Analysis of the Law of the Republic of Tajikistan on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of Such Rights
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I. Introduction and General Assessment

This report assesses whether the Republic of Tajikistan’s Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of Such Rights (“Gender Equality Law”) complies with international standards for gender equality. Intermingled with the analysis of international standards, is a comparison of the law with other domestic legislative efforts from Central and Eastern Europe and Eurasia that seek to promote the rights of women and recognize them on an equal basis with men. Lastly, the discussion will end with suggestions for the establishment of suitable mechanisms to implement and monitor compliance with Tajikistan’s Gender Equality Law and for the creation of a system that will provide adequate remedies to victims of gender-based discrimination.

Experts indicate that, overall, the Tajik Gender Equality Law represents an important first step in Tajikistan’s efforts to comply with international standards for gender equality set forth in the Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”) and other instruments. However, as it is discussed in detail below, certain provisions of the legislation need to be improved such that the Republic of Tajikistan can meet its obligations under CEDAW in a more comprehensive manner. In addition to adopting legislation that fully complies with the provisions of CEDAW, Tajikistan should also undertake measures that enable women to enjoy the rights and opportunities provided for in law in their daily lives. One obstacle that stands in the way of achieving this type of de facto equality is the lack of a properly defined mechanism for the implementation and monitoring of the Gender Equality Law. Furthermore, experts expressed concern that the law does not establish adequate means for victims to file gender-based discrimination complaints and receive the proper remedies.

II. Drafting Issues

Before proceeding with an international and comparative assessment of Tajikistan’s Gender Equality Law, a few issues arise regarding the language utilized in the legislation.

As evidenced by the introductory paragraph, the Tajik legislation primarily focuses on securing equal rights and equal opportunities for men and women in the social, political, cultural, and other spheres. The stated purpose of this law should also refer to ending discrimination against women in particular. Given the entrenchment of discriminatory social norms, a specific reference to eliminating discrimination against women can enhance the effectiveness of this law.

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Furthermore, the introductory paragraph should mention that the Republic of Tajikistan became a State Party to CEDAW on October 26, 1993 and that the state is committed to enforcing and realizing its obligations under this instrument. This type of language would help explain the purpose of the Gender Equality Law more clearly and would complement more general language introduced in Article 2 of the law regarding “international and legal acts recognized by the Republic of Tajikistan.”

Article 3 of the Gender Equality Law provides that "special measures" may be undertaken to protect the "health of men and women" and that pregnant women are entitled to "special protection." It should be noted that, historically, "special protections" for women have sometimes been used to justify precluding them from holding certain jobs, based on paternalistic or sexist views of employers. In some countries, these views have served as the basis for denying women the opportunity to hold jobs that require business travel or that may have unconventional work hours given the employer's view that women should be at home during certain times to take care of their children. At a minimum, the law should include a provision indicating that special protection measures must ensure that the right be free from discrimination based on sex is fully protected.

The same issue could arise when interpreting Article 7 of the Gender Equality Law. This provision indicates that the rights and guarantees belonging to “a person of either sex with family obligations” should be taken into consideration when hiring, promoting, training, establishing labor regimes, or during the retirement of such persons (Article 7). A potential problem lies in the interpretation of the phrase "family obligations." If this phrase is applied so that men and women are allowed to go on leave to care for a child or a sick family member, then it is consistent with CEDAW (Article 11(2)). However, this language could be used as a basis for discrimination. For example, if the legislature believes that women should not have physically demanding or time-consuming jobs due to family obligations, or that women should be at home in the evenings and therefore should not have jobs that involve business travel, then this provision can have a discriminatory effect. The drafters of the Gender Equality Law might want to consider adding the phrase "without discrimination based on sex with regard to employment" at the end of the last sentence of the first paragraph in Article 7.

Overall, the legislative language should be more specific in reference to women’s rights. The current language of the Gender Equality Law uses general equality standards, rather than more specific provisions, thereby placing men and women in a similar situation in society. This is referred to as formal equality versus substantive equality. Formal equality often does not produce equal results because of significant differences in the characteristics and circumstances of women and men. For example, only women become pregnant and pregnancy may disadvantage a woman worker with respect to job opportunities, seniority, and job security. Non-discriminatory maternity leave provisions, childcare assistance, and seniority guarantees are examples of measures within a substantive equality framework that are designed to ensure that these differences do not disadvantage women. Such provisions could be specifically articulated and mandated in Article 7 of the Gender Equality Law by including properly drafted language. By taking into account such differences, the Tajik legislators can avoid gender-related outcomes that are considered unfair.

3 See id.
III. Compliance with International Standards and Comparison with Other Domestic Gender Equality Laws

CEDAW was adopted by the United Nations General Assembly in 1979 and is the quintessential instrument that promotes gender equality. It is often referred to as the international bill of rights for women. The convention establishes, in legally binding form, internationally accepted principles regarding the rights of all women in all fields. The fundamental purpose of CEDAW is to prohibit all forms of discrimination against women. CEDAW not only requires that women be afforded equal rights with men in the law but also in practice. Thus, States Parties are not only required to adopt legislation that complies with the provisions of CEDAW but also to undertake measures that enable women to enjoy the rights to which they are equally entitled (Articles 2, 3, 4).

The Republic of Tajikistan became a State Party to CEDAW on October 26, 1993 and is, thus, legally bound to give effect to the obligations delineated in this convention. Consequently, Tajikistan has also committed to submit reports to the Committee on the Elimination of Discrimination against Women (“CEDAW Committee”), at least every four years, on legislative, judicial, administrative, or other measures it has undertaken to comply with its treaty obligations (Article 18(1)(b)).

In this section, Tajikistan’s Gender Equality Law, will be assessed against the provisions of CEDAW as well as against provisions of gender equality laws and anti-discrimination laws from Bulgaria, Romania, Lithuania, and the Kyrgyz Republic. Experts commend the Tajik Parliament for incorporating the definition of gender discrimination set forth in Article 1 of CEDAW into the new Gender Equality Law. However, they point out that it does not appear that the conceptual underpinnings of that definition are consistently included throughout the substantive provisions of the Gender Equality Law. Specifically, the following issues are not sufficiently addressed:

- prohibition of direct and indirect forms of discrimination
- violence against women
- women’s equal access to education
- women’s participation in the political and public life of the country
- gender equality in the economic and social sphere
- workplace discrimination
- impact of existing social and cultural patterns upon women
- temporary special measures.

4 See id.
A. Prohibition of Direct and Indirect Forms of Discrimination

As Shanthi Dairiam noted in her 2003 review of Tajikistan’s Gender Equality Law in draft form, the law fails to fully address some very important provisions included in CEDAW and in national gender equality legislation around the world. For example, the law, which became effective on March 1, 2005, still does not address indirect forms of discrimination in its definition of discrimination.

It is important to prohibit indirect forms of discrimination together with direct forms of discrimination because:

The definition of discrimination given in the CEDAW Convention… implies that applying a neutral rule for women and men… will constitute discrimination if the result is that women… do not enjoy the intended benefit. In other words, discrimination will occur when an apparently neutral condition or requirement is imposed that has a discriminatory effect on women… although discrimination was not intended. Therefore under certain circumstances, (when the playing field is not even) there has to be a different rule for women to access credit. Non-discrimination should not mean same or identical treatment or opportunity but the enjoyment and exercise of equal rights.”

It is noteworthy that, through directives, the European Union’s Council of Ministers has encouraged EU member states to prohibit both indirect and direct forms of gender discrimination in national legislation. The amended version of the EU equal opportunities directive defines direct discrimination as occurring “where one person is treated less favourably on grounds of sex than another is, has been or would be in comparable circumstances” (Article 2). Indirect discrimination is deemed to occur “where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary” (Article 2).

Consistent with this EU policy, many Central and Eastern European countries have addressed indirect discrimination in their gender equality legislation. For example, the Bulgarian Law on Protection Against Discrimination (“Bulgarian Anti-Discrimination Law”) copies verbatim the definitions of direct and indirect discrimination that are included in the EU equal opportunities directive described above (Article 4).

Similarly, Article 2 of the Law of the Republic of Lithuania on Equal Opportunities (“Lithuanian Equal Opportunity Law”) provides that both direct and indirect discrimination on the

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6 Id. at 8.
grounds of sex will constitute a violation of equal rights for women and men under the law.9 Employing a variation on the EU definitions of direct and indirect discrimination, this article provides that “[d]irect 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” (Article 2(3)). The article further provides that “[i]ndirect discrimination on the 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” (Article 2(4)).

