated and generalized international experience, as well as to single out its peculiarities in some countries, as expressed in the laws on gender.

The idea to analyze the legislation on gender equality developed in the countries of the world looked very tempting but turned out to be complicated to carry out. This complexity was conditioned, to begin with, by several factors: firstly, it turned out to be difficult to obtain the very texts of laws on gender equality from numerous countries; secondly, not all available translations of the gender legislation are adequate as often the laws were translated not by lawyers, what causes discrepancies in the content, its oversimplification or total incomprehensibility. In the analysis of gender processes the author had to rely on the availability of the laws on gender equality of the countries that are most indicative of the situation in the regions, and the laws that have an official translation. Our major task was to analyze the state of the process of gender development, which is going on in the world, region and national societies, in particular in Ukraine, and to focus on its peculiarities.

The author realizes that in one book it is impossible to generalize the entire international, regional and national experience, especially while it is still not everywhere clearly finalized. And still, it seems, it allowed for certain generalizations. Or, more precisely, the author was able to start certain generalization of everything, what has been accumulated in the international practice on gender issues.

The author first attempted to generalize the international experience of gender transformations in the book «International experience of gender transformations. Laws of foreign countries on gender equality», which had been published in 2004 with the assistance Canada-Ukraine Gender Fund. But each year brings more opportunities for wider familiarization with the international practice in the sphere of gender equality; while the range of the very experience keeps expanding and the gender thought keeps developing. This was reflected in the second updated edition of this book titled «Creating the society of gender equality: international experience. Laws of foreign countries on gender equality». This edition was made possible by Canada-Ukraine Judicial Cooperation Project, supported by Canadian International Development Agency (CIDA), which expressed interest in this topic.

For translation and publishing of this book in English the author thanks the All Ukrainian Network of People Living with HIV/AIDS and the project “Hender and HIV: from paternalism to active involvement” funded by the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)

I hope this book will be of interest for gender specialists, politicians, public officials and civil servants, activists of non-governmental organizations, especially women’s organizations, and everybody interested in the modern processes of gender transformations.



# **Introduction.**

**Role of international  
experience in gender  
transformations**



On the verge of the new millennium the world recognized the necessity to re-think all processes of social development. Such re-thinking is required at the global level of organization of the society, as well as at the European and national levels.

When we talk about ensuring of equal participation of women and men, this historical period is crucial as Ukraine, as all other countries, which were a part of the USSR, is shifting from totalitarianism towards liberal-democratic forms of the social life, under which personal self-actualization of a Human Being is the main prerequisite for the social progress. Through a person's ability to self-organize their own life, to manage the process of implementation of their self-determined life program, to be aware of their personal and social interests and needs at the level of their modern sense and to be ready to look for ways to satisfy them, to self-regulate their activity and harmonize it with the general social processes, with the changes in the state reformation, in the public activity of the society, creation of the new is taking place in the country, in its social environment.

A democratic society is a society open for a person's self-expression and modeling their life according to best traditions of the past, accumulated national projects, outlined perspectives, as well as following the models and accumulated experience of other countries and nations.

The process of the national democratic reinvention of the Ukrainian society is taking place in the conditions of the international gender transformations. Specificity of development of the modern civilization lies in the fact that the world community influences the democratic transitions and in its turn is influenced by them. The transformational process in Ukraine, besides other peculiarities, is characterized and by formation of the society of gender equality. Gender becomes a factor that can either accelerate or slow down the historical development of the systemic wholeness of the society, its structural and functional changes.

Ukraine is living through a transition to new gender values of democracy within the system of universal democratic values. The multiple-factor analysis of the democratic transition shows that the gender component permeate the international environment, building of states and nations, formation and functioning of political structures, class and socio-cultural processes, personal life of a human being. And here, from the point of view of political transition, what is important is choice of strategy and tactics of gender transformations, of formation of the gender-organized humanism-based space, in which the best features of women and man can blossom and gender relations between them can develop on the principles of parity.

The years 1980–90 were characterized by re-thinking of ways of addressing problems of gender equality. In the international and national consciousness, the concept of improvement of women's status is being replaced by the concept of gender ensuring of development, progress and justice. Instead of aiming at actions in the life system of people of just one gender, changes in their qualitative characteristics, obtaining of certain new features, creating of special conditions and ensuring of opportunities, development of feminine features etc., it is oriented towards overcoming of gender inequality in all spheres of the social development, elimination of all forms of discrimination against any gender, integration of the gender component in the entire system of social and state activity and of the gender approach in assessment of its plans and results, determining of the gender perspective.

The gender concept of the societal development and social transformations stipulates the social and state perception of life of both sexes as equal, the balance of opportunities for their development, overcoming of all forms of historical injustice concerning their treatment and assessment of results of their activity, ensuring of conditions for self-actualization and self-expression for women and man as equals in rights, freedoms, duties and responsibility.

Ukraine signed international documents, which formalized such approach, and thus acknowledged it as the most reasonable to determine plans, programs and perspectives for national transformations, committed to ensure equality, development and justice in the country, the region and world, guided by gender ideas of social equality.

To carry out the undertaken obligations on establishing of gender equality requires understanding the national opportunities for their implementation, taking into account the historically established practice of the social life of man and woman, the national traditions of their relations, achievements and level of the social culture and its component – the gender culture, gender mobility of people, optimal activity of the organizational structures and the place of gender approach in it, availability of the mechanism and cohesion of man and woman's participation as equals in its functioning. The modern understanding is based on the study of achievements of the international culture of gender transformations, identifying their forms and methods, which have proved their worth historically, and implementation in the national practice, avoiding mistakes and blind corners.

Analysis of the state of gender relations has both historical and forecasting significance. The anti-discriminatory agenda, new and innovative in its nature, is a significant element of the global dialogue of the issue: how to eliminate gender discrimination in the entire world.

**2. Accumulative-progressive.** Accumulation of the international gender experience gives opportunity to determine the direction of progress. Only on the basis of the international generalization of results of gender transformations at all levels – international, regional and national – is it possible to competently and effectively regulate the progress of development, formation and changes of gender fabric of the society.

International documents on issues of gender are approved on the basis of collective scientific generalization, first of all, of international gender processes and determining of the direction of their progress. Optimality of the national application and implementation of these documents depends on the level of civilizational development of a national society, on gender opportunities of its managerial system, on the social historical experience of relations and activism of men and women. Implementation of the international documents and international gender practice in the national life is characteristic of the national territories' to adoption of the international collective gender thought and their readiness to enter the international space as a active gender-organized social power.

**3. Organizational.** Study of international experience of gender transformations as a process of their organization and of organizational structures as a form of management of this process is possible through the system of international acts. Systematicity of their adoption as a characteristic of the society's objective social demand and consistency of their practical implementation bears testimony to deconstruction of traditional gender relations and new constructions of modern gender orderliness of the society through new forms of organization and management. And this opens way to organizational forms of

development of the international gender and women's movement, renewal of activity of its organizational structures, formation of new organizations, bodies and movements, elaborating of modern level international legal acts and recommendations of various kinds. The entire international organizational social and governmental activity in the sphere of gender is based on the certain system of fundamental gender ideas. International documents reflect generalization and development of such ideas through most optimal rethinking of the entire international gender process.

**4. Ideological.** Formation of gender ideology is possible on the basis of generalization of international progressive gender ideas, as well as of international experience of their implementation in the everyday practice. International documents are a form of such ideological generalization of the gender ideas and experience of practice of their implementation.

International gender ideology is taking shape on the basis scientific generalizations of gender research, transitional aspects of development of gender, development of the gender concept, the gender doctrine, which is implemented in the international acts and in the analysis of results of regulation of gender changes in the national, regional and international environment. The gender ideology is based on the ideas of freedom, equality and development generalized at the global level and on the underpinning of necessity and content of gender democracy, gender equality, justice of functional inclusion of women and men as equals in the zone of political, economic and social freedom, ensuring of gender development and approach to it from the point of view of gender perspective. Comprehension of these ideas facilitates expansion of the vision of women and men's opportunities, including the right for freedom of thought, conscience, religion and opinion. This, in its turn, facilitates satisfaction of moral, ethical, spiritual and intellectual needs of women and men, to a certain degree guarantees them the opportunity for self-implementation of their own intellectual potential in the society according to their expectations and values.

**5. Axiological.** In the international documents and in the international gender practice, gender always stands together with such values, as freedom, justice, tolerance, peace, environmental safety, development. These values turn gender itself into a cultural value for the international community and national societies. This is why the study and analysis of international acts shows the international process of establishment of gender values at the global level, as well as at the regional and national level. Each country as a participant of the contractual process reveals itself through values it is guided by, when it participates in conception of documents, their development, adoption and implementation into actual practice of national transformations. Such participation, to a significant degree, is determined by the intellectual preparedness and readiness to share the content of international acts with the wide population. Their familiarization with the documents of international significance forms the global thinking, without which a national society in the modern conditions cannot develop successfully.

**6. Educational.** International experience of practical activity concerning gender transformations and, based on it, generalization and analysis of international legal acts and other documents is a foundation for formation of gender worldview. Experience is a source of knowledge and, based on it, of formation of gender consciousness and gender opinions.

Thanks to them, gender interests and needs are articulated and recognized. When they are generalized together with practical gender activity, it results in the system of gender picture of the world. Proliferation and acquisition of knowledge about it establishes a gender-educated environment.

Only such environment can become the foundation for establishment of the gender culture and based on it gender democracy. Without knowledge of international acts, without understanding of their influence over the international processes and their role in ensuring of the progress, it is impossible to establish the gender global thinking, which is a necessary component of the modern globalization of relations and promotion of gender transformations in national societies. Mastering of the international gender thought, manifested in regulations of the global level, studying of the gender practice through them and directly encourages new actions in consolidation of the society of gender equality.

Development and generalization of gender knowledge is a precondition for actual reduction of the gender gap between Ukraine and countries with the operating highly developed gender policy.

**7. Encouraging.** International experience, its study and generalization encourage revision of the existent international, regional and national policies, adoption of new strategies and new laws, improvement of the legislation in effect, implementation of new standards, creating of institutional mechanisms to ensure gender equality.

Integration of countries to the European Union, adaptation to its demands encouraged making amendments and adoption of the national legislation according to its gender strategies, requirements to implement the principles of gender equality in all spheres of the social life and in all sectors of the legislation.

**8. Mobilizing.** International documents concerning gender equality, which give a wide panoramic vision of gender issues and assessment of its implementation into actual practice, provide the methodology of raising the issue and approaches to addressing of gender problems both at the regional and country levels. They emerged not on the basis of the arbitrary imagination of politicians and scholars; they are founded on an extensive practice, its generalization, analysis of results of gender activity in the countries, which tied the addressing of problems of improvement of women's status not only with the activity concerning women only and not only in the environment of one gender, but with transformations of a wider scope, and namely – changes in the general social environment – that of women and men. Such activity turned out to be most fruitful and effective. Moreover, such approach became an actually possible form of influence over gender changes with less political time spent. Concerning this, the international documents on issues of gender transformations constitute a significant mobilizing factor, which facilitates acceleration of gender activity, implementation of the system of actions for gender transformations, identification of certain coordinates of such activity, what facilitates quicker gaining of the social progress.

**9. Forecasting.** International documents concerning gender equality provide analysis of the current state, implement the norms and recommendation on its transformations and thus lay down the directions and mechanisms of progressive development of the gender process. They help to determine the probability of accomplishment of the proposed changes, to choose the most appropriate ways to address gender problems, to forecast

methods and forms most auspicious for this. International documents make addressing of numerous issues conditional on the gender perspective. The retrospective and forecasting analysis on assessment of significance and effectiveness of the gender policy is illustrative of its importance and efficiency. Gender transformations as a process are a component of understanding of possible directions of development towards more effective societies <sup>1</sup>.

All role functions, as performed by the generalized international experience in its conceptual form or even intentions and attempts to generalize it, prove significance of gender issues as a global reasonable practice, scientifically grounded theory and humanistic perspective.

Both for Ukraine and for any other country of the world, international experience of establishing of gender equality is a rich informational material on gender updating, progress and development of the modern society.

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# **Chapter 1.**

**Development of  
the process of the  
international consolidation  
in ensuring of gender  
equality**



# 1. Factors of urgency of gender transformations in the 20th –21st centuries

The second half of the 20<sup>th</sup> – beginning the 21<sup>st</sup> century is characterized by extreme growth of importance of gender transformations in national societies, Europe and in the entire world. They are conditioned by numerous factors, and the major ones among them are social-political and theoretical.

**The human's social nature** conditions all relations between people, in which gender relations possess a special place. They are primary and they give an idea about justice in the society. Gender relations are an important determinant of social justice. With expansion of the system of social relations, the problem of just ensuring of gender equality will be getting more and more pressing. Such ensuring is conditioned by incorporation of the principle of equal rights and opportunities in all spheres of the social existence, into establishing and functioning of the state, social practice, everyday life of men and women, into formation of gender culture of personality and the society in general, into a mode of production of individual and social life.

The last century has been characterized by **emergence and development of new forms of women and men's social and cultural life**. They include, in particular, a wide inclusion of women in all spheres of labor activity, growing education of women and men, proliferation of birth control and so on. They all require new forms of facilitation and regulation.

Gender became **one of challenges of the social development of modernity**. When it is about human rights, the UN Human Rights Committee connects ensuring them with the need to determine priorities in modern activity. Gender is set on par along with such modern priorities as protection of environment, overcoming poverty, demography and peace.

In the Millennium Development Goals, documents, signed in 2000 by presidents of the countries of the world, among international strategies seven priority spheres and policy directions are specified, and namely: equality between women and men, environment, development of rural areas, urban development, system of health care, education and science, technical and innovative activity. Fundamental values, outlined in the Millennium Development Goals, include Freedom, Justice, Equality, Tolerance.

Modernity is characterized by a growing **reflection of gender equality in political strategies** of governmental and non-governmental political structures – parties, state organizations, as well as non-governmental associations. The gender dimension becomes a component of the state gender policy. It is considered in the structure of assessment of political parties' activity from the point of view of progress. For instance, at the session of the Parliamentary Assembly of the Council of Europe in 2009 they noted the most prominent gender sensitivity, expressed at the Assembly of the Socialist Party of Portugal, manifested in activity of the Labour Party of the United Kingdom and of the Socialist Party of Sweden.

The process **of expansion and elaboration of legal ensuring** of equality between women and men in the international and national legislations is becoming more and more active. The norm of non-discrimination already is an established fundamental principle of the

international law. At the same time, gender discrimination is still a reality. Therefore, search for new ways of addressing this issue is still urgent. Knowledge of international acts and international experience helps to concentrate attention on effective forms, sectors, and ways of formation of just and egalitarian societies, which have advanced farthest in elimination of gender discrimination. The world is consolidating in shared understanding of necessity to take up joint actions to eliminate gender discrimination. Gender legislation is being developed as an active regulator of gender relations.

**Gender law is being formed.** The gender-legal component becomes an obligatory component of the legal policy, and the gender dimension gets incorporated into state strategies in all spheres of the social life. This provides conditions for **development of gender democracy** at the international and European levels as well as in national societies, facilitates globalization of regulation of gender processes, humanization of the social and state life, critical re-evaluation of the women and men's role and their place in it.

As a result of globalization, **expansion of the scopes of interregional and intraregional migration** took place. The policy of regulation of such migration requires consideration of the gender factor and has to be built on the basis of the gender approach. Globalization opens great opportunities for global connections, agitation of cultural exchange, and exercise of the human right of personality women and man to live in such social and international order, under which all human rights can be enjoyed in full scope, free of any discrimination. But globalization also carries negative consequences, which can worsen the status of women especially; in particular, they are poverty, the low level of development, marginalization, social alienation, economic inequality and so on. And here the states are obliged to protect and encourage human rights and major freedoms and to take into account the gender perspective, by acknowledging diversity of forms of discrimination that women and men encounter.

The historically formed **new conceptual vision** of gender equality is influencing formation of a new political organization of the world to a greater and greater degree.

All these transformations, caused by the historical time, are filled with the gender content. The structure of these transformations makes obvious the pressing issues of social-economic nature, which require immediate addressing at the international, regional and national levels. Let's examine them, while referring to the example of Ukraine.

### **1. Gender discrimination as reality**

The notion «discrimination» stems from the Latin word «discriminatio», which means difference, irregularity, differentiation, division, distribution. This notion became the foundation and was in a certain way modified into a modern understanding of discrimination as excluding or restricting in rights for any state, agency, ethnic group, minority, or personality.

By the end of the 20<sup>th</sup> century, the world has been addressing, settling and achieving some success in establishment of equality, legal, at least, between states, peoples, nations, social groups, various organizational structures of governmental and non-governmental nature. For more than one century the discussions have been under way about ideas of division of power, existence of forms of property as equally valid, ideologies as equally influential and so on, and they have been practically implemented. The principle of pluralism, characteristic for democratic society, came to the foreground. Moreover, it is considered as



a precondition of development of all forms of democracy – political, economic, social, legal and so on.

At the verge of the third millennium, the international community came to realization of the principle of non-discrimination of genders, to eliminating of such a phenomenon as discrimination based on sex. Gender discrimination, that is, actions directed at restricting in rights and freedoms, limiting opportunity of one of genders or of any of their age and other groups, is a reality of the modern society in all spheres of life.

Almost all countries of the world, Ukraine including, have signed all international documents, which acknowledge existence of gender discrimination, and undertaken to eliminate it and ensure equality between women and men. Open gender discrimination, which directly refers to one's gender, is being gradually eliminated. It is almost over with in Ukraine. Prohibition of discrimination is the fundamental legal mechanism to facilitate achievement of gender equality in the country. But indirect gender discrimination, which makes no direct references to one's gender and takes place covertly, still exists. Such gender discrimination is expressed in:

- restricting in rights;
- limitations in freedoms;
- no responsibility for violent actions;
- denial in opportunities;
- limitations in chances,
- disregard for effectiveness analysis of adopted decisions and actions according to them, and so on.

Existence of indirect gender discrimination causes to search for possible ways to eliminate it and calls for certain forms of activity, and namely: harmonization of the national legislation with the international one on the issues of equality between women and men; reformation of the national legislation in the direction of legal guarantees of equity of genders; elaboration of the gender legislation in all spheres of life of the society; conducting of gender expert evaluation of the legislation in effect; conducting of gender expert evaluation of activity of governmental structures; elaboration of state legal mechanisms for practical formation and implementation of the gender legislation and other regulatory acts on issues of gender equality; creating of the governmental structure to monitor processes of elimination of gender discrimination in the system of formation, functioning and ensuring of the legislative, executive and judicial power in their interdependence, and so on.

In the system of gender discrimination, discrimination of women has been historically most prominent. It exists in all spheres of life of the society. The ratio of genders acts as a certain indicator of gender discrimination. Such discrimination, first of all, is about opportunities for women to self-express and develop their identity on equal terms with men.

For instance, the world average index of women's representation in the national parliaments of the world is equal to 18.7%, and in countries of the European Union, women hold about 30% seats in the parliaments. Women constitute a larger share among those 1.5 billion people, whose daily income is on U.S. dollar or less. At the global scope, on average they make little more than 50% of what men make. This phenomenon was called

«feminization of poverty». In Ukraine, in the political sphere, in the legislative power women constitute 8% and in higher bodies of executive power – 7%; in the economic sphere, among largest business owners of the country, women constitute 2%, among medium and small business owners – about 20%; women's salary is significantly lower compared to men's: in 2008 it was 75.2%, in 2009 – 77.2%, in 2010 – 77.8%; in the social sphere, women's retirement benefits, according to the scientists' forecasts, in 20–30 years will in average be about 40–45% of men's and so on.

Elimination of discrimination of women, compared to the discriminatory status of men, has its own peculiarities. They are connected to the historical development of the society. The modern historical moment of renewal of the social life requires consideration of such factor as shrinkage of the social time to achieve the standards of gender equality, which have been already established in some European and not only European countries. To overcome the gender gap, to ensure practical implementation of the legislative measures, it becomes crucial that the governmental structures introduce non-discriminatory temporary special measures, meant for acceleration of establishing of actual equality between men and women, that is, introduce quotas, which have been adopted rather widely in the international practice.

## ***2. Gender imbalance of sexes***

Gender imbalance is an actually existent disparity in the social-gender development of the society, which determines the difference in the statuses of women and men; the system of social-gender relations in the society, under which women and men have unequal opportunities for self-implementation and where preference is given, consciously (or unconsciously), to the role of one of the sexes.

Gender imbalance, just as gender equality, is connected to the cultural development of the society. Their factors, individual and social dimensions are conditioned by the historical time and historical space, as well as by the economic and political factors.

The modern gender imbalance to a significant degree is connected to the hierarchy of genders historically established in the society. According to such hierarchy, men were considered as higher beings as to their significance compared to women. Men's values, ideas they proclaimed, established norms and principles of social-gender relations also were considered of greater significance. Everything created by men was politically was enshrined in the documents of significance for the entire society.

Gender imbalance is also conditioned by lack or imperfection of the gender policy, as a result of what in law-paying sectors it is predominantly women who are employed (education, culture, food-processing industry, service industry and so on), and on higher positions and in better-paying sectors most employees are men (managerial positions, diplomatic sphere and so on).

Therefore, gender imbalance in the countries of the world, Ukraine including, has characteristic attributes, which require eliminating:

- existence of hierarchy of genders, lack of stable partner relationships between women and men;
- prevalence of traditional strategies of addressing the “women's issue”, traditional kinds of in the sphere of protection of equality between women and men;

- insufficient representation of women, gender imbalance in government structures;
- exemption of women from distribution of resources, participation in adoption of state-level decisions;
- domination of the way of life, ideological foundations and interests characteristic for men;
- predominance in the society of values and priorities established by men;
- women's significant economic dependence from man;
- prevalence in the society of attacks on women's freedom and dignity (violence against women, trafficking in women, prostitution);
- lack of harmonious combination of professional activity and family life for men, as well as for women;
- lack of the elaborate legislation meant for leveling out of gender imbalance, as well as ensuring of the working mechanism for its implementation;
- concentration of addressing of the issue of women's inequality in hands of women themselves, lack of men's consistent participation in this process.

The issue of gender imbalance, overcoming it, as well as establishing of gender equality, requires a comprehensive approach to its addressing, availability of professional institutional mechanisms, modern methods and technologies. Gender balance provides for ensuring of equality in the status, conditions, opportunities and chances to be presented in different spheres.

### **3. Gender distance**

Gender distance in human development is a difference in the status of women and men in different sectors, regions, countries, continents, North and South. Gender distance acts as a factor of delay and deterring of social development. Overcoming of gender distance is an issue of social justice, which has to be addressed for sustainable human development. As the society consists of women and men, it is impossible to achieve its sustainable development without gender analysis of actual conditions of life of genders. Elimination of the distance between the women and men's actual statuses is characteristic of the highest effectiveness of the governmental ensuring of formation of the intellectual capital and its use for the benefit of the society. Overcoming of gender distance by state and law is a tool for social progress, which facilitates elimination of social disbalance, addressing of social problems and contradictions. State and law are an effective regulator of reduction and elimination of gender distance. Through international structures, they are an important form of effective influence over the international gender processes and establishment of international gender balance.

### **4. Gender gap**

Gender gap demographically, socially, economically and culturally conditions differences in interests, goals, values and so on in women and men, opportunities of their access to resources, both economic and political. The losses from gender gap permeate the entire society, causing harm to each of its members. Women and girls suffer from gender gap most.

Gender gaps are measured quantitatively; they are most obvious in numbers. They

characterize all national societies, but are manifested differently depending on achievements of the social development and active influence of state and law over the sphere of gender relations.

In Ukraine gender gaps can be found in all spheres of life, what is why it is necessary to eliminate them:

- *the total number of permanent population*: during the last decades the total number of population dropped, due to various reasons. In 1989, the total number of population was 51,452 thousand persons, but in 2011 it was 45,598.2 thousand. What stayed the same was the ratio between genders: women were 53.9%, men – 46.1%<sup>2</sup>.

- *participation in government structures*: in the system of legislative power the number of women elected was 19 times smaller than the number of men elected; in the system of executive power on higher managerial positions there 13 times more men than women; in the system of judicial power: in the Constitutional Court the ratio of men and women is 1:6, and in the judicial divisions of the Supreme Court this ratio was 1:3.7 as of February 2007;

- *law*: there is a gap between legal and actual equality women and men;

- *in the system of property*: legitimating of private property along with state property, creating in the country of the non-state sector of the economy opened new economic opportunities for everybody. But the greatest gender distance is manifested in the system of large property, which is almost one hundred percent owned by men. Among small and medium business owners women constitute about one fifth. This is a cause of imbalance in access to resources and to their distribution;

- *labor remuneration*: in Ukraine there still prevails the «vertical» professional segregation, due to which women are predominantly concentrated on positions with lower salaries. This is illustrated by the consistent correlation between the social-economic status of population and gender gap in the income levels. According to the data from examination of households' conditions of life in Ukraine, the largest gender gap in labor remuneration is observed among employers (average income of the corresponding category of women is equal only to 50.7% of income of men), while among population who work for hire, this ratio shifts to 79.3%, and among the self-employed – up to 97.5%;

- *life expectancy*: gender gap in average life expectancy of the population reaches 12 years (average life expectancy at birth is equal to 75.5 years for women against 65.28 years for men<sup>3</sup>).

- *birth rate*: in Ukraine a decline in birth rate is observed. In 1999 the average number of children per woman of child-bearing age was 2, and in 2008 it was 1.2. This number grew somewhat in 2009. A decline in birth rate was caused to a significant degree by pauperization of population, especially of women, under which women cannot afford to have more than one child;

- *mortality*: the number of men who die in the ages of 25–49 is three times higher than that of women<sup>4</sup>. A major component of this gap is formed by losses of population of the most productive age, and namely – extra-high death rate of men in employable age.

2 See *Women and men in Ukraine*. Statistics Digest. – K. State Statistics Service of Ukraine. 2011. – p. 12./ Жінки і чоловіки в Україні. Статистичний збірник. – К. Державна служба статистики України. 2011. – С. 12.

3 Ibid., p.25.

4 Ibid., p.15.

According to demographers' calculations as of 2008, probability to die before 60 is equal to 39% for boys of 16 years, compared to 14.5% for girls of this age.

Gender gap exists in labour remuneration, retirement benefits, energy and time spent for domestic chores, availability of free time, deviant behaviours and so on.

### ***5. Gender disparities in rights and opportunities to exercise them: influence over the development process***

Gender disparities are discrepancies in gender equality, which actually exist in regions and separate territories of the country, as well as in the absolute gender status of women and men.

Gender disparities in rights and opportunities to exercise them influence the development process.

In Ukraine there exist gender discrepancies concerning equality before the law, equality of opportunities for labour remuneration, equality of access to information, equality of opportunities to express one's thoughts, to voice one's interest, to use results of human labour by choice and so on. But their degree differs depending on the historical situation in the past and in the present, on socio-economic and cultural status, on the degree of development of the democracy. Gender disparities permeate numerous spheres of life regardless of gender transformations in the direction of achievement of gender equality.

Gender disparities characterize access of men and women to human resources and to use of its achievements.

The human political resource has clear indications of gender. As it is incorporated in the system and structure of power as the dominant power, the men's part of the parliament influences how this power is being distributed, how it is employed at access to and use of human, intellectual, material and spiritual resources, how it controls all changes taking place, and adjusts them depending on the men's worldview, establishes forms of domination and submission, command and dependence, positive and negative models, the degree of balance of genders in percents, the scope of rights and even opportunities, especially under the conditions of the underdeveloped Ukrainian civil society.

Women's remoteness from the politics is under-utilization of the social resource (in Ukraine among people with higher education women constitute 54%, and men – 46%<sup>5</sup>), its disproportionate and irregular distribution, a symptom of lack of vision of the gender perspective in the national development, European and international community.

The politics leaves out of view a huge layer of the social fabric, which gives no feedback impulses. This leads to formation of the gender component in the system of political risks. Women and men's participation in adoption of political decisions facilitates informational exposure of the state of internal tension in the society, reduction of political and other social risks, gives a better understanding of the degree of functioning of law as an important tool of the governmental activity.

Each sex is gender-sensitive to political decisions, if they influence its life, and stays gender-neutral in case of indifference to them. Lack of the gender component in political decisions leads to political indifference, which blocks connection of gender to politics, forms a passive attitude towards it or its total rejection. In the long run, it results in inviability of

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<sup>5</sup> Ibid., p. 49.



such policy or hostility towards it, non-compliance with laws and other regulatory acts. The politics' openness to people, taking into account their gender interests opens way to implementation of individual opportunities, reduction of hostility between the sexes and conflicts of a personality with his or her social environment.

Gender disparity in access to productive resources, owning them and opportunities to manage them curbs efficiency of their use. Optimal use of women and men's work as part of the market workforce is another issue to address.

Unpaid «household» reproductive work is performed almost exclusively by women. The state distances itself from assessment and analysis of a huge body of private life, domestic sphere, orderliness of women and men's relations, and this makes it impossible to obtain a systemic vision of the society, of processes and changes, which are taking place in it, of its social norms and standards, values and forms of life. A part of reality, where woman stays, makes her «the Other», the other sex, and, what's more, 'others' her social world, makes it an unknown space, which exists beyond the parameters of what the state delimits as its territorial and influential space and political time. The state's idea of the social system, and thus, of the political, economic and other systems is incomplete.

In the 21<sup>st</sup> century, establishing of gender equality becomes a central moment of development. One of the key elements of this process in Ukraine is overcoming of gender disparity in all spheres of life through their effective development.

## **6. Gender neutrality**

In the world, gender neutrality is a rather widespread characteristic of activity in any sphere, which does not take into account or purposefully ignores a special approach or a clearly defined policy concerning levelling of personal fulfilment opportunities for different groups of women and men. Such gender neutrality is present in Ukraine as well. Gender-neutral laws or national programs cause absolutely different consequences for men and for women and can worsen the status of one of the groups. Gender-neutral laws, regulatory acts, programs, which turn a blind eye to gender issues, as a rule, benefit men.

Gender should be a critical aspect in all spheres of activity of the government, especially in management, which is traditionally dominated by the men's vision of issues. It is explained by the fact that political, social and economic institutions in the world are created predominantly by men, representatives of the middle class. This means that majority of different groups of population, including women, youth, as well as members of social minorities, for instance, the disabled, are trying to adjust to these institutions, which, as a rule, have a rather vague idea of their actual life.

International experts on the issues of gender equality claim that a gender-neutral law, regulatory act, or program benefits men. If at the level of the policy development not enough attention is devoted to gender issues, already at the level of its implementation, the denial mechanism start functioning.

The described above widespread actual gender issues, along with other problem, cause the world, Europe, national societies to realize necessity to create the global level structures, which would address the historically set objectives, and to ensure gender equality is among them.

## 2. Gender in the international documents at the threshold of the new millennium as an achievement of the international experience of gender transformations

The norms and recommendations of the international documents reflect the generalized and practice-proven international experience of the countries and of the wider public concerning gender transformations. For Ukraine, just like for any other country of the world, such practice is of great interest in the conditions, when strong tendencies of the past patriarchal life actually exist along with the progressive advancement. They prevent implementation of most progressive ideas of the global level, which were formed historically on the background of the social time's key events and in the process of accumulation of the modern social capital. And namely, starting from the 1960-ties, social movements for democratic transformations started to develop rapidly, among which – the national liberation, the anti-war and the women's movements. Among numerous ideas these movements advanced, there were protection and care for those who due to various reasons found themselves on the social periphery – be it sex, race, physical state, sexual orientation and so on. As women were locked in the family sphere and in the economic life they were assigned to a subordinated role, dependent on the men's will, they were functionally excluded from the sphere of political, economic and social freedom and were kept in the category of the «Other» sex. These were the conditions under which the transformational processes connected with establishing of the gender policy at the global level were taking place.

Furthermore, it is also necessary to emphasize significance of democratic movements for human rights. It bears mentioning that the first official legal documents on human rights appeared as early as at the end of the 18<sup>th</sup> century, among which, first of all, the US Constitution (1787) and the Declaration of the Rights of Man and of the Citizen (France, 1789). For the first time, equity was legally secured in the French Declaration of the Rights of Man and of the Citizen of 1789, which proclaimed: «Men are born and remain free and equal in rights». These acts laid the foundations for the international concept of human rights. But complete implementation of the principle of equity took place much later and thanks to international law.

The international organization established in the middle of the 20<sup>th</sup> century – the United Nations Organization – as well as the entire process of its activity, is directed at establishing of democracy, and gender democracy is an integral component to it. The comprehensive approach towards gender democratic transformations was finalized in the 1990-ties and at the beginning of the 21<sup>st</sup> century.

The retrospective vision of the gender component in the acts of global significance adopted by the international community discloses a process of formation of the gender policy and accomplishment of gender transformations. The documents adopted by the UN are acts of obligatory and recommendatory nature. They were signed by Ukraine and thus require national re-evaluation and adoption for implementation, taking into account

local peculiarities and opportunities to exercise them. The international documents and activities of the international structures most clearly reflect the major outlines of the gender advancement.

Furthermore, first of all it should be mentioned, that conceptually the principle of gender equality found its political and legal securing as well as political-legal orientation towards practical establishing as early as starting from the first documents adopted by the United Nations Organization. And this is why it is difficult to agree with the idea that only during Beijing Conference (1995) «for the first time the need to shift the major attention from women themselves towards the concept of sexes was acknowledged at the global level, as was acknowledged the necessity for re-evaluation of the entire structure of the society and relations between women and men and it was proven that achievement of gender equality is not only a women's problem – it is a joint problem and all members of the society would benefit if it is addressed»<sup>6</sup>. This opinion has been expressed by separate participants of different conferences and round tables.

And when we talk about the thought that «for the first time the need to shift the major attention from women themselves towards the concept of sexes was acknowledged», the same is true for the state-legal approach to the issues of gender equality, gender rights of a person and of citizen in the historical time especially of the second half of the 20<sup>th</sup> century. This description can justly correspond to the assessment of the approach to the issues of ensuring of gender equality from the point of view of the international women's movement.

For centuries, women were kept out of public life and power spheres, and as a result they were almost completely ignored in political research, as was their actual influence over different processes of formation of democracy. In actual practice, it was exactly during this period that the women's movement started to realize deeper and deeper that the idea of gender equality, which is promoted by women themselves and for women and pursued by women, is a hopeless cause and that it is high time to change the approaches to elimination of discrimination of women and to establishment of gender equality. This was especially emphasized at the conference in Beijing. But it should be pointed out that even the «Women's Convention», initiated by the international women's movement, is conceptually founded on the principles of ensuring of equality between both sexes – women and men. The political accent on the women's issues in the very name of the document – the UN Convention on the Elimination of All Forms of Discrimination against Women – was caused by the extremely discriminated status of women in the world space, not by the opportunity to consider it with no regard to the status of men.

Let's demonstrate that the international state-legal experience of gender transformations from the very beginning was being formed and implemented **conceptually** balanced by theory and life on ensuring of equality of both sexes. Actual problems of theoretical and practical nature on ensuring of democratic foundations of gender development still exist. It takes social and political time to address them. To use this time optimally, it is necessary to analyze the past, to see the future and to plan it from the point of view of the gender perspective. To see whether we were right in our assessment, let's look at the international state-legal experience of ensuring of equality between women and men in the retrospective.

6 Khrystova H.O. Foundations of the Gender-Legal Analysis of the Legislation of Ukraine / H.O.Khrystova. – Kharkiv: Raider, 2008. – p.37. / Христова Г.О. Основи гендерно-правового аналізу законодавства України / Г.О.Христова. – Харків : Райдер, 2008. – С .37.



The UN as an organization of independent nations, whose official date of establishment is considered to be October 24, 1945, has up to 200 countries as its members, that is, almost all countries of the world. The preamble of the United Nations Charter talks about equity of men and women.

Preamble of the United Nations Charter: «We the peoples of the united nations determined *to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women<sup>7</sup> and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom, and for these ends to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims. Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations*».

In its Charter, the UN talks about faith in establishing of equality of men and women in the system of rights and freedoms of human beings, nations, countries, considers this issue along with the issues of peace and safety, progress and development. This determines the state orientation of the countries that voluntarily adopted this principle of gender equality as guiding in their activity when they became the members of the UN. Ukraine is one of the countries that supported creation of the UN and adopted its principles as fundamental.

An important direction of the UN activity is progressive development of the international law and its codification. More than 500 conventions, treaties and norms constitute the result of such work. More than 100 of them are dedicated to human rights. They guarantee the foundation for strengthening of international peace and safety, development of amicable relations between nations, performance of the international co-operation in addressing of international problems and in support of respect towards human rights, and facilitate the socio-economic development. In the last fifty years, the international legal acts have been joined by the Conventions, which legally are directed at establishing of gender equality. Therefore, the legislation reflects development of the society and becomes attractive in regulation of progress concerning relations between women and men. The international legislation aims to satisfy interests of as many people as possible, and in regard of young democracies or countries striving for democratic changes it sometimes is ahead of these societies and becomes for them a guiding landmark of gender transformations. The gender issues gradually become an integral component of the legislative policy.

One of the characteristic features of the international human rights legislation is that it has a state foundation, and namely – it is formed through agreements between states.

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7 Emphasis added by the book author.

Each of the governments that signed such document is obliged to ensure that all human beings under its jurisdiction have an opportunity to exercise their rights. Governments that ratified the conventions are legally bound to observe them. A significant share of such obligations concerns ensuring of equality between women and men.

Starting from the 1990-ties, the UN treats the gender issues as priority. It considers gender principles and gender approach as fundamental at addressing any problems of the international community. Among the complex of international strategies, standards and programs, currently the UN deems it a priority to ensure equality of rights and opportunities for women and men, and its establishing stipulates adoption of the gender legislation, introduction of international gender standards, creating of the national machinery for ensuring of gender equality, collection and analysis of gender statistics, facilitation to development of the gender movement, assistance to women's organizations, conducting of gender research and so on.

An important toolkit for regional and national gender transformations is establishing and expanding international legal norms and the UN recommendations on issues of gender. The fundamental document to declare equality of rights of women and men was the **Universal Declaration of Human Rights**, adopted and proclaimed by the General Assembly of the United Nations on December 10, 1948. Although this document is a declaration and not an obligatory legal act of the international law, it still has extreme significance and is perceived as obligatory for observance.

The Universal Declaration of Human Rights consists of the preamble and 30 articles. It determines several aspects of rights for all people. The right for equality among human rights and freedoms is on the first place.

As early as in the preamble to the Declaration, equality of the sexes is considered as the point of reference in adoption of the document, and namely: "...Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom».

Article 1 of the Universal Declaration of Human Rights declares that all human beings are born free and equal in dignity and rights, and in development of this Article 2, among others things, emphasizes sex, and namely: «Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status». Therefore, the Declaration deems gender equality to be a fundamental human right. For the first time, it declared the issues of women's rights as an integral component of human rights.

On the basis of the Universal Declaration of Human Rights, numerous international legal acts were adopted that prohibit violations of the principle of equity. The 1950–60-ties were characterized by expansion of the sphere of social relations on legal ensuring for woman of an equal status with man. The international legal documents concerning equality of rights and opportunities for women and men in different spheres of life, adopted by the General Assembly of the United Nations, include, in particular, the following documents: **the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (December 2, 1949), the Convention on the Political Rights of**

Women), the **Convention on the Nationality of Married Women (January 29, 1957)**, the **Convention against Discrimination in Education (December 14, 1960)**, the **Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (November 7, 1962)** and so on.

Development and prevalence of education among women in the 20th century, reconstruction of the personality's professional picture of the world, emergence of the so called new women and establishment of the «new image of women» have been shaping the worldview on the women's role in such sphere as politics. Legal securing of opportunities for women to enter politics as active subjects made it a reality of their actual personal fulfilment in the political and legal spheres.

**The Convention on the Political Rights of Women** determines directions of those social shifts, which have to lead to ensuring of equality between women and men: «Article 1. Women shall be entitled to vote in all elections on equal terms with men, without any discrimination»; «Article 2. Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination»; «Article 3. Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination».

This document was adopted in the period when the powder of the 'hot' World War Two was still felt, and at the same time the Cold war was echoing in the world. The most affected part of the population in the periods of armed conflicts and in extreme situations turned out to be women and children.

The UN consequent documents had the principle of equality of the sexes proclaimed in the Universal Declaration in their foundation. For instance, in both **International Covenants on Human Rights (International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on December 16, 1966)** the norm on equality of the sexes is stipulated as the point of reference.

Governments that joined these Covenants committed to guarantee the rights proclaimed in them without any discrimination against sexes along with other circumstances (Article 2 of both Covenants). Non-discrimination, along with equality before the law and the right for equal protection of the law without any discrimination, constitutes a fundamental and universal principle concerning protection of human rights. Article 3 of both Covenants positively stipulates the countries' obligations to ensure equality between women and men concerning exercise of all civil, political, economic, social and cultural rights. Articles 2 and 3 stipulate that the member states take all necessary measures, including prohibition of sex-based discrimination, to eliminate both in the public and in the private sectors discriminatory manifestations that prevent equal exercise of rights. Therefore, the Covenants enshrined the principle of equality of the sexes in the form of legal obligations and view equality between women and men wider than just declaring their general equality before the law.

The adopted documents were both political and legal steps in establishment of equality of the sexes. But politics still was the world, where men dominated and are heard.

The 1960–70-ties faced a huge social challenge: a growing of the women's movement in Europe and North America with demands of women's participation in public life. The

UN declared 1975 as the International Women's Year. That year, in **Mexico the first world conference on the status of women** was held. It was there that the decision was adopted on necessity of development and adoption of the Convention on the Elimination of All Forms of Discrimination against Women. There the World Plan of Action was approved within the framework of the United Nations Decade for Women: Equality, Development and Peace (1976–1985). It described the global understanding of purposeful transformation in all spheres of life for the purpose of improvement of women's status. The program is directed at consolidation of a comprehensive and effective strategy of eliminating of inequality, barriers and limitations of the way to women's full and egalitarian participation in the process of development, including measures on addressing the issues of backwardness and of socio-economic structures that place woman in the subordinated position, and promotion of their contribution in consolidation of the international peace. Women's issues became an integral part of the official international policy.

The conference was dealing with the issues based on the origins of women's subordination and determining the historical perspective to address the issues of development and equality of women and men's participation in development.

At this conference, the **Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace, 1975**, was adopted. It stated that addressing of women's issues is closely connected with addressing of numerous problems of modernity. The conference urged men and women to join efforts to create a democratic society, where respect, dignity, freedom and prosperity rule.

The necessity to incorporate democratic ideals in the scientific theory becomes objective. Under influence of women's activism, scholars' attention is being drawn to importance of raising issues connected to representation of women's interests. At that time scientific thought intensified, and namely:

- conventional definitions of politic were challenged, demands to include into the definition of politic women's participation in public life were expressed more and more often;
- the category of gender (Kate Millett) was being conceptualized in the sphere of interests of social sciences, more issues on women's political participation were being raised;
- the issue how gender constructs women's political experience was raised in new ways, as well as how race, ethnicity, class interest in combination with one's gender influence their political actions and political consciousness;
- the research started on how women's social relations are mutually connected in family, at the place of production, in associations, and how they influence formation of forms of protest and agreements;
- attempts were made to implement actions of NGOs (grassroots activism) in the context of a wider political and economic process;
- the analysis of interdependence between women's political practice and the political theory<sup>8</sup> was initiated, and so on.

Acknowledging special significance to the issue of gender equality and taking into account

the international women's movement's demands on eliminating of the discriminatory status woman is kept in, **on November 7, 1967, the UN General Assembly adopts the UN Declaration on the Elimination of Discrimination against Women.** The principle of equality demands implementation in all countries according to the principles of the United Nations Charter and of the Universal Declaration of Human Rights (Article 11). The Declaration recommends observance of this principle to all countries, non-governmental organizations and individuals.

This document qualifies discrimination as an offence against human dignity. As early as in Article 1 it says: «Discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity». And that is why this document demands that all measures be taken to abolish existing laws, customs, regulations and practices which are discriminatory against women and to establish adequate legal protection for equal rights of men and women. Among such necessary measures concerning legal protection, the Declaration, first of all, lists the following:

- a) The principle of equality of rights shall be embodied in the constitution or otherwise guaranteed by law;
- b) The international instruments of the United Nations and the specialized agencies relating to the elimination of discrimination against women shall be ratified or acceded to and fully implemented as soon as practicable.

The Declaration demands that governments guarantee by legislation ensuring to women of equal rights with men, without any discrimination, and namely: the right to vote in all elections and be eligible for election to all publicly elected bodies; the right to vote in all public referenda; the right to hold public office and to exercise all public functions; the right to acquire, change or retain their nationality.

Besides the political sphere, the Declaration covers some other spheres, where there is need to protect equality between women and man. The Declaration treats the family as the basic unit of any society and emphasizes the legislative measures to ensure to women, married or unmarried, equal rights with men in the field of civil law, and in particular:

- the right to acquire, administer, enjoy, dispose of and inherit property, including property acquired during marriage;
- the right to equality in legal capacity and the exercise thereof;
- the same rights as men with regard to the law on the movement of persons;
- the same right as men to free choice of a spouse and to enter into marriage only with their free and full consent;
- equal rights with men during marriage and at its dissolution;
- equal rights and duties men and women as parents in matters relating to their children.

The Declaration states the women's right for protection against violence and the governments' obligations to take measures to prohibit violence against women and to ensure equality of rights and opportunities of sexes in different spheres of life. All provisions of penal codes which constitute discrimination against women have to be repealed.

The Declaration articulates the recommended measures at all levels to ensure



opportunities for girls and married and unmarried women to have equal rights with men in the sphere of education. Objectively, woman is considered as intellectual capital, and the provided rights are its formation and effective use. Such measures include:

- equal conditions of access to, and study in, educational institutions of all types;
- the same choice of curricula, the same examinations, teaching staff with qualifications of the same standard, and school premises and equipment of the same quality;
- equal opportunities to benefit from scholarships and other study grants;
- equal opportunities for access to programmes of continuing education, including adult literacy programmes;
- access to educational information to help in ensuring the health and well-being of families.

Defining the rights of equality of the sexes in the economic sphere, the Declaration reflected the global processes of women entering the system of the large-scope social production and actively going beyond the limits of household. Such rights included:

- the right, without discrimination on grounds of marital status or any other grounds, to receive vocational training, to work, to free choice of profession and employment, and to professional and vocational advancement;
- the right to equal remuneration with men and to equality of treatment in respect of work of equal value;
- the right to leave with pay, retirement privileges and provision for security in respect of unemployment, sickness, old age or other incapacity to work, etc.

In the 1960–70-ties, the upsurge of the international women's movement kept bringing the issues of ensuring of equality between women and men to the foreground. As a response to this, as well as reflection of the demands of the time, the international community was constantly emphasizing establishment of gender equality. This also proves that this issue is: global in the international space; large-scope as to its content as it is of importance for the entire population of the world; cross-cutting through all other rights and freedoms, and it depends on them for its addressing; requires conceptual re-evaluation as to time- and place-specific addressing; connected in its resolving with every other issue that also requires immediate addressing; an issue that has in-depth nature and is not always obvious and this is complicated from the point of view of gender perspective of its vision and addressing.

Acknowledging the importance of the issues of equality of the sexes, as well as of all other human rights, to review and analyze the work that had been done during the twenty years since the Universal Declaration of Human Rights had been adopted, and to map out the programs for the future, on **May 13, 1968, the International Conference on Human Rights** was held in **Teheran**. The Proclamation of Teheran Conference emphasized that it was imperative that the members of the international community fulfill their solemn obligations to promote and encourage respect for human rights and fundamental freedoms for all without distinctions of any kind such as sex or any other characteristic of a person. It drew attention to an inferior status for women what was is contrary to major international instruments. For progress of humankind, the Proclamation insisted, the full implementation of the Declaration on the Elimination of Discrimination against Women was a necessity. Later this document was reworked into a homonymous convention.

Under the influence of adoption by most countries of the UN international instruments in the 1970–80-ties, in the world restructuring of gender relations began. The social reality and traditional approaches to addressing of women's issues were conceptually re-evaluated, the search for a new vision of the issue was still under way. The UN was engaging deeper in the issue.

On December 18, 1979, the UN General Assembly adopted **the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, or «Women's Convention»)**, which came to effect on September 3, 1981. Ukraine ratified this Convention on December 19, 1980; as of today almost all countries of the world have ratified the Convention or acceded to it, and by this the principle of gender equality was in fact globally acknowledged as fundamental. This human rights document played a special role in establishment of gender.

This is the first Convention that legally refers to human rights of women. For the first time, it raised the issue of women's rights being an integral component of human rights. Although before that nobody would say that women's rights are not human rights, still usually the phrase used was «human rights *and* women's rights», when it referred to the status of women. It should be mentioned that nobody ever tried to articulate it as «human rights *and* mens' rights». The underlying assumption here was that women were perceived as the other sex.

The Convention Preamble says that advancement of equality between women and men and elimination of discrimination against women is the UN's core principle and constitutes obligation of the member states. It states that discrimination against women «violates the principles of equality of rights and respect for human dignity» and is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries. The Convention explains significance of gender equality and ways of its achievement.

The Convention is the first international legal document that prohibits discrimination of women. It has special significance to characterize the opportunities, which are provided by the international law to governments for gender reformation of the society.

One of the Convention's most important of provisions is a legal definition of discrimination against women: «the notion «discrimination against women» means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field».

Unlike other agreements, the «Women's Convention» stipulates elimination of all forms of discrimination against women, not just its elimination based on sex. In other words, instead of demanding gender neutrality, that is, equal treatment of women and men, the Convention prohibits any activity that facilitates maintenance of inequality of women. For instance, in compliance with its Article 3, the governments that signed this document committed to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men. Ukraine, along with other states, committed this obligation.

Following the «Women's Convention», the governments committed obligations to achieve results and pursue this goal by all appropriate means. In compliance with Article 2, they committed:

- To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- To repeal all national penal provisions which constitute discrimination against women.

The list of obligations undertaken by the governments contains a wide range of legal content. It should be pointed out that it was exactly the 1970-ties when national governments started to adopt «appropriate legislation» to ensure equal rights and opportunities, that is, the focused special laws.

The Convention specifies the actions to ensure gender equality. Based on the analysis of gender distance of sexes, it especially singles out three aspects of the women's status: civil rights and legal status of women; reproduction of population; influence of cultural factors over relations between the sexes. Among the issues specifically addressed in the document there is the issue of elimination of discrimination in the sphere of occupation, in particular, at employment, equal remuneration for work of equal value, as well as prohibition of dismissal on the grounds of pregnancy or of maternity leave or discrimination in dismissals on the basis of marital status.

For the purpose of overcoming distance between the sexes in politics and successful advancement of women in politics, actual levelling of the statuses of women and men, shrinkage of social time for achieving their equality, the Convention stipulated positive and negative obligations of the governments, urging them to provide for special measures and procedures in the national legislation.

**Positive (to take measures)** – to ensure the practical realization of the principle of equality (paragraph (a) Article 2); to adopt legislative measures (paragraph (b) Article 2); to establish legal protection (paragraph (c) Article 2).

**Negative (to refrain from actions)** – to refrain from engaging in any act or practice of discrimination (paragraph (d) Article 2).

The Convention says about the governments' obligation concerning reformation of the national legislation in the direction of legal guarantees of equality of the sexes. Furthermore, it deems admissible for the governments to resort in their legislative practice to positive discrimination as a temporary measure (Article 4).

Article 4 has crucial significance for activity for achievement of gender equality. It views



as **non-discriminatory the temporary special measures** that member states take for acceleration of establishing of actual equality between men and women, like **quotas**.

In compliance with the Convention, for monitoring of implementation of its provisions by a special norm a special international body – the UN Committee on the Elimination of Discrimination against Women – was established; this norm also specified its staff, procedure of formation and nature of its functioning and competence.

The actual implementation of this document was also boosted by the **Optional Protocol to the UN Convention on the Elimination of All Forms of Discrimination Against Women**, adopted at the 54<sup>th</sup> session of the UN General Assembly on October 6, 1999. It came to effect on December 22, 2000. Kofi Annan, the then UN Secretary-General, called it a significant event in his Actual UN Operation Report (2001). Ukraine ratified the Optional Protocol in September 2003.

The Protocol is meant for ensuring of the guarantees of gender equality. It articulates the procedure of submission of messages and complaints of women who became victims of violation by a member state of any rights guaranteed by the Convention, and the procedure of investigation, which enables the Committee on the Elimination of Discrimination against Women to initiate investigation of cases of grave or systematic violations of women's rights.

The Protocol stipulates the right of persons, groups of persons or on their behalf to submit in writing to the Committee on the Elimination of Discrimination against Women individual complaints that they suffered losses or that they suffered in some other form as a result of violation by the member state of any of the rights stipulated in the Convention. Furthermore, Article 4 of the Optional Protocol specifies that «before a complaint is considered, the Committee must determine that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief”.

When Ukraine ratified this Optional Protocol, it was referred to the requirement of Part 4, Article 55 of the Constitution of Ukraine, according to which «After exhausting all domestic legal remedies, everyone has the right to appeal for the protection of his or her rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organizations of which Ukraine is a member or participant».

The Protocol is open for signing since December 10, 1999, for all countries that signed the Convention, ratified it or acceded to it. In 2003, Ukraine ratified the Optional Protocol to the UN Convention on the Elimination of All Forms of Discrimination against Women. Following the recommendations of this Convention and the recommendations of the Council of Europe, a separate Article 24, which stipulates the fundamental principle of equality between women and men, was added to the Constitution of Ukraine.

The modern constitutional legislation of countries of the world is characterized by incorporation of the gender principle of equality. This was to a significant degree facilitated by development of the women's movement on all continents.

The 1980-90-ties are the period of deployment of the international women's movement. To respond to the issues it raised concerning discrimination women and to ensure gender equality, under the auspices of the United Nations the world conferences on women's status were held (*Table 1*). They proved that all of the countries of the world shared the

task of ensuring of gender equality of people at all levels – global, regional and national.

To review and assess the progress achieved in implementation of the recommendations of the World Conference within the framework of the International Women's Year, which took place in 1975 in Mexico, and to update programs for the second half of the decade with consideration for available new data and research, by the decision of the UN General Assembly as of January 29, 1979, on **July 14–30, 1980, the Second World Conference within the framework of the United Nations Decade for Women: "Equality, Development and Peace" was held in Copenhagen**. At the conference the Programme of Action was adopted for the second half of the United Nations Decade for Women: "Equality, Development and Peace".

The process of the essentially women's movement for equity growing into a global movement for equality, peace and accord found its reflection in **Nairobi strategies of women's of development – «Forward-looking Strategies of implementation for the advancement of women for the period up to the year 2000"», adopted at the Third World conference on women's issues (Nairobi, Kenya, 1985)**. They constitute an elaboration of the plan for further global movement for transformation.

**Table 1**

**World conferences on women's status**

<b>The United Nations World Conferences on Women *</b>	<b>Date, year</b>	<b>Place of conducting</b>	<b>Adopted documents</b>	<b>Number of participant states</b>	<b>Number of delegates and participants</b>
The World Conference of the International Women's Year	1975,  19 June 2 July	Mexico, Mexico City	The Declaration of Mexico and the World Plan of Action for the implementation of the Objectives of the international Women's Year	133 States	Conference,  1200 delegates NGO Tribune, 6000 (4000) participants
The World Conference of the United Nations Decade for Women	1980,  14–30 July	Denmark, Copenhagen	Programme of Action for the Second Half of the United Nations Decade for Women	145 States	Conference, 2000 delegates NGO Forum, about 6000–7000 participants

\* The Unfinished Story of Women and the United Nations by Hilikka Pietilä. United Nations. – New York and Geneva, 2007. – p. 53.

The World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace	1985, 15–26 July	Kenya, Nairobi	The Nairobi Forward-looking Strategies for the Advancement of Women 1986-2000	157 States	Conference, NGO Forum, about 6 000 participants and attendants
The Fourth World Conference on Women	1995, 4–15 September	China, Beijing	Beijing Platform for Action for Equality, Development and Peace  Beijing Declaration	189 States	Conference -17 000 delegates and observers; NGO Forum, 35000 (40 000) participants

The Forward-looking Strategies reminded of the states' obligation as to addressing of «women's issues» and considered the women's status and rights as a global problem, whose addressing is relevant for both women and men. The general strategic goal was set as achievement of complete equity in social and political spheres. Till 2000, it was planned to eliminate inequality in social life, by using efforts of NGOs, educational institutions, mass media; in political life it was planned to strive for equal status of women and men in the legislative and managerial structures, decision-making, activity of political parties and movements.

When emphasizing equality between women and men, the Nairobi Strategies specify the very notion of equality: "Equality is both a goal and a means whereby individuals are accorded equal treatment under the law and equal opportunities to enjoy their rights and to develop their potential talents and skills so that they can participate in national political, economic, social and cultural development and can benefit from its results. For women in particular, equality means the realization of rights that have been denied as a result of cultural, situational, behavioural and attitudinal discrimination. Equality is important for development and peace because national and global inequities perpetuate themselves and increase tensions of all types».

It should be mentioned that the Conference also drew attention to development. It is the very notion «development» that assumes permanent improvement of people's welfare. Development was declared not only as a goal but also as means for achievement of equality, which has to be complete and comprehensive. Women, it was emphasized at the conference, had to directly participation in planning of further human development.

The Forward-looking Strategies not only declared the general principles, they also provided concrete practical recommendations and outlined measures concerning non-

discrimination of women, and namely:

- implementation of equity in the legislation;
- taking concrete measures by national governments concerning women's development;
- facilitation to changes to the unjust socio-economic structure;
- ensuring of equal opportunities at employment, labour remuneration, social welfare, health care, education;
- promotion of equity;
- creating of appropriate governmental machinery for improvement of women's status;
- improvement of statistics concerning women's status;
- encouragement of joint work in family.

The Nairobi Forward-looking Strategies represent a process of how the essentially women's movement for equity grows into a global movement for equality, peace and accord. They outline the plan for further global movement for gender transformation. The Nairobi Strategies were adopted in 157 countries.

An important landmark in ensuring of gender equality as an objective of global significance was the **World Conference on Human Rights under the auspices of the United Nations (Vienna, 1993)**. The conference aimed to re-evaluate human rights. The documents adopted there – the Declaration and the Programme of Action – declare that human rights are universal and immanent.

For the first time in the history of humankind, the Vienna Declaration declared that «The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights». That is why «The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and global levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.» Such approach to consideration of women's rights in the context of human rights is a manifestation of actual acknowledgment of women's subordinated status on the global scale, their being shut out from numerous spheres of the social and political life.

The Conference documents define violence against women as violation of the fundamental principle of «women's rights as human rights». They emphasize importance of involvement of the international community «in working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice».

This facilitated transformations of all concepts, programs, objectives, strategies concerning protection of women's rights. The idea of women's rights as human rights catalyzed the women's advocacy activity. It called into existence new approaches, deepened their substance through the gender vision of addressing of issues of the women's status. The global development of women's activism brought it closer to practical identifying of the most fruitful strategies of protection of women's rights, and namely – in co-operation with men, through complementarity of addressing of the gender issue.

Gender approaches were emerging in the very middle of existence on transformation

of the entirety of forms of social and individual way of self-fulfilment. This process was facilitated by **the UN Declaration on Social Development (Copenhagen, 1995)** adopted at the World Summit for Social Development. It was adopted on the eve of the 50<sup>th</sup> anniversary of the United Nations Organization. In the Declaration, Article 9, the governments committed to enhancing social development throughout the world so that «all men and women, especially those living in poverty, may exercise the rights, utilize the resources and share the responsibilities that enable them to lead satisfying lives». The Declaration followed the gender approach, when talking about ensuring satisfying life of men and women.

The Declaration stated 10 obligations undertaken by the participant states. Among them there are obligations that are closely connected to ensuring of gender parity, and namely:

- to promote changes in attitudes, structures, policies, laws and practices in order to eliminate all obstacles to human dignity, equality and equity in the family and in society, and promote full and equal participation of urban and rural women and women with disabilities in social, economic and political life;
- to establish structures, policies, objectives and measurable goals to ensure gender balance and equity in decision-making processes at all levels;
- to take appropriate measures to ensure, on the basis of equality of men and women, universal access to the widest range of health-care services, including those relating to reproductive health care, consistent with the Programme of Action of the International Conference on Population and Development;
- to remove the remaining restrictions on women's rights to own land, inherit property or borrow money, and ensure women's equal right to work;
- to devise suitable means to recognize and make visible the full extent of the work of women and all their contributions to the national economy, including contributions in the unremunerated and domestic sectors.

The Copenhagen Declaration emphasized facilitation of full development of human resources and social spheres, universal and just access to quality education, achieving highest level of physical and psychological health and access of all people to primary health care services without differentiation by sex and other characteristics. For this, at the national level the participating states committed obligations, among which:

- to close the gender gap in primary, secondary, vocational and higher education;
- to develop specific educational policies, with gender perspective;
- to ensure full and equal access to education for girls and women, recognizing that investing in women's education is the key element in achieving social equality, higher productivity and social returns in terms of health, lower infant mortality;
- to establish or strengthen both school-based and community-based health education programmes for children, adolescents and adults, with special attention to girls and women, on a whole range of health issues, as one of the prerequisites for social development, and so on.

Among the events of the 1990-ties, where the gender approach at addressing of the issue of equality of the sexes was conceptually determined at the largest scale, was the **UN Fourth World Conference on Women (September 1995, Beijing)**. This conference is most often considered in the system of women's conferences. But major decisions concerning the women's status were adopted by delegates of governmental structures with participation



of delegations from NGOs.

This conference was preceded by five regional preliminary conferences, which were held in Argentina, Austria, Jordan, Senegal and Indonesia. This was one of the largest world conferences in the history, which brought together about 17 thousand participants. Among them there were 6 thousand delegates from 189 countries, more than 4 thousand representatives of accredited NGOs, a large group of international civil servants and about 4 thousand representatives of mass media. More than 35 thousand persons also participated in the Forum of Women's Organizations, which was taking place alongside with the official conference. Through their delegates, the women's organizations were taking part in the work of the conference. Emphasizing the significance of Beijing impetus and necessity of translating it into the realm of concrete actions, Boutros Boutros-Ghali, the then UN Secretary-General, insisted: «We must ensure that decisions adopted in Beijing change the world... the movement for equality of men and women in the entire world is one of the crucial factors of our time... equality of opportunities for all people is vital for building the just and democratic societies in the 21<sup>st</sup> century»<sup>9</sup>.

At the conference, the fundamental historical documents – **Beijing Declaration and Platform for Action** – were adopted; they clearly outlined the strategic program for establishing of gender equality as a major vector of development of the international community in the 21<sup>st</sup> century.

The major document of the Beijing conference «The Official Report of the Fourth World Conference on Women (Beijing, September 4–15, 1995)” considered improvement of women's status and ensuring of equity of men and women as issues of human rights and one of the conditions of securing social justice. It emphasized that improvement of women's status should not be considered in isolation as just one of the issues that concerns women only. This is the only way of building of a sustainable, just and developed **society**. It becomes possible when the troubled spheres are addressed: those where women's contribution and their interests are ignored too often: «economic structures such as financial markets and agencies, labor markets, economics as a science discipline, economic and social infrastructure, taxation and the system of social insurance, as well as in family and household. As a result of this, many directions of the policy and programs can, as still, help consolidate inequality between men and women. Where gender aspects are taken into account, efficiency of the programs and policy improves».

The Beijing Platform for Action conceptually considers expansion of rights and opportunities for women in the context of ensuring of equality between women and men. Such approach is a prerequisite for achievement of political, social, economic, cultural and economic safety in relations between nations.

Overview of progress achieved after the Third World Conference on Women in Nairobi (Kenya, 1985), provided grounds for Beijing to determine the priority spheres for taking measures and determining the strategic goals. Governments that signed the Conference documents, the international community and civil society, including non-governmental organizations and private sector, pledged to pursue the 12 determined strategic goals. Ukraine also signed this document and thus joined pursuing implementation of the documents of the Beijing Conference.

<sup>9</sup> *Beijing Declaration and Platform for Action and Beijing +5: Political Declaration and Outcome document*. UN. – New York, 2002. – p. 7, 8.

The Platform for Action articulates actions of governments and non-governmental structures concerning equity, introduces the notion of gender equality. The Platform for Action determined **12 strategic priority directions, and each of which was summarized with a major gender conclusion**<sup>10</sup>:

**A. Women and Poverty.** «57. The success of policies and measures aimed at **supporting or strengthening the promotion of gender equality** and the improvement of the status of women should be **based on the integration of the gender perspective in general policies** relating to all spheres of society as well as the implementation of positive measures with adequate institutional and financial support at all levels.”

**B. Education and Training of Women.** «79. In addressing unequal access to and inadequate educational opportunities, Governments and other actors should promote an active and visible **policy of mainstreaming a gender perspective** into all policies and programmes, so that, **before decisions are taken, an analysis is made of the effects on women and men, respectively.**”

**C. Women and Health.** «105. In addressing **inequalities in health status** and unequal access to and inadequate health-care services between women and men, **Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes**, so that, before decisions are taken, **an analysis is made of the effects for women and men, respectively.**”

**D. Violence against Women.** «123. In addressing violence against women, Governments and other actors should promote an active and visible **policy of mainstreaming a gender perspective in all policies and programmes so that before decisions are taken an analysis may be made of their effects on women and men, respectively.**”

**E. Women and Armed Conflicts.** «141. In **addressing armed or other conflicts**, an active and visible policy of **mainstreaming a gender perspective into all policies and programmes should be promoted** so that before decisions are taken an analysis is made of the effects on women and men, respectively.”

**F. Women and the Economy.** «164. In addressing the economic potential and independence of women, Governments and other actors should promote an active and visible policy of **mainstreaming a gender perspective in all policies and programmes** so that before decisions are taken, **an analysis is made of the effects on women and men, respectively.**”

**G. Women in Power and Decision-making.** «189. In addressing the inequality between men and women in the sharing of power and decision-making at all levels, Governments and other actors should promote an active and visible policy of **mainstreaming a gender perspective in all policies and programmes** so that before decisions are taken, **an analysis is made of the effects on women and men, respectively.**”

**H. Institutional Mechanism for the Advancement of Women.** «201. A **national machinery for the advancement of women is the central policy- coordinating unit** inside government. Its **main task is to support government- wide mainstreaming of a gender-equality perspective in all policy areas.** The **necessary conditions** for an effective functioning of such national machineries include:

<sup>10</sup> Emphasis added by the author.

a) **Location at the highest possible level in the Government, falling under the responsibility of a Cabinet minister;**

b) **Institutional mechanisms or processes** that facilitate, as appropriate, decentralized planning, implementation and monitoring with a view to involving non-governmental organizations and community organizations from the grass-roots upwards;

c) **Sufficient resources in terms of budget and professional capacity;**

d) Opportunity to influence **development of all government policies.**

202. In addressing the issue of mechanisms for promoting the advancement of women, Governments and other actors should promote an **active and visible policy of mainstreaming a gender perspective in all policies and programmes** so that, before decisions are taken, an **analysis is made of the effects on women and men, respectively.**"

**I. Human Rights of Women.** «229. In addressing the **enjoyment of human rights**, Governments and other actors should promote an **active and visible policy of mainstreaming a gender perspective in all policies and programmes** so that, before decisions are taken, an **analysis is made of the effects on women and men, respectively.**"

**J. Women and the Media.** «238. In addressing the issue of the mobilization of **the media**, Governments and other actors should promote an **active and visible policy of mainstreaming a gender perspective** in policies and programmes."

**K. Women and the Environment.** «252. In addressing the lack of adequate recognition and support for women's contribution to conservation and management of natural resources and safeguarding the environment, Governments and other actors should promote an **active and visible policy of mainstreaming a gender perspective** in all policies and programmes, including, as appropriate, an **analysis of the effects on women and men, respectively**, before decisions are taken."

**L. The Girl-child.** «273. In addressing issues concerning children and youth, Governments should promote an **active and visible policy of mainstreaming a gender perspective into all policies and programmes** so that before decisions are taken, an **analysis is made of the effects on girls and boys, respectively.**"

The Beijing Conference emphasized that to ensure effective implementation of the Platform for Action and expand the activity directed at ensuring of equality for women and men at the national, regional and global levels, the **governments, the UN system and all other corresponding organizations committed to facilitate an active and visible policy of gender mainstreaming**, in particular, this pertains to monitoring over all policy directions, the content of the adopted programs and their assessment. In the Beijing Declaration, the participating states declared: «We hereby adopt and commit ourselves as Governments to implement the following Platform for Action, ensuring that a **gender perspective is reflected in all our policies and programmes**».

The Beijing Platform for Action opened new perspectives in application of the actually existent institutional mechanisms for improvement of women's status. The essence of these perspectives was to fill them with gender content, and namely: **institutional mechanisms switch from combating for improvement of women's status to ensuring of gender equality, that is, to the activity in the interests of both women and men.**

At the Fourth World Conference on Women the concept of gender mainstreaming was supported. The very notion of gender mainstreaming emerged for the first time in



international instruments after the UN Third World Conference on Women (Nairobi, 1985).

**The concept of gender mainstreaming** as a system of views on the condition, changes, development, assessment of the status and relations between men and women in the context of the entire society, its formation, organization and transformations was shaped in the middle of the 1990-ties and was elaborated. Gender mainstreaming was called into existence by the social need to overcome the gender distance, by search for resolution of the issues of actually existent inequality between women and men.

As early as in 1986 the Resolution on the UN Commission on the Status of Women was adopted, according to which it was decided to include forward-looking strategies in all programs of socio-economic development. To that end, in 1995 the Council of Europe formed a group of specialists on issues of gender mainstreaming. On the basis of the analysis of positive experience of establishing parity, balance of genders and leveling of women and men's statuses in the countries that advanced in establishment of gender democracy, – Sweden, the Netherlands, Denmark, of Portugal, New Zealand and so on – this group developed its conceptual foundations and methodology. This concept was described in the Final report of activities of the Group of Specialists on Mainstreaming titled «Gender mainstreaming. Conceptual framework, methodology and presentation of good practices» (Strasbourg, 1998)<sup>11</sup>.

This concept was based on the comprehensive approach to understanding of equality of the sexes. As fundamental the following ideas were considered: 1) consideration, along with other criteria, of equality between women and men at assessment of formation and functioning of the system of social organizations of life, democratic governance; 2) dependence of establishing of equality between women and men on presence of political will, established community and public organizational mechanisms, the national-level understanding of necessity to incorporate the gender issues in all spheres of life of the society and of the government.

In 2001, the Council of Europe formed a group of specialists on issues of gender mainstreaming in school. This group prepared the report on ways to implement gender mainstreaming strategies in school, which covered topics of gender education and re-training of teachers of both sexes, introduction new methods of educations, creating of new conditions of education, revision of curricula, educational manuals, generalization of examples of positive experience and so on. The group prepared recommendations to member states, in which explained the fundamental principles of the gender policy and corresponding measures to ensure gender equality in the sphere of education.

Gender mainstreaming is a generalized implementation of the entirety of different methods and tools in organization (re-organization), improvement and assessment of decision-making processes by persons who are mainly involved in policy implementation, so that to ***incorporate issues of equality between women and men in all sectors of life of the society and at all management levels***. This is how gender mainstreaming is defined in the Platform for Action, adopted at the Beijing Conference, and it is emphasized that ***«Governments and other actors of public life should promote an active and visible policy***

<sup>11</sup> Gender mainstreaming. Conceptual framework, methodology and presentation of good practices. Final report of activities of the Group of Specialists on Mainstreaming (EG-S-MS). – Strasbourg, May 1998.

*of mainstreaming a gender perspective in all policies and programmes, including, as appropriate, an analysis of the effects on women and men, respectively, before decisions are taken».*

Gender mainstreaming is a new **fundamental global strategy for achievement of equality between the sexes**. As the most mature of all approaches, it stipulates conducting of the comprehensive gender policy taking into account the gender perspective, on the basis of gender analysis, planning and institutional ensuring of equality between women and men. This requires developing of gender sensitivity, elaboration of scientific knowledge about women and men and their relations and introduction of gender statistics.

The materials of the Beijing Conference on gender significantly invigorated the gender activity in operation of the international structures and in national societies. This activity required conclusive analysis. Five years after Beijing required systematization of ideas, measures, and verification of strategies, plans and results of their implementation. The UN General Assembly in its Resolution as of December 17, 1999, urged all regional economic commissions and other regional intergovernmental organizations to prepare for the special session and conduct preparatory regional conferences, where to discuss the condition of introduction of the Beijing documents, to determine prospects of their implementation and to outline further actions and initiatives. The following regional conferences were conducted:

The High level Intergovernmental Meeting of the Economic and Social Commission for **Asia and the Pacific** (Bangkok, October 26–29, 1999) – determined 49 strategies and recommendations concerning further implementation of the Beijing Platform for Action;

The Regional Conference of the Economic Commission for **Africa** (Addis Ababa, November 22–26, 1999) – adopted the declaration that confirms countries' obligations under the Beijing and Dakar of the Platform for Action;

The Regional Conference of the Economic Commission for **Western Asia** (Beirut, December 12–15, 1999) – expressed their vision of equality between men and women in the region in the new millennium;

The Regional Conference of the Economic Commission for Europe (Geneva, January 19–21, 2000) – adopted the agreed conclusions concerning further actions for the purpose of complete implementation of the Beijing Platform for Action;

The Regional Conference of the Economic Commission for **Latin America and the Caribbean** (Lima, February 8–10, 2000) – adopted three Resolutions, consensus, in which the Declaration of Commitment of Port of Spain was incorporated and 25 measures were outlined (October 1999), as well as confirmed commitment to the cause of the Beijing Platform for Action.

This huge work on all continents proves what great significance the UN attaches to the problem of gender. Through consolidation of efforts search is in progress for ways of optimal addressing of the existent gender problems.

The output of such gender-directed activity at the global level were analyzed at the special session **of the UN General Assembly on «Women 2000: gender equality, development and peace for the twenty-first century» (June 2000)**. About 10,000 representatives of governments and civil society came to New York to analyze the course of implementation of the Beijing Platform and to confirm the major ideals of the United Nations Charter, which

proclaims equal rights for men and women.

At the special session the obligations to ensure equality between women and men were confirmed. The session became a forum to share and compare experience. At that, major attention was paid to examples of advanced practices, affirmative actions and achievements.

The goal of the special session was overview and assessment of progress achieved in the sphere of improvement of women's status and gender achievements during the five years that passed after adoption of the Beijing Platform for Action, as well as discussion of further initiatives. It finished with adoption of a series of documents, such as: **Political Declaration and Outcome Document «Further actions and initiatives to implement the Beijing Declaration and Platform for Action» (special session of the UN General Assembly, New York, June 5–9, 2000)**. This document emphasizes the integral interconnectedness *of equality of men and women with assessment of social progress, development and peace*. The assessment of achievements and problems for the five years was made on the basis of gender approach and holistic analysis.

The Outcome Document attaches special significance to «continued political commitment to gender equality at all levels» (paragraph 34), discusses the obstacles on the way towards it as well as possibilities of exasperation of gender inequality that globalization brings with it. But, despite all this, it emphasizes the major tendency: **«The changing context of gender relations, as well as the discussion on gender equality, has led to an increased reassessment of gender roles**. This has further encouraged a discussion on the roles and responsibilities of women and men working together towards gender equality and the need for changing those stereotypical and traditional roles that limit women's full potential» (paragraph 47).

The document determines the course towards implementation of further actions and initiatives to achieve gender equality. It expresses a major idea that defines the **progress of gender activity**: **«Achieving gender equality and empowerment of women requires redressing inequalities between women and men and girls and boys and ensuring their equal rights, responsibilities, opportunities and possibilities. Gender equality implies that women's needs, interests, concerns, experiences and priorities as well as men's are an integral dimension of the design, implementation, national monitoring, and follow-up and evaluation, including at the international level, of all actions in all areas.» (paragraph 52)**. To ensure consideration of the gender aspect at adoption and implementation of the strategies that are comprehensive and are practical in all sectors, **political will and commitment at all levels are crucial (paragraph 58)**.

Strong national machineries for the advancement of women and promotion of gender equality require political commitment at the highest level and all necessary human and financial resources to initiate, recommend and facilitate the development, adoption and monitoring of policies, legislation, programmes and capacity-building for the empowerment of women and to act as catalysts for **open public dialogue on gender equality as a societal goal. (paragraph 61)**.

The realization and the achievement of the goals of gender equality, development and peace need to be supported by the allocation of necessary human financial and material resources for specific and targeted activities to ensure gender equality at the local, national, regional and international levels as well as by enhanced and increased international

cooperation. Explicit attention to these goals in the budgetary processes at the national, regional and international levels is essential (paragraph 65). Therefore, expansion of the international co-operation at all levels is considered to be an important prerequisite for achieving of gender equality. Multiplication of forms of such co-operation will diversify the national activity in the sphere of gender and will expand its ideological, organizational, regulatory activity.

The Outcome Document outlines a series of new important sectors, which came to the foreground after the Beijing Conference. Among them were necessity to address gender issues in situations of humanitarian crisis; women's access to the decision-making process in the sphere of peace-keeping and support of peace; violence against women, in particular, consequences of armed conflicts for women; economic consequences of globalization for women; trafficking in women and girls; women's access to new informational and communication technologies; consequences of the global critical situation with HIV/AIDS for women and their crucial role in combating this pandemic.

The Outcome Document itself is a source of international experience of gender transformations as it articulates the measures to be taken at the national level by governments, private sector, non-governmental organizations and other structures of the civil society, as well as measures of the global level, which have to be adopted by the UN or, in case of necessity, by international and regional organizations. Under influence of Beijing, the UN directed activity to take concrete, fruitful measures on the following issues:

1. protection and support of human rights of women and girls as the integral component of human rights in general;
2. elimination of poverty, which inevitably becomes a bigger and bigger burden on women;
3. elimination of obstacles on the way towards full-fledged participation of women in the public life and decision-making at all levels, including at the level of family;
4. elimination of all forms violence against women;
5. ensuring of equal access for girls and women to education and health care;
6. support of women's economic independence and ensuring of their access to productive resources;
7. support of just distribution of household chores<sup>12</sup>.

Gender ideas of the Beijing Conference became the subject of discussion at **regional conferences** and elaborated upon in their documents. One of such conferences was the **specialized conference «Towards partnership between men and women in politics» (New Delhi, 1997)**. The Delhi Conference was organized by the Inter-Parliamentary Union (the global organization of parliaments of independent countries) in response to implementation of the Declaration and Platform for Action developed at the Fourth World Conference on Women. In the 78 delegations, which took part in the Conference, among parliamentarians there were 121 men and 119 women.

At the conference they discussed the issues of place and role of women and men in politics and other spheres of life, distance between *de jure* and *de facto* in the sphere of gender equality, necessity to integrate women into politics, overcoming of stereotypes in

12 Beijing Declaration and Platform for Action and Beijing +5: Political Declaration and Outcome document. – p.9.



consciousness of women and men and so on. This gave to the Conference participants an opportunity to make a comparative analysis of the gender situation in different countries and regions, as well as of the gender activity performed by the governmental structures, nature of the gender legislation adopted by them and the vision of prospects for gender development.

In April 1997, in Seoul based on the conclusions of this special conference the Inter-Parliamentary Union adopted the Resolution, which said that in the modern conditions there exists «*dramatic imbalance of participation of men and women in political life*», that *development of countries and democracy in them depends on the state of women and men's representation in the parliaments*. It also mentioned the *necessity to achieve women's representation in the parliament at the level of «critical mass», which would amount to 30%.*

The regional conference «Beijing + 5: Conclusions and perspectives» took place in Almaty (Kazakhstan) on December 13–15, 1999. The Conference participants were more than 70 representatives from 10 countries of the Commonwealth of Independent Countries, as well as from Turkey and Mongolia. They represented governmental and non-governmental organizations. At the conference they summarized the five years of activity on implementation of documents adopted at the Fourth World Conference on Women (Beijing, 1995). Analysis of international experience in the sphere of gender demonstrated: proclaimed gender equality *de jure* far from always is implemented *de facto*; imperfection of the national gender policy and of mechanisms of its implementation; prevalence of persistent stereotypes about traditional roles of women and man in the society, in particular in politics; low gender consciousness in the society, and so on. On the basis of such analysis and generalization of international experience concerning gender transformations, the Conference developed concrete recommendations. Among them: formation of an intergovernmental regional group of the countries with transitional economy to advance issues of gender equality; creating of a special committee of the CIS countries on gender issues within the Inter-Parliamentary Union; creating of the regional council of heads of governmental structures responsible for the issues of improvement of women's status in the countries. The adopted recommendations were sent to the European UN Commission and to the Ministries of Foreign Affairs of the countries participants of the Conference.

Gender as a priority issue of consideration of the international structures is shifting to the centre of attention **of heads of states and governments at summits**. Gender ideas appear as cross-cutting in the materials of the **Millennium Summit**, which was held on September 6–9, 2000. The acts adopted at the global level and signed by the participating states brought some changes in formation of the gender perspective and planning on how to achieve them. At the session of the UN General Assembly, the heads of 191 governments of the world approved the **United Nations: Millennium Declaration**. With it, the international community started the process of achievement of the results determined till 2015 in those spheres, where irregularity of the global human development appeared to be most pressing.

Special emphasis was made on the role of gender issues in resolving of socio-economic issues, and namely: «To promote gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable». These issues are connected with development of democracy and

ensuring of law and order, protection of rights of all citizens as equals. Such approach is directed at development of gender democracy, which is a system of expression of will for both sexes – women and men – in the civil society as equals in rights and opportunities that are legally codified and actually secured in the political-legal principles, acts, establishment of social and governmental structures, taking into account gender interests and needs.

The Declaration determines 6 goals and 13 concrete objectives for the long term period. Two goals and four objectives are directly oriented at facilitation of gender equality and expansion of rights and opportunities for women, and namely:

**«Goal 4. Improve maternal health and Reduce child mortality**

Objective 8: Decrease the level of maternal mortality by 17%.

Objective 9: Decrease the level of mortality among children under 5 by 17%.

**Goal 6. Ensure gender equality**

Objective 12: To ensure gender ratio of both sexes at the level of at least 30% to 70% in representative bodies of power and at the senior levels of executive power.

Objective 13: Halve the gap in incomes between women and men».

The rest of goals and objectives listed in the Declaration at their core almost all are directed at addressing of the issues on elimination of all forms of discrimination against women and for ensuring of gender equality or they refer to the status and relations between women and men.

For instance, objectives 1 and 2 stipulate reduction by one third of the share of poor population (according to indicators determined by the national income poverty line) and halving of population whose daily consumption does not exceed US\$ 4.3 by purchasing power parity compared to 2001.

As these objectives were articulated at the summit level it emphasized how burning it is to invest efforts, including ensuring of auspicious governance, to free, on the global scope, more than a billion of men, women, and children from extreme poverty, what violates their human dignity, transformation of the right for development into reality for all. To achieve this, the governments made a commitment to halve by 2015 the share of the world population whose income is less than \$1 a day, and the proportion of people who suffer from hunger. Among population that is poor and suffers from misery the majority are women.

Addressing of gender issues in different spheres of the social life will be facilitated by achievement of the goals on ensuring of access to quality life-long education, ensuring of the sustainable environmental development, decrease in prevalence of HIV/AIDS and TB, and so on.

The Declaration adopted at the Summit specified the ***global scope of gender approach***, when it stated that heads of the countries and governments recognized that, in addition to their separate responsibilities to their individual societies, they had a collective responsibility **“to uphold the principles of human dignity, equality and equity at the global level”** and rededicated themselves to their duty to support efforts directed at ensuring, along with other outlined directions of activity, respect for human rights and fundamental freedoms, **respect for the equal rights of all without distinction as to race, sex, language or religion».**



In the Declaration, the heads of the countries and governments emphasized some **fundamental values** as essential to **international relations in the twenty-first century**: freedom, **equality**, solidarity, tolerance, respect for nature, shared responsibility.

Freedom being placed on the first place by significance, the Declaration specifies the content of gender essence of this value: «**Freedom**. Men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice. Democratic and participatory governance based on the will of the people best assures these rights».

The gender content of the value of «equality» is obvious: «**Equality**. No individual and no nation must be denied the opportunity to benefit from development. The equal rights and opportunities for women and men must be assured».

Gender approach is also reflected in definition of the value of «solidarity»: «**Solidarity**. Global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice. Those who suffer or who benefit least deserve help from those who benefit most».

Respect to gender difference is embedded in the content of such **value** as «tolerance»: «**Tolerance**. Human beings must respect one other, in all their diversity of belief, culture and language. Differences within and between societies should be neither feared nor repressed, but cherished as a precious asset of humanity. A culture of peace and dialogue among all civilizations should be actively promoted”.

The heads of the countries and governments resolve «to strengthen further cooperation between the United Nations and national parliaments through their world organization, the Inter-Parliamentary Union, in various fields, including peace and security, economic and social development, international law and human rights and democracy and **gender issues**». As the list proves, ***gender issues are considered at the level of issues of the international significance and global scope of addressing***. This is one of the most important issues of the third millennium.

Currently the most complete and global strategic document of the highest level is the **Millennium Development Goals**, adopted by the Declaration. The leaders of the countries that signed this document took development for a foundation of the global action plan. It should be pointed out that it is not only about changes, growing, expansion, accumulation or other parameters, it is specifically about development. The perspectives determined in this document are time-limited, and namely – till 2015. Among the eight millennium development goals, determined in the document, the third one reads: «Promote Gender Equality and Empower Women». Besides the goals, the document sets 18 objectives of development and identifies 48 indicators for quantitative assessment of progress on the way to achievement of the set goals. Of great importance is the following provision in the document: «All countries that adopted the Millennium Development Goals must commit to their obligations concerning the Millennium Development Goals, as well as admit their readiness to take responsibility that comes with these obligations»<sup>13</sup>. Later, in 2005, the UN General Assembly recommended the UN member states to develop the national development strategies, taking into account the Millennium Development Goals and consideration for specificity of the national development (the so called MDG-based

13 *Millennium Development Goals*. Millennium Project, 2004. – p. 20.

Development Strategy).

The year 2000, the threshold year between the second and the third millennia, was marked by another important document – the **Human Development Report 2000**, which was prepared by the United Nations Development Programme. This document especially emphasized the legal concept of gender issues. The UN associates social development, establishing of the modern civilization and its progress with the attitude towards human dignity and freedoms. Women and men have to demand appropriate social conditions and legal guarantees as guarantee of free and decent life. It was the guaranteeing of freedom, welfare and dignity of people of the entire world that was placed as the central idea in foundation of the principle of human rights and human development. This principle is meant not for just one, that is, male part of humankind. This is a universal principle, which reflects the universal idea. It does not contain any limitations as to any gender. Moreover, gender equality was incorporated in the foundation of all human freedoms.

The Human Development Report 2000 especially emphasizes the role of seven fundamental freedoms:

- freedom from discrimination — by gender, race, ethnicity, national origin or religion;
- freedom from want—to enjoy a decent standard of living;
- freedom to develop and realize one's human potential;
- freedom from fear—of threats to personal security, from torture, arbitrary arrest and other violent acts;
- freedom from injustice and violations of the rule of law;
- freedom of thought and speech and to participate in decision-making and form associations;
- freedom for decent work—without exploitation.

The order how the fundamental freedoms are listed manifests importance of the gender factor for the modern civilizational progress. The list of the universal fundamental freedoms starts with freedom from discrimination – by gender. The fundamental freedoms also included freedom from injustice and violations of the rule of law, freedom from violence etc. freedoms can be ensured under the condition that they are guaranteed, first of all, by the state and by the law. Legislation is one of the most important tools of formation, functioning and progress of gender relations, establishing of parity democracy.

The first decade of the 21<sup>st</sup> century is characterized by further analysis of gender transformations. Conferences «Beijing +10» and «Beijing +15» were held, where the achievements concerning implementation of the Beijing strategies were summarized.

During this period, more and more interest is expressed to forecasting of the development processes in different spheres and corresponding planning of actions. Different UN structures express their interest to such forms of long-term plans as **«road maps»**, that is, a kind of field guide of transformations. The essence of road maps constitutes of outlining of step-by-step stages of development of a certain object, which any phenomenon can be. Such mapping includes vision of the essence of a phenomenon, its evolution, script and strategic development directions, major steps of their implementation with minimal possible expenses and economic effectiveness. The road maps started to be developed in the sphere of gender or with consideration of gender aspects in road maps on transformations

in other spheres. In the sphere of gender, the road mapping was directed at informational support and underpinning for managerial decision-making on ensuring of gender equality.

The international community in its gender development started the third millennium in extremely different conditions. Different regions and national societies have different readiness and maturity for gender transformations. The most advanced in regard of achievements and success in the sphere of gender are the European region and countries of North America.

### **3. Peculiarities of formation of the European approach to gender transformations and its implementation**

The European region includes all states on the territory of Europe. When measures are being conducted here they also cover post-Soviet countries. In the structure of the European region there are several groups of countries, among them «Nordic countries», as well as countries of

Central and Eastern Europe and of the Commonwealth of Independent Countries (CIS).

Nowadays, the demand and need of the European society in gender transformation is a reality. Although, despite high social development of European countries, there also some obstacles on the way to acceleration of gender transformations. Actual needs outrun maturation of the civil society. Under such conditions, significant role is played by the all-European structures, whose activity, along with others, enables analysis of the current situation and adoption of such decisions directed at ensuring of gender progress, its monitoring and control.

Currently, on the European continent the new political construction is being formed, that is, there is movement towards formation of the joint power at the supranational level: by direct vote a new supranational parliament and a president were elected. Harmonization of the legislation is underway. Comprehension is being formed that modern reality goes beyond the state borders – like some major issues of human existence, in particular the issues of energy, depletion of resources, problems of monetary policy, trade and protection of the environment, which already cannot be completely resolved at the level of separate nations and countries. Experience of Europe can help identify certain road marks to the future and facilitate formation of the project of reconstruction of the international order<sup>14</sup>. Such approach is conditioned by deeper democratization of the societies, improved levels of education, free movement of capital, goods and workforce, and so on. The issue that is of great significance within borders of each state, as well as gains more and more global significance is gender.

As most countries adopted provisions of international programs what were initiated by the UN, in the 1970–80-ties the world underwent a cardinal restructuring of gender relations. During this period, in the Western countries women engaged more and more actively in all spheres of life of the society; so, correspondingly, dissatisfaction with traditional approaches to addressing of women's issues was growing, thus jump starting the process of conceptual re-evaluation of social reality, in particular, the status of men and women and relations between them.

At the same time, the 1990- and 2000-ties years are characterized by the growing gender activism in the European region. It is an integral part of formation of the new political order of Europe. Addressing of issues of equality between women and men, of gender aspect in the activity of the international structures of Europe is a general result of experience of the gender activism in national societies, especially in Nordic countries and of active influence of feminist and gender movements of the previous decades.

When evaluating the social changes during the 1990-ties in the member states of the Council of Europe, Alison E. Woodward, Professor of social sciences at the Free University of Brussels, specialist in public policy, justly emphasizes: «The gender relations in Europe underwent the most revolutionary transformation of social relations in the entire history of humankind»<sup>15</sup>. Such transformations, along with other processes, meant establishing of equality between the sexes. It should be mentioned that such equality do not deny differences – it resists inequality in statuses and promotes women and men's independence, responsibility and participation in all spheres of public and private life. This is equality that

14 *Gavrylyshyn B.* Towards effective societies. Directions into the future: Report to the Club of Rome / B.Gavrylyshyn. - K. Pulsary, 2009. – p. 173. / Гаврилишин Б. До ефективних суспільств. Дороговкази в майбутнє : доповідь Римському Клубові.

15 *Alison E. Woodward.* Going for Gender Balance. Translated from English to Ukrainian. / Alison E. Woodward. – K., 2002. – p.15.

aims for protection and ensuring of human rights and freedoms, that prevents and eliminates the actually existent discrimination on the basis of one's sex and that consolidates men and women's efforts for joint actions in formation of a gender-balanced and socially just society.

Achievement of successes in establishing of gender equality and changes in the women's legal status in the countries of Europe was facilitated by activity of European structures concerning generalization of the national experience of gender transformations and elaboration of gender strategies and perspectives.

**The Council of Europe**, created in 1949, from the very beginning declared among its major principles protection of human rights, whose structure included the right for equality between women and men. The Council of Europe laid the policy of ensuring of equality of the sexes in the foundation of its activity. This resulted in its elaborated implementation in all adopted documents. Strategy of the gender policy conceptually was not reduced to concern about improvement of the status of one of the sexes. Its scope was founded in the analysis of a comprehensive vision of gender sphere of the social development, and concern for women was always perceived as a component of wide-scale transformations in the direction of ensuring of equality between women and men.

The member states of the Council of Europe, including Ukraine, agreed to commit to obligations concerning promotion of gender equity, what was reflected in international, regional and national agreements. These documents emphasize that gender equity is connected with the fundamental ideas about social justice, human rights and the very nature of democracy. Besides, involvement of both sexes in determining the policy makes it possible to shape it as more effective, as more fit to satisfy the demands of the structured civil society.

All documents adopted by the Council of Europe and European bodies are in general aimed for development and transformation of the gender system of countries, regions, and European community. In compliance with the general ideas declared by the UN concerning human rights, **on November 4, 1950, in Rome the European Convention for the Protection of Human Rights and Fundamental Freedoms was adopted**. Its effect covers countries of European continent, which are members to the Council of Europe. Only when it became an independent state and joined the Council of Europe in 1996, Ukraine ratified European Convention for the Protection of Human Rights, committing by this to adoption of European gender standards. The Convention's binding power for Ukraine was acknowledged by the Law of Ukraine «On ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, the first Protocol and Protocols No. 2, 4, 7 and 11 to the Convention» as of July 17, 1997, No.475/97<sup>16</sup>.

In article 14 the Convention sets forth the principle of equality of women and men. It says that «The enjoyment of the rights and freedoms... shall be secured without discrimination on any ground such as sex...». Therefore, this article prohibited any discrimination based on one's sex. Protocol No. 7 to the Convention included the principle of equality in the spouses' rights and obligations during their married life. And Protocol No.12 guaranteed that no one shall be discriminated against by any public authority on any ground.

The European Convention for the Protection of Human Rights and Fundamental Freedoms contains an effective mechanism of international legal protection and implementation of

16 *Changes and amendments to this Law were made by the laws of Ukraine as of March 24, 1999, No.551-XIV, as of February 3, 2004, No.1420-IV, as of February 9, 2006, No. 3436-IV.*



human rights of women and men. A huge practical significance of the European Convention lies in the fact that the rights stipulated therein obtains concrete form judgments of the European Court of Human Rights. The Law of Ukraine «On implementation of judgments and application of practices of the European Court of Human Rights» (Article 17 of the Law) acknowledged the Court practice to be a source of law of Ukraine. This means that Ukraine acknowledges case law of the European Court, including on issues concerning equal rights and opportunities for women and men. The author of this book expressed in support<sup>17</sup> of the European case law, in particular, of the common law, which operates in Great Britain, the US, Canada. The constitutional norm on gender equality would receive in courts protection as immediate fundamental right through imbuing it with moral content. It is necessary to use the corresponding judgments of the European Court of Human Rights at the gender legal expert evaluation of the Ukrainian legislation in effect and of drafts of regulatory acts. Lawyers justly call such acknowledgment of case law in practice of the European Court by law of Ukraine «a revolutionary event for Ukraine»<sup>18</sup>. In this regard, the European Convention on Human Rights is a standard for all member states of the Council of Europe, and this is a reflection of gender needs and consolidation of interests of many countries of Europe.

The Council of Europe played a great role in development of foundations of the gender policy. Development of gender activism in Europe was facilitated by establishment of the organizational structures on ensuring of gender equality. For instance, after three decades of existence of the Council of Europe, the **Committee on the Status of Women (1979–1981)** was established as the first institutional mechanism concerning gender equality. In 1981, the committee was renamed as the **Committee for Equality between Women and Men (1981–1986)**. Currently the **Steering Committee for Equality between Women and Men** operates within the Council of Europe.

The Steering Committee is the body, which was established in 1970 to analyze, study and assess activity, determine strategies and political measures, elaborate legal documents on issues of balanced representation of women and men in all spheres of the social life, facilitate equality between the sexes, combat violence against women, eliminate trafficking in human beings for the purpose of sexual exploitation. Every four years or every five years, the Committee organizes European Ministerial Conferences on Equality between Women and Men; develops comments to the Annual Report of the Secretary General on equality within the framework of the Secretariat and the Council of Europe. In the Committee each of the member states is represented by one expert (man or woman). Some of the states that are not members of the Council of Europe – Canada, Japan and Vatican – have an observer status.

Since 1992, the Committee has been operating in the system of the Directorate General of Human Rights. It has its own secretariat, whose activity is directed at implementation of the policy of the Council of Europe, including also on ensuring of gender equality.

The Steering Committee can create subordinate structures for two–five years (working groups, groups of specialists, expert committees, and so on) on various issues. Among them there were the group of specialists on implementation and monitoring of the

17 See *Gender analysis of Ukrainian society*. UNDP. – K., 1999. – p. 42./ Гендерний аналіз українського суспільства. ПРООН.

18 *Khrystova H.O. Foundations of the Gender-Legal Analysis of the Legislation of Ukraine*. – p. 36./ Христова Г.О. Основи гендерно-правового аналізу законодавства України.



Recommendations of the Committee of Ministers (2002) on the protection of women against violence (2002–2004) or the group of specialists on promoting gender mainstreaming in schools (2001–2002).

The European thought is searching for ways to accelerate resolution of the issues of gender inequality and completion of gender transformations. One of the reasons why the rates of gender changes are slowing down is the existent gender imbalance in the system of power. And this is why in the structure of gender issues since the end of the 1980-ties the issues of women's integration in the structures of power have come to the foreground.

In 1986, the **Resolution of the European Parliament on violence against women and elaboration of ways of its eliminating** was adopted, in 1988 – the **Declaration on the Equality of Women and Men of the Committee of Ministers of the Council of Europe**, in 1991 – the **Declaration of the Council of Europe on application of the Recommendations of the Commission of the European Communities on the protection of the dignity of women and men at work**, including the code of practice on combating against sexual harassment, and other documents.

Among the documents of the Council of Europe, a gender-wise significant one was the **Declaration on equality of women and men** adopted by the Committee of Ministers (1988), which declared gender ideas to be crucial.

It emphasizes that equality between women and men belongs to fundamental human rights, that humanity can achieve greater self-fulfillment and develop if aspirations, interests and talents of each sex are taken into account. The principle of equality between women and men is considered the major prerequisite of democracy and demand of social justice. As a result of manifestations of one sex's advantage over the other, ideas about superiority or subordination of one sex compared to the other are entrenching and supremacy or predominance of one sex over the other is justified. The society's under-utilization of human resources is the result of the attitude and actions antagonists of equality of the sexes.

Analysis of experience of how issues of gender equality were addressed in Europe at that time made it possible to determine in the Declaration the generalized list of activities to establish equal status of men and women. Among them are:

- protection of individual rights;
- participation in political, economic, social and cultural life;
- access to all levels of the civil service;
- access to education and freedom of choice in education and initial and further vocational training;
- rights of couples;
- elimination of violence in the family and in society;
- rights and duties with regard to children;
- access to all professions, occupational advancement, and remuneration;
- promotion of economic independence;
- access to information and so on.

Special attention is paid to providing women and men equal legal capacity and equal opportunities as to its implementation, development of individual abilities and talents.

The Council of Europe considers legal ensuring of social justice as one of core requirements in the sector of achievement of gender equality. The essence of such approach lies in optimal application of legal means of elimination of all forms of gender discrimination.

For the purpose of gender training and experience sharing, the Council of Europe from time to time conducts seminars on gender issues. Gender issues become priority in its activity.

As an expression of the need for international and national re-evaluation and implementation of human rights – of women and men – **the Council of Europe adopted in 1961 the European Social Charter and in 1999 – the European Social Charter (Revised)**. Ukraine signed the Charter. It regulates the standards of rights, as well as contains guarantees that ensure rights as the system of organizational legal, economic and other measures. Conceptually all human rights are associated with the idea of gender equality. Among the fundamental rights those rights, which directly refer to equality between men and women, are outlined specifically.

The Charter stipulates other rights, in which particularly emphasizes observance of gender equality: right of workers – of men and women – for equal remuneration for labour of equal value (Article 4 paragraph 3); a worker's right for protection of their dignity at work, in particular, they have a right to equal opportunities and to equal treatment in matters of employment and occupation without discrimination of the grounds of sex (Article 20). Among them is the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27).

The member states also committed to facilitate elimination of sexual harassment at work and to take necessary measures concerning protection of workers from such harassment (Article 26, paragraph 1); particularly specified enhanced social protection of women; the rights of employed women for protection of motherhood (Article 8).

The Charter contains a special article, which establishes equality of the sexes in the sphere of labour. Equal opportunities must be ensured for them. For this purpose measures must be taken to implement the principle of equality concerning occupation, labour remuneration, conditions of labour, social security, education, vocational training and professional growth. Special measures must be taken to assist women and men to combine their professional activity and family obligations (Article 16). All social rights have gender content.

The European Social Charter (revised) ratified by the Parliament of Ukraine on September 14, 2006. It is founded in the modern approaches to gender addressing of issues of the social spheres and social security of gender ensuring of all spheres of life of the society.

Gender issues are in the centre of attention **of the Parliamentary Assembly of the Council of Europe**. In its activity it takes into account the actually existent distance between the statuses of social sexes, implementation of the social status, in particular, that of women. This is reflected in a series of the adopted Resolutions and recommendations. These, to begin with, include such Resolutions of the Parliamentary Assembly, as:

- Resolution on equality between women and men (1986);
- Resolution on equality of rights between men and women (1994);
- Resolution on activity based on the results of the Fourth UN World Conference on Women (Beijing, 1995) (1995);

- Resolution on the increased representation of women in the Council of Europe (1996);
- Resolution on discrimination against women in the field of sport and more particularly in the Olympic Games (1996);
- Resolution on the democratic functioning of national parliaments (1998);
- Resolution on rape in armed conflicts (2000)
- Recommendation of the Parliamentary Assembly on Campaign against trafficking in women (2002);
- Resolution on discrimination on the basis of sexual orientation and gender identity (2010) and so on.

On the basis of analysis of the current gender situation in Europe, the Parliamentary Assembly adopts recommendations for member states of the Council of Europe, among which:

- Recommendation on women in politics (1985);
- Recommendation on women and men's equal opportunities and equal status in the labour market (1991);
- Recommendation on the situation of immigrant women in Europe (1995);
- Recommendation on achieving real progress in women's rights (1995);
- Recommendation on gender equality in education (1995);
- Recommendation on improving the situation of women in rural society (1997);
- Recommendation on traffic in women and forced prostitution in Council of Europe member states (1997);
- Recommendation on discrimination between women and men in the choice of a surname and the passing on of parents' surnames to children (1998);
- Recommendation on the situation of refugee women in Europe (1998);
- Recommendation on equal representation in political life (1999);
- Recommendation on violence against women in Europe (2000);
- Recommendation on Mothers and babies in prison (2000);
- Recommendation on campaign against trafficking in women (2002), and so on.

In the 1990-ties, the Council of Europe expanded activity concerning gender. These were the years, when the key decisions on issues of gender were adopted. In October 1994, on the eve of Beijing Conference, the Regional Conference dedicated to the situation of women in Europe took place in Vienna. Special attention was devoted to discussion of the new concept of «parity democracy», developed by the Committee for Equality between Women and Men, the Department on equality of rights between men and women and the Department on human rights that operate in the structure of the Council of Europe. It was exactly in the Council of Europe that the very notion of «parity democracy» was created.

The Committee and the Departments generalized the ideas of women's organizations of Western European countries about necessity of 50/50 representation of women and men in the structures of power and their demands and proposals to the governments and structures of European community concerning actual establishing of such approach. To their opinion, it was the only way to create conditions for sustainable development of the

society. The developers of the concept of parity democracy assumed that it would be the subject of discussions at the Beijing Conference. But this did not happen. The Conference organizers, taking into account the position of Muslim countries and of the Holy See (Vatican), decided that it was too early to discuss such a concept at the World conference<sup>19</sup>. The Beijing Declaration and Platform for Action, adopted by the Fourth World Conference on Women, placed emphasis on the principles on ensuring of gender equality, introducing of gender content in all strategies and programs of the international community and national societies.

The Committee of Ministers is the managerial body in the Council of Europe, which, along with other directions, is organizing activities for consolidation of democracy, and in particular, for development of gender democracy. It consists of the Ministers of Foreign Affairs of the member states of the Council of Europe. It develops gender criteria of democracy and determines multisectoral strategies of actions directed at ensuring of equality of men and women in the gender perspective. The Committee of Ministers generalizes tendencies and processes of gender transformations and adopts important documents, which outline the gender achievement and defined directions of actions. The decisions of the Committee of Ministers are adopted in the form of European conventions or agreements, recommendations, and are sent to the governments of member states of the Council of Europe. More than 200 conventions and agreements have been developed that are meant for implementation of the principles of democracy and supremacy of law, for unification of the legal field. Among numerous recommendations of the Committee of Ministers to member states of the Council of Europe, there are, in particular, the following ones:

- Recommendation on equality between women and men in the media (1984);
- Recommendation on legal protection against sex discrimination (1985);
- Recommendation on violence in the family (1985);
- Recommendation on the elimination of sexism from language (1990);
- Recommendation on social measures concerning violence within the family (1990);
- Recommendation on reconciling work and family life (1996);
- Recommendation on gender mainstreaming (1998);
- Reports on gender mainstreaming (1998) and on measures in the sector of equality (2000) and so on;
- Recommendation on Action against trafficking in human beings for the purpose of sexual exploitation (2000);
- Recommendation on the protection of women against violence (2002);
- Recommendation on balanced participation of women and men in political and public decision making (2003);
- Recommendation on the legal status of non-governmental organizations in Europe (2007);
- Recommendation to member states of the Council of Europe on gender equality standards and mechanisms (2007);
- Recommendation on measures to combat discrimination on grounds of sexual

<sup>19</sup> Aivazova S. Gender equality in the context of human rights/ S.Aivazova. – M., 2001. – [www.owl.ru/win/books/gender/index/](http://www.owl.ru/win/books/gender/index/)  
Айвазова С. Гендерное равенство в контексте прав человека / С.Айвазова. – М., 2001.

orientation or gender identity (2010), and so on.

Development of gender thought, study of the gender policy and practices, their generalization gave an opportunity to articulate the **general standards and standards in separate spheres, mechanisms of gender equality** and to recommend them for practical implementation. In a generalized form they are outlined in the Recommendations of the Committee of Ministers to member states of the Council of Europe on gender equality standards and mechanisms (2007)<sup>20</sup>. The following ones were qualified as general standards:

- Gender equality as a principle of human rights and a government responsibility;
- Gender equality as a concern and responsibility of society as a whole;
- Commitment, transparency and accountability in the achievement of gender equality;
- Ratification of relevant treaties and implementation of all relevant international legal instruments;
- Adoption and effective enforcement of gender equality legislation and integration of a gender perspective in legislation in all areas;
- Elimination of sexism from language and promotion of language that reflects the principle of gender equality.

To direct the activity on integration of the gender aspect in all spheres of life, the Committee of Ministers developed the special standards of gender equality with consideration of peculiarities of each of the spheres.

Issues of gender equality and establishment in Europe of the standards of very law of equality between women and men are directed at re-thinking of numerous provisions in the legislation of the national societies. They became an integral part of discussions at summits.

In May 1999, for the purpose of observance and in-depth implementation of human rights and fundamental freedoms, the Committee of Ministers of the Council of Europe adopted the Resolution «On the Council of Europe Commissioner for Human Rights», with which it established a position of the **Council of Europe Commissioner for Human Rights** and the **Office of the Commissioner for Human Rights** as a department of the Office of the Secretary General of the Council of Europe. The eleven articles of the Resolution explicate the Commissioner's authorities. The Commissioner's rights and obligations include:

- to promote education in, awareness of and respect for human rights, as embodied in the human rights instruments of the Council of Europe;
- to contribute to the promotion of the effective observance and full enjoyment of human rights in the member States;
- to provide advice and information on the protection of human rights and prevention of human rights violations;
- to co-operate with human rights structures in the member States;
- to identify possible shortcomings in the law and practice of member States concerning the compliance with human rights as embodied in the instruments of the Council of Europe;
- to facilitate the activities of national ombudsmen or similar institutions in the field of human rights;
- to address, whenever the Commissioner deems it appropriate, a report concerning a

<sup>20</sup> Gender equality standards and mechanisms of gender equality. Recommendation of the Committee of Ministers CM/Rec (2007)17 and Explanatory memorandum. Council of Europe, 2008.



specific matter to the Committee of Ministers or to the Parliamentary Assembly and the Committee of Ministers; and so on. In July 2009, the Commissioner declared the topical report «Human Rights and Gender Identity».

The **document of the Council of Europe «Gender Mainstreaming»**, developed by the group of specialists together with Department on equality of rights between women and men, is an important document that became a methodological aid at development of laws and governmental programs on gender equality. The authors believe that the main task of gender mainstreaming is to involve people in the very core of policy formation, and the policy itself is to be founded and evaluated based on its influence over the actual situation of individuals and social groups, regardless of whether they are men or women. Gender mainstreaming brought a new humanistic assessment in the approach to a human being, his or her life, and replaced the traditional economic and ideological indicators with those of the degree of well-being and comfort of citizens. It focused on the quality of life of men and women, on their needs and interests.

These and other acts determine for countries of Europe directions and opportunities to ensure gender equality, explicate the gender component in the legislation, gender approach to law-making, law enforcement and protection of rights. They lay foundations of legal opportunities for gender transformations and for management of gender processes in different spheres of life. Introduction of gender approaches in the analysis and of gender equality in different spheres of life of the society and the government creates an independent **gender sphere**, its internal strategic alignment and policy of regulation of gender processes, creating of mechanisms for such regulation. The mechanisms for ensuring of gender equality are one of them.

Specificity of obtaining and formation of international experience in Europe is characterized by grouping of countries by similarity of how certain issues are addressed. This is conditioned, in particular, by closeness of historical processes of their development, joint approaches to organization of the social and governmental life. Such grouping can be found in addressing of gender issues, as well.

For instance, **Denmark, Sweden, Norway, Finland and Iceland** – countries of the Northern region, or, as they are called, «Nordic countries», currently demonstrate the optimal resolution of gender issues. In 1952, they established the **Nordic Council**. The Council of Ministers of Nordic countries consistently and purposefully is working on formation and introduction of the policy of gender equality.

The United Nations Development Programme in 1995 established the **Regional Bureau for Europe and the Commonwealth of Independent States** for coordination of co-operation with the countries of the region, which was called the Region of Eastern and Central Europe and of the Commonwealth of Independent Countries (CIS). This group of countries is also called the «RBEC countries»<sup>21</sup>. Along with all peculiarities and differences, the countries of this region have a lot of in common in their political and social development. Often these similarities are rather problematic. For instance, countries of this region have rather high indicators of the educational levels of women and men, but their legislative bodies consist predominantly of men; the Constitution and legislation of these countries formally prohibit discrimination based on sex, but *de jure* differs from *de facto* a lot; the majority of the

21 RBEC = Regional Bureau for Europe and the Commonwealth of Independent States.



countries adopted laws on equality of rights and opportunities, but the court system does not protect them: in courts there are no lawsuits on gender violations; the prohibition of discrimination based on sex proclaimed in the legislation does not translate into a wide system of actions concerning elimination of indirect discrimination; all countries, even those with the smallest population and economic potential, have adopted the laws on equal rights and opportunities of men and women, but the largest country – Russia, with the population of about 143 million, still has not adopted such law, etc<sup>22</sup>.

This to a significant degree facilitates approximation of the legislation on equal rights and opportunities adopted in these countries. Study of mutual experience in adoption of the legislative acts on issues of gender, formation of the gender policy, elaboration of forms of gender activity, generalization of practices of gender transformations, introduction of quotas and other special measures on ensuring of balance of the sexes and so on facilitates formation and approximation of the gender systems of Nordic countries and gender cultures of their nations.

Recent wide-scale activity concerning gender transformations in modern Europe can be characterized as a tendency. The need in such activity corresponds to the nature of globalization of all social processes, which covers as well the system of management and elaboration of its joint tool set necessary for regulation of gender relations. This and other factors condition the necessity for politicians to communicate. An important role in formation of the gender policy at the European level is played by summits of the heads of states and by conferences, which are conducted by the Council of Europe at the level of Ministers on different aspects of gender issues.

For instance, significant attention was devoted to the issue of women and men's balanced representation in all spheres of the society, including political life, at the **summit of the heads of state and government of the member countries of the Council of Europe, which took place on October 10–11, 1997, in Strasbourg**. There the **Final Declaration of the Second summit of heads of state and government of the Council of Europe** was adopted.

Balancing of women and men's participation in political and public life in Europe was facilitated by the **seven European Ministerial Conferences on equality between women and men**. It should be mentioned that Ministers that come to such conferences are in charge of structures, that is, Ministries or other central bodies, whose competence include, besides the issues of gender, the issues of women, family, youth, social, agricultural policy and so on. In numerous countries special authorized central bodies on issues of the gender policy still have not been established. But the Council of Europe convenes supervisors of central bodies in charge of the issue of gender, like Ministers on equality between women and men. This is a manifestation of its orientation towards establishing such Ministries, of the logical transition to the gender approach as a comprehensive one, to the vision of establishment of the sphere of gender and its specific forms of management of gender processes and regulation of gender relations. Under the conditions of the further process of establishing of humanistic principles and reference points, humanitarian approaches to assessment of social phenomena and shift away from technocratic approaches, the gender issues will gain more and more significance. They will require specialized management and

22 See *Drafting Gender-Aware Legislation: How To Promote And Protect Gender Equality In Central And Eastern Europe And In The Commonwealth Of Independent States*.— Published by the UNDP Regional Bureau for Europe and the CIS, 2003.

formation of the special authorized bodies.

Modern Europe is open for discussions of gender issues, conducting of meetings, conferences, seminars on gender issues. By studying the national and regional experience, the European structures are developing their own experience of the international gender activity. Achievements of European structures on gender transformations are necessary for countries that turn to the gender approaches and gender activity, join the trend of creating a society of gender equality. This can be seen in the results of the analysis of the European Ministerial Conferences.

The First (Strasbourg, March 4, 1986) and the Second (Vienna, July 4–5, 1989) European Ministerial Conferences on issues of equality between women and men laid the foundations for orientation of governance towards establishing of the policy of gender equality and democracy in the countries of Europe.

The agenda **of the First European Conference «Equality between women and men in political life – Policy and strategies to achieve equality in decision-making»** covered the issues of women's participation, role and place in political processes, the strategy to achieve equality in decision-making and the governing principles of activity at the intergovernmental, national, regional and local levels. The Conference adopted the Resolution «On policy and strategy of achievement of women's equality in political life, their participation in the process of development and adoption of decisions».

The Conference Resolution drew attention to inequality of women and men's participation in political and public life. Governments of the member states committed to develop the strategy of comprehensive support and advancement for women. The Conference participants requested political parties, trade unions and NGOs to conduct actions that facilitate women's promotion to managerial positions. Ministers also requested governments to implement a policy, which facilitates gender equality, to ensure such conditions that political decisions and changes were accommodated with interests of all citizens, without of any discrimination based on sex.

At the **Second European Conference, the Ministers on issues of equality between women and men considered the issues «Political strategies for the achievement of real equality between women and men»**. The major problems addressed during the Conference were: integration of gender issues in the state policy and role of national procedures in the general governmental policy, effective ensuring of measures equality in compliance with the national legislation and international acts, issues of responsibility for adoption of political decisions to ensure for both women and men professional, personal and family life as well as carrying out of parental obligations.

**The Third European Ministerial Conference on issues of equality between women and men (Rome, October 21–22, 1993)** was dedicated to the special topic **«Strategies for the elimination of violence against women in society: the media and other means»**. The Ministers considered the reasons of violence against women and the role of mass media in prevention and combating of this shameful phenomenon, discussed effectiveness of the legal and administrative measures in combating against violence. Furthermore, it was emphasized that violence constitutes a grave barrier on the way to achievement of

equality between women and men and causes entrenching of inequality. As a result of the Conference, combating violence became one of the major objectives of the Council of Europe.

At the Conference, the Ministers firmly condemned all forms of violence against women, qualified them as violations of human rights. They adopted the “Violence Against Women. Declaration on Policies for Combating Violence Against Women in a Democratic Europe”. The Ministers developed the components of strategies on combating violence to include them into the **Action plan on combating violence against women**.

The Steering Committee of the Council of Europe for Equality between Women and Men, established in 1979 for the purpose of wide development of this Action Plan, established a group of specialists on combating violence against women. The developed Action Plan on combating violence against women was published 1997 as a part of the Final Report on activity of the group of specialists on combating violence against women and was recommended as a guide for national administrations. In the following years, this work on combating violence against women was elaborated and codified legislatively.

On November 13–14, 1997, in Istanbul the **Fourth European Ministerial Conference for equality between women and men** took place, which adopted the **Declaration on equality between women and men as fundamental criterion of democracy**. It emphasized that «the work towards the achievement of equality between women and men should no longer be considered as a women’s issue but involve all members of society, women and men, fully and become the concern of society as a whole».

The Declaration is a document of elaborated strategic approach to gender transformations. It connects social progress, establishing of true democracy with the gender component in all spheres of public and community life.

The Ministers declared that:

- The achievement of equality between women and men is an integral part of the process leading to a genuine democracy. Democracy must become gender aware and gender sensitive;
- establishment of democracy, under which women and men are equal, stipulates balanced representation of the sexes; equality between women and men is a fundamental criterion of democracy;
- achievement of gender equality is possible through specific strategies in political, social and other spheres of life of the society;
- the realization of equality between women and men is the task not just of governments, but also that of society as a whole;
- there is a need to mainstream a gender perspective into all policies and programs at all levels, in order to identify the impact of their implementation on women and men;
- allocation of adequate human and financial resources for gender mainstreaming from all funding resources needs to be ensured for a successful translation of this concept into practice;
- there is a need to improve knowledge on men and women in all their living conditions;
- importance and necessity of development of specific strategies for men concerning

their participation in the realization of gender equality;

- identifying multidisciplinary strategies aimed at equality between women and men as a fundamental criterion of democracy;
- gender mainstreaming should be at the foundation of formation and activity of all bodies of the Council of Europe;
- pooling of information and experience of good practice should be encouraged and organized; impact of measures taken to achieve a gender balanced representation of women and men in all sectors should be assessed.

At the conference, the **Multidisciplinary Strategies for Action** were developed, which aim at promoting equality between women and men as a fundamental criterion of democracy. In alignment with these Strategies, the Recommendations for governments, political parties, trade unions, employers' association and non-governmental organizations were developed. The Conference participants pointed out that overcoming barriers on the way to achievement of gender equality is possible only through the empowerment of women and a constructive dialogue with men, leading them to understand the urgency of deep reform in this sphere. Furthermore, important directions of activity for all countries were specified.

The Conference Recommendations are still relevant as they were tried by the international practice of the countries where gender transformation became an integral component of all social transformations.

**The Fifth European Ministerial Conference for equality between women and men (Skopje, January 22–23, 2003)** was dedicated to the issue «**Democratization, conflict prevention and peacebuilding: the perspectives and the roles of women**». On the basis of the gender approaches, the Conference participants considered the gender aspects of democratization of the society, the women and men's role in conflict prevention and development of peacebuilding in the world. At the Conference the Resolution and Program of actions was adopted.

The Conference documents are permeated by the idea of equality between women and men as the principle of human rights and a *sine qua non* of democracy and an imperative of social justice.

The Resolution focuses attention on the goal – establishing of democratic societies. In such societies conflicts have to be resolved in a nonviolent way, in particular through political dialogue, in compliance with the international law and on the basis of the acts on human rights. From the point of view of the Ministers for equality, to achieve such goal it is necessary:

- a) the full participation of women at all levels of decision-making in local, national, regional and international institutions and mechanisms for the prevention, management, resolution of conflict, including peace negotiations, and democratization of societies after conflict;
- b) the integration of a gender perspective in all activities aimed at conflict prevention and resolution, including peace agreements, the promotion of peace and construction of a democratic society.

**The Program of actions** adopted at the Conference was gender-oriented. It defined the major objective and articulated the measures to ensure them. These objectives were:

Objective 1. Promotion of equal opportunities, rights, freedoms and responsibilities of women and men.

Objective 2. Preventing and combating violence against women and trafficking in human beings.

Objective 3. Development of gender mainstreaming, within the Council of Europe and at the national level.

Special attention is devoted to the following measures:

- to continue its standard-setting work on the balanced participation of women and men in political and public decision-making;
- to promote common standards throughout Europe;
- to develop policies and measures which could be of assistance to member States in the adoption and/or review of equal opportunities legislation and national gender equality plans and the strengthening of national equality machinery;
- to analyze and monitor the development of equal opportunities legislation;
- to promote an exchange of information and experience between member States regarding development of gender disaggregated statistics, indicators, gender budgeting, awareness-raising, education and training, methods and instruments to favour the use of gender mainstreaming in practice, and so on.

**The Sixth European Ministerial Conference for equality between women and men (Stockholm, 8–9 June 2006) concentrated attention on the topic «Human rights and economic challenges in Europe – Gender equality».** The Conference participants adopted the Resolution **«Achieving gender equality: a challenge for human rights and a prerequisite for economic development»**, which includes the document **«Strategies for Achieving Gender Equality»**, as well as the Action plan **«Achievement of gender equality in all spheres of the society»**.

The Conference Resolution emphasized that one of the main goals of any democratic society must be to achieve *de facto* gender equality and there can be no sustainable economic development without the full participation of women. Appendix to the Resolution lists strategies for achieving gender equality in all spheres of the social life.

The joint activity of the Ministers on equality between women and men of European countries was directed at elevating the role of special bodies of executive power in advancement of the UN principles on gender equality, at elaboration of effective tools to achieve optimal effectiveness in activity concerning gender transformations, at elaboration of the firm principles of the policy on major issues of gender, which are pressing in Europe, and at formation of joint mechanisms to address them. The activity of the Ministers on equality between women and men is directed at implementation of documents worked out by the Council of Europe and by all its structures.

**The Seventh European Ministerial Conference for equality between women and men (Baku, May 24–25, 2010) discussed the issue «Gender equality: bridging the gap between *de jure* and *de facto* equality».** The Conference participants analyzed the issues of assessment of the achieved progress in the sphere of gender, its constraining factors and actually existent setback elements. The participants emphasized the main tendency of the modern social development – achievement of actual gender equality. Furthermore, attention was devoted to foregrounding of the gender policy and gender strategies in the current



modernized political space, to development of sensitivity to them, to analysis of adoption of affirmative actions in case of necessity to eliminate imbalance of the sexes, elimination of structural gender stereotypes, to expansion of participation of the discriminated sex in decision-making. The Conference participants developed the **Action Plan “Taking Up the Challenge of the Achievement of *De Jure* and *De Facto* Gender Equality” for eliminating of gender distance between them.**

The seven Ministerial Conferences on gender issues facilitated significant advancement and protection of gender rights, overcoming of gender discrimination, promotion of the non-discrimination principles. These Conferences played their role in monitoring of the gender progress and foregrounding of gender issues in different spheres of the social life and of the countries' role in addressing of gender issues. They facilitated establishment in Europe of the gender system of interaction of countries and societies and arrangement of gender relations in the system of men's and women's environments.

At the same time, the Conferences identified measurable problems concerning gender transformations in Europe and in the world, complexities in addressing them, the need to consolidate efforts in search for ways of joint elaboration of gender strategies and gender tactics taking into account gender perspectives.

Formation of the unified gender-organized space in Europe is greatly facilitated by the **European Union**, founded in compliance with the Treaty on European Union (Maastricht), signed in February 1992 and effective since November 1993. RESOLVED to mark a new stage in the process of European integration, RECALLING the historic importance of the ending of the division of the European continent and the need to create firm bases for the construction of the future Europe, on December 13, 2007, at the EU Summit in Lisbon a Treaty was signed that has an official title “Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community». This Treaty makes amendments in the effective Treaties on European Union for the purpose of reformation of the system of EU governance.

The major bodies of the European Union are: the European Parliament, the Council of Ministers, the European Commission, the European Court of Justice. Its goal-setting and activity is founded on co-operation of the European community and member states of the European Union on issues of safety, justice, domestic and foreign policy.

The European Union plays an important role in facilitation to international co-operation and development. Besides numerous key sectors (support of the macroeconomic policy and of equal access to the system of social security, trade and development, regional integration and co-operation, transportation, food supply security, sustainable development of agriculture, protection of the environment, conflict prevention, support of institutional development, supremacy of law), it also addresses the issues of human rights, as well as of equality of the sexes<sup>23</sup>.

The standards concerning equal treatment of women and men constitute an integral component of the European Union legislation. They are codified in articles of the Amsterdam Treaty of 1997 and reflected in the European Union directives. The member states of the European Union commit to codify these provisions in the national legislations.

**The Charter of fundamental rights of the European Union**, adopted in Nice on December 7, 2000, emphasizes that the Union's actions are founded on the indivisible and

<sup>23</sup> Can be found here: [ec.europa.eu/comm/europeaid/projects/index\\_en.htm](http://ec.europa.eu/comm/europeaid/projects/index_en.htm).



universal values – human dignity, freedom, equality and solidarity. The document outlines fundamental rights, freedoms and principles, among which: equality in rights (Article 20), non-discrimination (Article 21), equality between men and women (Article 23) and so on. By this the European Union strives to ensure the balanced and sustainable development of its member countries and acknowledges ensuring of gender equality as an integral component of this process.

The Charter declares equality of all people in rights and gives a more detailed statement on non-discrimination, and the first one mentioned is on the ground of sex: «Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.» (Article 21).

The gender policy in the European Union countries went through several stages of development. At the beginning of the 1990-ties, the European community established the first European network of experts on issues of women's involvement to the process of decision-making, which performed monitoring of the issue in the European Union countries. For the years 1996–2000 the Program of actions was adopted. The Declarations signed in 1992 in Athens and in 1999 in Paris also emphasize significance of gender balance.

In April 2004, the European parliament established the High-Level Group on gender equality to facilitate ensuring of gender equality and consideration of gender issues in politics and in all undertaken measures. It was vested with authority to monitor over implementation of decisions on issues of gender structures of the European Union.

For the purpose of better forecasting and planning of gender equality, the European Union introduced a new system, which was called «Roadmap for equality between women and men – 2006-2010». The new «Roadmap», which includes 21 actions, was published by the European Commission.

The recently adopted «Roadmap» determined six priority areas concerning achievement of gender equality for the determined time period. Among them, in particular, are the following ones: creating equal conditions for women and men for achievement of economic independence; ensuring balance between professional, private and family life; creating conditions for men and women's equal access to participation in decision-making; eliminating violence and trafficking in human beings; eliminating gender stereotypes in the society; promoting gender equality outside the European Union. For the purpose of implementation of each priority, a system of special measures was developed. The European Commission declared the year 2007 to be the European Year of Equal Opportunities for All.

Special attention in the system «Roadmap» was devoted to analysis of the legislation from the point of view of its gender expert evaluation. Furthermore, the European Commission emphasized the quality of adopted laws, not their number.

The «Roadmap» provided for establishing of the European Institute for Gender Equality, whose role is to ensure collection and analysis of data on gender equality and develop methods to ensure gender equality.

**The European Institute for Gender Equality** established by the decision of the European Commission has been functioning since 2007. Its mandate includes combating gender discrimination in the European Union countries and promoting equality between women

and men. When announcing the decision on establishment of the European Institute for Gender Equality in 2007, the EU Commissioner Vladimír Špidla pointed out that for the European Union gender equality was a priority policy and the Institute would play a key role in providing expert evaluation necessary for development of the equality policy in all member states of the community.

The countries, which want to join the European Union, must introduce the legislation of the European Union concerning equal opportunities and share its goals on leveling of gender balance in countries. The incessant process of expansion and the growing role of the European Union in the post-Soviet space along with strengthening of the neighbourhood policy lay down potent conceptual grounds for development of relations between Ukraine and the European Union for the following years.

In the sphere of gender, activity of the European Union is directed at formation of the European gender-legal space. This is facilitated by adoption of the international legal acts and the gender legislation in countries of the European continent. As an example of this we can mention the Resolutions of the European Parliament and directives and Resolutions of the Council of Ministers of the European Union, which generalize the needs in gender transformations and define the norms to ensure them. Among the **Resolutions of the European parliament**<sup>24</sup>, these are, in particular:

Resolution on the Fourth World Conference on Women «Equality, Development and Peace», 1995;

Resolution on implementation of the Third Community action programme on equal opportunities for women and men and proposals for the Fourth Community action programme, 1995;

Resolution on equal treatment and equal opportunities for women and men, 1995;

Resolution on implementation of equal opportunities for men and women in the civil service, 1996;

Resolution on trafficking in women for the purpose of sexual exploitation, 1997;

Resolution on Commission annual report «Equal opportunities for women and men in the European Union» 1997;

Resolution on gender mainstreaming, 1997;

Resolution on the violation of women's rights, 1997;

Resolution on discrimination against women in advertising, 1997;

Resolution on the need to establish a European Union wide campaign for zero tolerance of violence against women, 1997;

Resolution on the role of cooperatives in the growth of women's employment, 1998;

Resolution on the particular impact of unemployment on women, 1998;

Resolution on International Women's Day and the violation of women's rights, 1998;

Resolution on implementation of the medium-term Community action programme on equal opportunities for men and women (1996–2000), 1999;

Resolution on the state of women's health in the European Union, 1999;

<sup>24</sup> *Drafting Gender-Aware Legislation: How To Promote And Protect Gender Equality In Central And Eastern Europe And In The Commonwealth Of Independent States*. 2003.

Resolution on participation of women in peaceful conflict resolution, 2000;  
 Resolution on Commission annual reports «Equal opportunities for women and men in the European Union» for the years 1997, 1998, 1999, 2000;  
 Resolution on women in decision-making, 2000;  
 Resolution on women's participation in science to expand the research range in Europe, 2000;  
 Resolution on decisions of the Special Session of the United Nations General Assembly («Beijing +5»), 2000;  
 Resolution on further actions on preventing trafficking in women, 2000;  
 Resolution on sexual violence against women, particularly Catholic nuns, 2001;  
 Resolution on balanced participation of women and men in decision-making, 2001;  
 Resolution on the Sixth Commission annual report on equal opportunities for women and men, 2002;  
 Resolution on representation of women among the social partners of the European Union, 2002;  
 Resolution on equal treatment of men and women as regards access to employment, vocational training and promotion, working conditions, 2002;  
 Resolution on the annual report on equal opportunities for women and men in the European Union for the year 2000, 2002;  
 Resolution on women in international politics, 2006;  
 Resolution on participation of women in armed conflicts and their role in post-conflict reconstruction, 2006;  
 Resolution on participation of women in peaceful conflict resolution, 2006, and so on.

The gender issues are also a topic of consideration of the Council of Ministers of the European Union, which adopts directives, resolutions, decisions, instructions and recommendations. Here is the list of gender issues, on which **directives** are being adopted:

- on implementation of the principle of equal pay for men and women;
- on the principle of equal treatment of men and women in matters of social security;
- on equal treatment of men and women in occupational social security schemes;
- on equal treatment of men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood;
- on safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding;
- on organization of work time;
- on the framework agreement on parental leave;
- on the employer bearing the burden of proof in cases of discrimination based on sex, and so on.

The governmental policy of the European Union countries demonstrates significant changes in approaches to addressing of gender issues, in elevating the women's role in all spheres of the social life, in adding the gender content to the social planning. Such policy

is directed at:

- securing conditions for just distribution between women and men of senior positions in all structures of the European Union, in particular in the European Parliament, for protection of public initiatives from destructive influence of bureaucracy;
- meaningful co-operation between member states of the European Union to guarantee effectiveness of implementation of the European Union Action Programmes at the national and local levels through local institutions, which could ensure women and men's equal participation in the process of social transformations;
- ensuring of conditions, under which political decisions and changes would accommodate interests of all citizens free of any discrimination based on sex.

The European Union in its activity concerning gender transformations considers the process of globalization as a potent and dynamic power, which can be used for everybody's benefit. In 2007, it adopted the commitment «Gender Equality and Women's Empowerment in the EC Development Cooperation», which stipulates inclusion of the gender component in the facilitation development programs for the purpose of advancement of gender equality through new approaches to organization of aid to developing countries, and namely through improvement of aid's effectiveness.

Despite the fact that in Europe in the second half of the 20th century – beginning of the 21<sup>st</sup> century development of gender activism is observed and achievements in improvement of the women's legal status are visible, still, actual equality is yet not achieved. No international instruments or other documents will ensure any guarantees where the power of the law is weak, where there are no laws or other regulatory acts on issues of gender that guarantee observance of constitutional rights and international agreements, where good intentions are replaced with political expediency.

Therefore, analysis of international experience of establishment and development of the national gender policy, reflected as a generalization in international and European documents, demonstrates that gender equality, equality of opportunities for men and women is an issue of international significance, a major requirement for ensuring of development of democracy and prerequisite for self-expression and personal fulfilment of human beings of both sexes. They are the fundamental principles, which lie in the foundation of the humanistic policy and the social humanitarian thinking, the way to eliminate technocratic approaches to addressing of social problems.

International consolidated actions concerning analysis, re-evaluation of and search for mechanisms to ensure equality between women and men facilitated elaboration of the concept of gender equality.

## 4. Conceptual vision of gender equality

Understanding of gender equality, as of any phenomenon, was formed the last several centuries. This notion gained special attention in the second half of the 20<sup>th</sup> century as a result of the cognizant consolidated practice at the global level. In 2000, the UN General Assembly acknowledged the issue of gender equality as the 21st century paradigm.

The conceptual definition of equality between women and men is foundational in the international understanding of the gender policy. Nowadays, the terminology is one of the problems of harmonization of the national law with the international law. Without definition of the term, which reflects the phenomenon, it is impossible to conceptually harmonize the national legislation with the international law, to ensure gender optimization of the policy and law. Without avoiding the notion «gender», we should still emphasize that equality between women and men is wider spread term, used in international acts, the constitutional legislation of national societies. Furthermore, it should be pointed out that although the way of the notion «gender» to the political-legal lexicon was long and complicated in national societies (Sweden, Poland, Lithuania, other countries, among which Ukraine), it gradually gained wide publicity in scientific use, as well as in political and legal analysis of the issues of equality of social sexes.

Any epoch is being expressed through terms and notions specific for it. Their creators put into them the corresponding cultural content of their activity and of human relations. The task of creating of the terminological and conceptual context concurs with the task of constructing of the comprehensible contexts of interpretation. And that is why in the modern conditions it is most important to concentrate attention on the conceptual understanding of such notions and terms. Insensitivity to the conceptual content of the modern gender theory and inclination to explain all current problems by the «general crisis» is nothing but a result of ignorance in gender issues. Only if notions and terms are clearly defined, is the political and legal clarity of regulatory acts possible.

It is necessary to turn to the conceptual understanding of gender also because it had been forming in written form for decades in the international instruments. And, despite this, the actual practice limits its analysis of gender changes and gender transformations predominantly to gender rights and opportunities. But international vision of this phenomenon is significantly wider than that, what is demonstrated by the analysis of documents adopted by international structures. Such an analysis, from the point of view of retrospective of how the international gender policy has been establishing, shows that equality between women and men is a rather wide as to its content and complex as to its structure phenomenon.

The notion of **equality of female and male sexes** is understood as equality of their social status and general participation in all spheres of social, state and private life on the basis of realization of personal needs and interests, overcoming of the element of hierarchy, under which historically men were considered as higher beings, and their activity and its results more socially significant, than women's actions and their results.

Such understanding of equality between female and male sexes under the international documents stipulates:

- **equality in rights and freedoms;**
- **equality in duties;**
- **equality in responsibility;**
- **equality in opportunities<sup>25</sup>;**

25 *The conceptual description of the structure of gender equality* was first made by Russian scholars at expert evaluation of the Russian legislation, who outlined the first four of its components. See Gender Expert Evaluation of the Russian legislation. – М.: БЕК, 2001. – 251 p. / Гендерная экспертиза российского законодательства. – М. : БЕК, 2001.



- **equality in chances;**
- **equality in achievement of results.**

This is the structure<sup>26</sup> that follows from the historical logic of the acts adopted at the global level, and this demonstrates establishment of the gender worldview in the international space and development of the gender-transformative practice. Such a structure of the gender equality system requires outlining the content of each element. All these components differ as to their analytical precision and practical implementation. Let us define them.

Equality of the social sexes is, first of all, conditioned by equality of rights and equality of opportunities.

**Equality in rights and freedoms** is conferring equal rights (*de jure*) to persons of female and male sexes in all spheres of life and formation of the regulatory institutional mechanism of legal and actual equality in their exercise.

Obtaining by woman and man of freedom from all forms of dependence, freedom as a social value, as a component of the gender ideology, experience of self-presentation, social organization of relations between the sexes ensures establishing of gender equality and liberation from all forms of sociosexual discrimination.

Gender equality stipulates formal ensuring of gender equity. The key sense of legal direction of the principle of equality between women and men and of its constitutional guaranteeing lies in facilitation to formation of the new values and priorities in each of the sexes, new partnership relations between them, shared responsibility between women and men. Declaration of equality of social sexes' rights is an important step towards its actual establishing. Equity means equality of all before the law, what constitutes a necessary element of democracy. The degree of the society's democracy is in direct dependence from how consistently the principle of citizens' equality before the law is implemented in it.

Equality of rights is a legal problem. Its resolving is connected with existence of clear understanding of the legal policy and identifying of legal strategy. Ensuring of equality of human rights stipulates ensuring of women and men's rights through elimination of all forms of discrimination based on the sex. The legal basis of women and men's universal participation in these processes is a high guarantee of establishing of the personality's inherent worth, engaging of all human resources in sustainable gender development of the modern society in the conditions of freedom.

Human rights – those of women and man, as well as equality between them – require permanent protection and strengthening. In connection with this, law acts as the most effective and active tool. As human rights and the very phenomenon of equality of sexes are developing and changing, the legislation on them requires permanent re-thinking and re-evaluation. In such case the gender expert evaluation of the legislation is conditioned by the social development and social needs to satisfy the needs of gender optimization of the society's organization and operation.

At the same time, equality in rights *de jure* not always results in actual of equality in rights, that is, *de facto*. Exercise of rights by woman and man depends on their personal qualities – knowledge, intelligence, talent, efficiency and so on.

26 See Melnyk T., Kobelianska L. 50/50: Modern Gender Thinking: Dictionary / T. Melnyk, L. Kobelianska. – K. : K.I.C., 2005. – 280 p. / Мельник Т., Кобелянська Л. 50/50: Сучасне гендерне мислення : словник / Т. Мельник, Л. Кобелянська. – К. : К.І.С., 2005.

Declaration of sex equality requires actual actions, and namely universal participation of men and women as equals in all spheres of the social, state and private life. Therefore, if man and woman declare their intention or express their will for an activity in any sphere of the society life, they can do so. The issue here is that of opportunities to ensure equal activity, as well as of equal opportunities of such activity.

Equality of women and men's rights can be satisfied to the largest degree when they are able to have the largest equal opportunity to *de facto* influence satisfaction of their interests and needs and to use values.

Gender equity is a necessary precondition and one of the ways to achieve gender equality, a legal mechanism for its ensuring in concrete situations and for legal responsibility for its violations.

**Equality in duties** – is an actual circle of actions that are vested in man and woman and are obligatory for performance according to their rights and freedoms.

In this case let's consider the issue of duties from the point of view of gender approach, and more precisely, of gender-legal approach. Furthermore, it should be mentioned that the legal science did not study duties in the gender aspect, but the constitutional legislation does mention them.

For instance, the Constitution of Ukraine in part 1 Article 24 codified provisions on equal rights and freedoms, and in part 1 Article 21 emphasized that «all people are free and equal in their rights», but did not connect them with equality in duties. At that Chapter 2 of the Constitution has a title: «The Rights, Freedoms and Duties of Individuals and Citizens». Rights, freedom and duties are elements of the person's legal status. Rights and freedoms of a person and citizen are closely connected with their duties. There are no rights without duties, as there are no duties without rights. This means that requirements concerning equality of duties cover all citizens.

Equality in duties requires consideration of physical, physiological and other differences between woman and man. This gives grounds to believe that provisions of the legislation concerning special protection of women during pregnancy, childbirth and child care will not be considered discriminatory, just as the requirement of military duty for men, and so on<sup>27</sup>.

**Equality in responsibility** is a necessity and ability of women and men to be equally responsible for their actions and readiness to complete account of their actions.

Women and men's equality in responsibility by its content includes lack of privileges based on the sex, prohibition of discrimination, as well as freedom of choice, development, and search. Equality in responsibility is reflected in the system of social norms. It is codified by law.

**Equality in opportunities (guarantees)** is a system of means and equal terms *de facto* concerning equal distribution, use of political, economic, social and cultural values, which would exclude any discrimination and limitation of any sex that negatively influence their life and self-expression.

Equality stipulates ensuring for all people, regardless of sex, race or abilities, equal

27 Oliyuk A.S. Constitutional Legislation of Ukraine: Gender Expert Vvaluation / A. S. Oliyuk. – K.: Logos, 2001. / Олійник А.С. Конституційне законодавство України : гендерна експертиза / А. С. Олійник. – К. : Логос, 2001.

opportunities for access to positive results of the political course being implemented.

Codification at the constitutional level of provisions on ensuring to women of equal opportunities with men assumes that the state introduces and conducts special measures to ensure equality, especially where it is being violated. Ensuring of equal opportunities for women and men means that the state commits to guarantee these opportunities and to implement the policy meant for elimination of discrimination based on sex. It is important that the power as represented by its agencies was aware of the essence of the constitutional provision on equal opportunities.

Equal opportunities set the standard for the society and for the government. Through equal opportunities, the state can and must ensure equality in women and men's rights. For instance, if the Constitution of Ukraine contains the standard of equal rights (Chapter 2), then they all must be secured by equal opportunities, that is, conditions and procedures for exercise of rights and freedoms. Practical implementation of the constitutional principle of equality of women and men's opportunities in public, political and cultural activity, in obtaining of education and vocational training, of work and pay must be guaranteed through sectoral legislation.

Equality of opportunities is not just a legal issue; it is a socio-economic and cultural problem. Without addressing it, that is, without overcoming of the women's economic and social dependence on men, the conditions that cause and reproduce it, and without development of the culture, it is impossible to actually ensure equality of rights. Furthermore, it should be pointed out that equality of sexes does not mean their biological identity, ignoring of their physical abilities, physiological peculiarities, psychological characteristics, consideration of women and men's status outside the actual time and place, conditions of social existence. These differences should not negatively influence the conditions of women and men's life and cause discrimination. Law should act as the factor that, without ignoring the peculiarities characteristic for each sex and without likening the «lower», that is, «female» sex, to the «higher» (male) sex, leads to equal distribution of economic, political, social and other opportunities.

**Equality in chances** is a possible opportunity for women and men to use the essentially important and serious moment to gain maximum personal fulfilment and achieve a set goal.

The degree of such possibility is connected to the ability of a person, a woman or a man, to feel the moment, to know to use it, to have the developed personal (essential) powers. At the same time, the possibility of emergence of such moment can lie beyond the person's abilities. It is connected with a situation that can appear, conditions that can emerge, the environment that is able to support a woman or man in accomplishing identified goals.

**Equality in achievement of results** is an analytical generalization of the collected data and assessment of the state of ensuring of equality between women and men, their actual situations to identify the largest problematic spheres for this or that sex gender and to determine the reasons of disproportions and gaps in women and men's situations, which will serve as the ground for development of documents on gender transformations and identifying of priorities in improvement of the status of each of the sexes.

Equality of results is a logical consequence of the actual or fundamental equality. These

results can be quantitative and/or qualitative in their nature, that is, an approximately equal number women compared to the corresponding number of men will exercise their rights in different sectors, have similar income, on equal terms take part in decision-making and have the same political influence and live life free from violence<sup>28</sup>.

Such assessment is an important moment in identifying of those actual gaps in the women and men's situations, access to decision-making, labour remuneration, acquisition of income, access to resources, participation in raising children, etc, which exist in the society. The assessment enables to identify potential opportunities for women and men and to come up with adequate measures to reduce gender imbalance. The women's situation will not improve until the reasons at the heart of discrimination against women and of their inequality are not eliminated. Men and women's life requires consideration in the corresponding context. According to it, measures are to be taken that are directed at transformation of opportunities, agencies and systems so that they are no more based on the historically formed men's paradigms of power and ways of life.

Identification of the problems in the women and men's situation is possible through collection and analysis of the sex-disaggregated statistical data, conducting of special social research and surveys, etc. It is important that the approach is based on the principle of exposure of the problems of both women's and men's cohorts and unprejudiced attitude to women and men from the point of view of their gender status; that this approach does not reduce the problems of women and men to the vicious circle of their «predetermined» roles in the society.

Assessment and conclusions gain special weight when performed by specialists in different sectors of social analysis with application of gender approach as a method of analysis, when they are aimed for adoption of the regulatory documents, programs of socio-economic development and special programs and projects concerning gender transformations at the international and regional, as well as at the national and local levels.

Currently, major attention both in the international theory and practice is concentrated predominantly on the gender rights and freedoms, especially those of women. The issue of ensuring of opportunities is raised significantly more seldom. But gender duties and gender responsibility are barely researched and in practice disregarded. Important problems for ensuring of gender equality also include use of gender chances and generalization on how effectively equality of sexes is being ensured. Without study of all structural elements of gender equality and of their practical implementation, it is impossible to analyze the actual in-depth gender processes, their modernization and progress.


Without the actual systemic analysis of phenomenon of gender equality and of its structural elements it is impossible to study institutional transformations and institutional development of management of social processes, their specificity and changes under the globalization. Such changes have their peculiarities in the post-Soviet countries. One of such peculiarities is that in the system of governmental management bodies the state institutions on issues of gender are being formed, the regulatory basis of gender transformations is being developed, non-governmental gender formations are being established, gender education is expanding, and so on. As a result of the institutional evolution of the national governance system, decentralization of social life, personal self-organization, the issue of

28 United Nations Organization. International Human Rights Instruments. – Geneva, May 12, 2004. – p. 415.

gender equality will gain wider acknowledgment and critical approach in the analysis of development.

Therefore, equality between women and men is a rather complex phenomenon. Introduction of gender equality requires professional training in the issues of gender and proven effective mechanisms for regulation of gender processes for the purpose of formation and implementation of gender strategies.





# **Chapter 2.**

## **International gender strategies and mechanisms of their implementation**

Generalization of international experience gives opportunity to identify the international tendencies and mechanisms of their establishing, directed at ensuring of gender progress. The global establishment of gender is still far in the future. But it will be getting closer and closer.

## 1. Establishment of the society of gender equality as the international strategy

At meetings of the global level – the UN sessions and in work of all of UN organizations, international conferences and forums, the strategy of formation and establishing of the society of gender equality is considered as an international goal, direction of development, objective and direction of the modern activity of all organizational structures, as a pressing problematic component in achievement of all goals of the humankind.

The participants of the seminal Fourth World Conference on Women in the adopted Beijing Declaration declared that they are «determined to advance the goals of equality, development and peace for all women everywhere in the interest of all humanity», reaffirm their «commitment to the equal rights and inherent human dignity of women and men and other purposes and principles enshrined in the Charter of the United Nations, to the Universal Declaration of Human Rights and other international human rights instruments» and are convinced that expansion of gender opportunities is «fundamental for the achievement of equality, development and peace»<sup>29</sup>.

Modernization of the society, especially in the 20<sup>th</sup>–21<sup>st</sup> centuries, conditioned by the process of industrialization and information expansion, facilitates identifying and implementing of the strategy of growing freedom, justice and equality of both sexes. They are a fundamental value in establishment of new relations between woman and man as free human beings. Their free expression of will is going to grow just as access to information is growing and the society perceived at the global level as informational is advancing.

The world strategy of establishment of the society of gender equality is connected with establishing of democracy. It is impossible to explain and implement the phenomenon of democracy without gender democracy. It is an integral component of establishing and development of social democracy.

29 *Beijing Declaration and Platform for Action* and Beijing +5: Political Declaration and Outcome document. UN. – New York, 2002. – p.15, 16.

## 2. Global tendencies of establishing gender equality

The 19<sup>th</sup> and the 20<sup>th</sup> centuries were characterized by the problems connected to how difficult it was for women to establish themselves on equal terms with men, as well as by the problems men were facing when they had to change their views and corresponding behaviours when women entered all spheres of life that for millennia were dominated by men. At the threshold of the new millennium we can talk not only about the facts of women's rebellion against men and their aspiration of social freedom, but about the processes of genderization of all spheres of social life of the sexes and its social orderliness. Among the **international tendencies of such genderization** that were codified in written form in the international acts, we can list the following:

- globalization of gender orderliness of the international community;
- constitutional codification of the national governmental machinery on ensuring of equal rights and opportunities for men and women;
- international legislative codification of the state ensuring of equal rights and opportunities for the sexes in national societies;
- juxtaposition of the content of the approaches of the national governmental machinery on ensuring of equal rights and opportunities;
- juxtaposition of the features and peculiarities of the legislative ensuring of equal rights and opportunities in different countries of the world, regions, national societies;
- strengthening of influence of the gender ideology over the consciousness of the population of the world, regions, national societies;
- differentiation of forms of the gender democracy in national societies, regions, international community that changes their face and order of life;
- formation of the gender culture in the system of culture of the modern civilization;
- genderization of political, economic, political and other kinds of culture;
- establishing of the gender component in the governmental policy of national countries and at the global level;
- promotion of the gender content in activity of political parties and non-governmental associations;
- formation of an independent personality with the understanding of necessity and the feeling of need of equal rights and opportunities, their legal ensuring as a condition for self-fulfilment and mastering of justice and freedom of self-expression.

Each on these tendencies is worth of separate consideration. We can talk about how the international community is obtaining experience of gender transformations, where these tendencies have been clearly manifesting themselves and showing their progressive character. The international experience also demonstrates that gender development is taking place in the system of significant contradictions that most often are in-depth and not always visible on the surface, but when they are visible they are so much part of the tradition they are not perceived as contradictions.

### 3. Gender transformations of the global scope

The epoch of transformations and the renewal processes at the international and national levels are objectively raising the issue of gender changes in forms of social life and its social organization. Gender transformations and formation of new quality of the national gender systems are extremely accelerated by globalization. This process is taking place within the framework of the modern international renewal and reformation of all spheres of life of humankind. The national gender order of any country is connected to the global order and gender changes of the global scope. In the 21<sup>st</sup> century, the national rates of gender changes, their nature and quality as well as the gender perspectives can be adequately imagined only when they are considered in the context of international gender transformations. Among such **global scope transformations** we can mention:

- gender revolution of the international scope;
- expansion of women's activity in all spheres of life of the society and their introduction of the new to the actually existent, historically conditioned social forms of behaviour, in particular behaviour of men;
- gender renewal of the process of organization and management as well as of the corresponding organizational and managerial governmental and non-governmental structures and their activity;
- imbuing of the gender component into all the normative regulation of social life of the society, including the international and national law;
- intensification of migration of the population of female sex alongside with male sex;
- expansion of the process of formation of the institute of women's leadership, women entering as leaders into managerial structures of international and national organizations and departments;
- women's active mastering of the system of information;
- changes in the humanitarian climate in the culture of women and man's communication with gradual introduction of the atmosphere of partnership;
- the growing influence of the women's voice over the national and international order, development of women's activism and so on.

It is worth emphasizing that among all gender changes of these days, the gender renewal of the world as a tendency includes gender activity of men.

All these changes and development are taking place in the conditions of formation of the global civil society and the civil society of each of the national countries. They are conditioned by the international integrative processes and originality of development of the national formations. Their analysis convinces even more in necessity and need of generalization of international experience on establishing of gender equality, study of the entire diversity of forms of implementation of the gender policy in the regions, its effectiveness, as well as of reasons of successes and negative consequences of adopted decisions or ineffective actions.

The global scope transformations in the sphere of gender, correspondingly, require the new philosophical re-evaluation of «the gender policy», its independent place in the

system of general policy, behind which there are agencies and interests. In the system of these agencies and interests, the gender aspects of the entire structures of socio-economic and political interests require a deeper analysis, and in their structure – interests of men, who in the modern conditions are still the dominant political and economic power, and interests of women, who are striving for access to power and political activity, being an object of political influence, as well as for property and distribution of resources that are predominantly in the hands of the male part of the world population. Women are trying to expand their political and ideological field of influence by joining political parties as their members and leadership party structures as leaders of political associations. Therefore, gender changes are connected with the processes of the humanitarian order, as well as with the needs of the entire system of life sustaining on the planet.

As an example of contradictions and collisions of «men's» and «women's» interests we can consider the case of the draft law on gender equality in the Parliament of Ukraine, when more than 90% men of, basically, the «men's parliament», on the eve of the parliamentary elections in the country realized that if it were adopted in its proposed wording, and namely, established quotas for women in the Parliament, it would have been possible that some of them would have to surrender their seats in the supreme legislative body of power. To a significant degree, this was the reason why the draft law submitted to the Parliament as early as in October 1999, was openly disregarded by the men, and as a result the Verkhovna Rada adopted it only in 2005.

Expansion of equality of opportunities for women and men and of balance of their omnifaceted participation in all spheres of life of the society has fundamental significance for world development and peace, for achievement of goals of equality, development and peace. This is what the international instruments signed by almost all countries of the world emphasize.



## 4. International mechanisms for ensuring of gender equality

Formation of the society of gender equality as a process of transformation of changes and development in the progressive direction requires regulation. Such regulation is viable, effective and fruitful if it acts as a mechanism.

**The mechanism for ensuring of gender equality** is a well-ordered system of international, regional and national organizational structures of governmental and non-governmental nature, whose activity is directed at establishing of the gender principles in different spheres of social life and guaranteeing of implementation of the developed gender strategies and corresponding gender policy.

Such mechanisms are being created for development, support, implementation, monitoring, assessment, promotion and mobilization of the policy of gender equality, which facilitates omnifaceted self-expression of women and men's personality. The international experience of formation and functioning of such mechanisms demonstrates that they differ as to their form and as to their effectiveness. They can be classified as: international, regional, national; institutional, organizational, financial; legal and non-legal; political, economic, social, cultural; theological, psychological, praxeological and so on.

All these mechanisms, experience of their functioning concerning gender transformations deserve research and separate consideration. Let us take a closer look at some of them.

Elaboration of mechanisms for ensuring of gender equality is the states' way to build by joint efforts the sustainable, just and developed society, a direction of implementation by women and men of their rights and creating conditions for elimination of all forms of social-sexual discrimination.

Specificity of the modern period of formation and functioning of the international gender structure and of their influence over the national gender life is that this is taking place in the conditions, when the international mechanisms for legal protection of human rights of women have been developed. The current mechanisms of protection of women's rights are transforming into an important tool for ensuring of gender equality in the international space and are becoming a certain guarantee for advocacy of national gender transformations. But if they just automatically are shifted towards gender it will not bring optimal results. To perform gender functions, they require cardinal restructuring, re-orientation towards the new conceptual foundations, functional principles, schemes of connections and so on.

The international mechanisms have been forming for decades as the bodies that guarantee regulation of gender processes. This was preceded by global activity of the women's movement, as a result of what women's associations have been emerging and proliferating. Especially many associations and agencies, whose activity was directed at improvement of the women's status, were established during the women's decade declared by the UN, that is, in the years 1976–1985. During the last decade of the 20<sup>th</sup> century, the gender content of their activity followed the new conditions. Since the 1990-ties, on the basis of the conceptual approach to gender transformations, which had been forming for decades, formation of mechanisms for ensuring of gender equality at the international, regional and national levels expanded significantly.

During this time, the structures were established that are directly aimed for gender transformations. All they together constitute the system of interconnected statutory, conventional bodies and UN special agencies aimed at changes in the status of women and men, ensuring their equality. Experience of gender transformations in activity of different organizational structures at different levels – international, regional and national – reflects the social time, which demonstrates changes in social fabric of the society (and in gender one in particular).

**The United Nations Organization** is an organization of independent nations, which initially was established by 51 countries. Nowadays almost 200 country of the world are members of the UN.

As an organized structure, always committed to the ideas of gender equality, the UN was supportive of the women's movement – influential and organized force. During the last fifty years certain progress has been accomplished in the issues of equality, development, peace, as well as in the issues of women's status and treaties on the issue have been signed at the world conferences **organized by the UN**, and at summits – in Mexico City in 1975, in Nairobi in 1985; concerning children – in New York in 1990; on issues of the environment and development – in Rio de Janeiro in 1992; on human rights – in Vienna in 1993; on the population and development – in Cairo 1994; on social development – in Copenhagen in 1995; on Women – in Beijing in 1995, and so on. They facilitated gradual consolidation of political, legal, economic and social aspects of the women's role. The growing influence, purposiveness and intellectual confidence of the women's movement produced significant influence over conducting and decision-making at the global conferences and summits.

The mechanism of organizations and activity of the UN, first of all, reflects the consolidated experience of gender transformations at the global level. The UN devotes special attention to restructuring of its internal activity based on the gender principles and drafting of all UN documents from the point of the gender perspective.

The Commission on the Status of Women suggested the Secretary General to appoint a woman to the newly established position of the substitute of the Secretary General UN. The human rights advocacy groups also suggested appointing a woman to the position of the High Commissioner for Human Rights<sup>30</sup>.

The UN structures prioritize the gender issues, consider gender principles and gender approach as fundamental at addressing of all problems of the international community: formation of the complex of international strategies, standards and UN programs concerning development of the gender legislation, conducting of gender research, introduction of international gender standards, accumulation and analysis of gender statistics, formation of the national machinery for ensuring of gender equality, facilitation to development of gender movement, assistance to women's organizations, and so on.

The UN has established departments in charge of gender issues, as well as structures that devote attention to the problems of women's status at the international scope and support connections with the international women's movement. Each of these bodies within the UN deserves for separate research of its activity. Within the framework of this book, we outline the place of these bodies in the system of the mechanism of global direction of activity from the point of view of assessment of gender reality and gender perspective.

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30 Based on the materials of International Women's Tribune Centre, 777 United Nations Plaza, New York, NY, e-mail: iwtc@igc.apc.org).

Among the **UN statutory bodies**, issues of gender equality fall under jurisdiction of the following bodies:

**The UN General Assembly.** It considers issues and adopts documents of the international significance. Conceptually at the heart of all documents adopted by the General Assembly, from the very beginning of its activity lies the principle of equality between women and men.

As a proof of special attention to gender issues we can mention the special session of the UN General Assembly with the agenda «Women 2000: gender equality, development and peace for the twenty-first century» (New York, June 5–9, 2000). The purpose of this session was assessment of the progress achieved in implementation of the Nairobi Forward-looking Strategies in the sphere of improvement of women's status and gender achievements during the five years since adoption of the Beijing Platform for Action, as well as consideration of further initiatives. The special session concluded with adoption of the Political Declaration and Outcome Document «Further actions and initiatives to implement the Beijing Declaration and Platform for Action».

Governments that participated in the Special Session confirmed in the Political Declaration their commitment to the goals and tasks outlined in the Beijing Declaration and Platform for Action, adopted in 1995 at the Fourth World Conference on Women, and the Nairobi Forward-looking Strategies in the sphere of improvement of women's status for the period till 2000, whose adoption concluded the UN Decade for Women (1976–1985).

**The UN Security Council.** This UN structure bears primary responsibility for maintenance of peace and security. In the recent years, when analyzing the issues of peace and security this body more and more often considers them from the point of view of gender perspective and on the basis of gender approach.

In October 2000, the Security Council adopted the Resolution (1325) concerning women, peace and security, in which urged the government-members to ensure increased representation of women at all decision-making levels for prevention, management and resolution of conflict. It also urged the Secretary General UN to appoint more women as special representatives and envoys to pursue good offices and to expand the role and contribution of women in United Nations field-based operations.

The Council urged all parties that participate in accommodation and implementation of peace treaties, to take into account the gender factor, to take measures for protection women and girls from violence on the ground of sex and all other forms of violence that are taking place in situations of armed conflict.

The Resolution recommendations were elaborated upon in later Resolutions (Resolutions 1820 (2008), 1888 (2009) and 1889 (2009)).

In February 2010, the UN Secretary-General Ban Ki-moon appointed his Special Representative on Sexual Violence in Conflict.

In October 2010, the UN Security Council celebrated the 10<sup>th</sup> anniversary of adoption of the Resolution 1325.

**The UN Economic and Social Council (ECOSOC)** prepares draft conventions for submission to the UN General Assembly, draws reports and develops recommendations in the sphere of policy, convenes international conferences. As a major coordinating body, it coordinates

operation with other UN bodies, conducts consultations with non-governmental organizations in this field. This structure's importance is confirmed by the fact that almost 70% of all UN budget resources and personal staff is allocated to it.

The ECOSOC creates commissions in the interests of human rights. In 1946, the Council approved the Commission on Human Rights, which under the guidance of Eleanor Roosevelt, activist in the sphere of human rights and widow of the US President Franklin Delano Roosevelt, engaged in identifying fundamental rights and freedoms, among which equality between women and men took the top place.

The UN Economic and Social Council in the first year of existence of the UN founded one of the first bodies established by the UN, – the Commission on the Status of Women that bears primary responsibility for implementation of provisions of key documents in the sphere of the gender policy.

***The UN Commission on the Status of Women*** has been operating since 1946. The Commission consists of 45 members, which are elected by the UN Economic and Social Council for four years. It is one of the major bodies that performs control over implementation of the Convention on the Elimination of All Forms of Discrimination Against Women, of the Platform for Action adopted by the Fourth World Conference on Women, the decisions of the 23<sup>rd</sup> special session of the UN General Assembly (New York, 2000).

The Commission's activity is also concentrated on the issues of assessment of progress, identifying and articulation of the strategies and objectives, establishment of the global standards on gender equality.

The Commission prepares recommendations and reports for the Council concerning support of women's rights in political, economic and social spheres. For instance, the Commission's 41<sup>st</sup> session that took place in New York on March 10–21, 1997, was dedicated to the issues of implementation of decisions of the Beijing Platform for Action on such critical sectors as: policy and decision-making, economy, environment, as well as education and training. The Session also adopted recommendations for the UN Economic and Social Council. In particular, on the issue «Women in power and decision-making», it was recommended that: «governments, political institutes and non-governmental organizations should actively facilitate women's participation in decision-making at all levels of power. This stipulates implementation of special programs meant for:

- promotion of women's participation in governance at the local level;
- use of quotas to guarantee women's participation in official political institutes;
- programs to train girls for work in decision-making structures».

Among recommendations on other issues there were: women should be given full and equal rights to own land and other property, including through inheritance; women's unpaid work should be measured and evaluated; the gender approach must be taken into account at outlining and monitoring of the policy of structural re-organization and of special measures to support women's participation in the economy; accessibility of new informational technologies for women; consideration of gender component in the system of education and so on. The Resolution stated that success of any program depends on to what degree they take into account the gender approach.

The Commission conducts joint work with the women's movement to promote full equality between women and men, stipulated in the UN Charter.

Thanks to efforts of the UN Commission on the Status of Women, the issues of equality between women and men took the highest position in the global agenda. Women of the world became a driving force of formation of this agenda and its implementation<sup>31</sup>.

**The Commission on Human Rights** is a major UN body, which facilitates promotion and protection of human rights. It studies and develops major directions in the sphere of human rights, elaborates and codifies the new international norms, monitors observance of human rights in the entire world, provides assistance and recommendations concerning establishment of advocacy institutions in new democracies.

The UN High Commissioner for Human Rights reports to the Commission on Human Rights.

**The UN High Commissioner for Human Rights** is a position established in 1993 for strengthening of coordination and influence in the activity in the sphere of human rights. The High Commissioner is elected for four years. He or she is in charge of protection of human rights, supports permanent dialogue with member states.

The High Commissioner runs the Office of the United Nations High Commissioner for Human Rights, which is a coordinating body in the UN operation in the sector of human rights.

To perform his or her duty concerning prevention of violations of human rights, the High Commissioner has a right to address governments of all member states. He or she works to improve effectiveness of the UN mechanisms on protection of human rights.

Ukraine is a party to the UN six universal treaties on human rights. All they contain the gender component. Some of them are directed at ensuring of equal rights and opportunities for women and men. In compliance with the treaties, their implementation is controlled by the specially established bodies – the Committees. The Conventional committees perform control over elimination of discrimination based also on other grounds, in particular race, nationality and so on.

The **UN treaty bodies**, which perform control over the countries' observance of the undertaken treaty obligations concerning elimination of discrimination based on the sex, are:

**The Human Rights Committee** that monitors implementation of the International Covenant on Civil and Political Rights (1966);

**The Committee on Economic, Social and Cultural Rights** that monitors implementation of the International Covenant on Economic, Social and Cultural Rights (1966);

**The Committee on the Elimination of Discrimination Against Women** that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women («women's a Convention») (1979);

**The Committee on the Elimination of Racial Discrimination** that monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (1965);

**The Committee Against Torture** that monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984);

**The Committee on the Rights of the Child** that monitors implementation of the Convention on the Rights of the Child (1989).

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31 Beijing Declaration and Platform for Action and Beijing +5: Political Declaration and Outcome document. – p. 9.



Each of the six listed treaty committees acts in compliance with the powers stipulated in the conventions. At their sessions, the committees consider reports of the member states concerning their implementation of the conventions and based on the results of such consideration adopt documents – general comments and general recommendations. A lot of them emphasize the gender aspect.

Along with obligations of the countries that committed to implement the adopted conventions, the committees perform the control functions over observance of the norms of international legal acts. Let us consider certain aspects of their gender activity.

The UN Human Rights Committee includes into the agenda a permanent item on human rights of women and the gender component. At the same time, the Committee emphasizes necessity of introduction of the gender component in all agenda items.

A specially established and gender-oriented international body among the listed committees is the ***UN committee on the Elimination of All Forms of Discrimination Against Women***, which has already gained significant experience. The Committee's activity is regulated by Articles 17–22 of the Convention.

For instance, the UN Committee on the Elimination of All Forms of Discrimination Against Women performs control over observance of the Convention on the Elimination of All Forms of Discrimination Against Women. For this purpose, the Committee develops the plan of periodic reports of the member states on the course of introduction of the Convention norms. After consideration of the submitted report, it sends back the detailed final comments. Ukraine, as all other states that signed the Convention, has to regularly submit reports to this body about implementation of the obligations it committed to implement under this Convention.

Several times Ukraine reported before the Committee about the course of implementation of the Convention. Most state reports on Ukraine's implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women were prepared and published by the State Institute of Family and Youth jointly with the UNDP Equal Opportunities Programme<sup>32</sup>. For instance, on January 29, 1996, the Committee considered the third periodical report of Ukraine and made final comments, among which especially emphasized such negative phenomena in Ukraine, as excessive stereotypization of the role of women and men in cultural and social life, in the sphere of work. At the 45<sup>th</sup> Committee's session, which took place on January 18 – February 5, 2010, the Combined sixth and seventh periodical reports of Ukraine were considered. The final comments the Committee gave Ukraine, in particular, pointed out the «insufficient representation of women at high levels in several spheres of the society and failure to take measures on combating discrimination, such as introduction of quotas and other temporary special measures», as well as «insufficient awareness about the Convention and lack of opportunities for its implementation, including by judicial and law enforcement bodies and women themselves», and «insufficient informing of women about use of existent mechanisms to submit and address complaints, including information about court hearings and their judgments» and so on.

The Committee's activity is directed at control over implementation of provisions of the Convention on the Elimination of All Forms of Discrimination Against Women and

<sup>32</sup> *Ukraine's implementation of the UN convention on the Elimination of All Forms of Discrimination Against Women*. – K., 2003.

generalization of the achievements and agitation of work concerning effectiveness of their introduction. Such control, in particular, is performed through the Committee's adoption of general recommendations for member states.

**General recommendations adopted by the UN Committee on Elimination of All Forms of Discrimination Against Women<sup>33</sup>**

- General recommendation No.1 «Reporting guidelines»;
- General recommendation No.2 «Reporting guidelines»;
- General recommendation No.3 «Education and public information programmes»;
- General recommendation No.4 «Reservations»;
- General recommendation No.5 «Temporary special measures»;
- General recommendation No.6 «Effective national machinery and publicity»;
- General recommendation No.7 «Resources and services»;
- General recommendation No.8 «Ensuring to women the opportunities to represent their Government at the international level and to participate in the work of international organizations»;
- General recommendation No.9 «Statistical data concerning the situation of women»;
- General recommendation No.10 «Tenth anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination Against Women»;
- General recommendation No.11 «Technical advisory services for reporting obligations»;
- General recommendation No.12 «States parties' inclusion in their periodic reports of violence against Women»;
- General recommendation No.13 «Equal remuneration for work of equal value»;
- General recommendation No.14 «Female circumcision»;
- General recommendation No.15 «Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS)»;
- General recommendation No.16 «Unpaid women workers in rural and urban family enterprises»;
- General recommendation No.17 «Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product»;
- General recommendation No.18 «Disabled women»;
- General recommendation No.19 «Violence against Women»;
- General recommendation No.20 «Reservations to the Convention»;
- General recommendation No.21 «Equality in marriage and family relations»;
- General recommendation No.22 «Efficiency of the Committee's performance of its functions»;
- General recommendation No.23 «Ensuring of opportunities for expansion of women's participation in political and public life»;
- General recommendation No.24 «Women and health care»;

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33 See: *United Nations Organization*. International treaties on human rights. – Geneva, May 12, 2004. – p. 345–425.

General recommendation No.25 «Temporary special measures».

General recommendation No.25 «On gender aspects of racial discrimination» was adopted jointly with the Committee on the Elimination of Racial Discrimination.

The recommendations draw the member states' attention to peculiarities of implementation of undertaken obligations or emphasized the norms they violate. In case of violations of the conventional provisions, member states commit to take measures to address these violations. If the states fail to follow the Committee's general recommendations, they get severely criticized by UN bodies, including the General Assembly. Lack of adequate response to the international bodies' comments and recommendations decreases the state's authority, as it creates negative impression in the international and European community about the level of the state's observance of its international obligations.

A wide range of gender issues is addressed by the **specialized agencies within the UN system**, which are established and act in all spheres of life.

The UN introduced the position of the ***Special Adviser to the Secretary-General on Gender Issues and Advancement of Women***.

***The United Nations Interagency Committee on Women and Gender Equality*** has been established and is operating. Its first meeting was held in October 1996 headed by the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women. Its objectives include: facilitation to in-depth integration of gender aspects in major activity and coordination of activity of the system of the United Nations Organization in connection with decisions of the Beijing Conference and other UN conferences and summits.

***The International Labour Organisation (ILO)*** was created in 1919 within the framework the Treaty of Versailles to ensure satisfactory conditions of labour and observance of social justice. In 1946, it became a UN special agency. Its activity incorporates actions for establishing of gender equality. The labour standards, specially developed to ensure equal opportunities, were codified, in particular, in the following ILO documents:

C45 Underground Work (Women) Convention, 1935;

C89 Night Work (Women) Convention (Revised), 1948;

C100 Equal Remuneration Convention, 1951;

C102 Social security (Minimum Standards) Convention, 1952;

C103 Maternity Protection Convention (Revised), 1952;

C111 Discrimination (Employment and Occupation) Convention, 1958;

C117 Social Policy (Basic Aims and Standards) Convention, 1962;

C118 - Equality of Treatment (Social security) Convention, 1962, concerning Equality of Treatment of Nationals and Non-Nationals in Social security (Articles 2 and 4 refer to motherhood);

C122 Employment Policy Convention, 1964;

C127 Maximum Weight Convention, 1967 (Article 7);

C129 Labour Inspection (Agriculture) Convention, 1969;

C136 Benzene Convention, 1971;

C140 Paid Educational Leave Convention, 1974;

C156 Workers with Family Responsibilities Convention, 1981, concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities;

C158 Termination of Employment Convention, 1982, concerning Termination of Employment at the Initiative of the Employer;

C171 Night Work Convention, 1990;

C175 Part-Time Work Convention, 1994;

C177 Home Work Convention, 1996;

C183 Maternity Protection Convention (revised) 2000, and so on.

All convention adopted by ILO prevent discrimination against women and are directed at establishing of equality between women and men.

***The United Nations Development Fund for Women (UNIFEM)***. This Fund was established in 1976 in the International Women's Year to expand opportunities for women and support gender equality. In 2010, UNIFEM together other structures became the foundation for creating the new structure «UN Women». The Fund played a significant role in protection of women's rights and ensuring of gender equality. Its powers to a significant degree were incorporated by the new agency as well as its activity is being continued by it.

It provided financial assistance and secured technical facilitation to innovative programmes, meant for protection of women's rights, expansion of their economic and political opportunities, promotion of gender equality.

The UNIFEM activity concentrated on three interconnected spheres:

- a) consolidation of economic rights and expansion of opportunities for women for ensuring sustainable life standards;
- b) introduction of gender aspects in state governance and management for the purpose of expansion of women's participation in processes of decision-making that determine their life;
- c) protection of human rights of women to eliminate all forms of violence against women and performance of more peaceful, just and sustainable development.

UNIFEM performed activity: providing support to programmes on consolidation of women's economic potential as enterprisers and manufacturers; facilitating consolidation of women's positions in negotiations; promoting changes in the legal and regulatory regime, which would guarantee to women equal property rights and equal access to economic assets; facilitating expansion of opportunities for governments to regulate transitional processes in economy that would not lead to marginalization of women from poor strata of the population, as well as to draw government budgets and frameworks of the macroeconomic policy taking into account women's interests.

The Fund provided support to women's participation in their countries' political life, to women who run for governmental positions, to obtain skills to develop effective strategies concerning organizations of pre-election campaigns and use of mass media. It supported implementation of the educational programme for women as electors and as civil servants who are in charge of conducting of elections, as well as for candidates for positions.

The Fund developed a global Programme for protection of human rights of women,

directed at combating violence and its elimination and for awareness raising among women about their human rights to use them more actively. It devoted special attention to ensuring the global ratification of the Convention on the Elimination of All Forms of Discrimination Against Women that was titled the Bill of Rights for Women.

UNIFEM together with the UN Department of Political Affairs, the International Research and Training Institute for the Advancement of Women created the Internet Gateway «WomenWatch» on global women's issues. UNIFEM facilitated formation and expansion of the international network like the International Coalition on Women and Credit, which promotes providing micro loans taking into account gender aspects. UNIFEM also provided assistance to women's activity on organization of manufacturing and marketing of goods and services.

Since 2007, the programme «Partnership on Gender Equality for Development and Peace» is being implemented. It is aimed at complete integration of issues of gender equality and women's rights into processes of the national development and government-donor coordination of external assistance in 12 countries of the world, including Ukraine. Within the framework of such programmes, in particular, it was planned:

- conducting the national consultations on gender issues and effectiveness of external assistance with the participation of representatives of governments, national women's mechanisms, NGOs, the European Commission delegation, as well as bilateral and multilateral donor organizations, including UN country groupings;
- creating resource materials, including the website, for development of the potential at the country and regional level to take into account the issues of gender equality in the processes connected to improvement of external assistance effectiveness;
- improving the potential of the partners and experts on issues of gender equality.

The ***United Nations Educational, Scientific and Cultural Organization (UNESCO)***. For UNESCO, one of the major directions of its work is gender issues. They include elimination of gender stereotypes, women and mass media, women's contribution to world culture, women's social status, establishing of social-sexual equality. The Organization developed concrete strategies for providing support to women in the sphere of science and technology.

Other UN special agencies are: the Food and Agriculture Organization of the United Nations (FAO), the World Health Organization (WHO), the World Bank, the International Monetary Fund (IMF), the World Meteorological Organization (WMO), the World Intellectual Property Organization (WIPO) and so on.

The mentioned and other organizations consider issues connected to human rights, and gender issues specifically. An important component in the gender issues is that of the status of women who are especially discriminated. One can appeal to these agencies in case if their country acceded to provisions that vent in an international agency jurisdiction concerning individual complaints.

Important **procedures** for women include:

- procedures of submission and consideration of individual complaints, control procedures and submission of international complaints on the basis of the UN treaties;
- control procedures of special rapporteurs and work groups (of special significance is the special rapporteur on issues of violence against women);



- reporting and control procedure of the Committee on the Elimination of Discrimination against Women in charge of the Women's Convention;
- complaints that are submitted directly to the UN in compliance with Procedure 1503;
- procedures of submission complaints to International Labour Organization;
- the UN Commission on the Women's Status's work with personal complaints;
- reporting mechanisms in cases of violations of rights related to one's sex to the UN High Commissioner for Refugees.

All advocacy mechanisms are directed at establishment of equal rights and opportunities for women and men. At the same time, the international mechanisms for protection of women's rights constitute an important component of protection of human rights.

To study the women's status and needs as well as to involve them in the development process, under the UN the International Research and Training Institute for the Advancement of Women was established. It supports close connections with the Commission on the Status of Women, established under the UN Economic and Social Council, as well as with other organizations within the framework of the UN system and with regional and national institutes and centres that pursue similar goals.

As a great example for national societies to follow we can consider the experience of the UN activity concerning the **sectoral introduction of gender approaches**: elaboration of a certain programme to influence female and male population, taking into account specificity of the sector or the sphere of their life. Under the auspices of the United Nations, the *Gender Equality in Sector Wide Approaches: A Reference Guide* was developed, which explains the sectoral introduction of gender approaches. Such implementation requires consideration of national peculiarities of gender distance and mechanisms for overcoming it. Singling out 11 sectors as most important is universal for all countries. It is exactly those sectors where gender plans and programmes are primarily to be developed, forms and ways to influence the gender changes are to be explored. These are the following sectors: macroeconomics and trade policy; management and participation; work (including unemployment, search for work and re-training, productive and reproductive work and so on); education; health (including gender violence, reproductive health, reformation of health care); poverty; justice and human rights; science, research and informational and telecommunication technologies (statistics, gender as scientific research, career in science and so on); mass media (reflection of gender roles and stereotypes, access, participation and control); environment and sustainable development; defence, conflict and peacekeeping (military and defence institutions, gender role in armed conflicts and wars, addressing of conflict and situation after conflict in).

This development provides to the countries that are gender oriented in their politics the methodological support and elaborates methods and forms of the governmental and non-governmental activity on ensuring of equality between women and men in different spheres of life of the society. It generalizes the international experience of gender activity realized in tried results.

The UN plays a great role in resource assistance for gender transformations in regions of the world and national societies. This is done through local offices, for instance, the UNDP Office in Ukraine. It promotes necessary reforms and facilitates their proper conducting

in the country, provides assistance on the way to ensuring of best standards of gender relations and principles of life, establishment and development of gender democracy, shares international experience of gender transformations, helps in effective implementation of the state programmes on gender. UNDP has in at its disposal the personnel and financial resources, deep knowledge and necessary international experience.

During the last years, the UNDP activity in Ukraine expanded both from the point of view of the scope of their activity and as to invested resources. The projects portfolio, which constituted about USD 10 million in 2005, grew to USD 28 million in 2007 and constituted about USD 24 million in 2008.

In 2009, the UNDP implemented in Ukraine 20 projects, which were financed at the cost of the own funds at the level of 10%, and the rest came from bilateral and multilateral donors.

### **The major UN departments on improvement of women's status at the global level and their transformation.**

The issue of addressing of issues of women's status is a component of the gender policy. In the UN, in different periods there were several structures that addressed the women's issues. Their decisions inevitably were to an extent duplicating each other. Among such structures there were:

- **the Department on improvement of women's status of the Secretariat;**
- **the International Research and Training Institute for the Advancement of Women;**
- **the United Nations Development Fund for Women (UNIFEM);**
- **Special adviser to the UN Secretary General on gender issues and improvement of women's status;**
- **The Committee on the Elimination of All Forms of Discrimination Against Women that performs control over observance of the Convention on the Elimination of All Forms of Discrimination Against Women («Women's Convention») (1979);**
- **the United Nations Interagency Committee on Women and Gender Equality.**

Along with the listed departments there are a lot of other structures of women's organizations at the international, regional and national levels.

Creating of all these departments was conditioned: by the historically pressing problem of their emergence in the UN system in the process of raising, consideration and addressing of issues of women's status in the international space; the UN attempting to support the emerging initiatives under the pressure from the women's movement concerning improvement of women's status and creating of corresponding structures for their implementation; aspirations to back up the adopted decisions, especially conventional ones, with concrete organizational activity; certain UN deliberation in distribution of authorities concerning the structures being established, and so on.

All structures played, and some are still playing the role in drawing more attention to the issues of improvement of women's status and to search for ways to ensure equality between women and men in different spheres of life. But the modern times required generalization of results of what has been done and elaboration of the general strategies and harmonization of forms of influence over gender processes. This is what conditioned necessity to consolidate

the dispersed activities and to create the centre for its concentration, systematization and elaboration of new strategies, taking into account international, regional and national peculiarities.

In July 2010, the UN General Assembly established the UN structure on gender equality and expansion of rights and opportunities for women titled «**UN Women**», considering this as a part of reformation of the UN. It was established to accelerate the process of achievement of gender equality and achievement of higher effectiveness of the existent resources. The «UN Women» agency was established on the basis of incorporation of mandates of four departments of the UN system, which were engaged in the issues of gender equality and expansion of rights and opportunities for women, among which were the following: the Department on improvement of women's status of the Secretariat; the International Research and Training Institute for the Advancement of Women (UN-INSTRAW); the Office of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women, the United Nations Development Fund for Women (UNIFEM).

In connection with establishment of the new structure, the UN Secretary-General Ban Ki-moon said: «With emergence of the UN Women in the international community a new influential tool appeared for combating for gender equality and women's rights in the entire world... the true gender equality must become our joint achievement in the 21st century».

The UN department «UN Women» supports international political negotiations on development of the standards of ensuring gender equality, provides assistance to UN member states in implementation of these standards through providing expert and financial support, helps other departments of the UN system in their efforts concerning advancement of gender equality in numerous spheres connected with human rights and development of human potential, provides grants to governmental agencies and organizations of the civil society to implement innovative and effective programmes through the Funds – Fund for Gender Equality and Trust Fund to End Violence against Women.

**Regional mechanisms.** European structures' activity was restructured based on the gender principles. All bodies of the Council of Europe consider the gender approach to addressing all problems as fundamental. Documents to be adopted by the Council of Europe, before they are submitted for approval, have to undergo a special legal expert evaluation by its legal agency.

***The Organization for Security and Co-operation in Europe (OSCE).*** Established in compliance with Helsinki Final Act, 1975, which provided a general description of human rights. For more than 20 years, this group was a permanent forum for political dialogue on safety issues. It started to play an important role in control over observance of human rights and conflict prevention. Since the 1990-ties, the gender approach at assessment of human rights, the European safety and co-operation, peace-keeping and peacebuilding, is taking a more prominent place in activity of this organization.

The OSCE developed a series of standards, which are innovative both as to their form and as to their content. The OSCE considers the «Human dimension» as one of the three dimensions of security along with the Politico-military and Economic and environmental.

Since the 1990-ties, OSCE shifted away from the «conference» approach in its activity and established a series of permanent institutions to provide to member states assistance

in performing of their obligations in the sector of human dimension. First, the OSCE major institute for work in the sphere of human dimension in 1990 established an office on free elections, the OSCE Office for Democratic Institutions and Human Rights, situated in Warsaw. In its activity, the Office develops policy and different measures to ensure inclusion of the gender aspect in all spheres of life and takes measures concerning improvement of women's status in the OSCE region.

The gender aspects are also present in activity of the following permanent OSCE institutions: OSCE High Commissioner on National Minorities (this position was established in 1992, the central office is in the Hague), the OSCE Representative on Freedom of the Media.

The authority of the OSCE High Commissioner on National Minorities includes ensuring of equal opportunities for women's participation in political and public life, consideration of concrete issues concerning the role of women from national minorities in social and private life, and activity concerning elimination of double discrimination.<sup>34</sup>

As a regional body on gender issues, in 1987 the ***Steering committee of the Council of Europe for equality between women and men*** was established, which replaced the Committee on Women. In the Committee each of the member states is represented by one expert (man or woman) among highly qualified specialists. Some of the states that are not members of the Council of Europe – Canada, Japan and Vatican – have an observer status. Such country representation provides opportunity to generalize and compare peculiarities of gender processes in the countries, regions and in general in Europe. Representatives of the countries of Central and Eastern Europe that are not members to the Council of Europe have a right to participate in the Committee sessions as observers.

The Committee reports to the Committee of Ministers of the Council of Europe, receives instructions from it, sends its reports and proposals. It performs such activity:

- studies state problems of equality between women and men in the European countries, conducts analysis, research and assessment of gender situations, processes, transformations that are taking place there;
- implements policy of co-operation between the member states, which is directed at implementation of equality principles at the all-European level;
- develops gender strategies and corresponding political measures;
- draws legal documents on issues of women and men's balanced representation in all spheres of the social life;
- every four years or every five years organizes the European ministerial conferences for equality between women and men;
- articulates comments about ensuring of equality for the annual reports of the Secretary General within the framework of the Secretariat and the Council of Europe.

One of the priority directions of activity of the Steering Committee for Equality between Women and Men is implementation of gender mainstreaming within the framework of the Council of Europe.

Starting from 2001, the Committee has been working on the experimental project with other steering committees: the European Committee for Social Cohesion (CDSC); the

<sup>34</sup> See: *OSCE Human Dimension Commitments*. Tome 1: Collection of topical documents. – OSCE/ODIHR, 2006. – p. 57–58, 70.

European Health Committee (CDSP); the Ad hoc committee of experts on the legal aspects of territorial asylum, refugees and stateless persons (CAHAR). Such joint work requires consideration and harmonization of activity on issues of gender equality in sectors where different committees are working as well as identifying of the perspective for consideration of gender in these sectors.

The Committee can create subordinate structures for two–five years (working groups, groups of specialists, expert committees and so on) on various issues. Among them are the Group of specialists on implementation and control over implementation of the Committee of Ministers recommendations on the protection of women against violence and the Group of Specialists on promoting Gender Mainstreaming in Schools.

From the institutional point of view, the Committee is a component of the Directorate General of Human Rights. The Committee's activity, and namely the principle and the goal of its establishment, the subject of activity, the nature of recommendations and so on, can be an example to follow for European countries and CIS countries concerning creating gender activity structures, taking into account their national and local peculiarities.

The Council of Europe has the Service on issues of mass media, equality and minorities of the Main Department on human issues. Within it, a section for equality of the Council of Europe was established, which performs work of the secretariat of the Steering Committee for Equality between Women and Men.

The Steering Committee for Equality between Women and Men and its secretariat support wide co-operation with all other committees of the Council of Europe, regularly shares information on gender issues, state of gender development, characteristic peculiarities of gender processes.

The Council of Europe established the network of free experts on issues of gender mainstreaming. One of directions of experts' activity is generalization of positive results of implementation of gender mainstreaming at introduction of gender equality, sharing positive experience, drawing proposals. The goal of creating of such a network is to give dynamics to development of experts' networks at the national, regional and global levels.

All bodies work fruitfully, if they have a clearly legally defined authority concerning the gender component of their activity. This is an effective legal prerequisite for their functioning. Such authority covers: elaboration of the gender policy horizontally and vertically; coordination of actions directed at introduction of gender principles in the legislation, state policy, programmes and projects; collection and dissemination of disaggregated data and information on gender for planning of goals, control and assessment of activity; monitoring of programmes and policies' influence over gender equality; support of gender training at all levels and development of methods and means for assessment of influence of gender, as well as development of major principles of gender training and gender control over all actions of the government; organization of informational campaigns to raise public awareness of the gender issues, and so on. The structures' authority includes a clearly outlined responsibility for introduction and advancement of gender approaches. The governmental structures guarantee most effective results when their staff is gender-balanced and when resources are available.

**Financial mechanisms.** To successfully implement the documents on gender equality



adopted at the international or national level, it is necessary to mobilize the resources, with engaging all available financing mechanisms, including multilateral, bilateral and private sources. Financial resources are necessary to create the potential and to develop the activity of international, regional /sub-regional and national agencies and institutions.

At the global level, the UN considers the financial provision as an important prerequisite of implementation of the adopted decisions on issues of gender and formation of plans taking into account the gender perspective. In the 20<sup>th</sup> century, addressing of gender issues, in particular improvement of the women's status, was happening, to a significant degree, at stunted rates because of limited resources, lack of funds. Analysis of such situation led to the conclusions at the Beijing Conference, as well as at the conferences «Beijing +5» and «Beijing +10» about necessity of consideration of gender issues in the policy budget decisions, as well as of adequate financing of the special programmes on ensuring of equality between women and men.

At the international meetings, it was emphasized that the countries that acceded to the adopted documents should financially support their political commitments. In particular, the Report at the Beijing conference stated: «The primary responsibility for implementing the strategic objectives of the Platform for Action rests with Governments... To develop successful national implementation strategies for the Platform for Action, Governments should allocate sufficient resources, including resources for undertaking gender-impact analysis. Governments should also encourage non-governmental organizations and private-sector and other institutions to mobilize additional resources»<sup>35</sup>. Emphasis is made at mobilization of additional resources of both the state and private sectors, at search for new sources of financing<sup>36</sup>.

For the programmes on gender issues and issues of improvement of status of women, who are more discriminated compared to men, loans and subsidies are provided by such international financial agencies as the World Bank, the International Monetary Fund, the International Fund for Agricultural Development.

Through funds and programmes, the UN allocates necessary resources for elimination of inequality between women and men.

At the **regional level**, regional development banks and regional business associations give loans and perform other activity for the purpose of implementation of gender transformations.

At the national level, primary responsibility for implementation of the gender strategies rests on governments. In compliance with their commitments made at the summits and UN conferences on gender issues, they must:

- analyze how women and men benefit from public sector expenditures;
- adjust budgets to ensure women and men's equality of access to public sector expenditures, both for enhancing productive capacity and for meeting social needs;
- provide funds for implementation of gender obligations in compliance with documents, signed at the global level;
- fund special programmes for ensuring of equality between women and men;

35 *Report of the Fourth World Conference on Women*. (Beijing, September 4–15, 1995). Article 346.

36 See also: *Beijing Declaration and Platform for Action* and *Beijing +5: Political Declaration and Outcome document*. UN Department of Public Information. – New York, 2002.– p. 219.

- allocate resources for analysis of gender transformations in the country;
- assist financially non-governmental organizations, agencies of the private sector and other agencies concerning support of gender activism, as well as in mobilization of additional resources.

The documents adopted at all levels emphasized application of financial mechanisms and opportunities to find them. Actual results of implementation of gender strategies and their efficiency to a significant degree depend on opportunities and activity of the established financial mechanism.

The obtained global experience of creating of the international mechanism for ensuring of the gender policy, legal and other foundations of its functioning are continued in regional and national mechanisms.

International mechanisms deserve wide scientific study and practical improvement. In particular, this study can be: from the point of view of the legal guarantees – legal and non-legal; as to the spheres of action – political, economic, social, cultural, and so on; concerning spiritual and practical expression – theological, psychological, praxeological and so on. All these mechanisms are aimed at formation of the national societies of gender equality. The most influential tool for establishing of equal rights and opportunities in national societies is the political-legal ensuring.



# **Chapter 3.**

**Ensuring of equal rights  
and opportunities in  
legislation of national  
societies**

# 1. Gender legislation as an urgent need

Social regulation in the society is implemented through different social norms and subjective rights that determine and regulate everyday relations of men and women. Law is one of the most important regulators of social relations. It is the most effective tool of influence over formation of these relations, their development, changes, transformation in the direction of progress, or it can become a factor that constrains transformations. Right and the legal policy that are directed at ensuring of integrity of the social organism, regulatory orderliness and regulation of the relations existing in it, of the entire human behaviour, in particular relations between man and woman, become more and more determinative in the civilizational development and formation of the corresponding legislation.

Right acts as a specific kind of the all-obligatory, formally determined norms, which constitute the system of the state power criterion of lawful and lawless behaviour. The essence of law constitutes the formal system of rules of behaviour, whose non-observance enables application of state coercion.

When we consider the problems of gender, it is important to emphasize that right, the legal system does not exist outside other social norms – traditions, customs, morals, political norms, established by political parties, religious canons and so on. All these norms are closely connected, and often they even use each others' notions, in particular, such as obligation, freedom, justice, responsibility, moral requirements and so on. Certain commonality in social rules gave reasons to scientists and practitioners to talk about free right,<sup>37</sup> that is, officially not codified regulatory directives, which coincide with legal norms or compete with them. It contains: thought, assessment, belief, image concepts, habits, behavioural stereotypes, customs, etc., which in their entirety influence behavioural motivation in the spheres formally regulated by law. The rates of how quickly the equal rights and opportunities are taken into account in the legislation of different countries are conditioned by the power of influence of all social norms that regulate social relations, including those of free right. The notion of free right as to its content is closest to the common law. Gender relations in Ukraine are to a significant degree based on it.

Free right emerges and functions from practical needs, traditional behaviour of the sexes, ethical normative of the social-sexual relations. It is produced by established by women and men's consciousness, by the actual situation in the country and is, to a significant degree, hampering the gender-legal progress.

The legal norms are founded on the laws adopted by the structures of power. The law has a determinative significance in the system of law of each national society and at the global level. Supremacy of law and respect to human rights both of women and of man are the foundation of co-operation of societies and organizations. It is impossible to establish

37 See Bova A. *Sociological interpretation of free right* / A. Bova // *Sociology: theory, methods, marketing*. – 2001. – No.2./ Бова А. Соціологічна інтерпретація інфраправа / А. Бова // *Соціологія: теорія, методи, маркетинг*. – 2001. – №2.

Free right is a sociological understanding of law. Its norms are to a significant degree widespread in Ukraine. Sociological understanding of law, unlike the regulatory one, perceives law not as a corpus of abstract and formal norms, but directly as social life, in a certain way harmonized interaction of social subjects, the «living» right as concrete and dynamic practice that actually exists and lies at the heart of formation of laws and adoption of other legal decisions.

In foreign literature, the notion of free right is used synonymously with such notions as: «living right», «unofficial right», «spontaneous right», «intuitive right», «right of corporations», «moral right» and so on. It is about the very system of norms, which precede official law, are formed and exist as a regulative institution and a part of which evolve to be acknowledged so that the state deems it necessary to give them the role of all-obligatory legal norms by adopting a certain law or another regulatory act.

a democratic and social state without incorporating the gender content into the legislation and identifying of the gender direction of its development, as its legal content is an integral component, while the gender issue is a significant component of the legislative ensuring of social progress and adequate governance.

In the countries of the world, the process of incorporating the gender content into the national legislation is taking place. The international and national legislation regulates actions of the state and interstate mechanism, its regulatory activity in all spheres, and in the gender sphere in particular. This is connected with the development of capital in these countries – productive, human, and intellectual. Where capital has developed, the heightened rates of formation of the gender-legal basis in all spheres of life are observed. Where traditional relations are deeply rooted, the gender-legal basis is being developed at a slower rate and, correspondingly, the population's gender-legal culture is being formed more slowly. This is one of the reasons why the process of mastering of new times gender and its reflection in the effective legislation of different sectors of law is happening so differently. Even Europe is not gender-homogeneous. It reflects peculiarities concerning of gender implementation in the legislation of the **countries of North and South, of Central Europe, Baltic region, Eastern Europe, CIS** – the European and Asian regions.

Although, despite all peculiarities, there is a tendency to approximation of gender processes in their legal expression, and namely, formation of the gender component in the system of the legislation. Nowadays, the international legal science more and more often considers the gender law as a comprehensive legal institute, which consists of legal norms that establish the ways to ensure equality of human rights regardless of the sex, as well as stipulate the limits of admissible differences in rights depending on the sex<sup>38</sup>.

As to their contents, the norms of gender legislation have two directions. On the one hand, they stipulate the system of guarantees for ensuring of equality of rights and freedom between women and men, and on the other – differences and their limitations in rights and guarantees of their exercise, conditioned by people's belonging to different sexes.

The modern period of formation of the gender legislation has its own peculiarities. The publication prepared in 2003 by the Regional Bureau of UNDP for Europe and Commonwealth of Independent States of the United Nations Development Programme (UNDP RBEC) «Drafting Gender-Aware Legislation: How to Promote and Protect Gender Equality in Central and Eastern Europe and in the Commonwealth of Independent States» points out the fact that «evidence of two different yet complementary approaches to gender equality through the law can be observed: promoting equal opportunities through gender mainstreaming initiatives in all areas of legislation and practice, and through focusing on the advancement of women's rights and initiating affirmative actions to stop inequalities». An example of the first of approach can be the **Czech Republic, Latvia**, and of the second – **Georgia, Armenia, Kazakhstan, Uzbekistan, Tajikistan, Turkmenistan** and so on. Such approaches are conditioned by the historical development and by the level of gender-legal culture in the countries.

Gender transformations are taking place in the conditions when the comprehensive vision of gender issues in reality and their reflection in law is being formed. In countries that

38 *Gender analysis of Ukrainian society* / Science editor Tamara Melnyk. UNDP. – K., 1999. – p. 42. / Гендерний аналіз українського суспільства / наук. ред. Тамара Мельник. ПРООН. – К., 1999. – С. 42. *Bolotina N.B. Social Legislation of Ukraine: gender expert evaluation* / N.B.Bolotina. – p. 9. / Болотіна Н.Б. Соціальне законодавство України : гендерна експертиза / Н.Б.Болотіна. – С. 9.



emerged out of the totalitarian system and where historically conditioned traditional forms of life are still rather widespread, formation of gender norms of law requires especially sensitive study of the social relations, which it regulates. Without doubt, it is important to incorporate in the system of legal regulation the ideas of perspective of progress. But it will be achieved only when the norm optimally reflects the needs of actual existence, when right is scientifically balanced.

Nowadays we already can talk about a certain experience in formation of the conceptual approach to the legislative drafting activity on ensuring of equal rights and opportunities for women and men, about its advancement in the governmental structures, about the parliamentarians' world-view readiness to adopt the legislation on gender equality. The countries are striving to establishing of the international standards, one of which the Committee of Ministers of the Council of Europe in its adopted recommendations determines as «adoption and enforcement of effective national gender equality legislation, and to the integration of a gender perspective into all areas of governance»<sup>39</sup>.

For **Ukraine**, it is important to address the issue of full-fledged elaboration of the state-legal ensuring of gender strategies of development of the Ukrainian society. The law of Ukraine «On ensuring of equal rights and opportunities for men and women» adopted in 2005 determined eight directions of the state gender policy, and namely:

- establishing of gender equality;
- non-discrimination based on sex;
- implementation of affirmative actions;
- ensuring of equal participation of women and men in adoption of socially important decisions;
- ensuring of equal opportunities for women and men concerning combination of professional and family obligations;
- support of family, formation of responsible motherhood and fatherhood;
- raising and promotion of the culture of gender equality among the population of Ukraine, proliferation of educational activity in this sphere;
- protection of the society from information directed at discrimination based on the sex.

All these directions require expansion of the legal ensuring and performance of the gender-legal analysis of different sectors of the legislation of Ukraine on the basis of profound conceptual development of each of them. The issue here is elaboration of a unified methodology of gender-legal assessment of legislative acts<sup>40</sup>, as well as approval of provisions of the legislation, which contain no limitations or privileges on the ground of sex and as a result of their implementation facilitate elimination by legal means of actual gender imbalance that existed in this or that sphere of social relations, instead of introduction into the effective legislation of a schematic phrase «woman and man» in all cases concerning rights, obligations or responsibility of persons of both sexes.

On the basis of the conceptual vision of each of these directions of the state gender

39 Recommendation of the Committee of Ministers of the Council of Europe about standards and machinery of gender equality (2007).

40 *Khrystova H.O.* Foundations of the Gender-Legal Analysis of the Legislation of Ukraine. – p. 8./ Хрystова Г.О. Основи гендерно-правового аналізу законодавства України.

policy, sectoral strategies of introduction of gender approaches and of directions of the gender-oriented policy have to be developed in corresponding spheres and foundations of the sectoral legislation concerning their ensuring have to be determined. This requires involvement of a wide circle of scholars on issues of gender-legal knowledge and on separate sectors that require state regulation. Complexity lies in that accumulation and development of the gender-legal knowledge is going slowly, and the modern legal science is mostly indifferent towards the theory and practice of gender.

Sectoral strategies concerning introduction of gender approaches, that is, directions and programmes of development of concrete sectors, have to elaborate introduction of the principle of gender equality in concrete sectors. Such elaboration requires adoption of a document of a strategic nature. Such document can be a concept and a corresponding action plan of a concrete Ministry or sector on priority directions and strategies concerning gender development. It must reflect concrete gender goals, objectives, nature of activity, gender perspective (results) and success indicators. The gender dimension should be incorporated in each of these components of the sectoral strategy. Such programmes in Ukraine have been adopted in the sectors of education and in the sector of internal affairs. They are also being developed in other Ministries, too, in particular, in the Ministry of justice, the Ministry of social policy and labour, the Ministry of defence and so on. All state programmes have to be considered from the point of view of gender perspective and include an in-depth gender component.

Formation of sectoral policies saturated with gender content, identifying of sectoral strategies that contain the gender component, their codification in state documents and adoption of such documents as all-obligatory will have significance and effectiveness, if the structures of all branches of power are built and perform their activity on the basis of consideration of gender principles.

Experience **of the Russian Federation** concerning development in 1997 of the document – the Concept of legislative drafting activity to ensure equal rights and equal opportunities for men and women deserves attention as an approach to formation and advancement of the concept of equal opportunities with the assistance of the initiatives on ensuring of gender mainstreaming in all spheres of the legislation and practical life, as well as concerning involvement of the scientific community to the legislative drafting activity in the sphere of gender.

Importance of such generalizing document for each country makes it also important to know how it was created: what its structure was, who spearheaded the process, who was engaged to the development of the Concept, what specialists, their educational level and professionalism, who were the experts, what the results of work were and so on. All this is important in cases of still existent simplified approach to the gender issues or complete disregard for them by certain representatives of the managerial bodies.

It should also be pointed out as positive that the Concept was prepared by the group of well-known scientists and practitioners – professionals in the issues of gender. Its text was open for discussions. The Concept's preparation was spearheaded by the head of the State Duma Committee on Women, Family and Youth, with the participation of people's deputies. The writing team included professors, doctors and candidates of legal, philosophical, economic, medical sciences, consultants of the Apparatus of the State Duma Committee

on Women, Family and Youth, and an adviser of justice, what demonstrates expansion of gender knowledge in the country and actually existent needs in practical implementation of gender transformations.

The concept underwent expert evaluation, which was conducted by doctors and candidates of historical, legal, economic sciences and supervisors of governmental and non-governmental structures. Among them were the coordinator of the Consortium of US-CIS women's organizations, the head of the Central Electoral Commission of the Russian Federation, the head of the Association of Lawyers of Moscow, the academic secretary of the International Law Association, the team of the project «Gender expert evaluation» of Moscow centre in Gender Studies, the president of the Associations of Entrepreneur Women of Russia, scientific staff of the Institute of State and Law, the Russian Academy of Sciences, and the vice-principal of Moscow State Social University.

The quoted list of participants of the process of creating of this crucial document demonstrates the society's interest in state-legal regulation of gender issues. Creating the Concept and its expert evaluation are components of the process of gender transformations. And although at that time the Concept itself was not adopted by the State Duma, still the document itself is a significant step in re-evaluation of the gender situation and women's status in the Russian Federation, systematization of the legal material on the issues of equal rights and opportunities, as well as their analysis. The Concept got widely spread in the society and facilitated formation of gender consciousness among wider public. Development of the Concept became a certain step towards expansion of scientific vision of the gender issues by scholars themselves and a token of gender consciousness of some people's deputies who had formed predominantly during the Soviet times.

In 2002, the Ministry of labour and social development of the Russian Federation, with participation of scholars, developed a significant document – the **Gender strategy of the Russian Federation** and brought it for wider public discussion.

The above mentioned documents of the Russian Federation are interesting because they generalized the governmental and legal directions of activity concerning gender, determined the gender issues that require legal regulation, outlined the laws and regulatory acts, which have to be developed and adopted by the Duma. But this experience to a significant degree stayed at the level of development of the conceptual vision of the legislative drafting activity in the sphere of gender. It is also rather illustrative as to how a political regime can influence – facilitate or hamper – gender transformations.

## 2. Constitutional securing of equal rights and opportunities in national societies

The Constitution of the country as the highest law provides guarantee of equality of rights for all citizens regardless of their sex. All major international treaties on human rights consider sex among features, concerning which discrimination by the state is prohibited. The issue of ensuring for equality between women and men is specially covered by a separate international treaty – Protocol No.12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, November 4, 1950). It was adopted and open for acceding on November 4, 2000, in Rome.

The Protocol 12 to the European Convention, in Article «General prohibition of discrimination», emphasizes: «The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status». The member states committed to observe the norms of the Convention. Therefore, it is logical and extremely important for the countries signatory to the Convention to constitutionally codify gender rights and standards concerning gender equality.

Importance of constitutional ensuring of gender equality, the need in it, is determined by the fact that the Constitution has highest legal power in the system of regulatory acts (laws, orders, regulations, decisions and so on), which are adopted in countries on the basis of the Constitution, are determined by it and have to comply with it. The very existence of the constitutional norm on issues of non-discrimination, ensuring of equality stipulates expansion, specification within the system of adopted acts of such norms that regulate gender relations.

At the same time, while we emphasize significance of the constitutional codification of equality of rights and opportunities for women and men in national societies, we should also mention that this also emphasizes the fact that in the system the right for gender equality is among the basic, most important ones. The Constitution regulates not all relations, but only the most important. Therefore, gender relations constitutionally are considered as determinative, basic.

Equality between women and men is codified in the Constitutions of 139 country of the world. There are certain peculiarities as how the Constitutions of the countries of the world of codify the principle of equality of the sexes in the modern conditions (*Table 2*). They reflect the historical moment of establishing of the gender equality at the international, regional and national space.

Table 2

**Articles on equality between women and men in the Constitutions  
of some countries of the world<sup>41</sup>**

<b>Country / Document</b>	<b><i>Focused articles of the Constitutions of different countries of the world on equality between women and men</i></b>
<b>Argentina</b>  <b>Constitution</b>	<b>Article 16.</b>  The Argentine Nation admits neither blood nor birth prerogatives: there are neither personal privileges nor titles of nobility. All its inhabitants are equal before the law, and admissible to employment without any other requirement than their ability. Equality is the basis of taxation and public burdens.
<b>Canada</b>  <b>Constitutional acts</b>	<b>The right for equality.</b>  15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.
<b>Chile</b>  <b>Constitution</b>	<b>Article 19. Equality before the law</b>  In Chile there are no privileged persons or groups. In Chile there are no slaves, and those who should set foot on her territory become free. Neither the law nor any authority may establish arbitrary differences.
<b>Chinese People's Republic</b>  <b>Constitution</b>	<b>Article 33.</b>  All persons holding the nationality of the People's Republic of China are citizens of the People's Republic of China. All citizens of the People's Republic of China are equal before the law. Every citizen enjoys the rights and at the same time must perform the duties prescribed by the Constitution and the law.  <b>Article 48.</b>  Women in the People's Republic of China enjoy equal rights with men in all spheres of life, political, economic, cultural and social, and family life. The state protects the rights and interests of women, applies the principle of equal pay for equal work for men and women alike and trains and selects cadres from among women.

<sup>41</sup> The countries are listed alphabetically.



<b>Estonian Republic</b>  <b>Constitution</b>	<b>Article 12.</b>  (1) All persons shall be equal before the law. No one may be discriminated against on the basis of nationality, race, colour, sex, language, origin, creed, political or other persuasions, financial or social status, or other reasons.  (2) The propagation of national, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law. The propagation of hatred, violence or discrimination between social strata is equally prohibited and punishable by law.
<b>Finland</b>  <b>Constitution</b>	<b>Fundamental rights and freedoms</b>  Section 6 Equality  (1) Everyone is equal before the law.  (2) No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person.  (3) Children shall be treated equally and as individuals and they shall be allowed to influence matters pertaining to themselves to a degree corresponding to their level of development.  (4) Equality of the sexes is promoted in societal activity and working life, especially in the determination of pay and the other terms of employment, as provided in more detail by an Act.
<b>Federative Republic of Germany</b>  <b>Constitution</b>	<b>Article 3</b>  (1) All humans are equal before the law.  (2) Men and women are equal. The state supports the effective realization of equality of women and men and works towards abolishing present disadvantages.  (3) No one may be disadvantaged or favoured because of his sex, parentage, race, language, homeland and origin, his faith, or his religious or political opinions. No one may be disadvantaged because of his handicap.