In another example, Article 5(1) of the Romanian Law On Equal Opportunities between Women and Men (“Romanian Equal Opportunity Law”) prohibits both direct and indirect gender discrimination.10 Under Article 4(a) of the law, “direct gender discrimination is defined as any disadvantageous treatment inflicted by reason of one’s gender, pregnancy, maternity, birth or when a paternity leave is granted. Indirect discrimination occurs where apparently neutral criteria or practices affect people belonging to one gender; an exception to this prohibition of indirect discrimination is provided when the criteria or practice can be justified by objective factors, unrelated to gender.”11

Lastly, in a separate example from Eurasia, the Law of the Kyrgyz Republic on the Basics of the State Guarantees of Gender Equality (“Kyrgyz Gender Equality Law”)12 prohibits open and latent forms of gender discrimination, concepts which appear to be similar in content to the notions of direct and indirect discrimination. The law proscribes open discrimination, which is defined as “discrimination with the direct indication of the person’s sex,” and latent discrimination, which is defined as “discrimination without the direct indication of the person’s sex” (Article 1).

B. Violence Against Women

Experts indicate that Tajikistan’s Gender Equality Law overlooks the issue of violence against women. As the Bureau of Democracy, Human Rights, and Labor at the United States Department of State reported in February 2005, “[v]iolence against women, including spousal abuse, [remains] a widespread problem” in Tajikistan.13 Violence against women became more prevalent in Tajik society during and following Tajikistan’s civil conflict in the 1990s. Problems that became more acute during this transition period, such as unemployment, poverty, and social inequality, all have contributed to an increase in psychological, sexual, and physical forms of violence against Tajik

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11 Id.
women. In many cases, domestic violence in Tajikistan has led women to commit suicide by self-immolation. Cultural stereotypes and the economic vulnerability of women in Tajikistan following the civil conflict have also contributed to an increasingly prevalent form of violence against women in Tajikistan: the offense of trafficking in women for purposes of sexual exploitation. Information is also available concerning abductions of young women, particularly in rural areas; these women are then raped or forced to marry their abductors.

The CEDAW Committee read the issue of violence against women into the definition of “discrimination against women” inscribed in Article 1 of CEDAW. In General Recommendation 19, the Committee declared that:

1. Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

6. The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

Recommendation 19 further delineates domestic violence as a form of violence against women as incorporated in CEDAW's definition of gender discrimination. States Parties to CEDAW are responsible when they fail to prevent, investigate, or provide adequate compensation for acts perpetrated by private individuals, like a spouse or a partner, in addition to acts perpetrated by public authorities. In this regard, the CEDAW Committee offered the following explanations:

9. It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2(e), 2(f) and 5). For example, under article 2(e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

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15 See id. at 9.
16 See id. at 55-56.
23. Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.\textsuperscript{19}

Consequently, experts advise that the definition of gender discrimination in the Tajik Gender Equality Law should incorporate the notions of gender-based violence described above. Furthermore, a separate chapter or article in the law should reflect the remaining details of Recommendation 19 and should state that violence against women includes domestic violence. This section could also specify that gender-based violence includes spousal rape and spousal assault. The law could include an obligation for government officials (law enforcement, prosecutors, and judges) to enforce the provisions prohibiting violence against women.

C. Equal Access to Education

Article 6 of Tajikistan’s Gender Equality Law requires educational and scientific institutions to ensure equal conditions for women to access the education system. As a legal matter, equal access to education in Tajikistan already exists. “Public education is free and universal; however, due to a lack of resources, the public school system has badly deteriorated.”\textsuperscript{20} There is a disparity between the number of girls and boys attending school, particularly in rural areas. “Girls have increasingly become marginalized in the school system, with families electing to keep them home to help take care of siblings.”\textsuperscript{21} A number of interrelated factors contribute to this marginalization. They include poverty, traditional stereotypes prioritizing the education of boys over girls, the resurgence of fundamentalist Islam in parts of Tajik society, and the increasing prevalence of early marriages for girls.\textsuperscript{22}

While equal access to education represents an important principle, the Gender Equality Law does not guarantee it in a sufficient manner. The ability to enforce Article 6 of the law is weak. This provision does not appear to obligate a specific entity or official, for example a designated representative within the Ministry of Education, to ensure that girls actually receive an equal education making only a general reference to “[i]nstitutions of science and education of any property form” (Article 6). Furthermore, the law imposes a generally described obligation upon these entities to “ensure equal conditions for men and women regarding access to main, general, secondary professional and higher education, to all forms of professional education and qualification for advancement, and to participation in the fulfillment of educational and scientific progress” (Article 6).

\textsuperscript{19} Id. paras. 9, 23 [emphasis added].
\textsuperscript{21} Id.
\textsuperscript{22} See 2003 UNDP Report, supra note 14, at 45-46.
CEDAW provides for stronger language than the Gender Equality Law in this respect. CEDAW indicates that:

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women: (a) the same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training (Article 10(a)).

The above obligation to ensure that diplomas are achieved is a means to ensure that states follow through with their responsibility of providing equal access to the education system. Not only are they to make certain that women have access to the same studies as men but also that women actually finish those studies and receive diplomas. In addition, CEDAW also obligates governments to take steps to reduce female student dropout rates and to establish programs for girls and women who have left the school system prematurely (Article 10(f)).

Tajikistan is also a State Party to a number of other international treaties that place a greater responsibility on the state to ensure that girls receive an equal education than is reflected in Article 6 of the Gender Equality Law. For example, the International Covenant on Economic, Social, and Cultural Rights (“ICESCR”)\(^\text{23}\) recognizes “the equal right of men and women to the enjoyment of” all rights delineated in the Covenant including “the right of everyone to education” (Articles 3, 13). States Parties undertake their obligations “with a view to achieving the full realization of this right” (Article 13). Tajikistan is also a State Party to the Convention on the Rights of the Child (“CRC”),\(^\text{24}\) which acknowledges the right of children to education and holds governments responsible for ensuring this right without discrimination based on sex (Articles 2(1), 28(1)).

When comparing the Tajik Gender Equality Law at the domestic level, the Bulgarian Anti-Discrimination Law dedicates an entire section to the right of equal access to education and training.\(^\text{25}\) An advantageous feature of this section is the detailed complaint procedure for addressing a violation of this right. If a student regards himself/herself to have been harassed by a member of the pedagogical staff, non-pedagogical staff, or another student in the particular learning institution where s/he is enrolled, s/he can file a complaint with the head of the institution, who, in return, must conduct an investigation, undertake measures to stop the harassment, and impose a disciplinary sanction (Article 31). The Tajik Gender Equality Law should include a similar mechanism, pertaining specifically to the Tajik education system, that can be used by women who have suffered discrimination.


\(^{25}\) See Bulgarian Anti-Discrimination Law, supra note 8, ch. 2, § II.
D. Participation in Political and Public Life

CEDAW requires States Parties to undertake all appropriate measures to eliminate discrimination against women in the political and public life of the country and to ensure the equal right:

a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

c) To participate in non-governmental organizations and associations concerned with the public and political life of the country (Article 7).

Article 8 of the Gender Equality Law indicates that “[t]he election system of the Republic of Tajikistan is recognized to ensure equal election rights and to guarantee for a person of either sex the right to participate in the political process.” It is worthy to note that the number and representation of women in Tajik politics fell dramatically following the break-up of the Soviet Union.26 Only recently has the representation of women in the lower chamber of Parliament, Majlisi Namoyandagon, improved. Women represented 3.3% of deputies in 2002 and now, anecdotal evidence suggests that they represent 20% of deputies following the 2005 parliamentary elections. Despite this recent development, women do not hold key decision-making positions in politics. Even during the Soviet period, when women were represented in accordance with an established quota system, men held key decision-making positions.27 Consequently, the above provision and other related election laws should include a general statement emphasizing the importance of actual participation and representation of women at all levels of politics as it is prescribed by CEDAW (Articles 7(a), 7(b)).