<p><b>India</b></p> <p><b>Constitution</b></p>	<p><b>Part III. Fundamental rights (Article12–35)</b></p> <p><b>The right for equality (Article14–18)</b></p> <p><b>Article 14 Equality before law</b></p> <p>The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.</p> <p><b>Article 15 Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth</b></p> <p>(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.</p> <p>(2) No citizen shall, on ground only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -</p> <p>(a) access to shops, public restaurants, hotels and places of public entertainment; or</p> <p>(b) the use of wells, tanks, bathing hats, roads and places of public resort maintained whole or partly out of State funds or dedicated to the use of general public.</p>
<p><b>Italian Republic</b></p> <p><b>Constitution</b></p>	<p><b>Article 3. Equality.</b></p> <p>All citizens have equal social status and are equal before the law, without regard to their sex, race, language, religion, political opinions, and personal or social conditions.</p>
<p><b>Japan</b></p> <p><b>Constitution</b></p>	<p><b>Article 14 [No Discrimination and Privileges]</b></p> <p>(1) All of the people are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, social status, or family origin.</p> <p>(2) Peers and peerage shall not be recognized.</p> <p>(3) No privilege shall accompany any award of honour, decoration, or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.</p> <p><b>Article 24 [Matrimonial Equality]</b></p> <p>(1) Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis.</p> <p>(2) With regards to choice of spouse, property rights, inheritance, choice of domicile, divorce, and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.</p>

<b>Lithuanian Republic</b>  <b>Constitution</b>	<b>Article 29.</b>  (1) All people shall be equal before the law, the court, and other State institutions and officers. (2) A person may not have his rights restricted in any way, or be granted any privileges, on the basis of his or her sex, race, nationality, language, origin, social status, religion, convictions, or opinions.
<b>Polish Republic</b>  <b>Constitution</b>	<b>Article 32.</b>  (1) All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. (2) No one shall be discriminated against in political, social or economic life for any reason whatsoever.  <b>Article 33. 1.</b> (1) Men and women shall have equal rights in family, political, social and economic life in the Republic of Poland. (2) Men and women shall have equal rights, in particular, regarding education, employment and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold offices, and to receive public honours and decorations.
<b>Portuguese Republic</b>  <b>Constitution</b>	<b>Article 13. Principle of Equality</b>  (1) All citizens have the same social dignity and are equal before the law. (2) No one is privileged, favoured, injured, deprived of any right, or exempt from any duty because of his ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation, or social condition..
<b>Russian Federation</b>  <b>Constitution</b>	<b>Article 19.</b>  (1) All people are equal before the law and in the court of law. (2) The state guarantees the equality of rights and liberties regardless of sex, race, nationality, language, origin, property or employment status, residence, attitude to religion, convictions, membership of public associations or any other circumstance. Any restrictions of the rights of citizens on social, racial, national, linguistic or religious grounds are forbidden. (3) Man and woman have equal rights and liberties and equal opportunities for their pursuit.

<b>Slovenia</b>	<b>II. human rights and major i freedom</b>
<b>Constitution</b>	<p><b>Article 14 (Equality before the Law)</b></p> <p>(1) In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material standing, birth, education, social status, disability or any other personal circumstance.</p> <p>(2) All are equal before the law.</p>
<b>Spain</b>	<b>Article 14. Article 14 [Equality]</b>
<b>Constitution</b>	Spaniards are equal before the law, without any discrimination for reasons of birth, race, sex, religion, opinion, or any other personal or social condition or circumstance.
<b>Turkmenistan</b>	<b>Article 18.</b> Men and women in Turkmenistan have equal civil rights. A violation of equal rights based on gender will entail legal liability.
<b>Constitution</b>	<p><b>Article 25.</b> Men and women, upon reaching the age of marriage, have the right to mutually consent to enter into marriage and form a family. In their familial relations, spouses have equal rights. Parents or guardians have the right and obligation to raise children, ensure their health, development, and education, prepare them for work, and instil in them culture and respect for the laws and historical and cultural traditions. Adult children have the obligation of caring for parents and providing them with assistance.</p>
<b>Ukraine</b>	<b>Article 24.</b>
<b>Constitution</b>	<p>(1) Citizens have equal constitutional rights and freedoms and are equal before the law.</p> <p>(2) There may be no privileges or restrictions based on race, skin colour, political, religious, and other beliefs, gender, ethnic and social origin, property status, place of residence, linguistic or other characteristics.</p> <p>(3) Equality of the rights of women and men is ensured by providing women with opportunities equal to those of men in public, political and cultural activities, in obtaining education and in professional training, in work and remuneration for it; by taking special measures for the protection of work and health of women; by establishing pension privileges; by creating conditions that make it possible for women to combine work and motherhood; by adopting legal protection, material and moral support of motherhood and childhood, including the provision of paid leave and other privileges to pregnant women and mothers.</p>

	<p><b>Article 51.</b></p> <p>(1) Marriage is based on free consent between a woman and a man. Each of the spouses has equal rights and duties in the marriage and family.</p> <p>(2) Parents are obliged to sustain their children until they are of full age. Adult children are obliged to care for their parents who are incapable to work.</p> <p>(3) The family, childhood, motherhood, and fatherhood are under the protection of the State.</p>
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Table 2 gives examples of ensuring of gender equality in the Constitutions of countries of different continents. Constitutions of national societies codify equality of constitutional rights and freedoms, equality before the law, as well as equality of women and men's rights. Therefore, the international process of formation of the constitutional legislation for equality between women and men is characterized by:

- reflections in the national Constitutions of principles and standards of the international law on gender equality;
- constitutional commitment to ensure gender equality and implementation of the obligations undertaken at the global level;
- singling out the equality in an independent constitutional article and regarding it as one of the fundamental rights and freedoms;
- constitutional ensuring of gender equality that correlates with such characteristics of citizens, as nationality and race, language, religion, social origin, political views and so on;
- emphasizing of attention on equality before the law, in separate Constitutions on equality before the court, state structures, what is characteristic for the role of the rightful state.

We can state that at the international level the constitutional legislation becomes less and less «gender-neutral». The constitutional norms more and more often specify general words «citizens» or «all» as men and women. And although in actual practice, it is still rather widespread to perceive males as the norm, due to the progressive gender approach in law the male subject men's is replaced by men and women.

The principle of equality is one of determinative principles of the legal status of a person and citizen. The Constitutions of most countries codify three components of the principle of equality in rights:

- = equality **of citizens before the law**, that is, the law covers everybody with its effect, regardless of any specific circumstances and qualities of a person;
- = equality **regardless of race and ethnicity** means that rights of citizens do not depend on their skin colour and ethnicity;
- = equality between women and men stipulates the same opportunities for their participation in all spheres of the social life, as well as equal status in family. Ensuring of the principle of equality of rights women and men is important to ensure human rights and freedoms of citizen.



The constitutional norms concerning equality of the sexes in different countries of the world, despite their peculiarities, demonstrate progress of the process of gender permeating the international constitutional legislation, as well as the nature of modern gender transformations. The expanding intensification of the ideas of ensuring of gender equality through a separate constitutional norm is a certain reinforcing moment in significance of gender issues and in emphasizing of attention on its urgency.

At the same time, with emphasizing of attention on all positive moments of the constitutional ensuring of equality, the history based on analysis of the practice leads to certain speculations. Experience of the USSR – of the state that is gone, proved that declarative ensuring of equality only concerning rights does not resolve the issues of actual equality. Women's obtaining of equal rights with men does not eliminate any kinds of discrimination against women; it is necessary to provide both sexes with equal opportunities to exercise their rights. Besides, enforcement of equality between women and men requires the society's readiness to adopt ideas of gender equality and adapt it in actual life. Therefore, while Constitutions legislatively proclaimed equal rights for women and men in numerous countries of the world, they still do not have equal opportunities to exercise these rights.

Analysis of the norms on gender equality in the Constitutions of different countries has its peculiarities. They are conditioned by different level of development in the society, political regimes and other historical and national circumstances. Let us cursory consider at least some of these norms.

The Ukrainian state was among the first five countries of the world to introduce in its **Constitution**, adopted in 1996, a separate norm on equal rights and opportunities for women and men. The provisions on gender equality are also directly or conceptually codified in separate articles of the Constitution of Ukraine, in Section 1 «General Principles», Section 2 «Human and Citizens' Rights, Freedoms and Duties», and Section 3 «Elections. Referendum», which determine organization and exercise of the governmental power and local self-government. The principle of equality is the foundation of every article of the Constitution of Ukraine.

The principle of equality codified in the norms of law permeates the entire legal life of the society and influences the legislative practice. This constitutional principle binds Ukraine to resolve gender issues, taking into account international experience. Such obligation is conditioned by ratification of the international treaties on human rights, as well as by the fact that on November 9, 1995, Ukraine joined the Council of Europe, whose activity on ensuring for equality between women and men is an integral component of its major objective: facilitation to supremacy in law, rights and freedoms of a human being and a citizen, their protection.

The norms of the Constitution of Ukraine are proclaimed as norms of direct actions. But actual protections of women's rights on equal terms with men's requires elaborated expression in the sectoral legislation, and, first of all, in the constitutional sphere: electoral legislation, on associations of citizens, on political parties, and so on.

Specificity of the constitutional norms lies in the fact that some of them can be applied directly, and others require additional legislative regulation in one or several sectors of the legislation. The norm of the Constitution of Ukraine about equal rights and opportunities for

men and women cannot be ensured just directly, by applying the constitutional provisions. To ensure equality of opportunities it is necessary to adopt, implement and observe the legislation in the sphere of gender equality. That is, it requires concrete mechanism in such enforcement, outlined procedures, ways of protection, which would enable women or men to exercise their gender law. Let us give an example.

The Constitution of Ukraine establishes that elections to bodies of state power and bodies of local self-government are free and are held on the basis of universal, equal and direct suffrage, by secret ballot. They are elaborated in the legislation on elections where it is said that for citizens to exercise their right to elect and be elected does not depend on their gender or other characteristics. But this general material norm requires establishing of the legally determined procedure of its enforcement. Without such procedure, the norms of the Constitution and of the electoral legislation about equality of elections have declarative nature<sup>42</sup>.

The Constitution of Ukraine is inconsistent in outlining of the provisions concerning equal opportunities for the sexes in the gender aspect. It requires revision and harmonization of provisions on providing to men equal opportunities with women in family relations, creating of conditions not only for mothers, but also for fathers to combine professional and family responsibilities, legal protection of parenthood, its material and moral support.

In the current conditions, when in the country the issue is being raised about making amendments to the Constitution on numerous issues, it is high time to make amendments to the Fundamental Law on issues of gender equality of both sexes as well. Public of Ukraine, in particular, women as the most discriminated category, everybody who realizes the importance of gender equality, of ensuring of equal rights and opportunities, faces the issue of participation in the constitutional changes, around which active discussions are underway.

The **Constitutional Act of Canada** that became effective on April 17, 1982, sets forth the right for equality. The Canadian Charter of Rights and Freedoms ensures constitutional protection and formation of gender equality. Sections 15 and 28 of the Charter declare that every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. Furthermore, it is stated that this does not preclude any law, programme or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability<sup>43</sup>. The Charter guarantees rights and freedom equally to men and to women.

There were peculiarities in how gender content was introduced in the Fundamental Law of **France**. In June 1996, ten women, who represented both left and right forces in the Parliament, proposed to make amendments to the Constitution of France concerning parity of women and men. The proposal was supported by Prime Minister Alain Juppé and L.Justin. That very month, the Socialist party of France declared «parity» as their principle.

42 See Koval A.S. Constitutional legislation: Gender Expert Evaluation / A.S.Koval. – K.: Logos, 2001./ Коваль А.С. Конституційне законодавство: Гендерна експертиза / А.С.Коваль. – К. : Логос, 2001.

43 Melnyk T.M. International experience of gender transformations. Laws of foreign countries on gender equality. – p. 210. / Мельник Т.М. Міжнародний досвід гендерних перетворень. Закони зарубіжних країн з гендерної рівності. – С. 210.

The concept of parity that became usual in Europe, was constitutionally enforced in France, too.

In Constitutions of different countries, articulation of the rules shows certain particularities, which demonstrate certain difficulties in elimination of inequality of the sexes. For instance, while the **Constitution of Belarus** declares equal rights for both men and women to take part in elections and be elected in governmental agencies, in political life, in state governance, still, Article 32, Section 2, that directly pertains to gender equality, is articulated as follows: «Women shall be guaranteed equal rights with men in their opportunities to receive education and vocational training, promotion in labour, social and political, cultural and other spheres of activity as well as in creating conditions safeguarding their occupational safety and health». The scholars justly point out that this wording is incorrect as here man as such is presented as an standard of having rights, while woman, who differs from this «standard», has «to measure up» to him<sup>44</sup>. This provision in numerous countries is articulated in this way: «women and men are guaranteed equal opportunities...».

The gender norm declared in national Constitutions is often outlined rather widely. Complexity of its enforcement is also demonstrated by the fact that almost nowhere in the media or in the literature can one find mentions about citizens of any gender filing a claim to the constitutional court for protection of their right for equality. No facts of such claims have been made known in Ukraine, either.

The constitutional legislation at the global level was permeated with gender content and influenced national legislations. For instance, the **Republic of Korea and Monaco** excluded from their national laws discriminatory provisions that violated women's rights. **Poland, Morocco, Ethiopia, Eritrea** included in their Constitutions guarantees that ensure equality between women and men and protect human rights of women. In 1997, women's political rights were expanded in **Oman**. They were granted a right to participate in elections.

This is also related to the fact that Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates that member states, along with inclusion of the principle of equality of the sexes in their national Constitutions, commit to perform an entire complex of legal measures, and namely: to embody the principle of the equality of men and women in appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

This provision of the Convention was reinforced in the materials of the Beijing Conference where it was stated that until the national legislation and the national practice – in family,

44 *Melnykova E.V.* Political rights of women and their implementation in Belarus / E.V.Melnykova // The problems of constitutionalism: Collection of scientific articles. Issue 2: Gender Issues in the Sphere of Law / Edited by E.I.Gapova. — Minsk, 1998. — p.59. / Мельникова Е.В. Политические права женщин и их реализация в Беларуси / Е.В.Мельникова // Проблемы конституционализма : сб. научных трудов. Вып. 2 : Гендерные вопросы в сфере права / под ред. Е.И. Гаповой. — Мн., 1998.

civil, criminal, labour and trade codes as well as administrative rules and provisions – does not ensure complete acknowledgement and effective protection, implementation, exercise and observance of women's rights stipulated in the international treaties on human rights, these treaties are nothing more than paper they are printed on. This was discussed at the meetings «Beijing +5», «Beijing +10» and «Beijing +15».

The modern world is changing in this direction. **Canada** established the criminal justice that is better accessible for underprivileged groups of population, including women, women from the First Nations, and disabled women. **Turkey** is one of the countries, which made amendments to their criminal codes that eliminate differentiated approach to penalties for men and women for same crimes, such as marital infidelity or murder of one's spouse. **Nepal** established special family courts and women's departments in courts. Some countries in **Africa**, among which **Ghana and Senegal**, adopted the law that stipulates criminal persecution for performance of traditional rites connected to female genital mutilation.

In the modern conditions, in national societies the system of gender norms is being formed that is directed at elimination of distance between women and men's statuses, overcoming of all forms of discrimination against sexes in all spheres of life of the society. The first step of such generalization is adoption of special laws on equal rights and opportunities in numerous countries of the world, first of all in the countries of Europe.

### 3. Special focused laws on equal rights and opportunities: purposiveness and expansion of the sphere of action

The last quarter of the 20th century in the sphere of gender transformations is characterized by adoption of focused laws concerning state ensuring of gender equality, equal rights and opportunities. The special gender laws adopted in numerous countries of the world reflect both national peculiarities of legal ensuring of gender development and the process of the national implementation of the international law on issues of gender. What is actually taking place is the process of formation of the national gender legislation.

These laws reflect democratic transformations of the national social order in separate countries, as well as changes and peculiarities that characterize the international order and processes characteristic for it. The legislative enforcement of equality between women and men manifests development of these processes in the direction of gender progress of the legislative regulation of gender relations in the system of global orderliness. To what extent countries of the world in their internal development and at the level of international relations grasp the necessity of legislative ensuring of addressing of gender issues and regulation of gender relations, will determine the degree to which the international community secures reduction of the time it takes to reach the new level of establishment of the international gender order.

This is caused by globalization of international connections, gender migration, cultural processes, global need in all forms of democracy's achieving of its modern content, establishing of the parity principle as an important approach to the new forms of international self-organization of human existence, self-actualization of women and men's free and autonomous personality. For instance, according to different data, more than 7 million persons have left Ukraine to go abroad as labour migrants<sup>45</sup>. With development of the culture, it is an objective process that the population's migration will be growing in all countries. Mastering of the new environment by women and men who came from one country to the other is complicated not only by the need in normalizing their life in new surroundings, and life of local population, what brings certain discomfort to the system of its social-legal relations, in functioning of the organizational and legal system of national societies. Modern migratory processes require the global level unification of legal delimitation of rules of social cohabitation in laws. Such delimitation encompasses the system of principles and content of connections, including the gender order, in a concrete country in its harmonization with the international approaches, and by this facilitates citizens' orientation and readiness for acquisition of the established order in different countries.

Adoption of special laws on gender equality has to codify understanding of gender equality, equal rights, equal opportunities, the content of direct and indirect of discrimination against the sexes, sexual harassment as forms of discrimination, mechanisms for ensuring of gender equality, procedures of protection of gender rights and so on.

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<sup>45</sup> This number is often quoted by people's deputies of Ukraine in their speeches.



Special focused laws on equality of rights and opportunities are a form of countries' implementation of the international acts they acceded to that stipulate legal ensuring of gender equality.

Adoption of the laws on gender equality at the beginning the 21st century in numerous countries gives grounds to speak about deployment and certain unification of the process of legislative ensuring of equal rights and equal opportunities.

Of much interest is the **chronology** of this process in the legal field of the world, as it is connected with the level of addressing of numerous issues of social life, in particular, the issues of standards of living, material welfare of the population of these countries (*Table 3*). Furthermore, it should be mentioned that the first acts of legislative nature concerning gender equality were adopted in 1970-ties in Great Britain, the Netherlands and certain other Northern European countries. But they covered only one certain issue, in particular, employment, improvement of labour remuneration, improvement of social spheres, and so on. Table 3 gives data concerning some countries of the European region and post-Soviet countries, in which the names of laws raise the issue of ensuring of gender equality as relevant for the entire state and for the entire society.

**Table 3**

**Timeline of adoption of laws on equal rights and opportunities  
in the countries of the world**

<i>Year the law was adopted</i>	<i>Country</i>	<i>Name of the law</i>
<b>1972</b>	<b>Sweden</b>	Act on equality between men and women in the sphere of labour 1991 – Act on equality between women and men. 1998 – the Law on equality
<b>1975</b>	<b>Iceland</b>	1975 – the Law on equality between men and women 1985 – the Law on equal status and equality between women and men 1991 – the Law on equal status and equality between women and men 2000 – the Law on providing equal status and equal of rights women and men
<b>1978</b>	<b>Denmark</b>	the Law on gender equality May 2000 – the law on gender equality
<b>1978</b>	<b>Norway</b>	the Law on equality between the sexes Amendments to the Law were made in 1990, 1991 and 1995
<b>1079</b>	<b>Austria</b>	the Law on gender equality
<b>1980</b>	<b>The Netherlands</b>	the Law on equality between men and women

1986	Finland	the Law on equality between women and men
1995	Canada <sup>2</sup>	Federal Plan for Gender Equality
1998	Lithuanian Republic	the Law on equal opportunities
1999	Japan	the Basic Law on society of gender equality
2000	France	the Law on parity between women and men
2001	Germany	the Law on establishment of equality between women and men
2002	Slovenia	the Law on equal opportunities for of men and women
2002	Bosnia and Herzegovina	the Law on gender inequality in Bosnia and Herzegovina
2002	Romania	the Law on Equal opportunities for women and men
2003	Republic of Kyrgyzstan	the Law on foundations of state guarantees for ensuring of gender equality
2005	Ukraine	the Law on ensuring of equal rights and opportunities for women and men
2006	Mexico	the Basic Law on equality between men and women
2006	Moldova	the Law on equal opportunities for women and men
2007	Spain	the Law on equality of the sexes
2007	Turkmenistan	the Law on governmental guarantee of equality women
2009	Kazakhstan	the Law on equal rights and equal opportunities for women and men

The data demonstrate that regardless of the level of the country's development, at the international arena the process of legislative establishing of policy of gender equality is taking place as an objective necessity. But this necessity is conditioned not only by the international tendencies of genderization of the social life, but also by the peculiarities of the national societies' development, what is reflected even in the names of the laws. The names of the laws in each country concentrated attention to the major gender issues and approaches to them: gender equality (**Nordic countries, Canada**), equality of opportunities (**the Lithuanian Republic, Romania, Moldova**), parity (**France, Portugal**), guarantees for women (**Turkmenistan**), and so on.

The legislative regulation for ensuring of gender equality creates legal grounds for gender activity of the governmental and non-governmental structures, forms the legal rhythm of interaction between the parliament, government, the council on issues of the equal status and NGOs, guarantees legal opportunities of self-fulfilment for persons of female and male sexes as equals in rights, obligations and responsibilities.

**Denmark** is one of the first countries in the world, which as early as in the 1970-ties addressed the issues of gender equality from the point of view of the status of both sexes, not orienting and concentrating attention at improvement of the status of one gender –

women. Through this, the ideas of the international instruments already adopted at that time were implemented conceptually. In the Constitution of Denmark, adopted in 1953, the codified principle of equality between women and men found its development in laws and regulations of the following decades. In 1978, the country adopted the special law on equal opportunities for men and women.

The very title of the law emphasized the comprehensive approach to ensuring of opportunities, their equality as a prerequisite for democratic development of the society and the government. The law was not only declared *de jure*, it satisfied the needs of actual practices of gender transformations in the country. Along with development of gender relations on the basis of their analysis and according to the restructuring needs within the country, as well as on the basis consideration of requirements of the international legislation, in 1992 amendments were made to this law, first of all, of the institutional nature. In compliance with the new law, the council on equal status of men and women was established.

As a development of the Constitutional principles and provisions of the special law, during the last decades the issues of gender equality in the country have been regulated by a series of laws and regulatory acts, which were systematically amended. These include: on equal labour remuneration of men and women (1978, amended in 1992), on equal conditions for men and women in issues of access to occupation, paid leave in connection with birth of a child (1978, amended in 1994), on equality between men and women at appointment of members of state committees (1985), on equal opportunities for men and women at appointment to separate positions to executive councils of the state power (public administrations) (1990), and so on. In 1998, the Ministry of labour of Denmark adopted the Consolidated Act on equal treatment of men and women concerning employment, parental leave and other social guarantees. It combined provisions of the Consolidated Act as of October 17, 1994, on equal treatment of men and women concerning employment, parental leave and other social guarantees with amendments adopted on December 29, 1997. These acts, especially the ones adopted in the the 1990-ties, establish necessity of the balanced women's and men's representation in governing bodies of the country.

The law on establishment of equality between women and men, adopted by the Bundestag of **Germany** on November 30, 2001, is detailed as befitting to preciseness of the German nation. Special emphasis in the Law is made on ensuring of legal opportunities for women, who suffer most from inequality of the sexes. Furthermore, it is specified that «the number of women is considered insufficient when they constitute less than 50% of the total number of workers».

In March, 2007, the parliament of **Spain** adopted the law on equality of the sexes supported by all political parties, except for one – the right People's party. The draft law was presented by the Spanish Socialist Workers' Party. The law obliges all political parties and district associations during elections to nominate candidates in the lists where the amount of persons of one sex does not exceed 60%. This guarantees that women or men will always have no less than 40% seats in the list.

The law implements directives of the European Union on equality of labour, combating against discrimination and sexual harassment, as well as on access to occupation in state sector and social assistance. Companies, whose personnel are larger than 250 persons, are

now obliged to conduct negotiations about plans that enforce equality for their workers. Boards of directors are also obliged to adopt similar plans.

Currently, the earlier adopted laws are being updated with the gender perspective. The state rhetoric of gender equality requires more and more active state-legal practice of its implementation in actual actions. This is why amendments should be made to the laws. If we take, for example, the law of **Norway** adopted in 1978, it is still pretty well articulated. Numerous amendments were made to it. Noteworthy here is the understanding and perception of the issue, and namely the very scope of approach – equality of the sexes. The comprehensive view of the society, of ensuring of equal rights and opportunities in it, the clearly described mechanism of the ensuring of equality and of responsibility for non-compliance with the law, connections between the government and the public and so on make the need in this law understandable. The third decade of its operation, without doubt, has influenced establishment of social democracy in Norway and addressing of numerous social problems.

The international experience demonstrates that not all countries are striving to adopt the single focused law. There also exists another practice. For instance, **the United States of America** adopted separate laws on equal opportunities in numerous sectors, whose regulation in Sweden, Finland, Norway, Denmark and others in concentrated form is consolidated in the single special law – on gender equality. The federal statutory law of the United States of America has developed regulatory acts that prohibit discrimination based on sex and directed for ensuring of gender equality in different spheres of social relations. Such acts include<sup>46</sup>:

- Fair Labor Standards Act of 1938;
- Equal Pay Act of 1963;
- Civil Rights Act of 1964;
- Fair Housing Act 1968;
- Education Amendments of 1972;
- Equal Educational Opportunity Act of 1972;
- Equal Educational Opportunities Act of 1974;
- Equal Credit Act of 1974;
- Pregnancy Discrimination Act of 1978.

In compliance with provisions of the legislative acts, as well as regulatory acts of the US president, the federal bodies of executive power are vested with powers to ensure non-discrimination in spheres that belong to their competence.

By directing the activity on introduction of the international gender approaches to establishing of equality of the sexes' rights, the US amended their special legislation, which earlier regulated protection of women's labour. Under the influence of the gender movement, the American courts deemed invalid all special norms that contradict the laws on prohibition of discrimination based on sex.

The laws adopted by different countries have their certain peculiarities, differences,

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46 Ministry of Foreign Affairs of Ukraine Informational-analytical memo on development of the executive power mechanism in the sphere of establishment of gender equality. / Інформаційно-аналітична довідка Міністерства закордонних справ України щодо розбудови механізму виконавчої влади у сфері становлення гендерної рівності.

more or less attention devoted to this or that component in regulation of gender relations and formation of the gender system of the society. What is similar between them is: prohibition of discrimination based on sex, establishing of the parity principle in women and men's relations, protection of their equality, guarantee of gender rights, searching for mechanisms to control over observance of provisions of the law on equality and so on.

Governments of several countries, in particular, **of France and Portugal**, directed the focused laws at ensuring of parity representation of women and men at all elected positions, that is, 50/50. The formula of the parity concept, which was introduced at the beginning of the 1990-ties, is quoted, for instance, in the title of the law of France, and namely «On parity between women and men», adopted on July 6, 2000. The law is directed at achievement of parity, equal representation of women and men, that is, 50/50. The actual practice proved that the process of parity establishment requires both social and political time.

The law on parity adopted in Portugal establishes the minimal quota at the level of 33% for representatives of each gender in the candidates' lists at elections to the European Parliament and at the national and local elections. As a result, the share of women in the national Parliament grew from 19.1% in 2005 to 29.3% in 2008.

At the verge of the 21<sup>st</sup> century, the **countries of the Eastern European region and post-Soviet countries** turned to adoption of the focused legislation on gender equality.

The actual opportunity to adopt a law on gender equality in the **Lithuanian Republic** appeared in 1996 after the elections to the Seim, when a faction of women-parliamentarians was formed and most parties already declared addressing the issues of equality between women and men in their party programmes<sup>47</sup>. This was also facilitated by the situation connected to Lithuania's aspiration to integrate with Europe, become a member of the European Union and NATO. On December 1, 1998, taking into account the recommendations of the UN and the European Union on issues of equal opportunities, the Seim of the Lithuanian Republic adopted the Law on equal opportunities. The very title of the law justly emphasizes opportunities. This means that the Lithuanian legislation clearly outlines the rights and freedoms, so urgent need to enforce opportunities for their exercise exists.

The Law on equal opportunities for women and men, adopted in February 2006 by the Parliament **Moldova** emphasizes equal opportunities.

On January 31, 2003, the **Republic of Kyrgyzstan** adopted the law on foundations of state guarantees of ensuring of gender equality. Emphasis on the foundations in the Law, as well as its very content, shows that the approach to the gender issues is just being deployed.

On November 17, 2009, the Kazakhstan Mazhilis adopted the law «On equal rights and equal opportunities for women and men», although the issue had been raised for many years before that.

**Belarus** and the **countries of the Caucasian region** have their own experience in development of ideas, approaches and the conceptual understanding of the special law on equal rights and opportunities. Among the Caucasian countries, the law on governmental guarantees of equal rights for men and women was adopted in Azerbaijan. It specifically emphasizes the guarantor's role of the government.

47 *Equality between women and men in Ukraine: Legal aspects. Materials of the international research and application conference* (Kyiv, November 20–21, 2000). – K., 2001. – p. 114, 115. / *Рівність жінок і чоловіків в Україні: правові аспекти: матеріали Міжнародної науково-практичної конференції* (Київ, 20–21 листопада 2000 року). – К., 2001.



In 2003, the State Duma **of Russia** held the first reading of the draft of the federal law on governmental guarantees of equal rights and freedoms and equal opportunities for men and women in the Russian Federation, which still has not been adopted. The State Duma and the Council of Federation of the Federal Assembly of Russia adopted the strategy and major principles of the development of the legislation against discrimination based on sex.

The legislative and legal initiative concerning adoption of the gender legislation has been expressed differently in various countries of the world. It is also a sign of development of the women and men's gender-legal activism in the modern national and global life, their mastering of legal spheres of life, forms of manifestation of the legal democracy and influence over representative structures. Submission and adoption of the laws on gender equality is characteristic of establishing of the democratic forms of life in states, of development of the civil society, its organized forms of existence and its progressive development.

The initiative on adoption of special laws to guarantee gender equality in the countries of the world is predominantly promoted by women. And this is for a reason, as they are the most discriminated part of the society. These laws were first adopted in those countries where the women's movement was strong and where it promoted women-leaders. The women's movement of these countries, its concrete and clearly defined social objectives, and their permanent contact with party and state institutes has been and still is influencing the social transformations of the party and state nature, formation of the socially oriented, democratically organized, law-based government. The women's movement progressed not because these countries nowadays have achieved high economic and social development. To the contrary, these countries' high development became possible thanks to the democratic actions and social orientation of the civil society, in which women constituted an important and active component, both directly through their individual participation and through various women's associations. Women were fighting for democratic transformations, cooperation and participation as equals to men in activity of political parties, non-governmental and governmental structures. They brought with them new democratic ideas through individual activity as equal members, as well as formed women's party groups, when the issue about the women's special situation was on the agenda. At the national level, women rose to raising and addressing problems that have global and national character, in particular, the problems of peace, violence, participation in all democratic movements, ensuring of freedom and decent standards of living, and so on. Only raising and resolving of grave issues made it possible for women to enter political structures, to obtain power and property. The level and power of women's influence over the government agencies, as well as adoption of the gender legislation to a significant degree is determined by the level and power of influence of all forms of women's activism over all directions of actual transformations.

During the 1990-ties, it was the governments oriented towards gender equality that held the first places among the countries of the world on ensuring of high standards of living of their nations. According to the UN data, in the 1990-ties – at the beginning of the 21<sup>st</sup> century, there countries were New Zealand, Sweden, Finland, Canada, Norway. The issues of partnership and tolerance in national, social class, productive, state, party, and corporate relations, the gender component in them and the organizational structures based on them constitute the content of the gender ideology dominant in these countries as well as of the

spiritual atmosphere, policy and functioning of the civil society. All this deserves a lot of attention, study and national adoption, if it satisfies the modern needs.

Therefore, the fact of the actually adopted gender legislation in different countries of the world in the form of special laws manifests acknowledgement of necessity to expand legal ensuring of equality of rights and opportunities. It also demonstrates development of the process of formation of the gender legislation in the countries of the world. The time lost in adoption of the special gender legislation leads to lost gender legal opportunities in the society that strives for restructuring, innovations and sustainable development.

When analysing the special laws on equal rights and opportunities, it is extremely important to identify the goals and spheres of their actions. They reveal the transition process in countries and regions from the conceptual vision of the changes in gender relations, which was considered through improvement of the women's status, to transformations in development of both sexes as deeply integrated groups, demonstrate existence of the gender strategies elaborated in the society as an independent direction in the public policy or an approach to it. The goals and objectives show the very scope of the approach to the gender transformations, the law's role in it, readiness of the government and the society to the gender analysis of modern gender relations and their strategic vision. The legislation is creative and effective, only when the mechanism of gender-legal regulation is reflected in it not only from the point of view of vision of today. The law has to incorporate clearly defined gender perspectives of development in their wide connections with different spheres of social existence.

The sheer scope of approach to the legal ensuring of addressing of gender issues through gender legislation also reveals identifying of the sphere of its influence. New opportunities for development of the society and its achievement of the set objectives manifest capability of the significant scope of consideration and implementation of gender transformations in widest spheres of social relations. Cross-sectionality of the gender issues requires legal ensuring of adoption of gender programmes in different spheres of life of the society and consideration of their peculiarities. Adoption of the gender legislation is characterized by expansion of the sphere of influence of the gender policy. This facilitates expansion of the legal basis of the gender transformations, that is, steady expansion of the environment of proliferation of egalitarian and equally responsible potential in the sexes.

Emphasizing the gender goals and spheres of gender influence is important not only because of their own significance. They are important from the point of view of expansion of opportunities of nations and humankind in general in achievement of other goals and permeating of the functioning of the spheres of human life with new content. Equality of activity of the sexes in different spheres of life of the society brings growing effectiveness of achievements in them, formation of equal responsibility for their development.

The goals and objectives of gender transformations in the society in their systemic legal dimension is a sign of the degree of the state's civility, its ability to perceive the needs of the historical time and engagement of legal mechanisms for ensuring of freedom and development of human potential.

Let us consider from this point of view – identifying of goals and spheres in laws – the international practice in formation of the legislation on equal rights and equal opportunities (*Table 4*) that determines scope of the environment covered by the power of influence of the focused gender law.

Table 4

**Goals and spheres of action in special laws on equal opportunities  
in different countries of the world**

<i>Country</i> <i>Name of the law</i>	<i>Goals of the law</i>	<i>Sphere of action of the law</i>
	<i>As in the document</i>	
<b>Norway</b> The Law on equality between the sexes	The law is aimed to facilitate equality between the sexes and especially improvement of the women's status. The bodies of power have to create conditions for equality between the sexes in all spheres of life of the society.  Women and men must be provided equal opportunities in the productive sphere, in the sphere of education and professional career, in the sphere of culture.	Effect of the law covers <b>all spheres of life of the society</b> , except for internal life of religious communities.  The bodies listed in Article 10 of this Law (the Commissioner for Equality, the Commission for equality appointed by the King), do not bear responsibility for observance of the law in cases pertaining to family life and circumstances of purely private nature.  In special cases, the King can completely or partially repeal effect of this Law in separate sectors. The Commission's opinion on the subject must be requested before such decision is adopted.
<b>Lithuanian Republic</b> The Law on equal opportunities	Ensuring of introduction in practical of implementation of equal rights of men and women, guaranteed by Article 29 of the Constitution of the Lithuanian Republic	The provisions of the Law <b>do not apply to family and personal life.</b>
<b>Japan</b> The Basic Law on society of gender equality	Taking into account the pressing need in building of the prosperous and dynamic society, in which fundamental rights of women and men are respected, and which can adequately respond to changes in the socioeconomic environment, this Law aims to comprehensively and consistently facilitate formation of the society of gender equality through establishing of major	<b>The entire society</b>

	principles of such society, identifying of responsibility of the government, of the bodies of local self-government and citizens, as well as identifying of the major directions of the policy concerning creating the society of gender equality	
<b>Iceland</b> The law on providing of equal status and equal rights of women and men	<p>The Law aims to establish and advance equal status and equal rights and opportunities for women and men and support gender equality in all spheres of the society. Each person, regardless of gender, must have equal opportunities to use results of his or her own work and develop their abilities.</p> <p>This goal shall be obtained through:</p> <ul style="list-style-type: none"> <li>a) gender orientation of all spheres of the society;</li> <li>b) achievement of women's and men's equal participation in adoption of socially important decisions and identification of strategies;</li> <li>c) providing of equal opportunities to balance professional and family obligations;</li> <li>d) improvement of women's status and expansion of opportunities of their self-expression in the society;</li> <li>e) providing of equal opportunities to obtain education;</li> <li>f) analysis of the gender statistics;</li> <li>g) expansion of gender research</li> </ul>	<b>All spheres of the society</b>
<b>Federative Republic of Germany</b> The Law on establishment of equality between women and men	1. The law is aimed to facilitate establishment of equality between women and men, as well as elimination of existent and potentially possible discrimination based on sex in the specified sphere of effect...	1. Effect of the covers directly or indirectly <b>all workers in federal bodies of power at all levels</b> , and also <b>judges of the Federation</b> . Governmental enterprises, including enterprises with special kind of management are also classified as federal bodies of power.

	<p>Adoption of the law will facilitate elimination of existent limitations of women's rights. The Law also aims to create opportunities to balance family responsibilities and professional activity for women and men. Furthermore, it takes into account the special status of disabled women and women that become disabled.</p> <p>2. Legal and administrative acts of the Federation must at the official level reflect equality between women and men. Effect of this Provision covers also official and business correspondence.</p>	<p>2. When an enterprises shift from state to private property, norms of this Law shall be applied.</p> <p>3. In cases of voluntary state services provided to recipient organizations, it is necessary to make sure that organizations-recipients of services observe the main principles of this Law.</p>
<b>Spain</b>	The goal of the Law is to eliminate discrimination and provide Spanish women equal rights with men in political, economic and social spheres.	<b>The entire society.</b>
<b>Slovenia</b> The Law on equal opportunities for men and women	<p>1. The Law is aimed to identify the general foundations for improvement of the women's status and create of equal opportunities for men and women in political, economic, social, educational and other spheres of the social life.</p> <p>2. Creating of equal opportunities for men and women is a responsibility of the entire society. It means elimination of barriers in introduction of gender equality, first of all through prevention and elimination of different treatment of women and men as a form of discrimination that emerges in practice as a result of traditionally and historically conditioned division of different roles in the society, and also through conditions for advancement of equal representation of both sexes in all spheres of social life.</p>	<b>Political, economic, social, educational and other spheres of the social life</b>



<b>Bosnia and Herzegovina</b> The Law on gender inequality in Bosnia and Herzegovina	The Law establishes, supports, and protects actual gender equity and guarantees equal opportunities for all, both in public and personal life, as well as eliminates and prevents manifestations of direct and indirect gender discrimination and thus improves the women's situation.	Complete gender equity must be guaranteed <b>in all spheres of life</b> of the society, in particular in such sectors, as: economic, education, employment and work, social ensuring and health care, public life and mass media, regardless of the marital status
<b>Sweden</b> Act about equality between women and men	The Law is aimed at consolidation of equal rights of women and men in the sphere of labour, conditions of employment and other conditions in the labour market and occupation, and also ensuring of equal career opportunities (equality in the sphere of labour). First of all, the law is meant for improvement of the women's status in the labour market.	<b>Sphere of labour relations</b>
<b>Canada</b> The Federal Plan for Gender Equality	Objective of the federal plan: 1. introduction of gender approach by Ministries and departments. 2. improvement of the economic autonomy and welfare of women. 3. improvement of physical and psychological status. 4. combating of violence in the society, especially violence against women and children. 5. introduction of gender equality in the sphere of cultural life of Canada. 6. achievement of women's potential in the sphere of management. 7. establishing and support of gender equality in the entire world.	<b>All spheres of the social life</b>
<b>Republic of Kyrgyzstan</b> The Law on foundations of state guarantees for ensuring of gender equality	The Law sets to ensure for persons of different sexes: - equality of rights, obligations and responsibility; - equality of opportunities;	The object of gender equality is <b>social relations</b> that are subject to legal regulation.

	<ul style="list-style-type: none"> <li>- equal partner relationships in all spheres of life;</li> <li>- equality in family relations;</li> <li>- equality in social, economic, labour and other activity</li> </ul>	
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The goals in laws on establishing of gender equality in different countries are articulated differently. This is a certain manifestation of the attitude to the issue, its vision and expectations for the results of the adoption and implementation of the law that to a significant degree is conditioned by the historical development.

The law on gender equality, adopted in Norway in the 1970-ties, during the rise of the women's movement, generously defined the scope of gender activity of the government – establishment of the equal status between persons of different sexes. At that, it takes into account the women's situation as that of a more discriminated group and places emphasis on necessity of the special attention being paid to improvement of their status, aligning with the general strategic line – that of gender equality. The subject of regulation of this Law is discrimination between women and men in all spheres, except for internal conditions within religious communities, as well as certain other exclusions that can be introduced by the King and the government of the country.

**Japan** raises the issue of achievement of gender equality conceptually on a very deep level. The very title and the context of the law is about the issue of creating of the society of gender equality. Furthermore, the law is build in such a way that to the degree it regulates relations of gender equality, it no less expressively promotes the ideology of gender as the foundation in the structure of social consciousness of the Japanese. With this, the Japanese law echoes the **Canadian** Federal Plan for Gender Equality, which considers establishment of gender equality as fundamental in approach to understanding of the social progress.

Both the Canadian federal plan and the Japanese Basic Law on the society of gender equality are directed at the gender perspective. The preamble to the law of Japan, in particular, says: "...It is necessary to acknowledge the transition to the society of gender equality and introduction of the policy of creating of the society of gender equality as the primary objective in identifying of the outline of Japan of the 21st century». Therefore, the progress in the sphere of gender, its enforcement is set as priority in the state policy and in all spheres of the social development.

As early as in the goals, the Japanese law articulates in the maximally accessible form the understanding of the society of gender equality as such, in which men and women are granted equal opportunities for voluntary participation in all kinds of activity as equal partners in the society and in which men and women exercise equal political, economic, social and cultural privileges, as well as bear the same responsibility.

This clearly defined notion of the society of gender equality incorporates a wide understanding of gender balance, and namely:

- comprehensive vision of the society of the future as the gender-balanced society – the society of gender equality;

- integral implementation of equality in rights, obligations, responsibilities and opportunities in their interconnectedness;
- singling out voluntary participation concerning adoption of equal rights of partnership in the society;
- identifying of the wide range of spheres where privileges operate;
- emphasizing equality of the sexes in their identical responsibility for creating of the society of the new quality, and so on.

Article 1, «The Goal», connects creating of the prosperous and dynamic Japanese society as the society of gender balance to enforcement of gender equality. The article determines the subjects responsible for creating of the society of gender equality, and namely the state, bodies of local self-government and citizens. That is, the actual issue of establishing of gender equality and creating of the qualitatively perfect society of gender equality is that of the entire society, of the entire state and of each citizen – man and woman.

The goals of the law, adopted in **Iceland**, and of the Federal Plan for Gender Equality in **Canada** outline the major strategic directions of activity on introduction of gender equality. They are included in the context of gender goals and objectives, which are codified in the Action Programme, adopted at the Fourth World Conference on Women, and satisfy the requirements of modernity and the gender perspective of development of the Canadian society.

The law on gender policy **of Sweden** in articulation of the goals and sphere of effect limits itself to the issues of productive activity. Here one should take into account the entire previous activity of the parties and the government in the society directed at enforcement of gender equality. This is a country where there are five ombudsmen on various issues, where the act on equality adopted in 1980 and expanded in 1992 and 1994, facilitated significant gender achievements in the society. Nowadays Sweden emphasizes attention on the issues that are to be addressed first, and namely, labour relations and observance of gender principles in them. But the very title of the law of Sweden on equality between women and men does not concentrate attention on labour relations or spheres of work; ideologically and psychologically it embeds gender orientation in consciousness of the entire society, all spheres of human life.

Specificity of the **German law** lies in the nation's precision in details, specificity in definition of the activity and of the regulation object. Even when outlining the goal, the legislators emphasized the bottlenecks of the women's discriminated status, in particular that disabled women or women who can become women, which require special attention.

The independent states, which recently were the part of the USSR and still bear a certain imprint of that, raise the issues of gender changes rather laconically, but at the level of the international standards. **Lithuania** aims to enforce opportunities for gender equality, by referring to the provisions of the Constitution, and in detail regulates activity that will facilitate establishment of such equality. **The Republic of Kyrgyzstan** directs its activity on ensuring of equality by specifying the subject of its – rights, obligations, responsibilities and opportunities, as well as by emphasizing importance of their manifestations in all spheres of the social life. The law at the level of the modern gender culture and achievements of the gender science regulates actions for obtaining the set goal.

What is characteristic for most laws and is extremely important about them is also that with their influence they cover all spheres of the social life. Only some of them concentrate on special spheres, for instance, as in **Sweden** on labour relations.

**Ukraine's** experience on initiating and consideration of draft laws on state ensuring of equal rights and opportunities for women and men turned out to be special and rather interesting. This experience demonstrates how complicated it can be, but at the same time it actively promotes the process of realization of necessity of the gender-legal regulation.

Since October 1999 to September 2005 – when the focused law on ensuring of gender equality was adopted, that is, during almost six years, eight draft laws (*Table 5*) were submitted to the Verkhovna Rada of Ukraine as legislative initiatives. During this time, the number of subjects of legislative initiatives who expressed their interest to the gender issues was growing. It should be mentioned that at discussion of the first draft at the session of the Verkhovna Rada of Ukraine few had heard about gender and the absolute majority of people's deputies did not accept either the very notion of «gender», or the idea of legislative ensuring of equality of rights and opportunities for women and men.

During these years, Ukraine has advanced to have several draft gender laws submitted to the legislative body of power, but, unfortunately, not all of them are of high quality. Not a lot of time has passed since its adoption, and the law already requires amendments and improvement.

**Table 5**

**Draft laws on equal rights and opportunities for men and women submitted by the subjects of legislative initiatives to the Verkhovna Rada of Ukraine during 1999–2005**

<b>No.</b>	<i>Date of submission of the draft</i>	<i>Subjects of the legislative initiatives</i>	<i>Name of the draft</i>
1	October 1999	People's deputy of Ukraine M.P. Kovalko	The Law of Ukraine «On state guarantees of equal rights and of opportunities for men and women»
2	October 1999	People's deputy of Ukraine V.V.Kostytsky	The Law of Ukraine «On national strategy of improvement of women's status in Ukraine»
3	June 2001	People's deputies of Ukraine M. Kovalko, I. Ostash, K. Samoiluk, Z. Romovska	The Law of Ukraine «On state guarantees of equal rights and of opportunities for women and men»
4	September 2002	People's deputy of Ukraine R.Zvarych, K. Stetsko	The Law of Ukraine «On ensuring of equality of women and men's rights»
5	March 2003	People's deputies of Ukraine O.M.Volkov and O.M.Bilovol	The Law of Ukraine «On ensuring of equal rights and opportunities for women and men»

6	December 2003	People's deputies of Ukraine K.O.Fomenko., O.V.Bilozir, L.P.Suprun, A.V. Shkil, V.P.Semeniuk, Z.G.Katusheva, V.I.Nadruga, L.D. Kyrychenko, V.D.Kyrylov, M.A. Markush, T.S.Proshkuratova, G.F.Garmash, K.S. Samoilyk, M.Budagiants, L.S.Grygorovych, S.M. Tereshchuk, T.D.Bakhteyeva, Yu.A.Karmazin, V.V. Drachevsky	The Law of Ukraine «On ensuring of equal rights and opportunities for women and men»
7	January 2004	The Cabinet of Ministers of Ukraine	The Law of Ukraine «On ensuring of equal rights and opportunities for women and men»
8	December 2004	People's deputies of Ukraine K.S.Samoilyk and V.I.Nadruga	The Law of Ukraine «On ensuring of equal rights and opportunities for women and men»

Ukraine can state that the idea of gender is gradually permeating the consciousness of men. Specificity of draft laws on gender equality submitted to the parliament as a legislative initiative was that almost all of them were submitted by male people's deputies. The male deputies felt the need of the time stronger and deeper. This situation is a sign of weakening of the women's movement as an influential force as compared to its rise, which exercised significant influence at the beginning of the 1990-ties. The growing number of women's organizations is not always an indicator of blossoming and development of the women's movement and of its advancement.

The draft laws were discussed at numerous round tables, conferences and meetings for people's deputies of Ukraine. The materials of draft laws were discussed at scientific conferences as well as at research and application conferences conducted by scholars and non-governmental organizations. In September 2005, the Parliament adopted the law of Ukraine «On ensuring of equal rights and opportunities for women and men», which considers introduction of gender approaches as a comprehensive process and a strategic reference point.

For Ukraine, progressive significance of this document lies in the fact that it legally guarantees:

- coordination and harmonization of the national legislation on issues of gender with the international legislation;
- legislative acknowledgement of presence of gender discrimination in the country in all spheres of social life and necessity of its prohibition as a phenomenon that encumbers the social progress;



- ensuring of equal rights and opportunities for women and men outlined as a special sphere;
- acknowledgement of the gender policy as the state policy and definition of its eight directions;
- emphasized role and significance of ensuring of actual opportunities for achievement of gender equality;
- definition of the mechanism of ensuring of equal rights and opportunities for women and men: the system of bodies, agencies and organizations that are authorized to enforce equal rights and opportunities for the sexes;
- emphasized importance of formation of the specialized central body of executive power on ensuring of equal rights and opportunities for women and men and outlining of its competence;
- responsibility for violations of the legislation of Ukraine on ensuring of equal rights and opportunities for women and men;
- raising issues on introduction of special temporary measures to create equal opportunities for the sexes and advancement of gender equality in specific spheres of social life where imbalance concerning representation of women and men or an unequal status of persons of one of the sexes is found.

The law plays an important role in re-structuring of the way of life of the Ukrainian society and of the state development, activity of governmental and non-governmental institutions. It aims for modelling of equal rights and opportunities for men and women in accordance to the historical needs and to the process of the social development, the actual status of the sexes, including the attempts of political-legal modelling of the gender perspective and performance of the directions of gender transformations in the political-legal sphere of life of the Ukrainian society.

Adoption of laws on gender equality as a global process is a sign of the legal establishing of democratic forms of life in states, development of the civil society, of its organized forms of existence and progressive development.

Specificity of laws on gender equality adopted on the verge of the 20<sup>th</sup>–21<sup>st</sup> centuries in some countries lies in **turning to legal ensuring of special temporary measures – gender quotas** to eliminate gender discrimination and remove barriers in introduction of gender equality in specific spheres of social life where women's and men's disproportionate representation or unequal status of persons of one sex are especially expressed. Gender quotas in numerous countries of the world became a major mechanism of establishment of balance of the sexes. They guarantee participation of men and women in political life at the level of a certain share from the total number of seats in the Parliament, as well as guarantee termination of women's isolation from legislative power.

The major directions of implementation of affirmative actions in Ukraine are determined in the Law of Ukraine «On ensuring of equal rights and opportunities for women and men», as well as in the state programme on establishing of gender equality in the Ukrainian society for the period till 2010, which was adopted in 2006. This demonstrates that the state attaches special significance to affirmative actions, considering them as an independent direction in the structure of the public policy on ensuring of equal rights and opportunities for women

and men. As A.S.Oliynyk justly noted<sup>48</sup>, taking into account that at the modern stage it is impossible to implement the constitutional principle of equality of men's and women's rights and freedoms with the assistance of either mechanisms that had been formed in the past, or new mechanisms of the crisis period, which are still immature, for a certain period of time the state must undertake to enforce a certain kind of protectionism on ensuring of equality for that social sex, which is being discriminated against. With the assistance of law, this can become a reality through stipulation in the legislation of political gender quotas, that is, representation norms guaranteed by law. They would secure democratic formation of power by both social-sexual groups of the society.

Application of affirmative actions in the Law is addressed in eight articles. At that the emphasis is made on the fact that the government-sanctioned affirmative actions are not considered discrimination on the ground of sex.

Let us have a look at those Articles of the Law, in which importance of **special temporary measures** is considered. This gives us an opportunity to see comprehensive nature of this issue:

**«Article 1. Definitions**

Affirmative actions are special provisional activities aimed at eliminating imbalance between opportunities for women and men to enjoy their equal rights provided for in the Constitution and laws of Ukraine;

**Article 3. Fundamental Principles of State Policy on Equal Rights and Opportunities for Women and Men**

The state policy on equal rights and opportunities for women and men shall be aimed at:  
Performance of affirmative actions;

**Article 7. Bodies, Institutions and Organizations that Have Powers and Authorities to Ensure Equal Rights and Opportunities for Women and Men**

The state authorities and local self-government bodies, enterprises, organizations, institutions and associations of shall facilitate balanced representation of both genders in management and decision-making. For the purposes of this Law, ...they may carry out affirmative action.

**Article 11. Powers and Authorities of the Special Authorized Central Executive Body on Equal Rights and Opportunities for Women and Men**

The special authorized central executive body on equal rights and opportunities for women and men shall:

Submit proposals on initiation and termination of affirmative action;

**Article 12. Activities of Executive Bodies and Bodies of Local Self-Government to Secure Equal Rights and Opportunities for Women and Men**

...perform affirmative action.

**Article 13. Powers and Responsibilities of Officers (Coordinators) for Equal Rights and Opportunities of Women and Men in Executive Bodies and Bodies of Local Self-Government**

Officers (coordinators) for equal rights and opportunities of women and men shall

48 Oliynyk A.S. Constitutional Legislation of Ukraine: Gender Expert Evaluation. – p.49. / Олійник А.С. Конституційне законодавство України: гендерна експертиза.

organize work of respective executive bodies and bodies of local self-government on the following basis:

Analysis of the status of gender equality and assessment of possibilities for taking affirmative action in order to eliminate asymmetry and imbalance in a certain territory or sphere;

**Article 16.** Equal Rights and Opportunities for Women and Men in Public Service and Local Self-Government Bodies

Affirmative action shall be allowed to achieve balanced representation of women and men in public service and local self-government bodies provided that ranking categories of public servants are taken into consideration.

**Article 17.** Securing Equal Rights and Opportunities for Women and Men in Work and Remuneration

Employers may take affirmative actions aimed at achieving balanced representation of women and men in various segments of the labour market as well as among different categories of employees.

**Article 19.** Securing Equal Rights and Opportunities for Women and Men in Business

Affirmative action may be taken at the national and regional levels with due regard to statistic data. Such action shall be aimed at eliminating imbalance of women and men in business, granting benefit credits, organizing business-trainings and other activities.”

The law determines the **institutions**, which are vested with implementation of affirmative actions:

- bodies of state power and bodies of local self-government, enterprises, organizations and agencies, associations of citizens facilitate balanced representation of the sexes in management and decision-making. To achieve the goal of this Law in their activity, they can apply affirmative actions;
- the special authorized central body of executive power on equal rights and opportunities for women and men submits proposals on implementation and termination of affirmative actions;
- bodies of executive power and bodies of local self-government perform affirmative actions within their competence;
- employers can perform affirmative actions directed at achievement of the balanced ratio between women and men in different spheres of labour activity, as well as among different categories of workers.

The Law contains a lot of positive ideas but at the same time it has certain gaps. The legislators predominantly declare opportunities to turn to affirmative actions, but do not reveal their content. Such actions can be general and specific, regulatory and political, and so on. The Law does not determine the criteria, conditions and grounds of implementation of affirmative actions. It does not articulate the legal norm and necessity of the obligatory 40-percent (or other) representation of women among the members of the parliament, as recommended to countries by international treaties, to which Ukraine acceded, which enables the systemic resolution of the gender issues legislatively. By the way, the Millennium Development Goals: Ukraine – the programme which has been already adopted, stipulates

till 2015 obtaining of the 30-percent representation of females in the Parliament.

The law does not specify the mechanism in decision-making on implementation and termination of affirmative actions or control over their implementation. This limits the legal opportunities of implementation of the declared norm, and in doing so, turns, ensuring of the very direction in activity into a palliative.

The norm of the Law that says that «political parties and electoral blocs, when nominating candidates for people's deputies of Ukraine in the multi-mandate state-wide electoral district enforce women's and men's representation in corresponding electoral lists» is still not specific enough. The recommendations concerning the ratio of persons of both sexes in party lists are still not implemented – they were left out by the legislators (they may have not considered it possible or advisable to include such a norm).

With all the problems connected to implementation of the Law, it still opens a wide field for activity concerning use of accelerating actions to ensure achievement of gender equality. As they are closer connected with actual operation, reality is waiting for the practised manifestations of legal initiative.

The Law on equal opportunities for women and men, adopted by the National Assembly **of Slovenia**, attaches **significant attention to temporary measures**. The Law has elaborated Articles, which articulate the content of general and special measures. At that, the content of special measures is structured into constructive, encouraging and programmatic and is stated rather clearly:

#### «Chapter 7. Special measures

1. Special measures are temporary measures, aimed at creating of equal opportunities for men and women and advancement of gender equality in those spheres of social life where disproportionate representation of men and women or unequal status persons of one gender is found.

2. It is considered that disproportionate representation referred to in the previous paragraph exists in cases when representation of one gender in a certain sphere of social life or in a part of this sphere is lower than 40 percent.

3. Special measures are performed for the purpose of elimination of objective barriers, which are the reason of the disproportionate representation of men and women or unequal status of persons of one gender; similarly, special benefits are provided in the form of encouragement for the sex that has unequal status or whose representation is lower. Such promotions must be justified and correspond to the goal of special measures.

4. Special measures, first of all, include:

- such constructive measures, whose implementation, in case of equal compliance to the established norms, provides priority to persons of the sex that has unequal status, or whose representation is lower, and which shall be effective until proportional or equal representation is not achieved;

- such encouraging measures that stipulate special benefits or encouraging rewards for the purpose of elimination of disproportionate representation of men and women or unequal status of one of the sexes, and

- programmatic measures directed at shifting the social consciousness, and action plans, connected with advancement and ensuring of equal opportunities and gender equality».

After determining the content and structure of the special measures, the Law of Slovenia in a separate Article reveals, in which spheres and which bodies shall perform them:

### **«3. Performance of special measures**

#### **Chapter 8. Performance of constructive measures**

1. Constructive measures are performed in the sphere of education, employment, professional, non-governmental and political activity and in any other sphere of the social life, with which the reasons of their adoption are connected, as outlined in Section 7 hereof.

2. Constructive measures are performed by the governmental agencies according to their competence and by the bodies of local self-government, business structures, political parties and non-governmental organizations.

3. The governmental agencies, referred to in the previous paragraph, shall guarantee performance of the constructive measures in compliance with the Action Plan on ensuring of equal opportunities, developed based on the analysis of the situation concerning the status of women and men in the sphere of labour. The Action plan determines the reasons of application of constructive measures, goals to be obtained as their result, the date they commence and conclude, and the methods of monitoring and control over their implementation.

4. The Action Plan, referred to in the previous paragraph, shall be submitted for consideration to the Agency on equal opportunities for preliminary approval before the constructive measures commence.

#### **Chapter 9. Performance of encouraging and programmatic measures**

Encouraging and programmatic measures are developed and approved on the basis of the National programme, created in compliance with this Law, as well as other regulatory acts of bodies of state power and local self-government, economic agencies, political parties, non-governmental and other organizations, whose sphere of activity as to its essence and content is connected with implementation of these measures.”

The Law of the Republic of **Iceland** on providing of equal status and equal rights to women and men, adopted by the Alting, contains an elaborated Chapter on prohibition of discrimination based on sex. At that, women constitute one third of the Members of the Parliament. The conceptual gender approach to formation of the Law codifies the guarantees of observance of the gender principle for the purpose of ensuring of gender equality in the country. One of the articles stipulates admissibility of implementation of temporary special measures in a specific way:

#### **«Article 22. General prohibition of discrimination**

Any gender discrimination, direct or indirect, is prohibited.

Although implementation of temporary measures for improvement of the status of men and women, aimed to ensure equal rights for women and men, not is considered to be violations of this Law. Also measures, directed at levelling of the statuses of men and women, are not considered to be violations of this Law. The same pertains to cases when there are objective factors related to professional activity to prefer representatives of this or that sex.

Special benefits for women in case of pregnancy or birth of the child are not considered



discrimination.”

When elaborating on the content of discrimination on the grounds of sex, the law on equality of sexes in **Bosnia and Herzegovina** focuses attention on taking special measures. By this, the legislators address the complexities of the process of establishing of the balance of the sexes in different structures and admit that eliminating of such complexities will require interference of the government for some time:

“...Prohibition of discrimination will not have place in reality, if the norm, criterion or practice are objectively justified, when they obtain the legitimate goal proportionate to necessary and justified measures.

In compliance with provisions...of this Article, it is allowed to take special measures to support gender equality and equity of the sexes, elimination of existent inequality, at the same time taking into account their biological differences.”

By devoting attention to support of gender equality and elimination of actually existent inequality of the sexes, the Law emphasizes taking into account biological differences, not limiting to the issue of motherhood only.

The Law outlines the circle of agencies, which shall guarantee and facilitate at all levels balanced representation of the sexes in management and decision-making. In particular, it says:

**«Article 15.**

Governmental agencies and bodies of local self-government, managerial bodies of companies, political parties and non-profit organizations guarantee and facilitate balanced representation of the sexes in management and process of decision-making.

To achieve goals outlined in paragraph 1 of this Article, the authorized bodies at adoption of programmes and plans can recourse to any temporary measures at all levels. Programmes and plans in the course of their implementation are revised and updated from time to time.

To ensure equal representation of the sexes, the ratio of women in state agencies must not be lower than 50 percent, including bodies of the judicial, legislative and executive power, as well as other governmental agencies, commissions, selection of structures that represent the state at the global level.”

The Law emphasizes necessity of gender balance in all branches of power, and emphasizes the gender principle of 50/50.

The legislative enforcement of quotas played a positive role in establishment of gender equality in Finland. In 1995, the Law on equality, adopted in 1986, was amended – the articles stipulating the newly-introduced quotas were added to it among others. In compliance with the Law, representation of each sex among members of state and municipal committees, commissions, work groups and other decision-making bodies must not be less than 40%. The quota pertains to the appointed bodies. This significantly influenced the gender composition of the state and municipal administrations. In a year after the amended Law became effective, women constituted 43% members of committees, 37% members of work groups, 40% members of executive bodies of state departments. After the municipal elections in 1996, executive bodies, formed by local authorities, had almost 45% women.

Therefore, laws on gender equality that became effective in different countries and at different continents, guarantee the legal foundation for gender activity within the

societies that are the territory of their influence, as well as constitute the foundation for international interaction on gender issues. Such activity is based on the joint goal of gender transformations in the direction of establishing of gender equality in all spheres of life. Obligation of the state that adopted the gender laws, is to ensure that all human beings – both women and men – who are under its jurisdiction, observe the rules of these acts.

## 4. Gender-legal expert evaluation of the legislation

**Gender expert evaluation** is a variation of social analysis, based on the gender methodology that lies in identifying differences in political, socio-economic and cultural statuses of gender group and relations of power and subordination between them, expressed in the society through gender relations. Its major task is to establish the principle of equality of the sexes through development of mechanisms of formation of gender equality. Gender expert evaluation includes conducting of the socio-economic, political, legal and institutional analysis.

Implementation of obligatory gender expert evaluation is a necessary form of influence over all branches of power. Expert evaluation must give an answer to a question: compliance to the Constitution of Ukraine and to the principle of equality of citizens; compliance of the draft laws with international treaties, whose binding power was acknowledged by the Verkhovna Rada of Ukraine; opportunities of positive and negative consequences in economic, political, social life; optimal ways and methods of regulation of social relations on equality of citizens; compliance of draft laws to the socio-economic conditions; harmonization of draft laws with other regulatory acts; compliance of provisions of draft laws with the principles of a legal, social, democratic state; availability of necessary financial resources for implementation of laws; the qualities of legislative technique<sup>49</sup>.

Gender-legal expert evaluation is one of types of gender expert evaluation.

**Gender-legal expert evaluation** is a strategic conceptual line of gender transformations in legal activity. It stipulates study, examination, research, quantitative and qualitative analysis and assessment of the legislation in effect from the point of view of freedom, justice, equality and development of the sexes, its compliance with international legal approaches and with the level of legal ensuring of equal rights and opportunities<sup>50</sup>.

The issue of gender expert evaluation of the national legislation on numerous occasions has been addressed in international instruments as an objective necessity of creating of legal opportunities for ensuring of gender equality in real life, in all spheres of its functioning. Such expert evaluation is directed not only at creating of legal conditions of implementation of gender rights, legal streamlining of gender relations in the country, ensuring of legal opportunities for gender self-fulfilment of personality; it lays down through legal methods direction the progressive gender development of the society, determines its goals, objectives, limits the influences that constrain the progress in the sphere of gender transformations.

Specificity of the modern stage of gender transformations at the international and national levels lies in the fact that the international discourse concerning expert evaluation of the legislation develops along the directions of feminist expert evaluation of sectors of the existent legislation and gender expert evaluation of the legislation. The first one, that is, the feminist approach stipulates articulation of demands of women's rights and from this point of view – analysis of the legislation in effect. The other approach – gender

49 *Oliynyk A.S.* Constitutional legislation of Ukraine: Gender expert evaluation. – p. 71./ Олійник А.С. Конституційне законодавство України: ґендерна експертиза.

50 *Melnyk T., Kobelianska L.* 50/50: Modern gender thinking: Dictionary / Т.Мельник, Л.Кобелянська. – К.: К.І.С., 2005. – p.50./ Мельник Т., Кобелянська Л. 50/50: Сучасне ґендерне мислення: словник / Т.Мельник, Л.Кобелянська. – К.: К.І.С., 2005.

expert evaluation of the legislation – stipulates introduction of the notion of gender in the legislation through consideration of women and men's rights as a system of human rights, and consideration of the issue of women's rights as an integral component of the sphere of human rights, as one of the most important achievements of the civilization<sup>51</sup>. Their combination provides optimal results. Furthermore, it should be emphasized that for the purpose of training of lawyers to conduct the gender-legal analysis of the legislation, it is important to integrate into university curricula that study the major trend of jurisprudence the theory of human rights through the lens of gender relations and from the point of view of feminist criticism<sup>52</sup>.

Adoption at the global level of acts directed at ensuring of gender equality, the national special laws on ensuring of equal rights and opportunities for women and men, conducting of the gender-legal expert evaluation of different sectors of the legislation consolidated formation of the gender legislation as a comprehensive legal institute, which consists of legal norms that establish the means of ensuring of equality of human rights regardless of sex, as well as stipulate the limits of admissible differences in rights, regardless of sex<sup>53</sup>.

The international community has already accumulated certain experience of gender expert evaluation of the legislation. This experience attested its complexity and problems, in particular, connected to necessity of development of the concept and methods of conducting of such expert evaluation concerning gender. **Ukraine** obtained such experience, too. One can state that the Ukrainian legislation has already laid foundations for the gender-legal expert evaluation of the legislation in effect and regulatory acts.

The concept of harmonization of the Ukrainian legislation with the legislation of the European Union, approved by the regulation of the Cabinet in Ministers of Ukraine in March 1998, stipulates gradual, step-by step harmonization of the national legislation in correspondence to the legal norms effective in the member states of the European Union. In the sphere of gender, this is possible through conceptual, sociological, legal-technical, economic, financial re-evaluation of the national legislation.

Specificity of Ukraine lies in the fact that gender expert evaluation of the Ukrainian legislation was spearheaded by a non-governmental structure – it was the All-Ukrainian non-governmental organization «League of women-electors of Ukraine 50/50», which brought together lawyers-scientists and specialists in gender issues. In 2000, it implemented the project «Gender expert evaluation of the Ukrainian legislation» with facilitation and financial support from the UNDP Programme «Promoting gender equality» and the International Renaissance Foundation. In 2001, the attempts to identify the conceptual foundations of gender expert evaluation of the Ukrainian legislation and the results of its conducting were published for the first time. The first steps of such expert evaluation were made in the following sectors – international, constitutional, social, labour, family, criminal, penal

51 *Polenina S.V. Gender issues in Law: Women's rights. Part 1: Women's Rights in the context of Human Rights. Introduction to Gender Studies: Study guide. / S.V.Polenina. – Kharkiv, 2001. – p. 606.* / Поленина С.В. Гендерная проблематика в праве: права женщин. Часть первая: Права женщин в контексте прав человека. Введение в гендерные исследования: учеб. пос. / С.В.Поленина. – Харьков, 2001.

52 *Polenina S.V. Women's rights in the system of human rights: international and national aspect / S.V.Polenina. – M., 2000; / Поленина С.В. Права женщин в системе прав человека: международный и национальный аспект / С.В.Поленина. – М., 2000. Borodina A.B. Women's rights: academic discourse and educational process / A.V.Borodina // Women, history, society. Issue 2. – Tver, 2002. / Бородина А.В.. Права женщин: академический дискурс и образовательный процесс / А.В.Бородина // Женщины, история, общество. Вып. 2. – Тверь, 2002.*

53 *Bolotina N.B. Social Legislation of Ukraine. Gender expert evaluation. – p. 9 / Болотина Н.Б. Соціальне законодавство України. Гендерна експертиза.*

legislation. The materials of the expert evaluation were presented in separate booklets, which constitute independent publications<sup>54</sup>.

Important role in study and promotion of legal aspects of gender is played by activity of the scientific community and practitioners, both national and international. Within the framework of the UNDP project «Promoting gender equality» supported by the International Renaissance Foundation, the Canadian-Ukrainian Gender Fund and the Swedish International Development Agency (SIDA), for the first time in Ukraine the All-Ukrainian non-governmental organization «League of women-electors of Ukraine 50/50» conducted two international conferences on legal aspects of gender on the topics: «Equality between women and men in Ukraine: legal aspects» (Kyiv, November 20–21, 2000) and «International experience of state ensuring of equality between women and men» (Kyiv, June 30 – July 1, 2003), whose materials were published in two books<sup>55</sup>. These conferences marked the beginning of development of activity of the scientific legal thought concerning gender aspects of law.

The determinative role in implementation of the gender-legal expert evaluation was played the Law «On ensuring of equal rights and opportunities for women and men» (September 2005) initiated by the public, supported by the people's deputies and adopted by the Verkhovna Rada of Ukraine, which provides definition of the gender-legal expert evaluation: «Article 1. ...gender-legal expert evaluation is the analysis of the legislation in effect, draft regulatory acts, which results in conclusion concerning their conformity with the principle of ensuring of equal rights and opportunities for women and men».

The Law outlines the necessity to conduct such expert evaluation in a separate article. Article 4, «Gender-legal expert evaluation», determines:

«The effective legislation shall undergo gender-legal expert evaluation. In the event that a normative legal act is recognized inconsistent with the principle of equal rights and opportunities for women and men, the conclusion on that shall be forwarded to the body that has passed the instrument in question».

54 *Gender expert evaluation of the Ukrainian legislation. Conceptual foundations* / Editor-in-chief and team leader T.M.Melnyk, candidate of juridical sciences. – K.: Logos, 2001./ Гендерна експертиза українського законодавства. Концептуальні засади / відп. ред. і кер. авт. кол. канд. юрид. наук Т.М.Мельник. – К.: Логос, 2001.

*Melnyk T.M. Gender Expert Evaluation of the Ukrainian legislation: the essence, necessity and methodological foundations.* K.: Logos, 2001/ Мельник Т.М. Гендерна експертиза українського законодавства: сутність, необхідність та методологічні основи; – К.: Логос, 2001.

*Buromensky M.V. International right: gender expert evaluation.* – K.: Logos, 2001./ Буроменський М.В. Міжнародне право: Гендерна експертиза. – К.: Логос, 2001.

*Oliynyk A.S. Constitutional legislation of Ukraine: gender expert evaluation.* – K.: Logos, 2001./ Олійник А.С. Конституційне законодавство України: Гендерна експертиза. – К.: Логос, 2001.

*Bolotina N.B. Social Legislation of Ukraine: gender expert evaluation.* – K.: Logos, 2001./ Болотіна Н.Б. Соціальне законодавство України: Гендерна експертиза. – К.: Логос, 2001.

*Lavrinchuk I.P. Labour legislation of Ukraine: gender expert evaluation.* – K.: Logos, 2001./ Лаврінчук І.П. Трудове законодавство України: Гендерна експертиза. – К.: Логос, 2001.

*Romovska Z.V. Family legislation of Ukraine: gender expert evaluation.* – K.: Logos, 2001./ Ромовська З.В. Сімейне законодавство України: Гендерна експертиза. – К.: Логос, 2001.

*Kotiuk I.I., Kostenko O.M. Criminal, procedural criminal and penal legislation of Ukraine: gender expert evaluation.* – K.: Logos, 2004. / Котюк І.І., Костенко О.М.. Кримінальне, кримінально-процесуальне та кримінально-виконавче законодавство України: Гендерна експертиза. – К.: Логос, 2004.

55 *Equality between women and men in Ukraine: Legal aspects. Materials of the international research and application conference* (Kyiv, November 20-21, 2000). – K., 2004./ Рівність жінок і чоловіків в Україні: правові аспекти: матеріали Міжнародної науково-практичної конференції (Київ 20-21 листопада 2000 р.). – К., 2004.

*International experience state ensuring of equality between women and men: materials international conferences* (Kyiv, June 30 – July 1, 2003). – K., 2003./ Міжнародний досвід державного забезпечення рівності жінок і чоловіків: матеріали міжнародної конференції (Київ, 30 червня – 1 липня 2003 р.). – К., 2003.



Draft regulatory acts shall be developed with obligatory consideration of the principle of ensuring of equal rights and opportunities for women and men.

Draft regulatory acts shall be subject to gender-legal expert evaluation. The conclusion of the gender-legal expert evaluation is an integral component of the package of documents to be submitted together with the draft regulatory act for consideration.

The Cabinet of Ministers of Ukraine shall determine the procedure of the gender-legal expert evaluation».

In observance of the Law, on April 12, 2006, the Cabinet of Ministers of Ukraine adopted the regulation «On conducting of the gender-legal expert evaluation», in which determined that the gender-legal expert evaluation of the legislation in effect and draft regulatory acts in all spheres of the legislation that refer to human rights and freedoms, shall be conducted by the Ministry of Justice of Ukraine. The regulation also stated that gender-legal expert evaluation is a component of the legal expert evaluation.

The Ministry of Justice of Ukraine developed the Methodological recommendations concerning the gender-legal expert evaluation of regulatory acts, which were approved by the order of the Minister of Justice as of September 9, 2004. They emphasize that the task of such expert evaluation of the legislation is:

1. «objective and comprehensive research of the legislation in effect;
2. assessment of the legislation's compliance with the international legal documents on human rights concerning observance and implementation of women and men's rights, establishment of gender equality;
3. comparative analysis of the legislation in effect and the legislation of advanced foreign countries;
4. assessment of effectiveness of the legislative regulation of rights and opportunities for women and men;
5. preparation of the justified expert conclusions;
6. preparation of proposals concerning harmonization of the legislation in effect with the international norms».

The state programme of establishing of gender equality in the Ukrainian society for the period till the year 2010 determines the periods and the time for conducting of the gender-legal expert evaluation, and by that shifts to the dimension of practical implementation of adopted decisions. The state programme stipulates annual submission of proposals and drawing of the plan of the gender-legal expert evaluation of acts of the legislation by the Ministry of Justice of Ukraine, other central and local bodies of executive power, bodies of local self-government with the participation of NGOs.

In compliance with the orders of the Ministry of Justice as of May 12, 2006, «Some issues of the gender-legal expert evaluation» and as of January 17, 2007, «On approval of the plan of the gender-legal expert evaluation of acts of the legislation for the year 2007», during 2007 the gender-legal expert evaluation was conducted on ten laws of Ukraine, and namely: «On vacations», «On state assistance to families with children», «On employment of population», «On immigration», «On elections of people's deputies of Ukraine», «On status of people's deputy», «On service in bodies of local self-government», «On social and legal protection of military personnel and members of their families», «On military duty and military service», «On status of mountain populated localities in Ukraine».

In compliance with the order of the Ministry of Justice as of January 12, 2008, «On approval of the plan of the gender-legal expert evaluation of acts of the legislation for the year 2008», during 2008 the expert evaluation was conducted on the Customs Code in Ukraine, the regulations of the Verkhovna Rada of Ukraine as of October 13, 1995, «On approval of provisions on assistant-consultant to people's deputy of Ukraine», the Law of Ukraine «On legal foundations of civil protection», the Law of Ukraine «On prevention of the Acquired immune deficiency syndrome (AIDS) and social protection of population».

In the following years, the Ministry of Justice of Ukraine conducted the gender-legal expert evaluation of the Family Code of Ukraine and other regulatory acts.

As a result of the conducted gender-legal expert evaluation, the Ministry of Justice of Ukraine submitted for consideration to the Verkhovna Rada of Ukraine the draft «On Amendments to certain legislative acts of Ukraine in connection with adoption of the Law of Ukraine «On ensuring of equal rights and opportunities for women and men», in which suggested amendments to such legislative acts as: the Labour Code of Ukraine – to include in collective bargain agreement the provisions that guarantee equal rights and opportunities for women and men (Article 13); the Law of Ukraine «On collective bargain agreements» – to include in collective bargain agreements the provisions that guarantee equal rights and opportunities for women and men (Article 7, 8); the Law of Ukraine «On associations of citizens» – concerning establishment of additional rights for associations of citizens on issues of equal rights and opportunities for women and men (Article 20); the law of Ukraine «On the Verkhovna Rada of Ukraine Commissioner on human rights» – concerning performance by the Commissioner of control over observance of equal rights and opportunities for women and men; coverage in the Commissioner's Annual Report of these issues (Article 13, 18), and so on.

The gender-legal expert evaluation ensures harmonization of the legislation and all regulatory acts with the Constitution of Ukraine and the adopted special law, with the international legislation on gender equality. Formation of the gender legislation is directed at ensuring of implementation of the gender policy justified on the modern level and clearly outlined, conditioned by the certain historical time and corresponding gender processes of the national and international scale.

Making amendments to the legislative acts requires implementation of the procedures of «gender underpinning», economic evidence, use of results of the sociological research, and so on. In Ukraine the sociology of law, which could incorporate the gender aspect, is not developed. There is a need in development of the indicators of progress and effectiveness of the adopted legal norms in the system of the Ukrainian legislation.

**Canada** devotes significant attention to introduction of the gender-basic analysis in processes of lawmaking, policy and development programmes, which, starting from the 1990-ties promoted their revision from the point of view of progress of gender equality. The very Federal Plan for Gender Equality assigns priority among the eight main goals to gender analysis of the legislation: «Goal 1: Introduction of *gender-basic analysis through all federal bodies and agencies* brings to the foreground the systematic process of information and implementation of the future legislation and policy at the federal level *through assessment* of potential differentiated influence over women and men. Therefore, this goal supports

all following goals»<sup>56</sup>. Such approach facilitated agitation of the legislative process and reformation of the judicial system connected with ensuring of gender equality.

At the beginning of the 21st century, the results of gender expert evaluation of the Russian legislation were published in the book «Gender expert evaluation of the Russian legislation»<sup>57</sup>. The expert evaluation was conducted by the scientific community of the Centre of Gender Studies, at the Institute of socio-economic problems of the population, the Russian Academy of Sciences, supported by the Open Society Institute. The expert evaluation of the Russian Federation legislation was concentrated on the constitutional legislation as the basic sector, the electoral, family, labour, criminal and penal legislation. The results of gender expert evaluation showed ambiguousness of understanding in the sectoral legislation of the ideology of equality, proved that in the Russian law establishment of the gender legislation is in progress, and included practical recommendations concerning improvement of the legislation.

The Russian scholars' activity concerning formation of the gender legislation and their deep gender approach to expert evaluation of the legislation in effect, unfortunately, were significantly encumbered in the conditions of the new regime. This is worth mentioning as it demonstrates how addressing of gender issues depends on the current power.

In the Republic of Kyrgyzstan, the gender expert evaluation of the legislation was launched in 1996. It is important to point out that necessity of the gender expert evaluation emerged and was first implemented, as was the case in Ukraine, in the non-governmental sector. It was launched by the non-governmental association «Diamond», which engaged into their work other non-governmental organizations. Non-governmental organizations did not isolate themselves and reached out for partnership to the state governance sector – the State Commission on Family, Women and Youth, established under the government of the Republic of Kyrgyzstan. Such union of NGOs and governmental structures helped to establish the gender expert evaluation as an influential institute and become an actual tool for influence over formation of the population's gender consciousness.

Gender expert evaluation gave researchers the opportunity to look at the effective legislation from the point of view of the current situation and of the gender perspective as well as of the rules, which have been established as stereotypes of behaviour of people in the society. Starting from 1996, in the Republic of Kyrgyzstan gender expert evaluation was conducted on drafts of the Family, Criminal and Labour Codes, the Laws «On mass media», «On foundations of State Service», «On protection of public health in the Republic of Kyrgyzstan», and so on. Technical and consultative support in conducting of gender expert evaluation of these legal acts was provided by Hivos, the Humanist Institute for Cooperation. Conducting of the gender expert evaluation was complicated by a lack of the national concept of achievement of gender equality.

As a result of NGOs' activity, gender-sensitive draft laws were prepared, in particular, such as: «On gender equality», «On social-legal protection from domestic violence», «On

56 *Platform for Action for the new century: Federal Plan for Gender Equality* // Melnyk T.M. International experience of gender transformations. Laws of foreign countries on gender equality. – p. 207. / Платформа дій на нове сторіччя: Федеральний план з гендерної рівності // Мельник Т.М. Міжнародний досвід гендерних перетворень. Закони зарубіжних країн з гендерної рівності. – С. 207.

57 *Gender expert evaluation of the Russian legislation* /Editor-in-chief and team leader – L. N. Zavadskaia, candidate of legal sciences, director of the gender program, American Bar Association – Central and East European legal initiative, – М., 2001. – 255 p. / Гендерная экспертиза российского законодательства /отв. ред. и рук. авт. кол. директор Гендерной программы Американской ассоциации юристов – Центрально- и Восточно-Европейская правовая инициатива, канд. юрид. наук Л. Н.Завадская. – М., 2001.

protection of honour, dignity and business reputation», «On ombudsman», «On reproductive and sexual health» and so on. Besides these draft laws, changes and amendments were proposed to the effective Labour Code of the Republic of Kyrgyzstan.

Based on the materials of the expert evaluation, the group of experts prepared «Manual on conducting of gender expert evaluation of the legislation of the Republic of Kyrgyzstan»<sup>58</sup> as commissioned by the Secretariat of the National Council on Women, Family and Gender Development under the President of the Republic of Kyrgyzstan and UNDP. Having analysed the results of the gender expert evaluation, the manual's authors come to a conclusion<sup>59</sup>:

- gender expert evaluation developed out of the ideas of NGOs and became one of the first steps in the history of Kyrgyzstan on formation of the state gender policy;
- gender expert evaluation gave opportunity to lay foundations of formation of gender theory in Kyrgyzstan;
- gender expert evaluation is the first step in protection of rights of both women and men;
- gender expert evaluation of the legislation facilitated formation of the national experts in the sector of gender theory and practice;
- gender expert evaluation created an opportunity to prepare the most important draft laws with gender content, adopted by Jogorku Kenesh of the Republic of Kyrgyzstan.

In **Kazakhstan**, gender expert evaluation of the legislation was incorporated in the state-legal system and became formally a part of the public policy. Let us explicate this through the actions of the government of the Republic of Kazakhstan.

In 2001, the issues of gender equality were declared in the Strategic Development Plan of the Republic of Kazakhstan till the year 2010. In 2002, they were included to the Action Programme of Kazakh government for the years 2002–2004 and to the Action Plan on its implementation. In 2003, these documents were extended with a separate chapter «Women's participation in development».

In 2004, the government of the Republic of Kazakhstan with a separate regulation approved the concept of the gender policy in the Republic Kazakhstan, whose component was introduction in the country of gender expert evaluation of the legislation and of gender indicators in the budget policy, governmental plans and programmes. It reflects the Millennium Development Goals. In May 2008, the government with its regulation approved the Action plan for the years 2009–2011 on implementation of the gender equality strategy in the Republic of Kazakhstan for the years 2006–2016.

The **Republic of Belarus** also started gender expert evaluation. In compliance with the National Action Plan, the gender expert evaluation of legislative and regulatory acts and their drafts is being conducted. With the assistance of UNDP project «Promoting of women's social influence in the Republic of Belarus» gender expert evaluation was conducted on the marriage and family legislation as well as on the labour and other legislations. Based on its results several corresponding amendments were made to the effective legislative and regulatory acts.

58 *Manual on conducting of gender expert evaluation of the legislation of the Republic of Kyrgyzstan*. – Bishkek, 2003. – 93 p. / Пособие по проведению гендерной экспертизы законодательства Киргизской Республики. – Бишкек, 2003.

59 *Ibid.* – p. 5.



In different countries, when governments implement measures to support expert revision of the legislation on ensuring of gender equality, as well as take into account the gender issues in major directions of all programmes and policies, they engage different national mechanisms and procedures.

The Council on gender expert evaluation of the legislation was created under the National commission on family and women **of the Republic of Kazakhstan**. It was formed from specialists of the Ministry of Justice, the Prosecutor General's Office, the Ministry of Internal Affairs, the Ministry of Labour and Social security of Population, the Ministry of Health Care, Education and Sports of the Republic of Kazakhstan.

In **Portugal**, a parliamentary commission was created for analysis of the legislation from the point of view of gender equality.

In **Mexico**, the National Commission on Human Rights organized research to check whether the standard articles of the federal law and laws of states on women and children comply with the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention about Rights of the Child. The obtained data was used as the basis to develop recommendations on the legislative reform in several districts.

The National Planning Department of **Columbia** established a permanent consulting group on issues of gender equality. This body is vested with wide powers concerning consideration of gender issues in major directions of the national policy.

The public more and more adopts the thought<sup>60</sup> that gender expert evaluation of draft laws implemented at the state level will facilitate shifts in the legislation towards formal ensuring of equal opportunities and gender-neutral legal language. In other words, the currently existent legal categories can be re-articulated and re-evaluated in a different, gender-sensitive aspect.

Therefore, the national legislations of the countries of the world are laying the regulatory foundations for the gender-legal analysis of the legislation in effect. The international standards of gender-legal regulation for ensuring of equality between women and men are being formed and expanded. At the same time, the process of establishing of the gender-legal expert evaluation makes visible the actual problems, among which: elaboration and unification of the methodology of the gender-legal analysis, formation of the legislation taking into account gender perspective, in-depth economic, social and other underpinning of formation and adoption of laws and other legal norms concerning gender transformations and so on.

For addressing of gender issues, existence of the state organizational machinery for ensuring of gender equality has great significance. The processes of globalization and liberalization of life on the planet promote formation of the organizational structures, whose activity reaches optimality and effectiveness, when they constitute a comprehensive mechanism.

60 Borodina A.V. Women's rights: academic discourse and educational process / A.V.Borodina // Women, history, society: Collection of scientific articles / Under the general editorship of V.I.Uspenskaya. Issue 2. – Tver, p.97./ Бородина А.В. Права женщин: академический дискурс и образовательный процесс / А.В.Бородина // Женщины, история, общество: сб. научных статей / под общей ред. В.И.Успенской. Вып. 2. – Тверь.





# **Chapter 4.**

**National  
organizational-and-legal  
mechanisms for ensuring  
of equality between  
women and men**

## 1. Concerning the issue of «national» and «state» mechanism for ensuring of gender equality

In the international documents, in different contexts the terms «national mechanism» and «governmental mechanism» for ensuring of equality between women and men are often used as identical. Such identification is also observed in scientific and methodological literature.

For example, Giorgia Testolin, the consulting expert of the Council of Europe, who was one of the first to invest a lot of effort into the comparative analysis of the mechanisms for ensuring of equality between sexes, gives the following definition of the machinery in the book<sup>61</sup>, in the title of which she refers to the national machinery: «A gender equality machinery is an institutional governmental and, in some cases, parliamentary structure set up to promote women's advancement and to ensure the full enjoyment by women of their human rights. Its main function is to monitor and to ensure the implementation of the law, of the principle of non-discrimination and equality between women and men». The consulting expert underpins this definition by references to the Convention on the Elimination of All Forms of Discrimination Against Women, Nairobi forward-looking strategies concerning increase of the role of women, and the Beijing Platform for Action. The very fact of the reference to the materials of international women's conferences shows that the national mechanism cannot be reduced to one or several governmental structures, as non-governmental associations, in particular women's structures, broadly participate in its formation and implementation of the policy of gender equality.

Non-differentiation in the publications of international instruments between the «governmental» and «national» mechanisms is sometimes due to incorrect translation from English into Ukrainian or Russian.

Widespread non-differentiation between these notions can certainly be explained from the position of the historical approach. Since the time the international documents first considered the issues of ensuring of equality between women and men, more than half a century passed. From the first steps of creating any body – governmental, mixed or even non-governmental, which is working on gender issues on the territory of any country, it already was to be viewed as a certain step towards creating a mechanism for ensuring of gender equality. Such a body, as a rule, was a governmental body – a commission, governmental committee, Ministry, or a non-governmental body under some governmental structure. Being the only body, it was governmental and national at the same time. Later, the number of governmental bodies with competence covering the issues of ensuring of gender equality, increased, that is, a certain system was formed in different branches of power. And here one could rightfully discuss the governmental mechanism, its creation and development.

Yet various parties and structures, as well as non-governmental associations started to get involved into implementation of gender issues into practice – non-governmental

61 See: Based on the materials prepared by Giorgia Testolin, expert consultant to the Council of Europe, December 15. 2001, «Handbook on National Machinery to Promote Gender Equality and Action Plans. Guidelines for establishing and implementing National Machinery to promote equality, with examples of good practice». UN, 2002.

organizations, non-governmental bodies and non-governmental movements, mass media and others. While pursuing their own goals concerning gender transformations with their own methods, they participated in formation and functioning of state structures, taking into account the gender policy as a component in their own or governmental activities depending on comprehension and understanding of gender issues. That is, all structures of the society's political system – the government, parties, non-governmental organizations that have functions directly related to ensuring of gender equality in the society, or participate in activity of the governmental policy concerning gender, together comprise the national mechanism for ensuring of gender equality.

The governmental mechanism of ensuring of equal rights and opportunities for women and men, which is composed of a system of interrelated state organizational and legal structures with an established competence as to activities in the sphere of gender, is a component for the national mechanism for ensuring of gender equality. And the national mechanism for ensuring of gender equality, in our opinion, cannot be reduced to the governmental mechanism only, unless the society in question is totalitarian. Because only in a totalitarian society the governmental mechanism incorporates all non-governmental structures.

When international structures adopt the generalizing acts concerning gender transformations on the international or regional level, in certain contexts they refer to the notion of the national or the governmental mechanism without distinguishing them, and without assigning the structure in the political organizations of national societies, in whose competence gender would be a structural component. This is related to the fact that establishment of the mechanisms in various countries is on the different levels of formation – both in the government and in the society.

National mechanisms are an institutional base in ensuring of equality of sexes. They establish the strategy of gender development for the entire society, mobilize resources, consolidate the society on the basis of gender values and general goals concerning gender transformations. How effective and actively involved those mechanisms are, how they adopt external innovations, how they secure gender balance or imbalance, to great extent depends on the political regime of the societies – democratic, authoritarian, or totalitarian. Democratic regimes view gender democracy as a component of social democracy, authoritarian ones greatly limit gender democracy, and totalitarian are adept of paternalist practices.

Efficiency of formally created mechanisms in many aspects depends on availability of trained staff, lack of human and financial resources, scientific research of the state of gender structures in the national societies, and of gender relations within them, low degree of harmonization with the international gender legislation and low awareness of international experience of gender transformations, absence of the national practice of developing documentation for equality of sexes. It should also be noted that optimal functioning of national mechanisms depends on presence of political will of gender-aware leaders, their ability to establish priority of gender issues, ability to make effective decisions and to evaluate their efficiency, ability to cooperate with non-governmental structures and to promote their activities.

## 2. Governmental mechanism for ensuring of gender equality

Each state that is oriented to establishing itself as democratic, social and legal, forms the gender policy for ensuring of equal rights and opportunities. This process is not without complications, sometimes even painful ones, yet it moves in the direction of forming something called the governmental gender policy.

**Governmental gender policy** is an activity (or inaction, in case of conscious lack of such policy) of governmental institutions, aimed for direct or indirect ensuring of equal rights, freedoms and opportunities for women and men, establishing of gender democracy and formation of the gender culture in the society.

For developing and implementation of the governmental gender policy, the required system of interrelated governmental bodies, that is, governmental mechanism, is established. It occupies a special place in the structure of the national mechanism and ensures activity directed at establishing of gender equality.

Governmental activity in the sphere of gender is characterised by the following features: development of the gender strategy and methods for obtaining them; consistent development of plans, programmes concerning implementation of gender strategy; implementation of the gender construct into all spheres of the society life; formation of governmental mechanisms for ensuring of gender equality in the society, harmonizing them with non-governmental ones; gender expert evaluation of the legislation, and adoption of the gender-related legislation; guarantee of implementation of governmental and legal policy concerning gender equality; facilitation to scientific institutions in research of gender issues and conducting of gender analysis of the social processes in the country, etc.

In the modern conditions of gender transformations and formation of gender thought, the governmental mechanism for managing of the gender sphere provides for: a) conceptual definition of the system of principles concerning gender transformations; b) establishment of the necessary governmental structures in the system of all branches of power, with legally defined competence concerning regulation of gender-related processes; c) availability of legal ensuring of equality of both sexes in the society, effective functioning of the governmental structures, and efficiency of their actions; d) clarity of connections and of the nature of relations of the governmental bodies with each other and with non-governmental associations.

The governmental mechanism for managing of the gender sphere in the modern conditions is formed and operates, where tendencies of the patriarchal past are still strong. It should be noted that in many countries there are governmental mechanisms still functioning that are dedicated mainly to improvement of the women's status. Their existence is certainly justified, as they perform certain work for women. Also, the reality showed impossibility of effective and efficient solution of the issues of inequality between women and men here and now, unless it is a part of a comprehensive gender policy. Improvement of the women's status is a component of the issues of improvement and development of the gender system of the society. There are conservative administrative

views and corresponding structures that try to add expressions like «gender policy» or «gender issues» to the title «improvement of women's status». Such formal adjoining of the whole notion to its very part seems strangely illogical. Not only it sounds strange, but in practice it is often only declarative and does not bring cardinal changes or give expected results. Absence of logic is a bad sign, sooner or later it will come to a standstill.

As the women's actual status is characterized by a great distance from the current status of men, in the structure of gender strategy and its implementation by the system of governmental bodies, specific emphasis is often made on the policy concerning the status of women. On the basis of the generalized international experience, science and practice establish types of the governmental policy concerning women that have corresponding implementation mechanisms. Without knowing them, it is impossible to restructure the administrative practices aimed to overcome all forms of gender discrimination, and to secure gender equality. The governmental policy concerning women is characterized as:

- *patriarchal governmental policy* – activity, the goal and essence of which is concentration of the women's main place and role on performing of natural mothering functions and household chores, isolation of women from the public sphere of life, and limiting their professional activities, acknowledgement of women's dependence on power, property and ideology formed by men;

- *paternalist governmental policy* – governmental activity, the essence of which is declaration of women's rights and freedoms being equal to those of men, organized and limited involvement of women to governmental forms of organization and functioning of power, creation of systems and benefits, and protection of motherhood and childhood, regulation of women's participation in the production system, propaganda of image of women as equals to men;

- *egalitarian governmental policy* – consistent activity of the state for creating conditions and opportunities for parity relations of women and men, ensuring guarantees for their self-determination, self-identification and self-actualization, self-expression.

The egalitarian governmental policy is based on the concept of equality of rights and opportunities of men and women, parity of their relations, women's access to formation and functioning of all spheres of public life, forms of property, adherence to ideologies, choice of professional activity, performing reproductive function, and so on.

While the focus on the women's status in the structure of the governmental gender policy is completely justified for overcoming historical injustice against them, in its structure such policy also provides for the direction no less important – improvement of men's status towards formation of gender-advanced behaviours, mindset, non-governmental and governmental activities, overcoming inadequacy of their perception of the modern transformations at the world and national levels, first of all, those in the sphere of gender.

Thus, the component directions of the egalitarian governmental policy are: a) the policy concerning women, ensuring for them equal social status with men by means of guaranteeing opportunities for their equal development as a social group, b) the policy concerning men, formation of gender consciousness, culture of gender behaviours, orientation towards parity relations with women, c) the policy of formation of gender relations on the parity principle.



The nature and structure of the state gender policy determines the contents of the gender strategies and adoption of the corresponding policies in all spheres of life, availability of the corresponding mechanisms of its implementation, establishing of gender perspectives. Governmental support of the gender policy provides for availability of a systems of governmental institutes, whose competence and activities are directed at implementation of the gender strategy and establishing of the real gender-sensitive democracy. In aggregate, these institutes are interrelated as they have the same goal and are supposed to coordinate their actions. They can have varying forms. Yet without such organizational and legally established institutes as a system, the gender policy lacks mechanisms for its consistent implementation.

The historical times of the beginning of the 21st century is characterized by further shift of governmental structures from «women's» to «gender». This is related, first of all, to outlining of the gender sphere of influence, clarity of gender-related purposes in their activities, distinctness of gender competence, exploration of new forms and methods of activities, new approaches to analysing of their efficiency. This is promoted by international structures in their recommendations concerning aligning the national structures. They do provide the formulas for such landmarks. We are talking about «majority» of countries, as some of them (**Northern Europe, Canada, and others**) already several decades ago felt the need for rebuilding, and gradually and consistently perform it. And such countries, as **Norway, Sweden, Iceland, Finland**, from the very start focused on priorities of gender equality. In the last decades, **Ukraine**, too, applies some efforts to creating the gender structure.

The laws on gender equality adopted currently in many countries show that they are directed towards conceptualization and legislative codification of state mechanisms for ensuring of gender equality. in actual practice, the state mechanisms for ensuring of gender equality are understood as: specialized bodies for improvement of the women's status and addressing the issue of equality between women and men; adding the gender component to the sphere of competence of all governmental structures. The conceptual definition of this is of significant importance for each country. The world already has certain experience in establishing and functioning of various governmental structures related to managing of the gender equality processes. Analysis of the international experience and of the national legislation as to creating of the governmental mechanisms for regulating gender processes shows harmonization of their features (*figure, table 6*). Today we can make conclusions concerning efficiency of the mechanisms created in different countries.

The process of adoption of the laws on gender equality in the countries with varying level of development, different historical background and nature of transformations is also a form of working on the national mechanisms of establishing of gender equality. These mechanisms improve with time. As an example, we can refer to the scheme of such mechanism, as given in the Law of Ukraine «On equal rights and opportunities of women and men», and in the Basic Law on society of gender equality, adopted in Japan (*figure, table 6*).

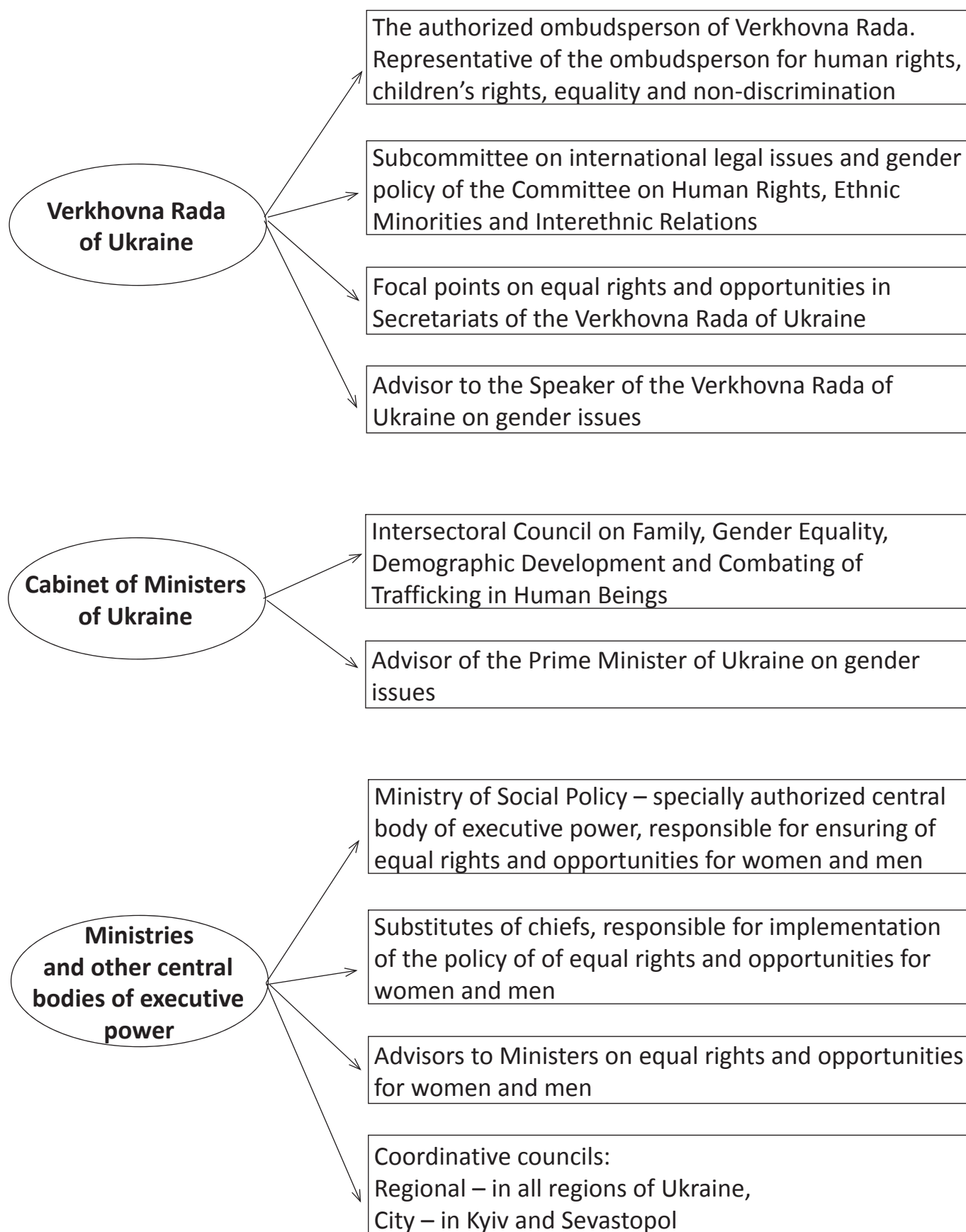
One can hardly claim that these schemes are an ideal example of the mechanism for administrating of the gender sphere. Yet at the modern stage, they are indicative as regulating of the gender process requires involvement of all governmental structures,

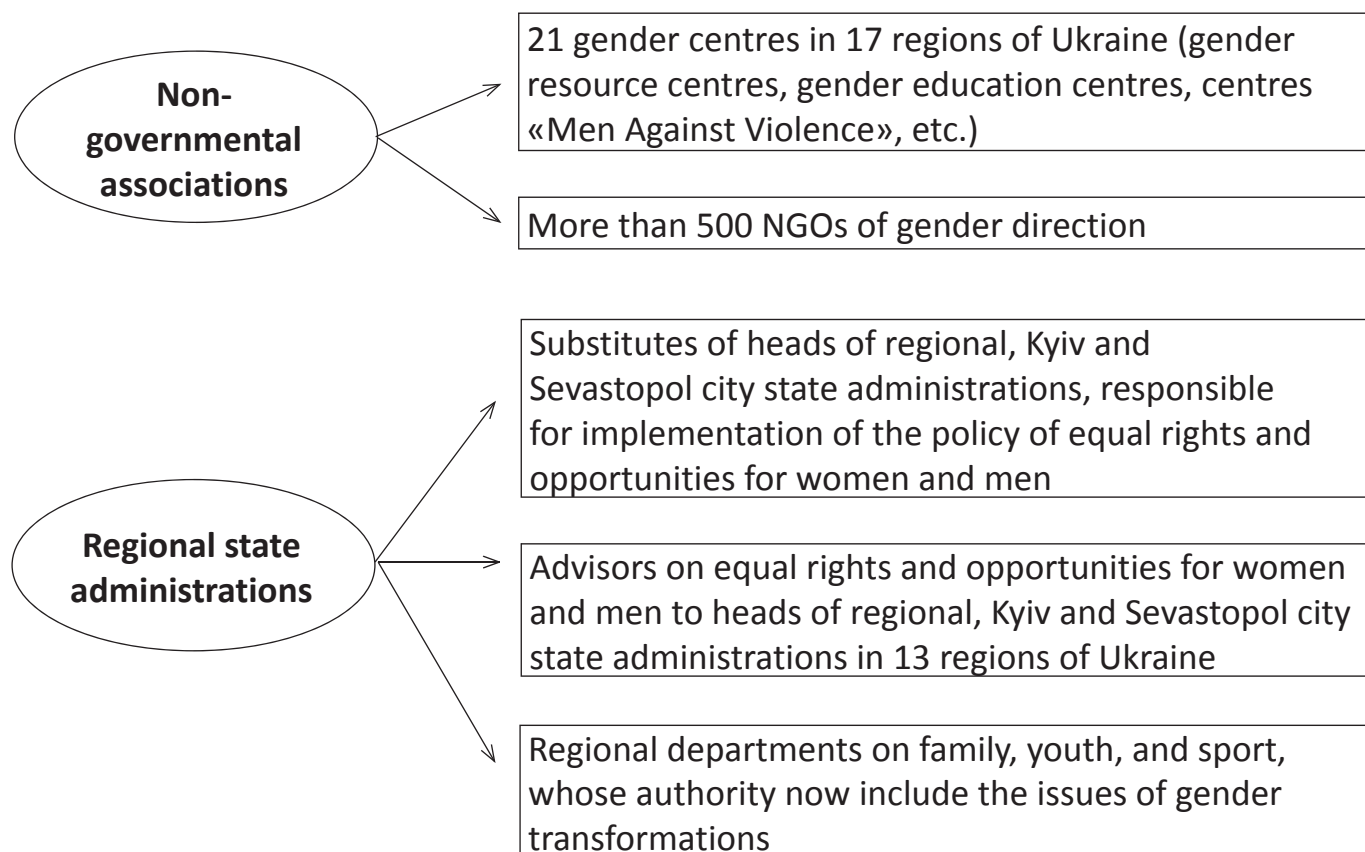
not just a specially established new structure with the competence in the gender sphere, to which sometimes the entire mechanism for managing of gender issues is reduced sometimes.