Furthermore, the second sentence of Article 8 of the Gender Equality Law merely states that men and women "should" be represented equally on election candidate lists but it imposes no obligations or standards. A mechanism is needed in order to achieve what are currently only projected goals in Article 8. To meet the requirements of CEDAW’s Article 7, Tajik legislators must design a system that protects women’s right to vote as well as ensures their actual participation in the political process. Authorities may want to consider adopting (or re-adopting as it would be the case here) some type of quota system, or other system of benchmarks, that would not only ensure women’s representation in political office at all levels but would also place them, in equal measure with men, in positions of authority and key decision-making. In 1995, the Beijing Platform for Action affirmed that women should be accorded at least 30% of decision-making positions.28 Since then, over 21 countries have quotas for female representation in legislatures.29

27 See id. at 26; see also United Nations Development Fund for Women, Gender Profile of the Conflict in Tajikistan, available at http://www.womenwarpeace.org/tajikistan/tajikistan.htm (last updated Nov. 08, 2004).
29 As of March 2000, the following countries had laws requiring that between 20% and 30% of seats at some level of assembly were to be filled by women: Argentina, Belgium, Bolivia, Brazil, Chile, Dominican Republic, Costa Rica, Ecuador, Eritrea, Finland, Ghana, Guyana, India, Mexico, Morocco, Namibia, Nepal, Norway, Tanzania, Uganda, and
Another measure for achieving gender equality in the political and public life of a country is a requirement to include a certain percentage of female candidates on election lists. However, in some cases, the women's names are placed at the bottom of the lists. As a result, few women are chosen to represent their parties because their names are so far down the lists. Some states have addressed this problem by requiring that women's names be placed at certain intervals on lists, so that they will actually achieve a certain percentage of representation. For example, in 2002, Serbia adopted a law that requires that 30% of the candidates on each list be female. It also provides that one out of every four candidates on the list shall be "of the sex that is less represented on the list." That way, at least 25% of those elected from each party will be female.\(^{30}\)

The drafters of the Tajik Gender Equality Law attempted to keep election commissions and referendums in check and, thus, ensure the equal participation and representation of women in the political process. Article 9 of the law indicates that “[t]he Constitutional principle of equal rights and equal opportunities for men and women should guide the formation of the Central commission on elections and the oblast, city, rayon and district election commissions as well as the conduct of Referendums.” However, the language that equal opportunity “should guide” these commissions is weak; it does not seem to require these commissions to adhere to the mentioned standards but rather suggests they do so. Better language might say something like “the Constitutional principle of equal rights and equal opportunities for men and women \textit{applies} to the formation of the Central commission on elections….”

Article 7(b) of CEDAW ensures a woman’s right to “perform all public functions at all levels of government.” The Tajik Gender Equality Law seeks to meet this obligation by guaranteeing equal representation of men and women in state organs (Article 5) and by ensuring equal opportunities for both men and women with respect to state service (Article 10). The second paragraph of Article 10 of the law states that government officials are "to ensure equal access of citizens" to government positions, not paying particular attention to women as a disadvantaged group. This paragraph does not seem to reflect a greater commitment or effort than allowing \textit{anyone} to apply for state jobs. Likewise, the provision that "men and women should equally participate in the competitions for vacant positions, including leadership positions" appears to have little meaning (Article 10). There are no legal barriers to women holding government posts; as such, this article does not add to the promotion of gender equality in state service.

The language of Article 10 of the Gender Equality Law could be stronger, for example, by adding that the state shall not discriminate against anyone based on sex in government employment, including during hiring, selection, promotion, compensation, other conditions of employment, or termination.

Furthermore, the prohibition against "advertising for only one sex" in the law should also apply to the private sector (Article 10). The same standards should apply to both private and public sector employment.

Lastly, CEDAW requires its States Parties to ensure that women are granted the equal right to “participate in non-governmental organizations and associations concerned with the public and


political life of the country” (Article 7(c)) and the equal “opportunity to represent their Governments at the international level and to participate in the work of international organizations” (Article 8). While Tajik women are increasingly playing an important role in the country’s civil society by heading many NGOs and local groups, organizing gender programs and projects, and gaining support from international organizations, the Gender Equality Law does not explicitly delineate their participation in the NGO community or their representation at the international level. Legislators should consider adding a provision in the law that is modeled on Articles 7(c) and 8 of CEDAW.

E. Equality in Economic and Social Life

Article 13 of CEDAW obligates States Parties to “take all appropriate measures to eliminate discrimination against women in other areas of economic and social life” and to ensure, among other things, equal rights to family benefits, bank loans, mortgages and other forms of financial credit (Articles 13(a), 13(b)). Furthermore, CEDAW indicates that women shall be granted “equal rights to conclude contracts and to administer property…..” (Article 15(2)).

The CEDAW Committee emphasized the importance of equal access to property, business opportunities, and financial credit:

When a woman cannot enter into a contract at all, or have access to financial credit, or can do so only with her husband’s or a male relative’s concurrence or guarantee, she is denied legal autonomy. Any such restriction prevents her from holding property as the sole owner and precludes her from the legal management of her own business or from entering into any other form of contract. Such restrictions seriously limit the woman’s ability to provide for herself and her dependants.32

The requirement in Article 12 of Tajikistan’s Gender Equality Law that men and women have equal access to economic resources represents a good effort to comply with the CEDAW obligations described above. However, equal access does not always result in equal impact. Purportedly non-discriminatory criteria for extending credit may have the effect of discriminating against women during a marriage, de facto relationship, or after a divorce. For example, if property that has been acquired during marriage is traditionally held in the name of the husband and a bank will only extend credit to someone who owns real property as collateral, a woman might not be granted a loan if the land is not in her name as well, even though in theory it can be equally hers. The CEDAW Committee explains that “[t]here are countries that do not acknowledge [the] right of women to own an equal share of the property with the husband during a marriage or de facto relationship and when that marriage or relationship ends.”33 In the alternative, “[m]any countries recognize that right, but the practical ability of women to exercise it may be limited by legal precedent or custom. Even when these legal rights are vested in women, and the courts enforce them, property owned by a woman during marriage or on divorce may be managed by a man” and the law may not specifically require that she be consulted when decisions are made regarding change

33 Id. para. 30.
of ownership, etc.\(^{34}\)

The Tajik Gender Equality Law must pay particular attention to the above-mentioned discriminatory outcomes. UNIFEM reports that unequal access to credit impedes Tajik women’s exercise of their land and property rights.\(^{35}\) Among women surveyed in a UNIFEM study, lack of access to credit made it nearly impossible for women to buy land shares, property or goods needed to manage a farm.\(^{36}\) Currently, the Tajik legislation indicates, in general fashion, that women have equal access to “movable property, real estate, [and] land” in addition to financial assets and lines of credit (Article 12). However, this language is not specific enough to ensure that a woman can be recognized as the sole owner of property, a business, or financial assets as well as the sole borrower for a line of credit. Furthermore, while this language states that there is equal access to real and movable property, it does not ensure a woman’s right to fully participate in the management of said property as the CEDAW Committee recommends above.

**F. Workplace Discrimination**

Article 13 of Tajikistan’s Gender Equality Law establishes several measures for the advancement of gender equality in the sphere of labor relations including equal opportunities regarding labor contracts, equal access to vacant positions, equal salaries, equal opportunities for advancement, retraining and promotion, and ensuring safe labor conditions for both men and women.

This article represents a good start but fails to address a number of ways that women experience discrimination in the workplace. For example, the provision that there should be an "equal salary for men and women having the same position" may have a discriminatory effect on women (Article 13). If women are typically restricted to certain jobs that men do not hold, then an employer is not obliged to adjust the women's salaries even if men hold positions that require comparable skills and education. Thus, the provision relating to compensation could be revised to add "equal salary for men and women that have the same position, and equal salary for men and women who perform work of comparable value." Alternatively, the Tajik Gender Equality Law could borrow language from the International Labour Organisation Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value.\(^{37}\) Drafters could substitute the existing language in Article 13 of the law of "equal salary for men and women, having the same position" with the following ILO language: "the application to all workers of the principle of equal remuneration for men and women workers for work of equal value" (Article 2).

Furthermore, Article 13 of the Gender Equality Law should require employers to ensure that no employee is subject to discrimination not only in hiring, promotion, compensation, and training, but also in the conditions of employment. In this context, the term “conditions of employment” means that women should be able to work in an environment where they are not subject to sexual harassment. Although CEDAW does not directly address sexual harassment as a form of gender

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\(^{34}\) Id. paras. 30, 31.


\(^{36}\) See id.

discrimination, the CEDAW Committee has interpreted the definition of discrimination to include a prohibition on sexual harassment. General Recommendation 19 notes that equality in employment, guaranteed under CEDAW Article 11:

[C]an be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace…. Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.  

In addition, the Committee’s General Recommendation 12 calls on States Parties to CEDAW to include in their periodic reports information about legislation in force that protects women against sexual harassment in the workplace, among other forms of violence against women.  

Consistent with its recommendations, the CEDAW Committee praised the Lithuanian Equal Opportunity Law for introducing the prohibition of sexual harassment as a form of discrimination on the basis of sex.  Articles 2, 5, 9, and 12 of the Lithuanian law define sexual harassment, call on employers to take action to prevent sexual harassment, and provide that victims of sexual harassment may appeal to the Equal Opportunities Ombudsman with complaints. In addition, Article 5 of the Bulgarian Anti-Discrimination Law provides that sexual harassment shall be deemed discrimination under the law.  

The Tajik law should also prohibit employers from retaliating against those who complain about discriminatory conditions such as sexual harassment. In jurisdictions like the United Kingdom, the prohibition against retaliation is known as "victimization." The British Sex Discrimination Act of 1975 indicates that a woman must not be treated less favorably compared to others because she acted in good faith to assert her rights under the law. A woman will have a victimization claim if her employer treats her less favorably than another employee because she complained of sexual harassment. Examples of less favorable treatment include dismissal or failure to promote.  

Despite the recommendations of the CEDAW Committee and unlike similar legislation in the Central and East European region as well as in the United Kingdom, Tajikistan’s Gender  

38 Gen. Rec. 19, supra note 18, paras. 17, 18.  
41 See Lithuanian Equal Opportunity Law, supra note 9, arts. 2, 5, 9, 12.  
42 See Bulgarian Anti-Discrimination Law, supra note 8, art. 5.  
Equality Law fails to identify sexual harassment as a form of gender discrimination prohibited under the law or to obligate employers and government entities to take action to prevent and address sexually-harassing behavior. Article 1 (definitional section) and Article 13 of the law should be modified accordingly.

**G. Impact of Social and Cultural Patterns**

The provisions of Tajikistan’s Gender Equity Law are focused almost entirely on what some experts term the "public life" of women, such as providing women with equal opportunities in government, politics, and the workplace. The language in Article 4 of the law reflects this tendency. However, it is also important to recognize and address social and cultural patterns that impede upon achieving gender equality.

More specifically, CEDAW requires States Parties to take measures to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" and to "ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children…." (Article 5).

One way of beginning to eliminate entrenched social stereotypes that restrict women is through the field of consumer rights. Lithuanian legislators have incorporated this concept in the Lithuanian Equal Opportunity Law by requiring salespersons, producers, and service providers to “assure that there would be no humiliation, restriction of rights or [of] 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” (Article 5(2)).

Article 4 of the Tajik Gender Equality Law obligates organs of state power (bukumats) to “elaborate and introduce special programs aimed at the elimination of discrimination on the basis of sex in daily life.” The reference to “daily life” could be akin to “social and cultural patterns” mentioned in CEDAW (Article 5). However, experts advise that more specific language needs to be introduced in this article, or in other parts of this legislation, in order to properly incorporate the obligations delineated in Article 5 of CEDAW. Tajik legislators could follow the Lithuanian example mentioned above in order to begin addressing gender stereotypes in their society.

**H. Temporary Special Measures**

CEDAW provides that the:

Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in this Convention, but shall in no way entail as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved (Article 4(1)).

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44 Lithuanian Equal Opportunity Law, *supra* note 9, art. 5(2).
In General Recommendation 5, the CEDAW Committee further “[r]ecommends that States parties make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, the economy, politics and employment.”

Article 3 of the Tajik Gender Equality Law provides an exception to the prohibition of discrimination for “practical measures undertaken for the implementation of provisions of the law.” Although this provision could be interpreted to include temporary special measures contemplated in CEDAW Article 4, it does not specifically indicate that the “practical measures undertaken for the implementation” of the law would address de facto equality in the implementation of the law. This provision should be rewritten to except such temporary measures from the prohibition of discrimination and to promote their use in specific spheres.

Other countries in the region have specifically allowed for temporary special measures to promote de facto gender equality. For example, the CEDAW Committee has praised the Kyrgyz government for allowing for such measures in its gender equality law. Article 6 of the Kyrgyz Gender Equality Law states that gender discrimination does not include the “adoption of temporal special measures based on this Law with the view to achieve actual equality in gender relationships.” Similarly, the CEDAW Committee praised the Lithuanian government for allowing for “positive discrimination according to article 4, paragraph 1 of the Convention.” Article 2(3)(6) of the Lithuanian Equal Opportunity Law provides for an exception to the definition of direct discrimination for those “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.”

IV. Mechanisms for Implementation and Monitoring & Remedies

In addition to adopting gender equality laws, States Parties to CEDAW:

[A]gree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, and to this end…. 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” (Article 2(c)).

Furthermore, governments agree “[t]o 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” (Article 2(d)).

Unlike other gender equality laws in Central and Eastern Europe as well as in Eurasia that conform with the above obligations delineated in CEDAW, Tajikistan’s Gender Equality Law does

47 Kyrgyz Gender Equality Law, supra note 12, art. 6.
48 Concluding Observations on Lithuania, supra note 40, para. 131.
49 Lithuanian Equal Opportunity Law, supra note 9, art. 2(3)(6).
not include clearly defined and detailed provisions that provide for specific mechanisms and that designate specific institutions for the purposes of (1) implementing the gender equality principles endorsed in the law and (2) monitoring private and government entity compliance with the law. Furthermore, the law does not provide for a procedure through which victims of gender discrimination can receive adequate remedies.

**A. High Level National Machinery on Gender Equality**

In General Recommendation No. 6, the CEDAW Committee recommends that States Parties to CEDAW:

Establish and/or strengthen effective national machinery, institutions and procedures, at a high level of Government, and with adequate resources, commitment and authority to: (a) Advise on the impact on women of all government policies; (b) Monitor the situation of women comprehensively; (c) Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination.”

Contrary to this recommendation, the Tajik Gender Equality Law does not create or designate any specific high-level national institution to conduct monitoring of gender equality or to coordinate or direct the implementation of the law. For example, the law provides for the monitoring of gender equality in the social labor sphere, but does not designate a competent organ of government to oversee this task (Article 17). In addition, Article 19 of the law requires that state organs enforce compliance with the law within their area of competence but does not designate any existing or new state body to coordinate these enforcement activities. Article 21 is the only provision relating to implementation of the law that designates a specific state body—the general prosecutor—as the institution that will be responsible for one task: the review of legislation and other normative acts for their compliance with equal rights and opportunities for men and women guaranteed under the law. Pertinent portions of the Tajik Gender Equality Law need to be broadened in order to task a specific entity or entities to monitor all enforcement of all provisions of the law.

By contrast, the Lithuanian, Romanian, and Kyrgyz governments have provided more specific instructions for the implementation of gender equality legal norms and for the monitoring of compliance with such norms. For example, in 1999, the Lithuanian government created the Lithuanian Inter-Ministerial Commission on Equal Opportunities to coordinate implementation of the Lithuanian Equal Opportunity Law and created a new institution, the Office of the Equal Opportunities Ombudsperson, to receive complaints of discrimination under the law. Similarly, the Kyrgyz Parliament designated the General Prosecutor’s Office as the principal enforcer of the Kyrgyz Gender Equality Law, and specified a number of state bodies, including the Ombudsman of the Kyrgyz Republic, as entities that may receive complaints of discrimination and sexual harassment from individuals. Finally, Chapter V of the Romanian Equal Opportunity Law designates the Labor Ministry as the principal authority responsible for the implementation of the law and monitoring of

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52 See Kyrgyz Gender Equality Law, supra note 12, arts. 28, 33.
gender equality and provides that certain other institutions (including the Ombudsman) assist in the implementation of the law.\

B. Administrative Penalties, Fines, and Other Sanctions for Non-Compliance with the Law

CEDAW contemplates that States Parties to the instrument condemn discrimination against women in part by adopting “appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women” (Article 2(b)). Article 22 of Tajikistan’s Gender Equality Law provides for liability of juridical and physical individuals for a breach of the law, but does not clearly establish the nature of this liability, the consequent remedies, or the procedure for establishing such liability.

Best practices in the Central and East European region demonstrate more effective liability provisions for discrimination on the basis of sex. For example, the CEDAW Committee praised the Lithuanian Parliament for providing for administrative sanctions that are to be imposed on both private and public persons and institutions. Article 24 of the Lithuanian Equal Opportunity Law provides that the Equal Opportunities Ombudsman may hear cases regarding administrative offenses and impose administrative sanctions. The Bulgarian Parliament has also provided for administrative penal provisions for sex discrimination in the form of fines (ranging from 250 to 20,000 BGN) for those persons who violate the provisions of the Bulgarian Anti-Discrimination Law. According to Chapter VII of the Romanian Equal Opportunity Law, sanctions may be imposed in the amount of 1.5 million to 15 million ROL.

Another type of sanction provided by gender equality laws in Central and Eastern Europe and Eurasia is the recording of private and governmental entities who are deemed to be non-compliant with the law. Article 35 of the Kyrgyz Gender Equality Law provides for the registration and recording of violations of the law by and with the National Council of the Kyrgyz Republic on Women, Family and Gender Development. Article 47 of the Bulgarian Anti-Discrimination Law likewise indicates that the Bulgarian Commission for Protection Against Discrimination is required to “maintain a public register of the adopted and entered into force decisions and obligatory prescriptions.”

C. Collection of Statistics for the Purpose of Evaluating Gender Equality

Collection of statistics, particularly statistics disaggregated by sex, can be an important way of monitoring compliance with gender equality principles set out in legislation. In General Recommendation 9, the CEDAW Committee advises that:

States parties should make every effort to ensure that their national statistical services responsible for planning national censuses and other social and economic surveys

53 See Description of Romanian Equal Opportunity Law, supra note 10.
54 See Concluding Observations on Lithuania, supra note 40, para. 131.
55 See Lithuanian Equal Opportunity Law, supra note 9, art. 24(1)(3).
56 See Bulgarian Anti-Discrimination Law, supra note 8, arts. 78-84.
57 See Description of Romanian Equal Opportunity Law, supra note 10.
58 See Kyrgyz Gender Equality Law, supra note 12, art. 35.
59 See Bulgarian Anti-Discrimination Law, supra note 8, art. 47(1)(7).
formulate their questionnaires in such a way that data can be disaggregated according to gender, with regard to both absolute numbers and percentages, so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested.  