The international community provided the samples of gender-related functioning of the governmental mechanisms. As practice shows, at all levels of the governmental mechanism such governmental or non-governmental structures can be assigned, whose activity is aimed at ensuring of equal rights and opportunities for women and men:

- **presidential structures:** advisor for gender issues; consulting and advisory body for gender issues, etc.;
- **parliamentary structures:** advisor for gender issues under the Chairperson of the Parliament; the parliamentary committee on gender equality (equal opportunities), or the subcommittee on the gender policy under one of the parliamentary committees; interfactional groups on ensuring of equal rights and opportunities; the academic advisory body on gender, and others;
- **ombudsman on gender equality or equal opportunities;** representative of the ombudsman for gender issues;
- **governmental structures:** advisor under the Prime Minister; the department under the Prime Minister or other high officials of the Cabinet; the department for gender policy, established as an independent structure of the Cabinet of Ministers, the Commission on gender equality under the Government, and various committees and commissions;
- **Ministries, governmental committees:** a Ministry or governmental committee on gender equality; separate structures of the Ministry – Departments, divisions on gender equality;
- **structures on gender in local self-government bodies.**

All bodies function effectively and cooperate well if they are within one system, and when they have clearly identified spheres of competence. This is the condition of efficiency of their work. Such competence covers: development of the gender policy horizontally and vertically; coordination of actions, directed at incorporation of the gender principles into the legislation, governmental programmes and projects; collection and dissemination of disaggregated data and information on gender for planning purposes, control and evaluation of activities; monitoring of influence of programmes and policy on gender equality; support of gender education at all levels, and development of methods and means of evaluating of the influence of gender, also development of basic principles of gender education and gender control over all actions of the government; organizing of the informational campaign for the purpose of focusing the non-governmental organizations on gender issues, and others. The competence of the mentioned structures provides for both clear rights and obligations and the responsibility for implementing and promotion of gender approaches.

**Figure****National mechanism for ensuring of gender equality  
in Ukraine (for 2012)**

**Table 6****Governmental mechanism of facilitating gender equality in Japan<sup>62</sup>**

<i>Head office of facilitation to formation of the society of gender equality</i>	
Prime Minister	The Council on gender equality under the Prime Minister
	Consultative conference on facilitation to gender equality
	Prime Minister Office, under which two institutions are established:
	1. Congress on gender equality. 2. Bureau on gender equality.
Vice President: the chief secretary of the Cabinet of Ministers, whose authority includes the issues of gender equality	
The ministers of the Cabinet of Ministers	
Responsible directors in each Ministry	
Other Ministries and agencies	
Meetings of coordinators on gender equality	
Secretariat of the Cabinet of Ministers	
Sections and Departments, responsible for gender equality in bodies of local self-government	
Other sections and Departments in bodies of local self-government	

A gender-balanced staff of governmental structures secures more effective results.

Let us consider the acquired international experience of the components of the governmental mechanism for ensuring of the gender policy in different countries of the world.

<sup>62</sup> The scheme of the head office for ensuring of gender equality of Japan // The Law on Society of gender equality adopted by the Japanese parliament in June of 1999.

### *a. President: role in ensuring of gender equality*

A President, as the head of the state, is a figure with extreme influence over the social and political processes taking place in the country.

The President is the person who represents the state on the world arena, participates in formation of the foreign policy, signs international treaties binding on the state. Ever greater role is played by the summits of the heads of the states and governments – the Presidents and Prime Ministers. The ideas of gender equality become ever more present in the decisions taken at such summits. The World Millennium Summit demonstrated that the heads of the states established equality as one of the fundamental values of the third millennium and acknowledged the necessity to establish the principle of equality on the global level, along with such principles as freedom, justice, and tolerance.

At the summit, the significance of gender issues in resolving social, economic, and political issues was emphasized. Facilitating equality of men and women and expansion of rights and opportunities for women were considered as an effective method of counteracting poverty, hunger and diseases, stimulation of sustainable development, as a factor of improvement and development of democracy.

Communication of the Presidents on the international level influences their activity on the national level. Intensity of such activity concerning gender sphere is manifested in adoption of the acts on the issues of gender, and establishing of various bodies for gender issues under the President, and in the country in general. The regulatory acts adopted by them have great influence on the national social processes, and on formation of the structure of the governmental mechanism.

Such presidential decrees in Ukraine, which have influence on gender processes and their regulation, were Decrees of the President of Ukraine as of April 25, 2001 «On improvement of social status of women», and as of July 26, 2005 «On improvement of work of the central and local bodies of executive power concerning ensuring of equal rights and opportunities for women and men». These decrees influenced formation of the gender world view of the people's deputies, and accelerated adoption in 2005 of the law on gender equality and on formation of the governmental mechanism for managing of gender transformations.

There is a world-wide practice of creating structures for gender issues under the President of the country.

1. The first national level structure in Ukraine on equality between women and men was the Committee on women, motherhood and childhood, established under the President of Ukraine. The Committee was active in 1995–1996, and ceased its activities due to establishment of the Ministry of Ukraine on Family and Youth. This was the period where the paternalist ideas of the Soviet system concerning improvement the status of women were rather widespread, and time was needed for comprehension, conceptual formation, and actual implementation of the gender policy. The Committee played its role, and proved the necessity to create ministerial structures and expansion of gender components of its competence. Later, the gender components of the Ministry's activity were developed. In 2010, as a result of reformation of the entire system of executive power, by the Decree of the President as of April 11, 2011 «On Provisions for the Ministry of Social Policy of



Ukraine», gender issues were assigned to the competence of the Ministry of Social Policy.

**In France**, growth of gender activism of women and men was facilitated by the actions of the President of this country. He, by his decree as of October 18, 1995, created the governmental agency – the Supervisory Committee on gender equality (L'Observatoire de la parité entre les femmes et les hommes) for informing of the governmental bodies about political, economic and social factors concerning the decisions that they make.

By the provision of the additional Presidential decree as of October 14, 1998, the Supervisory Committee is further authorized to assess the drafts submitted by the Prime Minister in regard to the principles it protects. The Decree also clarified the guiding principles, with an emphasis on prevention and counteraction to manifestations of inequality of men and women in all spheres of social life.

The main tasks of Supervisory committee on gender equality are:

1. aggregation, processing and dissemination of statistical data, analysis and research results pertaining the status of women on the national and international levels;
2. evaluation of actual manifestations of gender inequality and obstacles to establishing of gender parity, especially in the political, economic and social spheres;
- 3 .expert evaluation of the submitted drafts and other normative and legal regulatory acts, as commissioned by the Prime Minister;
4. making recommendations and proposals concerning prevention and liquidation of inequality of sexes, establishing parity, for taking them into consideration in the national legislation.

Under the submission of the Prime Minister, the President of France assigns, for the term of three years, the General Rapporteur, who determines the plan for the Committee's work, coordinates its activities with the interministry committee for the issues concerning ensuring women's rights, participates in all meetings of the committee.

Under the President of the **Russian Federation**, the commission on women, family and demography was created. In spite of its name that does not mention gender equality, the main task of the comission is still defined as formation and coordination of governmental policy in achieving equal rights and opportunities for women and men, improvement of women's status, resolution of demographic issues.

In 2002, political will of the **Kyrgyz state** in the sphere of gender was backed by institutional reforms. Improvement of the status of the national institutional mechanism was accompanied by reorganization of the existing structures in the national council on women, family and gender equality development under the President of Kyrgyz Republic, with an executive body, the Secretariat, which is a structural subdivision of the Administration of the President of Kyrgyz Republic. In the the Law on foundations of state guarantees for ensuring of gender equality, in article 25 «Competence of the national council on women, family and gender equality development under the President of the Kyrgyz Republic» states that within the limits of competence granted by the Council, it is authorized to supervise over implementation of this Law, and it publishes annual reports on its implementation. The Law does not define the powers of the Council.

In the law, assigning the issues of supporting gender equality is viewed in the context with the issues of women and family, that is, in the context of family relations only. A

wording where the issues of women and family are listed as the issues of the same kind is always indication of the fact that the traditionalist base is still strong in the society. Here, the gender equality culture is developed as a cultural trend parallel to the widespread culture of traditionalism.

Quite similar is the situation in **Kazakhstan**. The President of the Republic of Kazakhstan, by his decree in 1998 created the National committee on family and women under the President of the Republic. The head of the commission is assigned by the Minister of the Republic of Kazakhstan. The Commission included 28 people, among whom there were heads of governmental bodies, representatives of the governmental enterprises, small and medium business, scientific and cultural community of the country. The head of the state established four main directions for the activities of the National commission: improvement of health of women and their family members, women's active participation in non-governmental political life of the country and in decision-making, economic advancement of women, and elimination of violence against women.

For stimulation of the activity on implementation of the strategies of gender equality in the Republic of Kazakhstan for the years 2006–2016, the Decree of the President reorganized the National commission on family and women into the National commission on family and gender policy under the President of the Republic. Yet, the commission remained in such a state only for a rather short time. In 2008, by the presidential Decree, this Commission was reorganized into the National commission on women, demographic and family policy. The list of commission members was also reviewed.

Such constant reorganization is the reflection of the critical moment in the life of the country, destructuralization of public life, underdevelopment of gender relations. In general, this is the indication of the country being not prepared for establishing of the modern content of the gender policy, although the search for the ways to establish equality of sexes can still be traced.

In **Norway**, according to the Law «On equality between sexes» as of June 9, 1978, the King assigned the Council for Equality, the Commissioner for Equality, and the commission – Commission of Appeals for Equality (article 10), which have to facilitate the implementation of this Law.

Resolution of gender issues on the international and national levels requires the heads of the states to show professional approach and in-depth gender knowledge. This determines the necessity to have an advisor for gender issues under the President. An important role could be played by an advisory body on gender under the President. A special need for such body exists where traditionalist approaches to the role of women and men in the society and in the state are rather widespread.

### ***b. Parliament: ensuring of gender transformations***

Parliamentarism in the modern world is an inseparable feature of developed democracies. It is an organic embodiment and manifestation of gender democracy. Establishment of parliamentarism in Ukraine is on the initial stage. The young Ukrainian parliament and Ukrainian society that elected it do not have the traditions of parliamentarism, and, therefore, do not have a tradition of free, conscious and actual participation in it of women

on par with men. This experience must be obtained through the practice of women and men elected as people's deputies, and also through thorough adoption of international experience. Such assimilation is possible through the system of knowledge, and also by means of participating in all international meetings of the parliamentarians, activities in the international and regional level structures, mutual visits of the parliamentarians to share experience, scientific and practical interparliamentary conferences, etc.

The Parliaments of all countries of the world function within the unified international system. At the Summit of the Century in 2000, the heads of the states and governments claimed that they are «full of determination to continue strengthening cooperation within the United Nation Organization, and cooperation of the national parliaments through their international organization – Interparliamentary Union – in various branches, in particular, concerning peacekeeping and security, economic and social development, international law and human rights, democracy and gender issues». Therefore, the gender issues are mentioned on par with other issues of international importance and international scale to be resolved. According to their claims, as the members of the Interparliamentary Union, national parliaments are full of determination to act, providing legislative regulation in the gender equality sphere.

A Parliament performs its functions – representative, legislative, controlling, constitutive. In the structure of all these functions, there is a gender component. Its volume, clarity of definition, system of implementation for all directions of activities, correspondence to modern needs and taking into account national mentality, determines the depth and scope of democratic transformations of the country, and, therefore, those of gender transformations.

In the system of division of power in a state, the main form of lawmaking is legislative activity which only a Parliament has a right to. The result of such activity is a law – official state enactment, where the legislative power manifests its will concerning legal regulation of social relations. Legislation is an effective tool for governing society. With the aid of law, the legislative power conducts primary regulation of social relations. Therefore, parliament legislatively establishes the legal status of a person. Only the parliament, using laws, can create the necessary foundation for activity of all other bodies of state power in the sphere of ensuring human rights, including gender equality.

A correct reflection of the needs in ensuring of equality of sexes in all spheres of life, effectiveness, completeness and timeliness of legislative solutions, quality of laws – these are the defining factors of political, social and spiritual renovation of the society in the modern world, for its successful social and economic transformations. It is important for the Parliament to determine its activity, including that in the sphere of gender. The competence of the Parliament is defined in the Constitution, the basic law.

As long as the gender direction of activities in many Parliaments is currently on the stage of settlement, their competence concerning gender issues is being clarified and defined in special legislation. For example, in many special laws on ensuring of equality of sexes, separate articles are introduced, describing the authorities of the parliament concerning equality between women and men. The specialized legislation on gender equality in a number of countries clarifies details and makes gender accents.

In the Law of Ukraine «On ensuring of equal rights and opportunities for women and men», a whole chapter is dedicated to defining the mechanism for ensuring of equal rights and opportunities of women and men, and Article 7 of the Chapter outlines the governmental bodies in charge of gender issues, as well as their relevant competences. The powers of the **Verkhovna Rada of Ukraine** (the Parliament) include:

- identifying the major principles of the gender policy of the state;
- implementation of the principle of ensuring of equal rights and opportunities for women and men in its legislative activity;
- within the limits, established by the Constitution of Ukraine, conducting parliamentary control over implementation of legislative acts on the issues of ensuring of equal rights and opportunities for women and men.

The place for the **National Assembly of Slovenia** is established in the system of assigning of the state mechanism of governmental bodies and their competence on ensuring of gender equality, in the adopted Law on equal opportunities for women and men. In a separate article it states:

#### «Chapter 10. National Assembly

1. The National Assembly of the Republic of Slovenia approves the national programme of equal opportunities for women and men.

2. The National Assembly takes into account feasibility, actual opportunities and compliance with the principle of proportional representation of women and men in the governmental bodies and in the list of delegations created according to the legislation.”

The law of Kyrgyzstan stipulates the competence of the Parliament – Jogorku Kenesh – in considerably more detailed manner in Article 5 «Mechanism for ensuring of observance of gender equality» of the Law of **Kyrgyzstan** «On foundations of state guarantees for ensuring of gender equality».

#### «Article 23. Competence of Jogorku Kenesh of the Kyrgyz Republic in ensuring of gender equality

Jogorku Kenesh of the Kyrgyz Republic, by adopting laws, establishes the legislative basis of the governmental policy for gender equality in all spheres of public and social life.

Jogorku Kenesh of the Kyrgyz Republic, within the limits of its competence, appoints, taking into account that the representation of each sex must not exceed 70% of the total number of staff, the members of the following bodies:

- judges of the Constitutional Court of the Kyrgyz Republic;
- judges of the Supreme Court of the Kyrgyz Republic;
- central commissions for election and conducting referenda in the Kyrgyz Republic, auditors of the Chamber of Accounts of the Kyrgyz Republic.

Jogorku Kenesh of the Kyrgyz Republic at least once a year hears the governmental reports on the situation in the sphere of gender equality. The report is filed by the government of the Kyrgyz Republic according to the procedure established by Jogorku Kenesh of Kyrgyz Republic, and must be published in mass media».

The activity of the parliaments concerning formation of the gender policy, quality and timeliness of the gender legislation adopted by them, as well as how much of real

parliamentary control is exercised over its implementation, determine the guarantees, protection and promotion of gender equality in the relevant country.

Activity of Parliaments concerning regulation of gender processes to a considerable extent is determined by their gender structure. Let us take a look at the Parliaments of the world basing on the ratio of women represented there, according to the information from the Interparliamentary Union (*table 7*). As the discriminated sex is usually women, the table is focused on them.

**Table 7**

**Representation of women, by number of persons and by percentage, in the national parliaments of the countries of the world <sup>63</sup> (as of July 31, 2010)**

Place	Country *	Lower chamber of the Parliament				Upper chamber of the Parliament			
		Date of elections	Number of seats in the chamber	Of them women:		Date of elections	Number of seats in the chamber	Of them women:	
				persons	%			persons	%
1	Rwanda	09 2008	80	45	56.3	10 2003	26	9	34.6
2	Sweden	09 2006	349	162	46.4	---	---	---	---
3	South African Republic	04 2009	400	178	44.5	04 2009	54	16	29.6
4	Cuba	01 2008	614	265	43.2	---	---	---	---
5	Iceland	05 2009	63	27	42.9	---	---	---	---
6	Netherlands	11 2010	150	61	40.7	05 2007	75	26	34.7
7	Finland	03 2007	200	80	40.0	---	---	---	---
8	Norway	09 2005	169	67	39.6	---	---	---	---
9	Belgium	06 2010	150	59	39.3	06 2010	40	17	42.5
10	Mozambique	10 2009	250	98	39.2	---	---	---	---
11	Angola	09 2008	220	85	38.6	---	---	---	---
12	Costa Rica	02 2010	57	22	38.6	---	---	---	---
13	Argentina	06 2009	257	99	38.5	06 2009	71	25	35.2
14	Denmark	11 2007	179	68	38.0	---	---	---	---
15	Spain	03 2008	350	128	36.6	03 2008	263	81	30.2
16	Andorra	04 2009	28	10	35.7	---	---	---	---
17	New Zealand	11 2008	122	41	33.6	---	---	---	---
18	Nepal	04 2008	594	197	33.2	---	---	---	---
19	Germany	09 2009	622	204	32.8	N/A	69	15	21.7
20	Macedonia	06 2006	120	39	32.5	---	---	---	---
21	Ecuador	04 2009	124	40	32.3	---	---	---	---
22	Burundi	07 2010	106	34	32.1	07 2010	41	19	46.3
23	Belarus	09 2008	110	35	31.8	07 2008	58	18	32.8
24	Uganda	02 2006	324	102	31.5	----	---	---	---
25	Tanzania	12 2005	323	99	30.7	---	---	---	---
26	Guiana	08 2006	70	21	30.0	---	---	---	---

63 See: *Women in National Parliaments: World Classification*. – [Http://www.ipu.org/wmn-e/akcc/classif.htm](http://www.ipu.org/wmn-e/akcc/classif.htm)



26	East Timor	06 2007	65	19	29.2	---	---	---	---
27	Switzerland	10 2007	200	58	29.0	10 2007	46	10	21.7
28	Trinidad and Tobago	05 2010	42	12	28.6	06 2010	31	8	25.8
29	Austria	09 2006	183	51	27.9	N/A	61	18	29.5
30	Ethiopia	05 2010	547	152	27.8	10 2005	112	21	18.8
31	Tunisia	10 2009	214	59	27.6	08 2008	112	17	15.2
32	Peru	04 2006	120	33	27.5	---	---	---	---
33	Portugal	09 2009	230	63	27.4	---	---	---	---
34	Afghanistan	09 2005	249	68	27.3	02 2010	102	28	27.5
35	Australia	11 2007	150	41	27.3	11 2007	76	27	35.5
36	Namibia	11 2009	67	18	26.9	11 2004	26	7	26.9
37	Mexico	07 2009	500	131	26.2	07 2006	128	25	19.5
38	Monaco	02 2008	23	6	26.1	---	---	---	---
39	Vietnam	05 2007	493	127	25.8	---	---	---	---
40	Kyrgyzstan	12 2007	90	23	25.6	---	---	---	---
41	Sudan	04 2010	446	114	25.6	05 2010	46	5	10.9
42	Bolivia	12 2009	130	33	25.4	12 2009	36	17	47.2
43	Iraq	12 2005	275	70	25.5	---	---	---	---
44	Laos	04 2006	115	29	25.2	----	---	---	---
45	Lesotho	02 2007	120	29	24.2	03 2007	33	6	18.2
46	Liechtenstein	02 2009	25	6	24.0	---	---	---	---
47	Moldova	07 2009	101	24	23.8	---	---	---	---
48	Croatia	11 2007	153	36	23.5	---	---	---	---
49	Seychelles	05 2007	34	8	23.5	---	---	---	---
50	Singapore	05 2006	94	22	23.4	---	---	---	---
51	Estonia	03 2007	101	23	22.8	---	---	---	---
52	Senegal	06 2007	150	34	22.7	08 2007	100	40	40.0
53	United Arab Emirates	12 2006	40	9	22.5	---	---	---	----
54	Pakistan	02 2008	342	76	22.2	03 2009	100	17	17.0
55	Canada	10 2008	308	68	22.1	N/A	93	32	34.4
56	Mauritania	11 2006	95	21	22.1	11 2009	56	8	14.3
57	Czech Republic	05 2010	200	44	22.0	10 2008	81	14	17.3
58	Eritrea	02 1994	150	33	22.0	---	----	----	----
59	Latvia	10 2006	100	22	22.0	---	---	---	---
60	United Kingdom of Great Britain	05 2010	650	143	22.0	N/A	733	147	20.1
61	Uzbekistan	12 2009	150	33	22.0	12 2010	100	15	15.0
62	Saint Vincent and the Grenadines	12 2005	23	5	21.7	---	---	---	---
63	Serbia	05 2008	250	54	21.6	---	---	---	---
64	Philippines	05 2010	229	49	21.4	05 2010	23	3	13.0
65	China	03 2008	2987	637	21.3	---	---	---	---
66	Italia	04 2008	630	134	21.3	04 2008	322	59	18.3

57	Cambodia	07 2008	123	<b>26</b>	<b>21.1</b>	01 2006	61	<b>9</b>	<b>14.8</b>
58	Bulgaria	07 2009	240	<b>50</b>	<b>20.8</b>	---	----	----	----
„	Dominican Republic	05 2010	183	<b>38</b>	<b>20.8</b>	05 2010	32	<b>3</b>	<b>9.4</b>
”	Malawi	05 2009	192	<b>40</b>	<b>20.8</b>	---		---	---
59	Nicaragua	11 2006	92	<b>19</b>	<b>20.7</b>	---	---	---	---
60	Luxemburg	06 2009	60	<b>12</b>	<b>20.0</b>	---	---	---	----
”	Poland	10 2007	460	<b>92</b>	<b>20.0</b>	10 2007	100	<b>8</b>	<b>8.0</b>
61	Dominica	12 2009	26	<b>5</b>	<b>19.2</b>	---	---	---	---
62	Lithuania	10 2008	141	<b>27</b>	<b>19.1</b>	---	---	---	---
63	Bosnia and Herzegovina	10 2006	42	<b>8</b>	<b>19.0</b>	03.2007	15	<b>2</b>	<b>13.3</b>
”	Salvador	01 2009	84	<b>16</b>	<b>19.0</b>	---	---	---	---
”	Tajikistan	02 2010	63	<b>12</b>	<b>20.1</b>	03 2010	34	<b>5</b>	<b>14.7</b>
64	France	06 2007	577	<b>109</b>	<b>18.9</b>	09 2008	343	<b>75</b>	<b>21.9</b>
65	Mauritius	05 2010	69	<b>13</b>	<b>18.8</b>	---	---	---	---
66	Bangladesh	12 2008	345	<b>64</b>	<b>18.6</b>	---	---	---	---
67	Israel	02 2009	120	<b>22</b>	<b>18.3</b>	---	---	---	---
68	Cape Verde	12 2006	72	<b>13</b>	<b>18/1</b>	---	---	---	---
69	Honduras	11 2009	128	<b>23</b>	<b>18.0</b>	---	---	---	---
”	Indonesia	04 2009	560	<b>101</b>	<b>18.0</b>	---	---	---	---
70	Kazakhstan	08 2007	107	<b>19</b>	<b>17.8</b>	10 2008	47	<b>2</b>	<b>4.3</b>
71	Venezuela	12 2005	166	<b>29</b>	<b>17.5</b>	---	---	---	---
72	Greece	10 2009	300	<b>52</b>	<b>17/3</b>	---	---	---	---
73	Turkmenistan	12 2008	125	<b>21</b>	<b>16.8</b>	---	---	---	---
„	United States of America	11 2008	435	<b>73</b>	<b>16.8</b>	11 2008	98	<b>15</b>	<b>15.3</b>
74	San-Marino	11 2008	60	<b>10</b>	<b>16.7</b>	---	---	---	---
75	Albania	06 2009	140	<b>23</b>	<b>16.4</b>	---	---	---	---
76	Democratic People's Republic of Korea	03 2009	687	<b>107</b>	<b>15.6</b>	----	---	---	---
77	Burkina Faso	05 2007	111	<b>17</b>	<b>15.3</b>	---	---	---	---
”	Slovakia	06 2010	150	<b>23</b>	<b>15.3</b>	---	---	---	---
78	Uruguay	10 2009	99	<b>15</b>	<b>15.2</b>	10 2009	31	<b>4</b>	<b>12.9</b>
79	Zimbabwe	03 2008	214	<b>32</b>	<b>15.0</b>	03 2008	99	<b>24</b>	<b>24.2</b>
80	Gabon	01 2009	116	<b>17</b>	<b>14.7</b>	01 2009	102	<b>18</b>	<b>17.6</b>
„	Republic of Korea	04 2008	299	<b>44</b>	<b>14.7</b>	---	---	---	---
81	Slovenia	09 2008	90	<b>13</b>	<b>14.4</b>	11 2007	40	<b>1</b>	<b>2.5</b>
82	Chile	12 2009	120	<b>17</b>	<b>14.2</b>	12 2009	38	<b>5</b>	<b>13.2</b>
83	Russian Federation	12 2007	450	<b>63</b>	<b>14.0</b>	N/A	169	<b>8</b>	<b>4.7</b>
”	Zambia	09 2006	157	<b>22</b>	<b>14.0</b>	---	---	---	---

84	Cameroon	07 2007	180	<b>25</b>	<b>13.9</b>	---	---	---	---
"	Ireland	05 2007	165	<b>23</b>	<b>13.9</b>	02 2008	49	<b>13</b>	<b>22.0</b>
85	Djibouti	02 2008	65	<b>9</b>	<b>13.8</b>	---	---	---	---
86	Swaziland	09 2008	66	<b>9</b>	<b>13.6</b>	10 2003	30	<b>12</b>	<b>40.0</b>
87	Grenada	07 2008	15	<b>2</b>	<b>13.3</b>	08 2008	13	<b>4</b>	<b>30.8</b>
"	Jamaica	09 2007	60	<b>8</b>	<b>13.3</b>	09 2007	21	<b>3</b>	<b>14.3</b>
"	Thailand	12 2007	473	<b>63</b>	<b>13.3</b>	03 2008	150	<b>24</b>	<b>16.0</b>
88	Sierra Leone	08 2007	121	<b>16</b>	<b>13.2</b>	---	---	---	---
89	Cyprus	05 2006	56	<b>7</b>	<b>12.5</b>	---	---	---	---
"	Liberia	10 2005	64	<b>8</b>	<b>12.5</b>	10 2005	30	<b>5</b>	<b>16.7</b>
"	Paraguay	04 2008	80	<b>10</b>	<b>12.5</b>	04 2003	45	<b>4</b>	<b>8.9</b>
90	Syrian Arab Republic	04 2007	250	<b>31</b>	<b>12.4</b>	---	---		---
91	Bahamas	05 2007	41	<b>5</b>	<b>12.2</b>	05 2007	15	<b>5</b>	<b>33.3</b>
92	Guatemala	09 2007	158	<b>19</b>	<b>12.0</b>	---	---	---	---
93	Azerbaijan	11 2005	123	<b>14</b>	<b>11.4</b>	---	---	---	---
"	Romania	11 2008	334	<b>38</b>	<b>11.4</b>	11 2008	137	<b>8</b>	<b>5.8</b>
94	Japan	08 2009	480	<b>54</b>	<b>11.3</b>	07 2010	242	<b>44</b>	<b>18.2</b>
95	Montenegro	03 2009	81	<b>9</b>	<b>11.1</b>	---	---	---	---
"	Saint Lucia	12 2006	18	<b>2</b>	<b>11.1</b>	01 2007	11	<b>4</b>	<b>36.4</b>
"	Togo	10 2007	81	<b>9</b>	<b>11.1</b>	---	---	---	---
96	Benin	03 2003	83	<b>9</b>	<b>10.8</b>	---	---	---	---
"	India	04 2009	545	<b>59</b>	<b>10.8</b>	07 2008	233	<b>21</b>	<b>9.0</b>
97	Antigua and Barbuda	03 2009	19	<b>2</b>	<b>10.5</b>	04 2009	17	<b>5</b>	<b>29.4</b>
"	Morocco	09 2007	325	<b>34</b>	<b>10.5</b>	10 2009	270	<b>6</b>	<b>2.2</b>
98	Mali	07 2007	147	<b>15</b>	<b>10.2</b>	---	---	---	---
99	Barbados	01 2008	30	<b>3</b>	<b>10.0</b>	02 2008	21	<b>7</b>	<b>33.3</b>
"	Equatorial Guinea	05 2008	100	<b>10</b>	<b>10.0</b>	---	---	---	---
"	Guinea-Bissau	11 2008	100	<b>10</b>	<b>10.0</b>	---	---	---	---
100	Malaysia	03 2008	222	<b>22</b>	<b>9.9</b>	N/A	64	<b>18</b>	<b>28.1</b>
101	Kenya	12 2007	224	<b>22</b>	<b>9.8</b>	---	---	---	---
102	Central African Republic	03 2005	104	<b>10</b>	<b>9.6</b>	---	---	---	---
103	Armenia	05 2007	131	<b>12</b>	<b>9.2</b>	---	---	---	---
104	Hungary	04 2010	386	<b>35</b>	<b>9.1</b>	---	---	---	---
"	Turkey	07 2007	549	<b>50</b>	<b>9.1</b>	---	---	---	---
105	Ivory Coast	12 2000	203	<b>18</b>	<b>8.9</b>	---	---	---	---
106	Brazil	10 2006	513	<b>45</b>	<b>8.8</b>	10 2006	81	<b>10</b>	<b>12.3</b>
107	Malta	03 2008	69	<b>6</b>	<b>8.7</b>	---	---	---	---
108	Bhutan	03 2008	47	<b>4</b>	<b>8.5</b>	12 2007	25	<b>6</b>	<b>24.0</b>
"	Panama	05 2009	71	<b>6</b>	<b>8.5</b>	---	---	---	---
109	People's Republic of the Congo	07 2006	500	<b>42</b>	<b>8.4</b>	01 2007	108	<b>5</b>	<b>4.6</b>

110	Ghana	12 2008	230	19	8.3	---	---	---	---
111	Samoa	03 2006	49	3	8.2	---	---	---	---
112	<b>Ukraine</b>	<b>09 2007</b>	<b>450</b>	<b>36</b>	<b>8.0</b>	---	---	---	---
113	Botswana	10 2009	63	5	7.9	---	---	---	---
114	Algeria	05 2007	389	30	7.7	12 2009	136	7	5.1
"	Kuwait	05 2009	65	5	7.7	---	---	---	---
"	Libyan Arab Jamahiriya	03 2009	468	36	7.7	---	---	---	---
115	Gambia	01 2002	53	4	7.5	---	---	---	---
116	Congo	06 2007	137	10	7.3	08 2008	70	9	12.9
"	Sao Tome and Principe	03 2006	55	4	7.3	---	---	---	---
117	Nigeria	04 2007	358	25	7.0	04 2007	109	9	8.3
118	Somali	08 2004	546	37	6.8	---	---	---	---
119	Saint Kitts and Nevis	01 2010	15	1	6.7	---	---	---	---
120	Georgia	05 2008	138	9	6.5	---	---	---	---
"	Maldives	05 2009	77	5	6.5	---	---	---	---
121	Jordan	11 2007	110	7	6.4	12 2009	55	7	12.7
122	Sri Lanka	04 2010	225	12	5.3	---	---	---	---
123	Chad	04 2002	155	8	5.2	---	---	---	---
124	Kiribati	08 2007	46	2	4.3	---	---	---	---
125	Haiti	02 2006	98	4	4.1	04 2009	29	2	6.9
126	Mongolia	06 2008	76	3	3.9	---	---	---	---
127	Vanuatu	09 2008	52	2	3.8	---	---	---	---
128	Lebanon	06 2009	128	4	3.1	---	---	---	---
"	Tonga	04 2008	32	1	3.1	---	---	---	---
129	Comoro Islands	11 2009	33	1	3.0	---	---	---	---
"	Marshall Islands	11 2007	33	1	3.0	---	---	---	---
130	Iran	03 2008	290	8	2.8	---	---	---	---
131	Bahrain	11 2006	40	1	2.5	12 2006	40	10	25.0
132	Egypt	11 2005	454	8	1.8	06 2010	264	?	?
133	Papua New Guinea	06 2007	109	1	0.9	---	---	---	---
134	Yemen	04 2003	301	1	0.3	04.2001	111	2	1.8
135	Belize	02 2008	32	0	0.0	03.2008	13	5	38.5
"	Nauru	06 2010	18	0	0.0	---	---	---	---
"	Federated States Micronesia	03 2009	14	0	0.0	---	---	---	---
"	Oman	10 2007	84	0	0.0	11 2007	72	14	19.4
"	Palau	11 2008	16	0	0.0	11 2008	13	2	15.4
"	Qatar	07 2010	35	0	0.0	---	---	---	---
"	Saudi Arabia	02 2009	150	0	0.0	---	---	---	---

„	Solomon Islands	04 2006	50	0	0.0	---	---	---	---
”	Tuvalu	08 2006	15	0	0.0	---	---	---	---
136	Columbia	03 2010	166	?	?	03 2010	102	?	?

\*/ The data on number of persons and the share of women elected to the national parliaments is listed in descending order.

There are only seven countries where the share of women in the national parliaments is 40% or more - Rwanda, Sweden, Finland, Iceland, Netherlands, the South African Republic and Cuba, 30% or more – in 18 countries of the world, which are Norway, Denmark, Spain, Belgium, Germany, Belarus, Argentina, New Zealand, Mozambique and others. By representation of women in the parliament, among 186 countries Ukraine is on 109<sup>th</sup> place (8%), along with such countries as Samoa, Botswana, Ghana, Congo, Bhutan, Panama and others.

Of interest is the percentage of women in the parliaments taken by regions of the world. Average indicators show that in the countries of Asia (18.7%) and Africa (19%) concerning political representation of women in the parliaments are close to the majority of countries of the European territories (20%), which shows that development of gender transformations is a world-wide process (*table 8*).

**Table 8**

**Women in the parliaments of the different regions of the world (in %)**  
**Situation as of 2010<sup>64</sup>**

REGIONS	Unicameral Parliament and lower chamber in bicameral Parliament	Upper chamber or Senate	Both chambers together
Northern countries of Europe	<b>42.1</b>	---	---
Northern and Southern Americas	<b>22.5</b>	22.6	22.5
Europe – countries that are OSCE members, including Northern countries	<b>22.0</b>	19.4	21.5
Europe – countries that are OSCE members, excluding Northern countries	<b>20.1</b>	19.4	19.9
Countries of Africa located to south of Sahara desert	<b>19.0</b>	20.9	19.2
Asia	<b>18.7</b>	17.0	18.5
Countries of the Pacific region	<b>13.2</b>	32.6	15.3
Arab countries	<b>11.1</b>	8.1	10.5

*Classification of regions is given in the descending order, according to percentage indicators for women in upper and lower chambers of the parliament*

64 [www.ipu.jrg/wmn-e/world.htm](http://www.ipu.jrg/wmn-e/world.htm)



In the countries of the world, there is different spreading by the indicators of shares of women and men in the parliaments. It depends on many factors: level of development of the society, its political regime, peculiarities of formation and functioning of its political system, development of the political culture of the citizens, etc., which are considered above in detail. Because the European region achieved greatest success in the gender equality sphere by a number of parameters, it is quite interesting to learn the share of women in the parliament in the countries of this region (*table 9*).

**Table 9**

**Representation of women in the national parliaments  
of the countries of Europe and CIS<sup>65</sup>**  
(as of July 31, 2010)

Place	Country	Lower chamber of the Parliament				Upper chamber of the Parliament			
		Date of elections	Number of seats in the chamber	Of them women:		Date of elections	Number of seats in the chamber	Of them women:	
				persons	%			persons	%
1	Sweden	09 2006	349	<b>162</b>	<b>46.4</b>	---	---	---	---
2	Iceland	05 2009	63	<b>27</b>	<b>42.9</b>	---	---	---	---
3	Netherlands	11 2006	150	<b>61</b>	<b>40.7</b>	05 2007	75	<b>26</b>	<b>34.7</b>
4	Finland	03 2007	200	<b>80</b>	<b>40.0</b>	---	---	---	---
5	Norway	09 2005	169	<b>67</b>	<b>39.6</b>	---	---	---	---
6	Belgium	06 2010	150	<b>59</b>	<b>39.3</b>	06 2010	40	<b>17</b>	<b>42.5</b>
7	Denmark	11 2007	179	<b>68</b>	<b>38.0</b>	---	---	---	---
8	Spain	03 2008	350	<b>128</b>	<b>36.6</b>	03 2008	263	<b>81</b>	<b>30.2</b>
9	Germany	09 2009	622	<b>204</b>	<b>32.8</b>	N/A	69	<b>15</b>	<b>21.7</b>
10	Macedonia	06 2006	120	<b>39</b>	<b>32.5</b>	---	---	---	---
11	Belarus	09 2008	110	<b>35</b>	<b>31.8</b>	07 2008	58	<b>18</b>	<b>32.8</b>
12	Switzerland	10 2007	200	<b>58</b>	<b>29.0</b>	10 2007	46	<b>10</b>	<b>21.7</b>
13	Austria	09 2006	183	<b>51</b>	<b>27.9</b>	N/A	61	<b>18</b>	<b>29.5</b>
14	Portugal	09 2009	230	<b>63</b>	<b>27.4</b>	---	---	---	---
15	Monaco	02 2008	23	<b>6</b>	<b>26.1</b>	---	---	---	---
16	Kyrgyzstan	12 2007	90	<b>23</b>	<b>25.6</b>	---	---	---	---
17	Liechtenstein	02 2009	25	<b>6</b>	<b>24.0</b>	---	---	---	---
18	Moldova	07 2009	101	<b>24</b>	<b>23.8</b>	---	---	---	---
19	Croatia	11 2007	153	<b>36</b>	<b>23.5</b>	---	---	---	---
20	Estonia	03 2007	101	<b>23</b>	<b>22.8</b>	---	---	---	---
21	United Kingdom of Great Britain	05 2010	650	<b>143</b>	<b>22.0</b>	N/A	733	<b>147</b>	<b>20.1</b>
"	Latvia	10 2006	100	<b>22</b>	<b>22.0</b>	---	---	---	---
"	Uzbekistan	12 2009	150	<b>33</b>	<b>22.0</b>	12 2010	100	<b>15</b>	<b>15.0</b>
"	Czech Republic	05 2010	200	<b>44</b>	<b>22.0</b>	10 2008	81	<b>14</b>	<b>17.3</b>
22	Serbia	05 2008	250	<b>54</b>	<b>21.6</b>	---	---	---	---

65 See: *Women in National Parliaments: World Classification*. – [Http://www.ipu.org/wmn-e/classif.htm](http://www.ipu.org/wmn-e/classif.htm)

23	Italy	04 2008	630	<b>134</b>	<b>21.3</b>	04 2008	322	<b>59</b>	<b>18.3</b>
24	Bulgaria	07 2009	240	<b>50</b>	<b>20.8</b>	---	----	----	----
25	Poland	10 2007	460	<b>90</b>	<b>20.4</b>	10 2007	100	<b>8</b>	<b>8.0</b>
26	Tajikistan	02 2010	63	<b>12</b>	<b>20.1</b>	03 2010	34	<b>5</b>	<b>14.7</b>
27	Luxembourg	06 2009	60	<b>12</b>	<b>20.0</b>	---	---	---	----
28	Lithuania	10 2008	141	<b>27</b>	<b>19.1</b>	---	---	---	---
29	Bosnia and Herzegovina	10 2006	42	<b>8</b>	<b>19.0</b>	03.2007	15	<b>2</b>	<b>13.3</b>
30	France	06 2007	577	<b>109</b>	<b>18.9</b>	09 2008	343	<b>75</b>	<b>21.9</b>
31	Greece	10 2009	300	<b>52</b>	<b>17.3</b>	---	---	---	---
32	Kazakhstan	08 2007	107	<b>19</b>	<b>17.8</b>	10 2008	47	<b>2</b>	<b>4.3</b>
33	Turkmenistan	12 2008	125	<b>21</b>	<b>16.8</b>	---	---	---	---
34	San Marino	11 2008	60	<b>10</b>	<b>16.7</b>	---	---	---	---
35	Albania	06 2009	140	<b>23</b>	<b>16.4</b>	---	---	---	---
36	Slovakia	06 2010	150	<b>23</b>	<b>15.3</b>	---	---	---	---
37	Slovenia	09 2008	90	<b>13</b>	<b>14.4</b>	11 2007	40	<b>1</b>	<b>2.5</b>
38	Russian Federation	12 2007	450	<b>63</b>	<b>14.0</b>	N/A	169	<b>8</b>	<b>4.7</b>
39	Ireland	05 2007	165	<b>23</b>	<b>13.9</b>	02 2008	49	<b>13</b>	<b>22.0</b>
40	Cyprus	05 2006	56	<b>7</b>	<b>12.5</b>	---	---	---	---
41	Azerbaijan	11 2005	123	<b>14</b>	<b>11.4</b>	---	---	---	---
''	Romania	11 2008	334	<b>38</b>	<b>11.4</b>	11 2008	137	<b>8</b>	<b>5.8</b>
42	Montenegro	03 2009	81	<b>9</b>	<b>11.1</b>	---	---	---	---
43	Armenia	05 2007	131	<b>12</b>	<b>9.2</b>	---	---	---	---
44	Hungary	04 2010	386	<b>35</b>	<b>9.1</b>	---	---	---	---
45	Ukraine	09 2007	450	36	8.0	---	---	---	---
46	Georgia	05 2008	138	<b>9</b>	<b>6.5</b>	---	---	---	---

As the data shows (*Table 9*), **Ukraine** holds the last but one place among the countries of Europe by the representation of women in the Parliament. In the last two decades, the percentage of women in the parliament of Ukraine varied from 3 to 8% (*Table 10*). Because there is no increase of this percentage, it is hard to tell if it is possible to achieve until 2015 the target indicator of 30 percent representation of women in the bodies of legislative power, as established in Millennium Development Goals: Ukraine (*Table 17 and 18*). Also, it does not seem to be possible to trace the tendency of the gender development in relation to the proportional system of the parliament formation, due to short time of its existence. The existing tendency, rather, narrows gender indicators as to composition of the parliament with each new election. This tendency can be seen when we look at the distribution of deputies by sex in the Verkhovna Rada of Ukraine of all convocations for the period of the country's independence (*table 10*).

Table 10

**Distribution of people's deputies by sex in all convocations of Verkhovna Rada of independent Ukraine**

Convocation	Total number of deputies				
	women		men		Ratio of women to men
	persons	%	persons	%	
First convocation (1990 – 1994)	13	3.0	421	97,0	<b>1 : 33</b>
Second convocation (1994 – 1998)	19	5.7	316	94,3	<b>1 : 17</b>
Third convocation (1998 – 2002)	35	8.1	395	91,9	<b>1 : 12</b>
Fourth convocation (2002 – 2006)	23	5.1	427	94,9	<b>1 : 19</b>
Fifth convocation (2006 – 2007)	36	8.0	414	92,0	<b>1 : 12</b>
Sixth convocation (2007)	36	8.0	414	92,0	<b>1 : 12</b>

The first election of the times of collapse of the Soviet Union and formation of the independent Ukraine showed that women did not become a political force able to control the political situation in the country and to gain enough votes to get to the Parliament. In contrast to 36% of the total seats in the Supreme Council of the Ukrainian Soviet Socialist Republic, achieved due to secret assignment of quotas after the elections of 1980, at the elections of 1990 the share of women in the Parliament went down to 3%. The society did not support a considerable share of women. It was not yet organized into associations, not structured onto organizations. At that time, the process of creating parties and non-governmental organizations that would have different status than the only party of the Soviet Union, only started. The next elections of 1994 somewhat improved the representation of women in the Parliament, yet only by six individuals, and the total number of female members of parliament was 19, or 5.7% of the total number of people's deputies.

In the independent Ukraine, in the parliament of all six convocations, gender democracy was never developed, that is, men in the Parliament never comprised less than 92%. Today, the seemingly persistent 8% of women are elected to the Parliament. Such persistence gives an impression of some hidden controlled tradition, worked out by men, who, in effect, form the Parliament.

These processes and transformations of women's representation in the higher bodies of the legislative power are characteristic to all countries on the post-Soviet territories that became independent states.

Of some interest is classification of the Interparliamentary Union, which divided all countries of the world into six groups, basing on the ratio of representation of women.

Ukraine belongs to the group «*countries with conclusive domination of men*» (Table 11). Ukraine is behind not only the European level, but also on many countries of Africa and Asia, being quite close to the indicators of Arab countries.

**Table 11**

**Representation of women in the parliaments of  
the countries of the world, by groups of countries  
As of 2007<sup>66</sup>**

No.	Group of countries	Percentage of women (%)	Number of countries
1.	Countries leading by political representation of women	30-45	19
2.	Gender-promising countries	15-30	72
3.	Countries with a high gender disproportion	10-15	37
4.	Countries with absolute domination of men	5-10	35
5.	Countries with very low representation of women	Under 5%	16
6.	Countries with male parliaments	0	9

The overwhelming majority of men in the Parliament of Ukraine, as well as in the parliaments of all countries of the world, is a reality in the modern conditions. Therefore, the parliament is not balanced. This is in disharmony with the goals defined in the Constitution of Ukraine, which sets the tasks of building democratic, social and constitutional state and ensuring of equal rights and opportunities of men and women. It is necessary to conduct gender analysis of the background and advantages that men use in their urge to power, and practical actions to enter it. At that, such analysis needs to include a comparative approach to evaluating the reasons of such imbalance. First of all, we need to evaluate the electoral legislation from international and national points of view, and the experience of its practical implementation in some countries.

The right to elect and be elected to the governmental bodies is viewed by all states on the international level as the one of special significance among the political rights of citizens. Equality of electoral rights for all, that is, for men and women alike, is declared in the provisions of international instruments, such as, in particular, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, that are ratified by nearly all countries of the world. Ratification is acknowledgement of adoption of these documents for implementation. Let us emphasize especially significant moments concerning the subject matter.

The Universal Declaration of Human Rights says: «Everyone has the right to take part in the government of his country, directly or through freely chosen representatives» (article 21, paragraph 1). And, although any declaration as a document is advisory only, the Universal Declaration is perceived by the world community as the basic enactment on human rights.

<sup>66</sup> See: *Variants of ensuring of balanced representation of women and men in elected bodies of power in Ukraine*. Document as of July 11, 2007: Materials of the Round table, July 16, 2007. International Centre For Perspective Research. – С. 5. / Варіанти забезпечення збалансованого представництва жінок і чоловіків у виборних органах влади України. Документ від 11.07.2007: матеріали круглого столу 16 липня 2007 року. Міжнародний центр перспективних досліджень.

The International Covenant on Civil and Political Rights emphasized the equality between women and men in the right to elect and to be elected, and to make decisions (article 25).

The Convention on the Elimination of All Forms of Discrimination Against Women binds the member states with the commitment to secure for women the following rights on par with men: 1) to vote at all elections and public referenda, and to be elected to all elected bodies; 2) to participate in formation and implementation of the policy of the government, and to hold offices and positions at all levels of government; 3) to participate in the activities of non-governmental organizations and associations that address the issues of public and political life of the country (article 7). The Convention is an international standard for the countries of the world. They incorporate into the national legislation norms and principles of the international law, taking into account actual opportunities to secure them. Unlike implementation of social and economic norms of the international law, political rights do not require specific investments of the state for ensuring them.

The mentioned documents, acknowledged by the countries of the world, are being transformed in different ways when incorporated into their national legislation. Still, proportional representation of sexes in the parliaments, as well as at all levels of power, did not happen. Only some countries came closer to the democracy based on parity. No country has representation of women in the bodies of government that is proportional to their natural ratio.

The international experience shows that ensuring of gender equality in the parliaments of different countries of the world is related to the processes of their formation. Assignment of quotas can secure comparable representation of women and men in a parliament. Assigning of gender-based quotas for parliamentary representation is a political and legislative method of correcting the discriminatory situation concerning the status of one of the sexes, and facilitation of equal starting conditions for their self-expression in the governmental system. Because women are being discriminated, assigning quotas is the mechanism of increasing the representation of women by means of assigning the seats for them in the electoral lists of candidates. Women, who for a long time were restricted to social duties of creating conditions for men, serving their needs and interests, now require certain political support for the time of transition, some actual and legal support – a system of benefits and compensations. This compensatory approach to the modern women proved to be a positive experience in many European countries, where the number of women in the governmental bodies grew thanks to quota assignment.

In spite of the justified positive practice of temporary special measures, the attitude to quota assignment for official positions in the governmental bodies is not always positive. Some women are against quotas, considering that such “shortcut” to the parliament will cause criticism against the women who are already elected to the parliament. Some even think that assigning quotas is a form of humiliation for women. Such voices can be heard in Ukraine as well. Among the antagonists of quotas there are some who think that this sets a «ceiling» in women’s advance to the parliament, that is, facilitates the situation where women cannot overcome the limit set by the quota. But, as the practice of assigning quota shows, where quotas exist, such issues are non-existent. Even in the countries where quotas are today seen as a standard, before they were introduced there were many adversaries to their introduction. For example, introduction of quotas in **Ireland** in the beginning was subject to heavy criticism. Yet later the attitude changed as the reality demonstrated growth of the number of women in the parliament from 9 to 26 % in the years from 1981 to 1996.



Of special interest are affirmative actions in the countries that are members of the European Union, which base their domestic policy on the principles of social justice, embodied in the Maastricht treaty. Basing their policy on the gender concept, they focus their attention on creating corresponding conditions (even temporary) for ensuring of real equality between women and men. The standards concerning equal treatment of women and men are a component of both primary and secondary legislation of the European Union. They are described in the articles of the Amsterdam Treaty of 1997, and are included into the Directives of the European Union. Member states of the European Union commit to add these provisions to the national legislations.

At the special conference «Towards partnership between men and women in politics», which took place on February 14–18, 1997, in New Delhi, and at other forums, the minimum 30-percent threshold was determined for election or assignment of women to the governing positions in the national agencies.

Later, as the practice acknowledged internationally, the ratio with the level of at least 30 per cent of each sex was taken for standard as the «critical mass» for women's representation in the parliament. This gives an opportunity to overcome gender imbalance, influence formation of the parliament and decision-making process. Such correlation provides for representation of at least 30 % women in political parties and governmental structures. Lately, more and more countries use gender quotas, including such countries as **France, Sweden, Bosnia, Argentina** and others.

The historical and modern practice of formation of the governmental structures shows that quotas can be set by the state as an obligatory tradition, or in the legislation. Then they are called state quotas.

It is known that in practice of the **Soviet Union** there was a rule of obligatory representation of women in the parliament at the level of 33%. And, although the Constitution of the USSR, just like Constitutions of the Union Republics, and other legislative regulatory acts never contained such a norm, this rule was still obligatory to follow. With the decline of the Soviet Union, the quotas were neglected. Presently, in many newly formed states, the necessity of implementation of specific temporary measures is being considered and contemplated. Equality of political rights of women and men and ensuring of equal opportunities in their application have to be secured by electoral legislation. It legally establishes corresponding mechanisms for implementation and protection of the political rights of both sexes.

In a number of countries of the world, the quota system is incorporated into the national legislation – the Constitution or the special national legislation. Let us give some examples.

**Argentina.** The election legislation establishes 30-percent quota for female candidates for elective offices. Due to this, women's representation in the Chamber of Deputies grew considerably.

**Uganda.** For women from 39 districts, positions in the parliament are reserved. Other women can be elected to the parliament without gender quotas.

**India.** The legislation (the 74<sup>th</sup> amendment) requires to reserve 33% of offices in the local governmental bodies for women.

According to the research of the International Institute for Democracy and Electoral Assistance (IDEA) and Stockholm University, published in 2003, the provisions on gender

quota assignment are included to the Constitutions of 11 countries (*Table 12*). Including gender quota assigning to the Constitution, of course, had positive influence on the number of women in Parliaments. Yet, it takes time for set-up of the quota mechanism and its implementation into practice.

**Table 12**

**Number of women and men in the parliaments of the countries where gender quotas are a part of the Constitutional norms<sup>67</sup>**  
(as of 2003)

Country	Total number of members elected to the parliament	Of them:			
		women		men <sup>3</sup>	
		persons	%	persons	%
Rwanda	80	39	<b>48.8</b>	41	<b>51.2</b>
Argentina	257	79	<b>30.7</b>	178	<b>69.3</b>
Uganda	304	75	<b>24.7</b>	229	<b>75.3</b>
Tanzania	274	61	<b>22.3</b>	213	<b>77.7</b>
Taiwan	225	50	<b>22.2</b>	175	<b>77.8</b>
Eritrea	150	33	<b>22.0</b>	117	<b>78.0</b>
Guyana	65	13	<b>20.0</b>	52	<b>80.0</b>
Philippines	214	38	<b>17.8</b>	176	<b>82.2</b>
France	577	70	<b>12.1</b>	507	<b>87.9</b>
Kenya	224	15	<b>6.7</b>	209	<b>93.3</b>
Nepal	205	12	<b>5.9</b>	193	<b>94.1</b>
Number of countries that implemented assigning quotas at the elections to the national parliament	3				
<b>Average percentage:</b>			<b>11.0%</b>		<b>89.0%</b>

The data shows that constitutional quotas are starting to be implemented for election of national parliaments on all continents. The countries where the necessity of gender quotas is acknowledged in the Constitution are on different stages of development, have different traditions and cultures. They have background of different civilizations, which, of course, influences the process of implementation of assigning quotas.

Along with constitutional, there is a more widespread legal practice of including gender quota provisions into the national electoral legislation (*Table 13*).

<sup>67</sup> Data taken from the Internet.

Table 13

**Number of women and men in the parliaments of the countries where  
gender quotas are fixed in electoral legislation <sup>68</sup>**

Country	Total deputies elected to the parliament	Of them:			
		Women		Men <sup>4</sup>	
		persons	%	persons	%
Belgium	150	53	<b>35.3</b>	97	64.7
Costa Rica	57	20	<b>35.1</b>	37	64.9
Argentina	257	79	<b>30.7</b>	178	69.3
Uganda	304	75	<b>24.7</b>	229	75.3
Mexico	500	113	<b>22.6</b>	387	77.4
Tanzania	274	61	<b>22.3</b>	213	77.7
Pakistan	342	72	<b>21.1</b>	270	78.9
Democratic People's Republic of Korea	687	138	<b>20.1</b>	549	79.9
Bolivia	130	24	<b>18.5</b>	106	81.5
Philippines	214	38	<b>17.8</b>	176	82.2
Macedonia	120	21	<b>17.5</b>	99	82.5
Peru	122	22	<b>17.5</b>	100	82.5
Slovakia	150	26	<b>17.3</b>	124	82.7
Dominican Republic	150	26	<b>17.3</b>	124	82.7
Bosnia and Herzegovina	42	7	<b>16.7</b>	35	83.3
Ecuador	100	16	<b>16.0</b>	84	84.0
France	577	70	<b>12.1</b>	507	87.9
Djibouti	65	7	<b>10.8</b>	58	89.2
Morocco	325	35	<b>10.8</b>	290	89.2
Panama	71	7	<b>9.9</b>	64	90.1
Venezuela	165	16	<b>9.7</b>	149	90.3
Sudan	360	35	<b>9.7</b>	325	90.3
Indonesia	500	44	<b>8.8</b>	456	91.2
Paraguay	80	7	<b>8.8</b>	73	91.2
Brazil	513	42	<b>8.2</b>	471	91.8
Serbia and Montenegro	126	10	<b>7.9</b>	116	92.1
Nepal	205	12	<b>5.9</b>	193	94.1
Honduras	128	7	<b>5.5</b>	121	94.5
Jordan	110	6	<b>5.5</b>	104	94.5
Armenia	131	6	<b>4.6</b>	125	95.4
Number of countries where gender quotas are defined in electoral laws	2				
<b>Average percentage</b>			<b>5.7%</b>		

The constitutional and electoral legislation stipulates gender quotas on subregional level in the following countries: Argentina, Bangladesh, Bolivia, Brazil, France, Greece, India,

<sup>68</sup> Data taken from the Internet.

Namibia, Nepal, Pakistan, Peru, Philippines, Republic of South Africa, Taiwan, Tanzania, Serbia and Montenegro<sup>69</sup>.

Along with parliamentary quotas, the international parliament formation experience provided examples of **party quotas** for overcoming of the gender gap. According to the data of the research by International Institute for Democracy and Electoral Assistance (IDEA) and Stockholm University, published in 2003, political parties of many countries apply gender quotas (*Table 14*).

**Table 14**

**Countries, where political parties use gender quotas**

<i>Country</i>	<i>Political Party</i>	<i>Established quota</i>
<b>Argentina</b>	Socialist Party (PS)	30% quota for women in party lists
	Broad Front (FG)	30% quota for women in party lists
	Movement for Dignity and Independence (MODIN)	30% quota for women in party lists
	Union of Democratic Centre (MID)	30% quota for women in party lists
	Union of Democratic Centre (UCD)	30% quota for women in party lists
	Self-determination and Freedom (AL)	30% quota for women in party lists.
	Democratic Party (PD)	30% quota for women in party lists
	Justicialist Party (PJ)	30% quota for women in party lists
	Radical Civic Union (UCR)	30% quota for women in party lists
	Front for a Country in Solidarity (FREPASO)	30% quota for women in party lists
<b>Australia</b>	Australian Liberty Party (ALP)	In 1994, 35% quota introduced for women in party lists, which in 2002 was changed to 40%.
<b>Austria</b>	Austrian People's Party (OVP)	Since 1995, 33.3% quota for women in party lists
	Social Democratic Party of Austria (SPO)	Since 1985, 40% quota for women in party lists
	Green Alternative (GA)	Since 1993, 50% quota for women in party lists
<b>Belgium</b>	Socialist Party, Flemish (SP)	25% quota for women in party lists
	Socialist party, French (PS)	Quota 50/50% for men and women.
	Party of Green (ECOLO)	
<b>Bosnia and Herzegovina</b>	Social Democratic party (SDPBIH)	In 2001, the Party established 30% quota
<b>Botswana</b>	Party Congress of Botswana (BCP)	Since 1999, 30% quota for women in election lists
	National Front of Botswana (BNF)	Since 1999, 30% quota for women in election lists

<sup>69</sup> According to the data of the research of the International Institute for Democracy and Electoral Assistance (IDEA) and Stockholm University published in 2003.

<b>Great Britain</b>	Liberal Democrats	One in every three in the Party list is a woman. During last European elections, the party formed lists basing on gender principle, 50/50
	Labour Party	In 1975, the act against sexual harassment was adopted. Since 1992 to 1996, they tried to introduce 50% quota. In January 1996, the industrial tribunal judged that quotas for women impair the rights of men. In 1999, the twin system was introduced at formation of the candidate list inside the party, that is, – man/ woman.  In 2001, the parliament resolved that parties are free to establish any quotas.
<b>Venezuela</b>	Democratic Action (AD)	30% quota for women
	Movements for Socialism (MAS)	30% quota for women
<b>Greece</b>	Socialist movement (PASOK)	20% minimal quota for women in the party list
<b>Haiti</b>	Socialist party (KONAKOM)	25% quota for women
<b>Denmark</b>	Socialist People's Party (SF)	Since 1977, quota for women, which was cancelled in 1996
	Social Democratic party (SD)	Since 1983, 40% party quota
	Party of Left Socialists (VS)	Since 1985, quota 50/50 for women and men
<b>Dominican Republic</b>	Dominican Revolutionary Party (PRD)	Since 1994, 25% quota for women
<b>Ecuador</b>	Social Christian Party (PSC)	25% quota for women
	Ecuador Popular Revolutionary Action (APRE)	50% quota
	Ecuadorian Roldosis Party (PRE)	25% quota for women
	Party of Left Democrats (ID)	25% quota for women
	Democracy of People (DP)	25% quota for women
<b>Equatorial Guinea</b>	Unified Social Democratic party (CPDS)	Gender quota established
<b>Canada</b>	New Democratic Party (NDP)	In 1985, 50% quota established for candidates at federal elections
	Liberal party of Canada (LPC)	In 1993, 25% quota for women established



<b>Costa Rica</b>	National Liberal Party (PLN)	40% quota for women
	Social Christian Unity Party (PUSC)	40% quota for women
	Party of Citizen's Action (PAC)	50% quota in the Chamber of Deputies.
<b>Cyprus</b>	Social Democratic movement (KISOS)	25% quota for women
<b>Iceland</b>	People's Association (PA)	40% quota for women in party lists.
	Social Democratic party (SDP)	40% quota for women in party lists
<b>India</b>	Assa Peoples Council AGP)	35% quota for women
	Indian National Congress	Since 1991, 15% quota for female candidates
<b>Ireland</b>	Labour Party	Since 1991 20% quota for women in party lists
	Worker's Party	Since 1991 40% quota for women in party lists
	Bright Green Party	Since 1992, the party established gender balance 40/60 for the nominated candidates
	Fine Gael	40% quota for women in party lists
<b>Israel</b>	Likud	One woman per each ten candidates in the party list
	Meretz	Women must have 30% in the party list. One woman in the top five of candidates, and four in top 12 candidates.
	Israel Labour Party (ILP)	25% quota
	National Religious Party (NRP)	Each fifth position in the party lists is reserved for women
	Spanish Socialist Party (PSOE)	40% quota for any sex
<b>Italy</b>	People's party of Italy (PPI)	20% quota for women in party lists
	Left Democrats (DS)	40% quota for women in party lists
	Social Democratic Party of Italy (SDI)	Maximum 66% representatives of any sex in the structures of the party
	Federation of Green	50% quota for women in party lists
	Renewed Communist Party (PRC)	40% quota for women in party lists
<b>Kenya</b>	Democratic Party (DP)	Each first and third place in the party lists is reserved for women who have their opinion
<b>Korea, Republic of</b>	Grand National Party	Since 2000, 30% quota for female candidates
<b>Kyrgyzstan</b>	Women's Democratic Party of Kyrgyzstan	All party members are women

<b>Lithuanian Republic</b>	Social Democratic Party (CIS)	Quota 30% for candidates of any sex
<b>Luxembourg</b>	Party of Green	
<b>Macedonia</b>	Social Democratic Association of Macedonia (SDUM)	30% quota in party lists
<b>Mali</b>	Alliance for democracy in Mali (ADEMA – PASJ)	30% quota
<b>Malta</b>	Labour Party	20% quota for women in party lists.
<b>Mexico</b>	Revolutionary Party (PRI)	50% quota for women
	Party of Revolutionary Democrats (PRD)	30% quota for women
<b>Morocco</b>	Socialist association of popular forces (USFP)	20% quota in party lists
<b>Mozambique</b>	Mozambique Liberation Front	One in every three in the party list (30%) must be a woman
<b>Germany</b>	Christian Democratic Union (CDU)	Since 1996, one third part of the party list of candidates for elections must be women
	Social Democratic party of Germany (SPD)	Resolution on assigning quotas was taken in 1988. It was established for women in party lists in 1990 – 25%, in 1994 – 33%, in 1998 – 40%
	Association - 90/Green	Since 1986, quota for women in party lists introduced.
	Party of Democratic Socialism (PDS)	50% quota for women in party lists
<b>Poland</b>	Union of Left Democrats (SLD)	30% quota
	Labour Party (UP)	30 % quota
	Freedom Union Party (UW)	30% quota
<b>Taiwan, province of China</b>	Democratic Progressive Party (MCT)	Since 1996, 25% quota for women
	Chinese National Party (KMT)	25% quota for women in parliament (2000)
<b>Tunis</b>	Democratic Constitutional Union (RCD)	20% quota
<b>Turkey</b>	Republican Party (CHP)	25%, quota for representatives of one of sexes
<b>Uruguay</b>	Socialist Worker's party (PST)	Since 1984, 30% quota for women
	Socialist party of Uruguay (PSU)	Since 1991, 36% quota for women
<b>France</b>	Socialist party (PS)	Since 1990, 50% quota for election lists

<b>Czech Republic</b>	Social Democratic party (CSSD)	25% quota for women
<b>Sweden</b>	Party of Swedish Green (MP)	Since, 1981 50% quota for women in party lists
	Swedish Social-democratic People's party (SAP)	Since 1993, 50% quota for women in party lists based on brief system
	Party of the Left (V)	Since 1987, 50% quota for women in party lists
<b>Switzerland</b>	Social Democratic party of Switzerland (SPS/PSS)	40% quota for women in party lists

As the data in Table 14 shows, political parties rely on quotas in the parliamentary elections on all continents. We can consider this a world-wide process, which will be developing.

Most women were nominated by the political parties in the European region in such countries as: **Sweden** (45%), **Netherlands** (36.7%), **Norway** (36.4%), **Belgium** (35.3%), **Austria** (33.9%), **Germany** (32.2%), **Iceland** (30.2%), **Spain** (28.3%), etc.

Growth of gender orientation of the political parties at parliamentary elections on all continents is indicated by the percentage of the nominated women in **Mozambique** (30%), **Republic of South Africa** (29.8%), **Costa Rica** (35.1%), **Argentina** (30.7%), **Australia** (25.3%), etc.

Establishing party quotas is characterized by extremes in the choice of quotas by the parties in different countries. Table 14 also shows extreme percentage levels in establishing party quotas. They vary from **15%** – in the Indian National Congress (**India**); from **20%** – in the Party of Left Democrats (**Slovakia**), in the Socialist Movement (**Greece**), in the People's party (**Italy**), in the Workers' Party (**Malta**), in the Socialist Union of Popular Forces (**Morocco**); from **25%** – in the Socialist Party (**Belgium**), in the Socialist Party (**Haiti**), in the Dominican Revolutionary Party (**Dominican Republic**), in the Social Christian Party, the Party of Left Democrats (**Ecuador**), the Liberal Party of Canada (**Canada**), the Democratic Progressive Party (**Taiwan**), Democratic Constitutional Rally (**Tunis**), the Republican Party (**Turkey**), Social Democratic Party (**the Czech Republic**); from **40%** – in the Liberal Party (**Australia**), the Social Democratic party (**Austria**), the Social Democratic party (**Denmark**), the National Liberal Party and Christian Socialist Unified Party (**Costa Rica**), the Social Democratic party (**Germany**), the People's Association and Social Democratic party (**Iceland**), the Workers' Party and Bright Green Party (**Ireland**), the Left Democrats and Renewed Communist Party (**Italy**), the Spanish Socialist Party (**Spain**), the Social Democratic Party (**Switzerland**); up to **50%** – the Green Alternative (**Austria**), the Socialist Party (**Belgium**), the Liberal Democrats (**Great Britain**), the Party of Left Socialists (**Denmark**), the Ecuador People's Revolutionary Movement (**Ecuador**), the New Democratic Party (**Canada**), the Public Action Party (**Costa Rica**), the Party of Democratic Socialism (**Germany**), the Federation of the Greens (**Italy**), the Revolutionary Party (**Mexico**), the Socialist Party (**France**), the Greens Party of Sweden, the Swedish Social-Democratic People's Party, Left Party (**Sweden**).

The list of parties shows that these are mainly left parties. The Social-Democratic parties, with their ideals of equality and social justice, played their role in successful advancement of gender equality. They often came up with various positive initiatives benefiting women.

But at that one has to keep in mind that introduction of gender quota in the parties was conducted under heavy influence of women's movement in various countries.

For example, concerning gender policy success in elections, **Scandinavian countries** always attract attention. Yet in these countries, too, the situation with codification of quotas in the charters of political parties and in actual practice varied, depending on the internal political distribution of social and political forces. Most widespread, both inside the party and when nominating candidates to the parliament, were gender quotas in **Norway**, where the Socialist left party has been using them since the middle of the 1970-ties, the Labour party – since the middle of the 1980-ties, and the Centre Party and the Christian Democratic Party – since 1983.

Gender quotas in the recommended form have been used in the Scandinavian countries for decades now. In **Sweden** as early as in 1979 women of five largest political parties – Social Democratic, Centre Party, Communist, Liberal and Conservative – united to set demand to the leadership concerning increase of the political representation of women. Their initiative was accepted by the parties as the principle, according to which in the internal party lists of candidates for governing positions on municipal, regional and national levels representation of each sex must not be less than 40 and more than 60%. Gender quotas in the internal party form were adopted by the Green Party in 1983, and by the Left Party (which is the joint party of the former Communist Party and Left Party of Communists) in 1990. Party quotas in both forms were approved by the Social Democratic party in 1993. Implementation of this principle yielded some results. In the 1980-ties, influence of women in the governing bodies of the parties grew considerably.

In **Finland**, in the 1990-ties out of many political parties the internal party gender quotas were supported only by three – the former Communist Party – in 1990, the League of Green – 1993, and the Social Democratic party – in 1996<sup>70</sup>.

As their integral component, these parties often had women's sections, which served as a good school for leaders. Many women who were elected to the parliaments, appointed as Ministers and other higher executive officials of the state, grew in such women's sections of political parties.

Table 14 also shows that there are some peculiarities in setting of quotas even inside the same country. Here, extremes can also be observed: from 20% to 40% in the People's Party – Left Democrats and the Communist Renewed Party and up to 50% – the Federation of the Greens in **Italy**, from 25% in the Socialist Party of Flemish (SP) up to 50% in the French Socialist Party (PS) in **Belgium**, from 25% – in the Social Christian Party up to 50% – in the Ecuador Popular Revolutionary Action in **Ecuador**.

Similar quotas in almost all political parties are set in **Sweden** (50%), in **Argentina** (30%), in **Botswana** (30%).

In **Costa Rica**, the Citizen's *Action Party* (PAC) establishes 50% quota in the structure of the parliament, and namely in the Chamber of deputies.

The growing number of women nominated from political parties is the sign of introduction of the gender component into their programmes and practice, namely ensuring of equality of rights and establishing equal opportunities for both sexes.

70 The Internet. Open Women Line.

In Ukraine, the Parliament did not support specific quotas when adopting the Law «On ensuring of equal rights and opportunities for women and men». It also refused to amend the laws «On elections of people's deputies of Ukraine» and «On political parties». Between the elections, these issues are never debated in the Parliament. It draws attention only during electoral campaigns.

In various countries, the procedures for tracking and even encouragement for implementing quotas in political parties are different. For example, in **Belgium** a successful form of introducing women into the parliament became gradual introduction of party quotas. The law adopted in 1994 secured gradual increase of seats for women in the Parliament. In 1996, the lists of the party could not have more than three quarters of members of one sex, in 1999, this limit increased to two thirds. At the elections of 2002, the quotas were increased, where the top three positions could not be held by people of the same sex. At the next elections, the same principle was introduced for top two positions. As a result, up to 40% of parliamentary seats in Belgium are held by women. Among political parties, there is certain dispersion in the approach to quota assigning. For example, the Socialist Party of Flemish (SP) established in the party lists 25% quota for women, where in the other Socialist party of Flemish (PS) the party quota for men and women is 50/50%. In **France**, the situation is different. Here, the state financially motivates introduction of quotas in the political parties. In **Argentina**, during the elections the parties that failed to comply with the requirements concerning quotas are withdrawn from the elections.

Being most deeply involved into social sphere, close to everyday life, where a personality is formed and spends a considerable share of life, to household, and knowing it very well, women, when elected to the parliament, actively influence implementation of the gender concept when forming legal regulatory acts, governmental programmes, filling them with social requirements and opportunities to fulfil them. And if women are able to influence this, questions arise why the women's road to power is so slow and hard, and what factors secure advantages to men when they enter structures of power. The gender analysis of the background of such advantages is required, to see what advantages men rely in their urge to power, and what practical actions they engage in when they become officials. Such analysis shows objective need in applying the temporary special measures for ensuring that women enter the parliament.

On the example of **Ukraine**, a number of factors become obvious that to certain extent secure obstacles on women's way to entering the legislative power. At that, we need to note that the questions of causes and factors of women's non-participation or slow introduction into representative bodies of power is most often considered to be the consequence of two aspects – absence of historical experience of political activism and gender stereotypes. In addition, the very core of modern political life is being emphasized, where ever more often political functions belong to a group of professionals. Yet, life shows that although these aspects are important, such evaluation of women's behaviour is too far from being complete.

Let us outline the **factors** that ensure the advantages for men when they enter structures of power.

***First. Traditional established male domination on the leading positions in power structures.***



The governmental power still remains a male domain of activities. Here, only a man can build his career successfully. Such career in many cases leads to the position of a people's deputy of Ukraine, that is, they come to the parliament after every election. As to people's deputies of Ukraine of the latest convocations, of 450 deputies 350 were the deputies in the previous convocations.

Another source of staffing the Parliament is officials of governing structures that are involved in decision-making, as they know more than others about the mechanisms of access to decision making, about how to enter the bodies of legislative power. Women almost never have access to these mechanisms, they are employed in the support and servicing structures, and therefore only few of them enter the legislative body.

When we look at professions and positions of the deputies, we find very few of those who are directly involved into manufacturing. The majority of the parliament members are representatives of the bureaucracy, at that most of them are leaders, not the specialist servicing administration. In real life, the leading positions are held by men. They assign and discharge officials, reform or create leading positions mainly for men. Women constitute a minor share of leaders, at that, as a rule, even these leaders work in the spheres with low salaries. The leaders in question have access to mass media, easy transportation options, broad communication base, access to the levers of power, and the whole system built in reliance on them. This is male-oriented system, men who constitute so called "administrative resource" with established interpersonal relations, vertical and horizontal connections. In the country where the undeveloped legal mechanism for formation of power structure was traditionally supplemented by both formal and informal relations between men, built on voluntaristic decisions, the «traditional», or «telephone» rights in the public sphere still play a very influential role. It is quite understandable that the conclusions of the International Elections Monitoring Mission as of March 31, 2002, to the Verkhovna Rada of Ukraine<sup>71</sup>, among other factors causing the low level of electors' trust the following was mentioned:

- "...Abuse of the administrative resource, including the claims about pressure on the employees of governmental institutions to vote for certain candidates, governmental premises that were provided selectively only to some candidates, placement of electoral materials of certain candidates in governmental institutions.

- Illegal intervention of governmental bodies into electoral process ..."

The ruling elite strive to reproduce the old parliament during every new election, and apply maximum efforts to prevent rotation, to stop from coming new, fresh powers that can become real opposition. It sees the current opposition as a competitor in the struggle for power, not as an opponent in search of better forms and ways of resolving the issues that exist in the society and in the government. Such elite selects «loyal», «reliable», «obedient», «proven», not those who take the interest of the state to heart, think critically, and have proper abilities and education. Under such conditions, the general cultural training of women remains underused and is rarely used for achieving personal goals.

Therefore, women in Ukraine were for a long time kept away from public sphere, and today have to enter it under conditions where men occupied all its niches and elaborated

71 IEMM was organized by joint efforts of the Organization for Security and Co-operation in Europe (OSCE) – including the Office for Democratic Institutions and Human Rights OSCE (OSCE/ODIHR) and the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe and of the European Parliament.

system of personal connections. Men created their traditional rights, and, in the conditions of the emerging market, also their codes of «honour».

The entire social system, in spite of the women's efforts to participate in decision-making, makes it impossible. The culture of government formation failed to eliminate the violent methods of obtaining power, which nowadays do not necessarily mean armed offence.

In such conditions, modernization of the decision-making sphere also needs to include change in treatment of women by the decision-makers. Women need to stop being an object of reality controlled by men. Modernization processes and governmental power transformations includes introduction into the field of power relation the relations between women and men. Radical modernization of the Ukrainian power culture requires not only structural transformation of governmental power, but also changes in the social structures, modernization of gender relations in the system of power, rejection of perception of women only as an object of influence. And this requires changes concerning the status of women in the power system to engage political methods for inclusion of women's coordinates and values as socially important, and their identification as guaranteed by the state.

The system of the Ukrainian government, with all its constitutional legal European props and extreme procrastination when the matter concerns social issues, does not create the image of a woman who is a full-fledged citizen. Her patriotic affiliation lies more to the land and the family than to the state on this land. With such attitude of the state to women, it is clear why millions of women go to foreign countries, which secure for them an opportunity to earn money for themselves and for the families left at home. They accept the behaviour norms of the country they arrive to, suppressing their natural affiliation to homeland.

For women, who are being viewed as the passive object of power, it became cumbersome to passively approve men's decisions that are not focused on social and humanitarian innovations and progress, but rather based on patriotic rhetoric. Such women, being educated, ever more often take control over their lives and seek ways and niche for comfortable self-fulfilment and self-development. They seek ways for improve their status, to make use of their intelligence and European education. Orientation to the European space makes their accommodation easier. Here, they seek their salvation. Realizing the opportunity to become a European woman, Ukrainian woman leaves the patriarchal world of her motherland, trying to get away from the patriarchal system with power positions unreachable for women in Ukraine.

In the conditions where the market covers not only economy, but also politics, women arrive to the political market only with legal norms worked out during independence of Ukraine, without the economic base equal to that of men. In such situation, a man looks stronger, and he really is - economically. The government needs to work out mechanisms to introduce women into the system of power, if it wishes to achieve democratic, social perspective, which should include gender equality.

***Second factor. Economic foundations – property and control over the economy are in the hands of men.***

In Ukraine, on the large scale property, large business and control over economy belong almost exclusively to men.

Control over the economy is built on the male culture of decision-making and male

approaches to social issues, where women's issues are treated as secondary. Men's scepticism in treating social issues as insignificant, unimportant is nothing else but the urge to preserve the status quo where men dominate, at the cost of personal lives, physical, social and spiritual power of women, limitation of their opportunities.

When forming power structures in modern Ukraine, large property is an important lever when nominating (self-nominating) of people's deputy candidates, when conducting electoral campaigns, using mass media and entering the bodies of power. Women will not be able to have the scope of economic levers that men have in any near future.

Being an object of political and economic power, women also become an object of property. Under such unprotected conditions, women lose the strength of character. They become burdened with all the system of social fears and disappointments – unemployment, absence of perspectives for themselves and for family members, compromises, attempts to accommodate to the situation, assimilation into new environments with alien cultures and customs, which still enable them to somehow function. All collisions of women's lives are far from men's rational approach to life. When we are talking about gender identity, man's mind avoids resolving gender issues. Life of biological and social bodies of men and women, the bases of gender identity, exist outside of the vision of official powers. Lacking economic opportunities for intellectual growth and political self-affirmation, women seek some real opportunities to achieve individual freedom.

When evaluating all the process of social life, it is methodologically important to evaluate work of women in the modern economy. This is the problem of international scale. B. Catherine Word, specialist in the theory of world systems, claims that «1) the world system cannot be properly described unless we properly analyse the work performed in the households, and work in the sphere of informal economy; 2) because women are the majority of those employed in these activities, researchers need to pay specific attention to them, not just mention them as «employees». Housekeeping is all work in the households directed at supporting and reproduction of employees; informal economy is such organization of labour where there is no clear distinction between labour and capital, and no regulation of work with laws or with capitalist organization. According to B.C. Word's estimations, almost 66% of all work in the world is performed in these two economic spheres, which are not capitalist, and are often ignored<sup>72</sup>.

If we analyse the national capitalism in Ukraine in this way, we can state that along with the official capitalist economy of the state there is great «sub-economy» of non-capitalist production, which extends, and, while staying unnoticed, interacts with the official economy. A woman engaged into housekeeping, and also into informal economy, contributes to the capitalist economy. Therefore, women to a considerable degree do their contribution to the world economy for free. This, as a result, puts them in the position of politically under-evaluated entity, an object of influence in the political system.

### ***Third factor. Lack of gender equality mindset in male population of the country.***

The men's subconscious resistance to introduction of women into the politics is related to an established male understanding of power as use of force. Often men even perceive such behaviour as a feature of their dignity, and openly and shamelessly boast this, as we

72 Ritzer G. Modern Sociological Theory / Ritzer G. – SPb., 2002. – p. 364. / Ритцер Дж. Современные социологические теории / Дж. Ритцер. – СПб., 2002.

can see from the reports of mass media. Force was seen in the traditional societies as a method for acquiring power, and a method of control. Force was also associated with fear, which was implanted in Ukraine, just like in many other places, with sword and fire.

The subconscious of many men even today is true to gender stereotypes: «politics is for men», «politics is not a sphere for a woman», «women are not made for politics». It is enough to recall patriarchal statements of the first President of the USSR, who saw rebuilding of the country as «returning women to their natural destiny», and of the first President of independent Ukraine, who casually said that «the place for women is in bed». They show that there are conservative stereotypes in both consciousness and the subconscious of not only a great array of male population, but also of the leaders of the country. It is known that under the conditions where the population has an authoritarian mindset, the leaders' stance greatly influences opinions of laymen. As a positive thing, we must mention that both of the leaders later backed away from their words, and expressed different opinions, yet the first subconscious statements characterize the time, power structures and those who hold leading positions there. Several times the leaders of the Ukrainian government even now expressed similar, or even weirder, limited, populist, primitive statements. For example, on the nineteenth year of Ukraine's existence as an independent state, which signed all international treaties concerning the issues of gender equality and affirmed gender equality as the basic principle in the national legislation, still in one of his speeches (2010) surprisingly the Prime Minister said that reforms in the country was no business of women, their place is in housekeeping. And this is not as much the indication of the women's passive attitude, as the manifestation of the depth of the patriarchal mindset of the leaders of the country.

Public propaganda, which is being formed predominantly by men and is based on the approaches of men's perception of changes and transformations, is focused to a great extent on representing a woman as an object, confined mainly to realization of her natural functions, unable to participate in general public forms of organization of social and state life. Such approach in the minds of many is kept by passionate sticking to the «piteous», «full of compassion to women» concept, namely «concept of protecting the women's status». At that, basing on this concept, they see opportunities «to improve the social status of women» using the power of the men, who prevent women from the intent to do something about improvement of their own status through activities in the governmental structures. They are ready to emphasize the role of women in housekeeping even more, never paying attention to men's participation in housekeeping, on the role of responsible parenthood. They are ready to grant some labour benefits related to parenthood yet those are oriented mainly to one of the parents, the mother, and her family functions, and combining them with work. This gives them grounds to view women as too unreliable and weak an employee to be on leading positions.

This is also the problem of a need of a man who is not a protector, but a partner. Also the problem is not as much in a woman as mother as in a new approach to a man as father in housekeeping. The constitutional reflection of equality, the state's equal care about motherhood and fatherhood as well as about childhood, does not solve issues of real transformations. A strong woman who seeks to come out of the circle of private interests, not only has to seek ways to access the world of men, but also needs to have a clear plan



for her life, which must include the following components: transformation of the male-oriented world, influence over men's present ideals and conditions, working on political ideals for a female politician, creating pedestals for women, defending the principle of comradeship and dethroning, deriding the monomascularity in the world of politics, seeking active communication of female politicians with each other. Female politicians need to gain their own voice, to overcome the supremacy of male politicians.

Many men, including people's deputies, in majority are indifferent, ironic or surprised to learn about the internationally accepted gender approach. This shows lack of European mindset, inability to analyse worldwide processes, limitation of the humanitarian policy with national insularity and conservative views on the planned transformation, and, therefore, on the rate of its implementation, ignoring the international progressive standards of the societies, where gender index is considered an important indicator of social development.

Among male politicians it became especially popular to substitute gender issues with demographic ones, that is, with the issues of birth rate. To their opinion, introduction of women into politics conditions reduction of birth rate, dying-out of the nation. This position intentionally omits and ignores the fact that the birth rate is declining in Europe in general, not only in Ukraine; unprofessional or absent economic policy of the last decades, which resulted in poverty of the majority of the nation; lack of social policy which becomes ever more important in the world, yet in Ukraine still stays on the position of secondary activity, instead of being an important factor of the sphere of human reproduction.

And the main thing: Ukraine, compared to other countries, is characterized not by reduction of birth rate, but by deferment of births. And the reason for this is absence of policy for progressive development transformations, absence of forward-looking politicians thinking about the perspectives.

During the process of elections, the problem of the status of women and men becomes especially pressing. Men's activities in competition with women are particularly concentrated on her status in the patriarchal society. Often these kinds of postulates appear in advertisement and other materials in mass media, which modern men and women have hard time withstanding.

To humiliate women, men often use «criticism» of feminism, quote and comment on its extreme forms, without mentioning the place and role of this generally progressive phenomenon in the history of mankind. Peculiarity of the Ukrainian society is men's traditional tendency to present and actively promote the opinion about feminism as a destructive phenomenon that is foreign to the national development, and even harmful. The attitude towards feminism shows how strong the traditional mindset is in the reality of our life, indicates how the society is able to protect human rights, equality of men and women, to ensure it socially and governmentally.

Feminism is the product of establishment and development of the new world and new times, when the problem of international importance was set – freedom of choice, granting legal and practical rights to women, equally with men. This progressive phenomenon of the international and European scale changed the world-view, filling it with the progressive content of democracy and justice. In two centuries women, supported by progressive men, won legal rights, and now raise the questions of ensuring real opportunities to use these rights. In Ukraine, understanding of this gradually accumulates, yet this process is too slow, and requires political forms of organization.



***Fourth factor. Limitations of political and gender views of the leadership of a considerable part of women's organizations.***

Women's limited representation in the parliaments is also connected to women's movement being undeveloped, women's organizations being weak, and lacking intellectual powers that could be able to persuade and lead broad masses for resolving social issues. Women's movement lacks organization and leaders who are able to actively stand against the men's archaic attitude to women, who are knowledgeable and have the world-view of a modern free woman, who can act in new conditions. Many of them mention complete indifference of women's community, its political helplessness. Women's organizations are created basing on different interests. Men see no competition in such women's activities and do not require support of such women's structures. Parties do not form in these organizations an environment, from which they could recruit active members. If in some cases this still takes place, they are rare and casual. «Male» political parties are often male financial clans, where woman cannot be present as an active political force, or can play only a secondary role.

Raised in paternalist traditions, considerable number of women sees paternalist care of the state as some great good, while, in fact, the state appropriates women's personalities through the newly invented concept of the «guardian angel of the family», too far from international standards of development. These ideas infused the environment of what is called women's movement in Ukraine. It requires new active and perspective forces that are now being born, manifest themselves and start acting, basing on progressive modern ideas and international practice. Yet the new forces are still rather weak. Their strengthening will actively promote introduction of gender content into all forms of new developments in the women's movement, conceptual re-evaluation of the current situation and perspectives of development of gender equality in the society.

***Fifth factor. Traditional views of considerable part of Ukrainians on women as private and men as public individuals.***

Collective consciousness of the considerable part of Ukrainians does not accept women's leadership abilities, yet ascribes them to men. An image of a female leader is still being formed on the basis of standards of male leaders.

In Ukraine, the flow of modern progressive development, where each person – woman and man – is free and has both social value and value in all spheres of self-expression, is still too weak. Because of this, men in their activities are not always ready to use the women's potential in public policy, which leaves constitutional goals just a fantasy.

Development of political democracy, creating of the social state, expansion and ensuring of rights and freedoms of citizens are considered by the men in power as possible, yet only on the lowest levels of the society. When the subject matter is inclusion of women as an equal entity to the process of decision-making, to developing of the national strategies of social development for bringing the women's community outside of private life and inclusion of both sexes into the social process on the grounds of equality, most often men say these issues are forced. Even a considerable part of people's deputies of Ukraine thinks so, what can be proved by their speeches in the Parliament and other public arguments.

Thus, we face the issue of changing of the gender equality situation in the bodies of legislative power, and, therefore, for ensuring of gender equality, through the activities of

the same bodies. National experience and all modern international practice of formation of the legislative bodies confirmed that the only way (especially on the starting stage of the democracy development) for formation of such bodies is **taking temporary measures, namely quota assigning**. The need to overcome historical injustice of the women's political status, to ensure political and legal opportunities for them to influence the policy with compensatory measures, aimed to overcome barriers on the way to their entering the system of power becomes more and more apparent. Having signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women, and after signing of other international instruments of the European and worldwide scale, Ukraine, just as many countries of the world, in fact, accepted such temporary measures as a possibility. Yet practice of gender transformations in the system of legislative power still waits for such constructive actions.

International experience of introducing quotas shows that it is connected with resolving of many issues, among which are:

- active changes in attitudes towards women in the society, acknowledgement and acceptance of leadership-related characteristics inherent to women, will cause growth of the number of female leaders in the society and competition between them, and also between them and men;
- lack of women who are practical politicians will become obvious;
- possibility of emergence of «glass ceilings» and «glass walls»;
- men's inclination to select and to give access to power to women who mimic men's style of work, as they are comfortable to work with, and they reflect men's interests and needs, are easy to control, manipulate and make them invisible;
- men's resistance against involvement of women who are professional politicians, who are able to compete with men with their skills and intelligence for the seats they hold;
- resistance to making decisions addressing gender related issues;
- contradictions within political parties between supporters of gender equality and its opponents, and others.

Yet with all the issues that emerge with the quotas, it is still clear that no policy in the modern conditions can be effective without taking into account the gender factor, without focusing its actions on addressing the needs and demands of modern women and men as partners. There is also the feedback factor, where women and men are able, and have mechanisms for providing feedback to the political decision-makers, can correct the administrative process, evaluate the consequences of the policy, its results in form of real calculations, results both anticipated and unanticipated, summaries, analysis for current situations and mistakes made, for the future.

Legislative regulation of gender balance in legislative power, taking into consideration temporary measures, requires development of **new generation of laws on ensuring of gender equality, on formation of electoral and party systems capable of preparing and advancing female politicians to the parliament and creating in the society the environment of facilitating gender equality at all levels of power**.

International experience shows that practically all parliaments have bodies (standing or temporary), which are being formed from parliament members and facilitate

implementation of powers by the parliaments and by their chambers. In the parliaments of different countries, the system of bodies that enforce gender equality is different, and is formed on different bases.

A woman is rarely elected to the controlling bodies of the parliament itself. In 1927 and 1932 in the Parliament of **Austria**, a woman was elected as the head of Bundestag, in 1950 the same happened in **Denmark**. Until the 1960-ties, women did not hold higher parliamentary positions in the countries with a representative electoral system. The international history of parliamentarism shows that after the Second World War, out of 186 states where an elected body existed, only in 38 countries a woman was elected to the position of leadership in the parliament itself or in one of its chambers. It is noteworthy that in these 38 countries, where women held positions of leadership in the parliament, the presidential sit was more often granted by the upper chamber, not lower: 58% against 42% of cases. In addition, 36% senators were assigned, not elected democratically.<sup>73</sup>

In the transitional countries on CIS territory, the first female speaker of the Parliament appeared in **Georgia**, Nino Burjanadze, who was elected for this position in November 2001, and who later became one of the leaders of the Georgian opposition, head of «Democratic Movement - United Georgia».

Parliaments create various bodies in charge of ensuring of gender equality – **committees, commissions, groups, commissioners, and others**. They are focused in their activities, first of all, on legislative ensuring of equality between women and men in the parliament, in the entire system of governmental bodies, and in the society in general. The goal of these bodies is ensuring of women's representation in the parliaments as equals to men by amount and quality of parliamentary activity, establishing of the gender strategy in the country, and objectives for specific periods complying with it, outlining the powers of government in ensuring of gender equality in the country, and others.

Until the end of the 1990-ties, most widespread were parliamentary standing commissions, committees on women, motherhood, childhood, and family, or these issues were bundled with the issues of health care or other issues (for example, in Ukraine, the Committee of the Verkhovna Rada of Ukraine on health care, motherhood and childhood). In the end of the 1990-ties, more and more structures whose very names described their direction of activities started to appear, namely, the issue of establishing of gender equality, for example, commissions for equality of sexes. The change of the name did not mean denial or ignoring of the issues of women's position and status. And many of them are still too slow and reluctant to address gender issues.

The competence of these bodies, as a rule, includes the issues of: working out basic gender strategies and presenting them for consideration of the Parliament in form of laws, concepts, programmes, development plans; development of key provisions of the legislation on gender equality; preparation and facilitation of adoption of the laws on equal rights and opportunities; analysis of the practice of application of the gender legislation, assessing the result of application the laws on equal rights and opportunities; development of proposals concerning gender content of laws that are being adopted for various spheres; conducting of gender expert evaluation of the national legislation; tracing harmonization

<sup>73</sup> See: *Khasanova Galia*. Gender aspect of political representation in modern world// Online resource. – [www.policy.hu/khasanova/paragraph/](http://www.policy.hu/khasanova/paragraph/). Хасанова Галия. Гендерный аспект политического представительства в современном мире.

of the national legislation with international treaties on the issues of gender equality; development of measures aimed to ensure gender equality; conducting research on the issues of equality of sexes; aggregation of information incoming from the government and other institutions, etc.

Parliamentary structures dealing with equality of sexes are staffed by people's deputies. They are formed based on various principles: desire to work with this problem, or representation from the party list. The parliamentary structures are chaired by a head that can have one or two vice-heads. Let us give examples of such parliamentary structures that have their specified tasks.

**Ukraine. Sub-committee for international legal issues and gender policy of the Committee of the Verkhovna Rada of Ukraine on human rights, national minorities and international relations.** Its activity is focused on analysis of the gender situation in Ukraine, organizing of discussions on the issue, developing steps for establishment of the gender-parity democracy. By the initiative of the subcommittee on human rights, national minorities and international relations in cooperation with the Ministry of Ukraine on Family, Youth and Sports, it initiated parliamentary hearings on gender issues<sup>74</sup>.

In December of 2011, in the Verkhovna Rada of Ukraine the **interfactional deputy association «Equal opportunities»** was created, consisting of 15 people's deputies from different parliamentary factions. In their work, the people's deputies plan to use experience of parliamentary associations of the European countries, where such groups proved to be effective, to facilitate integration of Ukraine into the European community, to implement the European values and European standards of gender equality.

**The Russian Federation.** For the first time in the history of the State Duma, elected in 1993, in the lower chamber of the Federal Assembly, the deputy faction **«women of Russia» was created.**

The ideology of the Duma faction is the policy of equal opportunities. The main tasks that the faction is focused on:

- development of the legislation system aimed to adhere to human rights and to improve the national mechanisms for protecting them;
- control over implementation of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women;
- strengthening of focus of the governmental social policy on family.

In January 1994, the Parliamentary Committee on women, family and youth was created, whose activities are focused on revision of the legislation in effect on women, family, protection of motherhood and childhood. The Committee pays special attention to expert evaluation of the new draft laws and legal regulatory acts that are submitted for consideration of the parliament. Evaluating their correspondence to international Conventions and other legal acts on women's and children's rights, ratified in the Duma, the Committee systematically proposes amendments and specific proposals and notes to the drafts.

<sup>74</sup> *Gender transformations in Ukraine.* – K.: LLC «ADEF-Ukraine», 2007. – p. 40./Гендерні перетворення в Україні. – К.: ТОВ «АДЕФ-Україна», 2007.

Under the initiative of the deputy faction «Women of Russia», the Committee developed and made amendments to the laws: «On amendment of the Law of Russian Federation «On Privatization of the Pensionary Fund in Russian Federation»; «On amendment of the Code on marriage and family of the Russian Soviet Federative Socialist Republic»; to the Criminal Code of the Russian Soviet Federative Socialist Republic, to the Criminal Code of Practice of the Russian Soviet Federative Socialist Republic, the Code of the Russian Soviet Federative Socialist Republic on administrative offences. Approval of these laws made it possible to ensure conditions for protecting minors in the privatization procedure, to regulate alimony relations in the conditions of transition to the market economy, correct the issues of domestic and international adoption.

The Committee prepared drafts for the Family Code of the Russian Federation, the Federal law «On governmental assistance for citizens who have children», «On governmental support of youth and children non-governmental associations», etc.

Under the initiative of the deputies of the faction «Women of Russia» and members of the Committee, a number of parliamentary hearings were organised on the issues: «Demographic situation and family issues in the Russian Federation»; «Right to live: safety of consumer goods and services», «On actions of the government of Russian Federation concerning more active social policy in the interests of children»; discussion of the draft of the Family Code of the Russian Federation; «On implementation of the governmental youth policy in the Russian Federation».

The deputies of the faction «Women of Russia» and members of the Committee work in the administrative territorial units of the Russian Federation with the representatives of legislative and executive bodies of power.

In Russia, the process of establishment of the national mechanism for ensuring of equal rights and opportunities is taking place, as well as the process of elimination of discrimination against women.

**The Czech Republic.** In the Parliament, *Subcommittee of equal opportunities was created.*

**Albania.** A *group of female parliamentarians* was established in 1994. It declared protection and ensuring of women's rights to be its primary goal. After the Beijing Conference in 1995, the group was transformed into the Sub-commission on youth and women in the Parliament of Albania.

**Belgium.** *Consultative committee on equal opportunities of the Upper Chamber of the Federal Parliament (Senate)* pursues the task of ensuring of monitoring and evaluation of the legislative initiative, and monitoring over governmental activity from the point of view of equal opportunities; working on measures concerning inclusion of the issues of equality into all directions of legislative and governmental activities.

**Spain.** *Mixed commission (Congress – Senate) of the Parliament of Spain.* It includes representatives of various parliamentary groups. The task of the commission is coordination of the issues of ensuring and protection of women's rights; also, research on the issues of women's status.

**Lithuania.** The *women's group in the parliament of Lithuania* was created in 1997. Its task is identifying legislative initiatives concerning the issues of women's status, equal rights and opportunities.



**Portugal.** The *Committee on equality, equal opportunities and family* was created in 1995. Its task is development of political strategies and political measures, analysis of sectoral governmental policy, focused in ensuring of equal opportunities; evaluation of application of the effective legislation on equal rights and opportunities; learning the opinions of the community concerning equal rights and opportunities; conducting research on equality of men and women, training specialists on gender equality.

**Slovenia.** In 1990, the Commission on implementing policy for the benefit of women was created under the National Assembly of Slovenia. After the elections of 1996 at the committee level of the National Assembly, the *Commission on equal opportunities policy* was created. Its goal was formation and implementation in the country of the policy of equal opportunities.

**France.** *Two parliamentary delegations on women's rights and equal opportunities of women and men* were created in 1999 in each of two chambers of the parliament. Their tasks include informing the chambers of the parliament about the results of the governmental policy concerning women's rights and equal opportunities of women and men; tracing of application of the legislation; working out recommendations concerning policy of equal rights and opportunities, etc.

**Estonia.** *Association of female deputies of the Parliament of Estonia* was created in 1998. It brings together female deputies from different political parties. The association acts as an observer over the work of the Parliament and facilitates development and adoption of laws directed at ensuring of gender equality.

**Iceland.** The *Council for ensuring of equal status of sexes* is appointed by the Alting (the Parliament) after each election. Creation of parliamentary structures that care about gender issues has positive points. Experience of their activities shows that, regardless of party affiliation, these structures lobby resolution of gender issues in the Parliament. Even an informal association does yield good results when all vote in accord for resolving the issues of gender equality and social care, regardless of party affiliation.

Therefore, as international experience shows, when women enter the system of legislative power it changes its ideological, organizational, axiological, programmatic, controlling, mobilizing and other approaches, adds positive features to the male type of leadership, influences narrowing and over-valuation of the role of physical force, facilitates reduction of aggressive behaviours, improves rationality, mobilizes the will factor and creative thinking. Election of women to the parliament secures adding gender issues to strategic programmes, formation of the gender equality agenda for the sessions. As long as the gender issues are just on the margin of the state policy making, transformation of gender roles and relations that lead to equal rights in the development of the nation will stay unreachable.

The international experience shows that in operation of power structures, the female factor in politics ever more manifests itself as a progressive resource in democratization and humanization of social life, and of the governmental policy itself as the most influential and comprehensive sphere of the society. All this conditions creation and growth of the institution of women's leadership in formation of power, first and foremost, legislative power. In Ukraine, the institute of women's leadership is still on the stage of establishment. Almost for all women who entered the Verkhovna Rada, the work of a deputy is not a

logical continuation of their previous political activities. Mainly these are women who came to politics by chance. For this reason the regulatory acts that they work on do not take into account gender aspects, or do so to an insufficient extent. Women's organizations of Ukraine, just like all the international women's movement, face the problem of international and national importance: raising female leaders.

### *c. Position of the ombudsman for equal opportunities*

In the last decade, with development of the process of establishing of equal rights and opportunities, the position of the ombudsman on human rights becomes more and more popular. It was introduced in the 1970-ties in the countries of Northern Europe for control over implementation of the gender policy, and, first of all, over compliance with the adopted laws on gender equality. Such laws were adopted: in Norway in 1978, in Sweden – on 1979, in Finland – in 1986.

Extremely high demands to the policy of establishing of gender equality, of gender lawmaking, ensuring of guarantees of law implementation for the gender-related legislation and its enforcement conditioned introduction of the position of the ombudsman for equal opportunities. In different countries this office is called controller, advocate, intermediary, etc. Developed democratic countries have extensive experience of operation of the corresponding organizational structures. Taking measures in case of sex-based discrimination in other spheres is the competence of other governmental agencies.

Norway became the first country in the world, which in 1978 appointed the ombudsman for gender equality, and the Commission of Appeals for consideration of the issues related to equality of sexes. Sweden introduced the position of ombudsman and created a similar commission in 1980. Finland followed its example in 1987. In all three countries, the main task of ombudsman is control over compliance with the legislation on equality of sexes and informing the public concerning the requirements of law. The ombudsmen generally aim for voluntary compliance with the legislation on gender equality, and do not have powers to punish in any way, including applying any penalties. In case of refusal to comply with the law, ombudsmen address the commission of appeals, which can ban corresponding violations, and demand taking appropriate measures. Experience showed that ombudsmen are generally able to resolve problematic issues on their own.

With all similarity of goals of these officials and commissions connected with them in the entire region, there are certain differences in their activities. For example, in Norway the functions of ombudsman and the Commission of Appeals do not include consideration of gender conflicts connected with collective agreements between trade unions and entrepreneurs. Such conflicts are in competence of the Court for Labour Disputes. In Sweden, the situation is the same. Unlike Norway and Sweden, in Finland the powers of ombudsman can be extended to collective agreements.

In general, in spite of certain limitation of powers, the ombudsmen's activity is of great importance for implementation of laws on equality and establishing legal precedents in the sphere of gender equality.

Such position, in addition to **Norway, Sweden and Finland**, was introduced in Lithuania in 1999, in **Germany** in 2001, in **Slovenia, Bosnia and Herzegovina** – in 2002, in **Kyrgyzstan, Croatia** – in 2003, etc. Other countries continue to introduce the same offices. Establishing

the position of the ombudsman on gender equality shows attention to legal activities that nations focus on creating legal and organizational opportunities for ensuring of equality of sexes.

The process of creation, coverage of competence and immediate activity of ombudsman in different countries has its peculiarities. As a rule, the place of ombudsman on gender equality in the system of governmental bodies and the competence of the office is established in the dedicated law on equality of rights and opportunities.

Therefore, adoption and implementation of laws on equality called to life the need to introduce an independent body and establish its competence for control over compliance with the provisions of the law and other normative legal regulatory acts that regulate the process of gender transformations. Creation of the official position of ombudsman for equality of sexes was such independent body (Commissioner on equality – **Norway, Finland**, Ombudsman on equal opportunities – **Sweden, Lithuania**, Advocate for equal opportunities for women and men – **Slovenia**, ombudsman of the Republic – **Kyrgyzstan**, Ombudswoman on equality – **Germany**, etc.).

In the last decade, within the national societies the ombudsman for equality of sexes starts to play an increasingly great role in the system of the national mechanisms for ensuring of gender equality. At the same time in some countries, in particular in Sweden, one of the first countries to introduce this position, which had in various periods up to five positions of ombudsmen for different issues, now we can observe certain re-evaluation of its role and competence according to the peculiarities and achievements in the sphere of gender transformations and efficiency of functioning of various governmental structures.

**Sweden.** In 1809, the position of ombudsman was introduced for the first time in the system of justice of the country. The position proved to be necessary during two centuries, and the idea is still valuable. In the 1970-ties-1990-ties, in the country gradually five ombudsman positions were introduced for protection of rights in different spheres of social life: equality of sexes, equal rights of all ethnicities, consumer rights, rights of children, rights of the disabled, and others. Assigning such a number of ombudsmen shows how important and respected is dignity and inviolability of human personality, and also how much attention the Swedes dedicate to advocacy and law enforcement activities related to human rights.

The position of ombudsman for equality of sexes was introduced in 1980. For control over implementation of the Law on Equality, the ombudsman's service on equality and the Commission on equality were created, that are appointed by the government for four years. The ombudsman yearly reports to the parliament on sufficiency of legal support for equal rights and opportunities in the country, and about their work for protection of women's and men's rights. The Court of Labour Disputes was created in the country. As we see, Sweden has established a rather ramified mechanism for protecting gender-related rights.