In addition, General Recommendation 12 provides that States Parties to CEDAW should collect and report “[s]tatistical data on the incidence of violence of all kinds against women and on women who are the victims of violence.”

Apart from a requirement that government organs collect information on gender balance in state service (Article 11), the Tajik Gender Equality Law does not require the collection of data necessary to evaluate compliance with the rest of the sections of the law. By contrast, other governments in Eurasia have required that statistics be collected to monitor gender equality. For example, the Kyrgyz Gender Equality Law requires that the National Statistics Committee of the Kyrgyz Republic “manage the collection of gender-sensitive statistical data.”

D. Protection of and Reparation to Victims of Gender-Based Discrimination

As Shanthi Dairiam stated with respect to the Tajik Gender Equality Law in draft form, its provisions provide for positive responsibilities on the part of state actors, “[b]ut the state must also protect citizens when discriminatory actions take place. There has to [be] a comprehensive approach that includes procedures for complaints, identification of liability, investigation, arbitrating, court action and remedies, and pro-active measures. The Draft Law does not establish these.” The Tajik Gender Equality Law that is presently in force still does not adequately provide for these measures. The Lithuanian, Bulgarian, Romanian, and Kyrgyz gender equality legislation provide for the protection of citizens in the event of discrimination by creating a grievance mechanism, establishing reparations for victims of gender-based discrimination, and protecting victim information.

ABA/CEELI would like to recognize that the legislature of the Republic of Tajikistan did include in the Gender Equality Law one very important protection for victims of gender discrimination: the reversal of the burden of proof for intent in sex discrimination cases. Article 14 of the Gender Equality Law reverses the burden of proof and requires the employer (not the claimant) to prove the lack of discriminatory intent in a case involving gender discrimination. This reversal mirrors similar provisions in gender equality laws around the world.

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61 Gen. Rec. 12, supra note 39, para. 4.
62 Kyrgyz Gender Equality Law, supra note 12, art. 30.
63 Dairiam, supra note 5, at 16.
64 See Lithuanian Equal Opportunity Law, supra note 9, ch. IV, V; Bulgarian Anti-Discrimination Law, supra note 8, ch. 3, 4; Description of Romanian Equal Opportunity Law, supra note 10; Kyrgyz Gender Equality Law, supra note 12, ch.V, VI.
1. Institution to Investigate Individual Complaints of Gender-Based Discrimination and Clear Procedure for Filing Complaints

Unlike the government of Tajikistan, throughout Central Europe and Eurasia, governments have established entities or elected ombudsmen to receive and investigate complaints of gender-based discrimination from individuals. Providing a grievance process for victims of sex-based discrimination (particularly one that is independent of other government institutions) is one of the most effective methods of ensuring enforcement of gender equality laws, protecting victims of gender-based discrimination, and deterring further discrimination.

In one example, the Kyrgyz Gender Equality Law provides for the Ombudsman to be one of the state organs that will enforce the provisions of the law.\(^{65}\)

In Lithuania, the Parliament created a new, separate Office of the Equal Opportunities Ombudsman in accordance with its 1998 Equal Opportunity Law. This entity is charged with receiving complaints of gender-based discrimination, including sexual harassment, with conducting investigations to evaluate such complaints, and with administering a decision with respect to any violations of equal opportunities that may have occurred.\(^{66}\)

Similarly, the Romanian Parliament established the National Council for Combating Discrimination in 2004 pursuant to the Romanian Equal Opportunity Law. In 2004, the National Council received 13 complaints of gender discrimination (approximately 3.7 % of the total number of complaints) and resolved 8 of them.\(^{67}\)

Chapters 3 and 4 of the Bulgarian Anti-Discrimination Law provide for the creation of a Commission for Protection Against Discrimination, which was elected in April 2005 by the Bulgarian National Assembly.\(^{68}\) This Commission is responsible for “control over the implementation and compliance with this or other laws regulating equality of treatment,” receiving complaints of discrimination, investigating such complaints, and holding proceedings to evaluate the complaints.\(^{69}\)

2. Reparation to Victims of Discrimination, Protection of Victim Information, and Victimization

Unlike the Tajik Gender Equality Law, some gender equality laws in Central and Eastern Europe and Eurasia provide victims of gender-based discrimination with specific forms of reparation, protection of personal information, and protection from retaliation for filing a claim of discrimination. Such reparation and protections can be important methods for defending victims of discrimination and deterring future discrimination against women.

\(^{65}\) See Kyrgyz Gender Equality Law, supra note 12, art. 33.

\(^{66}\) See Lithuanian Equal Opportunity Law, supra note 9, ch. IV, V.


\(^{69}\) Bulgarian Anti-Discrimination Law, supra note 8, art. 40(2), ch. 3, 4.
The types of reparation provided might include the cessation of discrimination, the restoration of a job or promotion, compensation for lost wages or for injuries incurred, or an apology from the institution or individual that violated the law. In one example, a change to the Lithuanian Equal Opportunity Law from November 2004 provides Lithuanian victims with the right to claim compensation for moral and material damages incurred as a result of gender discrimination, in accordance with a procedure set out in the Civil Code.\(^\text{70}\)

The Lithuanian Equal Opportunity Law also protects a victim’s information in connection with an investigation conducted by the Office of the Equal Opportunities Ombudsman. The Ombudsman provides the results of his/her investigation only to the entity and persons that are the subject of the investigation, and must receive permission from the complainant before disclosing the facts of his/her case to the media or any other body (Articles 23, 28). Similarly, Article 18 of the draft Law of the Republic of Kazakhstan on Equal Rights and Equal Opportunities provides that persons working for the special commission or another agency investigating a claim of discrimination must not disclose private information during the course of their work or use such information for their own benefit.\(^\text{71}\)

Finally, the Kyrgyz and Lithuanian gender legislation provide that there should be no victimization or persecution of an individual who files a discrimination claim. For example, Article 6(4) of the Lithuanian Equal Opportunity Law indicates that the acts of an employer shall be deemed discriminatory if the employer “persecutes an employee who has filed a complaint because of discrimination.”\(^\text{72}\) Moreover, Article 22 of the Kyrgyz Gender Equality Law prohibits victimization of complainants of sexual harassment.\(^\text{73}\)

V. Conclusion

The current Gender Equality Law represents an important step toward establishing women’s equality in Tajikistan. More work is needed, however, in order to achieve gender equality for the men and women of Tajikistan and to ensure full compliance with the country’s obligations under CEDAW. The Gender Equality Law needs to bridge the gap between the formal legal guarantees of equality for women in Tajikistan and the realization of those rights in women’s daily lives. In order for this to happen, legislators should modify the present Gender Equality Law in order to more substantially address the following issues:

- the prohibition of direct and indirect forms of discrimination
- violence against women
- women’s equal access to education
- women’s equal participation in the political and public life of the country
- gender equality in the economic and social sphere


\(^{71}\) See Draft Law of the Republic of Kazakhstan on Equal Rights and Equal Opportunities, art. 18 (2000).

\(^{72}\) Lithuanian Equal Opportunity Law, supra note 9, art. 6(4).

\(^{73}\) See Kyrgyz Gender Equality Law, supra note 12, art. 22.
• workplace discrimination

• the impact of existing social and cultural patterns upon women

• the establishment of temporary special measures.

Furthermore, the law should delineate a proper mechanism for implementing and monitoring compliance with its provisions and detailed procedures for filing complaints and providing remedies for victims of gender-based discrimination. Lastly, resources should be committed from the national budget for implementing, monitoring, evaluating, and sustaining gender equality programs in Tajikistan.
Appendix A

Biographical Statements of Experts Assessing the Law
Biographical Statements of Experts Assessing the Law

Marina Colby

*Marina Colby* works at the National Network to End Domestic Violence in Washington, D.C. and manages the national Doors of Hope grant program.

Before joining the National Network to End Domestic Violence, Ms. Colby served as the Human Rights Program Liaison in Tashkent, Uzbekistan for ABA/CEELI where she worked with local attorneys to establish Uzbekistan’s first human rights law firm.

Prior to her work in Uzbekistan, Ms. Colby served as a policy analyst and program manager in the Department of Justice’s Office on Violence Against Women where she worked on a variety of issues relating to domestic violence, sexual assault, stalking, and human trafficking. While at the Department, Ms. Colby also served as president of DOJ Pride – an association of lesbian, bisexual, gay, and transgender employees.

Ms. Colby’s professional experience also includes working for a congressional office on Capitol Hill; for a tribal attorney in northern Wisconsin; for a political foundation in Germany; and for the Office of the Staff Judge Advocate in Germany.

Ms. Colby received her B.A. in International Studies at the University of Wisconsin – Oshkosh; her J.D. at the University of Wisconsin Law School; and has completed course work at the University of Grongingen in the Netherlands; and graduate work at the School of Advanced International Studies (SAIS) in Washington, D.C.

Julie Mertus

*Julie Mertus* is an Associate Professor and Co-Director of the MA program in Ethics, Peace and Global Affairs at American University. A graduate of Yale Law School, her work focuses on ethno-national conflict, human rights, refugee and humanitarian law and policy, gender and conflict and post-war transitions. Her geographic expertise is in Central and Eastern Europe, with a specialty on the former Yugoslavia, but she has also participated in human rights projects in such diverse places as Vietnam, Brazil, China and South Africa. Her prior appointments include: Senior Fellow, U.S. Institute of Peace; Human Rights Fellow, Harvard Law School; Writing Fellow, MacArthur Foundation, Fulbright Fellow (Romania), and Counsel, Human Rights Watch.

As a scholar, Professor Mertus has published widely. Her work appears in leading multidisciplinary journals such as Ethics and International Affairs, Global Governance, International Studies Perspectives, International Feminist Journal of Politics and the Harvard International Review. Her books include: The United Nations and Human Rights (Routledge, 2005); Bait and Switch: Human Rights and American Foreign Policy (Routledge, 2004) and Human Rights and Conflict (United States Institute of Peace, 2004)(editor, with Jeffrey Helsing); Kosovo: How Myths and Truths Started a War (U. Cal. Press 1999), War’s Offensive Against Women: The Humanitarian Challenge in Bosnia, Kosovo, and Afghanistan (Kumarian, 2000); The Suitcase: Refugees' Voices from Bosnia and Croatia (U. Cal. Press, 1999); Local Action/Global Change (UNIFEM 1999)(with Mallika Dutt and Nancy Flowers).
As a practitioner, Professor Mertus has over fifteen years experience in the human rights field, as a field researcher, lawyer, advocate, political analyst, and trainer. At the international level, she has conducted human rights trainings with NGOs, political leaders, school teachers, and student activists in over a dozen countries. She has also served as a consultant on human rights and humanitarian issues to UNHCR, the Humanitarianism and War Project, the Watson Institute for International Affairs, Women Waging Peace, OXFAM, the Soros Foundation, and many other nongovernmental and intergovernmental organizations. She has also appeared as an expert witness in asylum proceedings and has offered expert commentary on CNN, NPR, and Voice of America, and in such newspapers as The New York Times, Washington Post, Chicago Tribune, and Christian Science Monitor.

As an educator, Professor Mertus has been recognized for her innovative course designs and interactive teaching. She has written curriculum for several human rights courses and her own book on teaching women's human rights has been translated and used in Albanian, Arabic, Romanian, Russian, Serbian, Thai, and Ukrainian. In 2003 she received the American University Faculty Award for Outstanding Curriculum Development, and in 2002 the American University Faculty Award for Outstanding Scholarship and Professional Service. In 2005, Professor Mertus won the School of International Service award for Scholar/Teacher of the Year.

Christine Tefft

Christine Tefft joined ABA/CEELI in January 2005. As the Women’s Rights Liaison in CEELI’s Tajikistan office, she is primarily responsible for establishing women's legal advocacy and resource centers in the cities of Dushanbe and Khujand.

Prior to joining CEELI, Christine worked as a women's human rights program staff attorney at Minnesota Advocates for Human Rights, practiced law in New York City and conducted pro bono research in the area of immigration law and human rights. At Minnesota Advocates, Christine helped to develop and manage the Stop Violence Against Women Website--www.stopvaw.org, and related National Violence Against Women Monitor program. This website provides women's advocates in Central and Eastern Europe and the Newly Independent States of the former Soviet Union with resources on law, policy, and research concerning many forms of violence against women.

Christine received her J.D. from the University of Virginia School of Law in 1998 and her B.S.F.S. in international politics from Georgetown University's School of Foreign Service in 1995.

Katie Zoglin

Katie Zoglin has been a lawyer for twenty years. She has worked in local government for most of her career, including as a prosecutor. She has represented clients in gender-based discrimination litigation, criminally prosecuted domestic violence cases, and provided training on the prevention of sexual harassment.

Katie has also worked in international human rights for two decades. She has taught international human rights at Stanford Law School and the University of California, Berkeley. She spent one year working as a Gender Issues Legal Specialist with ABA/CEELI in Serbia and Macedonia. There, she wrote a report assessing Serbia's compliance with CEDAW, advised NGOs on workplace discrimination legislation, and provided technical assistance on the implementation of newly adopted domestic violence laws.
As a Fulbright scholar, Katie conducted research in Paraguay's Archive of Terror and worked with a local human rights group. She serves on the Executive Committee of Human Rights Watch's Committee North. Katie has also been an author and speaker on a range of human rights topics, such as war crimes tribunals, rape in war, and human rights abuses under military regions. She is a graduate of Harvard College and Harvard Law School.
Appendix B

Convention on the Elimination of All Forms of Discrimination against Women
Convention on the Elimination of All Forms of Discrimination against Women

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a
Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

**PART I**

**Article 1**

For the purposes of the present Convention, the term "discrimination against women" shall mean 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.

**Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) 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;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) 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;

(d) 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;
(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, 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.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.
PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital
status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
Appendix B—Convention on the Elimination of All Forms of Discrimination against Women

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

   (a) The same right to enter into marriage;
(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

c) The same rights and responsibilities during marriage and at its dissolution;

d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

   (a) Within one year after the entry into force for the State concerned;

   (b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.
Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

(a) In the legislation of a State Party; or

(b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.

2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.

3. The present Convention is subject to ratification. Instruments of ratification shall be deposited
with the Secretary-General of the United Nations.

4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

**Article 26**

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

**Article 27**

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

**Article 28**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

**Article 29**

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph I of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.
Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.
Appendix C

Law of the Kyrgyz Republic on the Basics of the State Guarantees of Gender Equality
Law of the Kyrgyz Republic

On the Basics of the State Guarantees of Gender Equality

This Law regulates relationships so that to provide for equal rights and opportunities of persons of both sexes in social, political, economic, cultural, and other aspects of human life; it is designated to protect women and men against discrimination on distinction of sex; it is tasked to promote progressive democratic relations between men and women on the basis of national traditions; and it provides state guarantees of equality and equity to persons of both sexes.

Chapter I. General Provisions

Article 1. Main Terms

Gender — acquired and socially prescribed behaviour of people of different sexes.

Gender policy — state and public activities aiming at the achievement of equality in relationships between people of different sexes.

Gender relationships — the mode of behaviour and treatment of people of different sexes in their communication or in various joint activities.

Legal gender expertise — the monitoring of national legislation and other legal acts so as to determine that they comply with the gender legislation.

Gender statistics — statistics that reflects the existing status of men and women in all sectors of social and political life, and that highlights gender concerns and attitudes within the society.

Gender equity — equal social status of men and women in the society.

Gender equality — equal rights, obligations and responsibilities of men and women before the law except for mitigating circumstances prescribed by laws of the Kyrgyz Republic.

Equal opportunities — the system of means and conditions that are necessary to actually achieve gender equality.

Equal partnership relations — cooperation or joint participation of men and women in state and public life on equal conditions.

Gender discrimination — any sex-based distinction, exclusion or preference, which may restrict or deny equal exercise of rights.
Open gender discrimination — discrimination with the direct indication of the person’s sex.

Latent gender discrimination — discrimination without the direct indication of the person’s sex.

Sexual harassment — immoral behaviour in respect of people of different sexes, as well as unwarranted sexual advances of verbal (threats, intimidation, indecent remarks) or physical (touching, patting) character, which may humiliate or insult the person who is dependent on the perpetrator due to work, official, financial, family, or other reasons.

Violation of equal rights — active or passive behaviour that may be manifested in the form of derogation, contempt, as well as in restricting rights or granting privileges on distinction of sex.

Household work — a type of labour with the purpose to satisfy family needs.

Article 2. Goals and Objectives of the Law

The goals and objectives of this Law include the provision of men and women with:
— equality of their rights, obligations, and responsibilities;
— equality of their opportunities;
— equality of partnership relations between them in all aspects of life;
— equality in the family; and
— equality in social, economic, work, and other activities.

Article 3. Objects of Gender Equality

Objects of gender equality shall include public and social relations subject to legal regulation.

Article 4. Subjects of Gender Equality

Subjects of gender equality include individuals, legal entities, and the State.