As the Swedish law on equality is mainly directed at consolidation of equal rights of women and men in the sphere of labour, of employment conditions and other conditions on the market of labour, as well as of equal opportunities for career, Article 31 «Ombudsman on equality – Jämställdhetsombudsmannen» states that the ombudsman is obliged first of all to persuade the employer to follow the norms of the law voluntarily, and, in a broad

sense, to participate in measures that facilitate equality in labour sphere. The ombudsman on equality is entitled to file to local courts claims for penalties that are regulated by the mentioned law. The Law regulates the position of the ombudsman during the court proceeding when considering disputable issues on discrimination.

**Norway.** In 1978, according to the Law on equality between women and men, the position of Commissioner on equality between women and men was established. The Commissioner and the Commission of Appeals for equal rights is assigned by the king, for the term of six years.

The Law establishes the number of members of the Commission of Appeals for equal rights, which is seven members and their personal substitutes, two of them (members and their substitutes) must be assigned according to recommendations of, correspondingly, the Norwegian Confederation of Trade Unions and the Norwegian Confederation of Employers. The king assigns the head and vice-head of the Commission of Appeals, one of them must have qualifications of a judge. In additions to the rights and obligations of the Commissioner and Commission established by law, the king has a right to establish further rules for its organization and activities.

As an intermediary, the Commissioner on equality between women and men controls implementation of the gender legislation, considers complaints on the issues concerning discrimination based on sex in different spheres of life, finds means to resolve gender issues. In case it is impossible to resolve the disputable issues, the ombudsman forwards the case to the Council of Appeals on equality, which makes its resolutions and can apply some sanctions.

The task of the Commissioner and the Commission of Appeals is to facilitate implementation of the Law on equality of sexes. The Law stipulates the nature of activities of the Commissioner and the Commission of Appeals, peculiarities of their decision-making, obligation of non-disclosure of confidential information, specifics of receiving information and handling the cases, connection with the courts on labour disputes and prosecutor's office. In the specific articles of law, sanctions for violation of its norms are described, which are reimbursement of losses, penalties or imprisonment of the guilty for the term of up to one year.

**Finland.** The position of the ombudsman (intermediary) on equality was established in 1987. According to the law, the ombudsman reports to the Ministry of Health Care and Social Issues. Under the ombudsman, a special intermediary service on equality was created, which helps him or her in implementation of the corresponding competence, controls the cases of discrimination based on sex, is responsible for preparing the resolutions focused on establishing equality.

The ombudsman monitors compliance with the Law on equality between women and men, analyses gender legislation, gives recommendations concerning legislation improvements, initiates adoption of the necessary regulatory acts, focused on ensuring of equality of genders.

In the cases of failure to comply with the legislation on equal rights, the ombudsman forwards the case to the court.

**Germany.** Adopted by Bundestag in November of 2001, the Law on Establishment of Equality of Women and Men has its peculiarities. The specific provision is that the Commissioner on equal rights can only be female.



The Law in great detail describes and regulates the activity of the ombudsman. It defines the process of electing the commissioners and their substitutes (vices) in all organizations and teams, distribution of responsibilities and coordination of actions between them at all levels and connections with the leaders of organizations and enterprises, establishes sanctions to be applied by the commissioners in case of violations of gender equality principles.

In the **Lithuanian Republic**, control over implementation of the Law on equal opportunities is vested in the ombudsman (Controller) for equal opportunities of women and men. Here, the mechanism of such control is also described in detail. The Law describes the legal bases of the activity of ombudsman: competence, required qualifications for the officials on this position, how to assign them and how to withdraw their powers, details for reporting, restrictions for the ombudsman, financing of the department, resolutions of the ombudsman, obligation to answer his or her requests, salary, etc. This is a positive difference of the Law of Lithuania compared to a number of the same laws adopted in other countries.

According to the Law, for the ombudsman's operation a Department (Ministry) of ombudsman for equal opportunities is established. In May of the same 1999 year, the Seim of the Lithuanian Republic adopted the decree on establishment of the Controller's Service, and approved the Charter for Department of Ombudsman on equality. Immediately after this, the standing order of the service was adopted, as well as other legal regulatory acts that guide the work of this institution, namely – job descriptions, provisions on expert commissions, classification of cases, drafts of governmental decrees, etc.

The ombudsman for equal opportunities investigates complaints connected with discrimination and sexual harassment. Experience showed that such service was necessary in Lithuania: in the remaining time of the year 1999 the controller received 31 complaints, and four investigations were initiated on the controller's initiative, for 2000 the corresponding numbers were 52 and 5, for 2001 – 63 and 10, for 2002 – 72 complaints and 34 investigations. As the numbers show, the citizens of the Lithuanian Republic require protection of their rights. And in this aspect it is interesting to see people of which gender come for protection to the Controller. Among them, in 1999 women comprised 87% and men – 13%, in 2000, correspondingly – 42 and 58, in 2001 – 59 and 41, and in 2002 – 57% women and 43% men. The subject matters of the considered complaints, on which investigations were conducted under the Controller's initiative, show the spheres where gender equality issues are most pressing: 27% – newspaper announcements in press that discriminate persons by their sex, 18% – violations of the principle of equal rights and opportunities in legal regulatory acts, in particular in the legislation, 10 – sexual harassment, 7% – issues in the sphere of services, 6% – complaints concerning commercials, etc.<sup>75</sup>

The ombudsman for equal opportunities of the Lithuanian Republic reports to the government on implementation of the Law, and files to the government and to administrative institutions recommendations concerning revision of normative and legal regulatory acts, and priorities in the policy of implementing equal rights.

In Ukraine, among eight draft laws on ensuring of equal rights and opportunities that

<sup>75</sup> Quoted from the presentation of the advisor to the ombudsman on equal opportunities of the Lithuanian Republic at the international research and application conference, which was held on June 1-2, 2003, in Kyiv.



were submitted to the parliament, in the first one, filed in 1999, there was a proposal to establish the position of the ombudsman for equal opportunities. Unfortunately, the legislators chose another option. In September of 2005, the Verkhovna Rada of Ukraine adopted the Law «On ensuring of equal rights and opportunities of women and men», and on April 15, 2008, due to its adoption, approved the Law on amendments to some legislative regulatory acts of Ukraine. In particular, Article 13 of the Law of Ukraine «On Commissioner of the Verkhovna Rada of Ukraine for human rights» is amended with Clause 13 stating the following: “to execute control over ensuring of equal rights and opportunities for women and men”. And the Law of Ukraine «On ensuring of equal rights and opportunities for women and men of Ukraine» in article 9 «Powers of the Commissioner of the Verkhovna Rada of Ukraine for human rights in the sphere of ensuring of equal rights and opportunities for women and men» establishes the functions of the Ukrainian ombudsman: «within the framework of executing control over compliance with human and citizen rights and freedoms, shall control observance of equal rights and opportunities for women and men; consider complaints for the cases of discrimination based on sex; in the annual report, shall cover the issues of compliance with the principle of equal rights and opportunities for women and men». Later, the position of the Representative of the Commissioner for human rights of Ukraine on protection of the rights of children, equality and non-discrimination was introduced. The competence of the Representative includes the issues of equal rights and opportunities of men and women.

In public discussions, the opinion of necessity of such institution as the Commissioner for equality of men and women is still expressed. Establishment of this institution according to the requirements of international documents is seen as implementing the national mechanism of control over implementation of the constitutional standard for equality of rights and opportunities for each gender, as one of the directions of human rights protection.

In Ukraine, there was a non-governmental initiative concerning establishment of the institution of the ombudsman for protection of the rights of children, which would focus on importance of the gender approach to the analysis of the status of boys and girls. Establishment of the institutions of the ombudsman on equal rights and the opportunities and ombudsman for protection of children’s rights could change for the better the situation with equality between women and men, boys and girls, and ensuring legal control. Still, at this time these issues did not advance beyond discussions.

Therefore, the experience of different countries of the world proves that the laws on gender equality, just like any other, require the mechanism for legal protection of their provisions, especially in the countries with established traditional relations and with deep roots of the conservative roles of women and men.

Establishment in many countries of the world of various structures for equality of sexes with gender-related powers shows that the system of governance is being rebuilt across the world in the direction of implementing the gender component into all spheres of administration. It becomes an ever stronger component in the activities of the governments. Expansion of the governmental competences to the sphere of ensuring of equal rights and opportunities shows the same. Adoption of national action plans is especially indicative for the above-mentioned.

#### **d. Governmental structures for ensuring of gender equality**

The sphere of activities of women and men, and definition of gender issues along with it, that was outlined in the end of the millennium under the influence of gender movement, requires renovation and expansion of the system to manage development. Self-organization of public life could not leave aside the most influential organizational structure – the executive power – outside the objective processes of regulation of gender relations, identifying the gender component in all spheres of public relations, formation and functioning of the very governmental structures.

Establishment in the bodies of executive power of many countries of the world of various structures for gender equality with legally defined competences shows that across the world the administrative systems were rebuilt in the direction of strengthening and deepening of gender activities and global re-evaluation of gender-related development, transition from sector management to human management. This is reflection of the needs of time.

Adoption of gender perspectives by administrative bodies requires reconfiguration to absolutely different settings of activities, perception of new issues and approaches for their resolution, ability to see these issues. Inability to perform deep gender-related reconfiguration and integration of administrative facilities into regulating gender relations will hold the country in the state of spontaneous gender processes, conservation of the traditional environment with social and gender relations inherent to it.

In the modern conditions, the activities of the governments of many countries often include the practice of implementing the gender-based approach to the policy, to development and transformations of the social communities. It is used by the governments **of Canada, all Scandinavian countries, countries of the European Union, governments of British Columbia, Australia, New Zealand, Columbia, Bolivia, etc.**

On the global level, we can observe stable tendencies to positive changes. In 1995, out of 187 heads of states and governments there were 12 women (6.4%). Yet in 2005 – correspondingly, only 8 of 191 (4.2%)<sup>76</sup>. The growth of the number of women holding ministerial positions is noticeable. In 1996, the percentage of female Ministers was 6.8%, and in 2005 – 14.3% of the total number of Ministers of the executive bodies of the governments. In 2005, out of 858 ministerial positions in 183 countries, 12 women were Ministers of Defence, 20 – Minister of Finance and Budget, 25 – Ministers of Foreign Affairs, 63 – Ministers of Education, 60 – Ministers of Environmental Protection and Energy, 69 – Ministers of Social Issues, 83 – Ministers on Family, Children, Youth, Disabled and Elderly, etc. The highest percentage of female Ministers is in **Sweden** – 52.4%, and **Spain** – 50%.

Gender transformations in the governments of Scandinavian countries started yet in the 1970-ties. In 1981, in **Norway** the social-democratic government came to power, headed by the first in Scandinavia female Prime Minister Gro Harlem Brundtland. This government's reign was short, yet in May of 1986 the social-democratic government was formed again, headed by Brundtland. Since then, every Norwegian Cabinet included at least 42% of female ministers. At that, they received rather prestigious offices – the Minister of Foreign Affairs, the Minister of Justice, the Minister of Finance. Since that time, the gender equality changes in the government became persistent: after social-Democrats lost power several

<sup>76</sup> See: The Report of the UN Secretary General «Equal participation of women and men in decision-making at all levels». The 50<sup>th</sup> Session of the Commission on the Status of Women. February 27 – March 10, 2006 – p.11.

times (in 1989 and in 1996) were losing power and the position of Brundtland was taken by a man, the share of women on the ministerial positions sometimes was even growing.

In the system of world gender-related transformations, **Ukraine** shows quite a different picture. By the indicator of gender balance in the governmental HR policy, that is, by the rate of assigning women to positions of heads of central bodies of executive power, Ukraine is characterized by great gender gap and gender imbalance. As of June 2010, on the position of Minister in the country there were no women, where in the 1990-ties on the positions of ministers there were three women and three were the heads of governmental committees. Therefore, on the ministerial positions in Ukraine gender gap between women and men grows.

Yet at that we must note that for the first time in the history of Ukraine since February till September of 2005, and since December 2007 till April 2010, a woman, Yulia Volodymyrivna Tymoshenko, held the position of the Prime Minister of Ukraine. She remains on the political arena as one of the most influential politicians acknowledged as such both in Ukraine and abroad.

Governmental structures of many countries already have certain experience in resolving gender-related issues. Governments of some countries from the very beginning included to their scope the problem of equality of men and women, and, within its framework, were resolving the problem of women's status, but some concentrated on just improving the status of women, hoping that these changes in the women's part of the society will secure gender transformation even without involving the world of men.

Let us give an example of establishment and development of equality between women and men in the administrative structures of **Canada**, and namely from foundation of the Royal Commission on the Status of Women in 1967 until adoption by the government of Canada of the platform for actions for the new century: the Federal Plan on gender equality. Evolution reflects the search concerning administrating the gender-related processes (*Table 15*).

**Table 15**

**Establishment and development of administrative structures  
for equality between women and men in Canada**

<i>Years</i>	<i>Bodies on status of women and men</i>
1967	Royal Commission on the Status of Women founded
1970	Report of the Commission on the accomplished work
1971	Prime Minister Trudeau assigned Vice Prime Minister responsible for the Commission on women's status in Canada
1971	In the Advisory Council, Coordinator's office was created: the Commission on women's status in Canada
1976	The Commission on women's status in Canada is transformed into the Ministry of women's status in Canada
1976	Interministerial Committee for integration mechanisms on women created (IDC)
1995	The 25 <sup>th</sup> anniversary of the Royal Commission report on status of women, which includes over 150 recommendations concerning equality between men and women

1995	Federal Government took course to gender analysis of the legislation and policy. The Cabinet of Ministers of Canada adopted Federal Plan of gender equality (directions of the gender based analysis policy (GBA))
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Already the first structure, created in 1967, was at the level of the Royal Commission on the Status of Women, which in three years was supposed to report about the accomplished work. The report showed the depth of the issues that the society had to deal with, and in 1971, the Canadian Prime Minister assigned the issues of women's status to the competence of the Vice Prime Minister of Canada who was now also responsible for the activity of the already existing Commission on women's status in Canada.

The peculiarity of managing of gender relations in Canada is the fact that this work is based on scientific analysis of the situation, on taking into account the experience of transformations that were taking place in the world, and peculiarities of the regions of the country itself. Gender expertise of the Canadian legislation conducted by the Ministry of Justice and by non-governmental organizations identified the legal field of influence for achieving gender equality. Canadians were not surprised that a Japanese woman Adrienne Clarkson was elected Governor-General. Quarterly, semiannual, annual and long-term scientific analysis of the achieved results in the sphere of gender is conducted by professional politologists, lawyers, and specialists in various spheres. Such researchers work in the administrative structures and are obliged, within the term established by the law, to provide a detailed description and scientific analysis of gender-related situation on the corresponding territory (country, province) and recommendations concerning the necessary positive and progressive changes. This is an indicator of tracing of changes, transformations, practical research and using indicators, criteria for evaluation of the current situation, not using purely theoretical approaches.

International experience of state administration of gender processes shows great variety of forms in different countries of the world. Ensuring of equality of sexes on the governmental level is performed through various structures, created by the Cabinets of Ministers, with clearly outlined authorities. Among them, we can single out the most typical, taking into account the experience of some countries.

### ***1) Expansion of competence of the governments concerning the issues of ensuring of gender equality***

During the last decades, the competence of the governments of many countries of the world expanded at the cost of emergence of the new sphere—ensuring of equal rights and opportunities of women and men – and the necessity to regulate relations in it, creating the gender balance in the society. This was backed by the legislation. All powers of the governments concerning the issues of gender deserve studying both from the point of view of their wording, and also concerning their practical implementation. Because definition of rights and obligations of the governments on gender is a new phenomenon, let us outline some of them.

The main goals and directions of the activity of the government of **Canada** on ensuring of gender equality were clearly defined in the Federal Plan of Canada for achieving of gender

equality, approved by the Cabinet of Ministers in 1995. Among them are the following:

- implementation by all federal bodies and agencies of gender-based analysis of their activities with the goal of systematic information aggregation and formation of the legislative policy at the federal level through evaluating of potential differentiated influence on women and men;
- improvement of women's economic independence and welfare on the basis of evaluating of paid and unpaid work of women, advancement of women as equal participants of the labour market and equal distribution of household chores and family obligations between women and men, encouragement of women to participate in entrepreneurial activity, support of economic protection and welfare of women;
- improvement of the physical condition and psychological well-being of women by means of further development of special strategies and measures in this direction by the government:
- facilitation of elimination of violence in the society, especially violence against women and children;
- advancement of gender equality in the cultural life of the Canadian society, facilitation of cultural self-expression, support of the realistic and positive image of women in popular culture and in mass media;
- ensuring women's active participation in administrating the state and in decision-making;
- advancement and support of the global gender equality on the part of Canada as an international leader on gender at the international level;
- advancement of gender equality for the officials of federal bodies and agencies.

These strategic goals and corresponding directions of the government's activity are detailed in the Federal Plan. According to the strategies of the Canadian government, the Canadian International Development Agency (CIDA), established in the 1970-ties, defined the policy of gender equality, aimed to ensure sustainable development of the society. Noteworthy are the foundations of this policy, which embody the governmental gender initiatives:

- gender equality must become an integral part of all measures, programmes and projects of CIDA;
- achievement of gender equality requires acknowledgement of the fact that each measure, programme and project influence women and men differently;
- achievement of gender equality does not mean absolute assimilation of women to men;
- socialization of women is the core of the efforts in achieving gender equality;
- encouragement of women's equal participation in economic, political and social life plays a significant role in achieving of the gender equality;
- achievement of gender equality is possible only with cooperation of women and men;
- achievement of gender equality requires special measures, aimed to elimination of manifestation of gender inequality;
- CIDA measures, programmes and projects have to contribute to achievement of gender equality.



The government of Canada is dedicated to the cause of achieving gender equality both inside the country and internationally. Understanding that the issues of ensuring of gender equality domestically and internationally include many components, the government of Canada emphasizes that implementation of the Action plan is a lasting process, and it will require additional corrections in the governmental policy of Canada.

Unlike Canada, where strategic goals and corresponding directions of the governmental activity concerning gender transformations are stipulated in detail in the Federal Plan, the powers of the Cabinet of Ministers of **Ukraine** in the issues of equality between women and men are described in the focused Law on ensuring of equal rights and opportunities for women and men (Article 10). It states that the Cabinet of Ministers of Ukraine:

- secures conducting of the unified state policy, focused on achieving equal rights and equal opportunities for women and men in all spheres of life of the society;
- adopts the national action plan concerning implementation of gender equality and secures its implementation;
- develops and implements governmental targeted programmes for ensuring of equal rights and opportunities for women and men;
- directs and coordinates the work of Ministries, and other bodies of the executive power concerning ensuring of gender equality;
- organizes preparation of the governmental report on Ukraine's observance of the UN Convention on the Elimination of All Forms of Discrimination Against Women;
- takes into account the principle of gender equality when adopting its legal regulatory acts;
- secures support of family, promotion of responsible motherhood and fatherhood;
- secures promotion and propaganda among the population of Ukraine of the culture of gender equality and educational activities in this sphere;
- protection of society from the information that contains discrimination based on sex;
- establishes procedure for conducting of the legal gender expertise (article 4).

The government **of Japan** dedicates more and more attention to the issue of gender policy. In the adopted Law on the society of gender equality, the competence of the government of Japan includes:

- taking legislative, financial and other measures necessary for implementing of the policy of formation of the society of gender equality (article 11);
- approval of the basic plan for facilitation to creation of the society of gender equality for systematic and comprehensive implementation of the gender equality policy (article 13);
- the annual report to the parliament on the situation and intentions concerning establishment of the gender equality (article 12);
- development of the document on measures on ensuring of gender equality and submitting it annually to the parliament (article 12);
- approval of the basic plan for creating of the society of gender equality, outlining in the plan of the main directions of the gender policy, timelines for its implementation, and the analysis of background conditions in which the plan is implemented (article 13);

– legal support to the Council on gender equality, etc.

The law of the **Lithuanian Republic** on equal opportunities includes in the list of the government's duties: guarantees for ensuring of equality of sexes in all normative legal regulatory acts that are adopted by the government and administrative institutions; approval and implementation of programmes aimed to change the public opinion concerning the superiority of one sex over the other; providing assistance to the programmes of non-governmental associations that facilitate implementation of equal opportunities for women and men.

Compared to other laws, the focused law on gender equality, adopted in the **Kyrgyz Republic**, clearly defines the financial questions concerning competence of the government in gender issues. Among the powers of the government, the following are outlined: participation in development and ensuring of the unified state policy, aimed to achieve the gender equality in all spheres of public life; formation of state targeted programmes that are establishing the gender equality and ensuring of their implementation; financing of the measures concerning implementation of the governmental policy of gender equality at the cost of the funds from the state budget, and from external sources that are not forbidden by the legislation of the Kyrgyz Republic; directing and controlling the activities of the executive bodies of governmental power for protection and ensuring of gender equality.

Legislative outlining of the governments' competence in gender issues is the guarantee for inclusion of the executive power into managing gender processes. And, as the branch of power, it will implement the laws on the issues of the gender policy.

## ***2) Structures on equality of sexes subordinated directly to the Prime Minister***

The issues of gender equality more and more often become the focus of the top officials of the executive power. And this tendency finds legislative support.

Legislative responsibility for conducting of the policy in the sphere of gender equality is vested in the government of **Canada**, its Ministry and Council on equal status that is subordinated to the office of the Prime Minister. He or she is responsible for the situation with gender equality in the country. As early as in 1987, the first wording of the national action plan concerning ensuring of gender equality was adopted. Later, after the Beijing conference, the Platform for Action was adopted, on implementation of which the government annually reports to the parliament.

In **France**, the presidential Decree as of October 18, 1995, established the governmental body – the Supervisory Committee on gender equality. It is headed by the Prime Minister. At the time of its establishment, the Supervisory Committee included 12 persons. Later the number of its members was increased to 30, which is the indication of importance of the committee's activities in the eyes of the government of France. The list of members is formed as submitted by the Minister of ensuring women's rights and is approved by the Prime Minister for three years. Among the members of the committee, there are representatives of various circles – politicians, scientists, entrepreneurs, public figures, etc., and such diversity gives an opportunity to take into account the multifaceted experience and the entire range of ideas about gender issues.

Every two years, the supervisory committee is obliged to submit to the Prime Minister the report, which later is considered at the parliamentary sessions and is published in

specialized brochures. According to the report of the General Rapporteur in March 2002, growth of women's participation in the politics is observed. The percentage of women in the Senate got close to the same number for the National Assembly – 10.9% in 2001, compared to 6.2% in 1998. The percentage of women in municipal councils grew considerably, from 25.7% in 1995 to 47.5% in 2001. In the report of the General Rapporteur, recommendations are provided concerning facilitation to improvement of the gender culture in all spheres of life of the society and creation of local supervisory committees on gender equality. As of the end of 2007, there is almost 19% of women in the French parliament.

Following the Law on the society of gender equality, the Council on gender equality was established under the Prime Minister of **Japan**. It consists of 25 persons, among whom the percentage of both women and men is at least 40% of the total number of council members. The circle of gender issues, for which the Prime Minister of Japan is responsible, extends: he or she appoints the members of the Council on gender equality, taking into account experience of their work and their education; agrees upon the basic plan on gender equality with the members of the council and the opinions of general public, and, after approval, the Cabinet of Ministers declares it to all citizens of the country, etc.

The council on gender equality participates in formation of the main plan on gender equality, adopted by the Cabinet of Ministers of Japan, studies the issues of the gender situation in the country, conducts meetings and various events on gender issues. The Council cooperates with the leaders of governmental institutions, provides them consultations and other help on gender, engages cooperation from the public.

In the modern conditions of global changes and national re-buildings, the resolution of gender issues particularly determines the necessity of educated decision-making, sensible evaluations at the level of international standards. This requires in-depth understanding and significant scope of vision. Domestically, what is required is revision of functioning of the entire social system, establishing of priorities in administration, re-evaluation of social values. Any resolution on the issues of gender requires underpinning. Experience of other countries should not be imitated in a simplified manner when the social background for it is not prepared. Scientific analysis of the social environment, and gender relations and gender culture conditioned by such environment should be conducted. The environment can be not only «unprepared», but also «overprepared», where an incorrect decision can become an obstacle to the social development. The Prime Minister of the country, who is in charge of formation and implementation of the political course in administrating of social processes, needs assistance of a professional, who is able to demonstrate the scientific picture of needs and interests concerning necessity to take one or another gender-related decision. For the Prime Minister, an advisor for gender issues can be such professional. International experience of gender activity of Prime Ministers shows feasibility of such actions.

As early as in 1977, such advisor position was established under the Prime Minister of **Norway**.

In the 1970-ties, the Prime Minister of **Canada** Trudeau approved the position of advisor on the issues of ensuring of equality between women and men.

In Ukraine, the advisor position under the Prime Minister of Ukraine was established in July of 2010.

Therefore, there are serious reasons for introduction of the position of advisor, especially where resolution of this problem is backed by international experience.

### ***3) Vesting responsibilities for gender issues in Vice Prime Minister***

In many countries of the world, the issues of the equality of sexes are often assigned to the competence of Vice Prime Minister.

In 1971, the Prime Minister of **Canada** assigned the first Vice Prime Minister responsible for the Commission on the issues of women's status in Canada.

Since 1995, in **Sweden** the Vice Prime Minister has obligations of coordinating the policy in the sphere of equality of sexes.

In **Belgium**, since July 1999 responsibility for issues of equal opportunities for women and men is vested in the vice-Prime Minister (he or she also holds the position of the minister of the Federal Ministry of employment and labour).

In Ukraine, the issues of equal rights and opportunities lied within authorities of the vice-Prime Ministers in humanitarian issues. In the 1990-ties, they facilitated to a certain degree formation of the gender structure, but in practice did not differentiate it from the improvement of women's status.

### ***4) Temporary committees, commissions or working groups for gender issues under the governments***

To improve effectiveness of resolution of gender issues, temporary committees, commissions or working groups are often established under the country governments. They are established to prepare drafts of necessary documents, analyse information concerning the actual status of women and men, develop recommendations concerning ensuring of the gender progress, develop the drafts of regulatory acts, outline the concepts of resolution of gender issues and changes in the status of women or in the status of men in different spheres of life, as well as action programmes directed at the sustainable gender development, prepare measures on gender education, etc. Such structures engage employees of state bodies, non-governmental organizations and scholars, both male and female. Such practice is widespread in all countries of the world, where attention is devoted to gender issues with no regard to the scale of approach to them.

There exists the legal practice of codification of the gender composition of such structures. This refers to both temporary and permanent ones. For instance, in **Norway** the Law on equality between sexes contains a special "Article 21: representation of both sexes in state commissions and so on", which in detail outlines formation of commissions, councils, committees and other structures, and namely: «When a state body appoints or assigns the Commissions, boards, councils, committees and etc. with the number of participants of 4 and more, each sex must be represented by no less than 40% of the total number of members of the Commission, board and so on. In a commission of two or three persons, both sexes must be represented. These rules also cover reserve members of the Commission». For committees and other bodies elected by local – both municipal and regional – democratically elected bodies of power, the corresponding provisions of the Law on local and regional bodies of power are applied. The mentioned 40% «women's» quota was being insistently introduced by the government of the country in the state governing bodies and partially state-owned companies for one year and in business and industry of the country for three years.

### **5) permanent institutional bodies on ensuring of equality of sexes**

The system of state influence over gender changes and transformation required establishment of the **special focused mechanism** of managements of the gender situation and identification of prospects of its development, ensuring the progress of such development. Establishment of the structures within the system of such mechanism was taking place differently in different countries:

1. introduction of bodies on equality between women and men with emphasis on the issues of the women's status;
2. on the basis of bodies established on the issues of status (protection) of women, or, as they were also called, – on motherhood and childhood;
3. establishment of independent bodies, which already in their titles showed gender orientation, a clearly specified position concerning gender development, as well as a determined gender competence.

The difference between the first and second approaches to establishment of governing bodies specializing in gender was determined by a series of factors, among which the following can be listed: civilizational level of development of the very society and domination of the patriarchal culture in it; the level of development of the civil society and organizational structures based on it, which are able to consistently influence regulation of gender processes; gender balance of the apparatus of social governance in the country; the gender culture of legislative and executive structures; gender training of public servants, legal ensuring of the gender component in their competence; readiness of all governance sectors to implement gender approaches; available gender legislation in the country or a tendency for its formation with orientation towards taking into account of equal rights and opportunities for women and men.

These are signs of the countries recognizing of the gender processes at the international, regional and national levels, determining of their own place in the context of global gender transformations, getting ready to become active subjects of progressive changes, understanding of their importance, identifying of their role in the modern situation and within the prospect of the world community, as well as ability to vision of the strategic perspective of the place and role of women and men in the 21<sup>st</sup> century.

The state practice of different countries gives a certain picture of establishment and development of the managerial **specialized structures on gender**. Such bodies include:

- special departments, committees, councils, services on equality in the government system;
- the specialized Ministry on equal rights and opportunities;
- specialized departments, services on equal rights and opportunities as structures under separate Ministries;
- interministerial bodies.

Let us consider each of these structures in more detail.

**Special departments, committees, councils, services on equality in the government system.** The specialized departments and other structures, responsible for preparation of the governmental decisions on equal rights and opportunities for women and men,



perform coordination of gender activity within the Cabinet of Ministers, prepare draft laws, outline national actions plans, etc. They facilitate incorporation of the issues of equality to the sphere of the policy of Ministries and organizations as well as to their human resources policy.

In **Portugal** 1973, the Commission on women's status was established. In 1991 it was replaced by the Commission on equality and women's rights, which was later incorporated in the administration of the Prime Minister. Under the Commission, the Consultative council has been established, which consists of two sections: 1) interministerial section, whose members are representatives of the services of the governmental administration; 2) section of non-governmental organizations.

In May of 2000, the National Council on the gender policy was established under the Council of Ministers of the Republic of **Belarus**. Although its title is oriented towards promotion of the gender policy, its major activity is reduced to the issues of improvement of the women's status.

***The specialized Ministry on equal rights and opportunities.*** The necessity and importance of establishment of the specialized Ministry of equal rights and opportunities is demonstrated, along with other arguments, by the fact of absence of opportunities for women to hold offices of the ministry level. The dominant reason of this is negligence towards the gender approach in the countries of the transitional type at formation of the Ministries and especially at appointment of their leadership.

The issue of gender inequality among leadership in the system of sectoral management is still a pressing problem at the global level and at the level of national societies. It is still necessary to establish structures, which would analyse and underpin necessity to perform the personnel revolution, would trace gender transformations.

At the verge of millennia, the process of establishment of the Ministries on equal rights and opportunities is taking place in different countries of the world. Emergence of such Ministries, their mandate and available resources in a lot of ways depends on the will of the governments, their readiness to gender transformations, on whether they have a modern gender worldview, a mature gender culture.

A certain restraint of governments in addressing the gender changes is determined by the conscious understanding, or maybe by the subconscious feeling of the significant scope of the very issue, which requires vast restructuring in activity of state structures, changes in traditional methods of activity, transition from managing objects to managing people. Such restructuring requires scientific analysis from the point of view of gender of the actual qualitative state of the human and intellectual material engaged in different sectors, its opportunities and development perspectives. The specialized Ministry (or another central body) must be able to do large-scale generalizations concerning the gender fabric of the society, so that generalized results of its activity can serve as a certain indicator of indices of gender activity of all other central bodies of executive power.

The Council of Europe convenes the regional European conferences on gender issues, to which ***ministers on equal rights and opportunities*** are invited. This is the way to describe a position of a Minister in the modern understanding of the Council of Europe. Ministers in charge of Ministries with more traditional names – on the status of women or of family,

of motherhood and childhood – also come to these conferences. But it should be noted that by their presence and voting for decisions of the gender content being discussed, and by signing under the documents adopted at conferences or sessions, they confirm their orientation towards the gender approaches. Such inconsistency of the time, when the very direction of activity of the Ministries and their Ministers differs from what its name says, will gradually be resolved as more and more countries of Europe would join the European gender space, as the gender culture would develop and gender democracy would get established in these countries, and the awareness would spread that the state governance in this process can play a role of the accelerating and organizing factor.

Currently the process of establishment of the Ministries under the name of the Ministry on equality is taking place. Such Ministries have been established in **Denmark** and **Portugal**. Of great interest is the structure of organization of the Ministry and authorities of its separate subdivisions. Let us consider it on the example of Denmark.

**Denmark.** *The mechanism of the Ministry on equality and competence of its structures:*

*1. The Minister of equality:*

- determines strategic directions of obtaining of the gender equality;
- proposes special measures as to obtaining of equality of sexes;
- facilitates implementation of the concept of equality of sexes in the policy and actions of all Ministries;
- bears responsibility for the government's activity in the sphere of equality of sexes;
- coordinates operation of all 20 Ministries directed as a component within their competence on implementation of equality of sexes in all spheres of life, according to the strategy of comprehensive approach to the issues of equality between women and men adopted by the government;
- facilitates implementation of equality of sexes in the policy and actions of all Ministries;
- annually reports before the parliament on the accomplished results on the basis of generalization of the local reports and reports from Ministries concerning equality of sexes, and proposes the action plan for the next year.

*2. The service of equality of sexes:*

- acts as a secretary for the minister and operates under his or her leadership;
- prepares legislative and administrative acts on equality;
- coordinates actions of state bodies concerning implementation of the comprehensive approach to ensuring of equality of sexes:
- prepares annuals reports on equality of sexes;
- develops the perspectives of activity of the Ministry and action plans for future years;
- provides assistance to the Committee on equality of sexes in performance of its administrative work;
- monitors development of the ratio between women and men in the committees, departments according to the Law on equality of sexes (adopted in May 2000).

*3. The national centre of research and information on equality of sexes.*

A politically independent institution. The centre collects information, prepares and

disseminates documentation, organizes debates on the issues of equality of sexes, facilitates conducting research, conferences, analysis, etc. it is operated by the management centre.

#### *4. The Committee on equality of sexes.*

The committee consists of two lawyers. It considers complaints connected with discrimination based on sex and adopts decisions what in administrative regard are final. Its decisions can be filed to the court.

The Committee also consults citizens, bodies of power, organizations, and enterprises concerning the process of submitting complaints connected to discrimination based on sex.

Each citizen has a right to submit a complaint to the committee. The committee has a right to adopt a decision on monetary compensation or to dismiss a complaint.

#### *5. The consultative centres on equality under city councils and local bodies of power.*

They conduct consultations and wide educational and awareness-raising work on equality between women and men.

#### *6. The committees on equality under different organizations, universities, enterprises.*

They organize gender work immediately in work collectives.

Such mechanism of the special Ministry on equality, delimitation of authorities of its structure gave Denmark an opportunity to achieve significant results in ensuring of gender equality in the country.

In October 1999, the Ministry on equality of **Portugal** was established. It is subordinated to the Prime Minister. The Minister of equality bears responsibility for activity of the Commission on equality and women's rights, established in 1991 (instead of the Commission on women's status, which was operating since 1973), the Commission on equality in the sphere of labour and occupation, established in 1979, as well as the Office of the High Commissioner for Migration and Ethnic Minorities.

The ministry level of management of the gender processes has its own peculiarities in **Sweden**. Here the minister on equality of sexes (equality between women and men) at the same time performs the functions of the Minister of Agriculture, of Food processing industry and Fishing. His or her personnel includes the state secretary and the political advisor on equality. The Minister of equality of Sweden is a head of the Council on equality, established as early as in 1981, which convenes four times a year to discuss the burning issues of gender equality and develop proposals concerning the government policy.

**Ukraine** is characterized by complicated approaches to formation of a specialized central body of executive power on gender. Re-structuring of the entire social life in the 1990-ties determined creation and reformation of bodies of executive power, to whose competence the issues, which then were called «women's», were then assigned. At the end of the 20<sup>th</sup> century active women started to raise the issues of establishment of the special gender oriented structures. This was in line with the modern needs of development. The managerial structures established during 1990–2010 are most significant in the general system of state structure, from the position of their chronological emergence and transformation (*Table 16*).

Table 16

**Timeline of establishing and reformation of governmental bodies of Ukraine, whose competence included the issues of equal rights and opportunities for women and men**

<i>Years</i>	<i>Name of governmental body</i>	<i>Changes that happened</i>
<b><i>Under the President of Ukraine</i></b>		
1995-1996	Committee on women, motherhood and childhood under the President of Ukraine	Ceased activities due to establishment of the Ministry of Ukraine on Family and Youth
<b><i>In the Verkhovna Rada of Ukraine</i></b>		
Since 1994	The Standing Committee of the Verkhovna Rada of Ukraine on Women, Protection of Family, Motherhood and Childhood	Unchanged with each new convocation of the Verkhovna Rada of Ukraine
Since 2007	Subcommittee for international legal issues and gender policy under the Committee of human rights, national minorities and interethnic relations	Unchanged.
Since 2011	Interfactional association «Equal opportunities»	Unchanged
<b><i>In the Cabinet of Ministers of Ukraine</i></b>		
1993- 2000	The sector on Women, Protection of Family, Motherhood and Childhood of the Cabinet of Ministers of Ukraine	Transformed into the sector for analysis of development of health care, issues of women, motherhood and childhood (one person)
Since 2000	The sector for analysis of development of health care, issues of women, motherhood and childhood	Unchanged
<b><i>The Central body of the executive power</i></b>		
1996 – March 1999	Ministry of Ukraine on Family and Youth	Due to reformation of the system of state administration, the Ministry was reorganized into the State Committee of Ukraine on Family and Youth
March 1999 – 2000	The State Committee of Ukraine on family and youth	Disbanded as a central body of the executive power
2000 – 2001	The Department of youth and family policy in the State Committee for youth policy, sports and tourism of Ukraine	Renamed into the State Department of youth and family policy of the State committee of youth policy, sports and tourism of Ukraine
2001 – 2002	The State Department of youth and family policy of the State Committee of youth policy, sports and tourism of Ukraine	Disbanded due to establishment of the State Committee of Ukraine on family and youth

2002 – March 2004	The State committee of Ukraine on family and youth	By the Presidential Decree as of February 2004 «On Ministry of Ukraine on family, children and youth», transformed into the Ministry
March 2004 – 2005	The Ministry of Ukraine on Family, Children and Youth	Change of name due to change of the competences of the Ministry
February 2005 – August 2005	The Ministry of Ukraine on Youth and Sports	Adjustment of the name of the Ministry
Since August 2005 – 2010	The Ministry of Ukraine on Family, Youth and Sports	Change of name due to expansion of the Ministry's competence
Since December 2010 – April 2011	The Ministry of Education and Science, Youth and Sports of Ukraine	According to the Presidential Decree as of December 9, 2010 «On optimization of the system of central bodies of the executive power», to optimize the system of the central bodies of executive power and increase effectiveness of the governmental administration, the Ministry of Ukraine on Family, Youth and Sports and the Ministry of Education and Science of Ukraine were merged into the Ministry of Education and Science, Youth and Sports of Ukraine.
April 3, 2011	The Ministry of Social Policy of Ukraine	By the presidential Decree as of April 6, 2011 «On the Provisions on the Ministry of Social Policy of Ukraine», the Ministry of Social Policy of Ukraine is defined as the central specialized body of the executive power on ensuring of equal opportunities of women and men, and the special authorized body of the executive power on prevention of violence in family

With establishing of the independent Ukraine, creation of governmental bodies for the issues of equality of sexes was conducted under the influence of international and all-Ukrainian women's non-governmental organizations, and of individual influential women, who spoke for establishment and support of such bodies. At the beginning of their activities, in their demands and proposals they focused on improvement of the women's status and environment for women in Ukraine, which influenced the very name of their governmental structure. Later, the process of institutionalisation was gradually taking place on the level of governmental and non-governmental bodies that deal with the issues of gender equality.

The non-stop reorganization of the body of the executive power is a sign of objective need to have more in-depth conceptual definition of the subject of administrative activity, search for defining the object and subject of influence in the relations between sexes.



During the 20 years of the state's independence, it became more and more evident that the concept of improving the status of one sex without regulating the relations with the other is limited and hopeless. Gradually, the governmental activities in the direction of interest to the rights and opportunities of both sexes intensified, as they did concerning incorporation of the gender approach in development of the strategic and project documents.

Experience of emergence of the specialized bodies of the executive power listed in table 16 shows that they were created, unfortunately, not as the result of the state's recognition of the needs of national development in the certain sphere of the society's life, but under the influence of women's non-governmental movement. The governmental structures, as a rule, emerged before, or as a result of, the general political events in the country, in particular such as elections to the bodies of governmental power. That is, the specialized bodies with the competence concerning gender emerged at the time when non-governmental activity was on the peak, and the state structures had to respond to active behaviour of the public, in particular women's declaration of will.

Such experience of creating of the specialized central bodies of administration is also a sign of absence of a comprehensive vision of the gender issues in the bodies of executive power within the policy developed for the country, and in particular within the long-term policy. A central body of the executive power must be established based on the perspective of social development, and in particular gender development.

The process of establishment of state structures in Ukraine that would manage the problems of equal rights and opportunities was tense, indecisive, and non-transparent. Only in the first years of the 21st century it accelerated. The idea of necessity of creating a special authorized central body of the executive power for the issues of ensuring equal rights and opportunities for women and men in Ukraine was supported and facilitated by the UN mission in Ukraine, and by the Gender Bureau established by it, deployment of the gender non-governmental movement, in particular gender transformations in the activities of women's organizations.

In 1999, for the first time in Ukraine, a collective monograph based on the gender approach was published – "Gender Analysis of the Ukrainian Society», up to 30 printed pages long, where the status of women and men in the country was analysed. For the first time in Ukraine, the research and application conferences were conducted on the legal issues of equal rights and opportunities of women and men: «Equality between women and men in Ukraine: legal aspects» (Kyiv, November 20-21, 2000); «International experience of governmental ensuring of equality between women and men (Kyiv, June 30 – July 1, 2003). The materials of the conference were published as separate booklets.

Within the framework of the project «Gender expert evaluation of the Ukrainian legislation», which was implemented with facilitation and financial support of the UNDP programme «Promoting of gender equality» and International Renaissance Foundation, in 2001 the All-Ukrainian non-governmental organization «League of women-electors of Ukraine 50/50», for the first time presented the conceptual foundations of gender expert evaluation of the Ukrainian legislation, and so the gender expert evaluation started. Such expert evaluation was performed in cooperation with the experts from various sectors - international, constitutional, social, labour, family, criminal, and penal legislation. The materials of the expert evaluation were published as separate brochures, about 40 printed pages long.

Women's organizations more and more actively engaged into restructuring of the activities based on the gender principles. The progressive public was more and more actively raising the idea of adoption of the law on governmental ensuring of equal rights and opportunities for women and men. For implementation of this idea, in the Verkhovna Rada of Ukraine a public structure, the gender group, was created by a people's deputy of Ukraine.

Leaning on the public and gaining experience, the Ministry that was in charge of the issues of family, youth, and sports, gradually extended its competence in the problems of gender, etc. Starting from 2000, the Ministry started to engage more actively in incorporation of the gender issues and regulation of gender processes. A significant number of seminars, round tables, conferences, trainings for different categories of governmental officials on gender issues have been conducted. The Ministry initiated creation of the system of the executive power chain of subordination for the bodies responsible for gender issues. By the directive of the Prime Minister of Ukraine as of July 10, 2003, addressed to the Ministries and other central bodies of the executive power, the Council of Ministers of the Autonomous Republic of Crimea, region administrations, Kyiv and Simferopol municipal state administrations, at distribution of functions one of the vice-heads of these institutions received the function of ensuring equality of women's and men's rights. Under the Ministry, a non-governmental structure was created – the Gender Council, an advisory body with a specified circle of powers, determined in the Provisions on it. In the Ministry, the position of the Minister's advisor on gender issues was introduced.

The Ministry, in cooperation with the UNDP Programme of Equal Opportunities, prepared and issued the governmental report on Ukraine's implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women<sup>77</sup>. It issued a number of works on the issues of gender, among which: «Normative and methodological foundations of gender transformations», materials of international scientific and practical conference «National Security and Defence: gender aspect», «Gender Component in the structure of the higher technical education and natural sciences», «Woman in science and education: past, present, future», etc. Scientific research on the issues of «Involving Men into Health Preservation» and «Consolidation of the potential of non-governmental organizations that work in gender dimension», etc. was conducted.

Experience shows that to achieve progress in the political system, progressive development must take place in several spheres at the same time. The policy in only one sphere will not change inequality between women and men. The Ministry was actively establishing cooperation with other Ministries. Such cooperation was the most successful with the Ministries of humanitarian sphere – the Ministry of Justice, the Ministry of Science and Education, the Ministry of Social Policy and Labour, the Ministry of Health Care, the Ministry of Culture, the State Committee of Statistics of Ukraine, etc. These bodies are active in managing gender processes. They started to involve more actively into assimilation of gender issues, and already have certain achievements.

All the outlined activity of the different central bodies of the executive power required their inclusion into the system for conducting the nation-wide analysis of the gender situation in the country and working out, adjustment, and improvement of the gender

<sup>77</sup> *Ukraine's implementation of the Convention on the Elimination of All Forms of Discrimination against Women*. - К., 2003. / Виконання Україною Конвенції ООН про ліквідацію всіх форм дискримінації щодо жінок. К., 2003.

policy in Ukraine. The Ministry took an active part in preparing the draft Law on equal rights and opportunities for women and men, which was submitted by the Cabinet of Ministers to the Parliament in January 2004 as a legislative initiative. The Law, adopted in 2005, established the office of the **special Commissioner of the central body of the executive power on ensuring of equal rights and opportunities for women and men** within the state mechanism for administrating of the gender process.

According to the Law «On ensuring of equal rights and opportunities for women and men», the powers of the specially authorized central body of the executive power on ensuring of equal rights and opportunities for women and men are defined as powers of an independent central body of the executive power, namely, this body:

- participates in formation and implementation of the state policy on ensuring of equal rights and opportunities for women and men;
- coordinates the measures of the Ministries and other central bodies of the executive power, directed at implementation of the gender equality;
- conducts informational and educational work in mass media, organizes educational actions for the issues of ensuring gender equality;
- develops measures focused on implementation of ensuring equality of rights and opportunities for women and men in all spheres of life of the society;
- forms the national action plan concerning implementation of gender equality;
- controls compliance with the principle of gender equality in the personnel policy of the central and local bodies of the executive power;
- organizes training of governmental officials in the issues of implementation of equal rights and opportunities for women and men;
- together with other central bodies of the executive power, performs preparation for scientifically underpinned proposals on the issues of ensuring gender equality;
- organizes research and studies in the issues of ensuring equal rights and opportunities for women and men;
- files proposals concerning application and cessation of affirmative actions;
- performs monitoring and summarizes the results of ensuring equal rights and opportunities in different spheres of life;
- summarizes the results of the conducted governmental programmes for the issues of gender equality;
- considers citizens' complaints on sex-based discrimination;
- registers and summarizes information on the cases of sex-based discrimination and makes proposals for their elimination;
- cooperates with the international organizations, corresponding bodies of foreign countries for the issues of women's status and of compliance with international standards on providing equal rights and opportunities for women and men.

In Ukraine, all these functions of the specially authorized central body of the executive power on ensuring equal rights and opportunities of women and men were vested in the Ministry of Ukraine on family, youth and sports, and since April of 2011 – in the Ministry of Social Policy of Ukraine.

It should be noted that creation, disbandment, nature of activities of the state bodies, in which specialized functions are vested concerning regulating of the gender processes, in many things depends on the human factor, namely on the level of gender culture, understanding of the role and meaning of gender issues in the governmental policy and social transformations, knowledge of international documents and personal administrative experience of those who are on the top of governmental structures. In the conditions of prevalence of authoritarian mindset and approaches to administrative functions, their determination that is backed only by the common-sense understanding of the freedom of women and justice for them, with lack of knowledge about the situation inside the male society, is often dominating and destructive. And even if this is for a small period of time, and later is mended, it anyway disrupts the gender process, wastes the social and political time in resolving of the pressing gender issues, and yields negative fruits.

Established in Ukraine in the end of 1990-ties, the Ministry of Ukraine on Family, Youth and Sports already in 2010-2011 was transformed into new structures after reformation of the administrative system, and the gender issues were assigned to the competence of the Ministry of Social Policy of Ukraine. It has a newly established Department of family policy, in whose structure there is a division for ensuring equal rights and opportunities of women and men.

Establishment of the Ministries that pursue gender transformation as their goal, and clearly identify the gender sphere as their activity, in many countries comes along with ***transformation of the Ministry on women into the Ministry of gender equality***. The Ministry on women is often the base for formation of the Ministry of gender equality.

Some Ministries in other countries, that in their activities remain focused on improvement of the status of women, create within their administration mechanism the departments on gender equality. This way they consider the problem of establishing gender equality as a part of the problem of changing the status of women, which is, to our opinion, illogical and has no perspective. We shall try to explain such assessment.

Anybody of the executive power of national importance must have the sphere of influence for its activities. The spheres are assigned based on the types of social relations, norms and values, mechanisms of practical life, specificity of relations with other spheres. The gender sphere is now often outlined as an independent sphere of social life. Its content is gender relations, which are manifested in the activities of peoples, nations, social groups, and individuals. Gender activities of these entities are manifested in all spheres of life, without losing their gender goals, tasks, normative support for organization of social connections – gender norms, aimed for ensuring of the gender equality.

The gender sphere is manifested through the forms of gender activity, determined first of all by life and activities of men and women. Such activities, and everything related to it, require targeted regulation, organization, ideological manifestation, normative codification. The volume of the gender sphere is defined by presence in the society of the developed gender forms of social life, by the extent of their recognition of gender values, extent of gender rights, freedom, duties and responsibilities being determined in the state, the society's moral and legal ability to establish the gender democracy, a developed gender culture.

Development of the gender sphere is conditioned by development of the organizational

structure (including governmental) in the society, its ability to define gender strategies and ability to actively implement it into life, to analyse the development of gender balance in the society, reasons and consequences of it being disrupted, conclusions concerning dependence of all changes in the society on violation or adherence to gender principles, on the objective social processes being determined by gender factors.

The state needs to regulate all this using its tools and through body specially determined for this. And for this reason, establishing a central body, which even by its name and its activity is focused on the part of the society, that is, on improvement of well-being of only one society component, women, is illogical in both approach to establishment and the consequences of its activities. Based on the logic of social life, the governmental body focused only on one part of the population simply should not be created. It will be objectively destructive, palliative, and incomplete. It is impossible to change the status of women without changing the status of men, without influencing it. Basing on the principle of creating the central administrative body «on women» it would be logical to establish some governmental body «on men», who as a gender group in the modern conditions are by many parameters in a worse situation than women (in Ukraine men have by 10–12 less life expectancy, growing unemployment rate, which in the recent time exceeds the rate of unemployment of women, prisons are overcrowded with men, predominantly men suffer from alcoholism, drug addiction, growing infertility, growing discomfort in family relations, mental disorders in the conditions of the new social order, which leads to heavy stress, etc.).

It also should be mentioned that the name of the central body of the executive power that is supposed to ensure equality of both sexes often scares men. In their mind, this is most often identified with the situation where one will have to make a concession, and for this reason is associated with deterioration of their status. This is wrong, or, rather primitive and uneducated way to look at gender problems.

Improvement of the status of both women and men, as well as their children – boys and girls – in the families can be the processes of the same nature, not the processes of different time and space by coverage of influence. Even more than this, this process is two-in-one. Such improvement requires simultaneous comparative, comprehensive analysis of the status of sexes in all spheres of life, and analysis of gender self-realization of common and different things at the time of formation and functioning of the entire system of social relations. Only the comprehensive gender approach outlines the sphere of administrating the gender processes, and grants an opportunity to define the parameters of the gender progress. Only such approach, and activities built on it, can have positive results. It is a comprehensive approach to the analysis of the gender situation in the country that constitutes the methodological basis for the activity of the specialized central body of the executive power, which performs regulation and resolution of gender problems.

It should be also noted that the governmental body has to monitor gender processes, nature of gender changes and transformations. This is required for establishing the parameters of human progress and degradation. Gradual transformation of the Ministries, governmental committees on women in different countries of the world into the bodies in charge of equal rights and opportunities is the need of today, and this process has already started. How fast it goes will to considerable extent determine how the gender problems are brought up and resolved at the international, regional and national levels.



**Specialized departments, services on equal opportunities as structures under separate Ministries.** Such bodies are established, as a rule, under the Ministries of Labour, social policy, social issues, education, foreign affairs, agriculture, etc. Sometimes it even depends on gender activism and determination of the heads of the Ministry. The amount of their authority varies from country to country. We shall provide the examples of such structures for gender equality, created by different Ministries in different countries.

In Ukraine, under 37 central bodies of the executive power (as of December 2011), the expert working groups are formed to implement the gender approaches into the work of the Ministries and departments, to conduct expert evaluation of the gender ratio of the central and local bodies of the executive power. They include the officials of Ministries, experts on gender issues and sectoral experts, NGO activists. They develop the programmes for gender transformations in the sectors. Such programmes are already developed in the sector of the Ministry of education and science, and Ministry of Internal Affairs.

In the **United States of America**, where there is no unified body on ensuring gender equality, the powers concerning elimination of sexual discrimination are vested in federal bodies of executive power in the spheres that are included to their competences<sup>78</sup>. All federal agencies have special sections for protection of civil rights, which together form the mechanism for ensuring of gender equality.

In 1957, in the Department of Justice, the Division for Civil Rights was established, in which the obligations were vested to implement the norms of the federal anti-discriminatory legislation, and also to coordinate activities of other federal agencies with the goal of elimination of the manifestations of discrimination. The section is composed of such structural subdivisions: the Appellate Section, the Federal Coordination and Compliance Section, the Educational Opportunities Section, the Housing and Civil Enforcement Section, and the Employment Litigation Section.

The task of the Appellate Section is participation in consideration of cases concerning protection of civil rights in the courts of appeals in cooperation with the Vice-Minister of Justice, and in the U.S. Supreme Court.

The Coordination section directs its activities on effective ensuring by the federal agencies of implementation of the provisions of the normative and legal acts that ban discrimination. According to the decrees of the U.S. President as of 1979 and 2000, the section coordinates the activity of federal agencies concerning elimination of discrimination at implementation of federal programmes, in particular those in the sphere of education.

The Educational Opportunities Section monitors over school districts, for elimination of the cases of discrimination in educational institutions. It has a right to act as a third party in court cases where the court proceeding are about a violation of the federal anti-discriminatory legislation in the sphere of education. Just like the Appellate Section, it can send to court agencies letters concerning the issues that are within its competence.

The Housing and Civil Enforcement Section, basing on the provisions of the Fair Housing Act, the Equal Credit Opportunity Act, and the Civil Rights Act, can file to the U.S. court agencies civil claims on behalf of the United States of America against violators of the

<sup>78</sup> From the materials of the *Ministry of Foreign Affairs of Ukraine Informational-analytical memo* on development of the executive power mechanism in the sphere of establishment of gender equality. / Інформаційно-аналітична довідка Міністерства закордонних справ України щодо розбудови механізму виконавчої влади у сфері становлення гендерної рівності.

mentioned legislative enactments. In the cases where an individual filed a complaint with the federal court, the section can act as a third party, or file a simultaneous claim on behalf of the United States, if the prosecutor general considers that the issue in the claim is of importance for the public.

The Employment Litigation Section secures implementation of the provisions of the Civil Rights Act, the Fair Labor Standards Act, the Pregnancy Discrimination Act, and other normative legal enactments. In the cases where discrimination in activity of individuals or legal entities is established, the section may initiate a court claim against them. Also, it can initiate court claims under claims of individual persons, which will be sent to the Department of Justice by the U.S. Equal Employment Opportunity Commission.

In 1920, the Department of Labor, by the resolution of the U.S. Congress established the Women's Bureau. It deals with the issues of representation and protection of women's rights in the sphere of labour. It participated in development and adoption of the Fair Labor Standards Act on equal standards of labour, which establishes for women the minimal salary and the maximal number of working hours, the Equal Pay Provisions of the Fair Labor Standards Act, aimed to remove disbalance in women's salaries compared to men's, the Act on leave due to illness and family circumstances, which provides for creation of conditions that give an opportunity to women to balance the duties at work and family duties. In its annual reports to the Congress, the Department of Labor, on the basis of information from the Women's Bureau, gives assessment of the situation concerning protection of women's rights in the sphere of labour, makes proposals on the means to resolve the existing problems, offers adoption of national programmes and normative and legal enactments for ensuring women's rights being equal to men's.

The Civil Rights Center under the U.S. Department of Labour develops and implements the policy of elimination of discrimination in the sphere of labour, monitors compliance with the requirements of the anti-discriminatory legislation at implementation of the federal programmes in the sphere of labour, supports connections with non-governmental structures with the goal of elimination of discrimination in labour relations, reviews complaints concerning violation of the citizens' rights.

In 1964, following the provisions of the Law on Civil Rights, the Equal Employment Opportunity Commission was established, which was aimed to secure compliance with the provisions of the anti-discriminatory legislation in the sphere of labour. Through its 50 agencies, it coordinates federal efforts on ensuring of equality of rights in legal labour relations, provides explanations of the labour legislation, monitors implementation of the federal programmes concerning elimination of discrimination, and provides them financial and technical support.

Upon receiving a complaint from a citizen concerning their discrimination, the Commission can conduct investigation of the circumstances, and, in case violations are established, takes steps for reconciliation of the parties. In case it was impossible to regulate the dispute in the pre-trial procedure, the Commission may independently file claim to the federal court, or transfer the case to the Office for civil rights in the Department of Justice. Every year, the Commission reviews 75–80 thousand complaints.

The Office for Civil Rights under the Department of Health Care was established with the purpose of ensuring equal access of men and women to federal programmes and providing

services in the sphere of health care. The Office is vested with powers to consider complaints of individuals, and to investigate cases of discrimination in the sphere of health care. In case the violation of the requirements of anti-discriminatory legislation is established, to mend the situation the department may address the law enforcement agencies so that they take appropriate measures.

The Office for Civil Rights under the U.S. Department of education has the main goal – to ensure equal access of women and men to education and promote educational excellence throughout the nation through vigorous enforcement of civil rights, as well as monitor over compliance with anti-discriminatory legislation in the sphere of education. These tasks are implemented by the Office through its 12 agencies in four districts of the U.S. (Northern, Southern, Eastern and Western) by means of prevention, detection and mending of the cases of discrimination, and ensuring reimbursement for violation of the citizens' rights. The jurisdiction of the section covers all educational institutions of USA that receive financing from the federal budget.

The Office of Fair Housing and Equal Opportunity under the U.S. Department of Housing and Urban Development is in charge of consideration of complaints concerning violation of the civil rights in the sphere of housing. The complaints are considered in form of administrative procedure. In case of discovering violation of rights, the offender can be fined.

Therefore, the issue of equality in the United States, as it is articulated and resolved, has a formed mechanism of state approach, where ministerial structures perform the main work on securing equality in different spheres, and bear the responsibility.

**Sweden.** Here, the gender initiatives were for some time deployed around the Ministry of Agriculture of Sweden, headed by a woman. It studied and analysed the situation with gender equality in the country. The sphere of its gender activities goes beyond the limits of administrating agrarian sphere of their Ministry. The competence of the Ministry was complemented with the responsibility to prepare the resolutions of the government, drafts of laws related to ensuring of gender equality in the country in general.

This body, which has gender competence, composes national action plans on gender equality, coordinates its contents and implementation with other Ministries. It conducts coordination of the issues of equal rights and opportunities in the Cabinet of Ministers. Yet it does not have powers to issue orders to other Ministries. This is possible only if the government vests such powers in it.

**Belgium.** The service for equal opportunities under the Federal Ministry of employment and labour has been operating since 1999.

The powers of the Service cover issues of the population's employment, conducting the policy of affirmative activities in the private sector.

**France.** The Department for equal opportunities in the Ministry of the French Commonwealth was established in 1997.

Its powers include ensuring of equal opportunities for women and men in the spheres of activities of the French Commonwealth; playing the role of the resource centre and experience sharing centre; providing information and supporting various associations; facilitating creation of new projects with the goal of effecting specific policy for ensuring of equal opportunities.

**Flanders.** The service on equal opportunities of the Ministry of Flemish Commonwealth of Flanders was established in 1966. Its powers include providing support to the Ministry in conducting the policy of equal opportunities; facilitation of developing actions and performing the activity focused on ensuring of equal opportunities, and assessment of its results.

In the same year, 1966, the In-House committee on equal opportunities was established subordinated to the Service on equal opportunities of the Ministry of the Flemish Commonwealth. The Committee is formed from the representatives of different spheres of activity, and plays the role of forum for discussions. It accepts recommendation concerning general policy of equal opportunities, considers measures and initiatives necessary for creating programmes of actions in the sphere of equal opportunities.

**Norway.** The subdivision on gender equality is established under the Ministry of Childhood and Family Matters. It is also the main body of the executive power that is responsible for the assignments, and performs the functions vested in this Ministry in the sphere of gender equality. The Minister of Childhood and Family Matters regularly submits for consideration by the Storting (Parliament) facts and proposals concerning the policy on gender equality.

The Ministry of Childhood and Family Matters of Norway participates in the international and Northern European cooperation in the sphere of gender equality, including the activity of the United Nations organization, the Northern Council of ministers, the Council of Europe, the European Union, the Organization of economic cooperation and development. The Ministry deals with the issues of scientific research and developments in the sphere of gender equality. In Norway, the Nordic Institute for Women's Studies and Gender Research – NIKK is located, which is financed by the Nordic Council of Ministers.

According to the Law of the Kingdom of Norway on gender equality, all state bodies of power are obliged to promote gender equality in all spheres of life of the society. For example, in 1972 under the Ministry of Agriculture, the Council on equality was established. The competence of the Council included ensuring of equality of sexes, collection and dissemination of information on gender equality, filing to the government proposals on ensuring of gender equality in the country. In 1977, the Council was transformed into the resource centre for the issues of equality of sexes.

In 1977, the Department on equality under the Ministry of Agriculture of Norway was established. Its competence included enforcing of the Law on equality, coordination of actions of the governmental bodies and non-governmental structures, directing their activities to ensuring of gender equality, conducting the policy of equal rights and opportunities, effecting control over representation of genders (at least 40% each) in various commissions.

Under other Ministries, the structures for gender equality are also established and operating.

**Finland.** The Council on equality under the Ministry of Health Care and Social Issues was created in 1972. The Council was supposed to facilitate consolidation of equality, to supervise over elimination of discrimination, improvement of the women's status on workplaces, ensuring of equal remuneration for labour for women and men. It makes submits proposals to the governmental bodies concerning reformation, facilitates achievement of equality in the legislative and administrative spheres, conducts research, fights violence and sexual harassment.

Later, in Finland the Committee on equality was created in the same Ministry, in which the control over compliance with laws and counteraction to illegal discriminatory actions are vested. In case of discovering any violations, the Committee can file the case to the court. It has a right to penalize by fining.

**Iceland.** The Bureau of equal status in the Ministry for Social Issues was established for resolving the issues of gender equality according to the Law on providing equal status and equal rights to women and men, adopted in 2000. The Bureau has the following responsibilities: monitoring over compliance with this Law; ensuring opportunities for education and dissemination of information; providing consultation services to the institutions, companies, individuals and governmental organizations; preparation of proposals on equality for the Minister for Social Issues, Council of equal opportunities, and for other bodies; expansion of equal opportunities, including by means of involving men into resolution of equality issues; monitoring over development of equal opportunities in the society, in particular accumulating information and research; providing assistance to the committees, companies, advisors, representatives of the institutions dealing with the issues of equal status, accomplishment of other tasks according to the goals and sphere of application of the Law, and instructions of the Minister. The Bureau has a right to receive necessary general information from governmental institutions and NGOs.

**Portugal.** The Commission on equality in the sphere of labour and employment under the Ministry of Labour and Employment facilitates application of the Decree - the law that bans sex-based discrimination, secures equal opportunities for women and men, and their equal rights in the sphere of labour, employment and professional orientation, considers the complaints, conducts research, raises public awareness of the issues of gender equality, and supervises the Centre for detection and prevention of direct and indirect sex-based discrimination, etc.

Different countries shift to controlling the gender processes using different means, are seeking the means to control them, outlining the sphere, finding the methods, working on legal tools. As an example of the complicated process of transition to the positions of the gender strategies that is free from the tenets of the concept of defending the status of women, we can consider the administrative structures of **Hungary**.

In March of 1995, in Hungary national committee for equality was established. It included the deputies of the parliament, representatives of Ministries, social partners, representatives of women's and other non-governmental organizations, churches. The Committee was supposed to deal with the issues of equality between women and men. In a year, in 1996, the sub-department on women was established, and in the same year it was renamed into the sub-department on equal opportunities. In 1998, this sub-department was reorganized and transferred under the Department for Social Issues in the Ministry of Social and Family Issues, and renamed into the sub-department on women. The main goal of this sub-department was improvement of women's status.

In 1999, by the governmental decree the Council on women was established, and its task was establishing equal opportunities. The Council works as an interdepartmental committee. Yet, primarily it is concentrated on improving of the women's status. Hungary is an example how hard it is to break away from the frame of traditional beliefs.

Complications of transition to gender approaches are, first of all, in realizing the meaning



of the gender sphere of life, vision of the gender component in all spheres, breaking away from the patriarchal concept of improvement of women's status, which is now obsolete and has no future outside the holistic gender approach to understanding social development.

**Interministerial bodies.** The process of differentiation and integration becomes popular in the systems of executive power related to managing of gender processes. Implementation of gender into all spheres of social life and administration called to life the structures for coordinating the activities, namely interministerial structures.

The first interdepartmental body on equality of sexes was created in **Finland**, its members were representatives of each Ministry. Its competence was later assigned as monitoring over compliance with the resolutions of the Fourth World conference on women.

In 1976 in **Canada**, the Interministerial committee on women's status for integration mechanisms (IDC) was established. After the Fourth World conference, women oriented this committee towards implementing the policy of the equality of sexes.

In 1997, to ensure compliance with the mainstreaming strategy, facilitate integration of the issues of equality into all activities of the government, to align the Ministry's on Childhood and Family Affairs towards ensuring of equality of sexes, and institutionalize the comprehensive approach to resolving gender problems, the Committee of the Secretaries of the State on equality of sexes was established in **Norway**. It was headed by the political advisor of the Prime Minister office, with specific responsibility on gender equality. It included as its standing members representatives of the Ministry of Labour and administration, the Ministry of Regional and Local Policy, the Ministry of Industry and Energy, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Childhood and Family Affairs. The powers of the Committee included establishing the agenda, ensuring dialogue and cooperation between different sectors. At the level of developing the policy on gender, corresponding Instructions were introduced for research and reports on the progress of all issues of political development in the bodies of administration. There, recommendations were given concerning making assessment of gender influences on the corresponding political proposals. Coordination of this activity was vested in the section on gender equality of the Ministry of Childhood and Family Affairs.

Achievement of gender equality gives positive results when there is political will of the political leaders, and pressure of NGOs from below. In particular, experience of **Austria** concerning implementation of gender equality indicates thorough and comprehensive work of all structures. In each Ministry at least one person is appointed as a Commissioner on equality. Their task is to provide consultations to state officials and to monitor all kinds of gender discrimination that they become aware of. The Commissioners file complaints concerning sexual harassment and gender discrimination for consideration by the corresponding institutions and courts. The Commissioners for equality are the members of ministerial committees with the same name, established for monitoring and further advancement of women at civil service.

At the governmental level, two interministerial working groups are operating – on gender equality and on gender integration. The first one provides proposals and advice to the government on all issues of equality of sexes and advancement of women at governmental service. And the second one develops strategies and methods for implementation of the concept of gender equality within the framework of the Ministry and at the political level.

In 2006, in the **Russian Federation**, the Interdepartmental Commission on ensuring of equality of men and women was established. It includes heads of federal bodies of legislative and executive power, representatives of NGOs, and scientists. According to the Provisions on the Commission, it must establish priorities in the policy for providing of equal rights, freedom and equal opportunities for men and women, improvement of women's status, and is a coordinative body created to tie in activities of federal bodies of the executive power, the bodies of executive power of the administrative units of the Russian Federation, bodies of local self-government and non-governmental organizations in the sphere of ensuring of equality of men and women. Another task vested in the commission is coordination of work on harmonization of the national legislation with the international legislation in the sphere of ensuring of gender equality, providing gender expert evaluation of laws and other normative legal enactments on equality of sexes in social, economic, political and cultural spheres, facilitation of integration of gender approaches into the activities of the governmental bodies of all levels, etc.

The Interministerial council on equal rights and opportunities was established in Ukraine. It coordinates gender activity of the Ministries. Its members are vice-Ministers, responsible for implementing gender component into the sectoral policy, and experts. The council is convened quarterly, and it discusses the pressing issues related to gender issues.

Establishing interdepartmental structures became very popular after the Beijing conference, where the basic principle for approaching establishment of the policy in all spheres of life of the society was the gender principle.

Therefore, specialized bodies on gender become an increasingly important component in the system of executive bodies and in the society's administration mechanism. This is observed due to formation of the gender sphere, gender democracy and gender culture, and defining the place of women and men in them. Such bodies are transformed, they change, develop, cease to exist and form again. Yet regardless of their transformations they play their vitalizing, communicative role, and facilitate regulation of the processes of gender development.

### 3. Local structures for ensuring of gender equality

The gender policy in the country becomes effective, when it is not simply declared, but is also implemented locally in an optimal way. A broad circle of gender problems requires resolution at the local level. Development of local self-government and everyday community activities become an ever more pressing problem. Also, a pressing issue to address this problem is how to ensure participation of women and men in resolving of issues of everyday life based on the principles of parity and ensuring of equality of opportunities.

A peculiarity of local self-government bodies is that compared to the central ones, they are more balanced by gender, because here there are more opportunities for women to get elected. Such situation is easy to explain. To the opinion of Ukrainian and Canadian experts, at local elections women are more successful, because: 1) electoral campaign to local bodies requires less expenses; 2) one needs to spend less time to meet with electors, as travel is close to home; 3) nearness of electoral campaign locations gives an opportunity to perform family duties, which are mainly performed by women; 4) electors are inclined, according to their mentality, to favour women not on top positions in the central government, where they are used to seeing male figures, but on the positions where the activities are related to the social sphere of life, which actually is the sphere of activities of the local self-government.

For example, at the elections of 2006 to the local councils in Ukraine, among the elected deputies, women constituted 43.3%. Among them, 10.9% is the share of women in region councils, 19.9% – in district municipal councils, 26.6% – in rayon councils, 33.6% – in town councils, 50.3% – village councils. A characteristic tendency: the higher the council level, the fewer women are elected to it.

Gender specificity of local self-government in Ukraine is the situation, which is characterized by «feminization» of the administrative system. The evidence of this is distribution of officials by sex in the system of self-government. As of December 31, 2010, the total number of employees was 99, 783 persons, who hold positions of leaders and specialists in the local self-government, 75, 753 persons (75.9%) were women, 24 030 (24%) were men. Among the leaders, women comprised 62%, men – 38%. Among specialist, women are prevalent to even greater extent, almost 86%<sup>79</sup>.

Growing numbers of women in the system of administration can also explain the heating interest to the gender-related problems in province, which is more intense compared to the centre. Of course, this will affect consideration of gender-related circumstances when forming the local strategies, programmes, and projects, will clue about gender-related needs and priorities, inequality in opportunities and results, and will facilitate detection of specific interests and needs when evaluating the situation from gender-disaggregated data.

Gender activities in the periphery is manifested in a great variety of forms, among which: establishment under governmental structures of councils, committees on gender equality, consultative, advisory and monitoring committees for ensuring of gender equality, appointment of consultants and advisors for gender issues under the leading officials, creating positions of experts on equal rights and opportunities, organization of gender

<sup>79</sup> Women and men in Ukraine. Statistical Collection, p. 81./ Жінки і чоловіки в Україні. Статистичний збірник.

centres, etc. Establishment in many countries of the world of various periphery structures dealing with equality of sexes that have clearly stipulated powers, is the evidence of international tendency to regulate gender processes, and to rebuild the administrative sphere basing on gender equality principles. In the local governmental bodies, women receive administrative experience, which can open for them the way to the higher level election.

Gender activity at the local level in Ukraine was to a considerable degree facilitated by adoption of the Law of Ukraine «On ensuring of equal rights and opportunities women and men», whose article 12 describes the competence of the executive bodies and of the bodies of local self-government. These bodies:

- secure equal opportunities for women and men;
- implement national and regional programmes on ensuring of equal rights and opportunities for women and men;
- create conditions for women and men to combine professional and family duties;
- secure accessible social care services, including care for small children, organization of pre-school education and ensuring children's leisure;
- perform educational work on gender equality;
- cooperate with associations of citizens on ensuring of equality of sexes;
- file proposals concerning improvement of the legislation in the issues of ensuring of equality of rights and opportunities of women and men;
- facilitate scientific developments in the sphere of gender studies;
- in their activities, comply with the principle of ensuring of equal rights and opportunities of women and men;
- perform affirmative actions.

According to the Law, by the resolution of the corresponding local council, an authorized person (coordinator) on ensuring of equal rights and opportunities for women and men can be assigned in the executive body of the corresponding council. The powers of such authorized coordinators are stipulated by the law.

Adoption of the Law was preceded by the actions of the Cabinet of Ministers. By Assignment as of July 10, 2003, the Prime Minister of Ukraine obliged the local governmental administrations to enforce that, when they distribute the functions between the vice-heads, one of them must be given responsibility to secure equal rights and opportunities for women and men. In the majority of region administrations, the positions of the advisors for gender issues under the heads were established, councils for gender issues were created, as well as gender centres for ensuring of equal rights and opportunities, and other structures.

The bodies of executive power create consultative and advisory bodies, assign advisors on ensuring of equal rights and opportunities of women and men.

According to the Law «On ensuring of equal rights and opportunities for women and men», assigning personnel to the governmental service and local self-government bodies will be performed in compliance with the principle of employing candidates of each sex. Discrimination based on sex is forbidden at enrolment and service in the bodies of local self-government.

Heads of bodies of state power and of local self-government are obliged to secure equal opportunities for citizens to the state service and service in the bodies of self-government, according to required qualification and professional training, regardless of the contender's sex. By the Order of the Director of the National Agency of Ukraine on State Service, as of August 27, 2010, it is stipulated that all regional retraining centres, as well as master's programmes for state administration must incorporate gender-sensitive approaches into their curricula. The National Academy for Governmental Administration under the President of Ukraine, supported by the UN project «Equal Opportunities Programme and women's rights in Ukraine» developed training courses for governmental officials.

To achieve balanced representation of women and men at governmental service and service in the bodies of local self-government, taking into account the categories of the officials' offices, it is legally allowed to use affirmative actions.

In Ukraine, resolution of gender problems that the local authorities face, is complicated by many reasons, among which: lack of necessary funds, especially under the conditions of the crisis; organizational instability; persistent personnel rotations; personnel lacking financial support; weak legal background (the laws are either not being implemented, or cannot be implemented as written).

In the international experience, the most widespread form of governing gender processes in the modern conditions at the local level is establishing committees on equality.

Such committees in the countries **of Northern Europe** are an example of their most productive activity. In the course of elections, they are created by the local governmental bodies from the representatives of political parties in proportion to their members. The committees influence consideration of issues of the equality of sexes in the governmental agencies, express their recommendations concerning equality of their rights and opportunities, coordinate action plans directed at establishing of gender equality. The committees join efforts of governmental structures, party-based associations, women's organizations female politicians, create crisis centres, «hotlines», participate in decision-making at the local level, etc.

For example, local Committees on equality emerged in **Norway** in 1975; their goal was to ensure equality of sexes at the local level, and also to provide mediation in the relations between private individuals, organizations and bodies of local self-government, ensuring integration of the issues of equality of sexes into the activities of the municipal committees and decision-making bodies.

The law of **Iceland** on granting equal status to women and men (adopted in 2000) stipulates that the state and organizations invest efforts to engage approximately equal number of women and men into committees, councils, and governing bodies that work under the jurisdiction of the government or local governmental bodies. Attention is paid to this when candidates are nominated for the positions in the corresponding committees, councils and departments.

In Iceland, according to the mentioned Law, on the eve of municipal elections the bodies of local power elect three to five representatives to the local committees on equal status, who are responsible for advancement of equality within the region. Their activity is guided by the local governmental bodies. These committees consult local authorities on equality of women and men, trace and initiate special activities directed at promotion of the issues of gender equality. The committees prepare municipal four-year programmes for equality



of sexes, which, according to the procedure, are submitted after municipal elections.

In **Sweden**, each regional administrative council created a position for experts on equality since 1995. The competence of such experts includes support in implementing on the regional level of the national policy, directed at ensuring of gender equality, implementation of holistic approach to the issues of the equality of sexes in various branches of the regional policy. Public servants that work in the bodies of local self-government are obliged in their communities to coordinate activity directed at ensuring of equality between women and men.

Local supervisory committees on gender equality have been created in **France**. As the result of their activity, in the municipal councils since 1995 the number of women almost doubled, and balance of sexes became almost perfect – in 1995 women comprised 25.7%, in 2001 this number increased to 47.5%<sup>80</sup>.

The Law on the society of gender equality of **Japan** assigns to the local bodies an important place in implementation of the gender policy. There, the emphasis is placed on the functions of local bodies of power, adding to them the gender component. Implementing the Basic plan on gender equality, developed by the Cabinet of Ministers, and taking into account the prefecture plan, municipalities, within the framework of their competence, create their municipal plans on gender equality. They are obliged to send these plans and amendments to higher-ranking bodies. The legislators oblige the bodies of local self-government to take proper measures for formation of the mind-set of gender equality in the general public. In the Law on the society of gender equality, the legislators introduce a special article 20, «support of bodies of local self-government and private organizations», where they oblige governmental bodies «to take necessary measures, including providing information for supporting activity of the bodies of local self-government and activities of private organizations, related to establishing the society of gender equality».

In national communities of many countries, the process of ensuring of equality of sexes in the local bodies is often performed by means of applying affirmative actions.

In **Italy** in 1993, two laws on the procedure of elections were adopted, stipulating temporary measures. One of them legally determined that in the lists of candidates, the number of candidates of any sex may not exceed two thirds of the total. The second law describes distribution of deputies' mandates when electing members to the Chamber of Deputies: in the majority system – 75% deputies, party lists – 25%. The law establishes that in the party lists, the candidates of different sex must be arranged in the list in turn. And although in 1995 the Constitutional Court of Italy cancelled these laws, the positive result was still achieved. As the result, the number of women in the elected bodies of power grew twofold.

**Finland** is the country, where balancing of the sexes by means of gender quotas is widely practised. The established gender quotas helped to increase representation of women in the municipal executive bodies from 25 to 40 per cent, and in municipal committees – from 35 to 47%<sup>81</sup>.

In **Kazakhstan**, the traditionalist views on women's participation in local bodies of power are

80 From the materials of the informational analytical memo of the Ministry of Foreign Affairs of Ukraine concerning development of the mechanism of executive power in the sphere of establishment of gender equality.

81 See materials prepared by consulting expert of the European Council Georgia Testolin for December 15, 2001 «Guide on national mechanisms of ensuring equality between women and men and action plans. The leading directions in creation and application of the national mechanisms of equality between women and men, with example of positive experience».

being challenged. The State Commission for development and specification of the programmes of democratic reforms in the Republic of Kazakhstan considered the issues on participation of women in public and political life of the country and proposed to the leaders of the political parties to implement gender approach when nominating candidates for elected positions. Meetings with the leaders of political parties are being conducted on this issue.

In connection with elections to the local bodies – akims in the rayons and in cities - an Open Letter of 18 members of the national commission published, addressed to akims, deputies, political parties and non-governmental organizations, with a proposal to keep balance of sexes when nominating candidates for elected offices. Local structures for ensuring of gender equality actively cooperate with non-governmental organizations.

## 4. National action plans and state programmes on gender development

The process of gender transformations on the world level is characterized by adoption of national action plans and governmental programmes on ensuring of gender equality, gender approach – as its integral idea, that permeates the social fabric of the society.

**National action plan for gender transformations** is a document adopted by the governmental structures for the specified period, which outlines the system of intentions, measures and obligations of governmental and non-governmental structures concerning detecting of directions and forms of gender activism, and accomplishment of certain actions, directed to achieving equality of sexes.

46. Plans for ensuring of gender equality, that provide for practical measures, tasks and timeframes for their performance, are the necessary means for implementation of this process.

National action plans provide for engaging all structures of the political system and society for their implementation. They must be applied in political and administrative institutions. In Ukraine, where such political system is not developed, this kind of plan is reduced to governmental activity in the sphere of gender transformations. As a component of political system, the government can adopt such plan of governmental activity in the sphere of gender, with vision of its influence on all the society. As to civil society organizations, they can adopt such plans on voluntary basis.

Yet the government as the most defining and influential structure in the political system can independently adopt a legal document, in particular, the state programme of gender development, which provides for, in addition to engaging the system of governmental bodies into its implementation, also coordination with all structures of the political system of the society, and with general public. The state programme for gender transformations can be such important legal document.

**Governmental programme of gender development** is a legal enactment, which establishes the specified time-frame, subjective and objective ensuring of the main directions of gender activity of the determined governmental structures and respective measures for implementing of the legislation on gender equality in the country.

The world experience shows popularity of national plans and governmental programmes for gender transformations, where special attention is paid to formation and development of the gender policy and creation of the gender legislation.

For example, with the goal of ensuring of equality of sexes, the governments adopt national action plans directed at establishing of equal rights and opportunities for women and men. Even the fact that in the title of such plans the word «national» is present, shows that they describe changes and transformations on the scale of general public, coverage of the entire nation, and the broad scope of the expected results of gender activity. The plans specify the implementers among which there are, first of all, governmental structures, but also general public, united into various organizations, bodies, non-governmental movements, etc. For implementation of the plans, commercial structures are also being engaged.

In the recent years, “road-mapping” has become popular. Composing of the «road maps» encompasses establishing planned movement towards the outlined forecast of development to the target perspective. All this shows that gender ideas were broadly accepted and disseminated, and there is intention to organize more orderly forms of gender activity in the country.

One more peculiarity is that in the modern conditions the planned gender-related focused actions involve a growing circle of governmental bodies of all levels. National plans unify the entire system of planning in the country – regional and local plans on equality.

Ever increasing in the national societies is the practice of composing plans of equal opportunities at private enterprises. National plans complete the pyramid of gender planning in the countries where the practice of planning became widespread. They ever more focus their attention on creating mechanisms of governmental and non-governmental ensuring of gender equality. The plans specify the timeline of their implementation, and in the same way provide for prolongation. Therefore, they acquire long-term importance, and take into account the perspective of various social times.

The national action plans on ensuring of equal rights and opportunities of women and men show that establishment of gender equality becomes systematic and persistent, as it is caused by an objective need in social development. Consolidating gender-related activities into an organized and planned system, determining the system of bodies and organizations involved into gender-related activities, binding plans, coverage by these plans of all spheres of social life, where implementation of gender becomes a holistic construct, makes this plans a mobilizing force of gender in the development of national societies, oriented towards the gender balance in the activities of life.

The national planning is focused on actions, that is, gender activism in the system of activation of all social life. Gender activities as a form of social life with time become the subject of administration and an organic component of the very system of administrating the gender development. Gender environment transforms towards equality, equal rights and opportunities, under the influence of gender component in the administrative system. The national action plans, supported by the normative legal enactments, make this process consistent and organized, get rid of discontinuity and palliative nature of changes and transformations.

The nature of formation and process of implementing of the national action plans on ensuring of gender equality are the indicators of how equality of sexes is secured. Broad involvement of gender oriented public into creation and implementation of such plans is certain indicator of reality of the planned measures, and a guarantee of their accomplishment.

Of great interest is efficiency of the experience of composing and adoption of gender transformation plans in **Denmark**. This is a country, where the resolution concerning the status of sexes was taken on the gender-based approach as early as in the 1980-ties. In 1986, after the World conference, to overview and evaluate the achievements of the United Nations Decade for Women «Equality, Development and Peace», which took place in Nairobi, the government of Denmark submitted to the parliament the action plan, whose first edition was approved in 1987. The progress of its implementation was reviewed every three years, and with assessment of the results of activity.

After the Fourth World Conference on Women, in 1996 the report on compliance with the resolutions of the Beijing Conference, prepared by the Ministry of Foreign Affairs, was presented at the hearings of the National Assembly of Denmark. The report addressed the main problems from the viewpoint of gender equality, and established the directions for resolving them. It became the basis of the National Action Plan of Denmark, where gender approach to the analysis of the modern Danish society was clearly outlined, namely:

«a) integration of the aspects of gender equality into different directions policy, action plans, legislative acts; development of the action guides for local bodies of power;

b) education: revising school curricula, training teachers, assistance in choosing profession, equity in distribution of teachers on different levels, professional orientation of girls for working in technical and scientific spheres;

c) employment: elimination of differentiated treatment of women and men on the labour market, work on improvement of the legislation, ensuring of the balance between professional and family life, gathering statistical data, ensuring of equal salaries of women and men;

d) procedure of decision-making: establishment of balanced representation of women and men in various public institutions;

e) violence: work for improvement of the legislation, female foreigners in Denmark, campaigns of violence prevention»<sup>82</sup>. The National action plan generalized and incorporated action plans of all state bodies at the local level. The comprehensive approach to resolving problems of equal rights and opportunities was based on the large scale of vision of the issues and real ways of their resolution.

**Norway** is one of the countries, which already since the 1980-ies devoted much attention to the planned resolution of the issues of equality of sexes, and extremely carefully executed all that was planned. The peculiarity of making the plans in Norway is that they have certain sectoral direction. Each plan was directed at gender transformation in certain sphere of people's life, and is being implemented there.

The first action plan, adopted in 1981, was directed at ensuring of equality of sexes in the sphere of education and employment. Later, the plans were prepared: the national action plan on fighting forced marriages, the national action plan for combating trafficking, the national action plan for combating violence against women, etc. An initiative concerning composing such plans can come from the government or from the Ministry. The government can commission the Ministry to compose the plan of actions for ensuring of gender equality. All branch action plans concerning equality of sexes must be based on the existing legislation and on gender equality. They specify implementation of the Law of the Kingdom of Norway on equality between sexes, adopted in 1978, with further amendments thereto. According to the Law, the competence of the leaders of the state bodies includes ensuring of gender equality, creation of necessary conditions for equality of sexes.

On the eve of the Fourth World Conference on women's status, **Canada** together with other UN countries was summoned to outline the national plan for advancing of women's status within the limits of the country and at the global scope. The response of Canada to

82 «Handbook on National Machinery to Promote Gender Equality and Action Plans. Guidelines for establishing and implementing National Machinery to promote equality, with examples of good practice» prepared by Giorgia Testolin, expert consultant. Strasbourg: Council of Europe, 2001. - p.26.



this summon contributed to achieving the goals of global Platform for Action, which was supposed to be adopted at the World Conference in Beijing, was Federal Plan on gender equality.

The government of Canada approved this document - «Platform for Action for the new century: Federal plan on gender equality»<sup>83</sup>, where the concept and specific actions concerning gender transformations are covered in 439 clauses.

The very name of the document tells us that its goals and objectives are aimed at gender perspective. It was developed taking into account development of Canada as a state and as a society, vision of its place and role in the world community, desire to make a contribution at the level of its capacity to global resolution of gender problems on the international level.

The Federal Plan provides the conceptual vision for social development of Canada, and shows the place of the gender construct in it as the foundation for resolving other problems. The peculiarity of the Plan is, among other things, explanation of the content of the gender-based analysis. Attention is focused on the fact that «systematic, integrated, well-based approach ... is the basis for creating a reliable governmental policy». At that, the Federal Plan is based on international experience, referring to the fact that «governments of **British Columbia, Australia and New Zealand** put the gender-based analysis as the foundation of approach to the policy, development and beliefs of modern days. The gender-based approach is used by **Columbia** and **Bolivia**, all **Scandinavian countries** set foot on the way to systematic use of such approach. It is also used by the **European Union**» (clause 18). That is, the Plan was formed on the basis of comparative analysis of gender-based approach for resolving social problems.

As the status of woman in the modern society remains quite unequal to that of man, the Plan puts significant emphasis on the necessity to improve women's status, overcome inequality of their status with that of men. Still, this accent by no means removes or overshadows the strategic task – establishing of gender equality and creating the society of gender balance.

The plan became the national strategy for governmental activity in Canada in the sphere of gender. In it, the determination of this country is reflected concerning progress of gender equality. At that time, it was one of the first such governmental documents, where the very notion of «gender» officially became integral and dominating. The eight articulated goals were the focus of more detailed description of the governmental obligations:

**Goal 1.** Implementation of gender-based analysis by all federal bodies and agencies.

**Goal 2.** improvement of economic independence and well-being of women.

**Goal 3.** Improvement of physical condition and mental well-being of women.

**Goal 4.** Reduction of the level of violence in the society, especially violence against women and children.

**Goal 5.** Advancement of gender equality in all aspects of life of Canada.

**Goal 6.** Incorporation of all women's perspectives into administration.

**Goal 7.** Facilitation and support of global gender equality.

83 See: Melnyk T.M. International experience of gender transformations. Laws of Foreign countries on Gender Equality. – K. : Logos, 2004. – p. 203–264 / Мельник Т.М. Міжнародний досвід гендерних перетворень. Закони зарубіжних країн з гендерної рівності. – К. : Логос, 2004.

**Goal 8.** Advancement of gender equality for officials in the federal bodies and agencies, and the officials of Ministries and Departments.

Each of these goals outlines problems and priorities for actions. These goals are in harmony with 12 spheres of activity established in Beijing in the UN Platform for Action, and with the UN recommendation concerning implementation of gender-based analysis in the process of law-making policy and development programmes.

On the basis of social analysis of the status of genders in the Canadian society, the plan stipulated and underpinned in detail all measures that need to be taken by the government of Canada and other states, and non-governmental structures, for facilitation of complete equality between men and women. Within the framework of the concept of advancing and supporting of the global gender equality, described in the Federal Plan on gender equality, Canada strives to affirm its role as an international leader in gender transformations. **CIDA**, the key Canadian development agency, has been considering gender as factor of the process of development for more than 20 years now, and has been successfully implementing the gender-based approach in many developing countries it cooperates with. Ukraine was one of the countries that received such help.

In the period since 1998 to 2002, and in the following years, the governmental action plan was adopted for ensuring of equality of sexes in **Iceland**. It was based on the holistic approach to resolving gender problems, supported at the Beijing conference. The main structure in formation of the plan was the Ministry for social issues, which is at the same time the Ministry of equality between women and men. The governmental plan indicates role and competence of each institution dealing with ensuring of equality of sexes, necessity of planned, systematic training of key officials in the government and in all administrative structures on equality of sexes and necessity to introduce the gender approach into all spheres of life.

The plan provides for gender evaluations of the draft laws, presented by the government to the parliament, directing them at ensuring of gender equality. It states that all official statistical indicators have to take into account the aspect of the equality of sexes, and especially emphasizes that the action plans of the bodies of local self-government must reflect transformations concerning equality of sexes.

The State Council of **Finland** approves the national action plans on ensuring of equality of sexes. Finland, as a unitary state, is administratively divided into 12 provinces, which are divided into districts. In 1997, on the assignment of the government, the Ministry of equality prepared the national action plan on ensuring of equality of sexes for 1997–1999, that included 96 plans composed by separate Ministries, and also plans adopted locally. This plan served as the basis for further plans related to international documents concerning the results of gender development «Beijing +5», «Beijing +10», «Beijing +15», etc.

As implementation of the resolutions of the Beijing conference on women's status, since 1997 in **Portugal** the national action plans are being adopted on ensuring of gender equality.

The national action plan for ensuring of gender equality, adopted in 1997, defined the measures of national scale, as well as focused activities by spheres. The goal of such plan was implementation of the principle of equal opportunities of women and men in all spheres of economic, social, and cultural life. The plan stipulates nine general measures,

which provide for: broad informing of the officials of central and regional governmental institutions, officials of social solidarity bodies, and educators, about the national and European legislation on equality between women and men, raising the population's awareness about this legislation; establishing training courses on studying the problems of equality of sexes; conducting various seminars on equality between women and men for employees of central, regional and local bodies of power; promotion of inclusion to the curricula of schools and other educational institutions of the topics related to the issues of equality between women and men, adding to the data to be collected statistically the data related to the problems of equality of sexes.

In the national action plan of Portugal for ensuring of equality of sexes, the sectoral measures concerning rights and opportunities were also defined. Among them, in particular, the following spheres were singled out: employment and occupation, labour relations; health care; social protection of family and motherhood; balance of family life and professional activity; prevention of violence, protection of female victims of violence; education; science and culture, etc. Performance of measures of such kind is vested in various Ministries. Annually the progress in implementing such plans is reviewed, and results are being assessed. Such plans are developed for a certain term, and after it expires, a new action plan is created that develops on the preceding one. Newly formed plan is submitted for considerations and approval to the Minister of equality.

Implementation of the plans yielded positive results. Suffice to say, that the parliament of Portugal, elected in 2005, includes 21.3% women of 230 persons of total deputies (49 women and 181 men). That is, one of every five deputies in the parliament is a woman.<sup>84</sup>

Since 1997, the Storting of **Sweden** has been adopting the national action plans concerning implementation of the Beijing Platform for Action. In the first national plan, it stipulated 12 main sectors of activity, which were discussed at the Fourth World Conference in Beijing, and directions for transformations in each sector were outlined. The further plans were amended and supplemented with new contents. Sweden is one of the countries where, as a result of consistency and planned, systematic nature of actions, gender transformation achieved significant scope.

In 1998, in **Belgium** the national action plan was adopted concerning implementation of the Beijing programme of actions. There, the measures were planned to achieve all main 12 goals set in the programme of actions, adopted at the Fourth World Conference on women. The very name of the plan shows how careful and responsible the countries are to the recommendations of international structures, and to experience what they offer. An interesting fact is that adoption of the action plan was preceded by a number of measures. For example, for optimal implementation of the recommendations of the Beijing Conference of 1996, on the federal level the Law on Control over compliance with the resolutions of Beijing Conference was adopted. Further national plans were improved, and new important content was added to them. Their thorough implementation was constantly controlled by the state.

A similar law concerning control over implementing the resolutions approved at the Beijing Conference was adopted in 1997 by the **Flemish Commonwealth**. According to the Law, to achieve the goals set by the conference, three reports shall be submitted annually

84 See: *Women in National Parliaments: World Classification*. – [Http://www.ipu.org/wmn-e/classif.htm](http://www.ipu.org/wmn-e/classif.htm)

for review by the parliament on the accomplished gender equality related activities: from the government, from the minister of equal opportunities, and from the Secretary of the State on cooperation in development. Such systematic approach in both formation of the plan and in implementing has positive results in achieving of the gender balance. The system of reports that reflect the results of gender activity reveals a real picture of gender transformations, sets ground for further resolution of gender problems. They not only give an impression about the activity in the gender issues of each structure, and opportunity to clearly identify gender competence of these bodies, to verify the correctness of the decisions made, to remove double coverage, and to secure coordination of various structures.

In **Hungary**, as implementation of the Beijing Platform for Action, the national programme of actions was adopted, which has been periodically reviewed and verified in compliance with the conclusions of «Beijing +5», «Beijing +10», etc. The programme is aimed to promote women's rights, to take measures on ensuring of equal opportunities for women and men. And although the gender aspect is described in the goals, still the peculiarity of the programme of actions is that it is mainly concentrated on protecting and facilitation of women's rights, changes in their status, overcoming biases and stereotypes that discriminate women, reducing discriminatory factors in the system of education, in mass media. Only in the second half of the first decade of the 21st century in consecutive programmes Hungary started to reach the level of gender approach to establishing equality of sexes in the society.

A similar approach dominated in **the Republic of Belarus**. After the Beijing Conference, the National action plan was developed in the country for improvement of women's status for 1996–2000, as well as the state programme «Women of the Republic of Belarus». Yet new plans, approved as development of the accomplishments, have renewed orientation, namely – the national action plan on ensuring of gender equality for 2001–2005. This plan was developed elaborated for the following years. The reports on implementation of this plan are sent to the Ministry of Social Security and to the Council of Ministers. Biannually, the report on the work is submitted to the President of the Republic.

The Fourth World Conference on Women played an important role in the national planning of gender transformations in the countries of all the continents of the world. We can say it was international experience in planning and ensuring efficiency of gender transformations.

In 2002, the national action plan for achieving gender equality in the **Kyrgyz Republic** for 2002–2006 was adopted. Compared to the previous national plan, this one favours gender issues. It identifies strategic directions of the gender policy in the country, namely: improvement of the institutional mechanism for achieving equality of sexes, and keeping gender balance at all levels of decision-making, the gender component of economic development, the gender aspects in the sphere of health care, achieving gender parity in educational sphere, overcoming all forms of violence against women. A distinctive feature of the national plan is presence of developed basic indicators for monitoring of all strategic directions and evaluation of gender policy advancement. In developing of the national plan, along with state structures, academic and non-governmental sectors actively participated.

The National action plan is harmonized with the National Strategy “Comprehensive foundations of the Kyrgyz Republic development till 2010”, adopted in 2001. In section 4 of



this strategy, under the name «Strategy of national renovation», there is a clause «gender policy», implementation of which is a cross-cutting component for all national programmes that are being adopted in the Kyrgyz Republic.

For example, the main plan on gender equality is adopted by the Cabinet of Ministers **of Japan**. Among the women of Europe, and in the world, the «traditional image» of a Japanese woman was predominant. Yet in the 20th century, especially in its second half, as a result of democratic reforms and adopted legislation, in Japan women received political and civil rights equal to men. In the process of restructuring of the economy, establishment of the «society of prosperity», deployment of informational and communicative revolution, women became active participants of the sphere of economic and non-governmental activities. In 1986, for the first time in Japan a woman became a leader of a political party, the Socialist Party. In her programme, she spoke up against inequality burdening women. Under the influence of non-governmental activism and Japanese women, due to social transformations, and following the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women, laws and amendments had the gender-related content more and more often. In 1985, Japan adopted the Law on equal employment opportunities for men and women<sup>85</sup>, and in 1999 – the Basic law on society of gender equality<sup>86</sup>. On this background of the mentioned gender transformations, and according to the mentioned laws of the Cabinet of Ministers, Japan adopted the Basic plan on gender equality. The first of such plans was directed at implementation of resolutions of the Beijing Conference, and the consecutive ones, to elaborate them.

Of interest is the legally codified mechanism of composing and adoption of the Japanese Basic Plan on gender equality. For example, according to the Basic law on the society of gender equality (Chapter 2) such plan is identified as the basis of the policy of facilitating formation of the society of gender equality. In article 13 of the Law it is stated that the Basic plan on gender equality includes:

1. Defining the policy that must be comprehensively implemented during certain term to facilitate creation of the society of gender equality.
2. In addition, conditions for systematic and comprehensive implementation of the policy of facilitation to creating the society of gender equality are necessary.
3. The Prime Minister of Japan prepares the main plan on gender equality, and requests the Cabinet of Ministers to approve the resolution, after taking into consideration the opinion of the Gender Equality Council.
4. The Prime Minister publishes the basic plan on gender equality right after the Cabinet of Ministers approves the resolution mentioned in the previous paragraph.
5. Two first paragraphs are included, taking into account the amendments, to the basic plan on gender equality.

The Cabinet of Ministers annually reports on implementation of the Plan on gender

85 *Mikhailova Yu.D.* Japanese women in the historical perspective – images and reality / Yu.D. *Mikhailova* // Humanitarian education and social context: gender issues: Materials of the international scientific conference (St. Petersburg, June 25–28, 2007). / Editor-in-chief O.Yu. Popova. – SPb.: Publishing House of St.Petersburg State University, 2007. – С. 224./Михайлова Ю.Д. Японские женщины в исторической перспективе – образы и реальность / Ю.Д.Михайлов // Гуманитарное образование и социальный контекст: гендерные проблемы: материалы Международной научной конференции (Санкт-Петербург, 25–28 июня 2007 г.). / отв. ред. О.Ю.Попова. – СПб.: Изд. Дом С.-Петербурга. гос. ун-та, 2007.

86 *Melnyk T.M.* International experience of gender transformations. Laws of Foreign countries on Gender Equality. – К. : Logos, 2004. – p.170–177. / Мельник Т.М. Міжнародний досвід гендерних перетворень. Закони зарубіжних країн з гендерної рівності. – К. : Логос, 2004.



equality to the Parliament of Japan. Such annual report is submitted to the parliament in a form of the document with broad underpinning of the problems. This basic plan is formed on the basis of generalization and taking into account peculiarities of all prefectural and municipal plans of the country.

The national action plans on equality of sexes that are being adopted by various nations, are gradually mitigating the traditional attitude to the problem of improvement of the status of women. As a rule they have a name like «National action plan concerning improvement of the status of women and ensuring of equal rights and opportunities for men and women», or focus on securing gender equality in the country.

Such was the content of the «National action plan concerning improvement of women's status, and facilitation of implementation of gender equality in the society for 2001–2005» adopted by the Cabinet of Ministers **of Ukraine** in May of 2001. To a certain degree, the Ukrainian plan reflected the traditional attitude to women that is still widespread in the society. The plan was the evidence of proliferation of the patriarchal attitude to transformations in the status of men and women in the society, and patriarchal mentality of the officials who approved the plan. Concentrating attention on improvement of the status of women outside holistic broad-scale gender-related changes in the society, outside comprehensive vision and comprehensive focus of the activity, aimed at gender changes in the society, is almost always hopeless.

Yet Ukraine can be an example of public influence that caused change in the approaches of the governmental structures to planning and implementation of the gender transformations plan. The UNDP Programme of Equal Opportunities in Ukraine, as well as women and non-governmental women's organizations, were initiators of gender analysis of the real situation of the Ukrainian society (1997–1999), drafting and submitting of the Law of Ukraine on ensuring of equal rights and opportunities for women and men (1998–2000), conducting gender expert evaluation of the Ukrainian legislation (2000–2002), articulation and approval of the concept for ensuring of gender equality of the Ukrainian society (2004–2006), etc. The state supported these initiatives. The decisive turn to gender transformations in Ukraine took place in the middle of the first decade of the 21<sup>st</sup> century, when in 2005 the focused law on gender equality was adopted. And in 2006, the practice of approval of the national action plans on improvement of women's status and promoting gender equality in the Ukrainian society, was replaced by the practice of adopting state programmes for gender development. Such state programme for establishing of gender equality in the Ukrainian society for the period of up to 2010 was prepared by the Ministry of Ukraine on family, youth and sports with broad involvement of scientific community, and with support of the UNDP programme «Promoting gender equality». The Cabinet of Ministers of Ukraine adopted the resolution as of December 27, 2006, «On approval of the state programme for establishing of the gender equality in the Ukrainian society for the period till 2010».

The goal of the programme is establishing equal rights for women and men, and of equal opportunities for their implementation as the basic human right.

The programme identifies basic tasks among which, in particular, are the following:

- formation and implementation of the state policy in the sphere of ensuring of gender equality;

- creation of the corresponding normative and legal base;
- harmonization sectoral normative and legal enactments in accordance with the Law of Ukraine «On ensuring of equal rights and opportunities for women and men»;
- harmonization of the Ukrainian legislation with the legislation of the European Union in the sphere of ensuring of gender equality;
- improvement of the mechanism of conducting legal gender expert evaluation of the legislation in effect, and expert evaluation of draft laws;
- creation of the institutional mechanism for ensuring of equal rights and opportunities for women and men;
- implementation of gender approaches into the work of the bodies of the executive power, and of bodies of local self-government, etc.

The programme describes anticipated results and provides extensive plan for measures on establishing of gender equality in the Ukrainian society.

The Council of Ministers of the Autonomous Republic of Crimea, Kyiv and Sevastopol municipal, and region state administrations developed and approved regional programmes for establishing of gender equality in the Ukrainian society for the period up to 2010.

The Cabinet of Ministers of Ukraine by its decree vested in the Ministry of Family, Youth and Sports, and other relevant central bodies of the executive power, to annually allocate funds for implementing programmes within the limits of expenses that are specified at the time of drawing up the draft state budget of Ukraine for the corresponding year, and to take measures concerning involvement of non-budgetary funds for the mentioned purpose.

The State programme for establishing of gender equality in the Ukrainian society for the period till 2010 is prolonged for the new term. For this, the working group is created to develop the national programme for establishing of gender equality for the period up to 2016. Such succession of development and implementation of the documents shows that we have certain process of gender transformations going, so we can expect some results.