Article 5. Legislation of the Kyrgyz Republic Concerning Gender Relationships

In the Kyrgyz Republic gender relationships shall be regulated by the Constitution of the Kyrgyz Republic, gender-related international treaties of the Kyrgyz Republic, legislative and legal acts of the Kyrgyz Republic, and this Law.

Article 6. Prohibition of Gender Discrimination

No open or latent discrimination shall be permitted in all aspects with respect to people of different sexes.

Those subjects of gender equality that have permitted any open or latent discrimination shall be liable in accordance with the legislation of the Kyrgyz Republic.
Gender discrimination shall not include:

— protection of maternity functions;

— recruitment for the military service of men only at such times as laws of the Kyrgyz Republic may prescribe; and

— adoption of temporal special measures based on this Law with the view to achieve actual equality in gender relationships.

**Article 7. The Basics for State Policies in Achievement of Gender Equality**

The basics for state policies with regard to the achievement of gender equality shall include as follows:

— to adopt, improve and promote laws and other legal acts designated to provide for gender equality;

— to develop and implement state targeted programmes for the achievement of gender equality;

— to protect society against such information, propaganda and advocacy that aim at violating gender equality;

— to educate about and advocate for the culture of gender equality;

— to comply with generally recognized international-law principles and norms, as well as with international obligations of the Kyrgyz Republic in respect of gender-equality matters.

**Article 8. Barriers to the Achievement of Gender Equality**

Whenever a person’s behaviour, which is based on common-law norms, traditions and culture, may contradict requirements of this Law, such behaviour shall be considered a barrier to the achievement of gender equality.

No common-law norms, traditions, and cultural values containing elements of gender discrimination shall be supported.

**Chapter II. Guarantees of Gender Equality in State Government and in Access to Civil Service**

**Article 9. Guarantees of Gender Equality in State Government**

The State shall guarantee an equal participation of men and women in state government. The State shall provide, by legal, organizational, and other means, for an equal representation of men and women in legislative, executive, and judicial branches of power.

**Article 10. Guarantees of Gender Equality in Access to Civil Service**

Persons of both sexes have equal rights, obligations, and responsibilities and equal opportunities with respect to access to civil service and to subsequent work in state bodies.
Heads of state bodies shall provide for equal access of men and women to public offices in accordance with their abilities and training.

The State shall provide for equal partnership relationships between men and women in legislative, executive, and judicial branches of state power, and in bodies of local self-governance.

Vacancies at public offices, including executive posts, shall be filled by conducting competitions, in which both men and women may participate on equal footing.

No competitions may be announced for persons of one sex only.

Chapter III. Guarantees of Gender Equality in Economic and Social Sectors

Article 11. Equal Access to All Forms of Ownership

The State shall guarantee the realization of the right to ownership by persons of both sexes. The State shall provide for equal access of men and women to all forms of ownership.

Article 12. Equal Access to Business

The State shall guarantee that persons of both sexes shall have equal access to business.

No gender discrimination shall be permitted in business activities.


The State shall create equal conditions for persons of both sexes to the management of businesses (economic entities).

No gender discrimination shall be permitted in respect of business management.

Article 14. Equal Access to Land Use

The State shall provide persons of both sexes with equal access to the use of land plots given or granted for the perpetual (termless) or fixed-term (temporal) use.

The rights to land of men and women shall be equally protected.

Article 15. Access to Equal Social Benefits

Persons of both sexes shall have equal access to social benefits.

Parents shall have equal access to care allowances for children and for superannuated or sick family members.

Chapter IV. Gender Equality in Labour

Article 16. Equal and Free Choice of Occupation

Employers shall provide for work equality of men and women.
Employers, regardless of forms of ownership, shall take measures to ensure equal working conditions for people of different sexes.

Employers shall provide persons of both sexes with opportunities to perform both work and parental functions.

**Article 17. Equal Salary**

Equal access of persons of different sexes to salary means an equal salary of men and women who have similar qualifications and who works in similar work conditions.

Decrease of salary or worsening of work conditions on distinction of sex shall be recognized gender discrimination.

**Article 18. Guarantees of Equality in Mass Redundancy Situations**

In situations of mass redundancy of over one third of the whole number of the employees of a company, establishment or organization, the number of dismissed employees of one sex shall be proportional to the established number of the employees of this sex at such company, establishment or organization.

**Article 19. Sharing of Household Work**

The principle of gender equality in labour shall also apply to household work.

Persons of both sexes shall bear equal obligations with regard to household work. Household work may not be used as a means of gender discrimination, and it may be performed equally by men and women.

**Article 20. Guarantees of the Acknowledgement of Household Work**

The State shall recognize household work as one of the forms of social, productive work.

Any property formed at the expense of household work by members of a family shall be deemed property of the family.

**Article 21. The Right of People of Both Sexes to Receive Information on Vacancies**

Men and women who have not been promoted or have not been trained for skill upgrading during three years have the right to ask the employer about and receive in writing his or her reply on reasons for no promotion or for no skill-upgrading training, as well as on the experience and qualification of the person who has been appointed (employed, promoted) to the claimed office or who has been trained for skill upgrading.

**Article 22. No Pressure On and No Victimization of the Person who Has Suffered Sexual Harassment on the Part of His or Her Employer**

An employer shall not put pressure on or persecute an employee who has refused the employer’s sexual advances (harassment) or who has lodged a complaint against the employer for sexual
discrimination.

If an employer puts pressure on or persecutes an employee on the above-mentioned grounds, the employer shall be liable in accordance with the laws of the Kyrgyz Republic.

Chapter V. Gender Equality Enforcement Mechanism

Article 23. Authority of the Jogorku Kenesh of the Kyrgyz Republic with Respect to the Provision of Gender Equality

By adopting laws, the Jogorku Kenesh of the Kyrgyz Republic shall form a legal foundation for state gender equality policies in all sectors of state and public life.

Within the bounds of its authority, the Jogorku Kenesh of the Kyrgyz Republic shall appoint, on consideration of the representation, no more than seventy percent of persons of one and the same sex to offices of:

— justices of the Constitutional Court of the Kyrgyz Republic;

— justices of the Supreme Court of the Kyrgyz Republic;

— members of the Central Commission of the Kyrgyz Republic on Elections and Referendums, and auditors of the Auditing Chamber of the Kyrgyz Republic.

No less than once a year, the Jogorku Kenesh shall listen to Government’s reports about the gender equality status. Such reports shall be furnished by the Government of the Kyrgyz Republic in such manner as the Jogorku Kenesh of the Kyrgyz Republic may determine, and they shall be promulgated in mass media.

Article 24. Authority of the Government of the Kyrgyz Republic with Respect to the Provision of Gender Equality

Within the bound of its authority, the Government of the Kyrgyz Republic shall:

— participate in drafting and provide for the implementation of a single state policy aiming at the achievement of gender equality of men and women in all aspects of public life;

— develop state targeted programmes on the provision of gender equality and provide for their implementation;

— finance activities relating to the realization of state gender equality policies from the national budget, extra-budgetary sources, and other sources allowed by the laws of the Kyrgyz Republic; and

— direct and control activities of executive state bodies to provide for and to protect gender equality.
Article 25. Authority of the National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic with Respect to the Provision of Gender Equality

Within the bounds of its authority, the National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic shall monitor the enforcement of this Law.

The National Council shall publish yearly reports on the enforcement of this Law.

Article 26. Activities of Local Self-Governance Bodies With Respect to the Provision of Gender Equality

Local self-governance bodies shall carry out activities with respect to the development and achievement of gender equality, and they shall coordinate their activities with activities of executive state bodies as they relate to supporting appropriate state, regional, and local programmes.

Article 27. Involvement of Public Associations and of Other Non-governmental Organizations in the Provision of Gender Equality

Public associations and other non-governmental organizations may:

— take part in the decision-making process of state bodies and of local self-governance bodies with respect to the provision of gender equality;

— represent and protect the rights of persons in courts and in other state bodies;

— nominate and support candidates who campaign for the protection of gender equality principles;

— obtain methodical, informational, and other assistance from appropriate executive state bodies of the Kyrgyz Republic to the extent, and following the procedure prescribed by state, regional, and local programmes aiming at the elimination of gender discrimination.

Public associations and other non-governmental organizations may make yearly public reports.

Article 28. Controlling the Enforcement of this Law

The General Procurator’s Office of the Kyrgyz Republic shall provide for strict and uniform enforcement of this Law.

Article 29. Legal Gender Expertise of Laws and of Other Legal Acts of the Kyrgyz Republic

The goal of legal gender expertise is to examine and identify gender equality inconsistencies in laws, other legal acts of the Kyrgyz Republic, and in state, regional, and local gender-related programmes.

Legal gender expertise may be performed by state bodies, independent public associations and other non-governmental organizations.
Article 30. Gender Statistics

The National Statistics Committee of the Kyrgyz Republic shall manage the collection of gender-sensitive statistical data in the Kyrgyz Republic.