Budgeting of plans and programmes remains a problem as to capability to properly implement them, especially in the conditions of the crisis. Yet at that, it stays on the agenda due to its importance. And, therefore, the Final provisions of the UN Committee on the Elimination of All Forms of Discrimination Against Women in the Consolidated sixth and seventh periodic reports of Ukraine (2010), which refers to development and adoption of the new national plan of actions, where it is necessary «to provide for holistic approach to ensuring of the gender equality with clearly defined goals and control indicators, which should take into account the advanced experience and lessons, learned as a result of implementing of the previous state plan for ensuring of equality... the Committee recommends the participant state to allocate sufficient financial resources for implementation of the plan».

National plans for facilitating to implementation of gender equality in the society, and especially the State Programme for establishing gender equality in the Ukrainian society for the period till 2010, also facilitated introduction of the gender component into various national and state programmes, adopted in different years. Among them are: the National programme «Children of Ukraine», the State Employment Programme, the State Targeted Programme for Sanitation and recreation of children and school youth, the comprehensive programme for combating trafficking, the comprehensive programme for crime prevention,

the National Programme «Reproductive Health», the programme for prevention of HIV-infection/AIDS in Ukraine, the state programme for prevention of children's homelessness, the state programme for support of youth entrepreneurship, etc. At that, one should point out that in some of them the gender component is too weak. This can be explained not as much by negligence towards gender approach, as by gender illiteracy of the administration, superficial perception of gender issues.

In development and on the basis of the mentioned programme, active work was conducted on renovation and re-writing of the documents for the State Programme on ensuring of equal rights and opportunities for men and women (2012-2016). It includes taking into account recommendations of "Action Plan of Council of Europe for Ukraine 2008-2011" (2008) prepared by the Directorate of strategic planning of the Council of Europe and recommendation of the Committee of Ministers of the Council of Europe on gender equality standards and mechanisms (2007).

In 2003, Ukraine started the process of implementing the system of Millennium Development Goals. For the first time on the post-soviet territory, with support of the UNDP Development Programme, the programme document «Millennium Development Goals: Ukraine» was developed and published in Ukraine. The annual monitoring was implemented for status of achievement of the Millennium Development Goals for Ukraine. The next step was localization, that is, development of goals on regional and local levels for further consideration for the goals in the process of developing long-term regional (region) development strategies.

As ranging the problems always to some extent reflects priority of the problems in the list, noteworthy is the fact that out of eight millennium goals defined in the Millennium Project, prepared by the UN Development programme, the goal concerning development of gender equality is third in the list where among the goals in the document adopted by Ukraine, «Millennium Development Goals: Ukraine» it is ranked sixth.

Ukraine's commitments compared to other regions of the world have their peculiarities. For example, in Ukraine there are no gender-based limitations in access to all levels of education – there is noticeable gender imbalance to the benefit of women. There are no considerable gender-related differences concerning opportunities of access to the labour market – equality of economic involvement and rate of employment of Ukrainian women are among the highest in the world. Overcoming gender-based inequality in the Ukrainian society is connected with resolution of the following problems: high levels of employment and professional training of women comes along with inconsiderable representation in the sphere of decision-making; high level of professional segregation, that is, concentration of women and men on the positions of different level and in different spheres of economic activities; considerable gender gap in the income, and feminization of poverty. Creation of a healthy environment, reduction of occurrence of infectious diseases, first of all, HIV/AIDS – are also commitments on the way to advancing gender equality.

The schedule for accomplishment of the tasks concerning improvement of gender balance in Ukraine till 2015 (*Tables 17 and 18*) shows realization by the state, and by the society in general of the necessity of gender transformations in Ukraine, vision of the country's place in the European and world settings as a country that has gender balance, understanding of the role of gender democracy in the structure of social democracy and the role of law, in particular gender-related law, in securing it.

Table 17

**Tasks and indicators of the Sixth goal «Ensuring of gender equality»  
in the document «Millennium Development Goals: Ukraine»**

<i>Goal 6. Ensuring of gender equality<sup>5</sup></i>	
<i>Tasks</i>	<i>Indicators</i>
Task 3.A: To secure gender ratio at the level of at least 30 to 70 % of any gender in the elected bodies of power and at the highest levels of the executive power.	3.1. Gender ratio of deputies of the Verkhovna Rada of Ukraine, number of women / no. of men
	3.2. Gender ratio of deputies of the local bodies of power, number of women / no. of men
	3.3. Gender ratio among highest officials (1 <sup>st</sup> and 2 <sup>nd</sup> categories of positions), number of women/ number of men.
Task 3.B. To reduce by half the gap in the incomes of women and men	3.4. Ratio of average women's salary to average men's salary, %

Table 18

**Schedule for accomplishment till 2015 of the Millennium Development Goal  
for Ukraine – ensuring gender ratio of representation of women and men in the bodies  
of governmental power at the level of at least 30/70 % for each sex  
(per cent of women and men)**

Years	Indicators			
	Indicator 3.1	Indicator 3.2	Indicator 3.3	Indicator 3.4
	Gender ratio of deputies of the Verkhovna Rada of Ukraine, number of women / no. of men.	Gender ratio of deputies of the local governmental bodies, number of women / no. of men.	Gender ratio among highest officials (1 <sup>st</sup> and 2nd categories of positions), number of women / no. of men.	Correlation of average level of women's salaries to those of men, %
2000	8/92	42/58	15/85	70.9
2001	8/92	42/58	15/85	69,7
2002	5/95	42/58	14/86	69,3
2003	5/95	42/58	16/84	68,6
2004	5/95	42/58	13/87	68,6
2005	5/95	42/58	19/81	70,9
2006	9/91	35/65	19/81	72,8
2007	8/92	35,65	17/83	72,9
2008	8/92	37/63	18/82	75,2
2009	8/92	37/63	19/81	77,2
2011	20/80	44/56	25/75	80
2013	25/75	47/53	27/73	83
2015	30/70	50/50	30/70	86

Millennium Development Goals, defined by Ukraine, brought certain gender impact to re-envisioning and implementation of the conceptual bases for the strategies of economic and social development of Ukraine for the years 2002–2011, strategies in different sectors, adopted by governmental bodies. National forecasting and planning of the development of Ukraine for future years are among the directions of activities that require re-envisioning taking into account gender component.

Therefore, the provided overview of development and approval of national plans of gender transformations in different countries enables us to make some conclusions:

- influence of the UN resolutions concerning adoption of national action plans on equal rights and opportunities turned out very invigorating for the national communities;
- international experience of gender planning is manifesting itself, and it will facilitate globalization of gender transformations, and this will, in turn, facilitate freedom of communication, active travels, and ensuring justice in enforcing of human rights;
- national planning of actions on equal rights and opportunities is an effective factor of gender transformations in the national communities;
- in the modern conditions, the number of countries is growing where gender approach to drawing of the national action plans was actually implemented;
- planning of gender transformations becomes a norm in the system of the state and national planning;
- adoption of the plans of gender transformations is legally codified in the specific Laws on equality of rights and opportunities for women and men, and in other legal enactments;
- the methodology developed for drawing up and implementation of national plans and state programs for ensuring of gender equality by the bodies of the Council of Europe will facilitate generation of documents and mechanisms of their implementation.



## 5. Gender budgeting

In the modern conditions, when beneficial (proper) administration is developing in the world, gender budgets play a significant role in resolving of gender problems. Drawing of the gender-oriented budget is evidence that the state budget has significant resources, and that the state influences the society, and influences formation and development of gender-balanced human intellectual capital. The gender budget establishes gender equality among governmental priorities and is a pre-condition for achieving of social and gender justice.

Gender budget, or, as it is sometimes called, “women’s budget”, is analysis and formation of state budget focused on creating different influence on different groups of women and men, at that devoting much attention to the basic relations between sexes, and also provides for governmental commitments concerning social sexes, and manifesting such commitments in the budget.

Gender budgets are not separate budgets for women and men. They are focused on gender awareness and distribution of all aspects of budget formation at national and local levels. Such budgets facilitate active participation of female shareholders, they control and evaluate governmental expenses and incomes from the standpoint of sexes, facilitate more effective use of resources for achieving equality of sexes and human development in general, directed at achieving equal opportunities in the sphere of governmental services.

The budgets that do not take into account gender factor and do not provide for the government’s commitments concerning sexes, are gender-neutral, or gender-blind. Influence on the state budget allocations for establishing gender equality is successful where there is the state policy of gender equality, political will to implement it, where in the government there are people who support gender equality.

Gender budgets have certain advantages compared to gender-neutral budgets. Such advantages are due to the fact that gender budgets secure absence of incoherence between development of the national policy concerning improvement of women’s status and budget allocations; prevent possible losses of the nation, which can be caused by inability to take into account gender influence of community expenses and incomes.

Gender budgets have the following categories of social expenses: expenses directed at specific groups of men and women, boys and girls; influence of major expenses in all branches and types of services separately on women and men; expenses related to providing equal opportunities in the social sector; identification of main linear expenditures; analysis of governmental allocations directed at achieving equal opportunities in all spheres of life, etc.

In the modern conditions, the campaigns for gender («women’s») budgets become more and more common. They are conducted in **Australia, New Zealand, Barbados, Canada, Fiji, Mozambique, South Africa, Sri Lanka, Sweden, Tanzania and Uganda**. In these campaigns, the demands are to revise the influence of governmental budgets on resolving of gender issues, to broaden opportunities to distribute allocations to improve women’s access to the national resources and to the governmental service.

In **Australia** and **South Africa**, gender and budget initiatives are being actively

implemented<sup>87</sup>, that are in fact clearly defined and developed strategies and actions, directed at national and/or local levels of governmental expenses and/or incomes from the point of view of gender perspective. In these countries, gender budget initiatives are realized through Ministries and departments, which are obliged to report on distribution of resources and collection of taxes, performance of programs and expenses, which are specifically focused on resolving of gender problems, expenses to ensure equal employment, taxation, etc. Such initiatives can be actual or expected, national, regional, or local. They facilitate increase of public awareness in the issues of gender equality, facilitate dissemination of knowledge about gender priorities among the population when the budgets are drawn up and adopted, facilitate their transparency, and responsibility in governmental financing.

**Philippines** and **South Africa** used the model of a «gender budget» created in Australia, under which all governmental agencies and departments, when they prepare budget documentation, have to break down the expenses basing on their influence on men and women.

Non-governmental organizations come forward with more and more initiatives of forming of gender budgets. Such tendency is observed on all continents, and is becoming widespread. For instance, **Tanzanian** NGOs showed some initiative and prepared a draft of the gender-sensitive budget. This influenced the government, and it started taking actions to draw a gender-oriented budget of the country.

Non-governmental organizations of **Austria** prepared a draft of the gender-oriented budget, which made the government to start working on the budget taking into account the gender approach. Gender budget initiatives were manifested in the **Netherlands, Great Britain, Scotland**, and other countries.

In practice of some countries, gender aspects are concentrated on certain direction in budget structures. For example, in **Mexico** women's organizations directed their efforts and requests to the government and local bodies on inclusion of gender approaches when budgeting the enhancement of services related to protecting reproductive and general health.

Gender budgeting becomes a component of national action plans, that is, an obligatory norm for ensuring their accomplishment. The national action plan of **the Republic of Kyrgyzstan**, adopted in the first years of the 21st century, included the gender analysis of the central budget and local budgets, that is, acknowledgement of the fact that the socially just state budget is an important pre-condition for achieving gender equality in the country.

Experience of the national communities concerning gender budgeting developed some tools of gender budgets. They include, in particular, evaluation of the gender policy from the point of view of its real gender principles, past and expected influence; evaluation of the sex-disaggregated beneficiary, as to providing services and budget priorities; analysis of the sphere of sex-disaggregated social expenses, on the basis of data received as a result of studying of households; analysis of the sphere of sex-disaggregated social income, which is used for both direct and indirect taxation; analysis of influence of the budget on time use; framework of gender medium-term policy, combining the issues of genders with macroeconomic models.

87 See: *Practical Manual on introduction of gender approaches*. – Regional Bureau of UNDP for Europe and Commonwealth of Independent States, Bratislava. – p.51./Практическое руководство по внедрению гендерных подходов. – Региональный центр ПРООН для Европы и СНГ, Братислава.

**Ukraine** starts to get involved into the process of creating gender budgets. The Ministry of Ukraine on Family, Youth and Sports, along with the UNDP program «Promoting gender equality» participated in the meetings of the parliamentary Committee for the budget issues, tried to draw attention to the problems of gender budgeting. Yet the state budget of Ukraine is not at the level to be called a gender one.

For the first time in Ukraine, budget analysis was accomplished at the level of a region (Khersonska), recommendation were made concerning overcoming gender imbalance discovered in the process of education analysis.

The budgets that take into account gender issues are more effective, because state funds are directed with greater precision. Although financial resources do not resolve all gender problems, they are still an important and inseparable addition.

Ukraine is presently the country of a significant political lag as to the use of gender opportunities. All branches of power are lagging behind in establishment and securing of functioning of the institutes of controlling of gender processes, they are behind in development of gender activity, and do not satisfy the need of regulating gender relations according to the established gender-related perspective. This translates into losses in focused and effective use of human resources of both sexes, legal ensuring the autonomy of women and men as equal partners, their unrestricted development in the conditions of liberally oriented social development and creation of such liberal society, securing development and consolidation of the highest values of the 21st century – freedom, equality, solidarity, tolerance. The steps concerning gender transformations made at the beginning of the 21<sup>st</sup> century give enough reasons to hope for expansion of gender activism, and its state support, in the Ukrainian society.

The international experience of gender transformations demonstrates the significant scope of this process and its tendency to expansion. It also addresses actual problems in establishment of gender equality the international community has to resolve by mobilizing their entire social and political will.



# **Chapter 5.**

## **Laws on gender equality of Ukraine and foreign countries**

# ACT OF UKRAINE

8 September 2005

№ 2866-IV

## On the Provision of Equal Rights and Opportunities for Women and Men

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This Act is aimed at achieving parity basis for women and men in all sectors of public life by means of legal provision of equal rights and opportunities for women and men, elimination of discrimination with distinction based on sex and taking special temporary measures aimed at overcoming gender imbalance to exercise equal rights envisaged by the Constitution and laws of Ukraine.

### Chapter I. GENERAL PROVISIONS

#### Article 1. Definition of terms

For the purposes of this Act, the terms below shall be used with the following meaning:

- equal rights for women and men – an absence of restrictions or privileges with distinction based on sex;
- equal rights and opportunities for women and men – equal conditions to exercise equal rights for women and men;
- discrimination with distinction based on sex – passive or active behaviour which is manifested any distinction, exclusion or privilege based on sex if it is aimed at weakening or non-recognition, usage or exercise of rights and freedoms for women and men on parity basis;
- positive actions - special temporary measures aimed at overcoming gender imbalance to exercise equal rights envisaged by the Constitution and laws of Ukraine;
- sexual harassment – sexual actions of a verbal (threats, intimidation, indecent remarks) or physical (touching, patting) nature, which may humiliate or insult the person who is dependent on the perpetrator, due to work, official, financial or other reasons;
- gender equality – equal legal status of women and men and equal opportunities for its exercise, which allows persons of both sexes to take equal part in all fields of public life;
- gender and legal expertise – analysis of the effective legislation, draft regulatory statutes aimed at drawing expert opinion on their compliance with the principle of the provision of equal rights and opportunities for women and men.



**Article 2.** Legislation on the provision of equal rights and opportunities for women and men

Legislation on the provision of equal rights and opportunities for women and men consists of the Constitution of Ukraine, this Act and other regulatory statutes.

If an international agreement to which Ukraine is a party establishes norms inconsistent with this Act, the norms of the international agreement shall apply.

**Article 3.** The basics for the state policies on the provision of equal rights and opportunities for women and men

The state policy on the provision of equal rights and opportunities for women and men is aimed at:

- strengthening gender equality;
- non-discrimination based on sex;
- taking positive actions;
- guaranteeing an equal participation of women and men in decision-making at vitally important spheres;
- ensuring equal opportunities for men and women to combine work and family responsibilities;
- encouraging family, forming responsible maternity and paternity;
- education and propaganda of gender equality's culture among Ukrainian people and propagation of outreach activities in this sphere;
- protection of public against information aimed at discrimination based on sex.

**Article 4.** Gender and legal expertise

The effective legislation should be subject to gender and legal expertise. If a regulatory statute does not comply with the principle of the provision of equal rights and opportunities for women and men, the expert opinion of gender expertise shall be sent to the body adopted such a regulatory statute.

Regulatory statutes should be drafted with compulsory account for the principle of the provision of equal rights and opportunities for women and men.

Draft regulatory statute should be subject to gender and legal expertise. The expert opinion of gender expertise shall be obligatory element of the package of papers for the draft regulatory statute to be considered.

Procedure of gender and legal expertise shall be established by the Cabinet of Ministers of Ukraine.

**Article 5.** Reflection of statistics on the existing status of women and men in all sectors of public life by the bodies of state statistics

Central body of executive power on statistics ensures collection, processing, analysis, dissemination, retention, protection and exploitation of statistics on the existing status of women and men in all sectors of public life selecting it according to items.

Statistics mentioned in paragraph 1 of this Article shall be integral element of the state statistic reporting procedure.

**Article 6. Prohibition of gender discrimination**

Gender discrimination shall be prohibited.

Gender discrimination shall not include:

- special protection of maternity function during pregnancy, childbirth and breastfeeding;
- compulsory recruitment for the military service of men prescribed by law;
- disproportion in retiring age for women and men prescribed by law;
- special requirements for the protection of women and men's labour based on the protection of their reproductive health;
- positive actions.

## **Chapter II. GENDER EQUALITY ENFORCEMENT MECHANISM**

**Article 7.** Bodies, institutions and organizations empowered to ensure equal rights and opportunities for women and men

Bodies, institutions and organizations empowered to ensure equal rights and opportunities for women and men shall be the following:

- the Verkhovna Rada of Ukraine;
- the Authorised Human Rights Representative of the Verkhovna Rada of Ukraine (the Ombudsman);
- the Cabinet of Ministers of Ukraine;
- specially authorized central body of executive power on the provision of equal rights and opportunities for women and men;
- bodies of executive power and bodies of local self-government, officers (coordinators) at these bodies authorized to ensure equal rights and opportunities for women and men;
- public associations.

Bodies of state power and local self-government, enterprises, institutions and organizations, public associations facilitate balanced representation of both sexes in the decision-making process. They may take positive actions in their activity to meet the goal of this Act.

**Article 8.** The authority of the Verkhovna Rada of Ukraine on ensuring equal rights and opportunities for women and men

The Verkhovna Rada of Ukraine shall:

- determine the basics of gender policies of the state;
- apply the principle of the provision of equal rights and opportunities for women and men in its legislative activity;
- exercise parliamentary control over law enforcement on ensuring equal rights and opportunities for women and men within the limits prescribed by the Constitution of Ukraine.

**Article 9.** The authority of the Authorised Human Rights Representative of the Verkhovna Rada of Ukraine (the Ombudsman) on ensuring equal rights and opportunities for women and men

The Authorised Human Rights Representative of the Verkhovna Rada of Ukraine shall:

- exercise parliamentary control over the observance of equal rights and opportunities for women and men within the limits of the exercise of control over the observance of constitutional human and citizens' rights and freedoms;
- administer complaints on discrimination based on sex;
- cover the issue on the observance of equal rights and opportunities for women and men in his or her annual reports.

**Article 10.** The authority of the Cabinet of Ministers of Ukraine on ensuring equal rights and opportunities for women and men

The Cabinet of Ministers of Ukraine shall:

- provide for implementation of a single state policy aimed at ensuring equal rights and opportunities for women and men in all fields of public life;
- adopt National Action Plan on Gender Equality Implementation and ensures its realization;
- develop and implement state targeted programs on the provision of equal rights and opportunities for women and men;
- direct and co-ordinate the operation of ministries and other bodies of executive power on gender equality;
- organize the preparation of National Report on Implementation of the UN Convention on Elimination of All Forms of Discrimination against Women in Ukraine;
- adopt regulatory statutes with due account for the principle of gender equality;
- approve the procedure of gender and legal expertise;
- perform other powers in this field determined by the effective legislation.

**Article 11.** The authority of the specially authorized central body of executive power on the provision of equal rights and opportunities for women and men

The specially authorized central body of executive power on the provision of equal rights and opportunities for women and men shall:

- take part in forming up and realization of the state policy on ensuring equal rights and opportunities for women and men;
- co-ordinate the measures of ministries and other bodies of executive power aimed at gender equality;
- make public awareness efforts in mass media, organize education on gender equality;
- draw measures aimed at implementation of gender equality in all fields of public life;
- form up National Action Plan on Gender Equality Implementation;
- exercise control over the observance of gender equality in employment in central and local bodies of executive power;
- organize education for civil service staff on gender equality;
- together with other central bodies of executive power, prepare scientifically based propositions on ensuring gender equality;
- organize scientific and expert researches on ensuring equal rights and opportunities for women and men;

- move a motion to make positive actions and their suspension;
- monitor and generalize results of ensuring equal rights and opportunities for women and men;
- generalize implementation of state programs on gender equality;
- consider petitions of citizens on discrimination with distinction based on sex;
- keep records and generalize cases of discrimination with distinction based on sex and move motions to eliminate them;
- provide for cooperation with international organizations, respective bodies of foreign countries on the status of women and observance of international standards for equal rights and opportunities for women and men.

**Article 12.** Ensuring equal rights and opportunities for women and men by bodies of executive power and bodies of local self-government

Within the bounds of their authority, bodies of executive power and bodies of local self-government shall:

- ensure the provision of equal rights and opportunities for women and men;
- implement national and local programs on ensuring equal rights and opportunities for women and men;
- create conditions for women and men to combine work and family responsibilities;
- provide for equal access to social and personal services, including care allowances for children, the organization of preschool education and ensuring childish leisure;
- organize education on gender equality;
- cooperate with public associations with respect to the provision of equal rights and opportunities for women and men;
- move motions on updating the legislation on gender equality;
- further research and development with respect to gender equality;
- observe the principle of the provision of equal rights and opportunities for women and men in their activities;
- make positive actions.

Bodies of executive power shall appoint an authorized officer (coordinator) with respect to ensuring equal rights and opportunities for women and men.

Functions of an authorized officer (coordinator) may be exercised by a deputy minister or a deputy head of another body of executive power.

Bodies of executive power may form consultative and advisory bodies, appoint advisors on ensuring equal rights and opportunities for women and men.

Relevant local council may decide to appoint an authorized officer (coordinator) with respect to ensuring equal rights and opportunities for women and men within the staff of its executive body of relevant council.

**Article 13.** The authority of authorized officers (coordinators) with respect to ensuring equal rights and opportunities for women and men in bodies of executive power and bodies of local self-government

Within the bounds of their authority, authorized officers (coordinators) with respect to

ensuring equal rights and opportunities for women and men shall organize the operation of relevant bodies of executive power and bodies of self-government aimed at:

- taking into account the principle of the provision of equal rights and opportunities for women and men in their activities in the relevant sector;
- analysis of the existing status of ensuring gender equality and examining expedience to make positive actions with a view to overcome asymmetry, imbalance on/in relevant territory or sector;
- cooperation with public associations, generalization of information received with respect to monitoring the existing status of the observance of gender equality and joint elaboration of means to eliminate discrimination based on sex;
- permanent propaganda of elimination of all forms of discrimination based on sex;
- taking measures with a view to form gender culture for the public;
- organization of the reception of citizens with respect to discrimination based on sex;
- consideration and analysis of addresses of citizens on discrimination with distinction based on sex, study of their reasons;
- training for staff of central and local bodies of executive power, bodies of local self-government on gender equality;
- taking measures with a view to eliminate cases of discrimination based on sex.

**Article 14.** Rights of public associations with respect to ensuring equal rights and opportunities for women and men

Public associations may:

- take part in the decision-making process of state bodies and of local self-government bodies with respect to the provision of gender equality;
- take part in the implementation of national and local programs;
- delegate their representatives to consultative and advisory bodies formed at bodies of executive power and of self-government;
- monitor gender equality enforcement;
- carry out other activities in accordance with their articles of association and the legislation of Ukraine on ensuring gender equality.

### **CHAPTER III. ENSURING EQUAL RIGHTS AND OPPORTUNITIES FOR WOMEN AND MEN IN PUBLIC AND POLITICAL SECTORS**

**Article 15.** Ensuring equal rights and opportunities for women and men in elections  
Equality of the rights of women and men is ensured by the legislation of Ukraine.

Political parties, electoral blocks shall provide for an equal representation of women and men in relevant electoral lists within the process of nominating candidates for people's deputies of Ukraine offices in multi-mandate national electoral constituency.

Electoral commissions control the observance of this requirement.

**Article 16.** Ensuring equal rights and opportunities for women and men at civil service and service in bodies of self-government



Vacancies at civil service and service in bodies of self-government shall be filled with representation of persons of both sexes taken into account.

Discrimination based on sex with respect to civil service and service in bodies of self-government and to subsequent work shall be prohibited.

Heads of bodies of state power and of local self-government shall be obliged to guarantee equal access for citizens to civil service and service in bodies of self-government in accordance with their abilities and qualification without regard to sex of a person.

Staff reserve for vacancies at civil service and service in bodies of self-government, for career development shall be formed with due regard to ensuring equal rights and opportunities for women and men.

Positive actions are allowed to be made with a view to achieve balanced representation of women and men at civil service and service in bodies of self-government with due account to categories of civil servants' offices.

#### **CHAPTER IV. ENSURING EQUAL RIGHTS AND OPPORTUNITIES FOR WOMEN AND MEN IN SOCIAL AND ECONOMIC SECTORS**

**Article 17.** Ensuring equal rights and opportunities for women and men in labour and its remuneration

Women and men are provided with equal rights and opportunities in employment, career development, training and skill-upgrading.

Employers should:

- provide women and men with equal working conditions;
- provide women and men with opportunities to perform both work and parental functions;
- pay an equal salary to women and men who has similar qualifications and who works in similar work conditions;
- take measures to create safe working conditions for life and health;
- take measures against sexual harassment.

Employers are prohibited to offer work only for women and only for men in announcements (advertising) on vacancies, save for special work which can be made exclusively by persons of one sex, to specify different requirements with a privilege for persons of one sex, to demand applicants to give their personal data, plans to deliver a child.

Employers may make positive actions aimed at balanced representation of women and men in all sectors of labour as well as among different categories of workers.

**Article 18.** Ensuring equal opportunities in making collective agreements and arrangements

If social and labour relations are regulated by collective agreements or arrangements (master, regional and sectoral agreements, collective arrangements), such an agreement (arrangement) shall comprise of provisions ensuring equal rights and opportunities for women and men with specific date for implementation of relevant provisions.

Collective agreements (arrangements) shall comprise of:

- empowerment of a worker to be both authorised person on gender equality and advisor to a manager of an enterprise or organization or its departments on pro bono basis;
- staff management and subsequent promotion with a privilege for persons of imbalanced sex;
- elimination of inequality in remuneration for work of women and men in different sectors of economy, as well as in one sector on the basis of general social normative standard for remuneration in budgetary and other sectors, as well as on the basis of training (skill-upgrading) of staff.

**Article 19.** Ensuring equal rights and opportunities for women and men in business

The State ensures equal rights and opportunities for women and men in business activities.

National and regional positive actions may be made to eliminate imbalance in business activities by means of encouraging business activities, providing credits on preferential rate, business training and other measures with a due account for statistics.

**Article 20.** Ensuring equal rights and opportunities for women and men in social sector

Bodies of executive power and local self-government, enterprises, institutions and organizations shall take social protection measures with equal account for interests of women and men.

Worsening the existing status of persons of any sex shall not be permitted within the system of social protection, retirement insurance and social allowances.

#### **CHAPTER IV. ENSURING EQUAL RIGHTS AND OPPORTUNITIES FOR WOMEN AND MEN IN EDUCATION**

**Article 21.** Ensuring equal rights and opportunities for women and men in education and professional training

The State ensures equal rights and opportunities for women and men in education.

Educational institutions shall:

- create conditions for women and men to enter educational institutions, at grading, to receive fellowships, loans for students;
- work up and edit manuals, training manuals free of stereotyped images for role of women and men;
- raise gender equality culture, sharing of responsibilities in labour and household work.

Central body of executive power on education and science shall provide for expertise of training modules, manuals and training manuals for educational institutions for the observance of gender sensitivity.

Training modules of higher educational institutions, training courses comprise of content areas on ensuring gender equality and elective courses on legal grounds for gender equality based on the approximation of national and international law.

## CHAPTER VI. LIABILITY FOR VIOLATING LEGISLATION ON PROVISION OF EQUAL RIGHTS AND OPPORTUNITIES FOR WOMEN AND MEN

**Article 22.** Appealing discrimination based on sex and sexual advances (sexual harassment)

Should a person deems to be an object of discrimination on sex and sexual advances (sexual harassment) she or he has the right to address to the Authorised Human Rights Representative of the Verkhovna Rada of Ukraine (the Ombudsman), specially authorized central body of executive power on the provision of equal rights and opportunities for women and men, law enforcement bodies of the state and courts.

After exhausting all domestic legal remedies or unreasonable protraction to use such remedies, persons of any sex or groups of persons have the right to appeal to the UN Committee on the Elimination of Discrimination against Women on the violation of equality of rights and opportunities for women and men.

**Article 23.** Remuneration for financial expenses and moral damages suffered by a person as a result of discrimination based on sex or sexual advances (sexual harassment)

A person has the right to remuneration for financial expenses and moral damages suffered by a person as a result of discrimination based on sex or sexual advances (sexual harassment). Moral damages shall be remunerated without regard to financial expenses which are subject to remuneration and shall not be dependent on their size.

Procedure of remuneration for financial expenses and moral damages suffered by a person as a result of discrimination based on sex or sexual advances (sexual harassment) shall be established by law.

**Article 24.** Liability for breach of legislation on the provision of equal rights and opportunities for women and men

Persons who are found guilty of breach of legislation on the provision of equal rights and opportunities for women and men shall bear civil, administrative and criminal liability in accordance with law.

## Chapter VII. FINAL PROVISIONS

1. This Act shall come into effect on the 1<sup>st</sup> of January 2006.

2. The Cabinet of Ministers of Ukraine shall within three months:

- submit to the Verkhovna Rada of Ukraine its proposals on bringing statutes of Ukraine into line with this Act;
- bring decisions of the Government into line with this Act;
- secure adoption of regulatory statutes which are directly referred to this Act;
- ensure the ministries and other central bodies of executive power to bring their regulations in line with this Act.

## ACT OF NORWAY

### The Act relating to Gender Equality

Ministry of children and equality

Title of the Act amended by the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

#### **Section 1.** (The purpose of the Act)

This Act shall promote gender equality and aims in particular at improving the position of women.

Women and men shall be given equal opportunities in education, employment and cultural and professional advancement.

Amended by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

#### **Section 1a.** (Duty to promote gender equality)

Public authorities shall make active, targeted and systematic efforts to promote gender equality in all sectors of society.

Employers shall make active, targeted and systematic efforts to promote gender equality within their enterprise. Employee and employer organizations shall have a corresponding duty to make such efforts in their spheres of activity.

Enterprises that are subject to a statutory duty to prepare an annual report shall in the said report give an account of the actual state of affairs as regards gender equality in the enterprise. An account shall also be given of measures that have been implemented and measures that are planned to be implemented in order to promote gender equality and to prevent differential treatment in contravention of this Act.

Public authorities and public enterprises that are not obliged to prepare an annual report shall give a corresponding account in their annual budget.

The provisions of the Anti-Discrimination Ombud Act shall apply in connection with the enforcement of the third and fourth paragraphs.

Added by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 except for the third to fifth paragraphs which came into force on 1 January 2003, pursuant to the Decree of 14 June 2002 No. 535), amended by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528).

#### **Section 1b.** (Incorporation of the UN Convention on the Elimination of All Forms of Discrimination against Women)

The United Nations Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979 with the Optional Protocol of 6 October 1999 shall apply as

Norwegian law. The convention shall be published in the Norwegian Law Gazette in one original language and in a Norwegian translation.

Added by the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

## **Section 2.** (The scope of the Act)

This Act shall apply to all areas.

With regard to family life and purely personal matters, this Act shall not be enforced by the bodies mentioned in section 9 of this Act.

In special cases the King may prescribe that all or part of the Act shall not apply to certain specific areas. Before such a decision is made, the opinion of the Board (cf. section 10) shall be obtained.

The Ministry will issue regulations regarding the application of the Act in the case of posted employees, cf. section 1-7 of the Working Environment Act.

Amended by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528) and the Act of 17 June 2005 No. 62 (in force from 1 January 2006 pursuant to the Decree of 17 June 2005 No. 609).

## **Section 3.** (General clause)

Direct or indirect differential treatment of women and men is not permitted.

The term “direct differential treatment” shall mean actions that

1. discriminate between women and men because they are of different sexes,
2. place a woman in a worse position than that in which she otherwise would have been because of pregnancy or childbirth, or place a woman or a man in a worse position than that in which the person concerned otherwise would have been because of her or his exercise of rights to take leave of absence that are reserved for a mother or father. Correspondingly, any questions about pregnancy, adoption or family planning during the hiring process shall, irrespective of the applicant’s gender, be regarded as direct differential treatment.

The term “indirect differential treatment” shall mean any apparently gender-neutral action that in fact has the effect of placing one of the sexes in a worse position than the other.

In certain cases, however, indirect differential treatment is permitted if the action has an objective purpose that is independent of gender, and the means that is chosen is suitable, necessary and is not a disproportionate intervention in relation to the said purpose.

In religious communities, differential treatment based on gender that is necessary for achieving a justifiable purpose and does not disproportionately affect the person or persons who are subject to differential treatment is permitted. In connection with hiring by a religious community, the requirement of a specific gender must in addition be of crucial importance to the performance of the work or profession.

It is not permitted to make use of reprisals against any person who has submitted a complaint regarding a breach of provisions of this Act, or who has stated that a complaint may be submitted. This shall not apply if the complainant has acted with gross negligence. The first and second sentences shall apply correspondingly to witnesses.



It is not permitted to give instructions regarding acts that are in contravention of provisions of this Act. Such instructions shall be regarded as differential treatment.

It is not permitted to be an accessory to a breach of provisions of this Act.

Amended by the Act of 30 June 1995 No. 43 (in force from 1 August 1995), the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535) and the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

### **Section 3a.** (Affirmative action in favour of one of the sexes)

Different treatment that promotes gender equality in conformity with the purpose of this Act is not a contravention of section 3. The same applies to special rights and rules regarding measures that are intended to protect women in connection with pregnancy, childbirth and breastfeeding.

The King may prescribe further provisions as to which types of different treatment are permitted in pursuance of this Act, including provisions regarding affirmative action in favour of men in connection with the education and care of children.

Added by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

### **Section 4.** (Gender equality in connection with employment, etc.)

A job vacancy must not be advertised as being restricted to one sex only unless there is an obvious reason for doing so. Nor must the advertisement give the impression that the employer expects or prefers one of the sexes for the position.

In connection with the employment, promotion, dismissal or lay-off of employees, no difference must be made between women and men in contravention of section 3.

During the hiring process, including during the interview, the employer may not ask the applicant, irrespective of the applicant's gender, to provide any information on pregnancy, adoption or family planning. Nor may the employer implement measures to obtain such information in some other way.

A job seeker who has not obtained an advertised position may demand that the employer state in writing the education, experience and other clearly demonstrable qualifications for the position which are possessed by the person of the opposite sex appointed to the position.

Amended by the Act of 30 June 1995 No. 43 (in force from 1 August 1995) and the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

### **Section 5.** (Equal pay for work of equal value)

Women and men in the same enterprise shall have equal pay for the same work or work of equal value. The pay shall be fixed in the same way for women and men regardless of sex.

The right to equal pay for the same work or work of equal value shall apply regardless of whether such work is connected with different trades or professions or whether the pay is

regulated by different collective wage agreements.

Whether the work is of equal value shall be determined after an overall assessment in which importance is attached to the expertise that is necessary to perform the work and other relevant factors, such as effort, responsibility and working conditions.

The term “pay” shall mean ordinary remuneration for work as well as all other supplements or advantages or other benefits provided by the employer.

The King may by regulations prescribe further rules for what is to be considered the same enterprise in the state and municipal sector.

Amended by the Act of 30 June 1995 No. 43 (in force from 1 August 1995) and the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

### **Section 6.** (Equal right to education)

Women and men have an equal right to education.

Employers shall treat women and men equally as regards training, further education and leave of absence in connection with education, etc.

Amended by the Act of 30 June 1995 No. 43 (in force from 1 August 1995) and the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

### **Section 7.** (Teaching aids)

In schools and other educational institutions the teaching aids used shall be based on gender equality.

### **Section 8.** (Associations)

An association shall be open to women and men on equal terms when

1. membership of the association is of significance for the individual member's opportunities for work or professional advancement, or
2. the object of the association is essentially to contribute to the solution of general social problems.

The provisions of the first paragraph shall not apply to associations where the main object is to promote the special interests of one of the sexes.

### **Section 8a.** (Gender-based harassment and sexual harassment)

Gender-based harassment and sexual harassment are not permitted. Such harassment is considered to be differential treatment in contravention of section 3.

The term “gender-based harassment” shall mean unwelcome conduct that is related to a person's gender and that has the effect or purpose of offending another person's dignity. The term “sexual harassment” shall mean unwelcome sexual attention that is offensive to the object of such attention.

The employer and management of organizations or educational institutions shall be responsible for preventing and seeking to preclude the occurrence of harassment in contravention of provisions of this Act within their sphere of responsibility.

The provisions of the Anti-Discrimination Ombud Act shall apply in connection with the enforcement of the prohibition against gender-based harassment in the first paragraph and the provision in the third paragraph.

The prohibition against sexual harassment shall be enforced by the courts of law.

Added by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535), amended by the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527) and the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528).

### **Section 9. (Enforcement of the Act)**

The Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal shall monitor and contribute to the implementation of this Act, cf. the Anti-Discrimination Ombud Act, except for section 17 and the limitations set out in sections 1 a and 8 a.

Added by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528), former section 9 was repealed.

**Sections 10-15.** (Repealed by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528).)

### **Section 16. (Burden of proof)**

If there are circumstances that give reason to believe that there has been direct or indirect differential treatment in contravention of the provisions of this Act, such differential treatment shall be assumed to have taken place unless the person responsible proves on a balance of probabilities that such differential treatment nonetheless did not take place.

The first paragraph shall apply correspondingly when a person claims to have been subjected to an act of reprisal in contravention of section 3, fifth paragraph.

Amended by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535) and the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

### **Section 17. (Liability for damages)**

Any job seeker or employee who has been subjected to treatment in contravention of provisions of this Act by an employer or a person acting on the latter's behalf may demand compensation and redress regardless of the fault of the employer. Compensation shall be fixed at the amount that is reasonable, having regard to the financial loss, the situation of the employer and the employee or job seeker and all other circumstances. Redress shall be fixed at the amount that the court finds reasonable, having regard to the relationship of the parties and all other circumstances.

In all other respects, the general rules regarding liability for damages in the event of wilful or negligent contravention of the provisions of this Act shall apply.

Amended by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535) and the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

**Sections 18-19.** (Repealed by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528).)

**Section 20.** (The geographical extent of the Act)

This Act shall apply in Norway, on Svalbard and on board Norwegian vessels and aircraft in areas that are not subject to the sovereign right of any state. The Act shall also apply to activities on installations and devices on the Norwegian part of the Continental Shelf.

The King may make exceptions to the provisions of the first paragraph and make supplementary provisions regarding the extent of the Act. Before such a decision is made, the opinion of the Board of Appeals shall be obtained.

**Section 21.** (Representation of both sexes in all public committees, etc.)

When a public body appoints or elects committees, governing boards, councils, boards, etc. each sex shall be represented as follows:

1. If the committee has two or three members, both sexes shall be represented.
2. If the committee has four or five members, each sex shall be represented by at least two members.
3. If the committee has six to eight members, each sex shall be represented by at least three members.
4. If the committee has nine members, each sex shall be represented by at least four members, and if the committee has a greater number of members, each sex shall be represented by at least 40 per cent of the members.
5. The provisions of nos. 1-4 shall apply correspondingly to the election of deputy members.

Exceptions may be made from the provisions of the first paragraph if there are special circumstances that make it obviously unreasonable to demand that the requirements be fulfilled.

The provisions of this section shall not apply to committees, etc. which pursuant to statute shall consist only of members from directly elected assemblies.

The provisions of the Local Government Act shall apply to committees, etc. elected by publicly elected bodies in municipalities and counties.

The King will make provisions regarding enforcement and reporting and may make supplementary provisions pursuant to this section.

Added by the Act of 12 June 1981 No. 59, amended by the Act of 25 March 1983 No. 12, the Act of 5 June 1987 No. 25, the Act of 19 February 1988 No. 6, the Act of 30 June 1995 No. 43 (in force from 1 August 1995), the Act of 19 December 2003 No. 120 (in force from 1 January 2004) and the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

**Section 22.** (Commencement, etc.)

1. This Act shall come into force from the date decided by the King.

Amended by the Act of 12 June 1981 No. 59 (formerly section 21).

# ACT OF SWEDEN

## Swedish Code of Statutes

SFS 2008:567

Published 25 June 2008

### Discrimination Act

issued on 5 June 2008.

In accordance with a decision by the Riksdag<sup>1</sup>, the following is enacted<sup>2</sup>.

### Chapter 1. Introductory provisions

#### The purpose of the Act

##### Section 1

The purpose of this Act is to combat discrimination and in other ways promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

#### The contents of the Act

##### Section 2

The first chapter of the Act contains definitions and other introductory provisions. The second chapter contains provisions on prohibitions against discrimination and reprisals. The third chapter contains provisions on active measures. The fourth chapter contains provisions on supervision. The fifth chapter contains provisions on compensation and invalidity. The sixth chapter contains provisions on legal proceedings.

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<sup>1</sup> Government Bill 2007/08:95, Committee Report 2007/08: AU7, Riksdag Communication 2007/08:219.

<sup>2</sup> Cf. Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women (OJ L 045, 19/02/1975, p. 19, Celex 31975L0117), Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ L 039, 14/02/1976, p. 40, Celex 31976L0207), amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC (OJ L 269, 05/10/2002, p. 15, Celex 32002L0073), Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ L 006, 10/01/1979, p. 24, Celex 31979L0007), Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood (OJ L 359, 19/12/1986, p. 56, Celex 31986L0613), Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex (OJ L 014, 20/01/1998, p. 6, Celex 31997L0080), Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19/07/2000, p. 22, Celex 32000L0043), Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 02/12/2000, p. 16, Celex 32000L0078), Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJ L 373, 21/12/2004, p. 37, Celex 32004L0113) and Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ L 204, 26/07/2006, p. 23, Celex 32006L0054).



## **The Act is binding**

### **Section 3**

A contract or agreement that restricts someone's rights or obligations under this Act is of no legal effect in that regard.

## **Discrimination**

### **Section 4**

In this Act discrimination has the meaning set out in this Section.

1. *Direct discrimination*: that someone is disadvantaged by being treated less favourably than someone else is treated, has been treated or would have been treated in a comparable situation, if this disadvantaging is associated with sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

2. *Indirect discrimination*: that someone is disadvantaged by the application of a provision, a criterion or a procedure that appears neutral but that may put people of a certain sex, a certain transgender identity or expression, a certain ethnicity, a certain religion or other belief, a certain disability, a certain sexual orientation or a certain age at a particular disadvantage, unless the provision, criterion or procedure has a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

3. *Harassment*: conduct that violates a person's dignity and that is associated with one of the grounds of discrimination sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

4. *Sexual harassment*: conduct of a sexual nature that violates someone's dignity.

5. *Instructions to discriminate*: orders or instructions to discriminate against someone in a manner referred to in points 1–4 that are given to someone who is in a subordinate or dependent position relative to the person who gives the orders or instructions or to someone who has committed herself or himself to performing an assignment for that person.

## **Sex, transgender identity or expression, ethnicity, disability, sexual orientation and age**

### **Section 5**

In this Act the following terms have the meaning set out in this Section.

1. *Sex*: that someone is a woman or a man.

2. *Transgender identity or expression*: that someone does not identify herself or himself as a woman or a man or expresses by their manner of dressing or in some other way that they belong to another sex.

3. *Ethnicity*: national or ethnic origin, skin colour or other similar circumstance.

4. *Disability*: permanent physical, mental or intellectual limitation of a person's functional capacity that as a consequence of injury or illness existed at birth, has arisen since then or can be expected to arise.

5. *Sexual orientation*: homosexual, bisexual or heterosexual orientation.

6. *Age*: length of life to date.

A person who intends to change or has changed the sex they belong to is also covered by sex as a grounds of discrimination.

## **Chapter 2. Prohibition of discrimination and reprisals**

### **Working life**

#### *Prohibition of discrimination*

##### **Section 1**

An employer may not discriminate against a person who, with respect to the employer,

1. is an employee,
2. is enquiring about or applying for work,
3. is applying for or carrying out a traineeship, or
4. is available to perform work or is performing work as temporary or borrowed labour.

The prohibition of discrimination also applies in cases where the employer, by taking reasonable support and adaptation measures, can see to it that an employee, a job applicant or a trainee with a disability is put in a comparable situation to people without such a disability.

A person who has the right to make decisions on the employer's behalf in matters concerning someone referred to in the first paragraph shall be equated with the employer.

##### **Section 2**

The prohibition in Section 1 does not prevent

1. differential treatment based on a characteristic associated with one of the grounds of discrimination if, when a decision is made on employment, promotion or education or training for promotion, by reason of the nature of the work or the context in which the work is carried out, the characteristic constitutes a genuine and determining occupational requirement that has a legitimate purpose and the requirement is appropriate and necessary to achieve that purpose,
2. measures that contribute to efforts to promote equality between women and men and that concern matters other than pay or other terms of employment,
3. the application of age limits with regard to the right to pension, survivor's or invalidity benefits in individual contracts or collective agreements, or
4. differential treatment on grounds of age, if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

#### *Obligation to investigate and take measures against harassment*

### Section 3

If an employer becomes aware that an employee considers that he or she has been subjected in connection with work to harassment or sexual harassment by someone performing work or carrying out a traineeship at the employer's establishment, the employer is obliged to investigate the circumstances surrounding the alleged harassment and where appropriate take the measures that can reasonably be demanded to prevent harassment in the future.

This obligation also applies with respect to a person carrying out a traineeship or performing work as temporary or borrowed labour.

#### *Information about qualifications*

### Section 4

If a job applicant has not been employed or selected for an employment interview, or if an employee has not been promoted or selected for education or training for promotion, the applicant shall, upon request, receive written information from the employer about the education, professional experience and other qualifications that the person had who was selected for the employment interview or who obtained the job or the place in education or training.

### Education

#### *Prohibition of discrimination*

### Section 5

A natural or legal person conducting activities referred to in the Education Act (1985:1100) or other educational activities (an education provider) may not discriminate against any child, pupil or student participating in or applying for the activities. Employees and contractors engaged in the activities shall be equated with the education provider when they are acting within the context of their employment or contract.

The prohibition of discrimination also applies in cases where an education provider, by taking reasonable measures regarding the accessibility and usability of the premises, can see to it that a person with a disability who is applying or has been accepted for education under the Higher Education Act (1992:1434) or for education that can lead to a qualification under the Act concerning authority to award certain qualifications (1993:792), is put in a comparable situation to people without such a disability.

### Section 6

The prohibition in Section 5 does not prevent

1. measures that contribute to efforts to promote equality between women and men in

admissions to education other than that referred to in the Education Act (1985:1100),

2. the application of provisions that take account of age with regard to preschool activities, school-age childcare, education in a preschool class, the compulsory school system or an independent school equivalent to compulsory school, special needs school for pupils with learning disabilities or special school for children with disabilities, or

3. differential treatment on grounds of age, if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Nor does the prohibition prevent a folk high school or a study association from taking measures that contribute to efforts to promote equal rights and opportunities regardless of ethnicity, religion or other belief.

### *Obligation to investigate and take measures against harassment*

#### **Section 7**

If an education provider becomes aware that a child, pupil or student participating in or applying for the provider's activities considers that he or she has been subjected in connection with these activities to harassment or sexual harassment, the education provider is obliged to investigate the circumstances surrounding the alleged harassment and where appropriate take the measures that can reasonably be demanded to prevent harassment in the future.

### *Information about qualifications*

#### **Section 8**

If an applicant has been refused admission to an educational programme, or has not been selected for a test or interview if such a procedure is used in the admissions process, the applicant shall, upon request, receive written information from the education provider about the education or other qualifications that the person had who was admitted to the educational programme or who was selected for the test or interview.

### **Labour market policy activities and employment services not under public contract**

#### **Section 9**

Discrimination against applicants or employees is prohibited with regard to labour market policy activities and employment services not under public contract.

However, this prohibition does not prevent

1. measures that contribute to efforts to promote equality between women and men or equal rights and opportunities regardless of ethnicity, or

2. differential treatment on grounds of age, if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

## **Starting or running a business and professional recognition**

### **Section 10**

Discrimination is prohibited with regard to

1. financial support, permits, registration or similar arrangements that are needed or can be important for someone to be able to start or run a business, and
2. recognition, certification, authorisation, registration, approval or similar arrangements that are needed or can be important for someone to be able to exercise a certain profession.

These prohibitions do not prevent differential treatment on grounds of age, if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Nor does the prohibition in the first paragraph, point 1 prevent measures concerning support that contributes to efforts to promote equality between women and men or equal rights and opportunities regardless of ethnicity.

## **Membership of certain organisations**

### **Section 11**

Discrimination is prohibited with regard to

1. membership of or participation in an employees' organisation, employers' organisation or professional organisation, and
2. benefits that any such organisation provides to its members.

This prohibition does not prevent an organisation from providing benefits to members of one sex so as to contribute to efforts to promote equality between women and men.

## **Goods, services and housing etc.**

### **Section 12**

Discrimination is prohibited on the part of a natural or legal person who

1. supplies goods, services or housing to the general public, outside the private and family sphere, or
2. organises a meeting or event that is open to the public.

A person who represents a person referred to in the first paragraph in relation to the public, shall be equated with that person.

However, this prohibition does not apply to discrimination associated with age. The prohibition of discrimination associated with sex does not apply to the supplying of insurance services, nor does it prevent women and men being treated differently with regard to other services or housing if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

## **Health and medical care and social services etc.**



### **Section 13**

Discrimination is prohibited with regard to

1. health and medical care and other medical services, and
2. social services activities and support in the form of special transport services and national special transport services and housing adaptation allowances.

However, these prohibitions do not apply to discrimination associated with age.

The prohibitions applying to health and medical care and other medical services or social services activities do not prevent women and men being treated differently if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

### **Social insurance system, unemployment insurance and financial aid for studies**

### **Section 14**

Discrimination is prohibited with regard to

1. social insurance and related benefit systems,
2. unemployment insurance, and
3. state financial aid for studies.

However, these prohibitions do not apply to discrimination associated with age.

With regard to social insurance and related benefit systems, the prohibition of discrimination associated with sex does not prevent the application of provisions concerning widow's pension, wife's supplement or payment of child allowance.

### **National military service and civilian service**

#### *Prohibition of discrimination*

### **Section 15**

Discrimination is prohibited in connection with enrolment inspection, admission tests or other examination of personal circumstances under the National Total Defence Service Act (1994:1809) and in connection with enlistment for and during the performance of national military service or civilian service.

However, this prohibition does not apply to discrimination associated with age.

Nor does the prohibition prevent the application of provisions concerning

1. the obligation for men only to report for enrolment inspection and service, or that a person liable for national total defence service shall not be called for enrolment inspection or called up for national military service or civilian service if he or she refers to her or his membership of a certain religious association, or
2. the opportunity for women to perform national military service or civilian service

provided in the Act concerning Opportunities for Women to perform National Military Service or Civilian Service involving extended Basic Training (1994:1810).

### *Obligation to investigate and take measures against harassment*

#### **Section 16**

If a government agency or an organisation covered by the prohibition in Section 15 becomes aware that a person liable for national total defence service considers herself or himself to have been subjected in connection with activities described in that Section to harassment or sexual harassment, the government agency or organisation is obliged to investigate the circumstances surrounding the alleged harassment and where appropriate take the measures that can reasonably be demanded to prevent harassment in the future.

However, the first paragraph does not apply to harassment associated with age.

#### **Public employment**

#### **Section 17**

Discrimination is also prohibited in cases other than those referred to in Section 5 or Sections 9–15 when a person who is wholly or partly subject to the Public Employment Act (1994:260)

1. assists the public by providing information, guidance, advice or other such help, or
2. has other types of contacts with the public in the course of her or his employment.

However, this prohibition does not apply to discrimination associated with age.

#### **Prohibition of reprisals**

#### **Section 18**

An employer may not subject an employee to reprisals because the employee has

1. reported or called attention to the fact that the employer has acted contrary to this Act,

2. participated in an investigation under this Act, or
3. rejected or given in to harassment or sexual harassment on the part of the employer.

The prohibition also applies in relation to a person who, with respect to the employer,

1. is enquiring about or applying for work,
2. is applying for or carrying out a traineeship, or
3. is available to perform work or is performing work as temporary or borrowed labour.

A person who has the right to make decisions on the employer's behalf in matters concerning someone referred to in the first or second paragraph shall be equated with the employer.

## **Section 19**

A person who is alleged to have acted contrary to the provisions of Chapter 2, Section 5, 7, 9, 10, 11, 12, 13, 14, 15, 16 or 17 or Chapter 3, Section 15 or 16 may not subject an individual to reprisals because that individual has

1. reported or called attention to such actions,
2. participated in an investigation under this Act, or
3. rejected or given in to harassment or sexual harassment on the part of the person who is alleged to have engaged in discrimination.

## **Chapter 3. Active measures**

### **Working life**

#### *Cooperation between employers and employees*

### **Section 1**

Employers and employees are to cooperate on active measures to bring about equal rights and opportunities in working life regardless of sex, ethnicity, religion or other belief, and in particular to combat discrimination in working life on such grounds.

### **Section 2**

Employers and employees are in particular to endeavour to equalise and prevent differences in pay and other terms of employment between women and men who perform work which is to be regarded as equal or of equal value. They are also to promote equal pay growth opportunities for women and men.

Work is to be regarded as of equal value to other work if, on an overall assessment of the requirements and nature of the work, it can be deemed to be equal in value to the other work. The assessment of the requirements of the work is to take into account criteria such as knowledge and skills, responsibility and effort. In assessing the nature of the work, particular account is to be taken of working conditions.

#### *Goal-oriented work*

### **Section 3**

Within the framework of their activities, employers are to conduct goal-oriented work to actively promote equal rights and opportunities in working life regardless of sex, ethnicity, religion or other belief.

More detailed regulations on the obligations of employers are provided in Sections 4–13.

#### *Working conditions*

**Section 4**

Employers are to implement such measures as can be required in view of their resources and other circumstances to ensure that the working conditions are suitable for all employees regardless of sex, ethnicity, religion or other belief.

**Section 5**

Employers are to help enable both female and male employees to combine employment and parenthood.

**Section 6**

Employers are to take measures to prevent and hinder any employee being subjected to harassment or reprisals associated with sex, ethnicity, religion or other belief, or to sexual harassment.

*Recruitment***Section 7**

Employers are to work to ensure that people have the opportunity to apply for vacant positions regardless of sex, ethnicity, religion or other belief.

**Section 8**

Employers are to promote an equal distribution of women and men in different types of work and in different employee categories, by means of education and training, skills development and other appropriate measures.

**Section 9**

When the distribution of women and men is not more or less equal in a certain type of work or in a certain employee category at a place of work, the employer is to make a special effort when recruiting new employees to attract applicants of the under-represented sex. The employer is to attempt to see to it that the proportion of employees from the under-represented sex gradually increases.

However, the first paragraph shall not be applicable if there are special grounds not to take such measures or if the measures cannot reasonably be required in view of the employer's resources and other circumstances.

*Matters of pay***Section 10**

In order to discover, remedy and prevent unfair gender differences in pay and other

terms of employment, every three years the employer is to survey and analyse

- provisions and practices regarding pay and other terms of employment that are used at the employer's establishment, and
- pay differences between women and men performing work that is to be regarded as equal or of equal value.

The employer is to assess whether existing pay differences are directly or indirectly associated with sex. The assessment is to refer in particular to differences between

- women and men performing work that is to be regarded as equal, and
- groups of employees performing work that is or is generally considered to be dominated by women and groups of employees performing work that is to be regarded as of equal value to such work but is not or is not generally considered to be dominated by women.

### **Section 11**

Every three years employers are to draw up an action plan for equal pay in which they report the results of the survey and analysis described in Section 10. The plan is to indicate the pay adjustments and other measures that need to be taken to bring about equal pay for work that is to be regarded as equal or of equal value. The plan is to contain a cost estimate and a time plan based on the goal of implementing the necessary pay adjustments as soon as possible and within three years at the latest.

A report on and evaluation of how the planned measures were implemented is to be included in the next action plan.

The obligation to draw up an action plan for equal pay does not apply to employers who employed fewer than 25 employees at the start of the latest calendar year.

### **Section 12**

Employers are to provide employees' organisations with respect to which they are bound by a collective agreement with the information needed for the organisations to be able to cooperate in the survey, analysis and drawing up of an action plan for equal pay.

If the information concerns data on pay or other circumstances that relate to an individual employee, the rules on confidentiality and damages contained in Sections 21, 22 and 56 of the Employment (Co-determination in the Workplace) Act (1976:580) apply. In public sector activities, Chapter 14, Sections 7, 9 and 10 of the Secrecy Act (1980:100) apply instead.

### *Gender equality plan*

### **Section 13**

Every three years employers are to draw up a plan for their gender equality work. The plan is to contain an overview of the measures under Sections 4–9 that are needed at the place of work and an account of which of these measures the employer intends to begin or implement during the coming years.

The plan is also to contain a summary account of the action plan for equal pay that the



employer is required to draw up under Section 11.

An account of how the planned measures under the first paragraph have been implemented is to be included in the next plan.

The obligation to draw up a gender equality plan does not apply to employers who employed fewer than 25 employees at the start of the latest calendar year.

## **Education**

### *Goal-oriented work*

#### **Section 14**

An education provider conducting education or other activities under the Education Act (1985:1100), education under the Higher Education Act (1992:1434) or education that can lead to a qualification under the Act concerning authority to award certain qualifications (1993:792) is to conduct goal-oriented work within the framework of these activities to actively promote equal rights and opportunities for the children, pupils or students participating in or applying for the activities, regardless of sex, ethnicity, religion or other belief, disability or sexual orientation.

More detailed regulations on the obligations of education providers are provided in Sections 15 and 16.

### *Preventing and hindering harassment*

#### **Section 15**

An education provider referred to in Section 14 is to take measures to prevent and hinder any child, pupil or student who is participating in or applying for their activities from being subjected to harassment associated with sex, ethnicity, religion or other belief, disability or sexual orientation, or to sexual harassment.

### *Equal treatment plan*

#### **Section 16**

An education provider referred to in Section 14 is to draw up a plan each year containing an overview of the measures needed to (1) promote equal rights and opportunities for the children, pupils or students participating in or applying for the activities, regardless of sex, ethnicity, religion or other belief, disability or sexual orientation, and (2) prevent and hinder harassment referred to in Section 15. The plan is to contain an account of which of these measures the education provider intends to begin or implement during the coming year.

An account of how the measures planned under the first paragraph have been implemented is to be included in the next year's plan.

## Chapter 4. Supervision

### The Equality Ombudsman

#### *Duties of the Equality Ombudsman*

##### Section 1

The Equality Ombudsman is to supervise compliance with this Act. The Ombudsman is to try in the first instance to induce those to whom the Act applies to comply with it voluntarily.

Provisions on the duties of the Ombudsman are also contained in the Act concerning the Equality Ombudsman (2008:568).

##### Section 2

Chapter 6, Section 2 states that the Equality Ombudsman may bring a court action on behalf of an individual who consents to this.

#### *Obligation to provide information*

##### Section 3

A natural or legal person who is subject to the prohibitions of discrimination and reprisals, the obligation to investigate and take measures against harassment or the provisions on active measures in this Act is obliged, at the request of the Equality Ombudsman,

1. to provide information about circumstances in their activities that are of importance for the supervision exercised by the Ombudsman,
2. to provide information about qualifications when the Ombudsman is assisting in a request from an individual under Chapter 2, Section 4 or 8,
3. to give the Ombudsman access to workplaces and other premises where the activities are conducted for the purpose of investigations that may be of importance to the supervision exercised by the Ombudsman, and
4. to attend discussions with the Ombudsman.

The obligations specified in points 1–3 do not apply if there are special grounds against their doing so in an individual case.

#### *Financial penalty*

##### Section 4

A natural or legal person who does not comply with a request under Section 3 may be ordered by the Equality Ombudsman to fulfil his or her obligation subject to a financial

penalty. A decision to order a financial penalty may be appealed to the Board against Discrimination.

## **Section 5**

A natural or legal person who does not fulfil his or her obligations concerning active measures under Chapter 3, Section 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15 or 16 may be ordered to fulfil them subject to a financial penalty. Such orders are issued by the Board against Discrimination on application from the Equality Ombudsman. They can also be directed towards the State as an employer or as the entity responsible for educational activities.

If the Ombudsman has declared that he or she does not want to apply to the Board for a financial penalty to be ordered, a central employees' organisation with respect to which the employer is bound by a collective agreement may make an application concerning active measures in working life under Chapter 3, Sections 4–13.

The application is to state the measures that should be required of the party that the application concerns, the grounds referred to in support of the application and what investigation has been made of the matter.

### *Prohibition against appeals*

## **Section 6**

No appeal may be made against decisions of the Equality Ombudsman under this Act other than decisions under Section 4 concerning the ordering of financial penalties.

## **Board against Discrimination**

### *Duties of the Board*

## **Section 7**

The Board against Discrimination examines applications for financial penalties under Section 5 and appeals against decisions concerning orders for financial penalties under Section 4. In processing these cases, Sections 8–15 are to be applied.

### *Processing of an application for a financial penalty*

## **Section 8**

A natural or legal person who is the subject of an application for a financial penalty shall be ordered to comment within a certain time on the application and to supply the information concerning circumstances in their activities that the Board against Discrimination needs for its examination.

When an employees' organisation has made the application, the Equality Ombudsman shall be given an opportunity to comment.

**Section 9**

The Board against Discrimination shall ensure that cases are adequately investigated. When necessary, the Board shall arrange for additional investigation. Superfluous investigation may be refused.

**Section 10**

Cases before the Board against Discrimination are decided after an oral hearing, unless the Board considers such a hearing unnecessary.

**Section 11**

The Board against Discrimination shall call the party that has made the application to the Board and the party that is the subject of the application to a hearing. If necessary for the investigation, the Board may also call others to the hearing.

The Board may order the party that the application concerns or that party's representative to attend in person, subject to a financial penalty.

**Section 12**

A case concerning the ordering of a financial penalty may be decided even if the party that the application concerns does not comment on the case, does not cooperate in the investigation or fails to attend an oral hearing.

If the Equality Ombudsman or the employees' organisation that has made the application for a financial penalty fails to attend a hearing, the application for a financial penalty becomes void.

**Section 13**

In deciding a case concerning the ordering of a financial penalty, the Board against Discrimination may instruct the party that the application concerns to take measures other than those sought in the application, if these other measures are not obviously more burdensome for the party.

In its decision the Board shall state how and by when the measures are to be started or implemented.

The Board's decision shall be in writing and shall be delivered to the party that the application concerns.

*Processing of an appeal against a decision to order a financial penalty***Section 14**

In processing an appeal against a decision to order a financial penalty, Sections 9 and 10 shall be applied.

## Section 15

The Board against Discrimination shall call the party that has appealed against the decision to order a financial penalty and the Equality Ombudsman to a hearing. If necessary for the investigation, the Board may also call others to the hearing.

The Board may order the party that has appealed against the decision or that party's representative to attend in person, subject to a financial penalty.

### *Prohibition against appeals*

## Section 16

No appeal may be made against a decision of the Board against Discrimination under this Act.

### *Imposition of a financial penalty*

## Section 17

Proceedings for the imposition of a financial penalty that has been ordered under this Act are brought before a district court by the Equality Ombudsman.

In cases concerning the imposition of a financial penalty, the district court may also assess the appropriateness of the penalty.

## Board of Appeals for Higher Education

## Section 18

A decision of a university or other higher education institution for which the State, a municipality or a county council is the responsible entity may, if it concerns education under the Higher Education Act (1992:1434), be appealed to the Board of Appeals for Higher Education on the grounds that the decision is contrary to

1. the prohibition of discrimination in Chapter 2, Section 5, first paragraph, if the decision concerns

- a) admission to education,
- b) credit for education,
- c) deferment of studies or resumption of studies after time off from studies,
- d) a change of supervisor,
- e) withdrawal of a supervisor and other resources in postgraduate education,
- f) grants for research students, or
- g) a disciplinary measure against a student,

2. the prohibition of discrimination in Chapter 2, Section 5, second paragraph, or

3. the prohibition of reprisals in Chapter 2, Section 19.



If the Board of Appeals finds that the appealed decision is contrary to one of the prohibitions and that this can be assumed to have influenced the outcome, the decision shall be set aside and the case, if necessary, referred back to the university or other higher education institution for re-examination.

If a decision can be appealed under another statute, the appeal shall be made as prescribed there instead of as directed in the first paragraph.

## **Section 19**

No appeal may be made against a decision of the Board of Appeals for Higher Education under this Act.

## **Chapter 5. Compensation and invalidity**

### **Compensation**

#### **Section 1**

A natural or legal person who violates the prohibitions of discrimination or reprisals or who fails to fulfil their obligations to investigate and take measures against harassment or sexual harassment under this Act shall pay compensation for discrimination for the offence resulting from the infringement. When compensation is decided, particular attention shall be given to the purpose of discouraging such infringements of the Act. The compensation shall be paid to the person who has been offended by the infringement.

An employer who violates Chapter 2, Section 1, first paragraph or Section 18 shall also pay compensation for the loss that arises. However, this does not apply to a loss that arises in connection with a decision concerning employment or promotion.

If there are special grounds, the compensation can be reduced or set at zero.

#### **Section 2**

If an employer in activities referred to in Chapter 2, Section 9, 10, 11, 13, 14, 15 or 17 discriminates against someone or subjects someone to reprisals, the compensation for discrimination shall be paid by the employer. A person performing work on behalf of another person in circumstances resembling those in an employment relationship shall be equated with an employee.

If an education provider violates Chapter 2, Section 5, 7 or 19 the compensation shall be paid by the entity responsible for the activities.

### **Invalidity**

#### **Section 3**

If someone is discriminated against by a provision in an individual contract or in a collective agreement in a manner that is prohibited under this Act, the provision shall be modified or

declared invalid if the person discriminated against requests this. If the provision is of such significance for the contract or agreement that it cannot reasonably be demanded that the contract or agreement shall apply in other respects without material changes, the contract may also be modified in other respects or be declared invalid in its entirety.

If someone is discriminated against by termination of a contract or agreement or by some other such legal act, the legal act shall be declared invalid if the person discriminated against requests this.

If someone is discriminated against by a rule or similar internal provision at the place of work, the provision shall be modified or declared without effect if the person discriminated against requests this.

## **Chapter 6. Legal proceedings**

### **Applicable rules**

#### **Section 1**

Cases concerning the application of Chapter 2, Section 1, 2, 3 or 18 shall be dealt with under the Labour Disputes (Judicial Procedure) Act (1974:371). In such cases a person enquiring about or applying for work, a person applying for or carrying out a traineeship or a person who is available to perform work or who is performing work as temporary or borrowed labour shall be regarded as an employee. The person at whose establishment the traineeship or work is being or would have been carried out shall be regarded as employer. This also applies when the regulations on negotiations concerning disputes in the Employment (Co-determination in the Workplace) Act (1976:580) are applied.

Cases concerning the application of Chapter 2, Section 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17 or 19 shall be examined by a general court and dealt with in accordance with the provisions of the Swedish Code of Judicial Procedure concerning procedures in civil cases in which out-of-court settlement of the matter is permitted.

### **Right to bring an action**

#### **Section 2**

The Equality Ombudsman, or a non-profit organisation whose statutes state that it is to look after the interests of its members and that is not an employees' organisation referred to in the third paragraph, may bring an action, as a party, on behalf of an individual who consents to this. When the Ombudsman or the association brings such an action, the Ombudsman or association may also bring another action on behalf of the individual as part of the same proceedings, if he or she consents to this. In cases under Section 1, first paragraph the Ombudsman's action is brought before the Labour Court. For unmarried children under 18 years of age the consent of the custodian or custodians is required.

To be allowed to bring an action, the association must be suited to represent the individual in the case, taking account of its activities and its interest in the matter, its financial ability

to bring an action and other circumstances.

When an employees' organisation has the right to bring an action on behalf of the individual under Chapter 4, Section 5 of the Labour Disputes (Judicial Procedure) Act (1974:371), the Ombudsman or association may only bring an action if the employees' organisation does not do so.

## **Burden of proof**

### **Section 3**

If a person who considers that he or she has been discriminated against or subjected to reprisals demonstrates circumstances that give reason to presume that he or she has been discriminated against or subjected to reprisals, the defendant is required to show that discrimination or reprisals have not occurred.

## **Statute of limitations**

### *Working life*

### **Section 4**

If someone brings an action on the basis of notice of termination or summary dismissal, the following provisions of the Employment Protection Act (1982:80) shall be applied:

- Section 40 concerning the time limit for actions for a declaration of invalidity,
- Section 41 concerning the time limit for damages or other claims, and
- Section 42 concerning the expiry of the right to bring an action on the grounds that it is time-barred.

If someone brings an action against an employer other than an action referred to in the first paragraph, the following provisions of the Employment (Co-determination in the Workplace) Act (1976:580) shall be applied:

- Section 64 on the time limit for calling for negotiations,
- Section 65 on the time limit for bringing an action,
- Section 66 on the extended time limit for a person who is not represented by an employees' organisation, with the difference that the time limit referred to in Section 66, first paragraph, first sentence shall be two months, and
- Section 68 concerning the expiry of the right to bring an action on the grounds that it is time-barred.

If the action concerns compensation on grounds of an employment decision announced by an employer in the public sector, the time limits specified in the second paragraph are calculated from the day on which the employment decision gained legal force.

### **Section 5**

In cases under Section 1, first paragraph the Equality Ombudsman can toll the statute of limitations, except in cases concerning a declaration that a notice of termination or summary dismissal is invalid, by informing the employer in writing that the Ombudsman is making use of her or his right to toll the statute of limitations. If the running of the statute of limitations has been tolled by such a communication, a new statute of limitations under Section 4 runs from the day of tolling.

A statute of limitations cannot be tolled more than once.

## **Other areas of society**

### **Section 6**

A legal action other than actions referred to in Section 4 must be brought within two years from the date on which the act to which attention is called was performed or from the last date on which an obligation should have been fulfilled. Otherwise the right to bring legal action expires.

If the action concerns a person who was under 18 years of age when the act was performed or the obligation should have been fulfilled at the latest, the time limit specified in the first paragraph is calculated from the day on which the person reached the age of 18.

## **Litigation costs**

### **Section 7**

In cases under Section 1, second paragraph, each party may be ordered to bear its litigation costs, if the party that has lost the case had reasonable grounds for bringing the dispute to court. However, this does not apply when the Equality Ombudsman brings an action on behalf of an individual under Section 2.

In cases under Section 1, first paragraph, Chapter 5, Section 2 of the Labour Disputes (Judicial Procedure) Act (1974:371) applies instead.

## **Other provisions**

### **Section 8**

If someone brings an action on the basis of notice of termination or summary dismissal, the following provisions of the Employment Protection Act (1982:80) are to be applied:

- Section 34 concerning the validity of a notice of termination etc.,
- Section 35 concerning the validity of a notice of summary dismissal etc.,
- Section 37 concerning suspension from work when a notice of termination or summary dismissal has been declared invalid,
- Section 39, first paragraph, first sentence concerning the dissolution of an employment relationship, and
- Section 43, first paragraph, second sentence and second paragraph concerning

expeditious conduct of proceedings etc.

## Section 9

An action for compensation based on a decision on employment that has been announced by an employer in the public sector may not be examined before the employment decision has gained legal force.

## Section 10

The provisions of the Swedish Code of Judicial Procedure concerning parties shall also apply to a person on whose behalf the Equality Ombudsman or an association brings an action under this Act in so far as they regard disqualifying circumstances, ongoing legal proceedings and personal attendance, as well as hearing of witnesses on oath and other issues concerning evidence.

When an individual brings an action under this Act, the Equality Ombudsman or an association may not bring an action on the individual's behalf in the same matter.

## Section 11

The decision of the court in a case where the Equality Ombudsman or an association brings an action on behalf of an individual may be appealed by the individual, if it may be appealed by the Ombudsman or the association.

When the decision of the court in a case referred to in the first paragraph has become final and non-appealable, the matter may not be reviewed on the action either of the individual or of the Equality Ombudsman or the association.

- 
1. This Act enters into force on 1 January 2009.
  2. This Act supersedes
    - the Equal Opportunities Act (1991:433),
    - the Act on Measures against Discrimination in Working Life on Grounds of Ethnic Origin, Religion or other Belief (1999:130),
    - the Prohibition of Discrimination in Working Life on Grounds of Disability Act (1999:132),
    - the Prohibition of Discrimination in Working Life because of Sexual Orientation Act (1999:133),
    - the Equal Treatment of Students at Universities Act (2001:1286),
    - the Prohibition of Discrimination Act (2003:307), and
    - the Act Prohibiting Discriminatory and Other Degrading Treatment of Children and Pupils (2006:67).

3. The superseded acts continue to apply with regard to discrimination and reprisals that have taken place before this Act entered into force. After this Act enters into force, the duties incumbent on an ombudsman under the superseded acts shall be fulfilled by the Equality Ombudsman. After this Act has entered into force, the duties incumbent under the superseded acts on the Equal Opportunities Commission or the Board against



Discrimination shall be fulfilled by the Board against Discrimination.

4. The obligation of the employer under Chapter 3, Section 10 shall be performed for the first time in 2009 or the year in which the provision first becomes applicable.

5. The obligations of the employer under Chapter 3, Sections 11 and 13 shall be performed for the first time in the year immediately following the start of the calendar year when the employer employed at least 25 employees or the year after that, if the obligation under Chapter 3, Section 10 is to be performed that year.

On behalf of the Government

FREDRIK REINFELDT

NYAMKO SABUNI  
(Ministry of Integration and Gender Equality)

## ACT OF ICELAND

### Act on Equal Status and Equal Rights of Women and Men No. 10/2008,

as amended by Act No. 162/2010 and No. 126/2011.

#### SECTION I

##### Aims and definitions.

###### Article 1

###### *Aims.*

The aim of this Act is to establish and maintain equal status and equal opportunities for women and men, and thus promote gender equality in all spheres of the society. All individuals shall have equal opportunities to benefit from their own enterprise and to develop their skills irrespective of gender. This aim shall be reached by the following means, amongst others:

- a. observing gender equality perspectives and working towards gender mainstreaming in policy-making and decision-taking in all spheres of society,
- b. working to secure equal influence of women and men in society,
- c. specifically improving the position of women and increasing their opportunities in society,
- d. working against wage discrimination and other forms of gender-based discrimination on the employment market,
- e. enabling both women and men to reconcile their work and family life,
- f. increasing education and awareness-raising on gender equality,
- g. analysing statistics according to gender,
- h. increasing research in gender studies,
- i. working against gender-based violence and harassment and
- j. changing traditional gender images and working against negative stereotypes regarding the roles of women and men.

###### Article 2

###### *Definitions.*

For the purposes of this Act, the following terms are sense defined below:

1. *Direct discrimination*: When one individual receives less favourable treatment than another of the opposite sex in comparable circumstances.
2. *Indirect discrimination*: When an impartial requirement, standard of reference or

measure affects either sex more heavily than the other, unless this is appropriate, necessary or justifiable in terms of impartial considerations independent of gender.

3. *Gender-based harassment*: Any type of unfair and/or insulting behaviour which is connected with the gender of the person affected by it, is unwelcome and impairs the self-respect of the person affected by it, and which is continued in spite of a clear indication is given that it is unwelcome. This harassment may be physical, verbal or symbolic. A single instance may be considered as gender-based harassment if it is serious.

4. *Sexual harassment*: Any type of unfair and/or insulting sexual behaviour which is unwelcome and impairs the self-respect of the person affected by it, and which is continued in spite of a clear indication is given that it is unwelcome. This harassment may be physical, verbal or symbolic. A single instance may be considered sexual harassment if it is serious.

5. *Gender-based violence*: Violence based on gender which results in, or could result in, physical, sexual or psychological injury or suffering on the part of the victim; also the threat of such and coercion or arbitrary deprivation of freedom, both in private life and in a public venue.

6. *Gender mainstreaming*: Organizing, improving, developing and evaluating the policy-making process in such a way that gender equality perspective is incorporated in all spheres in the policy-making and decisions of those who are generally involved in policy-making in society.

7. *Affirmative action*: Special temporary measures that are intended to improve the position of, or increase the opportunities of, women or men aimed at establishing gender equality in a specific field where either sex is at a disadvantage. In such cases it may prove necessary to give either sex temporary priority in order to achieve balance.

8. *Wages*: Ordinary remuneration for work and further payments of all types, direct and indirect, whether they take the form of perquisites or other forms, paid by the employer to the employee for his or her work.

9. *Terms*: Wages together with pension rights, holiday rights and entitlement to wages in the event of illness and all other terms of employment or entitlements that can be evaluated in monetary terms.

## SECTION II

### Administration.

#### Article 3

##### *Overall control.*

[The Minister]<sup>1)</sup> is in charge of the application of this Act unless other special provisions are made. The Centre for Gender Equality is a special institution under the control of the Minister. It shall handle administration in the sphere covered by this Act.

1) Act No. 126/2011, Article 473.

#### Article 4

##### *The Centre for Gender Equality.*

The Minister of Social Affairs and Social Security appoints the Director of the Centre for

Gender Equality for a five year term.

The Director is in charge of the Centre's day-to-day operations and appoints its staff.

The tasks handled by the Centre for Gender Equality shall include:

- a. monitoring the application of this Act,
- b. supervising educational and informative activities,
- c. advising government authorities, institutions, companies, non-governmental organisations and individuals on gender equality issues,
- d. making suggestions and proposals to the Minister, the Gender Equality Council and other government authorities on measures to achieve gender equality,
- e. making proposals on affirmative actions,
- f. increasing the level of activity in gender equality issues, i.e. by greater involvement of men in gender equality work,
- g. monitoring gender equality developments in society, i.e. by gathering information and initiating research,
- h. providing assistance to gender equality committees, gender equality counsellors and gender equality representatives of local authorities, institutions and companies,
- i. working at preventive measures against gender-based violence in collaboration with other government authorities and organisations specifically involved in such preventive measures,
- j. working against gender based wage discrimination and other forms of gender discrimination in the labour market,
- k. mediating cases of dispute referred to the Centre for Gender Equality on the basis of this Act,
- l. changing traditional gender images and working against negative stereotyping regarding the roles of women and men,
- m. carrying out other tasks in accordance with the aims of this Act in accordance with further decisions by the Minister.

Institutions, enterprises and non-governmental organisations shall be obliged to provide the Centre for Gender Equality with any type of information necessary for its operations.

If the Centre for Gender Equality has reason to suspect that an institution, enterprise or non-governmental organisation has violated this Act, it shall investigate whether there is reason to request the Gender Equality Complaints Committee to examine the matter. The relevant institution, enterprise or non-governmental organisation shall be obliged to provide the Centre for Gender Equality with the information and materials it considers necessary to reveal the facts of the case. If the parties concerned do not comply with this request by the Centre for Gender Equality within a reasonable time limit, the Centre may decide that they are to pay *per diem* fines until the information and materials have been provided. If the Centre for Gender Equality considers that the information and materials in question further substantiate the suspicion that a violation of this Act has taken place, it shall request the Gender Equality Complaints Committee to examine the matter, and consequently inform the institution, enterprise or non-governmental organisation concerned in writing of its decision to do so.

The Centre for Gender Equality shall, at the request of the plaintiff, take steps to ensure that the rulings of the Gender Equality Complaints Committee are enforced as appropriate. When a party against whom a ruling of the Gender Equality Complaints Committee is directed fails to comply with it, the Centre for Gender Equality may instruct the party concerned to make satisfactory remedial measures in accordance with the ruling within a reasonable time limit. If the party against whom the ruling is directed fails to comply with the instructions of the Centre for Gender Equality, the Centre may decide that the party is to pay *per diem* fines until it complies with the instructions.

The employees of the Centre for Gender Equality may not use their position to obtain information or materials other than those that are necessary, or may be necessary, for the purposes of monitoring under paragraph 5. Furthermore, they may not provide or deliver to others than the parties to the case and the Gender Equality Complaints Committee any information or materials gathered for the purposes of monitoring under paragraph 5 that they may have become aware of in connection with their work on resolving disputes under item *k* of paragraph 3, or follow-up measures to ensure compliance with rulings by the Gender Equality Complaints Committee under paragraph 6.

Decisions to impose *per diem* fines under paragraphs 5 and 6 shall be announced in writing in a verifiable manner to the parties against whom they are directed. *Per diem* fines may amount to up to ISK 50,000 per day. When determining the amount of *per diem* fines, factors including the number of employees of the enterprise, institution or non-governmental organisation and the scope of the business involved shall be taken into account.

*Per diem* fines shall accrue to the Treasury.

The party to whom the instructions of the Centre for Gender Equality are addressed under this provision may appeal to the Minister of Social Affairs and Social Security against the Centre for Gender Equality's decision. A decision to impose *per diem* fines under paragraph 6 shall be cancelled if the ruling of the Gender Equality Complaints Committee is referred to the courts.

Decisions by the Centre for Gender Equality to impose *per diem* fines may be enforced by attachment. Appeals lodged with the Minister of Social Affairs and Social Security or the institution of proceedings before the ordinary courts shall defer enforcement action.

## Article 5

### *The Gender Equality Complaints Committee.*

The Minister of Social Affairs and Social Security shall appoint three members of the Gender Equality Complaints Committee for periods of three years at a time in accordance with nominations by the Supreme Court. They shall all be qualified lawyers, and at least one of them shall have expert knowledge of gender equality issues. The chairman and vice-chairman shall meet the conditions set for serving as a district court judge. Alternates shall be appointed in the same way. The Committee may summon experts to give it advice and assistance if it deems necessary.

The task of the Gender Equality Complaints Committee shall be to examine cases and to deliver a ruling in writing on whether provisions of this Act have been violated. The



Committee's rulings may not be referred to a higher authority.

In cases that may be expected to influence policy on the labour market as a whole, the Committee shall seek comments from the national federations of workers and employers before delivering its ruling.

The rulings of the Complaints Committee shall be binding for the parties to each case. The parties may refer the Committee's rulings to the courts. At the request of a party, the Committee may deliver a ruling deferring the legal effect of its own ruling if it deems it reasonable. A request to this effect shall be presented not later than ten days after the publication of the ruling. The deferral of the legal effects of a ruling shall be subject to the condition that the party to the case will refer the matter to the courts within thirty days of the publication of the ruling deferring the legal effects, and will then request that it receives swift treatment. If a request for swift treatment is rejected, then the case shall be litigated as quickly as possible after the rejection is announced, and not later than thirty days following the judge's rejection. The deferral of the legal effects of a ruling shall expire if the matter is not referred to the courts within thirty days of the publication of the ruling deferring the legal effects, or if no action is instituted within thirty days of the rejection by a judge of the request for speedy treatment. If a case concerning a Committee's ruling is litigated, the Committee may defer its treatment of comparable pending cases until judgment has been delivered in the case.

The Gender Equality Complaints Committee may decide that the party against whom the complaint is directed is to pay the plaintiff the costs of bringing the complaint before the Complaints Committee, providing that the Committee's conclusion is in the plaintiff's favour.

If a ruling of the Gender Equality Complaints Committee is in the plaintiff's favour but the respondent does not accept the Complaints Committee's ruling and brings an action to have it annulled by the courts, the plaintiff's legal costs, both at the district court and Supreme Court level, shall be paid by the Treasury.

If the Gender Equality Complaints Committee deems a complaint evidently unfounded, the Committee may order the plaintiff to pay the respondents' legal costs. An attachment may be made, without a prior court judgement, to secure the payment of legal costs.

The Complaints Committee shall publish its rulings.

Costs of the Committee's activities shall be paid by the State Treasury. The Minister of Social Affairs and Social Security may, by means of a regulation, set further provisions on the procedures of the Complaints Committee and its office management.

## Article 6

### *Procedure before the Gender Equality Complaints Committee.*

Individuals, enterprises, institutions and non-governmental organisations, either in their own name or on behalf of their members who consider that they are the victims of violations of this Act, may submit their case to the Gender Equality Complaints Committee.

The Centre for Gender Equality may request that the Gender Equality Complaints Committee examine a case *cf.* paragraph 5 of Article 4.

Cases shall be submitted to the Complaints Committee in writing within six months of the date when the alleged violation of this Act was known, or from the time when a situation regarded as an infringement of this Act came to an end, or from the time when the person concerned became aware of the alleged violation. If reasoning is sought on the basis of the provisions of the Administrative Procedure Act, the period for submission shall be reckoned from the time that the reasoning has been obtained. In special circumstances, the Complaints Committee may decide to examine a case even though the time limit defined above has passed, though in no case exceeding one year. An application shall be considered as timely if the pertaining letter is received by the Committee, or posted, before the time limit.

The Complaints Committee may, after consulting the plaintiff, send the case to the Centre for Gender Equality for mediation.

The Committee shall deliver its rulings at the earliest opportunity, and no later than three months after receiving the case.

Procedure before the Complaints Committee shall, as a rule, be in writing; however, the Committee may summon the parties or their representatives to hearings. In other respects, the Committee's procedure shall be in accordance with the Administrative Procedure Act and further regulations issued by the Minister after receiving proposals from the Committee.

## Article 7

### *Gathering of information before the Complaints Committee.*

The Gender Equality Complaints Committee shall ensure that a party to a case has the opportunity to express himself or herself regarding the matter at issue before the Committee delivers its ruling, providing that the Committee considers that neither the party's position nor the reasons for it are presented in the evidence.

The Gender Equality Complaints Committee may, at the request of the opposite party, demand a party to present materials which the Committee considers could have an influence on the resolution of the case.

The Gender Equality Complaints Committee may demand further evidence from the parties if it deems the facts inconclusive.

If evidence is presented to the Gender Equality Complaints Committee concerning wages, other terms of employment or entitlements of individuals, the Complaints Committee shall inform the party concerned that this information has been submitted to the Committee. Such information shall be treated in confidence.

## Article 8

### *The Gender Equality Council.*

After each parliamentary election, the Minister of Social Affairs and Social Security shall appoint a Gender Equality Council of eleven representatives. The Minister shall appoint the chairman without nomination; two representatives nominated jointly by the employees' associations; two representatives nominated jointly by the employers' associations; two nominated jointly by the Icelandic Feminist Association, the Federation of Icelandic

Women's Associations and the Icelandic Women's Rights Society; one nominated jointly by the Women's Shelter Organisation, (*Samtök um kvennaathvarf*) and the Counselling and Information Centre for Survivors of Sexual Violence (*Stígamót*); one nominated by the Centre for Women's and Gender Studies at the University of Iceland (RIKK); one nominated by the Association for Parental Equality and one nominated by the Association of Local Authorities in Iceland. Alternates shall be appointed accordingly.

## Article 9

### *Role of the Gender Equality Council.*

The Gender Equality Council shall work in close contact with the Centre for Gender Equality and advise the Minister of Social Affairs and Social Security and the Director of the Centre for Gender Equality on professional policy-making in gender equality issues. Particular emphasis shall be placed on promoting gender equality on the labour market and on the reconciliation of work and family life.

The Gender Equality Council shall prepare the Gender Equality Forum in consultation with the Minister of Social Affairs and Social Security (*cf.* Article 10) and present a report on its work to the forum.

The operational costs of the council shall be paid by the State Treasury. The Minister may issue regulations containing further provisions on the work of the Gender Equality Council and its office management.

## Article 10

### *The Gender Equality Forum.*

The Minister of Social Affairs and Social Security shall call a Gender Equality Forum within a year of parliamentary elections, and again two years thereafter.

The Gender Equality Forum shall discuss gender equality issues; at its beginning the Minister of Social Affairs and Social Security shall present a report on the situation and developments in gender equality issues. The Minister's report shall include, i.e., an assessment of the status and success of the projects covered by the current gender equality action programme adopted as a parliamentary resolution (*cf.* Article 11) and a review of the situation and developments regarding gender equality issues in principal spheres of society. The Gender Equality Council shall provide a summary of the discussions at the forum, and deliver the summary to the Minister. Other tasks of the forum shall, at each occasion, be decided by the Minister of Social Affairs and Social Security after receiving proposals from the Gender Equality Council.

The forum shall be open to all; the Gender Equality Council shall invite members of the Althingi (parliament), representatives of national and local government institutions, including their gender equality representatives, and representatives of the social partners and non-governmental organisations with gender equality issues on their agenda.

Participation in the forum shall be honorary, but other necessary costs of the forum shall be paid by the Treasury in accordance with the decision of the Minister of Social Affairs and Social Security.

## Article 11

### *Parliamentary resolution on a gender equality action programme.*

Within one year following a general election, the Minister of Social Affairs and Social Security shall present to the Althingi a motion for a parliamentary resolution on a four-year gender equality action programme after having received proposals made by the ministries, the Centre for Gender Equality and the Gender Equality Council. Discussions at the Gender Equality Forum (*cf.* Article 10) shall also be taken into account. The gender equality action programme shall include projects intended to secure equal status and equal rights of women and men in Icelandic society (*cf.* Article 1). The actions planned, and the estimated funding for projects, shall be itemised in the programme. The report presented by the Minister of Social Affairs and Social Security on the situation and developments of gender equality issues to the Gender Equality Forum (*cf.* Article 10) shall accompany the proposed parliamentary resolution.

## Article 12

### *The local authorities' gender equality committees.*

Following local government elections, the municipalities shall appoint gender equality committees to examine equal status and equal rights of women and men within their municipality. These committees shall advise the local governments on matters with a bearing on gender equality, and shall monitor and take initiative on measures, including affirmative action, to ensure the equal status and equal rights of women and men within their municipality.

Each gender equality committee shall supervise the compilation of a four-year gender equality programme stating, i.e. how work on gender mainstreaming in all spheres is to proceed, together with an action plan on how to redress imbalance in the positions of women and men within the municipality. Gender equality programmes shall be submitted for approval by the relevant local government not later than one year after local government elections.

Each committee shall every second year submit to the Centre for Gender Equality a report on the situation and developments in gender equality issues within the respective municipality.

## Article 13

### *Gender equality representatives.*

Each ministry shall have a gender equality representative with an expert knowledge of gender equality issues. The gender equality representative shall deal with, and monitor, gender equality work in the policy areas of the ministry in question and its institutions, i.e. the expert shall work on gender mainstreaming in the fields administered by the ministry. Each year, the gender equality representatives shall send a report on the status and

developments in gender equality issues in the policy areas of their respective ministries to the Centre of Gender Equality.

#### Article 14

##### *Gender equality counsellors.*

The Minister of Social Affairs and Social Security may engage a gender equality counsellor to work temporarily on gender equality issues in a specific field and/or in a particular region of the country.

#### Article 15

##### *Participation in government and municipal committees, councils and boards.*

When appointments are made to national and local government committees, councils and boards, care shall be taken to ensure as equal representation of men and women as possible, and not lower than 40% when there are more than three representatives in a body. This shall also apply to the boards of publicly-owned limited companies and enterprises in which the state or a municipality is the majority owner.

When nominations are made to national and local government committees, councils and boards, a man and a woman shall be nominated. The nominating party may deviate from the condition of the first sentence when, in consequence of objective circumstances, it is not possible to nominate both a man and a woman. In such cases, the nominating party shall explain the reasons for this.

The appointing party may deviate from the condition of paragraph 1 if the exemption provided for in paragraph 2 applies.

#### Article 16

##### *Analysis of statistical data.*

In the compilation of official economic reports on individuals, and in canvassing interviews and opinion surveys, a distinction shall be drawn between the sexes in the collection of data, data processing and the publication of information unless special circumstances, e.g. the protection of personal privacy, argue against doing so.

#### Article 17

##### *Gender mainstreaming.*

Gender mainstreaming shall be observed in all policy-making and planning on the part of the ministries and the public institutions operating under their realm. The same shall apply, as appropriate, to all decision-making within ministries and institutions.

### **SECTION III**

#### **Rights and obligations.**

#### Article 18

##### *The labour market.*



Employers and trade unions shall work deliberately to bring women and men on an equal footing on the labour market. Employers shall work specifically to put women and men on an equal footing within their enterprise or institution and to take steps to avoid jobs being classified as specifically women's or men's jobs. Particular emphasis shall be placed on achieving equal representation of women and men in managerial and influential positions.

Enterprises and institutions with more than 25 employees, on average over the year, shall set themselves a gender equality programme or mainstream gender equality perspectives into their personnel policy. This shall specifically include, i.e., a statement of aims, with a plan of how they are to be achieved in order to guarantee the employees the rights set forth in Articles 19-22. Gender equality programmes and gender equality perspectives in personnel policies shall be reviewed at three-year intervals.

The enterprises and institutions referred to in paragraph 2 shall provide the Centre for Gender Equality with a copy of their gender equality plan, or personnel policy if they do not have a gender equality programme, together with their action plan, when the Centre for Gender Equality so requests. Furthermore, enterprises and institutions referred to in paragraph 2 shall submit a report on developments in this field, within a reasonable period, to the Centre for Gender Equality when it so requests.

In cases where an enterprise or institution referred to in paragraph 2 has not set itself a gender equality programme or mainstreamed gender equality perspectives into its personnel policy, the Centre for Gender Equality shall instruct the enterprise or institution in question to remedy the situation within a reasonable time limit. The same shall apply if the Centre for Gender Equality deems the gender equality programme of an enterprise or institution referred to in paragraph 2 to be unsatisfactory, or if gender equality perspectives have not been mainstreamed in its personnel policy with sufficient clarity.

Where an enterprise or institution referred to in paragraph 2 fails to comply with instructions given by the Centre for Gender Equality as provided for in paragraph 4, the Centre for Gender Equality may determine that the enterprise or institution in question is to pay *per diem* fines until it complies with the instructions. The same shall apply when an enterprise or institution neglects to provide the Centre for Gender Equality with a copy of its gender equality programme, or personnel policy if it has no gender equality programme, and its plan of action, when the Centre for Gender Equality so requests, or refuses to give the Centre for Gender Equality a report on developments in this field (*cf.* paragraph 3). The decision on *per diem* fines shall be announced in writing in a verifiable manner to the party against whom it is directed.

*Per diem* fines may amount to up to ISK 50,000 per day. When determining the amount of *per diem* fines, factors including the number of employees of the enterprise or institution and the scope of the business involved shall, i.e., be taken into account.

*Per diem* fines shall accrue to the Treasury.

The party to whom the instructions of the Centre for Gender Equality are addressed under this provision may appeal to the Minister of Social Affairs and Social Security against the Centre for Gender Equality's decision.

Decisions by the Centre for Gender Equality to impose *per diem* fines may be enforced

by attachment. Appeals lodged with the Minister of Social Affairs and Social Security or litigation before the ordinary courts shall defer enforcement action.

#### Article 19

##### *Wage equality.*

Women and men working for the same employer shall be paid equal wages and enjoy equal terms of employment for the same jobs or jobs of equal value.

By “equal wages” is meant that wages shall be determined in the same way for women and men. The criteria on the basis of which wages are determined shall not involve gender discrimination.

Workers shall at all times, upon their choice, be permitted to disclose their wage terms.

#### Article 20

##### *Vacancies, vocational training, retraining and continuing education (lifelong learning).*

Vacant positions that are open for application shall be equally accessible to women and men.

Employers shall take necessary measures to ensure that women and men have equal opportunities regarding retraining, continuing education, (lifelong learning) and vocational training, and to attend courses held to enhance vocational skills or to prepare for other assignments occupations.

#### Article 21

##### *Reconciliation of work and family life.*

Employers shall take the measures necessary to enable women and men to reconcile their professional obligations and family responsibilities. Amongst other things, such measures shall be aimed at increasing flexibility in the organization of work and working hours in such a way as to take account of both workers’ family circumstances and the needs of the labour market, including facilitating the return of employees to work following maternity/paternity or parental leave or leave from work due to pressing and unavoidable family circumstances.

#### Article 22

##### *Gender-based harassment and sexual harassment.*

Employers and the directors of institutions and non-governmental organisations shall take special measures to protect employees, students and clients from gender-based or sexual harassment in the workplace, in institutions, in their work for, or the functions of, their societies, or in schools.

If a superior is charged with alleged gender-based or sexual harassment, he or she shall be non-competent to take decisions regarding the working conditions of the plaintiff during the examination of the case, and the next superior shall take such decisions.

## Article 23

### *Education and schooling.*

Gender mainstreaming shall be observed in all policy-making and planning in the work of the schools and educational institutions, including sports and leisure activities.

At all levels of the educational system, pupils shall receive instruction on gender equality issues in which emphasis shall be placed, amongst other things, on preparing both sexes to play an equal role in society, including work and family life.

Educational materials and textbooks shall be designed in such a way as not to discriminate against either sex.

In presentations on educational and vocational opportunities, and in counselling in the schools, boys and girls shall receive instruction and counselling regarding the same jobs, irrespective of their gender.

Studies of the status of the genders in Icelandic society shall be enhanced, this applying equally to primary academic research and to applied studies, and their findings shall be disseminated systematically within the educational system and to the media.

[The ministry in charge of education affairs]<sup>1)</sup> shall monitor compliance with gender equality in schools and educational institutions, including sports and leisure activities. Furthermore, [the ministry in charge of education affairs]<sup>1)</sup> shall monitor developments in these areas of society as regards gender equality.

A gender equality counsellor shall be employed within [the ministry in charge of education]<sup>1)</sup> and shall monitor the application of the provisions of this Article, and give relevant parties advice on gender equality issues, including affirmative action to promote gender equality.

*1) Act No. 126/2011, Article 473.*

## SECTION IV

### **Prohibition against discrimination on grounds of gender.**

## Article 24

### *General prohibition against discrimination.*

All forms of discrimination, direct or indirect, on grounds of gender, are prohibited.

However, affirmative action shall not be regarded as being contrary to this Act. The same shall apply if there are valid reasons to support employing an individual of a particular gender in view of objective factors relating to the job.

Special consideration to women in connection with pregnancy and childbirth shall not be regarded as discrimination.

## Article 25

### *Prohibition against discrimination regarding terms.*

Employers may not discriminate between women and men in wages and other terms of employment on grounds of their gender.

If a likelihood is adduced, that a woman and a man working for the same employer

receive different wages for the same work, or for work of equal value, then the employer shall demonstrate, if there is a difference in their wages, that the difference is explained on grounds other than their gender.

## Article 26

### *Prohibition against discrimination at work and on engagement in employment.*

Employers are prohibited from discriminating between applicants for jobs on grounds of their gender. The same applies regarding promotion, changes of position, retraining, continuing education, (lifelong learning) vocational training, study leave, notice of termination, the working environment and employees' working conditions.

It is prohibited to allow maternity/paternity or parental leave, or other circumstances relating to pregnancy and childbirth, to have a negative effect on decisions under paragraph 1.

It is prohibited to advertise, or publish an advertisement for, a vacant position indicating that an employee of one sex is preferred over the other. This provision shall not apply if the aim of the advertiser is to promote a more equal representation of women and men within an occupational sector, in which case this shall be stated in the advertisement. The same shall apply if there are valid reasons for advertising for a man or a woman only.

If a likelihood is adduced that, regarding engagement, assignment or appointment to a post, promotion, change of position, retraining, continuing education, (lifelong learning) vocational training, study leave, notice of termination, the working environment or employees' working conditions, individuals have been discriminated against on grounds of their gender, the taking of maternity/paternity leave or parental leave, or other circumstances relating to pregnancy and childbirth, then the employer shall demonstrate that his or her decision was based on grounds other than the individual's gender, the taking of maternity/paternity leave or parental leave, or other circumstances relating to pregnancy and childbirth.

When assessing whether the provisions of paragraph 4 have been violated, the educational qualifications, working experience, specialised knowledge or other special talents demanded in the relevant position according to law or regulations, or which must otherwise be considered as being of use in the position, shall be taken into account.

## Article 27

### *Prohibition against dismissal, etc., in connection with a complaint or a demand for redress.*

Employers may not dismiss employers for demanding redress on the basis of this Act.

Furthermore, employers shall ensure that employees are not subjected to injustice in their work, e.g. as regards job security, terms of employment or performance assessment, on the grounds of having submitted a complaint or provided information regarding gender-based or sexual harassment or sexual discrimination.

If a likelihood is adduced, that this provision has been violated, the employer shall demonstrate that the dismissal, or alleged injustice, is not based on the employee's demand for redress, complaint or provision of information regarding gender-based or sexual harassment or sexual discrimination. This shall not apply if the dismissal takes place more than one year after the employee made his/her demand for redress under this Act.

## Article 28

### *Prohibition against discrimination in schools and educational institutions.*

All forms of discrimination on grounds of gender shall be prohibited in schools and other educational institutions. This prohibition shall be observed in teaching and studies, in working methods and in day-to-day dealings with pupils.

Directors of institutions shall ensure that pupils or clients are not made to suffer for having made a complaint concerning gender-based harassment or gender discrimination.

## Article 29

### *Advertisements.*

Advertisers and those who design or publish advertisements shall ensure that the advertisements are not belittling or disrespectful towards either sex and that they do not run contrary to gender equality in any way. Such advertisements may not be published in the media or any other public venue.

## Article 30

### *Prohibition against waiver.*

No person may waive the rights set forth in this Act.

## **SECTION V**

### **Sanctions.**

## Article 31

### *Compensation for financial and non-financial loss.*

Anyone who, deliberately or through negligence, violates this Act, shall be liable to pay compensation according to the ordinary rules. Furthermore, the party in question may be sentenced to pay the party affected by the violation compensation for non-financial loss, if appropriate, in addition to compensation for financial loss.

## Article 32

### *Fines.*

Violations of this Act, or of regulations issued hereunder, may be punishable by fines unless heavier penalties are prescribed in other statutes.

Fines shall be paid to the State Treasury.

Cases involving violations of this Act, or of regulations issued hereunder, shall be handled as criminal cases.

## **SECTION VI**

### **Other provisions.**

## Article 33

### *Regulations.*

The Minister may issue regulations on the further application of this Act.



## Article 34

### *Commencement.*

This Act enters into force immediately. At the same time, the Act on Equal Status and Equal Rights of Women and Men, No. 96/2000, stands repealed.

### **Interim Provisions.**

#### **I.**

The provisions of paragraph 1 of Article 4 regarding the appointment of the Director of the Centre for Gender Equality shall apply as from, and including, the first appointment to the position following the commencement of this Act. On commencement of this Act, the Director of the Centre for Gender Equality shall retain his/her position until the end of the appointment period.

#### **II.**

When this Act has taken effect, the Minister shall appoint a new Gender Equality Council (*cf.* Article 8).

#### **III.**

When this Act has taken effect, the Minister shall appoint a new Gender Equality Complaints Committee in accordance with Article 5, upon which the appointment of the Gender Equality Complaints Committee made under the Act No. 96/2000 shall expire.

#### **IV.**

The Minister of Social Affairs and Social Security shall ensure that a special certification system is developed in collaboration with the organisations of the social partners to certify the implementation of the policy of wage equality and equality in connection with employment and dismissal. This project shall be completed by 1 January 2010, when a review of this Act shall be undertaken.

#### **V.**

Notwithstanding the provisions of sentence 1 of Article 11, the Minister of Social Affairs and Social Security shall submit a proposal for a parliamentary resolution on a gender equality action programme to the Althingi on the basis of the provision for the first time in autumn 2008, the programme to run until spring 2012. In other respects, the provisions of Article 11 shall apply.

*Passed by the Althingi on 26 February 2008.*

*[This translation is published for information only.*

*The original Icelandic text is published in the Law Gazette.*

*In case of a possible discrepancy, the original Icelandic text applies.]*

# ACT OF LITHUANIAN REPUBLIC

## LAW of the REPUBLIC OF LITHUANIA ON EQUAL OPPORTUNITIES

1 December 1998 No VIII-947

Vilnius

### Chapter I

#### GENERAL PROVISIONS

##### Article 1. Purpose of the Law

1. The purpose of this Law is to ensure implementation of equal rights of women and men guaranteed in the Constitution of the Republic of Lithuania and to forbid any kind of direct or indirect discrimination based one's sex.

2. The provisions of the Law shall not apply to family and private life.

##### Article 2. Definitions

As used in this Law,

1. **Equal opportunities** means implementation of human rights guaranteed in international instruments of human and civil rights and in the legislation of the Republic of Lithuania.

2. **Violation of equal rights for women and men** means direct and indirect discrimination on grounds of sex.

3. **Direct discrimination on grounds of sex** means passive or active conduct expressing humiliation and contempt, also restriction of rights or granting of privileges by reason of the person's sex, except when relating to:

- special protection of women during pregnancy, childbirth and nursing;
- compulsory military service prescribed by the law exclusively for men;
- different pensionable age for women and men;
- requirements for safety at work applicable to women aimed at protecting the women's health owing to their physiological properties;
- specific work which can be performed only by a person of a particular sex;
- special temporary measures foreseen in the laws, which are applied to accelerate the implementation of *de facto* equality between women and men and are to be cancelled when equal opportunities for women and men are realised;
- different rules and conditions when implementing specific punishments.

4. **Indirect discrimination on grounds of sex** means action or inaction, legal norm or evaluation criterion, which being formally equal to both men and women, when implemented or applied have different factual impact on one of sexes in terms of restriction of rights or granting of privileges, preference or advantage.

5. **Sexual harassment** - offensive conduct of sexual nature, verbal or physical, towards a person with whom there are work, business or other relations of subordination.

## Chapter II

### IMPLEMENTATION OF EQUAL RIGHTS FOR WOMEN AND MEN

#### **Article 3. The Duty of State Government and Administration Institutions to Implement Equal Rights for Women and Men**

Within the limits of their competence State government and administration institutions must:

- 1) ensure that equal rights for women and men be guaranteed in all the legal acts drafted and enacted by them;
- 2) draw up and implement programmes aimed at assuring equal opportunities for women and men;
- 3) in the manner prescribed by the law, provide assistance to the programmes of public organisations, public institutions, societies and charitable foundations which assist in the implementation of equal opportunities for women and men.

#### **Article 4. The Duty of Institutions of Education and Science to Implement Equal Opportunities for Women and Men**

The institutions of education and science must ensure equal conditions for women and men regarding:

- 1) admission to vocational educational institutions, colleges, institutions of higher education, and to qualification improvement courses;
  - 2) award of grants and providing loans for students;
  - 3) selection of curricula;
  - 4) assessment of knowledge.
2. Within the limits of their competence the institutions of education and science must ensure that curricula and text books do not propagate discrimination of women and men.

#### **Article 5. The Employer's Duty to Implement Equal Rights for Women and Men at Workplace**

When implementing equal rights for women and men at workplace the employer must:

- 1) apply equitable recruitment criteria with the exception of the case specified in subparagraph 5 of paragraph 2, Article 2;
- 2) provide equal working conditions, opportunities to improve qualification and provide equal benefits;
- 3) apply equal criteria in assessing the quality of work;
- 4) provide equal pay for work of equal value;
- 5) take appropriate means to prevent sexual harassment of the employees;
- 6) take appropriate means to prevent persecution of an employee who has lodged a

complaint on grounds of discrimination.

### **Article 5<sup>(1)</sup>. Implementation of Equal Opportunities for Women and Men in the Field of Protection of Consumers' Rights**

When implementing equal rights for women and men salespersons, producers and service providers must:

- 1) apply equal pay terms or guarantees for the same products, goods and services or those of equal value to all consumers irrespective of their sex;
- 2) assure that there would be no humiliation, restriction of rights or granting privileges as well as forming public attitudes towards the superiority of one sex against the other when providing information on their products, goods and services or advertising them.

## **Chapter III**

### **VIOLATION OF EQUAL RIGHTS FOR WOMEN AND MEN**

#### **Article 6. Discriminatory Acts of an Employer**

The acts of an employer shall be deemed discriminatory if, because of the person's sex, he/she:

- 1) applies to an employee less (more) favourable terms of employment or payment for work;
- 2) in organising work, creates worse (better) working conditions for an employee;
- 3) imposes a disciplinary penalty on an employee, changes working conditions, transfers him/her to another work or terminates the employment contract;
- 4) persecutes an employee who has filed a complaint because of discrimination.

#### **Article 7. Discriminatory Acts in Educational and Scientific Institutions**

1. The acts of educational and scientific institutions shall be deemed discriminatory if on grounds of sex:

- 1) different requirements are applied in respect of men and women for admission to schools or study programmes, for drawing up curricula or for assessment of knowledge;
- 2) different opportunities are provided for choosing a special area of study.

#### **Article 7<sup>(1)</sup>. Discriminatory Acts of Salespersons, Producers or Service Providers**

The acts of shall be deemed discriminatory if on grounds of sex:

- 1) different pay terms and guarantees for the same products, goods and services or those of equal value are applied or different possibilities to choose the goods or services are set;
- 2) when providing information on the products, goods and services or advertising them, public attitudes towards the superiority of one sex against the other are formed or

consumers are discriminated on grounds of their sex.

### **Article 8. Discriminatory Advertisements**

It shall be prohibited to specify requirements in job advertisements or education opportunities advertisements, giving priority to one of the sexes, with the exception of the case referred to in item 5, paragraph 2 of Article 2, and to request information from job seekers about their family status, private life or family plans.

### **Article 9. The Rights of a Person Who is being Discriminated Against**

A person who thinks that discriminatory acts specified in this Chapter have been directed against him or that he has become the subject of sexual harassment shall have the right to appeal to the Equal Opportunities Ombudsman.

## **Chapter IV**

### **MONITORING AND SUPERVISION OF THE IMPLEMENTATION OF THE LAW**

### **Article 10. Supervision of the Implementation of the Law**

1. The implementation of the Law shall be supervised by the Equal Opportunities Ombudsman.
2. To ensure the work of the Equal Opportunities Ombudsman the Office of the Equal Opportunities Ombudsman shall be instituted.

### **Article 11. Legal Basis of the Office of the Equal Opportunities Ombudsman**

1. The Office of the Equal Opportunities Ombudsman shall be guided by the Constitution of the Republic of Lithuania, this Law, treaties to which Lithuania is a party, and other legal acts.
2. The underlying principles of the Equal Opportunities Ombudsman's activities shall be legality, impartiality and fairness.
3. The Office of the Equal Opportunities Ombudsman shall be headed by the Equal Opportunities Ombudsman.

### **Article 12. Competence of the Equal Opportunities Ombudsman**

1. The Equal Opportunities Ombudsman shall investigate complaints relating to direct and indirect discrimination and sexual harassment.
2. The Equal Opportunities Ombudsman shall report about the implementation of this Law and submit recommendations to State government and administration institutions of the Republic of Lithuania on the revision of legal acts and the priorities in the policy of the implementation of equal rights.

### **Article 13. Eligibility for the Position of the Equal Opportunities Ombudsman**

A citizen of the Republic of Lithuania who is a person of the highest integrity, has a university degree in law and whose record of service in the legal profession or at a State



government and administration institution is not less than 5 years shall be eligible for appointment as the Equal Opportunities Ombudsman.

#### **Article 14. Appointment of the Equal Opportunities Ombudsman**

1. The Equal Opportunities Ombudsman shall be appointed for the term of 4 years and removed from office by the Seimas of the Republic of Lithuania upon the recommendation of the Chairman of the Seimas.

2. The number of terms of the Equal Opportunities Ombudsman shall not be limited.

#### **Article 15. Termination of Powers of the Equal Opportunities Ombudsman**

1. The Equal Opportunities Ombudsman shall be removed from office:

- 1) at his own request;
  - 2) upon the expiry of his powers;
  - 3) when he is incapable of discharging his duties for health reasons, i.e., if he is ill for over 120 calendar days in succession in the course of a calendar year or over 140 calendar days during the last 12 months;
  - 4) when a court sentence concerning him becomes effective;
  - 5) when he is given a no-confidence vote by the Seimas of the Republic of Lithuania.
2. The powers of the Equal Opportunities Ombudsman shall end upon his death.

#### **Article 16. Prohibitions for the Equal Opportunities Ombudsman**

1. The Equal Opportunities Ombudsman may not hold any other office in State institutions and organisations, be employed in business, commercial and other private institutions or undertakings.

2. The Equal Opportunities Ombudsman may receive no other remuneration except the official salary and remuneration for pedagogical and creative activities.

#### **Article 17. Funding of the Equal Opportunities Office**

The activities of the Office of the Equal Opportunities Ombudsman shall be financed from the State budget.

### **Chapter V**

#### **ACCEPTANCE AND INVESTIGATION OF COMPLAINTS**

#### **Article 18. Acceptance of Complaints**

1. Each natural and legal person shall have the right to file a complaint with the Equal Opportunities Ombudsman about the violation of equal rights.

2. The complaints shall be in writing. The procedure of registration and assignment of complaints shall be laid down by the Regulations of the Office of the Equal Opportunities Ombudsman approved by the Equal Opportunities Ombudsman.

3. If the complaint has been received by word of mouth or by telephone or if the Equal Opportunities Ombudsman has found indications of violation of equal rights in the press,

other mass media or other sources of information, the Equal Opportunities Ombudsman may initiate investigation on his own initiative.

4. Anonymous complaints shall not be investigated, unless the Equal Opportunities Ombudsman decides otherwise.

### **Article 19. Requirements for a Complaint**

1. The complaint shall contain the following information:

- the addressee - the Equal Opportunities Ombudsman;
- the complainant's first name and family name or the name of the institution and the address;
- the names of the institutions and first names and family names of the persons against whom the complaint is being filed, also the institution where they are employed;
- definition of the decision or acts against which the complaint is being filed, the time and circumstances under which they have been committed;
- an application to the Equal Opportunities Ombudsman;
- the date of writing of the complaint and the signature of the complainant.

2. Attached to the complaint may be:

- a copy of the contested decision;
- the available evidence and its description;
- a list of persons recommended for examination, with their addresses and the circumstances each of them can corroborate.

3. Failure to adhere to the form of the complaint specified in paragraph 1 of this Article or failure to provide the necessary information may not be a motive for refusal to consider the complaint.

### **Article 20. The Time Limit for Filing Complaints**

The time limit for filing complaints shall be 3 months after the commission of acts against which the complaint is being filed. Complaints filed after the expiry of this time limit shall not be investigated unless the Equal Opportunities Ombudsman decides otherwise.

### **Article 21. Refusal to Investigate the Complaint**

1. The Equal Opportunities Ombudsman shall refuse to investigate the complaint and shall return it to the complainant not later than within 15 days, provided:

- it is impossible to launch the investigation because of the lack of facts, and the complainant fails to provide the relevant data at the request of the Equal Opportunities Ombudsman;
- the complaint was filed after the expiry of the time limit specified in Article 20 of this Law;
- investigation of the circumstances specified in the complaint is not within the competence of the Equal Opportunities Ombudsman;

- a complaint on the same issue has been investigated, is under investigation in court or, under the law, must be investigated in court;
- a procedural decision has been adopted to institute a criminal action relating to the subject of the complaint.

2. If the complaint is sent back to the complainant, the motives for refusal to investigate it must be given. In those cases when the complaint does not fall within the competence of the Equal Opportunities Ombudsman the refusal to investigate shall contain advice to what institution the complainant might address the problem.

3. A repeated filing of a complaint following the investigation shall not be investigated, with the exception of cases where new circumstances are indicated or new facts are provided.

4. If the circumstances referred to in paragraph 1 of this Article are established or if the complainant does not provide information without which the investigation of the complaint cannot be started, the complaint shall not be investigated.

## **Article 22. The Time Limit for Investigation of the Complaint**

The complaint must be investigated and the complainant must be given a reply within 1 month from the day of receipt of the complaint. If necessary, the Equal Opportunities Ombudsman may extend the time limit of investigation for up to 2 months. The complainant must be duly notified about it.

## **Article 23. The Course of Investigation of the Complaint**

1. In the course of investigation of the complaint, the Equal Opportunities Ombudsman shall ascertain:

- the presence or absence of the decisions or acts against which the complaint is being made;
- on what grounds or under what circumstances the decisions have been adopted or the acts have been committed;
- whether the decisions and acts cited in the complaint are in contravention of the laws and other legal acts;
- who has committed a violation, for what reasons (or in pursuit of what goals), what is the extent of the violations, and in what way the persons who have committed the violation account for their actions;
- what facts or evidence corroborate the committed violation of legal acts.

2. If, because of relationship by blood or marriage or for any other reason, the Equal Opportunities Ombudsman is not in a position to investigate in an impartial manner a specific complaint, he shall refer it to one of the employees of his Office.

3. Upon the completion of the investigation of the complaint, a statement shall be drawn up stating the circumstances disclosed and evidence collected in the course of the investigation, as well as the legal evaluation of the actions. The statement shall be signed by the Equal Opportunities Ombudsman.

4. The results of the investigation shall be communicated to the complainant, the head of

the institution where the investigation has been conducted, and the person whose actions have been investigated. Copies of the statement shall be mailed or delivered to them.

#### **Article 24. Decisions of the Equal Opportunities Ombudsman**

1. Upon the completion of the investigation, the Equal Opportunities Ombudsman may take a decision:

- to refer the material to investigative bodies if indications of an offence have been established;
- to address an appropriate person or institution with a recommendation to discontinue the actions violating equal opportunities or to repeal a legal act relating to that;
- to hear cases of administrative offences and impose administrative sanctions;
- to dismiss the complaint if the violations mentioned in it have not been corroborated;
- to discontinue the investigation if the complainant withdraws the complaint or there is a lack of objective data on the committed violation;
- to give a notice for the committed violation;
- to temporarily suspend the investigation of the complaint, if a person whose complaint or actions are under investigation is ill or out of office.

#### **Article 25. The Binding Character of the Requests of the Equal Opportunities Ombudsman**

1. At the request of the Equal Opportunities Ombudsman, State government and administration institutions, enterprises, institutions and organisations shall forthwith make available to him/her the information, documents and material necessary for carrying out the Ombudsman's functions.

2. During the investigation of the complaint, the Equal Opportunities Ombudsman shall have the right to request that the person whose activities are under investigation provide an explanation. The said person must provide an explanation within 10 working days.

3. Persons obstructing the Equal Opportunities Ombudsman to exercise his/her duties shall be held liable under the law.

#### **Article 26. Salary and Social Guarantees of the Equal Opportunities Ombudsman**

1. The Equal Opportunities Ombudsman shall be paid a salary in the amount of 5 average wages (the average wage of the national economy of the Republic of Lithuania -AW) of the preceding month. The Equal Opportunities Ombudsman shall not be paid any supplements or bonuses.

2. After the Law on the Payment of State Politicians, Judges and Civil Servants enters into force the terms of payment system foreseen in the latter law shall be applied to the Equal Opportunities Ombudsman.

3. Equal Opportunities Ombudsman shall be insured as foreseen in the Law on State Social Insurance.

#### **Article 27. Reports about the Activities of the Equal Opportunities Ombudsman**

Each year, by the 15<sup>th</sup> of March, the Equal Opportunities Ombudsman shall submit to the Seimas an annual report for the preceding calendar year about the activities of the Office of the Equal Opportunities Ombudsman. The report shall be considered at the Seimas and shall be made public.

#### **Article 28. Transparency of the Activities of the Office of the Equal Opportunities Ombudsman**

The Office of the Equal Opportunities Ombudsman shall provide to the press and other mass media information about the investigation of a complaint relating to violation of equal opportunities only subject to the consent of the complainant.

### **Chapter VI FINAL PROVISIONS**

#### **Article 29. Recommendations to the Government of the Republic of Lithuania**

It shall be recommended to the Government of the Republic of Lithuania to set aside premises for the Office of the Equal Opportunities Ombudsman within 10 days after entry of this Law into force.

#### **Article 30. Entry into Force**

This Law shall enter into force on March 1, 1999.

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS

*Latest amendments to the Law were passed on **18 June 2002**.*



# ACT OF GERMANY

## Act Implementing European Directives Putting

Into Effect the Principle of Equal Treatment

Quote: General Act on Equal Treatment of 14th August 2006 (Federal Law Gazette I, page 1897), last amended by Article 15, para 66 of the Act of 5 February 2009 (Federal Law Gazette 1, page 160)

### Article 1 General Act on Equal Treatment

#### Part 1 General Provisions

##### § 1

##### Purpose

The purpose of this Act is to prevent or to stop discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation.

##### § 2

##### Scope

(1) For the purposes of this Act, any discrimination within the meaning of Section 1 shall be inadmissible in relation to:

1. conditions for access to dependent employment and self-employment, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of professional hierarchy, including promotion;
2. employment conditions and working conditions, including pay and reasons for dismissal, in particular in contracts between individuals, collective bargaining agreements and measures to implement and terminate an employment relationship, as well as for promotion;
3. access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
4. membership of and involvement in an organisation of workers or employers or any organisation whose members carry on a particular profession, including all benefits provided for by such organisations;
5. social protection, including social security and health care;
6. social advantages;
7. education;
8. access to and supply of goods and services which are available to the public, including housing.

(2) Section 33c Social Code, Book I and Section 19a Social Code, Book IV shall apply to

social benefits. The Company Pensions Act (Betriebsrentengesetz) shall apply to company pension schemes.

(3) The application of other prohibitions of discrimination or laws on equal treatment shall remain unaffected by this Act. The same shall apply, *mutatis mutandis*, to provisions under public law which serve the protection of specific groups of persons.

(4) Only the provisions governing the protection against unlawful dismissal in general and specific cases shall apply to dismissals.

### **§ 3**

#### **Definitions**

(1) Direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on any of the grounds referred to under Section 1. Direct discrimination on grounds of sex shall also be taken to occur in relation to Section 2(1) Nos 1 to 4 in the event of the less favourable treatment of a woman on account of pregnancy or maternity.

(2) Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons at a particular disadvantage compared with other persons on any of the grounds referred to under Section 1, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

(3) Harassment shall be deemed to be discrimination when an unwanted conduct in connection with any of the grounds referred to under Section 1 takes place with the purpose or effect of violating the dignity of the person concerned and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

(4) Sexual harassment shall be deemed to be discrimination in relation to Section 2(1) Nos 1 to 4, when an unwanted conduct of a sexual nature, including unwanted sexual acts and requests to carry out sexual acts, physical contact of a sexual nature, comments of a sexual nature, as well as the unwanted showing or public exhibition of pornographic images, takes place with the purpose or effect of violating the dignity of the person concerned, in particular where it creates an intimidating, hostile, degrading, humiliating or offensive environment.

(5) An instruction to discriminate against a person on any of the grounds referred to under Section 1 shall be deemed as discrimination. Such an instruction shall in particular be taken to occur in relation to Section 2(1) Nos 1 to 4 where a person instructs an employee to conduct which discriminates or can discriminate against another employee on one of the grounds referred to under Section 1.

### **§ 4**

#### **Unequal Treatment on Several Grounds**

Where unequal treatment occurs on several of the grounds referred to under Section 1, this unequal treatment may only be justified under Sections 8 to 10 and 20 when the

justification extends to all those grounds for which the equal treatment occurred.

## **§ 5**

### **Positive Action**

Notwithstanding the grounds referred to under Sections 8 to 10 and 20, unequal treatment shall only be permissible where suitable and appropriate measures are adopted to prevent or compensate for disadvantages arising on any of the grounds referred to under Section 1.

## **Part 2 Protection of Employees Against Discrimination**

### **Chapter 1 Prohibition of Discrimination**

## **§ 6**

### **Persons Covered**

(1) For the purposes of this Act, “employee” shall refer to

1. persons in dependent employment (salaried employees, workers);
2. persons employed for the purposes of their vocational training;
3. persons of similar status on account of their dependent economic status, including those engaged in home work and those equal in law to home workers. “Employee” shall here also refer to those applying for an employment relationship and persons whose employment relationship has ended.

(2) For the purposes of Part 2, “employer” shall refer to natural and legal persons as well as unincorporated firms with legal capacity employing persons referred to in Subsection (1). Where employees are transferred to a third party for the performance of work and services, the employer shall also be classified as such within the meaning of Part 2. The client or intermediary shall take the place of the employer in the case of employees engaged in home work and those equal in law to home workers.

(3) Insofar as the conditions for access to gainful employment and promotion are affected, the provisions under Part 2 shall apply, *mutatis mutandis*, to the self-employed and to members of an organ of an enterprise, in particular directors and board members.

## **§ 7**

### **Prohibition of Discrimination**

(1) Employees shall not be permitted to suffer discrimination on any of the grounds referred to under Section 1; this shall also apply where the person committing the act of discrimination only assumes the existence of any of the grounds referred to under Section 1.

(2) Any provisions of an agreement which violate the prohibition of discrimination under Subsection (1) shall be ineffective.

(3) Any discrimination within the meaning of Subsection (1) by an employer or employee

shall be deemed a violation of their contractual obligations.

## **§ 8**

### **Permissible Difference of Treatment On Grounds of Occupational Requirements**

(1) A difference of treatment on any of the grounds referred to under Section 1 shall not constitute discrimination where, by reason of the nature of the particular occupational activities or of the context in which they are carried out, such grounds constitute a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.

(2) The agreement of a lower rate of remuneration for the same or equivalent work on any of the grounds referred to under Section 1 shall not be justified on account of special regulations applying for any of the reasons referred to under Section 1.

## **§ 9**

### **Permissible Difference of Treatment On Grounds of Religion or Belief**

(1) Notwithstanding Section 8, a difference of treatment on the grounds of religion or belief of employees of a religious community, facilities affiliated to it (regardless of their legal form) or organisations which have undertaken conjointly to practice a religion or belief, shall not constitute discrimination where such grounds constitute a justified occupational requirement for a particular religion or belief, having regard to the ethos of the religious community or organisation in question and by reason of their right to self-determination or by the nature of the particular activity.

(2) The prohibition of different treatment on the grounds of religion or belief shall be without prejudice to the right of the religious community referred to under Section 1, the facilities assigned to it (regardless of their legal form) or organisations which have undertaken conjointly to practice a religion or belief, to require individuals working for them to act in good faith and with loyalty to the ethos of the organisation.

## **§ 10**

### **Permissible Difference of Treatment On Grounds of Age**

Notwithstanding Section 8, a difference of treatment on grounds of age shall likewise not constitute discrimination if it is objectively and reasonably justified by a legitimate aim. The means of achieving that aim must be appropriate and necessary. Such differences of treatment may include, among others:

1. the setting of special conditions for access to employment and vocational training, as well as particular employment and working conditions, including remuneration and dismissal conditions, to ensure the vocational integration of young people, older workers and persons with caring responsibilities and to ensure their protection;
2. the fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment;
3. the fixing of a maximum age for recruitment which is based on specific training requirements of the post in question or the need for a reasonable period of employment

before retirement;

4. the fixing of upper age limits in company social security systems as a precondition for membership of or the drawing of an old-age pension or for invalidity benefits, including fixing different age limits within the context of these systems for certain employees or categories of employees and the use of criteria regarding age within the context of these systems for the purposes of actuarial calculations;

5. agreements providing for the termination of the employment relationship without dismissal at a point in time when the employee may apply for payment of an old-age pension; Section 41 Social Code, Book VI shall remain unaffected;

6. differentiating between social benefits within the meaning of the Works Constitution Act (Betriebsverfassungsgesetz), where the parties have created a regulation governing compensation based on age or length of service whereby the employee's chances on the labour market (which are decisively dependent on his or her age) have recognisably been taken into consideration by means of emphasising age relatively strongly, or employees who are economically secure are excluded from social benefits because they may be eligible to draw an old-age pension after drawing unemployment benefit.

## **Chapter 2 Employer Obligations**

### **§ 11**

#### **Advertisement of Vacancies**

A vacancy shall not be advertised in violation of Section 7(1).

### **§ 12**

#### **Employer Action and Duties**

(1) The employer has the duty to take measures necessary to ensure protection against discrimination on any of the grounds referred to under Section 1. This protection shall also cover preventive measures.

(2) The employer shall draw attention to the inadmissibility of such discrimination in a suitable manner, in particular within the context of training and further training, and shall use his or her influence to ensure that such discrimination does not occur. Where an employer has trained his or her employees in an appropriate manner for the purpose of preventing discrimination, he or she shall be deemed to have fulfilled his or her duties under Subsection (1).

(3) Where employees violate the prohibition of discrimination under Section 7(1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to put a stop to the discrimination; this may include cautioning, moving, relocating or dismissing the employee in question.

(4) Where employees are discriminated against in the pursuance of their profession by third persons within the meaning of Section 7(1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to protect the employee in question.

(5) This Act and Section 61b of the Labour Courts Act (Arbeitsgerichtsgesetz), as well



as information concerning the departments competent to handle complaints pursuant to Section 13 shall be made known in the enterprise or public authority. This may be done by putting up a notice or displaying information leaflets in a suitable place or by using the information and communication channels normally used in the enterprise or authority.

## **Chapter 3 Employee Rights**

### **§ 13**

#### **Right of Appeal**

(1) Employees shall have the right to lodge a complaint with the competent department in the firm, company or authority when they feel discriminated against in connection with their employment relationship by their employer, superior, another employee or third party on any of the grounds referred to under Section 1. The complaint shall be examined and the complainant informed of the result of the examination.

(2) The rights of worker representatives shall remain unaffected.

### **§ 14**

#### **Right to Refuse Performance**

Where the employer takes no or takes obviously unsuitable measures to stop the harassment or sexual harassment in the workplace, the affected employees shall have the right to refuse performance without loss of pay insofar as this is necessary for their protection. Section 273 of the German Civil Code (Bürgerliches Gesetzbuch) shall remain unaffected.

### **§ 15**

#### **Compensation and Damages**

(1) In the event of a violation of the prohibition of discrimination, the employer shall be under the obligation to compensate the damage arising therefrom. This shall not apply where the employer is not responsible for the breach of duty.

(2) Where the damage arising does not constitute economic loss, the employee may demand appropriate compensation in money. This compensation shall not exceed three monthly salaries in the event of non-recruitment, if the employee would not have been recruited if the selection had been made without unequal treatment.

(3) The employer shall only be under the obligation to pay compensation where collective bargaining agreements have been entered into when he or she acted with intent or with gross negligence.

(4) Any claim resulting from Subsection (1) or (2) must be asserted in writing within a period of two months, unless the parties to a collective bargaining agreement have agreed otherwise. In the case of an application or promotion, the time limit shall commence on the date on which the rejection is received; in other cases of discrimination the time limit shall commence on the date on which the employee learns of the discrimination.

(5) This shall be without prejudice to other claims against the employer resulting from other legal provisions.

(6) Any violation on the part of the employer of the prohibition of discrimination under Section 7(1) shall not justify a claim to the establishment of an employment relationship, a vocational training relationship or to promotion, unless such a relationship or promotion results from another legal ground.

## **§ 16**

### **Prohibition of Victimisation**

(1) The employer shall not be permitted to discriminate against employees who assert their rights under Part 2 or on account of their refusal to carry out instructions that constitute a violation of the provisions of Part 2. The same shall apply to persons who support the employee in this or who testify as a witness.

(2) The rejection or toleration of discriminatory conduct by an affected employee may not be used as the basis for a decision affecting that employee. Subsection (1) second sentence shall apply *mutatis mutandis*.

(3) Section 22 shall apply *mutatis mutandis*.

## **Chapter 4 Supplementary Provisions**

## **§ 17**

### **Social Responsibility of the Involved Parties**

(1) The parities to collective bargaining agreements, employers, employees and their representatives shall be required to become actively involved in achieving the goal set out in Section 1 within the context of their duties and scope of action.

(2) Where the employer commits a gross violation of the provisions of Part 2 in an enterprise in which the conditions pursuant to Section 1(1) first sentence of the Works Constitution Act are present, the Works Council or a trade union represented in the enterprise may also assert before a court the rights set out in Section 23(3) first sentence Works Constitution Act if the preconditions therein are present; Section 23(3) second to fifth sentences of the Works Constitution Act shall apply *mutatis mutandis*. No claims of the person suffering discrimination shall be asserted in the application.

## **§ 18**

### **Membership of Organisations**

(1) The provisions set out in Part 2 shall apply, *mutatis mutandis*, to membership of or involvement in

1. a party to a collective bargaining agreement;
2. an organisation whose members belong to a specific occupational group or who have a dominating position of power in the economic or social sector if there is a basic interest in acquiring membership; as well as any associations thereof.

(2) Where a rejection constitutes a violation of the prohibition of discrimination under

Section 7(1), this shall constitute the right to membership of or involvement in the organisations referred to under Subsection (1).

### **Part 3 Protection Against Discrimination Under Civil Law**

#### **§ 19**

##### **Prohibition of Discrimination Under Civil Law**

(1) Any discrimination on the grounds of race or ethnic origin, sex, religion, disability, age or sexual orientation shall be illegal when founding, executing or terminating civil-law obligations which

1. typically arise without regard of person in a large number of cases under comparable conditions (bulk business) or where the regard of person is of subordinate significance on account of the obligation and the comparable conditions arise in a large number of cases ; or which
2. have as their object a private-law insurance.

(2) Any discrimination on the grounds of race or ethnic origin shall furthermore be illegal within the meaning of Section 2(1) Nos 5 to 8 when founding, executing or terminating other civil-law obligations.

(3) In the case of rental of housing, a difference of treatment shall not be deemed to be discrimination where they serve to create and maintain stable social structures regarding inhabitants and balanced settlement structures, as well as balanced economic, social and cultural conditions.

(4) The provisions set out in Part 3 shall not apply to obligations resulting from family law and the law of succession.

(5) The provisions set out in Part 3 shall not apply to civil-law obligations where the parties or their relatives are closely related or a relationship of trust exists. As regards tenancy, this may in particular be the case where the parties or their relatives use housing situated on the same plot of land. The rental of housing for not only temporary use shall generally not constitute business within the meaning of Subsection (1) No 1 where the lessor does not let out more than 40 apartments in total.

#### **§ 20**

##### **Permissible Differences of Treatment**

(1) Differences of treatment on grounds of religion, disability, age, sexual orientation or sex shall not be deemed to be a violation of the prohibition of discrimination if they are based on objective grounds. Such differences of treatment may include, among others, where the difference of treatment

1. serves the avoidance of threats, the prevention of damage or another purpose of a comparable nature;
2. satisfies the requirement of protection of privacy or personal safety;
3. grants special advantages and there is no interest in enforcing equal treatment;
4. is based on the concerned person's religion and is justified with regard to the exercise

of the right to freedom of religion or the right to self-determination of religious communities, facilities affiliated to them (regardless of their legal form) and organisations which have undertaken conjointly to practice a religion or belief, given their respective ethos.

(2) Differences of treatment on the ground of sex shall only be permitted in case of the application of Section 19(1) No 2 with reference to premiums and benefits where the use of sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data. Costs arising from pregnancy and maternity may on no account lead to the payment of different premiums and benefits. Differences of treatment on the ground of religion, disability, age or sexual orientation in the case of application of Section 19(1) No 2 shall be permissible only where these are based on recognised principles of risk-adequate calculations, in particular on an assessment of risk based on actuarial calculations which are in turn based on statistical surveys.

## **§ 21**

### **Enforcement**

(1) Where a breach of the prohibition of discrimination occurs, the disadvantaged person may, regardless of further claims being asserted, demand that the discriminatory conduct be stopped. Where other discrimination is to be feared, he or she may sue for an injunction.

(2) Where a violation of the prohibition of discrimination occurs, the person responsible for committing the discrimination shall be obligated to compensate for any damage arising therefrom. This shall not apply where the person committing the discrimination is not responsible for the breach of duty. The person suffering discrimination may demand appropriate compensation in money for the damage, however not for economic loss.

(3) Claims in tort shall remain unaffected.

(4) The person responsible for committing the discrimination shall not be permitted to refer to an agreement which derogates from the prohibition of discrimination.

(5) Any claims arising from Subsections (1) and (2) must be asserted within a period of two months. After the expiry of the time limit the claim may only be asserted when the disadvantaged person was prevented from meeting the deadline through no fault of their own.

## **Part 4 Defence of Rights**

## **§ 22**

### **Burden of Proof**

Where, in case of conflict, one of the parties is able to establish facts from which it may be presumed that there has been discrimination on one of the grounds referred to in Section 1, it shall be for the other party to prove that there has been no breach of the provisions prohibiting discrimination.

## **§ 23**

### **Support from Anti-Discrimination Organisations**

(1) “Anti-discrimination organisation” shall refer to any association of persons which attends to the particular interests of persons or groups of persons discriminated against within the meaning of Section 1; in accordance with their statutes these organisations must operate on a non-profit and non-temporary basis. The powers set out in Subsections (2) to (4) shall be granted to such organisations with at least 75 members or an association comprising at least seven organisations.

(2) Anti-discrimination organisations shall be authorised, under the terms of their statutes to act as legal advisor to a disadvantaged person in the court hearings. Otherwise, the provisions set out in the rules of procedure, in particular those according to which legal advisors may be barred from being heard, shall remain unaffected.

(3) Anti-discrimination organisations shall be permitted to be entrusted with the legal affairs of disadvantaged persons under the terms of their statutes.

(4) The special rights of action and powers of representation of associations for the benefit of disabled persons shall remain unaffected.

## **Part 5 Special Regulations Applying to Public-Law Employment Relationships**

### **§ 24**

#### **Special Regulation Applying to Public-Law Employment Relationships**

The provisions of this Act shall apply, mutatis mutandis, taking into consideration their special legal relationship, to

1. civil servants of the Federal Administration, the Länder, local authorities, local authority associations, as well as other public-law bodies, institutions and foundations under the jurisdiction of the Federal Administration or one of the Länder;
2. judges of the Federal Administration and the Länder;
3. persons undertaking alternative military service (Zivildienstleistende) and recognised conscientious objectors, insofar as they are required to undertake alternative military service.

## **Part 6 Anti-Discrimination Agency**

### **§ 25**

#### **Federal Anti-Discrimination Agency**

(1) The federal agency for the protection against discrimination on any of the grounds referred to in Section 1 (Federal Anti-Discrimination Agency) shall be established within the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, regardless of the competence of any Parliamentary Commissioners of the German Bundestag or Federal Government Commissioners.

(2) The Federal Anti-Discrimination Agency shall be provided with the personnel and materials required to fulfil its tasks. It shall be identified as a separate chapter in the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth’s individual plan.



## § 26

### **Legal Status of the Head of the Federal Anti-Discrimination Agency**

(1) The Federal Minister for Family Affairs, Senior Citizens, Women and Youth shall appoint a person to head the Federal Anti-Discrimination Agency, based on a suggestion put forward by the Federal Government. In accordance with this Act, the relationship between the Agency and the Federal Administration shall be that of an official public-law relationship (öffentlich-rechtliches Amtsverhältnis). The Agency shall be independent in the execution of its duties and only subject to the law.

(2) The official relationship under public law shall commence upon the handing over of the certificate of appointment by the Federal Minister for Family Affairs, Senior Citizens, Women and Youth.

(3) The official relationship under public law shall end, unless by death,

1. with the assembly of a new Bundestag;
2. with the end of the period of office upon the incumbent reaching the age limit set out in Section 51 para 1 and 2 of the Federal Civil Servants Act, (Bundesbeamtengesetz);
3. upon the incumbent being discharged. The Federal Minister for Family Affairs, Senior Citizens, Women and Youth shall discharge the head of the Federal Anti-Discrimination Agency upon his or her request or when grounds arise which, in the case of a judge appointed for life, would give rise to discharge from duty. In the event of the termination of the official relationship under public law, the head of the Federal Anti-Discrimination Agency shall receive a certificate executed by the Federal Minister for Family Affairs, Senior Citizens, Women and Youth. The discharge shall become effective upon the handing over of the certificate.

(4) The legal relationship between the head of the Federal Anti-Discrimination Agency and the Federal Administration shall be regulated by contract with the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. The contract shall require the consent of the Federal Government.

(5) Where a federal civil servant is appointed head of the Federal Anti-Discrimination Agency, he or she shall retire from his or her previous office at the same time as the official relationship under public law commences. For the period of the official relationship under public law, the rights and duties associated with being a civil servant shall be suspended, with the exception of the duty to official secrecy and the prohibition of accepting rewards or gifts. Where civil servants are injured in an accident, their legal right to claim treatment and compensation shall remain unaffected.

## § 27

### **Tasks**

(1) Any person who believes he or she has been discriminated against on any of the grounds referred to in Section 1 may take their case to the Federal Anti-Discrimination Agency.

(2) The Federal Anti-Discrimination Agency shall give independent assistance to persons addressing themselves to the Agency in accordance with Subsection (1) in asserting their

rights to protection against discrimination. Such assistance may, among other things, involve

1. providing information concerning claims and possible legal action based on legal provisions providing protection against discrimination;
2. arranging for advice to be provided by another authority;
3. endeavouring to achieve an out-of-court settlement between the involved parties.

Where responsibility lies either with a Parliamentary Commissioner of the German Bundestag or a Federal Government Commissioner, the Federal Anti-Discrimination Agency shall immediately pass on the matters of the person referred to in Subsection (1), with their prior approval.

(3) The Federal Anti-Discrimination Agency shall take on and independently carry out the following tasks, insofar as no Parliamentary Commissioner of the Bundestag or Federal Government Commissioner is competent in the matter:

1. publicity work;
2. measures to prevent discrimination on any of the grounds referred to in Section 1;
3. academic studies into such discrimination.

(4) The Federal Anti-Discrimination Agency and the competent Federal Government Commissioner and Parliamentary Commissioner of the German Bundestag shall jointly submit reports to the German Bundestag every four years concerning cases of discrimination on any of the grounds referred to in Section 1 and shall make recommendations regarding the elimination and the prevention of such discrimination. They may jointly carry out academic studies into such discrimination.

(5) The Federal Anti-Discrimination Agency and the competent Federal Government Commissioner and Parliamentary Commissioner of the German Bundestag shall co-operate in cases of discrimination on several of the grounds referred to in Section 1.

## § 28

### Authority

(1) In cases in accordance with Section 27(2) second sentence, No 3, the Federal Anti-Discrimination Agency may request the involved parties to make submissions, insofar as the person who has turned to the Agency in accordance with Section 27(1) has consented thereto.

(2) All federal authorities and other federal public offices shall be under the obligation to assist the Federal Anti-Discrimination Agency in carrying out its tasks, in particular to supply the necessary information. The provisions regarding the protection of personal data shall remain unaffected.

## § 29

### Co-operation with Non-Governmental Organisations and Other Institutions

The Federal Anti-Discrimination Agency shall involve in an appropriate manner non-governmental organisations and institutions active in the field of the protection against

discrimination on any of the grounds referred to in Section 1 at European, Federal, Länder and regional level.

## **§ 30**

### **Advisory Council**

(1) The Federal Anti-Discrimination Agency shall be assigned an Advisory Council for the purposes of promoting dialogue with social groups and organisations whose goal is the protection against discrimination on any of the grounds referred to in Section 1. The Advisory Council shall advise the Federal Anti-Discrimination Agency as regards the submission of reports and recommendations to the German Bundestag in accordance with Section 27(4) and may put forward its own suggestions to that end and with regard to academic studies in accordance with Section 27(3) No 3.

(2) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall, in agreement with the head of the Federal Anti-Discrimination Agency as well the competent Federal Government Commissioner or Parliamentary Commissioner of the German Bundestag, appoint the members of this Advisory Council and a deputy for each member. The Advisory Council shall comprise representatives of social groups and organisations, as well as experts on issues concerning discrimination. The Advisory Council shall not exceed a total membership of 10 persons. The Advisory Council shall be made up of equal numbers of men and women.

(3) The Advisory Council shall adopt its own rules of procedure, which shall require the consent of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

(4) The members of the Advisory Council shall perform their duties in accordance with this Act on a voluntary basis. They shall have the right to claim expenses, travel costs, a per diem allowance and hotel expenses. The rules of procedure shall contain further details on these matters.

## **Part 7 Concluding Provisions**

## **§ 31**

### **Prohibition of Changing Any Provisions**

No agreement derogating from the provision of this Act may be made to the disadvantage of the persons protected thereby.

## **§ 32**

### **Final Provision**

General legal provisions shall apply unless this Act provides otherwise.

## **§ 33**

### **Transitional Provisions**

(1) As regards discrimination in accordance with Sections 611a, 611b and 612(3)

of the German Civil Code or sexual harassment pursuant to the Employee Protection Act (Act on the Protection of Employees from Sexual Harassment in the Workplace, Beschäftigtenschutzgesetz), the law applicable prior to 18 August 2006 shall find application.

(2) As regards discrimination on the grounds of race or ethnic origin, Sections 19 to 21 shall not apply to relationships under the law of obligations entered into prior to 18 August 2006. The first sentence shall not apply to subsequent changes to continuous obligations.

(3) As regards discrimination on the grounds of sex, religion, disability, age or sexual orientation, Sections 19 to 21 shall not apply to relationships under the law of obligations entered into prior to 1 December 2006. The first sentence shall not apply to subsequent changes to continuous obligations.

(4) As regards relationships under the law of obligations whose object is a private-law insurance, Section 19(1) shall not apply where these were entered into prior to 22 December 2007. The first sentence shall not apply to subsequent changes to such obligations.

This brochure is part of the public relations work of the Federal Anti-Discrimination Agency; it is made available free of charge and is not intended for sale.

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**As of:** August 2009

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## ACT OF JAPAN

# The Basic Law for a Gender-equal Society

(Law No. 78 of 1999)

### Contents

The Preamble

Chapter 1 General Provisions (Articles 1-12)

Chapter 2 Basic Policies Related to Promotion of Formation of a Gender-equal Society (Articles 13-20)

Chapter 3 The Council for Gender Equality (Articles 21-26)

Supplementary Provisions

Considering respect for individuals and equality under the law expressly stipulated under the Constitution, steady progress has been made in Japan through a number of efforts toward the realization of genuine equality between women and men together with efforts taken by the international community. However, even greater effort is required.

At the same time, to respond to the rapid changes occurring in Japan's socioeconomic situation, such as the trend toward fewer children, the aging of the population, and the maturation of domestic economic activities, it has become a matter of urgent importance to realize a Gender-equal Society in which men and women respect the other's human rights and share their responsibilities, and every citizen is able to fully exercise their individuality and abilities regardless of gender.

In light of this situation, it is vital to position the realization of a Gender-equal Society as a top-priority task in determining the framework of 21st-century Japan, and implement policies related to promotion of formation of a Gender-equal Society in all fields.

This law is hereby established in order to clarify the basic principles with regard to formation of a Gender-equal Society, to set a course to this end, and to promote efforts by the State and local governments and citizens with regard to formation of a Gender-equal Society comprehensively and systematically.



## Chapter 1 General Provisions

*(Purpose)*

### Article 1

In consideration of the urgency of realizing an affluent and dynamic society in which the human rights of both women and men are respected and which can respond to changes in socioeconomic circumstances, the purpose of this law is to comprehensively and systematically promote formation of a Gender-equal Society by laying out the basic principles in regard to formation of such a society, clarifying the responsibilities of the State and local governments and citizens, and also stipulating provisions to form the basis of policies related to promotion of formation of a Gender-equal Society.

*(Definitions)*

### Article 2

Under this law, the following definitions shall apply:

(1) Formation of a Gender-equal Society: Formation of a society where both women and men shall be given equal opportunities to participate voluntarily in activities in all fields as equal partners in the society, and shall be able to enjoy political, economic, social and cultural benefits equally as well as to share responsibilities.

(2) Positive action: Positive provision of the opportunities stipulated in the preceding item to either women or men within the necessary limits in order to redress gender disparities in terms of such opportunities.

*(Respect for the Human Rights of Women and Men)*

### Article 3

Formation of a Gender-equal Society shall be promoted based on respect for the human rights of women and men, including: respect for the dignity of men and women as individuals; no gender-based discriminatory treatment of women or men; and the securing of opportunities for men and women to exercise their abilities as individuals.

*(Consideration to Social Systems or Practices)*

### Article 4

In consideration that social systems or practices can become factors impeding formation of a Gender-equal Society by reflecting the stereotyped division of roles on the basis of gender, etc., thus having a non-neutral effect on the selection of social activities by women and men, care should be taken so that social systems and practices have as neutral an impact as possible on this selection of social activities.

*(Joint Participation in Planning and Deciding Policies, etc.)*

### Article 5

Formation of a Gender-equal Society shall be promoted based on securing opportunities for women and men to participate jointly as equal partners in the society in planning and deciding policies of the State or local governments, or policies of private bodies.

*(Compatibility of Activities in Family Life and Other Activities)*

### Article 6

Formation of a Gender-equal Society shall be promoted so that women and men can

perform their roles smoothly as household members in home-related activities, including child-raising and nursing of family members through mutual cooperation and social support, and can thus perform activities other than these.

*(International Cooperation)*

#### **Article 7**

In consideration of the close relationship between internal promotion of formation of a Gender-equal Society and efforts by the international community, formation of a Gender-equal Society shall be promoted based on international cooperation.

*(Responsibility of the State)*

#### **Article 8**

The State is responsible for the comprehensive formulation and implementation of policies related to promotion of formation of a Gender-equal Society (including positive action. The same shall apply hereinafter.) pursuant to the basic principles on formation of a Gender-equal Society prescribed in Articles 3 to 7 (hereinafter referred to as the «basic principles»).

*(Responsibility of Local Governments)*

#### **Article 9**

Local governments are responsible for the formulation and implementation of policies related to promotion of formation of a Gender-equal Society corresponding to national measures, and other policies in accordance with the nature of the areas of local governments, pursuant to the basic principles.

*(Responsibility of Citizens)*

#### **Article 10**

Citizens shall make efforts to contribute to formation of a Gender-equal Society in all areas of society, including workplaces, schools, the local community and the home, pursuant to the basic principles.

*(Legislative Measures, etc.)*

#### **Article 11**

The Government shall take legislative, financial and other measures required to implement the policies related to promotion of formation of a Gender-equal Society.

*(Annual Reports, etc.)*

#### **Article 12**

1. The Government shall submit annually to the Diet a report on the state of formation of a Gender-equal Society and the policies implemented by the Government related to promotion of formation of a Gender-equal Society.

2. The Government shall make and submit annually to the Diet a document explaining the policies the Government is going to implement related to promotion of formation of a Gender-equal Society, considering the state of formation of the society described in the report in the preceding paragraph.

## Chapter 2 Basic Policies Related to Promotion of Formation of a Gender-equal Society

*(Basic Plan for Gender Equality)*

### Article 13

1. The Government shall establish a basic plan with regard to the promotion of formation of a Gender-equal Society (hereinafter referred to as “Basic Plan for Gender Equality”), in order to comprehensively and systematically implement policies related to promotion of formation of a Gender-equal Society.

2. The Basic Plan for Gender Equality shall stipulate the following items:

(1) The outline of the policies which should be implemented comprehensively and over the long term related to promotion of formation of a Gender-equal Society.

(2) Besides the preceding item, matters required to comprehensively and systematically implement policies related to promotion of formation of a Gender-equal Society.

3. The Prime Minister of Japan shall formulate a draft of the Basic Plan for Gender Equality and ask the Cabinet for its decision, after hearing the opinion of the Council for Gender Equality.

4. The Prime Minister shall announce the Basic Plan for Gender Equality without delay, when the Cabinet has made its decision in accordance with the preceding paragraph.

5. The preceding two paragraphs shall apply mutatis mutandis to changes of the Basic Plan for Gender Equality.

*(Prefectural Plans for Gender Equality, etc.)*

### Article 14

1. Taking into consideration the Basic Plan for Gender Equality, the prefectures shall establish basic plans with regard to policies related to the promotion of formation of a Gender-equal Society within the areas of the prefectures (hereinafter referred to as «Prefectural Plans for Gender Equality»).

2. Prefectural Plans for Gender Equality shall stipulate the following items:

(1) The outline of the policies which should be implemented comprehensively and over the long term related to promotion of formation of a Gender-equal Society within the areas of the prefectures.

(2) Besides the preceding item, matters required to comprehensively and systematically implement policies related to promotion of formation of a Gender-equal Society within the areas of the prefectures.

3. Taking into consideration the Basic Plan for Gender Equality and Prefectural Plans for Gender Equality, the municipalities shall make efforts to establish basic plans with regard to policies related to the promotion of formation of a Gender-equal Society within the areas of the municipalities (hereinafter referred to as «Municipal Plans for Gender Equality»).

4. When the prefectures or the municipalities establish or modify their Prefectural Plans for Gender Equality, or their Municipal Plans for Gender Equality, they shall announce them without delay.

*(Consideration in Formulation of Policies, etc.)*

**Article 15**

When formulating and implementing policies recognized as influencing formation of a Gender-equal Society, the State and local governments shall consider formation of a Gender-equal Society.

*(Measures to Increase Understanding of Citizens)*

**Article 16**

The State and local governments shall take appropriate measures through public relations activities, etc., to increase understanding of citizens on the basic principles.

*(Handling Complaints, etc.)*

**Article 17**

The State shall take necessary measures for handling complaints in regard to policies implemented by the government which are related to promotion of formation of a Gender-equal Society or which are recognized as influencing formation of a Gender-equal Society, and, necessary measures intended for relief of victims whose human rights have been infringed through factors impeding formation of a Gender-equal Society including gender-based discriminatory treatment.

*(Study and Research)*

**Article 18**

The State shall make efforts to promote necessary study and research for the formulation of policies related to promotion of formation of a Gender-equal Society, including study and research for the effect of social systems and practices on formation of a Gender-equal Society.

*(Measures for International Cooperation)*

**Article 19**

To promote formation of a Gender-equal Society based on international cooperation, the State shall make efforts to take necessary measures for exchanges of information with foreign governments and international institutions, and the smooth promotion of international mutual cooperation related to formation of a Gender-equal Society.

*(Support for Local Governments and Private Bodies)*

**Article 20**

To support policies implemented by local governments related to promotion of formation of a Gender-equal Society and the activities taken by private bodies with regard to promotion of formation of a Gender-equal Society, the State shall make efforts to take necessary measures, including providing information.

### Chapter 3 Council for Gender Equality

*(Council for Gender Equality)*

#### **Article 21**

1. There is hereby established a Council for Gender Equality (hereinafter referred to as the “Council”) in the Prime Minister’s Office.
2. The Council shall be in charge of the following tasks:
  - (1) To handle the tasks stipulated in Article 13 Paragraph 3 with regard to the Basic Plan for Gender Equality.
  - (2) In addition to the task referred to in the preceding item, to study and deliberate on basic and comprehensive policies and important matters with regard to promotion of formation of a Gender-equal Society in response to the consultation by the Prime Minister or other respective Ministers concerned.
3. The Council may submit its opinions to the Prime Minister or other respective Ministers concerned with regard to the matters stipulated in the preceding paragraph.

*(Organization)*

#### **Article 22**

1. The Council shall be composed of no more than 25 members.
2. Each number of women and men members of the Council may not fall below 40 percent of the total number of the members.

*(Council Members)*

#### **Article 23**

1. The Council members shall be appointed by the Prime Minister from among persons of learning and experience.
2. The Council members shall serve a term of two years. However, members who have stepped in as substitutes shall serve the amount of time remaining of the original member’s term.
3. The Council members can be re-appointed.
4. The Council members shall serve on a part-time basis.

*(Council Chairperson)*

#### **Article 24**

1. The Council shall be headed by a Chairperson elected by the Council members from among the Council members.
2. The Chairperson shall preside over Council affairs and represent the Council.
3. When the Chairperson meets with an accident, a Council member designated beforehand by the Chairperson shall act as proxy Chairperson.

*(Submission of Materials and Other Cooperation)*

#### **Article 25**

1. The Council may seek necessary cooperation from the heads of related administrative institutions including the submission of materials, statements of views, and explanations where this is recognized as necessary in the Council’s execution of its duties.



2. The Council may also seek necessary cooperation from persons other than those stipulated in the preceding paragraph, where this is recognized as especially necessary in the Council's execution of its duties.

*(Stipulation by Cabinet Ordinance)*

## **Article 26**

Any necessary Council-related provisions which are not stipulated in this Chapter shall be stipulated by Cabinet ordinance.

Supplementary Provisions

*(Date of Enforcement)*

## **Article 1**

This law shall enter into force on the day of promulgation.

*(Abrogation of the Establishment Law of the Council for Gender Equality)*

## **Article 2**

The Establishment Law of the Council for Gender Equality (Law No. 7 of 1997) shall be abrogated.

*(Transitional Measures)*

## **Article 3**

1. The Council for Gender Equality established under Article 1 of the Establishment Law of the Council for Gender Equality (hereinafter referred to as «the old Council Establishment Law»), which existed before the abrogation stipulated in the preceding article, shall become the body entitled Council for Gender Equality as established under Article 21 Paragraph 1, and shall continue to exist as the one and the same entity.

2. When this Basic Law enters into force, those members appointed to the Council under the provisions in Article 4 Paragraph 1 of the old Council Establishment Law shall be regarded as having been appointed as members of the Council for Gender Equality under the provisions of Article 23 Paragraph 1 as of the date this law enters into force. In this case, regardless of the provision in Article 23 Paragraph 2, the term of service for those persons considered to have been appointed as above shall be the same as the term remaining as of the date this law enters into force for those members appointed to the Council according to the provisions in Article 4 Paragraph 2 of the old Council Establishment Law.

3. When this Law enters into force, the Chairperson of the Council as determined in the provisions of Article 5 Paragraph 1 in the old Council Establishment Law, or the Council member designated in the provisions of Article 5 Paragraph 3, shall be stipulated as the Chairperson as of the date this law enters into force according to the provisions of Article 24 Paragraph 1 in the case of the former, or, in the case of the latter, be regarded as having been designated as the Council member carrying out the Chairperson's duties on behalf of the Chairperson under the provisions in Article 24 Paragraph 3.

*(Partial Amendment of the Establishment Law of the Prime Minister's Office)*

## **Article 4**

The Establishment Law of the Prime Minister's Office (Law No. 127 of 1949) shall be partially amended as follows.

The following item shall be added after Article 4 (4):

(4-2) The draft of the Basic Plan for Gender Equality stipulated in Article 13 Paragraph 1 shall be formulated based on the provisions in Article 13 Paragraph 3 of the Basic Law for a Gender-equal Society (Law No. 78 of 1999).

The English language version of this law is a translation of an original document produced in Japanese. Any questions that may arise about the interpretation of the law shall be resolved with regard to the original Japanese document.

**(Tentative Translation in English, Source : [http://www.gender.go.jp/english\\_contents/index.html](http://www.gender.go.jp/english_contents/index.html))**

## ACT OF SLOVENIA

# ACT IMPLEMENTING THE PRINCIPLE OF EQUAL TREATMENT

### I. GENERAL PROVISIONS

#### Article 1 (Contents and purpose of the act)

(1) This act determines common bases and premises for ensuring the equal treatment of all persons in performing their duties and exercising their basic freedoms in every field of social life, and especially in the fields of employment, labour relations, participation in trade unions and interest associations, education, social security, access to and supply of goods and services. This shall be available, irrespective of personal circumstances such as nationality, racial or ethnic origin, sex, health state, disability, language, religious or other conviction, age, sexual orientation, education, financial state, social status or other personal circumstances.

(2) For the purpose referred to in the above paragraph, this act determines subjects that create conditions for the implementation of the principle of equal treatment, through measures within the framework of their competence and a raising of awareness amongst discriminated persons and alleged offenders, as well as in society as a whole. This act also introduces institutional preconditions for the activities of the Advocate of the Principle of Equality, an institution providing assistance to discriminated persons by dealing with cases of alleged unequal treatment under the provisions of this act.

(3) This act also determines common particularities valid for the legal protection of discriminated persons, by means of judicial and administrative proceedings, initiated on the grounds of violation of the ban on discrimination on the basis of personal circumstances, determined by law.

#### Article 2 (Application of the act)

(1) The provisions of this act do not exclude objectively and reasonably justified differentiated treatment or restrictions on the grounds of a specific personal circumstance, determined by special laws aimed to achieve a legitimate purpose.

(2) Assistance referred to in the second paragraph of Article 1 of this act does not interfere with competencies held on the basis of law by the Human Rights Ombudsman in relation to state bodies, bodies of local authorities and holders of public authority, nor with the fields of other forms of protection and assistance provided by relevant laws in individual legally regulated fields of social life.

(3) This act does not affect special forms of advocacy carried out by advocates, on meeting special conditions and under professional rules, in order to represent certain groups of

persons in the realisation and enforcement of their legal rights in accordance with special act.

#### Article 3 (Ban on discrimination and victimisation)

(1) An action considered discrimination under Articles 4 and 5 of this act shall be prohibited in every field of social life referred to in Article 1 of this act.

(2) In the event that, in spite of the ban referred to in the preceding paragraph, an act or omission should occur that is discrimination under Articles 4 and 5 of this act, the discriminated person must not be subjected to adverse consequences due to his/her actions (ban on victimisation).

## II. DEFINITION OF TERMS

#### Article 4 (Equal treatment)

(1) Equal treatment is the absence of direct or indirect discrimination on the grounds of any kind of personal circumstance referred to in Article 1 of this act (hereinafter: personal circumstance).

(2) Direct discrimination on grounds of personal circumstance occurs when a person has been, is or could be treated less favourably than another person in an equal or comparable situation on grounds of such a personal circumstance.

(3) Indirect discrimination on grounds of personal circumstance occurs when apparently neutral provision, criterion or practice in equal or comparable situations and under alike conditions put a person with a certain personal circumstance in a less favourable position compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

(4) Instructions with similar affect to that referred to in the previous paragraphs shall also be deemed to be direct or indirect discrimination.

#### Article 5 (Harassment)

(1) Harassment is any unwanted conduct, based on any kind of personal circumstance, which creates an intimidating, hostile, humiliating or offensive environment for a person or offends his or her dignity.

(2) Harassment referred to in the previous paragraph shall be deemed to be discrimination under the provisions of this act.

#### Article 6 (Positive measures)

Positive measures are temporary measures, determined by law, designed for the prevention of a less favourable position of persons with a particular personal circumstance or for the compensation for a less favourable position.

### III. BEARERS OF DUTIES AND THEIR RESPONSIBILITIES

#### Article 7 (General definition)

Within the framework of their competencies, the National Assembly of the Republic of Slovenia, the Government of the Republic of Slovenia (hereinafter: the Government), ministries and other state bodies and bodies of self-governing local communities shall establish conditions for equal treatment of persons, regardless of any kind of personal circumstance, through raising awareness and monitoring the situation in this field, as well as through measures of a normative and political nature.

Offices and governmental services, active in the field of equal treatment of persons regardless of personal circumstances, shall especially strive for implementation of the aim of this act within the framework of their field of work.

#### Article 8 (Co-operation with social partners and non-governmental organisations)

In the elaboration of solutions and proposals for the attainment of the purpose of this act, the Government and competent ministries shall co-operate with social partners and non-governmental organisations that are active in the field of equal treatment.

#### Article 9 (Council of the Government for the implementation of the principle of equal treatment)

(1) The Government shall establish a Council as its expert and consultative body for implementation of the principle of equal treatment (hereinafter: the Council).

(2) The Council shall perform the following duties in particular:

- it will provide for implementation of the provisions of this act,
- it will monitor, ascertain and assess the position of individual groups within society with regard to implementation of the principle of equal treatment,
- it will submit to the Government proposals, initiatives and recommendations for the adoption of directives and measures that are necessary for the implementation of the principle of equal treatment,
- it will submit proposals for the promotion of education, awareness-raising and research in the field of equal treatment of persons, -it will perform other duties, determined by the decree establishing it.

(3) The Council shall consist of representatives of individual ministries and governmental services, non-governmental organisations, as well as expert institutions active in the field of equal treatment.

(4) In performing its duties, the Council shall co-operate with competent state bodies and other institutions in the field of equal treatment of persons and of prevention of discrimination on the grounds of personal circumstances.

#### Article 10 (Duties of the Office for Equal Opportunities)

The Office for Equal Opportunities (hereinafter: the Office) shall co-ordinate the activities

of individual ministries and governmental services related to the implementation of this act as well as perform technical and administrative duties for the Council.

#### **IV. ADVOCATE OF THE PRINCIPLE OF EQUALITY**

##### **Article 11 (Institutional organisation)**

An Advocate of the Principle of Equality shall function within the Office in order to hear cases of alleged violations of the ban on discrimination. A special Advocate of the Principle of Equality (hereinafter: Advocate) may function for a specific personal circumstance, if the number of cases, their complexity or particularities with regard to a specific personal circumstance should require this.

##### **Article 12 (Initiating the hearing of a case)**

(1) Hearing a case of an alleged violation of the ban on discrimination (hereinafter: hearing a case) shall start on a written initiative or on a verbal initiative that is protocolled. Such an initiative may also be anonymous, but in all cases must include sufficient data for the case to be heard.

(2) The Advocate shall not hear initiatives where it is obvious that there is no case of violation of the ban on discrimination.

##### **Article 13 (Time limitation on an initiative)**

An initiative referred to in the previous article must be submitted as soon as possible, and not later than one year of the case originating. However, the Advocate may hear such a case even after the expiration of this time if she or he should consider the case to be so important or serious that hearing it would be reasonable with regard to the aim of this act.

##### **Article 14 (Informality of proceedings)**

(1) Hearing a case shall be informal and free of charge.

(2) The Advocate and other employees of the Office shall be bound by regulations on the protection of confidentiality and personal information with regard to all data of which they are informed when hearing cases.

##### **Article 15 (Procedure of hearing cases)**

(1) Hearing cases shall generally be done in writing, whereby the Advocate shall have the right to request the persons involved to provide him or her with appropriate explanations within a specified time-limit. The Advocate shall have the right to invite all persons involved to an interview if he or she should consider that this would contribute to clarification of a case.

(2) The Advocate shall cease hearing a case at the request of the initiator if the latter should show no interest in pursuing the case, or if he or she cannot continue hearing a case and conclude it with an opinion due to insufficient data.



### Article 16 (Orders in the event of victimisation)

In the event of a discriminated person being subjected to harmful consequences due to his or her actions in relation to cases of violation of the ban on discrimination in the environment in which the violation is alleged to have been committed, the Advocate, already in the course of hearing the case, shall order in writing the corporate body or other body in law where the violation of the ban on discrimination is alleged to have occurred to apply appropriate measures to protect the discriminated person from victimisation or adverse consequences that have occurred from victimisation.

### Article 17 (Written opinion)

(1) Hearing a case shall be concluded by a written opinion in which the Advocate states her or his findings and an assessment of the circumstances of the case, in the sense of the existence of a violation of the ban on discrimination, and informs both parties about it.

(2) In the opinion referred to in the previous paragraph, the Advocate shall have the right to point out irregularities discovered and to issue a recommendation on how these should be rectified, as well as call for the alleged offender to inform her or him, within a specified time-limit, of the measures taken.

### Article 18 (Request for an opinion)

When in doubt, an individual or a corporate body shall have the right to apply to the Advocate with a request for an opinion on whether a certain act, service or omission of his or hers could be considered a violation of the principle of equal treatment because of personal circumstances.

### Article 19 (Annual report)

(1) Every year, not later than the end of March for the past year, the Advocate shall prepare a report on her or his work, which the Office shall submit to the Government for adoption.

(2) In the event of there being more than one Advocates active within the Office in accordance with Article 11 of this act, the Advocates shall elaborate a joint report as referred to in the previous paragraph.

## **V. CEDING A CASE TO THE COMPETENT INSPECTION SERVICE**

### Article 20 (Cases to be ceded)

(1) In the event of an alleged offender not rectifying established irregularities in accordance with the recommendations of the Advocate or if she or he does not inform her or him within the time-limit about the measures adopted and in a case in which in the opinion of the Advocate, an alleged violation has all the indications of discrimination under Articles 4 and 5 of this act, the Advocate shall send a written opinion referred to in Article 17 of this act to the competent inspection service.

(2) A competent inspection service is an inspection service that by Law has jurisdiction in

an individual administrative field for supervision of the implementation of laws and other regulations, collective agreements and general documents, where action that represents discrimination under the provisions of this act has occurred.

#### Article 21 (Competencies of the inspector)

(1) If she or he should also consider that all the indications of discrimination under Articles 4 and 5 of this act can be established, the inspector shall be obliged to deal with the opinion of the Advocate and to propose to the competent body the introduction of a procedure due to a misdemeanour.

(2) Before introducing a procedure due to a misdemeanour, the inspector may, depending on the circumstances of an individual case and within the framework of her or his competencies that he or she commonly makes use of in exercising supervision, perform other acts required to establish the actual circumstances of the misdemeanour, as well as to rectify its consequences. She or he may also request from the Advocate other possible data from hearing of a case of an alleged violation by the Advocate.

(3) In the event of an alleged offender not having acted in accordance with the order of the Advocate referred to in Article 16 of this act and the discriminated person should still be subjected to victimisation, the inspector shall have the right and duty to prescribe appropriate measures that, in the circumstances that have arisen, protect the discriminated person from victimisation, or to prescribe the remedying of adverse consequences of victimisation.

### VI. PARTICULARITIES OF LEGAL PROTECTION OF DISCRIMINATED PERSONS

#### Article 22 (Legal protection and the burden of proof)

(1) In cases of violations of the ban on discrimination under Article 3 of this act, discriminated persons shall have the right to request with the hearing of a case of violation in judicial and administrative proceedings as well as before other competent bodies, under conditions and in a manner determined by law. They shall thereby be entitled to compensation according to general regulations of civil law.

(2) In cases where the discriminated person quotes facts in the proceedings referred to in the previous paragraph, justifying the allegation that the ban on discrimination has been violated, the alleged offender must prove that he or she did not violate the principle of equal treatment or the ban on discrimination in the case being heard.

#### Article 23 (Role of non-governmental organisations)

In accordance with the law, non-governmental organisations shall have the right to take part in judicial and administrative proceedings initiated by discriminated persons because of violation of the ban on discrimination.

## VII. PENAL PROVISIONS

### Article 24 (Definition of misdemeanours and sanctions)

(1) An act or omission, committed in the implementation of laws and other regulations, collective agreements and general documents in an individual field of social life, regulated by law, which has all the indications of discrimination under Articles 4 and 5 of this act, shall be a misdemeanour for which the offender shall be fined.

(2) An individual that commits a misdemeanour referred to in the previous paragraph shall be fined from 50,000 to 300,000 SIT.

(3) A corporate body or an individual entrepreneur at whose premises a misdemeanour referred to in the first paragraph was committed shall be fined from 500,000 to 10,000,000 SIT.

(4) The responsible person of a state body or of a self-governing local community where a misdemeanour referred to in the first paragraph was committed shall be fined from 50,000 to 500,000 SIT.

### Article 25 (Definition of misdemeanours in special laws)

Irrespective of the provisions of the previous article, a law regulating an individual field may, with regard to its content, specifically determine circumstances in which discrimination under Articles 4 and 5 of this act is prohibited, define offenders, and prescribe sanctions for a misdemeanour within the limits referred to in the previous the preceding article.

## VIII. TRANSITIONAL AND FINAL PROVISIONS

### Article 26 (Establishment of the Council)

The Government shall establish the Council referred to in Article 9 of this act within three months of this act entering into force.

### Article 27 (Commencement of the activities of the Advocate of the Principle of Equality)

The Advocate shall begin her or his work within three months of this act entering into force

### Article 28 (Levying of fines for misdemeanours)

(1) Until the day the Misdemeanours Act (Official Gazette RS, No. 7/2003) enters into force, the fines stipulated by this act shall be levied in the misdemeanours procedure as fines within the limits stipulated for a fine in the third and fourth paragraph of Article 24 of this act.

(2) Until the day the Misdemeanours Act referred to in the previous paragraph enters into force, an individual shall be fined for a misdemeanour specified in the second paragraph of Article 24, from 50,000 to 150,000 SIT.

Ur.l. RS, No. 50/2004 Ljubljana, 6 May 2004

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#### Article 29 (Entry into force of the act)

This act shall enter into force on the day following its promulgation in the Official Gazette of the Republic of Slovenia.

# ACT OF BOSNIA AND HERZEGOVINA

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 COMPETENT 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.



# **Chapter 6.**

**Canada. Action platform  
for the new century.**

**Report of the Canadian  
government. Action  
platform for the new  
century: Federal plan for  
gender equality**

**Setting the Stage  
for the Next Century:  
The Federal Plan for  
Gender Equality**

Status of Women Canada

Condition féminine Canada



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## SETTING THE STAGE FOR THE NEXT CENTURY: THE FEDERAL PLAN FOR GENDER EQUALITY

On the eve of the new century, we, as Canadians live in a time of accelerated change. Almost every aspect of our lives is being reshaped — from relationships within our families to relationships in the global community, and, of course, relationships between women and men.

The quest for gender equality has been a vigorous and vital stream of change in Canada in the last three decades, a current that cuts across all the issues of the day and touches each of our lives. Gender equality, by definition, involves both women and men as partners in the quest for fairness and in the benefits of equality. These changes will be vital to the future well-being of our daughters and sons.

As we approach the Fourth United Nations World Conference on Women in Beijing, the remaining question is — how do we move forward from here? More importantly, what role can each of us play in ensuring that women in Canada, and around the world, have the same opportunities as men to participate in, and contribute to society and to reap its benefits equally?

There is no question that women — and men — are living in a better Canada because of advances in gender equality. These advances have created change in the workplace, in public policy and public attitudes, and in our individual lives.

Canada and its people remain committed not only to the principle of gender equality but also to action that makes equality reality — even in these uncertain times. That means adapting our strategies for the times. In this report, *Setting the Stage for the Next Century: The Federal Plan for Gender Equality*, the government outlines its contributions to solutions. *The Federal Plan* strengthens the government's commitments to equality and sets a course to accelerate that progress.

Though we live in economically challenging times, gender equality is not a bonus of good times. Equality rights are human rights — a basic principle that shapes the way we live, in good times and hard times. We must take responsibility for the choices we make between cutting costs today and missing out on the immediate and longer-term benefits of an investment in gender equality.

The movement today is toward smaller and more cost-efficient government. In this spirit, the *Plan* proposes to effect change economically — through gender-based analysis, for example. It will change the way government looks at issues, designs programs, develops policies and enacts legislation. It will change the impact of government on the lives of women by including the perspectives of women. A relatively straightforward change in approach that promises far-reaching results.

Still, there is no one answer, no one action, no one player that can make equality happen. Gender equality is everybody's business. This *Plan* confirms the Government's role as part of a broad-based partnership in society, consulting and acting in concert with individuals and with public, para-public and private institutions.

Together, Canadians must advance gender equality in a complex and diverse society. Many factors — age, race, ethnocultural heritage, physical disability, personal circumstances — result in many different perspectives on equality. We must recognize and respect the different interests, different agendas and different aspirations that exist.

Many issues require attention: closing the gender gap in medical research and health care; appreciating women not only as consumers but also as contributors to public policies and to the public purse; sharing work and family responsibilities equitably between women and men; valuing women's work — both paid and unpaid; indeed, reintegrating market activity into the larger sphere of economic activity generally.

Equality is a health issue, not only for women, but for the whole nation. In a sense, gender equality is like a lifestyle change for the health of the nation. The changes we make today, and every day to come, will have lasting benefits.

In the new century, the nations considered the leaders of the world will be those which have achieved gender equality. They will be among other advanced nations for whom human development is the true measure of wealth and health. More than an issue of social justice, gender equality will be bundled with other forward-looking ideas. It is a concept that understands that the paramount human activity unfolds among individuals, in families and communities, to sustain and enhance the human condition. Formal economic activity must be at the service of this primary activity.

Canada is esteemed for its international leadership on gender equality. It is a respect we shall continue to earn, and to deserve, into the 21st century.

(signature)

Sheila Finestone

Secretary of State (Status of Women)

# TABLE OF CONTENTS

## Executive Summary

## Introduction

## Advancing Gender Equality

Equality Rights

Federal Government Machinery for the Advancement of Women

Provincial/Territorial Governments

Societal Partners

From Women's Equality to Gender Equality: Understanding the Concepts

## The Federal Plan for Gender Equality

Overview of *The Federal Plan*

OBJECTIVE 1 — IMPLEMENT GENDER-BASED ANALYSIS THROUGHOUT FEDERAL DEPARTMENTS AND AGENCIES

OBJECTIVE 2 — IMPROVE WOMEN'S ECONOMIC AUTONOMY AND WELL-BEING

OBJECTIVE 3 — IMPROVE WOMEN'S PHYSICAL AND PSYCHOLOGICAL WELL-BEING

OBJECTIVE 4 — REDUCE VIOLENCE IN SOCIETY, PARTICULARLY VIOLENCE AGAINST WOMEN AND CHILDREN

OBJECTIVE 5 — PROMOTE GENDER EQUALITY IN ALL ASPECTS OF CANADA'S CULTURAL LIFE

OBJECTIVE 6 — INCORPORATE WOMEN'S PERSPECTIVES IN GOVERNANCE

OBJECTIVE 7 — PROMOTE AND SUPPORT GLOBAL GENDER EQUALITY

OBJECTIVE 8 — ADVANCE GENDER EQUALITY FOR EMPLOYEES OF FEDERAL DEPARTMENTS AND AGENCIES

## Conclusion

**Index: Federal Departments and Agencies Involved**

**Endnotes**

## EXECUTIVE SUMMARY

### SETTING THE STAGE FOR THE NEXT CENTURY: THE FEDERAL PLAN FOR GENDER EQUALITY

Canada, along with all United Nations member countries, was called upon to formulate a national plan to advance the situation of women, both within its own borders and globally. *The Federal Plan for Gender Equality* is Canada's response to that request and its contribution toward the goals of the global *Platform for Action* to be adopted at the Fourth United Nations World Conference on Women in Beijing, China, in September 1995.

*The Federal Plan is a collaborative initiative reflecting the Government of Canada's resolve to progress toward gender equality. It is both a statement of commitments and a framework for the future,* representing the concerted effort of 24 federal departments and agencies, spearheaded by Status of Women Canada.

*The Federal Plan* begins with an overview of the actions and policies that have brought Canada closer to its goal of equality for all its citizens. It acknowledges the firm commitment and tireless efforts of people and organizations in every sector of Canadian life — governments at all levels, women's organizations, Non-Governmental Organizations (NGOs), voluntary organizations, and private-sector institutions — to achieve women's equality. It also acknowledges that there is still much work to be done.

*The Federal Plan for Gender Equality* recognizes the many different realities for women in Canada. These realities are the outcome not only of gender, but also of age, race, class, national and ethnic origin, sexual orientation, mental and physical disability, region, language and religion. Equality, the document states, can be achieved only by valuing this diversity.

*The Federal Plan* defines the elusive concept of gender equality, emphasizing that it refers not to women and men but to the relationship between them and to the ways in which their roles are socially constructed. Attaining gender equality is predicated on the achievement of equal outcomes for both women and men. The document recognizes that, despite progress, women have not achieved full equality with men nor gained equal access to all levels of decision making in Canadian society.

*The Federal Plan for Gender Equality* starts with the premise that both men and women must be involved in the quest for an equitable society and that benefits will accrue to both. It acknowledges that building and strengthening partnerships among women and between women and men, and among universities, community groups, NGOs, the private sector and all levels of government will be increasingly vital in the next few years, as shifting resources demand more effective and informed policy options.

The genesis of *The Federal Plan's* approach lies in the Government of Canada's recognition that horizontal collaboration among federal government departments and agencies is key to its successful implementation. Building on existing government initiatives, the document proposes new avenues for action. It is expected that *The Federal Plan* will continue to evolve

as departments and agencies update and elaborate their initiatives within a changing context, brought about by the major government renewal begun in 1994 and emerging domestic and global socio-economic trends.

*The Federal Plan* documents some of the salient global and domestic issues to be addressed in the movement toward full equality for women and men of Canada, and highlights broad directions that will guide future federal initiatives around eight major objectives. These objectives, fully taking into account the principal areas of critical concern, are outlined in the Beijing draft *Platform for Action*.

The document also elaborates a more detailed description of government commitments centred on these eight objectives.

**Objective 1: *Implement Gender-based Analysis throughout Federal Departments and Agencies***, puts forward a systematic process to inform and guide future legislation and policies at the federal level by assessing any potential differential impact on women and men. Hence, this objective underpins all subsequent objectives.

**Objective 2: *Improve Women's Economic Autonomy and Well-being***, promotes the valuation of paid and unpaid work performed by women, women's equitable participation in the paid and unpaid labour force and the equitable sharing of work and family responsibilities between women and men; encourages women's entrepreneurship; and promotes the economic security and well-being of women.

**Objective 3: *Improve Women's Physical and Psychological Well-being***, advances a women's health strategy that fully acknowledges and responds to the nature of women's lives, in research, policy development and practices in the health sector.

**Objective 4: *Reduce Violence in Society, Particularly Violence against Women and Children***, strengthens existing measures to reduce violence against women within the overall context of federal efforts to reduce violence in our society generally.

**Objective 5: *Promote Gender Equality in All Aspects of Canada's Cultural Life***, strengthens the commemoration of women's diverse contributions to Canada's history, improves their access to the means of cultural expression, promotes their participation in cultural life and supports the realistic and positive portrayal of women in the popular culture and the mass media.

**Objective 6: *Incorporate Women's Perspectives in Governance***, contributes to achieving the active participation of women from diverse experiences and fields, and equal access to all levels of decision making.

**Objective 7: *Promote and Support Global Gender Equality***, reaffirms Canada's international leadership role in promoting gender equality globally.

**Objective 8: *Advance Gender Equality for Employees of Federal Departments and Agencies***, contributes to the equitable opportunities and outcomes for federal women employees.

Within the framework of each of these objectives, the 24 participating federal departments and agencies have examined their policies, programs and activities and have identified actions that will improve gender equality over the coming years.

At the close of the 20th century, the Government of Canada is resolved to improve the status of women in Canada and around the world by adopting strategies that advance



gender equality, that help women attain economic autonomy and well-being and that provide security from violence to their health and person. It recognizes that this is a critical part of its responsibility to sustain a society that values and treats all its members with dignity and respect. In the face of the complex social, political, cultural and economic realities of today, this is not something that can be achieved overnight. The persistence of gender inequality underlines the need for a long-term vision. *The Federal Plan for Gender Equality* is the blueprint for that vision.

## INTRODUCTION

Canada approaches the 21st century with a firm resolve to improve the status of women in Canada and around the world by adopting strategies that advance gender equality, help women attain economic autonomy and well-being and provide security from violence to their health and person. The Government of Canada is committed to ensuring that women design and participate in the processes and events that shape their lives. These commitments are an integral part of its policy toward the human development of its people and the sustainable development of the country. Attaining these goals in a world marked by fast-paced change is both a challenge and an opportunity.

## PROGRESS OF WOMEN'S RIGHTS IN CANADA

- 1916 — First provinces give women right to vote — Alberta, Saskatchewan and Manitoba
- 1918 — Women are given full federal right to vote
- 1920 — Women are given right to be elected to Parliament
- 1921 — First woman elected to the House of Commons
- 1928 — Supreme Court of Canada decides that women are not “persons” and cannot be appointed to the Senate of Canada
- 1929 — British Privy Council overturns Supreme Court decision
- 1930 — First woman Senator
- 1952 — First province enacts equal pay legislation — Ontario
- 1955 — Restrictions on the employment of married women in the federal public service are removed
- 1956 — Legislation is enacted guaranteeing equal pay for equal work within federal jurisdiction
- 1957 — First woman Cabinet Minister
- 1961 — *Canadian Bill of Rights* is passed
- 1977 — *Canadian Human Rights Act* forbids discrimination on the basis of sex and ensures equal pay for work of equal value for women; *Canadian Labour Code* is similarly amended and provides for 17 weeks of maternity leave
- 1978 — *Canadian Labour Code* is amended, eliminating pregnancy as a basis for lay-off or dismissal
- 1982 — *Canadian Charter of Rights and Freedoms*, Section 28, is enacted — Charter

guarantees apply equally to men and women

1983 — *Canadian Human Rights Act* is amended to prohibit sexual harassment and to ban discrimination on the basis of pregnancy and family or marital status

1984 — First woman Governor General

1984 — Canadian Constitution is amended to affirm that Aboriginal and treaty rights are guaranteed equally to both men and women

1985 — Section 15 of the *Canadian Charter of Rights and Freedoms* comes into effect, guaranteeing equality for all Canadians before and under law and equal protection and benefit of law

1985 — Court Challenges Program expanded to address equality rights cases

1985 — *Indian Act* is amended, restoring status and right to band membership to Indian women who had lost such status through marriage to a non-Indian

1986 — *Employment Equity Act* is introduced, applicable to Crown corporations and federally regulated business, aimed at redressing historic and systemic discrimination of “target group” populations

1993 — Guidelines on women refugee claimants are instituted for the Immigration and Refugee Board

1994 — Funding for equality test cases is reinstated as Charter Law Development Program

1995 — Gender-based analysis of legislation and policies is adopted by the federal government

The challenges of the future will be no less daunting than those already encountered in the past. As a society, we must adapt to broad demographic shifts, evolving cultural patterns, mounting environmental concerns, growing disparities between rich and poor, pressures of global economic restructuring and sweeping social changes brought about by the new technological revolution. Governments at all levels must work to ease the transition to this new order. Improving gender equality is part of governments’ responsibility to sustain a society that values all its members and treats them with dignity and respect.

History has taught us that there are few quick-fix solutions to such complex social, political, cultural and economic realities; the persistence of gender inequality underscores the need for a long-term vision. *The Federal Plan for Gender Equality* sets the stage for Canada’s venture into this new era.

Canada is proud of its progress in advancing women’s equality. Combined efforts of governments — federal, provincial, territorial and municipal — of women’s organizations, NGOs, professional associations, academic institutions and private-sector organizations and businesses, have brought about remarkable changes over a very short period. Canada has enacted extensive civil and criminal law reforms focused on issues such as violence against women, sexual assault, sexual harassment, child abuse and gun control; has supported NGOs dealing with equality issues; and has put in place government machinery for the advancement of women to ensure that progress toward gender equality is steadily integrated into public policy. In Canada, there are higher enrollments and levels of graduation of women in post-secondary institutions, greater recognition of women’s specific health care needs, rising levels of women’s participation in the political process

and greater representation of women in positions of economic power. Progress in all these areas has improved the quality of the lives of women and men in Canada. However, in other areas, such as poverty, inequalities stubbornly persist.

The year 1995 is an anniversary year for Canada. Ten years ago the equality provisions of the *Canadian Charter of Rights and Freedoms* came into effect. It is also the 25th anniversary of the report of the Royal Commission on the Status of Women, a landmark study of women in Canada that made more than 150 recommendations to foster equality between women and men.

As well, in September of 1995, thousands of women from all over the world will gather in Beijing, China, at the Fourth United Nations World Conference on Women. It is here that governments, having reviewed the situation of women over the past decade, will adopt a global *Platform for Action* to accelerate progress toward gender equality. All U.N. member states are being called upon to formulate national plans to further this objective.

This document is the Government of Canada's response to that call. *The Federal Plan for Gender Equality* is a collaborative initiative reflecting the federal government's commitment to gender equality and represents the concerted effort of 24 departments and agencies. The first two chapters of the document set out the context for the plan and discuss the concept of equality. *The Federal Plan* identifies eight key objectives focused on improving the status of women in various dimensions. Under each objective, issues are identified and priorities for action are outlined. These objectives are congruent with the 12 areas of action identified in the United Nations' draft *Platform for Action*, and with the United Nations' and Commonwealth's requests to institutionalize gender-based analysis in the processes of legislation, policy and program development.

## **OBJECTIVES OF THE FEDERAL PLAN**

1. Implement gender-based analysis throughout federal departments and agencies.
2. Improve women's economic autonomy and well-being.
3. Improve women's physical and psychological well-being.
4. Reduce violence in society, particularly violence against women and children.
5. Promote gender equality in all aspects of Canada's cultural life.
6. Incorporate women's perspective in governance.
7. Promote and support global gender equality.
8. Advance gender equality for employees of federal departments and agencies.

## **ADVANCING GENDER EQUALITY**

The *Canadian Charter of Rights and Freedoms* and other equality-seeking laws, Canada's international obligations and commitments, federal, provincial and territorial government machinery for improving the status of women, the well-developed network of women's organizations across the country, and societal partners have been, and will continue to be, central to advancing gender equality.

## EQUALITY RIGHTS

The *Canadian Charter of Rights and Freedoms* provides constitutional protection for gender equality. Section 15 prohibits discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. Section 28 provides that the rights and freedoms described in the *Charter* are guaranteed equally to women and men. Generally speaking, the *Charter* applies to relationships between an individual and government, rather than between individuals.

### SECTIONS 15 AND 28 OF THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

15. 1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age, mental or physical disability.

28. Notwithstanding anything in this *Charter*, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

In *Andrews vs. the B.C. Law Society*, the Supreme Court of Canada affirmed that the purpose of the equality provision in the *Charter* is to protect from discrimination, groups that suffer social, political and legal disadvantage in our society. Discrimination can result if either the **purpose** or **effect** of a law is to impose a disadvantage on members of such a group compared to other members of society. To approach the ideal of full equality before and under the law, the main consideration must be the impact of the law on the individual or group. The Court firmly rejected the “**same or identical treatment**” standard of equality, recognizing that “**... every difference in treatment between individuals under the law will not necessarily result in inequality, and, as well, that identical treatment may frequently produce serious inequality.**” Discrimination is not a mere finding of distinction between the treatment of groups or individuals: it must involve a disadvantage. Equality, therefore, is served by government policies that recognize and take account of the specific circumstances of Canadians who, on the basis of an inherent attribute such as colour or gender, are in a position of social, political or legal disadvantage.

In addition, the *Canadian Human Rights Act* also provides protection for women’s equality by prohibiting discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability or conviction for an offence for which a pardon has been granted. The Act provides a mechanism for addressing complaints made by individuals or groups that involve government programs, policies or legislation and discriminatory acts in employment or services involving federally regulated companies which includes 11 percent of the Canadian work force — the *Canadian Charter of Rights and Freedoms* is restricted to government actions only. The Act explicitly prohibits

sexual harassment and requires all employers to provide equal pay for work of equal value to all employees.

## INTERNATIONAL OBLIGATIONS AND COMMITMENTS

Equality between women and men is enshrined in the *Charter of the United Nations* which marks its 50th anniversary this year, and the *Universal Declaration of Human Rights*. It is also inherent in major U.N. legally binding covenants on human rights, political and civil rights and economic, social and cultural rights, to which Canada is a party. More recently, the 1979 *U.N. Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) further defined the objectives and measures necessary to achieve gender equality in both public and private life. CEDAW recognizes that the effects of legislation must be taken into account in determining whether it is discriminatory, and that positive-action measures are sometimes necessary to correct historical patterns of discrimination. Canada ratified CEDAW in 1981. The *U.N. Declaration on the Elimination of Violence Against Women*, adopted by the General Assembly in 1993, was a Canadian initiative.

Many other agreements respond to developments in the international environment, such as the impact of economic restructuring on women or recognition of violence against women, an issue not found in CEDAW. The *Nairobi Forward-looking Strategies*, in effect from 1985 to 2000, provide a comprehensive blueprint for action on a wide range of socio-economic, political and cultural issues. The Beijing draft *Platform for Action* concentrates on critical priorities for accelerating gender equality over the next five years. The global goal of gender equality is supported by the conventions of the International Labour Organization (ILO) and is an integral part of agreements reached at recent world conferences on children (New York, 1990), the environment (UNCED, Rio de Janeiro, 1992), human rights (Vienna, 1993), population and development (ICPD, Cairo, 1994) and social development (WSSD, Copenhagen, 1995). This goal is also reflected in the ongoing work of U.N. bodies, such as the World Health Organization (WHO), the U.N. Environment Program (UNEP), UNICEF, UNESCO, the regional economic commissions and the World Bank.

Other agreements guide Canada as a member of various international organizations. The Inter-American Commission for Women of the Organization of the American States (OAS), established in the 1920s, has developed the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women*. The Commonwealth has racial equality as its founding principle. The principle of gender equality was incorporated more recently, and gender analysis and planning have been rapidly developed by the Commonwealth as a highly effective way to achieve results. The 1991 *Ottawa Declaration on Women and Structural Adjustment* and the draft *Commonwealth Plan on Gender and Development*, to be adopted later this year, reflect this work. The Organization for Economic Co-operation and Development (OECD), in addition to Working Party No. 6 on the Role of Women in the Economy and the Women and Development Group of the Development Assistance Committee, has established a policy of integrating women's concerns into all its work. Because other OECD countries are similar in many ways to Canada, OECD agreements and comparative studies are particularly important to the development of Canadian policy.



Canada has led in international co-operation on gender issues, including promoting an enhanced and collaborative role for women's NGOs. All federal government departments and agencies, within their respective areas of expertise and responsibility, seek to advance gender equality through their work with other countries and international organizations. Within Canada's foreign policy, Women in Development is one of the six priorities of the Official Development Assistance Program.

### **FEDERAL GOVERNMENT MACHINERY FOR THE ADVANCEMENT OF WOMEN**

Beginning in 1976, a number of Canada's federal departments and agencies established mechanisms to integrate women's concerns into policy formulation.

The creation of Status of Women Canada (SWC) in 1976 was a major step in this development. As the federal government agency mandated by Order-in-Council 1976-779 and the *Appropriation Act 1976-77* to "coordinate policy with respect to the status of women and to administer related programs," SWC provides leadership, expertise and strategic advice to the Minister Responsible for the Status of Women and to federal government departments and agencies on issues affecting women. Through policy research, analysis and development, international and intergovernmental activities, funding, technical assistance and communication, SWC actively promotes the integration of gender equality in all federal government initiatives.

SWC's regional structure allows it to establish and maintain contact with women's organizations across the country, providing a mechanism for them to make their concerns known.

SWC analyzes ongoing and emerging issues and trends relevant to gender equality benefits for policy makers in both government and the private sector and promotes concrete changes in policies and programs affecting women. An independent research program supports the policy-related process. SWC maintains a documentation centre, archiving data and research materials from studies of women's issues carried out by, or on behalf of, SWC and has integrated collections from the Women's Program (formerly within the Department of Human Resources Development) and the Canadian Advisory Council on the Status of Women (which has ceased operations). SWC funds national, regional and local women's organizations and other groups in support of their work to promote gender equality and long-term systemic changes.

At the federal level, SWC develops and maintains strategic links with the provincial and territorial governments and monitors developments in the provinces and territories relative to gender equality, education and training for women and the issues of violence against women. It also chairs intergovernmental senior officials' meetings and committees relative to these areas.

At the international level, SWC collaborates with the Department of Foreign Affairs and International Trade, the Canadian International Development Agency (CIDA) and other federal government departments, to represent and promote the federal government's commitment to women's global equality. SWC represents Canada internationally at meetings of organizations such as the United Nations' Commission on the Status of Women, the Commonwealth, the OECD and the Inter-American Commission on the Status of Women of the OAS.



SWC disseminates information on national and international issues of interest and concern to women and ensures that federal government initiatives to advance gender equality are communicated to the public.

## **PROVINCIAL/TERRITORIAL GOVERNMENTS**

Under the Canadian Constitution, the provinces and territories have primary jurisdiction in the areas of education, the administration of justice, social services and health care delivery. The advancement of women's equality is thus largely influenced by actions taken by provincial and territorial governments.

In *Strategies for Population Health* developed in 1994 by federal, provincial and territorial ministries of health, it was recognized that income and social status, social support networks, education and the environment all play a role in the well-being of Canada's men, women and children.

For many years, for instance, labour laws and practices have been in place to address issues such as employment equity and pay equity. Several provincial governments have implemented employment equity plans. Every province and territory has legislation requiring pay for similar, or substantially similar, work. Several provinces also have pay equity legislation, mostly applicable to the public service and public institutions. Increasingly, responsibility for training and retraining workers has been assumed by provincial governments, which are also responsible for the delivery of child-care services — an important condition for achieving women's economic equality.

Addressing violence against women has been a key priority of all provinces and territories. Every jurisdiction has been involved in a range of initiatives including designing and setting up crisis shelter models, public education campaigns, setting up joint provincial government departments and community agencies' advisory committees, humanizing the legal system for survivors, funding sexual assault centres, transition houses, training programs for police and treatment programs for assaultive men.

Since 1982, there has been a productive partnership and collaboration among the federal, provincial and territorial governments to advance women's equality through the efforts of the Ministers Responsible for the Status of Women. Meeting on an annual basis, Ministers have, among other things, worked together on public policy issues and raised public awareness on issues of concern to women.

They have addressed issues such as violence against women, education and training, gender equality in the justice system, the harmonization of work and family responsibilities, and women's economic future. They have also met with other sectoral Ministers to advance women's and girls' equality in areas such as the educational system.

At their 1995 annual meeting, federal, provincial and territorial Ministers Responsible for the Status of Women supported a gender-based approach to policy development and agreed "on the importance of having gender-based analysis undertaken as an integral part of the policy process of government."

Collaboration among the federal, provincial and territorial governments is undertaken through the Federal/Provincial/Territorial Status of Women machinery of government to achieve women's equality.

## SOCIETAL PARTNERS

Women's issues are society's issues. When successfully resolved, both women and men will reap the benefits. The federal government is committed to continuing work with its many societal partners to advance gender equality. Women's and other professional organizations, public- and private-sector organizations, businesses and academic institutions have all played an active role in advancing gender equality. They have achieved this through community action, the development of professional standards, research and other activities.

In Canada, the voluntary sector has a long tradition in improving the status of women. For one, the well-developed network of women's organizations contributes to the setting of local and national agendas for gender equality, providing direct services to women and children, and educating all sectors of the public and government on issues relevant to gender equality. The extent to which violence against women and children has become a leading area of public policy is an outstanding example of how women's voices and experiences have shaped legislation, policies and programs in recent years. Much of this contribution could not have occurred without thousands of individuals and organizations in communities donating their time and expertise to ameliorate the lives of women.

For its part, the private sector has a responsibility as a corporate citizen to advance the situation of women in Canadian society and it has taken up the challenge. Banks are among the many institutions which have introduced programs in support of work and family harmonization. Such programs exemplify the combined efforts of various partners, including industry, unions, professional associations and public organizations. Corporations have also collaborated with governments to sponsor training and retraining programs for women entering the paid labour market. Private-sector organizations have also led major fund-raising campaigns to support initiatives such as public education on violence against women.

As large-scale economic, political, social and cultural transformations take place, partnerships between governments, industry and the voluntary sector will continue to play a crucial role in advancing gender equality. *The Federal Plan* documents some of the instances of such collaboration.

## FROM WOMEN'S EQUALITY TO GENDER EQUALITY: UNDERSTANDING THE CONCEPTS

The concept of women's equality is rooted in history, and has evolved in relation to changing social, economic and political conditions. At the turn of the century, the emerging women's movement in the developed world focused its efforts on achieving what has become known as "formal equality," characterized by a struggle for the same treatment, opportunities and privileges for women as for men. One of the early successes, of course, was women's gaining the right to vote. Despite these changes, women have not achieved full equality with men nor gained equal access to the decision-making process.

## WHAT IS GENDER EQUALITY?

Gender equality means that women and men have equal conditions for realizing their full human rights and potential and to contribute to national political, economic, social and

cultural development and benefit equally from the results. Equality is essential for human development and peace.

Attaining gender equality demands a recognition that current social, economic, cultural, and political systems are gendered; that women's unequal status is systemic; that this pattern is further affected by race, ethnicity and disability; and that it is necessary to incorporate women's specificity, priorities and values into all major social institutions.

Treating women and men identically will not ensure equal outcomes because women and men occupy different social levels and experience different living situations.

Barriers to equality are rooted in long-standing attitudes and traditions not only about women, but also about race, age, sexual orientation, disability, colour, etc. In particular, the life situations of women outside the dominant culture — women with disabilities, Aboriginal women, women from visible minorities, elderly women, lesbians, lone mothers, women in poverty — are quite different from the mainstream. For them, the path to equality has been, and continues to be, even more difficult. Equality for all women will come about only as these attitudes, imbedded in the workplace, educational institutions and the family, are challenged and begin to change. To achieve true equality, actions must be taken that adjust for the differences in experiences and situations between women and men, and among women, and that correct the systemic nature of inequality. This notion of “substantive” equality acknowledges the systemic and structural nature of inequality. It recognizes that **both** freedom from discrimination **and** positive actions are required to arrive at equal outcomes.

In recent years, the concept of gender equality has gained prominence. As outlined in the draft 1995

*Commonwealth Plan of Action on Gender and Development:*

... “gender” ... is used sometimes indiscriminately to describe different things at different times. Sometimes it means “women,” sometimes “sex” and sometimes more precisely “gender”.... Gender refers not to men and women, but to the relationship between them and to the ways in which the roles of women and men, girls and boys are socially constructed ...<sup>1</sup>

To achieve gender equality, the social arrangements that govern the relationship between men and women will have to change to give equal value to the different roles they play, as parents, as workers, as elected officials and others; to foster equal partnership in the decision-making process; and to build a just and equitable society.

## THE FEDERAL PLAN FOR GENDER EQUALITY

### OVERVIEW OF THE FEDERAL PLAN

1. *The Federal Plan for Gender Equality* reflects Canada's commitment to “building together an independent country that is economically strong, socially just, proud of

its diversity, and characterized by integrity, compassion, and competence.”<sup>2</sup> Canada has been built on values that recognize the role of all Canadians to work together to provide an environment that nurtures and protects each individual’s unique characteristics and potential. *The Federal Plan* reflects the federal government’s belief that “jobs, health care, a safe and sustainable environment, equality for men and women, care for the very young and the aged, and the alleviation of poverty are societal issues that cannot be addressed simply by each individual aggressively pursuing immediate, narrow self-interest.”<sup>3</sup>

2. *The Federal Plan for Gender Equality* recognizes and values the many different realities for women in Canada. These realities are the outcome not only of gender, but also of age, race, class, national and ethnic origin, sexual orientation, mental and physical disability, region, language and religion. History has revealed that treating men and women in the same way does not assure equality. Treating all women identically is not the answer either; such “equal” treatment ignores the unique experiences of their lives.
3. *The Federal Plan for Gender Equality* also acknowledges that legislation and policy can have different effects on women and men. Within its own jurisdiction, the federal government is committed to making these outcomes transparent. *The Federal Plan* places high priority on implementing a systematic gender-based analysis to facilitate this process.
4. Discovering new ways to develop and implement public policy is part of the challenge. Given the cross-cutting nature of gender issues, horizontal collaboration among federal government departments and agencies is key. *The Federal Plan* builds on existing government initiatives and proposes new avenues for action. While the government has undertaken a number of specific new commitments, it is expected that *The Federal Plan* will continue to evolve as departments and agencies update and elaborate their initiatives within a changing context, brought about by a major government renewal begun in 1994 and by emerging national and global socio-economic trends.
5. Indeed, this *Federal Plan* comes at a time when the federal government of Canada is in a period of transition characterized by changes in the size and structure of departments and agencies; reviews of major social and economic policies that will bear on the sharing of federal and provincial/territorial responsibilities; the devolution of some powers to other levels of government, including Aboriginal self-government; and intense fiscal pressures. The document has been developed with an appreciation for the profound demographic changes occurring in the country and for its multicultural, multilingual, multiracial society with two official languages. Although this period of transition presents a challenge for the implementation of *The Federal Plan for Gender Equality*, it also provides an opportunity to introduce changes to the way government legislation and policies are analyzed — changes that will enhance the government’s ability to meet its commitment to gender equality.
6. *The Federal Plan* helps to ensure that government departments and agencies continue to move toward gender equality while the process of restructuring and redefining governments’ roles unfolds. *The Federal Plan* is in line with the ongoing program

review: its equality-seeking measures are in the public interest as they strengthen the economy and safeguard human rights; these measures are appropriate to the federal government as legislator, policy maker, program deliverer and employer; and efficiency is served because equitable policy making averts difficulties which would ensue if gender were not taken into account.

7. ***The Federal Plan for Gender Equality*** starts with the premise that both men and women must be involved in the quest for an equitable society and that benefits will accrue to both. It acknowledges that building and strengthening partnerships among women and between women and men, and among universities, community groups, NGOs, the private sector and all levels of government will be increasingly vital in the next few years, as shifting resources demand more effective and informed policy options.
8. *The Federal Plan* documents some of the salient global and domestic issues to be addressed in the movement toward full equality for women and men of Canada, and highlights broad directions that will guide future federal initiatives. Participating federal departments and agencies have examined their policies, programs and activities and have identified actions to improve gender equality over the coming years. These actions are organized around eight key objectives and reflect the critical areas for action in the Beijing draft *Platform for Action*.

#### **Eight Objectives:**

9. Objective 1, *Implement Gender-based Analysis throughout Federal Departments and Agencies*, informs and guides the legislation and policy process at the federal level and, hence, underpins gender equality in all sectors addressed in the subsequent objectives.
10. Objective 2, *Improve Women's Economic Autonomy and Well-being*, promotes the valuation of paid and unpaid work performed by women, women's equitable participation in the paid and unpaid labour force and the equitable sharing of work and family responsibilities between women and men; encourages women's entrepreneurship; and promotes the economic security and well-being of women.
11. Objective 3, *Improve Women's Physical and Psychological Well-being*, contributes to a women's health strategy that fully acknowledges and responds to the nature of women's lives, in research, policy development and practices in the health sector.
12. Objective 4, *Reduce Violence in Society, Particularly Violence against Women and Children*, strengthens existing measures to reduce violence against women within the overall context of federal efforts to reduce violence in our society generally.
13. Objective 5, *Promote Gender Equality in All Aspects of Canada's Cultural Life*, strengthens the commemoration of women's diverse contributions to Canada's history, improves their access to the means of cultural expression, promotes their participation in cultural life and supports the realistic and positive portrayal of women in the popular culture and the mass media.
14. Objective 6, *Incorporate Women's Perspectives in Governance*, contributes to

achieving the active participation of women from diverse experiences and fields, and equal access to all levels of decision making.

15. Objective 7, *Promote and Support Global Gender Equality*, reaffirms Canada's international leadership role in promoting gender equality globally.
16. Objective 8, *Advance Gender Equality for Employees of Federal Departments and Agencies*, contributes to equitable opportunities and outcomes for federal women employees.
17. ***The Federal Plan for Gender Equality*** has been developed in a fiscally responsible way. It provides a framework that encourages participation and the building of partnerships within and across government, as well as between government and the public. Presenting this blueprint for future direction at the Fourth United Nations World Conference on Women enhances accountability and helps the federal government chart its course toward gender equality in Canada.



## OBJECTIVE 1 — IMPLEMENT GENDER-BASED ANALYSIS THROUGHOUT FEDERAL DEPARTMENTS AND AGENCIES

**18.** Adopting a systematic, integrative, planning-based approach to policy is not new. It is the foundation of good public policy making. The *1995 Commonwealth Plan of Action on Gender and Development* calls for a gender-based management system involving analysis, training, budgeting and accounting. Similarly, the draft U.N. *Platform for Action* also calls for member states to “analyze from a gender perspective, policies and programmes ...” Indeed, a gender-based approach to policy development and analysis is being carried out by the governments of British Columbia, Australia and New Zealand. A gender-based approach is being set up in Colombia and Bolivia, and all Scandinavian countries are moving toward a consistent application of this approach. It is also being promoted by the European Union.

### WHAT IS GENDER-BASED ANALYSIS?

Gender-based analysis is intrinsic to quality policy analysis.

Gender analysis is based on the standpoint that policy cannot be separated from the social context, and that social issues are an integral part of economic issues. Social impact analysis, including gender analysis, is not just an add-on, to be considered after costs and benefits have been assessed, but an integral part of good policy analysis.\*

Gender-based analysis identifies how public policies differentially affect women and men. In some cases, gender issues may be significant to the policy, and play a determining role. In other cases, they may be less significant to the outcome, and constitute a set of factors to be weighed with others. While gender implications may not be obvious in the first stage of analysis, they may emerge later. Therefore, gender questions should be raised throughout the analytical process.

For example, it is often assumed that structural adjustment programs will have a neutral gender impact and are not appropriate for gender-based analysis. However, gender-based analysis will make transparent issues such as the over-representation of women in lower-paying jobs and the differential effect economic restructuring and any adjustment policies will therefore have on women, given their current lower economic and social status relative to men.

Gender-based analysis is supported by tools, such as gender-disaggregated data, gender-sensitive equality indicators, and guidelines and criteria, for assessing when gender is likely to be an issue in the development of policies.

\* Source: Robin McKinley, *Gender Analysis of Policy* (Draft), Ministry of Women’s Affairs, New Zealand, 1993.

19. Within the Canadian federal government, Status of Women Canada has been conducting gender-based analysis since 1976. CIDA, Canada's key development agency, adopted gender as a factor in the development process more than 10 years ago, and has successfully had this process implemented in the public-policy process in many developing countries with which it works. Other federal departments, such as Justice, Human Resources Development and Indian Affairs and Northern Development, are also beginning to implement gender-based analysis.
20. At their 14th annual meeting held on May 26, 1995, federal, provincial and territorial Ministers Responsible for the Status of Women agreed "on the importance of having gender-based analysis undertaken as an integral part of the policy process of government."
21. Introducing gender analysis in the developmental stage of a policy is more efficient and potentially less costly in human and social terms for women. Since it helps identify any negative impacts the policy might have on women, it leads to more effective public policy while providing greater opportunities for the economic and social development of Canadians.
22. Gender-based analysis begins with the assumption that social, economic, cultural and political arrangements are entwined with all public policy. Such a complex reality requires a complex set of policy responses. Central to this assumption is the need to assess the different impacts that policies may have on women and men. Such assessments imbed gender-based analysis within the legislative and policy process, safeguard against costly and inefficient public policies which may not address women's needs and ensure the development of sound public policies.
23. A gender-based approach ensures that the development, analysis and implementation of legislation and policies are undertaken with an appreciation of gender differences. This includes an understanding of the nature of relationships between men and women, and the different social realities, life expectations and economic circumstances facing women and men. It also acknowledges that some women may be disadvantaged even further because of their race, colour, sexual orientation, socio-economic position, region, ability level or age. A gender-based analysis respects and appreciates diversity.

## PRIORITIES FOR ACTION

24. The federal government is committed through *The Federal Plan* to ensuring that all future legislation and policies include, where appropriate, an analysis of the potential for different impacts on women and men. Individual departments will be responsible for determining which legislation or policies have the potential to affect women and men differentially and are, therefore, appropriate for a consistent application of a gender lens.
  25. The federal government is committed to:
    26. the development and application of tools and methodologies for carrying out gender-based analysis;
    27. training on gender-based analysis of legislation and policies;
    28. the development of indicators to assess progress made toward gender equality;

- 29. the collection and use of gender-disaggregated data as appropriate;
  - 30. the use of gender-sensitive language throughout the federal government; and
  - 31. the evaluation of the effectiveness of the gender-based analysis process.
32. Costs for implementing the gender-based approach will remain within departmental allocations. They include customary operational costs such as training employees and conducting the analysis, both of which are part of ongoing business costs.
33. Status of Women Canada will collaborate with other governments and federal departments and agencies in the staged implementation of a gender-based analysis process, including the development of tools, training materials and procedures, and the monitoring of the process itself. In so doing, SWC will draw on CIDA's 10 years of experience in using a gender-based approach in its Women in Development Program (WID), the experiences of other governments already using this approach and extensive resource materials developed worldwide.
34. Individual departments and agencies will assume responsibility for undertaking gender-based analysis as appropriate within their operational spheres of activity. Implementation of this approach is anticipated to be phased in over the next five years as departments and agencies develop the expertise and capacity to carry out the analysis.
35. The federal government will, where appropriate, ensure that critical issues and policy options take gender into account. Status of Women Canada and other departments and agencies will continue to provide women's organizations with direct access to information on the issues facing the federal government. This could include independent research, holding regular teleconferences with a range of representatives from major organizations, and sharing information on key policy directions.

## OBJECTIVE 2 — IMPROVE WOMEN'S ECONOMIC AUTONOMY AND WELL-BEING

### WOMEN'S PARTICIPATION IN THE ECONOMY

- 36.** According to the United Nations,<sup>4</sup> women engage in longer work hours than do men. This is certainly true in Canada where women's work has contributed significantly to the economy. Almost two-thirds (63 percent in 1993<sup>5</sup>) of work to maintain and sustain families and communities, including household work, meal preparation, child nurturing and care, care of people with illness or disabilities, care of elderly persons, etc., is done by women. In the formal labour force, women's representation has increased rapidly over the last few decades. In 1993, 45 percent of all paid workers were women, up from 36 percent in 1975, accounting for almost three-quarters of all employment growth in Canada during this period. As well, approximately one-third of small- and medium-sized businesses in Canada are owned and operated by women. Women are very active in the informal economy as well, although few data exist.<sup>6</sup>
- 37.** In spite of their contribution, women in Canada continue to receive an unequal share of the benefits of their labour. This lack of recognition has limited their economic autonomy in critical ways. The conflicting demands of unpaid- and paid-work responsibilities create a considerable drain on many women. It can lead to women delaying their entry into paid work; turning down opportunities for advancement, promotion or work altogether; taking part-time rather than full-time work; avoiding "non-traditional" occupations if perceived to be sources of additional stress; not taking advantage of educational and training opportunities; or foregoing the paid-work experience altogether, as is especially true in the case of sole-support mothers. It can also result in women being by-passed for promotion or career advancement if they are perceived as not being committed to their careers. These limitations contribute to women's over-representation among Canadians in poverty and have a long-term impact on their pension benefits.
- 38.** While some employers, including the federal government, have developed work and family life policies and programs, such as on-site day care, maternity/paternity leave, flexible hours and variable work weeks, balancing work and family life is largely perceived as a women's issue rather than a lifelong responsibility of both men and women.
- 39.** Unequal participation and progress in paid work further undermines a woman's ability to achieve and sustain personal autonomy throughout her life. Women continue to experience job segregation, heavy demands on their time for family and community responsibilities and are excluded from full participation in economic decision making. Despite gains made through pay equity legislation, many women experience unequal pay for work of equal value. They are also more likely to be employed in part-time and non-standard work arrangements and in retail and service occupations — which provide low pay, few benefits and inadequate pensions. Over the last few

years, macro- economic policies have created new entrepreneurial opportunities in the marketplace; however, women continue to have difficulty in expanding their participation.

- 40.** For some women, economic inequalities are further compounded by their membership in groups that are disadvantaged compared to the rest of Canadian society. Aboriginal women, women who are members of visible minorities, immigrant women and women with disabilities are more likely to be in low-paying, physical labour positions with few or no benefits than are other women in Canada. While efforts have been made to address this situation, inequities persist.
- 41.** Emerging social and economic trends throughout the world threaten to exacerbate gender inequities in the paid work world. As countries such as Canada move toward an information-based economy with emphasis on the mobility of highly skilled workers, and with the globalization of world trade, the resulting restructuring of paid work will increasingly benefit those with a competitive edge. Economic restructuring may also increase the disadvantages facing women. According to studies in OECD countries,<sup>7</sup> stabilization policies, for example, including government cuts on spending and structural adjustment activities, may extend and deepen already existing gender inequities in the paid and unpaid sectors of the economy.
- 42.** While women workers of today may be better able to create adequate retirement incomes for themselves, the pressure of global competition is pushing more and more women toward non- standard, contract and part-time work arrangements which do not provide pensions. Such forms of work may provide some immediate benefits to women who want a greater degree of flexibility to deal with the conflicting demands on their time, but the absence of adequate controls regulating hours, pay scales and benefits — including pensions — may make women even more vulnerable than in the past.
- 43.** While women contribute more hours of labour per day than men, they earn, on average, less than men. In 1993, women's full-time/full-year earnings averaged 72 percent of men's. One study reports that recent women university graduates earned slightly more than their male counterparts; however, for earlier graduates, the earnings gap is noticeably greater. Notwithstanding, university graduates represent a small portion of the population; among recent community college graduates, the earnings gap favoured men. For most women in Canada, the discrepancy remains and widens with age, one of the factors contributing to senior women's lower income status as compared to men's.<sup>8</sup>
- 44.** Women face a higher risk of poverty than men. In 1993, 56 percent of all people below Statistics Canada's Low Income Cut Off (LICO)<sup>9</sup> were women. This increased to 72 percent among those over age 64. As such, 20 percent of all women, and nearly 30 percent of all women over age 64 fell below the LICO. This is a reflection of many factors, including women's unequal share of the benefits of the unpaid labour they perform. Inadequate or delinquent support payments add to the risk of lone-parent families headed by women falling into poverty, especially if the mothers are not participating in the paid labour force because of their care giving or other responsibilities. This is also because social assistance payments generally provide incomes well below the



LICO. In 1993, for example, 60 percent of lone-parent families headed by women were below the LICO, compared to just 31 percent of similar families headed by men. The incidence of poverty among lone-parent families headed by women increased to 93 percent in the case of families with no earners, compared with 46 percent of those with an earner.

- 45.**Children bear the brunt of women's economic inequality. Of the 601,000 children in lone-parent families headed by women in 1993, 65 percent were below the LICO, compared to 18 percent of all children.
- 46.**New public policy decisions, particularly in social and economic reform, need to be based on a careful analysis of their impact on women's real life situations. Women's progress toward economic equality and autonomy depends on how legislation, policies and programs deal with women's social and economic realities.

## **PRIORITIES FOR ACTION**

- 47.**Federal legislation, policies and programs that are sensitive to the reality of women's lives will contribute to an improvement in the economic well-being of Canadian women. The federal government is committed to:
  - 48.**a gender-based analysis, where appropriate, of all economic and socio-economic legislation and policy development, as a means of addressing gender inequalities (see Objective 1);
  - 49.**identifying research gaps and anticipating emerging issues as they may affect gender equality, as a basis for the development of legislation and policy options (see Objective 1);
  - 50.**examining all federal legislation, regulations, policies, pension and benefit programs based on personal relationships; and
  - 51.**studying the impact on gender equality of new information technology and the move to non- standardized work, and exploring ways of ensuring that women's economic well-being is not adversely affected by these trends.
- 52.**Specific federal actions to promote women's economic autonomy and well-being will occur as appropriate within both sectoral and inter-ministerial policy levels — including those departments and agencies whose focus is not essentially economic.
- 53.**The federal government is committed to continuing to assist low-income women and children through projects that promote access to affordable housing, that enable immigrant women to understand and access social services and that support low-income women in isolated regions (see Objectives 3 and 4). One such project is a network of women's centres that provides information, counseling and referral services to enable women to take part in community development, entrepreneurial opportunities and similar initiatives.
- 54.**The federal government will continue to build and foster linkages and partnerships where appropriate with women's organizations, labour organizations, employer groups, industry associations, labour-management bodies, NGOs, and provincial and



territorial governments to explore and initiate ways to advance women's economic autonomy and well-being (see Objective 1).

- 55.**As announced in the 1995 Federal Budget, the Human Resources Investment Fund will, among other activities, support initiatives to improve workplaces, increase employability of women and support provincial initiatives to address the child-care needs of women in the paid labour force and women working in rural communities, to assist Canadian women to achieve economic equality and well-being.

### **Social and Economic Policy Reform and Women's Autonomy and Economic Well-being**

- 56.**In December 1994, the federal government announced a new initiative, Building a More Innovative Economy. It provides the foundation for a new approach to the way the federal government exercises leadership in the Canadian economy. The Initiative is intended to improve the climate for business growth, expand trade, yield modern efficient infrastructures and make technology work for Canada. The economic reform process will ensure that benefits accrue equitably to both women and men.
- 57.**In the same context, fiscal policy is established for the Canadian economy as a whole with the ultimate goal of maximizing the economy's growth potential. A strong economy works to the advantage of both men and women. It is the government's aim to ensure that fiscal and economic initiatives do not further disadvantage low-income Canadians.

### **The Canada Health and Social Transfer**

- 58.**Under the federal government's process of social policy reform, the new Canada Health and Social Transfer will replace the current Canada Assistance Plan (social assistance and social services) and Established Programs Financing (health and post-secondary education). The Transfer will continue to contribute to provincial programs that support women's autonomy and economic well-being. In its review of social and economic policies, programs and funding arrangements, the federal government is examining the impact of this reform process on women. As women's socio-economic realities differ from men's, the federal government will endeavour to address these factors with provinces and territories when developing principles and objectives that would underlie the new Canada Health and Social Transfer (see Objective 3).
- 59.**Lone-parent families headed by women are over-represented among low-income Canadians. Access to social services and resources, job re-entry programs and social assistance are vital to many of these women to support their families, and for other women to leave violent family situations or partners. The federal government will seek the collaboration and co-operation of the provinces and territories to include, among others, a gender equality principle to guide the social policy reform process.

## Unemployment Insurance Reform

**60.** Similarly, the federal government is currently reforming its Unemployment Insurance Program to increase the employability of Canadians, enhance their capacity to adjust to labour market needs, promote job creation, ensure greater equity and create a financially sustainable Unemployment Insurance Program. As women continue to be over-represented in non-standardized employment, including part-time, insecure, temporary, seasonal and low-paying jobs, they experience unique difficulties in qualifying for unemployment benefits and training. The Unemployment Insurance reform process will consider the unique social, familial and labour-market realities of women, and explore innovative approaches to unemployment insurance to provide more equitable treatment of individuals with comparable work effort and place greater emphasis on re-employment measures.

## Child Care, Child Tax Benefit and Child Support

**61.** For many parents, work in the paid labour force is an economic necessity: the economic well-being of Canadian families today is closely tied to the number of earners. In 1991, for example, 14 percent of families with working husbands and stay-at-home wives were below the LICO, compared with just four percent of two-income families. However, the proportion of two-income families below the LICO would have increased from four percent to 15 percent if these wives had not been working. Among lone-parent families, the situation is more critical. In 1992, 46 percent of lone-parent families headed by women working in the paid labour force were below the LICO. Among lone-parent families headed by women where there were no earners, fully 93 percent were below the LICO.<sup>10</sup>

**62.** Parents in the paid labour force need quality child care that is reliable, affordable and accessible. This is important to the economic well-being of women and their families and critical to that of lone mothers, in the absence of adequate sources of income other than paid work. For women in rural communities, access to quality child care is a common concern, and is particularly important to ensure the safety of young children.

**63.** However, in 1993, there were just 363,000 licensed child-care spaces, far short of the number required to meet the demand. That year, there were 1.4 million preschoolers (up to age 6) and more than three million school-age children (aged 6 to 13) whose mothers were in the paid labour force. Thus, more than four million children may have been in need of alternate child-care arrangements.<sup>11</sup>

**64.** The federal government remains committed to expanding and improving child-care development and services for children. To this end, the federal government will continue to seek new partnerships with provinces and territories to explore arrangements for child-care financing. In addition, the federal government is committed to:

**65.** implementing the research and development program, Child Care Visions, beginning in 1995-1996, which will spend \$6 million annually to assess

models of service, and study and evaluate best child-care practices;

**66.** with First Nations and Inuit representatives, designing a framework for child care in reserve and Inuit communities to result in 3,600 new child-care spaces over the next three years; the total investment is about \$72 million; and

**67.** conducting a study of the child-care sector to assess the future demand for child-care workers, required qualifications and means to prepare people to meet the demand.

**68.** The federal government currently provides assistance to low- and middle-income families with children, through the Child Tax Benefit. Introduced in 1993, the Child Tax Benefit provides tax-free monthly payments, generally to mothers. The Child Care Expense Deduction, introduced as a measure of assistance primarily for women, helps offset expenses incurred by lone-parent families and families where both parents work outside the home. Its purpose is to recognize, for tax purposes, the child-care expenses that taxpayers must incur while earning income, attending a recognized educational institution full-time or taking vocational training. In this way, the tax system acknowledges that these taxpayers have a lower capacity to pay taxes than other taxpayers with the same income but without child-care expenses. The effect of this deduction is that, up to a limit, income used to pay for child-care expenses is not taxable. The equivalent-to-married credit recognizes the lower ability of lone-parent families to pay tax. Taxpayers without a spouse may claim this credit for a dependent child under 18, a dependent parent or a grandparent.

**69.** In cases when parents are separated or divorced, both parents continue to be responsible for the support of their children. Enforcement of support orders is primarily a provincial and territorial responsibility; however, through the Federal Child Support Enforcement Initiative, the federal government proposes to assist provincial and territorial governments to improve support enforcement.

### **Broadening Women's Representation and Distribution in Education and Training Fields**

**70.** To be competitive in the changing labour market, women need to broaden their representation and distribution in education and training in non-traditional and expanding fields. Access to education and training for some women may be constrained by the inequitable load they carry for family and community responsibilities, such as child and dependant care, which limits their available time and energy; by lower levels of literacy and numeracy;<sup>12</sup> and by limited financial resources.

**71.** To enhance the representation and distribution of women in all education (see also Objective 5) and training, the federal government is committed to:

**72.** promoting, in consultation and agreement with the provinces and territories, a lifelong learning approach to labour market participation through the provision of education, training and retraining programs and employment services targeted at women re-entrants, Unemployment Insurance claimants, social assistance recipients, youth and students;

**73.** continuing to promote, in consultation and agreement with the provinces

and territories, initiatives that incorporate prior learning assessments and accreditation methods to recognize the experiences, knowledge and skills that women acquire outside the paid labour force, as well as credentials that women earn in foreign institutions.<sup>13</sup> The federal government will also sponsor the National Conference on Prior Learning Assessment in October 1995;

74. promoting and facilitating opportunities for women to develop managerial, entrepreneurial, technical and leadership skills in all spheres (see also Objective 6);
75. exploring, in consultation with the provinces and territories, measures to provide training and services to enable women employed in low-paying vulnerable sectors of the economy to attain better-paying sustainable employment in higher-demand employment sectors;
76. determining, in consultation and agreement with the provinces and territories, innovative ways of delivering employment programs and services to women;
77. supporting and encouraging Canadian students, particularly women, to achieve excellence in science, technology, engineering and mathematics and to choose careers in science. Programs geared to this include the Science Culture Canada Program, the Partners in Education Program, Warden's Training Program and the Career Mentoring for Women in Sciences Program;
78. improving the future employability of young people through the Youth Service Canada initiative which provides job skills through service experience to out-of-school and unemployed young people between the ages of 18 and 24, and through the Youth Internship Program which provides assistance with the implementation of structured pathways that incorporate on-the-job training with classroom studies for employment in occupations within emerging and growing sectors of the economy;
79. stimulating learning through the SchoolNet and Internet;
80. continuing to provide funding to assist eligible status Indians and Inuit in gaining a post-secondary education (64 percent of the students assisted through these programs in 1992-1993 were Aboriginal women); and
81. promoting, in partnership with the provinces, territories and women's organizations, the development of resources and tools (manuals, videos) to address the labour-market training needs of women.

### **Improving Women's Access to, and Progress in, the Paid Labour Market**

82. While women's participation in the paid labour market has increased sharply over the last 30 years (57 percent of all women were in the paid labour market in 1995, up from 41 percent in 1975), they remain concentrated in the lower echelons (such as clerical and service industries) and are under-represented in management and

higher-status occupational levels. Women are still under-represented in many non-traditional occupations; emerging occupational categories are quickly dominated by men. As of 1993, women represented 42 percent of managers and administrators, 56 percent of managers in social science and religion, but just 18 percent of managers in the fields of natural sciences, engineering and mathematics. They were also under-represented in goods-producing industries: two percent of construction workers, nine percent of transportation workers and 18 percent of manufacturing workers were women.<sup>14</sup>

83. While the role of workers with disabilities in the paid economy has expanded in recent years, a much smaller proportion of the population with disabilities participates in the paid labour force compared to the population without disabilities. In 1986, 40 percent of men with disabilities and 61 percent of women with disabilities were not participating in the paid labour force, compared with 12 percent of men without disabilities and 32 percent of women without disabilities. In the same year, 50 percent of men with disabilities aged 15 to 64 were employed, compared with 80 percent of men without disabilities. The employment rate of women with disabilities is even lower: 31 percent participated in the paid labour force, compared with 60 percent of women without disabilities.<sup>15</sup>
84. The majority of women employed outside the home continue to work in occupations with traditionally high concentrations of women. In 1993, 71 percent of all working women were employed in teaching, nursing and health-related occupations, clerical work, or sales and service occupations. Women are more likely than men (86 percent versus 63 percent, in 1993) to work in the service sector, which tends to be lower paying and lacks pension and benefit plans, than in the goods-producing industries. Traditionally female occupations continue to be undervalued and underpaid.
85. Women are more likely to be in part-time (26 percent compared with 10 percent for men, in 1993) or non-standard employment. Many women work part-time because they cannot find full-time work. In 1993, 34 percent of female part-time workers would have preferred full-time work but could not find it. Women also have more absences from the paid labour market for family-care reasons than do men.
86. The federal government will continue to improve women's access to, and progress in, the paid labour market through integrated and targeted measures. The federal government's employability improvement initiatives and supports will encompass programs and services such as employment counseling and assessment, labour-market information, job finding assistance, training, work experience, income support, child-care and employment supports, wage subsidies and earning supplements. In addition, the federal government is committed to:
  87. continuing to administer and monitor the *Employment Equity Act* applying to federally regulated employers and Crown corporations with 100 or more employees, and the Federal Contractors Program for Employment Equity (designed to ensure that contractors with a work force of over 100, bidding on government contracts of \$200,000 and over, implement employment equity programs);
  88. strengthening the *Employment Equity Act* by increasing its scope to include



- the federal public service and by expanding the mandate of the Canadian Human Rights Commission to enforce the Act (see also Objective 8);
89. exploring ways to encourage greater union involvement in the implementation of pay equity, assisting small employers to implement pay equity and improving the federal Equal Pay Program (it will also examine improvements to existing pay equity provisions under the *Canadian Human Rights Act*);
  90. sponsoring public education, promotional and information initiatives to help counter the growing “backlash” phenomenon, based on misperceptions of women’s relative equality gains in the workplace (see also Objective 6);
  91. encouraging the review of female-dominated occupational profiles to improve recognition and remuneration for all skills used in a job;
  92. promoting pay equity by improving recognition of the experience acquired in unremunerated work, including household management, as skill requirements applicable in the workplace;
  93. encouraging and supporting mentoring programs for women within the paid labour market (see also Objectives 6 and 8);
  94. assessing and monitoring the economic and social vulnerability of non-standard workers, in particular women working in home-based, piece-rate assembly, clerical, textile or other low- income jobs;
  95. increasing the horizontal mobility between traditionally female-held occupations and other occupations;
  96. supporting activities of sector councils, labour, business and women’s organizations to improve access and retention of women in traditionally male-dominated sectors and occupations (see also Objective 5);
  97. promoting flexible arrangements for income support and child care for employment program participants, and transition supports and accommodation for persons with disabilities;
  98. supporting innovative projects to improve women’s employment opportunities, through partnership activities with unions, industry and business, research and development, and the development and dissemination of gender-awareness material to promote women in the labour force;
  99. considering female lone-parents’ needs to balance their labour-market activities, household- management, child-rearing and elder-care responsibilities (see also Objective 3);
  100. continuing to fund initiatives dealing with labour-market adjustment issues affecting Aboriginal women by providing employment and training opportunities which may also include Aboriginal child-care initiatives;
  101. through consultations with farm women, reviewing government economic supports to farm women, and identifying ways to improve farm women’s representation in policy analysis and decision making in the agri-food sector; and



- 102.** researching the gender-specific impacts of workplace innovation practices due to technological change and the reorganization of production processes and compensation methods.

### **Fostering Changes to the Workplace to Promote Equitable Sharing of Work and Family Responsibilities**

- 103.** The federal government will continue to foster changes in attitudes, practices and structures regarding work and family-care responsibilities, to enable men and women to balance more equitably those responsibilities. The federal government will continue to promote measures to assist men and women employees to balance the demands of work, family and community, and to explore how productivity could be increased, by lending flexibility and support to families (see also Objective 8).
- 104.** Work-time and distribution issues (including work and family balance issues) were recently addressed by an advisory group comprising representatives from business, labour, academics and social action communities. Consensus recommendations were presented in a report to the Minister of Human Resources Development in December 1994. A task team within Human Resources Development Canada is examining issues related to work time and the distribution of work.
- 105.** The federal government is committed to:
- 106.** developing options to increase work-time flexibility, to combine paid work and career development with other family and community responsibilities, such as care for children, elders and family members with disabilities;
  - 107.** considering, in partnership with business and labour, options to distribute more equitably the costs of caring and providing for children and to compensate workers for the loss in income associated with absences from the paid work force to care for children or other dependants;
  - 108.** considering ways to improve women's and men's ability to combine paid work and career development with family and community responsibilities;
  - 109.** researching the extent to which women's involvement in unremunerated work, particularly household management, care of family members and voluntary community-based activities, poses an obstacle to their ability to engage in remunerated work and career development; and
  - 110.** analyzing the correlation between the economic invisibility of unremunerated work and the undervaluation of female-dominated occupations in the labour market.

### **Creating Conditions Necessary to Support Women Entrepreneurs in Starting and Expanding Businesses**

- 111.** Women own approximately one-third of small- and medium-sized businesses and account for an ever-increasing share of Canadian entrepreneurs. The government

places a high priority on creating an environment to support a growing, healthy, small- and medium-sized business sector. Under the authority of the Federal Business Development Bank, the Step In and Step Up programs offer counseling, training, mentoring and planning services to women entrepreneurs involved in small- and medium-sized businesses in Canada. In both programs, successful business women act as mentors for less-experienced women entrepreneurs. Networking is an important component of both programs.

- 112.** The federal Self-Employment Assistance Program provides income support (including provision for child care), training and ongoing expert advice to individuals starting businesses; 35 percent of program participants are women.
- 113.** The Economic Development for Canadian Aboriginal Women Initiative (EDCAW) is providing Aboriginal women with support in economic and business development. EDCAW includes activities such as networking, training, advocacy and the development of pilot projects to improve access to capital and business resources.
- 114.** Women in small- and medium-sized businesses need venture capital, access to term loans for equipment and a range of banking services. Major Canadian banks recently adopted a code of conduct requiring them to provide those refused credit with the main reasons for refusal and to provide information on alternative sources of financing.<sup>16</sup> Customers will be able to avail themselves of an alternative dispute resolution process in cases which cannot be resolved satisfactorily through the internal bank complaint process. The federal government will be monitoring the effectiveness of these measures. The Canadian Human Rights Commission may further investigate and intervene on any complaint of discrimination lodged by a woman against a financial institution.

### **Broadening Our Understanding of Canadian Women's Relation to the Economy**

- 115.** The federal government, through consultation with women's organizations where appropriate, will continue to improve its development, collection and analysis of data (including gender-disaggregated data) to enhance the understanding of issues of concern to women and to provide better information for socio-economic legislation, policy and program development and innovation. The federal government is committed to:
  - 116.** enhancing production of the statistical compendium, *Women in Canada*, to provide a wide array of data on demographic and socio-economic indicators;
  - 117.** enhancing and undertaking new development of data collection, analysis and publications on women's paid and unpaid contributions to society and the national economy and on more general activity patterns including leisure, family and community activities;
  - 118.** undertaking the new longitudinal Survey on Labour and Income Dynamics to monitor the employment experience and progress of women and the impact of changes in family composition, working arrangements and

wage differentials over time, on children and other family members, and women's long-term economic welfare;

- 119.** establishing the Longitudinal Administrative Database (LAD), linked to the Canada Mortgage and Housing Database to improve understanding of the impact of housing programs and the dynamics of low income on social-housing residents generally, and in particular, lone-parent families headed by women and elderly single women;
- 120.** taking the lead role with respect to the Metropolis Project, an international, multi-year undertaking aimed at producing a comprehensive program of immigration research as part of the policy development process (The research is being organized under domains such as economics, education and culture, and will include an analysis of pertinent gender issues. The project is multi-disciplinary and compares some of the world's large cities); and
- 121.** establishing, jointly with the Social Sciences and Humanities Research Council of Canada, three centres of excellence for research on immigration and integration. Research in all domains will include, where appropriate, analysis of pertinent gender issues and other issues such as ethnocultural background.

## Women and Retirement Income

- 122.** Despite record numbers of women in the paid labour force, women continue to face a number of economic disadvantages in retirement, because of lower average wages and lifetime earnings than men, and because their incomes must sustain them longer due to their greater life expectancy than men. The disadvantage women face in retirement is often the result of delayed entry to, and periods of absence from, the paid labour force for family-care reasons. Women are also more likely to be employed in jobs without access to registered pension plans, such as part-time and non-standard work arrangements, and trade and service occupations. The federal government is studying the effects an aging society will have on governments, employers/employees and families.
- 123.** More than half (56 percent in 1993) of the country's unattached women, aged 65 and over, compared with 38 percent of comparable men, have incomes below Statistics Canada's Low Income Cut Off (LICO).<sup>17</sup> This is in part because women tend to spend a higher proportion of their income on children and immediate household needs, rather than invest in fixed assets, bonds, securities, etc., as men might. Just 21 percent of women tax filers in 1992 contributed to a Registered Retirement Savings Plan (RRSP) compared with 28 percent of men. In 1993, only 44 percent of employed paid female workers, compared with 51 percent of comparable men, were members of an employer-sponsored pension plan. Women are more likely than men to withdraw their RRSP before retirement.<sup>18</sup>

## Women and Housing

- 124.** The majority of households needing housing assistance in Canada are led by women, a reflection of low-income patterns, of a growing number of women-led families, of women over 55 who no longer qualify for assistance as single mothers but are not yet old enough to qualify for assistance as seniors and a growing number of senior women. The federal government will study how the current demand for housing differs for men and women.
- 125.** The two-year National Enablement Demonstration Initiative focuses on helping low-income Canadians become self-sufficient. It gives people the opportunity to discover their own potential in identifying priorities and implementing solutions, while reducing their dependency on public assistance. Eligible proposals for grants cover topics such as options for public housing or land trust ownership; financing alternatives such as reverse annuity or community funding; management alternatives such as tenant- or co-management; and social or economic development activities within assisted communities. This initiative is of particular interest to organizations of low-income women and single mothers wanting to develop innovative approaches that allow them to work together to address housing and housing-related concerns (see Objective 3).
- 126.** The federal government will continue to support the existing stock of social housing serving Canadians in need. It will also continue to explore other avenues to enable low-income Canadians to obtain decent housing, increase the range of housing choices available to the growing and diverse senior population and make home ownership easier for a wider range of Canadians, through measures such as the development of new programs and the revision of existing policies. This could include financial vehicles such as reverse mortgages, which may be of particular interest to senior women. Reverse mortgages would provide a vehicle to convert home equity to cash while retaining full occupancy rights, allowing women to retire in their own home. The First Home Loan Insurance Program, accessed equally by men and women, has also been extended to 1999.

## OBJECTIVE 3 — IMPROVE WOMEN'S PHYSICAL AND PSYCHOLOGICAL WELL-BEING

**127.** Since the release of the Lalonde Report<sup>19</sup> in 1974, policy makers have increasingly recognized that health status is more than the absence of disease, illness or infirmity, and that it is determined by more than access to medical care. Despite this knowledge, the health system still often fails to acknowledge and understand the ways that social, economic, cultural and political circumstances influence women's lives and affect their health. This is manifested in the persistent assumptions that health over a lifespan follows the same course regardless of gender, that the nature of common illnesses or diseases is similar for both genders, and that women's and men's treatment needs are the same. It is further reflected in insufficient attention to conditions/diseases exclusive to or primarily experienced by women.

### GENDER-BASED DIFFERENCES IN WOMEN'S LIVES AFFECT WOMEN'S HEALTH

**128.** Health care has increased the life expectancy of both men and women, but it has not always ensured for women an increased number of years of good health or an extended, improved quality of life. In 1991, the average life expectancy in Canada was 81 for women and 75 for men. However, while living longer than men, women will incur health problems as they age and will need access to the health care system more often.<sup>20</sup>

**129.** Individual genetic endowment, and factors in the physical and social environment as well as individual behaviour are important determinants of health. However, mortality and morbidity follow gradients across all socio-economic classes. Lower income and/or lower social status are associated with poorer health. Higher prevalence of poverty among women and their general situation of lower social status have negative health consequences for all women and for poor women in particular. Women are more likely than men to live in poverty, and the hallmarks of poverty — inadequate nutrition, poor living conditions, high stress levels, low self-esteem and inattention to good health practices — all take their toll.

### How Gender Gaps in Health Policy and Practice Affect Women's Health

**130.** Globally and in Canada, there are significant gender gaps in health policy analysis and practice that frequently lead to misdiagnosis and mismanagement of women's health problems. For example, women's health problems such as cardiovascular disease have received insufficient attention despite the increase in the incidence of cardiovascular disease in Canada. Between 1981 and 1991, the incidence of these diseases increased by five percent among women and dropped 11 percent among men.<sup>21</sup>

**131.** Gender-specific aspects of diseases such as AIDS have been under-researched,

despite ample anecdotal evidence of gender differences in onset, disease course, risk factors and treatment effectiveness.

- 132.**Smoking is the leading cause of lung cancer death among women, and will account for an estimated 5,800 deaths among women in 1995. Lung cancer incidence in women continues to rise,<sup>22</sup> and more adolescent women than men start smoking. Since the mid-1980s, incidence and mortality rates for lung cancer in men have leveled off, while women's rates have continued to climb, although they are still much lower than those of men.<sup>23</sup> The motivations to smoke, the patterns of addiction and the health consequences of smoking are gender-specific. Regulatory and health promotion measures to reduce smoking must consider gender differences.
- 133.**Breast cancer is the most frequently diagnosed cancer for women, striking one in every nine Canadian women during their lifetimes, and will account for an estimated 5,400 deaths among women in 1995.<sup>24</sup> Yet, research is underfunded. The needs of women with breast cancer are not fully met.
- 134.**In most industrialized countries, such as Canada, women's health and normal life processes (reproduction, childbirth, menopause) have been over-medicalized, and women are often subject to unnecessary medical interventions such as hysterectomies and caesarean deliveries. Over-prescribing of drugs to females, and particularly the misuse of mood-altering drugs, is common and reflects gender bias in the diagnosis of mental illness.
- 135.**New reproductive technologies pose ethical, health, research, legal and economic questions of concern to the entire society and require government attention. Women are particularly vulnerable to experimental and potentially unsafe treatments for infertility. The federal government is currently reviewing The Royal Commission on New Reproductive Technologies' final report, *Proceed with Caution*, released in 1993, and its recommendations, including that legislation be enacted to ensure that ethically questionable practices are stopped or undertaken only under strict conditions.
- 136.**The practice of female genital mutilation (FGM) continues to be carried out in some countries and causes serious health problems for girls and women, sometimes leading to death. Concern that the practice is occurring in Canada has arisen as a result of the inflow of refugees and immigrants from countries where FGM is carried out. It is prohibited under various Criminal Code provisions to perform FGM in Canada and to remove a child from Canada to have FGM performed in another country. It is a complex and highly sensitive issue requiring a comprehensive approach (see also Objective 4).
- 137.**The impact of drugs, medical devices, treatments and clinical interventions applied to women has not always been properly assessed. Difficulties in accessing sexual and reproductive health services reinforce women's perception that the health system has failed to protect and enhance their health.
- 138.**Improvements to women's health and well-being, and the success of treatment outcomes, depend on an adequate and complete history of the social, cultural, medical and economic factors that may affect their health. For example, a high



proportion of women who abuse alcohol and drugs have a past history of sexual and physical abuse, yet this abuse has been rarely addressed in traditional alcohol and drug abuse educational research.<sup>25</sup>

### **Broadening Our Understanding of Women's Health Issues**

**139.**Canada lacks a comprehensive source of data and analysis on women's health. The Medical Research Council estimates that only about five percent of Canadian health-research funding is spent specifically on women's health issues.<sup>26</sup> Consequently, women's health status may be being compromised.

### **Understanding Reform and Renewal of the Health System in Relation to Women's Health**

**140.**Virtually all health systems across Canada are undergoing significant restructuring and realignment. These changes have a profound effect on Canadians. The potential exists for health system reform and renewal to have a favourable impact on women as more emphasis is placed on greater responsiveness to patient need, deinstitutionalization, the advent of new care givers such as midwives and nurse-practitioners, the use of evidence-based outcomes, support for more citizen responsibility for personal health and health-system decision making, and achieving a better balance between health care and health promotion and prevention measures, including physical activities.

**141.**However, cutbacks in the health system have created fears, and indeed the reality, in some instances, that services of value to women may be curtailed. Early patient discharge and the advent of home care have meant that women often take on disproportionate care-giving responsibilities they cannot afford and for which they may be ill-equipped. They also raise the question of whether women themselves may live out their final years without such support. Added care-giving responsibilities may limit or tax women's ability to participate in and progress through the paid labour market, ultimately affecting their personal health status as they become overstressed and overburdened (see also Objective 2).<sup>27</sup>

### **PRIORITIES FOR ACTION**

**142.**The federal government is committed to ensuring that gender is widely understood and used as a fundamental variable in health policy development, research and evaluation. An analysis of the impact of social and economic factors on women's health will be a priority (see also Objective 2).

**143.**The federal government affirmed its commitment to women's health with the creation of the Women's Health Bureau within Health Canada in 1993. The activities of the Bureau are intended to enhance the responsiveness of the Canadian health

care system to the health needs and concerns of women. The Bureau's work is directed internally — to the impact of policies, programs and practices in the health system on women and women's health.

- 144.** A number of federal health programs focus on health issues of specific concern to women, such as the federal Breast Cancer Research Initiative launched in 1992. Through this initiative, the federal government is committed to continuing to carry out research and screening programs, to develop care and treatment guidelines and to conduct professional educational and information exchanges.
- 145.** Other federal government programs include sex-specific components aimed at addressing health issues as they affect women. For example, Health Canada's programs in the areas of HIV/AIDS, tobacco-demand reduction, and the abuse of alcohol, drugs and other substances focus on the particular needs and circumstances of women and will continue to do so. The health needs of older women are a prime focus of federal health programs for seniors. Health Canada is continuing to address the lack of knowledge concerning osteoporosis — a significant problem for nearly 25 percent of older women. Adolescent girls and young women living with the adverse health consequences of FGM pose new and unfamiliar health problems for health care providers. The federal government is responding by developing information materials for professionals on the health, educational and legal aspects of FGM.

### **Reform and Renewal of the Health System and Women's Health**

- 146.** The federal government has three primary objectives for its involvement in health system renewal: (1) maintenance of universal access to appropriate health care; (2) improving the health of Canadians and reducing health inequalities by adopting a health-determinants approach and achieving a better balance between health care and protection, prevention and promotion measures; and, (3) reducing financial pressures on the public and private sectors. The federal government is committed to:
  - 147.** undertaking research to assess the impact of health reform and renewal activities on women and women's health, including health services for women, the role of women in regionalized and decentralized governance structures, and the impact of de-institutionalization on women as care givers (see also Objective 2);
  - 148.** in conjunction with provincial partners and the Centres of Excellence for Women's Health, monitoring how health practice patterns are changing as a result of health reforms and alternative approaches to health care delivery (including the introduction of new provider groups, community-based services, integration of health and social services, and alternative methods of physician remuneration); and
  - 149.** supporting a re-orientation of the health care system toward a better balance between health care and prevention/promotion measures to improve health, particularly among groups at risk where women tend to be over-represented.

## Information and Research

- 150.** Responding appropriately to women's health needs requires a stronger information base and research capacity on women's health than is currently available. The federal government is committed to:
- 151.** continuing its progress toward the implementation of a program of Centres of Excellence for Women's Health. By the end of 1995, the program will select three to five centres, mandating them to conduct policy-oriented research on women's health. A network linking researchers, academics, policy makers, health care providers, community health agencies and women's organizations will be supported in conjunction with the Centres of Excellence program;
  - 152.** establishing a National Advisory Group as an adjunct to the Centres of Excellence program to monitor progress on women's health research and to serve as advocate for an enhanced focus on women's health research by researchers and health research granting bodies;
  - 153.** facilitating the creation of a national research agenda, with priorities on policy- relevant research, to further understanding of the gender-specific determinants of health, health outcomes and best practices (see also Objective 1);
  - 154.** continuing to support projects and activities that seek to clarify the relationship between socio-economic and health status and to uncover other factors that influence women's health and well-being (see also Objective 2);
  - 155.** producing a status report on the health of Canadian women in association with a federal- provincial/territorial population health report card to be published in 1996;
  - 156.** undertaking steps to ensure that major health information sources, data bases and surveys (e.g., a biennial population health survey, the Population Health Intelligence Network, etc.,) yield useful analyses of women's health issues. This includes the development of gender- sensitive data and methodologies for collecting information on health, as well as improved interpretation of the data and their significance for policy making, program planning and service delivery;
  - 157.** reviewing the issues of women's health research and the participation of women as subjects in clinical trials and establishing new guidelines for federally funded research programs;
  - 158.** increasing knowledge and use of knowledge on a wide array of disease prevention and health promotion measures and interventions, including screening for major chronic diseases, physical activity and nutrition; and
  - 159.** increasing and monitoring research on women in sport as leaders and participants.

## A Women's Health Strategy

- 160.** The majority of federal government health programs directly or indirectly affect women. The federal government is committed, therefore, to developing a comprehensive and integrated women's health strategy to guide work on women's health, to identify priorities and criteria for periodically assessing and resetting priorities and to ensure that gender-impact analysis is an integral part of health programs, policies and regulatory activities.
- 161.** The federal government is committed to using the health section of the Platform for Action, to be adopted at the Fourth United Nations World Conference on Women (Beijing, September 1995), as well as the lead-up and post-Beijing processes, to promote awareness of women's health in Canada.
- 162.** The federal government is developing the elements of an interim and long-term management regime for new reproductive technologies. To meet the challenge of dealing with new reproductive technologies in a broader context, a comprehensive reproductive- and sexual-health framework is being developed.

## Health of Designated Groups of Women

- 163.** The health of certain populations — particularly women from ethnocultural minorities, Aboriginal women, low-income women, older women, refugee women and women living in rural and isolated communities — is at higher risk than others. In some cases, health threats are related to adverse living conditions; in other cases, poor health status is a function of lack of access to necessary health services. The federal government is committed to:
- 164.** working with Aboriginal health organizations to identify and to understand the health needs of Aboriginal women and the means to address those needs (see also Objective 6);
  - 165.** undertaking an Aboriginal Head Start Program for young Aboriginal children and their families living in urban centres and northern communities. The program aims to help children foster a positive self-image, to encourage their desire to learn and to give them an opportunity to develop vital social, emotional and physical skills. Services offered may also include health and nutrition counseling for parents;
  - 166.** addressing the health needs of senior women who are particularly vulnerable to relatively lengthy periods of chronic disease or disability and who do not have adequate or appropriate health services and social support;
  - 167.** identifying the health needs of cultural minorities (including low-income women) and assessing whether these needs are being met by the current health system; and
  - 168.** continuing to address the issue of female genital mutilation (FGM) via

the Interdepartmental Working Group on Female Genital Mutilation. This group is working with concerned communities and advocates to inform and educate about associated health risks and legal sanctions, recognizing that FGM is a traditional practice, not a religious precept. Materials for this purpose are being developed in consultation with relevant ethnocultural communities (see also Objective 4).

## **Women's Role in the Environment and Sustainable Development**

- 169.** Sustainable development recognizes that satisfying human needs and improving the quality of human life must be based on the efficient and environmentally responsible use of all of society's resources — natural, human and economic. It ensures that the present generation can meet its needs without compromising the ability of future generations to meet their needs. Women have a unique and vital perspective on strategies for achieving sustainable development.
- 170.** However, women still do not have full and equal participation in the decision-making process (see Objective 6). The federal government is committed to considering gender among other factors as it develops its legislation and policies, including those on the environment and sustainable development.

## **Health Aspects of Women's Housing**

- 171.** The federal government is also committed to promoting awareness of the important links among housing, personal health and the environment, and to promoting safe, healthy and sustainable living environments for all Canadians. Women and children, on average, spend more time in the home than do men. This commitment, therefore, has strong significance for women's health and well-being (see also Objective 2).
- 172.** The federal government will continue to support initiatives that contribute to healthy housing environments, such as:
- 173.** promoting the five following principles of occupant health, energy efficiency, resource efficiency, environmental responsibility, and affordability, to help social housing residents (the majority of whom are women) make informed choices about their health and living environment;
  - 174.** researching and implementing demonstration projects, supporting training for housing experts on how to house environmentally sensitive people and studying the problems of contaminants in housing environments;
  - 175.** developing survey instruments to monitor and compare quality of life, health and well-being issues in social housing environments; and
  - 176.** encouraging innovation in housing, including more effective ways to meet the housing and support-service needs of seniors and people with disabilities.

## Occupational Health and Safety<sup>28</sup>

**177.** The federal government will seek to advance occupational health and safety issues in collaboration with its partners through the Canada Labour Code, the Public Service Staff Relations Act and other government programs (see also Objective 2). Farm safety is an important issue for farm women who, along with other members of their families, are at risk. Therefore the issue of safety is a major focus for Canadian farm women's organizations. A new government program, the Canadian Agriculture Safety Program (CASP), will be launched in 1995 to help reduce the number of farm injuries and fatalities in Canada. A multi-level, comprehensive program, CASP will, among a number of activities, provide assistance to organizations with shared visions, such as the National Coalition for Rural Childcare. While this program will improve safety for all farmers and their families, it will have a significant impact on women, who in 1991 made up more than 26 percent of farm operators in Canada.



## OBJECTIVE 4 — REDUCE VIOLENCE IN SOCIETY, PARTICULARLY VIOLENCE AGAINST WOMEN AND CHILDREN

### INTRODUCTION

- 178.** Violence against women has been defined in the United Nations Declaration on the Elimination of Violence Against Women as: “... any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life.” It is rooted in attitudinal, structural and systemic gender-based inequalities. Violence against women occurs in many kinds of social relationships and contexts and cuts across all racial, social, cultural, economic, political and religious boundaries. Women who face additional inequality because of disability, age, cultural identity, class and sexual orientation also experience violence unequally.
- 179.** Globally, much attention has been focused on the issue of violence against women in recent years. Canada has been a leader in this regard, with its initiatives leading to the adoption by the United Nations’ General Assembly of the Declaration on the Elimination of Violence Against Women in December 1993, and to the appointment by the United Nations’ Commission on Human Rights, in 1994, of a Special Rapporteur on Violence Against Women. Domestically, attention has also been focused on this issue, including parliamentary reports on violence, the Canadian Panel on Violence Against Women, as well as the activities of women’s organizations and front-line workers, women survivors of violence and academic researchers.
- 180.** Women’s unequal situation renders them more vulnerable to male violence. It is well established that Canadian women are most likely to be victimized by men they trust, respect and love.<sup>29</sup> For many, the fear of violence restricts their choices and ability to participate fully and freely in society.
- 181.** Over the last two decades, federal, provincial, territorial and municipal governments have undertaken extensive and wide-ranging initiatives to address violence, particularly violence against women. Working alongside its partners, the federal government is committed to an ongoing effort. In 1993, Statistics Canada’s Violence Against Women Survey found that 51 percent of women in Canada reported having experienced male violence, defined as physical or sexual assault considered an offence under the Criminal Code.<sup>30</sup> Three in 10 currently or previously married women have experienced at least one incident of physical or sexual violence at the hands of a marital partner. According to a homicide survey conducted by Statistics Canada, married women are nine times as likely to be killed by a spouse as by a stranger.<sup>31</sup> The pervasiveness of violence is demonstrated in Statistics Canada’s findings that 42 percent of women aged 15 and over felt unsafe walking in their own neighbourhood after dark and that 23 percent of women had been sexually harassed in the workplace. The survey supported the

theory of intergenerational abuse, having found that women whose fathers-in-law were violent were three times more likely to experience violence than those whose fathers-in-law were not violent.<sup>32</sup>

- 182.** Violence against women and children takes place against a broader societal backdrop of violence. In 1993, 10 percent of reported crimes in Canada were violent.<sup>33</sup> This represents a doubling of the rate of reported violent crime since 1978. It likely reflects both an improved reporting and an actual increase in the incidence of violence, especially violence against women and children. Through submissions to parliamentary committees, opinion polls and the media, many Canadians have stated that the current level of violence in our society is unacceptable. The culture of violence, fed by the glamorization of violence in the media, is also unacceptable to many.
- 183.** The scope and extent of violence generally, and violence against women and children in particular, underline the importance of multilayered, multidisciplinary and multifaceted approaches to its reduction. Efforts to create safer homes and safer communities and to educate the public on issues related to violence against women are intertwined.

## **REDUCING VIOLENCE AGAINST WOMEN AND CHILDREN: PRIORITIES FOR ACTION**

- 184.** The federal government is addressing violence against women within its overall framework of reducing violence in society. It recognizes that violence needs to be confronted at its roots. Reducing violence against women and children means righting the economic, cultural, social, legal, political and other bases of inequality. Social institutions, attitudes and practices that perpetuate inequality and reinforce violence against women must change. Relationships built on an equitable balance of power and mutual respect between genders must be fostered.
- 185.** The federal government's strategy to reduce violence and assure the safety of women and children in all living situations and workplaces in Canada is based on a model of partnership among a number of federal departments and agencies. It is also predicated on a relationship of co-operation and co-ordination with other levels of government that are working to reduce violence and provide services on the front lines.
- 186.** The federal government believes that women's vulnerability to male violence can be diminished through the actions laid out in The Federal Plan for Gender Equality as it extends to sectors such as health, economic structures, cultural life, the workplace, the media and governance (see Objectives 2, 3, 5, 6 and 8). When women's mental and physical health is strong, when women increase their financial autonomy, when institutions such as the media, the courts and the workplace agree to send signals that violence is not acceptable, we can expect that the prevalence of this problem will decrease.
- 187.** The federal government will continue to consult and collaborate with its public- and private- sector partners and NGOs to reduce all forms of violence. The dissemination of the Community Kit and the Community Stories on violence against women are examples of this collaboration. The federal government will continue its practice of

consulting with women's organizations working actively on issues concerning violence against women. For example:

**188.** in June of 1995, the Minister of Justice, in collaboration with the Secretary of State (Status of Women) and other Ministers, held a second consultation with 67 women's organizations from across the country, to discuss priority issues concerning violence against women in Canada. During the final day of the consultation with Ministers and ministerial representatives, various activities to be undertaken by the federal government were identified. Recommended courses of action will guide departments and agencies in promoting the safety and equality of Canadian women and in developing policies and programs to address violence against women.

**189.** The federal government has already begun to reassess its activities addressing family violence and violence against women in the context of its broader strategy on violence in Canadian society, to increase efficiency and co-ordination and strengthen its commitment to reduce violence against women.

### **Contributing to Community-Based Action**

**190.** Community-based action is an important strategy to reduce violence. The federal government is committed to:

**191.** supporting work undertaken by women's organizations to address the root causes of violence and developing strategies that result in long-term systemic change;

**192.** pursuing the National Strategy for Community Safety and Crime Prevention;

**193.** assisting Aboriginal women's organizations to develop community resources, and to examine and institute culturally appropriate and holistic approaches to the healing of their communities (see also Objective 3);

**194.** working with ethnocultural, immigrant women's, immigrant-serving and other non-profit organizations to develop funding proposals to address violence against women in the family;

**195.** supporting work that addresses the mental health of women affected by violence and emotional/psychological abuse (see also Objective 3);

**196.** supporting work, including the development and dissemination of information on models and guidelines, that addresses the needs of abused women living in poverty and in rural, northern or isolated communities, and the needs of abused women with disabilities (see also Objective 2);

**197.** harnessing the use of modern technology to improve access to and dialogue with northern Aboriginal communities for the resolution of violence in these communities, including violence against women in the family and in other spheres of community life (see also Objective 5);

**198.** increasing co-ordination among government departments and agencies and other jurisdictions and sectors with a stake in women's violence/safety issues;

- 199.** facilitating federal interaction with ethnocultural communities, immigrant women's organizations and immigrant-serving organizations, scholarly researchers, minority writers, video producers and others to address violence issues (see also Objective 5);
- 200.** researching how personal safety issues can be best addressed in housing design (see also Objective 3); and
- 201.** assessing future social programs, services and initiatives to ensure that the issue of violence against women is addressed where appropriate (see also Objective 2).

### **Supporting Information Exchange and Education**

- 202.** Information exchanges and education are necessary to promote the sharing of innovative ideas, tools and experiences that help prevent violence against women and that improve intervention should violence occur. To this end, the federal government is committed to:
  - 203.** supporting the National Clearinghouse on Family Violence (NCFV) and its governmental and community partners to continue development and dissemination of resource materials for public education, information exchanges and co-ordination, and to increase the accessibility of its information through the electronic information highway;
  - 204.** working in partnership with the provinces and territories and the private and NGO sectors to develop innovative solutions, intervention models and training materials;
  - 205.** enhancing the capacities of the health service sector to recognize and respond to the needs of vulnerable/high-risk groups including women (see also Objective 3);
  - 206.** maintaining an urban Aboriginal framework for services and programs through the Native Friendship Centre network to help Aboriginal women address their needs and concerns about violence (see also Objective 5);
  - 207.** broadening the reach of the Canadian Association of Broadcasters' public service announcement campaign (see below) by working with provincial and territorial counterparts and private sponsors to promote and share public-awareness and training resources (see also Objective 5).

### **Increasing Media Awareness and Involving the Media in Counteracting Violence**

- 208.** The federal government recognizes the significant impact of violence against women portrayed in the media and will continue to dedicate efforts to work in partnership with the broadcasting industry to address this issue. Since 1993-94, several government departments have been working with the Canadian Association of Broadcasters on a public service announcement/social-marketing strategy on violence in society,

known as the National Media Violence Strategy. Its three major goals are to reduce media violence through voluntary industry action, to use the media as a positive force to change people's attitudes toward violence and to promote media education for children, parents and all viewers. Its six components for action are regulatory measures, television programming classification and other viewer aids, public awareness and media literacy, quality children's programming, ongoing research and evaluation, and international collaboration. Key to the strategy is the broadcast of television and radio public service announcements (PSAs). Each year, private broadcasters contribute over \$10 million in free air time; the federal government provides funding for the production of the PSAs and provides expertise on the issues. The federal government is committed to:

- 209.** continuing to promote awareness of violence issues through Phase II of the Speak Out Against Violence campaign. In 1995-96, the themes are violence against women, violence against children and media literacy. To reach beyond its federal partners, Phase II of the campaign will include educational material and an information kit adapted for different audiences and uses. These include private TV and radio broadcasters and grassroots organizations including the Canadian Association of Chiefs of Police, the Canadian Medical Association, Canadian Parent-Teachers Association, SchoolNet, etc.;
- 210.** in partnership with Television Northern Canada, developing in several Aboriginal languages, public service announcements on media violence directed to northern Aboriginal viewers (see also Objective 5); and
- 211.** consulting with media representatives and organizing information sessions to foster a better understanding of status of women issues among the media so that coverage is informed by a gender-based analysis.
- 212.** To further progress on the issue of media violence, the Canadian Radio-television and Telecommunications Commission will:
- 213.** continue to work with the cable association, specialty services and foreign programming services, the last sectors of the broadcasting industry to have their plans and/or codes on violence approved by the Commission; and
- 214.** hold public hearings on the issue of violence in television programming starting in October 1995.
- 215.** In addition, the federal government through the National Film Board (NFB) is committed to:
  - 216.** producing more films on the issue of violence and the media; it will soon release the first two in a series of productions dealing with violence issues aimed at teenage girls aged 15 to 19;
  - 217.** subject to successful funding partnerships, continuing to support the NFB Media Awareness Network, an electronic data base and platform for interactive conferences — recently placed on Internet — that serves as a national and international forum for dialogue, information sharing and action on the subject of media literacy. It aims to develop awareness and lessen the impact, particularly on children, of aggressive and antisocial images and messages (including violent messages); and



- 218.**releasing for broadcast (and to school/home video markets) a live-action half-hour drama that encourages children to think and talk about the violence portrayed in the television programs and movies they watch.

### **Supporting Shelters for Battered Women and Children**

- 219.**The federal government, through the Canada Mortgage and Housing Corporation, is committed to providing social housing support to victims of violence. To this end, the federal government is committed to:

- 220.**continuing to provide a subsidy under the non-profit housing program to support shelters for victims of violence in Canada in 1995-96;
- 221.**improving existing shelters to accommodate the special needs of children, persons with disabilities and older clients;
- 222.**developing emergency and second-stage shelters where there is a demonstrated need and where support for operational funding is available (there is a need to address the lack of shelters in rural areas);
- 223.**reviewing the availability of operational-funding support for on-reserve shelters; and
- 224.**maintaining its traditional role of shelter support and seeking new, innovative and effective approaches and roles to support the development of safe streets and safe homes.

### **Achieving Criminal Justice-related Reform**

- 225.**The federal government has sought to improve the protection of women and children from violence and sexual abuse through criminal justice reform measures, and will continue to do so in consultation with women's organizations. The federal government has introduced a number of reforms to the Criminal Code, including:

- 226.**making it possible for police and others to apply for peace bonds on behalf of women at risk, as well as making the breach of a peace bond a more serious offence (the penalty has been increased to a new maximum of two years' imprisonment);
- 227.**amending the sentencing provisions of the Criminal Code to ensure that an offence committed by a person in a position of trust or authority to the victim must be considered an aggravating factor in sentencing;
- 228.**amending legislation to remove the defence of extreme intoxication for crimes of violence, such as sexual assault and assault; and
- 229.**working with its provincial and territorial counterparts to address the legal and justice- related problems of visible minority women (see also Objective 3).

- 230.**The federal government also provides financial assistance to provincial, territorial and municipal governments, private-sector organizations, community groups and



individuals to develop short-term, discrete programs, services, training, conferences and public legal-education projects designed to promote and implement reforms in the justice system. The issue of violence against women and children will continue to be a high priority for these programs.

**231.** Within its sphere of jurisdiction on matters related to the administration of justice, the federal government will continue to provide direct services relative to the issue of violence against women. Specifically the federal government is committed to:

- 232.** conducting socio-legal research in support of Criminal Code reforms and into other aspects of violence against women (these include research and evaluation of legislation, and procedural practices and programs that aim to assist women experiencing violence or the threat of violence);
- 233.** maintaining ongoing consultations with women's organizations on the federal role and its specific priorities for action in the area of violence against women (see also Objective 6);
- 234.** providing family violence awareness training to the Royal Canadian Mounted Police (RCMP) to improve officers' capacity to respond to this form of violence, and completing the development of an intensive course on sexual-assault investigation;
- 235.** evaluating pilot training courses to provide First Nations' police officers with training on how to deal with violence against women in the family, and child sexual abuse;
- 236.** continuing to research, provide and evaluate a range of interventions dealing with violence against women for federally sentenced male offenders; the federal government will also continue to develop and offer violence-related programs and services to federally sentenced women, the majority of whom are survivors of abuse and trauma (programs such as Survivors of Abuse and Trauma will assist the women's healing processes; mother/child and parenting programs are intended to assist women to maintain their relationships with their children if it is in the best interest of the child, and to develop better parenting skills. These programs should help to break the cycle of violence in the lives of these families); and
- 237.** ensuring that a history of violence against women is seriously considered in decisions to grant parole to offenders. The National Parole Board's current review of its decision-making policies and processes, and Board member training, will also be sensitive to this issue.

### **Addressing Violence in First Nations' On-reserve and Inuit Communities**

**238.** The federal government continues to support initiatives in First Nations' on-reserve and Inuit communities that address violence against women in the family, specifically:

- 239.** community-based services to help in the prevention, intervention and treatment of violence against women (see also Objective 3); and
- 240.** research, evaluation and professional training activities that address violence

against women in the family, that increase recognition of abuse and that explore healing models (see Objective 3).

### **Supporting the Protection of Women Refugees Whose Safety is at Risk**

- 241.**Through Citizenship and Immigration Canada's Women at Risk Program, the federal government helps women refugees in precarious situations in countries of first asylum where local authorities cannot ensure their safety. This includes women in physical danger or living in perilous, unstable and/or dangerous situations. The federal government is committed to helping women refugees selected by the Women at Risk Program to resettle in Canadian society.
- 242.**In March 1993, the Immigration and Refugee Board issued guidelines to assist members of the Board in making decisions on refugee claims based on gender-related persecution. The guidelines are used by board members in applying the definition of Convention refugee to women claiming gender-related persecution in their countries of origin and in addressing women refugee claimants' needs during the refugee hearing process. The guidelines, an international first, reaffirmed Canada's leadership role in protecting and promoting the human rights of women and set the stage for a landmark immigration ruling (May 1994) that enabled a young woman to claim refugee status on the basis of risk of female genital mutilation (see also Objective 3). Citizenship and Immigration Canada has provided the guidelines to visa offices, with instructions on how to interpret the guidelines in the context of selection of refugees and resettlement from abroad.
- 243.**On June 1, 1994, Citizenship and Immigration Canada adopted a Declaration on Refugee Protection which recognizes women's rights as human rights. The Declaration guarantees that women fleeing persecution have access to the physical, psychological and moral security they need.

### **Promoting Women's Safety in the Workplace**

- 244.**The federal government recognizes that attitudes leading to violence against women in society are often transferred to the workplace. The federal government is committed to addressing the causes of workplace violence against women, including sexual and other forms of gender-related harassment, by:
- 245.**conducting consultations with employer and labour representatives to treat violence as an occupational safety and health issue pursuant to the Canada Labour Code; and
  - 246.**exploring the potential for an integrative process whereby activities to eradicate violence are inherent in workplace programs. This includes producing for both unions and employers a "best practices" model on workplace responses to violence against women (see also Objective 8).

### **Undertaking Research and Analysis on Issues Related to Violence Against Women**

- 247.** Statistical information on violence against women and other crimes will continue to be collected and widely published by the federal government. It is committed to:
- 248.** working in partnership with the national network of five Research Centres on Violence Against Women;
  - 249.** supporting social policy research that focuses on approaches to reducing violence against women immigrants, and women who are members of ethnocultural and visible minorities;
  - 250.** continuing the analysis of data from the comprehensive Violence Against Women Survey conducted in 1993; and
  - 251.** broadening the base of available data and research findings on violence against women by continuing to collect, analyze and disseminate crime data (including crimes against women) from the Homicide Survey and Uniform Crime Report and the General Social Survey — Criminal Victimization and Accident Cycle; and conducting a third Transition House Survey — a survey of residential services for abused women — to broaden the base of available data and research findings on services for women victims of violence.

## **REDUCING VIOLENCE IN SOCIETY: PRIORITIES FOR ACTION**

- 252.** The federal government recognizes that the context of violence in society is much broader than the issue of violence against women alone. A number of activities intended to ensure greater community safety will have an impact on women's safety. These are highlighted below.

### **Firearms and Weapons**

- 253.** The federal government has introduced a package of legislative reforms, including amendments to the Criminal Code and a new Firearms Act (Bill C-68) which are presently going through the parliamentary process. The Bill provides a system to license possession and use of firearms, a national registration system for all firearms, and a mandatory minimum sentence of four years in prison and a lifetime prohibition against the possession of a restricted or prohibited firearm upon conviction of specific violent offences, including sexual assault with a weapon and aggravated sexual assault. Universal registration of firearms will enhance women's safety by assisting police to enforce court-ordered prohibitions and will contribute to safer police interventions when responding to domestic calls.
- 254.** The federal government will continue to intercept at Canada's borders illegally imported weapons, drugs or any potentially injurious material that could jeopardize community and individual safety.

## High-Risk Violent Offenders and Sex Offenders

- 255.** The federal government has established a national information system, based on changes to the Canadian Police Information Centre (CPIC) system operated by the RCMP, to make more and better information available to organizations and employers to help them screen out child sexual abusers applying for positions involving children.
- 256.** To improve measures for dealing with high-risk offenders, the federal government, with the co-operation of the provinces and territories, is researching the factors for successful dangerous-offender applications. It is setting up a computerized flagging system to alert Crown Attorneys to review a case for possible application, is considering introducing a long-term offender category in the Criminal Code, and is examining the issues related to post-sentence detention.
- 257.** The federal government is also developing a treatment program for impulsive and persistently violent offenders and national standards for the assessment, treatment and risk management of sex offenders.

## Hate Crimes

- 258.** Legislation pertaining to sentencing reform will come into effect in January 1996. Among its provisions, offences considered by a judge to be motivated by hate based on the victim's sex, race, national or ethnic origin, language, colour, religion, age, mental or physical disability or sexual orientation will be subject to longer sentences.
- 259.** The federal government is also monitoring hate crime and its victims who may include lesbians and women of colour, and is working with provincial and territorial governments to develop a training program for police officers on how to deal with hate crimes.

## Community Policing

- 260.** The federal government is committed to promoting community policing as the most appropriate means of responding to the concerns and safety needs of all Canadians and all types of communities.

## Other Justice System Reforms

- 261.** The federal government seeks to improve the criminal justice system by making it more accessible to vulnerable groups, including women. Activities that relate to women's safety include:
- 262.** ensuring that women with disabilities have better access to the criminal justice system and that their particular vulnerability is considered in ongoing reviews of federal legislation;

- 263.** continuing collaboration with federal-provincial/territorial colleagues to identify the legal and justice-related problems of visible minority women, and to develop appropriate responses in the area of violence against women;
- 264.** holding special consultations with Aboriginal women's organizations to enhance the responsiveness, fairness, inclusiveness and effectiveness of the justice system to Aboriginal people (see also Objective 6);
- 265.** working with its provincial partners to create unified family courts, including support services such as mediation and counseling, for the resolution of family-law disputes in a more informal and less confrontational setting;
- 266.** continuing collaboration with women's organizations on issues of particular concern to women, such as the proposed amendments to the Criminal Code on the disclosure of confidential therapeutic records; and
- 267.** ongoing work to determine appropriate legislation and policy concerning prostitution-related activities.

## OBJECTIVE 5 — PROMOTE GENDER EQUALITY IN ALL ASPECTS OF CANADA'S CULTURAL LIFE

### WOMEN'S HISTORICAL AND CONTEMPORARY ROLE IN CULTURAL LIFE

**268.** Women have played a vital role within the family, community, government and industry in shaping the cultural life of Canadian society, both historically and in contemporary society. Cultural life encompasses a vast array of activities such as the preservation of natural and heritage cultures, cultural development of communities, the arts, cultural industries, broadcasting and sport. Women's contributions to cultural life have been crucial to progress toward the removal of barriers to the full participation of all persons in Canadian life. Their contributions draw on the fundamental values of fairness, equality and appreciation of diversity which unite Canadians from all backgrounds. Despite their important legacy and participation in Canada's cultural life, and notwithstanding the advances that have taken place, particularly during the last two decades, women's representation in history, their access to the means of cultural expression and their participation in cultural decision making lag behind those of their male counterparts. For example, most of Canada's historic sites do not adequately commemorate the contribution of women to Canada's development. While the proportions of men (54 percent) and women (46 percent) employed in the cultural sector in Canada are similar to the proportions of men and women in the labour force as a whole, women are still under-represented in non-traditional and technological fields and in higher-paid and middle-to- senior management positions throughout the cultural sector. Women's lack of equitable access to entrepreneurial program opportunities for skill development and support, to government procurement and to venture and development capital pools for cultural enterprises remain areas of concern. Finally, women continue to be under-represented in senior management levels within cultural and sport organizations and boards of cultural institutions.<sup>34</sup>

### WOMEN'S PARTICIPATION IN THE CULTURAL DEVELOPMENT OF COMMUNITIES

**269.** One of the hallmarks of Canadian society and identity is the tremendous diversity of our people. As mothers, teachers and participants, women have played an important role in defining and transmitting cultural heritage in families and communities. Attitudinal and structural barriers prevent many women from fully participating as equal partners with men in the home and the community. They are often left out of the decision-making process, and their contributions and ideas are regarded with lesser importance. This is particularly so given the likelihood of their "double days" and the customs and cultural particularities that tend to limit their participation.



## CHANGING TECHNOLOGY AND THE GLOBALIZATION OF CULTURAL EXPRESSION

**270.** Women's access to the rapidly changing media and technological means for cultural expression is currently unknown. It is reported that cyberspace is a male-dominated arena: the absence of equity and access-related research in this area is of ongoing concern. For example, it appears that women do not use the Internet or Freenet to the same extent as do men. This is of concern, given that much of the information needed to make informed decisions in today's world, and even the decision-making process itself, is being conducted along the cables of cyberspace. Those without access to this new technology that is rapidly transforming the way business is done, will be left out of the mainstream. Indeed, some have referred to this as a revolution that will result in a transformation of social relationships akin to those that followed the Industrial Revolution. Rapid global expansion of telecommunications and the deregulation of markets may reverse gains women have made in achieving equality of access to participation in all forms of cultural expression.

## NEGATIVE OR INACCURATE PORTRAYALS OF WOMEN IN CONTEMPORARY CANADIAN SOCIETY

**271.** Negative or inaccurate portrayals of women's lives in commercials, television programs and music videos continue. In some cultural sectors, portrayal standards have successfully addressed the problem. Nevertheless, the pace of change is slow. Stereotypical images and negative messages about women, particularly women who are perceived to be outside the dominant culture's ideal type of woman, and about women's sexuality persist in a range of media formats. The problem is compounded by Canadian consumption of foreign media products that reinforce these images and messages.

**272.** A 1992 survey conducted by the Canadian Association for the Advancement of Women and Sport and Physical Activity (CAAWS) revealed that men's sport dominates 92 percent of the sport pages in national newspapers; women received three percent and mixed gender coverage received five percent.<sup>35</sup>

## SPORT

**273.** Although the participation of women athletes, coaches and administrators in sport has been growing, there is still a perception in some cultures that sport is not an acceptable activity for girls. There has not been an increased representation of women in leadership roles within sport, nor an increase in women's sport coverage in the media. Neither is there sufficient movement toward equitable levels of funding and sponsorship for women's sport programs. Women athletes and women's sporting events do not enjoy the same level of private sponsorship as do men athletes and men's sporting events.<sup>36</sup>

## PRIORITIES FOR ACTION

- 274.**The federal government will continue to help organizations and other institutions to be more reflective and inclusive of the diversity of women in Canadian society.
- 275.**The federal government will continue to support activities that reflect an accurate portrayal of women. This would include, but not be limited to, the work of organizations that seek to improve the portrayal and status of women in the media and to eliminate media sexism and stereotyping (see also Objective 6).
- 276.**The government will facilitate institutional change in order to promote equity of, and active participation by, Canadian women of all origins in Canada's political, economic, social and cultural institutions.

### Enhancing Women's Participation in Canada's Cultural Development and Heritage

- 277.**The federal government is committed to enhancing women's participation in the cultural development and heritage sectors. Overall, the federal government is committed to continuing to:
  - 278.**adopt strategies to assist women cultural workers to participate fully and to advance within the cultural sector (see also Objective 2);
  - 279.**encourage women to enter the more technical fields of cultural industries, such as sound recording and film making (see also Objective 2);
  - 280.**assist with training and development in the cultural sector by working closely with the Cultural Human Resources Council and ensuring that the Council's training and development programs address the special training needs of women (see also Objective 2);
  - 281.**build partnerships at the federal level and within other levels of government and the private sector;
  - 282.**encourage cultural and sport organizations funded by the federal government to employ women in all capacities, especially in non-traditional, technical and management roles (see also Objective 2); and
  - 283.**encourage an increase in the appointment of women to the management boards of federal sport and cultural institutions (see also Objective 6).

### Commemorating Women in Canadian History

- 284.**Canada's system of federal parks and historic sites is an important venue for celebrating the role of women in Canadian society. To promote fully the historical role of women in Canadian society, the federal government is committed to:
  - 285.**expanding the commemoration of women's history through the identification of new National Historic Sites;
  - 286.**enhancing the interpretation of relevant aspects of women's history at existing National Historic Sites; and

- 287.**designating women and culture as the focus of Women's History Month, October 1996.

### **Promoting Women in Heritage Program Development**

- 288.**To strengthen the shared sense of Canadian identity that respects the diversity of this land and its people, the federal government will ensure that Canada's natural and cultural heritage is preserved and enjoyed. The federal government assists and supports museums across the country to foster the sound management of Canada's heritage collections. Federal support is based on criteria specific to the goal of preserving Canadian heritage.
- 289.**The federal government is committed to raising the representation of women in middle-to- senior management levels in the museum community by:
- 290.**analyzing the cultural labour-force information available from Statistics Canada to assess women's participation as workers and volunteers in the cultural labour force, to identify the barriers and to redress the under-representation of women (see also Objectives 2 and 8).

### **Fostering Women's Participation in the Arts**

- 291.**The federal government strives to foster an environment for the arts to flourish in Canada, and to nurture a shared sense of Canadian identity. Development of the performing, visual, literary and media arts is supported by the federal government through tax measures, grants and contributions, legislation, consultation and research.
- 292.**The federal government is committed to supporting women's participation in, and contribution to, the arts in Canada. The Cultural Initiatives Program provides funding of more than \$10 million annually to support over 250 programs, many of which are women's contributions to Canadian culture. To allow public access to information collected under the Cultural Initiatives Program, an electronic data base is being developed.
- 293.**To support women's participation in the arts in Canada, the federal government is committed to:
- 294.**continuing to provide funding on a priority basis to promote women's cultural initiatives and interests.

### **Enhancing Women's Participation in Cultural Industries and Broadcasting**

- 295.**The federal government seeks to strengthen Canada's cultural industries through policies, programs and legislation in the fields of film and video, sound recording, publishing and copyright law. Grants are provided through agencies such as Telefilm and the National Film Board (NFB).

**296.**The NFB is home to the internationally acclaimed forum for women film makers — Studio D, one of NFB's activities to encourage the involvement and accurate portrayal of women. The goal of Studio D is to make films that encourage discussion and dialogue among women, and that promote action to improve the status of women in society. Each year, three or four films are launched, and many more are in various stages of production. The National Film Board also provides specific support to Aboriginal women and women of colour through apprenticeships, workshops and a resource bank directory. The Regards de femmes program encourages women creators, film makers and technicians to undertake French-language projects that reflect the social, cultural, economic and political concerns of women. The Federal Women's Film Program (FWFP) heightens viewers' awareness of, and sensitivity to, the position of women in Canadian society. Under the auspices of the FWFP, English and French films for, by and about women are available for rental or purchase, for public screenings or television broadcasts.

**297.**The federal government is committed to:

**298.**ensuring that women continue to have opportunities and resources for film production; and

**299.**continuing, through the NFB, to produce films that stimulate discussion and promote action on women's issues (see also Objective 4).

**300.**The federal government establishes the framework and monitors the performance of private-sector initiatives and provides regulatory direction to the Canadian Radio-television and Telecommunications Commission (CRTC). By recommending appointments to working groups, advisory panels and other bodies examining issues in Canadian broadcasting, the federal government seeks to include the concerns, views and needs of women. The CRTC has the ongoing responsibility to ensure that policies embodied in the *Broadcasting Act* are implemented, including employment equity and policies addressing the accurate and positive portrayal of women in Canadian broadcasting.

## Sport

**301.**To continue to improve the status of women in sport in Canada,<sup>37</sup> the federal government is committed to:

**302.**promoting equitable coverage of women's sport in the media;

**303.**providing equitable funding for women to participate in sport;

**304.**ensuring that sport organizations demonstrate gender equity practices as a condition for receiving federal funding (see also Objective 6);

**305.**supporting the development of women role models, including leaders, decision makers, athletes, coaches and officials (see also Objective 6);

**306.**supporting programs to increase the number of women who participate in and advance to the highest levels of the National Coaching Certification Program, to increase access for women to part-time and full-time coaching

positions and to increase the number of women coaches appointed to national teams; and

- 307.** assisting in monitoring the number and ratio of women in sport leadership (including coaching) positions.

## **Multiculturalism**

- 308.** The federal government will continue to promote cross-cultural and intercultural understanding by the public and acceptance of diversity in Canadian society so the roles and contributions of all Canadian women, regardless of their ethnicity, are recognized and valued.
- 309.** The federal government will continue to work in partnership with institutions, communities and all levels of government to identify and remove barriers that impede full access and equitable participation by all Canadian women, including women who are members of ethnocultural and visible minorities.
- 310.** The federal government will also support the development of professional expertise and institutional capabilities so policies, programs and services are designed, developed and delivered in recognition of the multicultural reality in Canadian society, including issues affecting women.
- 311.** With specific regard to culture, the federal government is committed to helping to reduce the employment barriers and other obstacles facing first-generation Canadians and members of ethnocultural and visible minorities, particularly women, within the artistic and performing arts world. Federal multiculturalism programs will continue to promote institutional change and support the professional development of artists and groups who help Canadians understand the challenges of a pluralistic society.
- 312.** To enhance the participation of first-generation Canadians and women who are members of ethnocultural and visible minorities, the federal government is committed to:
- 313.** working with provincial, territorial and municipal governments to promote more inclusive cultural programs and policies; and
  - 314.** providing women who are members of ethnocultural and visible minorities with gender- sensitive technical and financial support to further their participation in the artistic and performing arts.

## **Aboriginal Citizens**

- 315.** The federal government will continue to help Aboriginal women to maintain their cultural distinctiveness and to address their cultural identity and other issues by:
- 316.** funding Aboriginal women's organizations for projects and research in cultural areas;
  - 317.** supporting Aboriginal broadcasters to explore the role that Aboriginal

women play in the cultural lives of their communities and to explore Aboriginal women's, children's and family issues; and

- 318.**entering into agreements with the territories to support the renewal and maintenance of northern Aboriginal languages.

### **Advancing Women's Contributions to Canadian Identity**

- 319.**The federal government actively supports efforts to advance women's contributions to Canadian identity. It is committed to:

- 320.**encouraging the Association for Canadian Studies (ACS) to increase the participation of women in the organization, to promote women researchers who reflect Canadian women's perspectives, to address issues relevant to women via conferences and its awards program, and to provide scholarships to women enrolled in Canadian studies programs in Canadian universities;
- 321.**making the federal Canadian Studies Program assessor network more gender- inclusive, by encouraging the participation of women's studies organizations, and building a network of women specializing in multimedia and civics education;
- 322.**encouraging publications that address gender equity and that raise awareness of the status of women and their contribution to various aspects of Canadian society;
- 323.**celebrating women's education in Women's History Month in October 1995; and
- 324.**ensuring that young women participate equitably in the Open House Canada Program, a program that provides opportunities for school-aged youth to increase their knowledge, appreciation and respect for the diversity of Canadian society and its institutions.

### **Women and Official Languages**

- 325.**The federal government supports the use of both official languages and women's participation in programs that support the official languages. This includes taking the needs of women in official- language minority communities into account in federal legislation, policies and programs.

- 326.**The federal government is committed to:

- 327.**seeking the co-operation of the provinces to gather information (including by gender) about recipients of bursaries awarded to Canadians studying in the official language other than their mother tongue and, if required, to take measures to increase women's awareness of the Summer Language Bursary Program;
- 328.**ensuring that negotiated intergovernmental agreements on official languages include a clause to enhance gender equality;



- 
- 329.**ensuring that research projects on official language communities gather information on the situation or status of women; and
- 330.**ensuring that the special situations and needs of women in official-language minority communities are taken into account in the development of federal policies and programs and in the action plans produced by departments under the *Official Languages Act*.

## OBJECTIVE 6 — INCORPORATE WOMEN'S PERSPECTIVES IN GOVERNANCE

- 331.** Over the years, women have participated more and more in political, social and economic decision making. Women have increasingly occupied federal leadership positions within political parties and governments since the first Minister Responsible for the Status of Women was appointed within the federal Cabinet in 1971. The first woman Governor General of Canada was appointed in 1984. The first woman leader of a federal party was elected in 1989. In 1992, Canada had its first woman Prime Minister. In 1993, the Prime Minister appointed the first woman Deputy Prime Minister of Canada, the first woman Government Leader in the Senate, and the first woman Clerk of the Privy Council Office. Women's extensive involvement within the NGO sector and women's organizations have aptly demonstrated women's strong leadership capabilities. There has also been progress toward increasing women's representation in decision-making positions in the legal system. By December 31, 1994, there were 132 women judges in Canada, up from 21 in 1980.<sup>38</sup>
- 332.** Notwithstanding this progress, women continue to be under-represented in Parliament, the upper levels of federal, provincial, territorial and municipal public services, international affairs, social, educational, religious and cultural institutions, local organizations and the world of business. Although women comprise slightly more than 50 percent of the population, just 18 percent of the 295 members of the House of Commons are women, and 15 percent of current members of the Senate of Canada are women.
- 333.** Fifteen percent of the federal judicial appointments made in 1993 were women. As of June 1995, 34 percent of the federal judicial appointments were women.
- 334.** Within the federal public service, progress has been made through employment equity measures to increase the representation of women in senior governmental decision-making positions. In 1994, 17 percent of deputy ministers were women, up from nine percent in 1985. The proportion of women in executive managerial positions also increased to 18 percent in 1993 from just eight percent in 1985. Women now represent 31 percent of appointments to federal agencies, boards and commissions,<sup>39</sup> and head 14 percent of Canada's missions abroad. The federal government is committed to a concerted effort to sustain and advance progress in these areas, particularly as the scope of federal activity and the scale of the bureaucracy are re-engineered.
- 335.** Even though the educational attainment of women has increased substantially over the last decade, women occupy only 20 percent of the highest-paid occupations in the corporate sector in Canada, and are under-represented at senior management levels. While contemporary management philosophies are beginning to acknowledge the special skills that women bring to management positions, women are still undervalued and under-utilized in the corporate sector. For example, in 1994, the Canadian Bankers Association reported that women account for only 12 percent of upper management in Canada's six major banks.<sup>40</sup> The majority of women work in

lower-paid, undervalued professions, such as child care, and their earnings continue to lag behind those of men, averaging only 72 percent of male earnings in 1993.

- 336.**As previously discussed in paragraph 82, although women in 1993 comprised 42 percent of those employed in the managerial and administrative professions, these tended to be concentrated in fields traditionally dominated by women — social sciences and religion. Women represented only 18 percent of professionals in natural science, engineering and mathematics professions and 26 percent of all dentists and doctors.<sup>41</sup> Women have not made significant inroads in occupations traditionally dominated by men. In 1993, just two percent of construction workers, five percent of amateur coaches, nine percent of transportation workers and 18 percent of workers in manufacturing were women. Women represented 26 percent of Canada's farm operators in 1991; however, just 10 percent of these women managed farms without a partner.
- 337.**In 1989, women comprised 40 percent of union members, but only 25 percent of union executive positions. This situation has likely remained unchanged. For example, in 1992, women's representation among union members had increased to just 41 percent.<sup>42</sup> Unfortunately, data on women in union executive positions are no longer collected.

## PRIORITIES FOR ACTION

- 338.**The federal government believes that the active participation of women from diverse experiences and fields, at all levels of decision making, is central to equality, human advancement and progress. It is, therefore, necessary to sustain and advance efforts to accord women an equitable share of power and leadership in decision-making processes affecting Canada's social and economic development.
- 339.**Strategies to eliminate both structural and attitudinal barriers are needed to achieve equality in all aspects of women's lives. The federal government will continue to ensure that all federal appointments are based on the principle of **merit**, in accordance with the *Public Service Employment Act*. The federal government is committed to:
- 340.**ensuring that all departments and agencies seek to improve employment and career opportunities for women;
  - 341.**encouraging women to apply for federal judicial appointments to increase their participation and representation in these positions (see also Objectives 2, 3, 4 and 5);
  - 342.**increasing the participation and representation of women on management boards of federal institutions in all sectors (see also Objectives 2, 3, 4, 5 and 8);
  - 343.**promoting gender-sensitivity training for individuals currently in public decision-making positions (see also Objective 1);
  - 344.**reinforcing, where appropriate, through media and other forms of popular culture, realistic and positive portrayals of women as decision makers and

- leaders within the public and private sectors (see also Objective 5); and
- 345.** ensuring, where appropriate, that there is no gender discrimination inherent in the structures, policies and processes of public institutions. It will also ensure that this principle is built into the tendering process for private-sector initiatives receiving federal funding, and will encourage all funding recipients to include women in project planning and implementation, thus promoting gender equalization (see also Objective 5).

### **Women's Equality and Role in Governance in the Public Service**

- 346.** Achieving a fair and representative work force in the federal public service is a priority, as is the need to remedy any demonstrated inequality in the workplace resulting from systemic discrimination. In accordance with this priority, the federal government is committed to ensuring that women have their fair share of recruitment, development and promotional opportunities, and that their representation in non-traditional occupations and throughout all hierarchical levels in the public service is improved (see also Objective 8). The federal government has adopted various measures to provide women public servants, among other designated groups, with development opportunities for senior-level positions. These include, for example:
- 347.** the Special Measures Initiative Program (SMIP) to assist the federal government to reach employment equity objectives through financial, technical and other forms of support;<sup>43</sup>
  - 348.** the Career Assignment Program (CAP) that enables increasingly more women to acquire senior public service positions. Currently, 128 (63 percent) of the total 204 CAP participants are women; 2,018 employment equity designated group members, of which 1,698 (84 percent) are women, have received positive support and career advice through the Executive Programs Employment Equity Directorate;
  - 349.** an international program to present Canadians as candidates for positions in international organizations. Over the last five years, one-third of Canadians winning positions in international organizations have been women;
  - 350.** training programs on leadership and managerial values, including the management of diversity, targeted to middle-management and executive levels, where respect and understanding of cross-cultural and cross-gender issues are both implicitly and explicitly encouraged;
  - 351.** promoting gender equality in all situations where training is undertaken; and
  - 352.** mentoring and shadowing programs that improve the ability of participants to be marketable and be promoted into senior management. This program is important for increasing the number of women in senior management positions, where role models are scarce.
  - 353.** The Canadian Centre for Management Development (CCMD) is currently undertaking a review of public-service-wide training programs. Other

reviews of development programs are also being undertaken throughout the public service by the Public Service Commission. The equitable representation of women and other designated groups within the public service will remain a special focus. Individual departments and agencies are assuming responsibility and implementing action plans to increase the representation of women and designated groups (see Objective 8).

## OBJECTIVE 7 — PROMOTE AND SUPPORT GLOBAL GENDER EQUALITY

- 354.** The increasing globalization of our world's political and economic environments has led to a recognition of both our interdependence and the need for international co-operation to ensure global security and prosperity. There is now a global focus on gender issues as it becomes clear that finding lasting solutions to many of the world's problems is dependent upon addressing gender inequality.
- 355.** Women are central figures in the world economy. They make up 40 percent of the world's work force in agriculture, 25 percent in industry and 33 percent in services. In developing countries, they produce, process and market up to 80 percent of the food; run 70 percent of all micro-enterprises; and produce at least 50 percent of the world's food. It is estimated that if women's unpaid domestic labour was given economic value, the gross domestic product (GDP) of countries would increase by as much as 25 percent.
- 356.** Despite their central role in the economic, social and cultural life of their countries, women in both developed and developing countries continue to face discrimination. Discrimination in employment opportunity and pay, plus heavy burdens of family responsibility, still disempower women economically in the developed and developing worlds alike. The 1994 United Nations' Development Report highlighted that men generally fare better than women on almost every socio-economic indicator from education to wage rates and labour force participation.
- 357.** In recent years, the situation of women has been affected by global economic recession and stagnation and by economic restructuring policies which have not fully taken women's circumstances into account. Population displacements as a result of deforestation, drought, labour migration and war have had particularly negative impacts on women, resulting in 15 million refugees, 80 percent of whom are women and children. In addition, countries with economies in transition are undergoing fundamental political, economic and social transformation with women sometimes losing what social and economic advancements they may have gained. The feminization of poverty has increasingly become a global phenomenon.
- 358.** The promotion of gender equality — as a human rights, social justice and development issue — is an important part of Canada's foreign and aid policies. It is based on a belief that equal rights for women are an essential and inherent component of progress on overall human rights and democratic development; and that sustainable and equitable development will only be achieved if women are able to participate as equal partners and decision makers in the sustainable development of their societies.
- 359.** Consequently, Canada has continually promoted the integration and mainstreaming of gender analysis in the work of all international fora including such multilateral organizations as the United Nations, the OECD, the Commonwealth, La Francophonie and the OAS. Canada has played a key role in bringing issues, such as violence against



women, women's rights as human rights, national machinery for the advancement of women, and women and decision making, to the forefront of international discussions.

**360.***Canada in the World* (1995), Canada's foreign policy statement, reaffirms the commitment to Women in Development (WID) as a priority theme for Canada's Official Development Assistance program (ODA). Canada has had WID guidelines since 1976 and a WID policy since 1984.

## PRIORITIES FOR ACTION

**361.**Consistent with priorities identified in *The Federal Plan*, the federal government will continue to integrate gender-based analysis and issues related to the promotion of gender equality, where appropriate, within all of its international activities.

### Promote Gender Equality in International Fora

**362.**Through participation in many international and multilateral activities, the federal government will continue to focus attention on women's issues. Federal government policies and programming will take into account the diversity of women and their situations, recognizing that, in addition to gender-based discrimination, women face particular barriers worldwide because of such factors as race, language, ethnicity, culture, age, disabilities, socio-economic status or because they are indigenous people or migrants, displaced people or refugees. The federal government is committed to:

**363.**pursuing gender equality objectives in various multilateral fora such as the United Nations, especially the Commission on the Status of Women (CSW), the Commission on Human Rights (CHR) and the Commission on Crime Prevention and Criminal Justice (UNCCPCJ), as well as the Inter-American Commission on Women (CIM), the OECD, the Commonwealth, La Francophonie, the Organization for Security and Co-operation (OSCE), and the International Labour Organization (ILO);

**364.**promoting the reform of international and multilateral institutions and mechanisms in order that their policies and programs better reflect and meet the needs of women. Emphasis will be on strengthening the U.N. machinery for the advancement of women, the promotion, protection and mainstreaming of women's human rights and improving the effective co-ordination and functioning of system-wide U.N. activities and programming;

**365.**promoting the integration of gender equality issues in activities of international organizations. This will include:

a)

**366.**at the United Nations, continuing to take a lead role in:

**367.**CSW resolutions on bringing the human rights of women into the

mainstream, eliminating violence against women and ensuring effective implementation of the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW), including the development of an optional protocol to CEDAW (complaints mechanism);

**368.**CHR resolutions on the integration of the human rights of women throughout the U.N. system and on the elimination of all forms of violence against women, as well as in the activities within the Commission on Crime Prevention and Criminal Justice, such as the development of a plan of action on the elimination of violence against women; and

**369.**follow-up to the Fourth World Conference on Women, by promoting and monitoring a U.N. system-wide implementation of the *Platform for Action*.

**b)**

**370.**in other international fora:

**371.**integrating gender analyses in all work with the OECD, and participating fully as a member of the Working Party on the Role of Women in the Economy and as a member of the Development Assistance Committee (DAC) Expert Groups;

**372.**supporting the adoption and implementation of the 1995 Commonwealth *Plan of Action on Gender and Development*;

**373.**continuing to support, through La Francophonie, *Le Réseau de centres d'aide et de consultation juridiques pour les femmes en Francophonie* to assist women in Francophone Africa;

**374.**participating in the Women in Development and Peoples' Participation program of the U.N. Food and Agriculture Organization;

**375.**addressing workplace equality issues in the context of the trilateral co-operative work program under the *North American Agreement on Labour Co-operation*;

**376.**participating in the Pan-American Health Organization Executive Subcommittee on Women's Health and Development;

**377.**working with other governments to reduce violence against women and children by assisting in returning abducted children to their custodial parents through International Project Return;

**378.**continuing to advocate equity for women in sport as a founding member of the International Working Group on Women and Sport, and continuing to support women in sport through the Commonwealth Heads of Governments Meetings that strengthen the Commonwealth through sport initiatives; and

**379.**actively participating in the planning of Habitat II, the second U.N. Conference on Human Settlements to be held in Istanbul, Turkey, in June 1996, to ensure the identification and promotion of "gendered-best practices."

## **Strengthening the Full Participation of Women as Equal Partners in Sustainable Development**

**380.** Women in Development (WID) is one of the six priorities of Canada's Official Development Assistance (ODA) program administered by CIDA.

**381.** The goal of CIDA's WID and gender equity policy is to strengthen the full participation of women as equal partners in the sustainable development of their societies. Its objectives over the next five years are:

**382.** to encourage, respond to and support initiatives within and among developing countries to:

**383.a)** increase women's participation in economic, political, social and environmental decision-making processes,

**384.b)** improve women's income levels and economic conditions,

**385.c)** improve women's access to basic health and family planning services,

**386.d)** improve women's levels of educational achievement and skill, and

**387.e)** protect and promote the human rights of women;

**388.** to promote the elimination of discriminatory barriers against women;

**389.** to promote and support policies and activities among CIDA's partners, in Canada and overseas, that enable them to integrate gender considerations effectively into their development work;

**390.** to build the institutional capacities of CIDA so gender considerations are fully integrated into policies, programs, projects and activities; and

**391.** to support partners of the South in voicing their concerns on gender issues in development, and to enhance understanding of these issues in CIDA, the Canadian government and among the Canadian public.

**392.** CIDA also advocates policies on gender equity issues in mainstream institutions such as the World Bank.

**393.** The above activities will be guided by CIDA's Corporate Implementation Strategy. The three main thrusts of this strategy are to:

**394.** build commitment among CIDA staff and partners;

**395.** improve capacity of CIDA staff and partners; and

**396.** foster compliance regarding the policy on Women in Development and gender equity.

**397.** Monitoring and accountability of the strategy will be enhanced by the development of a set of performance indicators.

### **Consultations with Non-Governmental Organizations**

**398.** The federal government is committed to continuing to support and consult NGOs on issues of global concern to women.

**399.** The federal government is also committed to informing women's organizations of various international activities of interest and importance to women.

## Strengthening of National Mechanisms to Promote Gender Equality

**400.** The federal government is committed to:

- 401.** collaborating with other countries to strengthen their capacity to integrate gender analyses in the development of government policies and programs;
- 402.** assisting with the establishment of national machinery for the advancement of women through the provision of advice, training and other support, and participating in expert groups;
- 403.** assisting with the strengthening of countries' capacity to collect gender-disaggregated data and to conduct needed research through the provision of technical assistance; and
- 404.** negotiating multilateral and bilateral agreements to promote the equity of women in sport.

## Implementation of International Commitments

**405.** The federal government is committed to implementing its promises to women through collaborative co-ordination with all relevant departments. Of particular importance are commitments made in conferences on children (1990), the environment (UNCED, Rio de Janeiro, 1992), human rights (Vienna, 1993), population and development (ICPD, Cairo, 1994), sport (the Brighton Declaration, December 1994) and social development (WSSD, Copenhagen, 1995).

**406.** The federal government is also committed to ensuring compliance within Canada with its international obligations under the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW), *Nairobi Forward-looking Strategies for the Advancement of Women* (FLS) and the *Declaration on the Elimination of Violence Against Women*.

## The Fourth United Nations World Conference on Women

**407.** Canada's key objective for the Conference is to seek agreement for a global platform for action that sets out practical measures to accelerate progress toward gender equality. Canada will work to consolidate the important gains for women made at recent U.N. world conferences and summits and to offer and support constructive amendments aimed at furthering equality.

**408.** The federal government, through support to the non-governmental Canadian Beijing Facilitating Committee (CBFC), is assisting Canadian women to contribute to the Beijing process. The federal government is also funding 40 Canadian women to attend the non-governmental forum. To ensure that the World Conference reflects a global reality, Canada is providing support to women in developing countries and, in particular, for national and regional activities around the World Conference and for participation in the Conference in China.

**409.** The federal government is committed to implementing the *Platform for Action* to be adopted at the Fourth United Nations World Conference on Women in Beijing to further advance gender equality in Canada and around the world.

## OBJECTIVE 8 — ADVANCE GENDER EQUALITY FOR EMPLOYEES OF FEDERAL DEPARTMENTS AND AGENCIES

- 410.** As one of the largest employers in the country, the federal government has a responsibility to respect and promote the principle of gender equity among its ranks. Within the framework of *The Federal Plan*, this means ensuring that women employees benefit from conditions that will ensure their health and economic well-being, their safety and their equal role in governance.
- 411.** Women account for 47 percent of federal government employees, a proportion that compares with that of the work force of the country. However, women remain concentrated in lower-paid occupations, in jobs traditionally viewed as “women’s work.” In 1993, for example, women accounted for just 18 percent of public servants in executive positions and 84 percent in administrative support positions. Approximately two-thirds of the 30,000 term public service employees were women.<sup>44</sup>

### SPECIAL MEASURES TO ACCELERATE AND SUSTAIN WOMEN’S EMPLOYMENT EQUITY OBJECTIVES WITHIN THE FEDERAL PUBLIC SERVICE

The Public Service Commission has established measures to encourage more rapid and sustained progress toward employment equity for all designated employment equity groups, including women. The Special Measures Initiative Program (SMIP), for example, aims to increase the participation, development and retention of designated groups, and to provide tools to manage diversity of culture and gender within the federal work force. The SMIP includes training and development programs, career consultation and referral assistance, special developmental programs for individuals with executive potential, including women in non-traditional occupational fields, a fund to develop innovative human resource strategies for designated groups, a technology centre for persons with disabilities and ongoing analysis of deferral recruitment and labour-market patterns to ensure that the federal recruitment pool is qualified and representative of the population.

### THE FEDERAL FRAMEWORK FOR ACHIEVING GENDER EQUALITY THROUGH EMPLOYMENT EQUITY

- 412.** Several mechanisms have been put in place to achieve and maintain a fair, competent and representative work force and to remedy inequality in the workplace stemming from systemic discrimination. Employment equity, one such measure, aims to achieve equal access to opportunity.
- 413.** The federal government has demonstrated leadership in this area over the past years. The *Financial Administration Act* (FAA) and the *Public Service Employment Act* (PSEA)



— amended by the House of Commons in December 1992 and proclaimed in 1993  
 — now provide the legislative basis for employment equity in federal workplaces. Parliament is currently reviewing legislation to bring all public service employees under the *Employment Equity Act* that until now covered only federally regulated employees, including those in the banking, transportation and communication sectors of the economy. This strengthened commitment to employment equity places a high premium on the value of Canada's diversity within the public service.

**414.** Federal departments and agencies are required to provide employment equity action plans and annual progress reports. The President of the Treasury Board tables the annual reports, and deputy ministers are held accountable for their department's performance. Many departments and agencies have advisory groups or action committees that shape and monitor employment equity strategies and act as catalysts for change on gender-related issues.

## **PRIORITIES FOR ACTION**

**415.** The federal government is currently reviewing its management development, counseling and assignment strategies, and the needs of women and other designated group members. The SMIP, for example, will be evaluated in 1997-1998 for its effect on the recruitment, promotion and retention of women in the public service. It is expected that deputy heads of departments and agencies will assume the services provided under SMIP when the program ends on March 31, 1998 (see also Objective 6).

**416.** The participation of women and other designated group members in the public service will continue to be a priority from 1997 to 2000. In particular, federal departments and agencies will monitor the impact of fiscal restraint and budget cuts over the next three years to ensure that they do not disproportionately or adversely affect women and members of other designated groups.

## **Improving the Representation of Women in Non-traditional Public Service Occupations<sup>45</sup>**

**417.** The federal government will improve the representation of women in non-traditional public service occupations. Specifically it is committed to:

- 418.** pursuing "fast-track" training to increase administrative support staff's marketability in high-growth/high-demand career streams such as computer science and science support;
- 419.** modifying recruitment campaigns to attract women to non-traditional occupations; and
- 420.** improving work environments and accommodations for women in non-traditional occupations.

## Advancing Women's Progress throughout the Public Service

**421.** The federal government has also initiated measures to enable women to break through the “glass ceiling.” For example:

- 422.** since 1990, the Public Service Commission has operated its Management Trainee Program designed to attract, from both inside and outside the public service, university graduates with demonstrated management potential, and to develop them to middle-management levels. Since the inception of the Program, women have accounted for well over half of all participants, (68 percent of internal and 55 percent of external participants);
- 423.** the Public Service Commission also offers developmental programs for high-potential individuals at middle-management or higher levels who want to move into the executive ranks of the federal public service. This includes the Diversity in Leadership Program designed to assess the experience of senior level employment equity group managers who aspire to become executives. It includes a component to develop women in non-traditional occupations; the Career Assignment Program, created in 1968 to develop the executive potential of promising individuals from middle management and professional and scientific fields; and the International Program that identifies the candidacy of qualified women for positions in international organizations and ensures that qualified women are nominated, wherever possible (see also Objective 6);
- 424.** the Department of Human Resources Development, New Brunswick Region, will be implementing a program to provide female employees with training and accreditation in staffing, career management and work force adjustment. This will enhance the region's ability to provide support to designated group members on career management and work force adjustment; and
- 425.** the Department of National Defence is currently reviewing its recruitment and advancement policies so women — who in the past have been precluded from assuming certain leadership positions and career advancements because of systemic barriers — will have more career and advancement opportunities. The review will address matters that concern possible systemic discrimination, the need for mainstream social considerations in policy and procedure, the need for critical assessment of institutional assumptions and the way things have always been done. It will also consider the need to standardize the principles of internal monitoring and ensure a deeper, more sophisticated level of self-knowledge and internal review.

## The Federal Framework for Creating Supportive and Flexible Workplace Environments

**426.** The federal government is creating a workplace culture built on egalitarian gender relations. Specifically, it is committed to building a more supportive and flexible

workplace environment, offering professional training and development and career opportunities and recognition to all employees, and providing options for balancing work and family life by:

- 427.** promoting the values and strengths of work force diversity in culture and gender and inclusive of persons with disabilities;
- 428.** ensuring that women are included and depicted in non-traditional work situations in all public service training; that appropriate language is used to promote gender equality; that training development activity addresses the attitudes, assumptions and values that prevent gender equality in the workplace and that targeted sensitivity/awareness training of gender differences is provided where appropriate;
- 429.** ensuring that all federal workplaces are free of harassment and conducive to self-esteem and dignity, that federal departments and agencies develop and implement harassment prevention policies and that all complaints of harassment and abuse of authority are dealt with appropriately (see also Objective 4);
- 430.** ensuring that fairness, equity and transparency apply to all staffing practices, and that any demonstrated inequalities are remedied; and
- 431.** assisting federal employees to balance work and family life through flexible work- time arrangements including telework, on-site day care where feasible, and assistance with personal problems through the employee assistance and other family support programs (see also Objectives 2 and 3). The Department of National Defence, for example, has recently established a series of family resource centres on its bases.

### **Enhancing the Personal Safety of the Workplace for Federal Women Employees**

- 432.** As an employer, the federal government is sensitive to the violence that women employees may experience, and has taken steps to prevent it and to support victims of violence in their workplace, in their homes and outside. For example, policies and departmental committees dealing with sexual harassment have been established. Personal counseling for victims is available through employee assistance programs.
- 433.** Because the work life and family life of military personnel living on bases are closely intertwined, the federal government's role and responsibilities as an employer are unique. The family resource centres previously described are an example of the commitments made to support employees and their families in dealing with issues such as violence (see also Objective 4).
- 434.** Federal departments and agencies are modifying the physical design of federal work environments and adjacent areas (parking lots, etc.) to improve the personal safety of women employees:
  - 435.** Environment Canada has trimmed shrubbery near walkways to eliminate hiding areas; extended the hours of lighting in parking garages to accommodate employees who work late; during night shift changes, have

co-workers watch departing employees until they have started up their vehicles; and have added a suggestion box to the safety and health bulletin board so issues can be raised anonymously.

**436.**The Department of Fisheries and Oceans (DFO) has developed a safety plan for women in DFO vessels. It includes training of ship's captains on how to handle complaints and the incorporation of a code of conduct into a handbook and video for sea-going personnel.

**437.**Revenue Canada is developing a policy for pregnant employees to adjust their working arrangements temporarily. Employees who are concerned about performing certain duties during their pregnancy may request a temporary change of work site and/or duties. This can be accomplished through various means including temporary deployments, transfers or temporary assignments.

**438.**The federal government will continue to provide workshops, where appropriate, to increase employee awareness of issues surrounding violence against women in an effort to prevent violence and to assist victims to seek help when needed.

**439.**In co-operation with employee representatives, violence prevention committees will be established where appropriate to implement initiatives to reduce violence. Committee members will be sensitized to gender issues and to differences in culture, ability and sexual orientation. Public awareness programs and codes of conduct for non-violent and respectful behaviour toward employees will be developed, and a mechanism will be set up to provide employees with the opportunity to report anonymously problems of workplace violence. As appropriate, a model for safety auditing, including sexual harassment, will be developed for adoption by all departments and agencies.

## CONCLUSION

Women share common concerns that can be addressed only by working together and in partnership with men toward the common goal of gender equality. Gender equality — the notion that women and men should enjoy similar benefits and outcomes accruing from their participation in society — and gender equity — the notion of fairness between sexes — are integral to the kind of society the Government of Canada wishes to support and build. *The Federal Plan for Gender Equality* is one of its blueprints for that society.

Major trends of the closing decade of this century are not likely to be reversed. Women leaving the home to participate in the paid labour force, an aging society with more women — particularly older women — than men, and the fundamental redefinition of gender roles are trends that are likely to be with us for years to come, in Canada and around the world. Canadians are adapting to these trends. In the midst of sweeping change, the federal government has anchored the vision of Canadians and is contributing extensively to building an equal and more just society.

To protect the gains acquired for and by women, the Government of Canada will continue to support the programs and policies that have been its landmarks during the recent decades — a period of great advancement in human rights. By institutionalizing a process of gender-based analysis across government over the coming years, *The Federal Plan* will protect not only past achievements, but will also strive to equip women for the future. It will continue to promote women's full participation in society so that women and men can work as equal partners to create a more humane and productive world. In so doing, *The Federal Plan* identifies many sectors of activity. A priority is achieving women's economic equality, through which all of Canada will benefit. Part of the solution lies in the enhancement of women's economic autonomy and well-being. The twin goals of equality and a strengthened economy are not incongruous objectives.

The federal government recognizes that achieving gender equality depends on the advancement of women in all spheres and that this, in turn, is key to maximizing Canada's ability to respond to emerging global challenges. For women to participate fully in society as equal partners with men, changes must occur in all sectors. Women need to be free from violence, be healthy and be active in the political and decision-making circles of society. They must derive from their country a sense of belonging and taking part as citizens *à part entière*. *The Federal Plan* reflects this connectedness, an approach that is in keeping with the government's overall commitment to managing through horizontal co-ordination among its many parts.

A holistic approach to social change dominates the horizons of the future. The interests of each individual — women, men and children — and of society as a whole are inextricably linked.





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