State bodies, local self-governance bodies, and heads of companies, establishments and organizations shall submit relevant gender information to the National Statistics Committee of the Kyrgyz Republic.

Article 31. Effects of a Breach of this Law

Should bodies, vested with controlling and monitoring functions with regard to the enforcement of this Law, identify a violation of gender equality, they may:

— send state bodies, local self-governance bodies, and heads of companies, establishments and organizations written requests to eliminate, within a specified term, the identified violation of gender equality;

— resort to facilities of the legislation of the Kyrgyz Republic with regard to the provision of gender equality; and

— make public, in mass media, the name of the company, establishment or organization on the list of violators of this Law.

Article 32. Liability for Breach of the Laws of the Kyrgyz Republic Concerning Gender Relationships

Should officials of state bodies, local self-governance bodies, or state-owned and communal organizations with regulatory, administrative, or managerial functions, along with heads and other employees of other organizations with similar functions, breach the laws of the Kyrgyz Republic concerning gender relationships, they shall be liable in accordance with the legislation of the Kyrgyz Republic.

Chapter VI. Procedures for Consideration of Gender Equality Violations

Article 33. Procedures for Consideration of Gender Discrimination Cases

Petitions to the following authorities fall within the process of consideration of instances of gender discrimination, sexual harassment, persecution, victimization, and of other violations of gender equality:

— to the President of the Kyrgyz Republic;

— to the Jogorku Kenesh of the Kyrgyz Republic;

— to the Government of the Kyrgyz Republic;

— to the Ombudsman of the Kyrgyz Republic;
— to local self-governance bodies;

— to court;

— to the National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic;

— to employers;

— to public associations and other non-governmental organizations; and

— to law-enforcement agencies.

Article 34. Coordination of Activities of Various Bodies in Consideration of Disputes Arising from Violations of Gender Equality

The National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic shall coordinate activities of various bodies in consideration of disputes arising from violations of gender equality.

Article 35. Registration and Recording of Gender Equality Violations

The National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic shall register and record all instances of violations of gender equality.

To monitor the provision of gender equality, state bodies, public associations and other non-governmental organizations may register instances of violations of gender equality, and they shall furnish these data with the National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic.

Article 36. Taking Effect

This Law shall take effect on the day of its official promulgation. The Government of the Kyrgyz Republic shall adjust its legal acts to this Law.

President of the Kyrgyz Republic
Appendix D

Law of Bulgaria on Protection Against Discrimination
LAW OF BULGARIA ON PROTECTION AGAINST DISCRIMINATION

CHAPTER ONE

GENERAL PROVISIONS

Article 1

This Law shall regulate the protection against all forms of discrimination and shall contribute to its prevention.

Article 2

The purpose of this Law is to ensure for every person the right to:

1. quality before the law;

2. equality of treatment and of opportunities for participation in the public life;

3. effective protection against discrimination.

Article 3

(1) This Law shall protect against discrimination all natural persons on the territory of the Republic of Bulgaria.

(2) Associations of natural persons, as well as legal persons, shall enjoy the rights under this Law when they have been discriminated on the grounds, referred to in Article 4, Paragraph 1 regarding their members or the persons employed by them.

Article 4

(1) Any direct or indirect discrimination on the grounds of sex, race, nationality, ethnic origin, citizenship, origin, religion or belief, education, opinions, political belonging, personal or public status, disability, age, sexual orientation, marital status, property status, or on any other grounds, established by the law, or by international treaties to which the Republic of Bulgaria is a party, is forbidden.

(2) Direct discrimination shall be any less favourable treatment of a person on the grounds, referred to in paragraph 1, than another person is, has been or would be treated under comparable circumstances.

(3) Indirect discrimination shall be to put a person, on the grounds referred to in Paragraph 1 in a
less favourable position in comparison with other persons by means of an apparently neutral provision, criterion or practice, unless the said provision, criterion or practice have objective justification in view of achieving a lawful objective and the means for achieving this objective are appropriate and necessary.

**Article 5**

The harassment on the grounds referred to in Article 4, Paragraph 1, sexual harassment, instigation to discrimination, persecution (persecution) and racial segregation, as well as building and maintenance of an architectural environment hampering the access of people with disabilities to public places shall be deemed discrimination.

**Article 6**

The prohibition of discrimination shall act in reference to everybody, while exercising and protecting the provided by the Constitution and the laws of the Republic of Bulgaria, rights and freedoms.

**Article 7**

(1) Following shall not be deemed discrimination:

1. the different treatment of persons on the basis of their citizenship or of persons without citizenship when it is provided by the law or international treaty to which the Republic of Bulgaria is a party;

2. the different treatment of persons on the basis of a characteristic, related to any of the grounds, referred to in Article 4, Paragraph 1, when the said characteristics, by the nature of a particular occupation or activity, or of the conditions in which it is carried out, constitutes a genuine and determining professional requirement, the objective is lawful and the requirement does not exceed what is necessary for its achievement;

3. the different treatment of persons on the basis of religion, belief or sex in relation to an occupation, carried out in religious institutions or organisations when, by reason of the nature of the occupation or of the conditions in which it is carried out the religion, belief or sex constitutes a genuine and determining professional requirement with regard to the character of the institution or organisation, when objective is lawful and the requirement does not exceed what is necessary for its achievement;

4. the different treatment of persons on the basis of religion, belief or sex in religious education or training, including training or education for the purpose of carrying out an occupation referred to in point 3;

5. setting requirements for minimum age, professional experience or length of service in recruitment procedures or in granting certain job-related benefits, when this is objectively justified for achieving a lawful objective and the means for its achievement do not exceed what is necessary;

6. setting requirements for maximum age in recruitment procedures, which is connected with the need for training in order to occupy the respective position or with the need for a
reasonable time limits of service before retirement, when this is objectively justified for achieving a lawful objective and the means for its achievement do not exceed what is necessary;

7. the special protection of pregnant women and mothers, laid down by law, unless the pregnant woman or the mother does not wish to use this protection and she has so informed the employer in a written form;

8. the age requirements and the requirements for length of service or official service, laid down by the Law for the purposes of pension insurance;

9. the measures within the meaning of the Law on Employment Promotion;

10. the different treatment of persons with disabilities during training and acquiring an education to the effect of satisfying specific educational needs aiming at equalisation of their opportunities;

11. setting requirements for minimum and maximum age for access to training and education, when this is objectively justified for achieving a lawful objective and the means for its achievement do not exceed what is necessary with a view of the nature of the training or education, or of the conditions in which it is conducted and the means for its achievement do not exceed what is necessary;

12. the measures in the field of education and training to ensure balance in the participation of men and women, insofar and until such measures are necessary;

13. the special measures benefiting individuals or groups of persons in disadvantaged position on the basis of the grounds, referred to in Article 4, Paragraph 1 aiming at equalisation of their opportunities, insofar and until such measures are necessary;

14. the special protection of children without parents, under-age persons, single parents and persons with disabilities, laid down by law;

15. the measures for protection of originality and the identity of persons, belonging to ethnic, religious or language minorities, and their right of sustaining and developing, individually or jointly with the rest of their group members, their culture, of professing and practicing their religion, or of using their own language;

16. the measures in the field of the education and training to ensure participation of persons belonging to the ethnical minorities, as far and while these measures are necessary;

(2) The list of activities where sex is a genuine and determining professional requirement in the meaning of Paragraph 1, point 2) shall be established with:

a) an ordinance of the Minister of Labour and Social Policy, jointly with the Minister of Interior. This list shall be duly agreed with the occurring changes in the working conditions and shall be revised at least once on every three years.

b) an ordinance of the Minister of Defence for the activities and the positions on the regular
military service in the armed forces.

Article 8

Persons who have consciously assisted performing acts of discrimination shall bear responsibility under this Law.

Article 9

In proceedings for protection against discrimination, after the party, claiming to be a victim of discrimination, proves facts, sustaining the assumption of occurred discrimination, the defendant party must prove that the right to equal treatment has not been infringed.

Article 10

While exercising their powers, the state bodies and local self-governance bodies shall take all possible and necessary measures to achieve the objectives of this Law.

Article 11

(1) The bodies of state power, the public bodies and the local self-governance bodies shall take measures as referred to in Article 7, paragraph 1, points 13 and 15 when that is necessary to achieve the objectives of this Law.

(2) The bodies of state power, the public bodies and the local self-governance bodies shall take with priority measures as referred to in Article 7, paragraph 1, points 13 and 15 to equalise the opportunities of persons, victims of multiple discrimination.

CHAPTER TWO

PROTECTION AGAINST DISCRIMINATION

Section I

Protection in exercising the right to work

Article 12

(1) When a vacancy is announced, the employer shall not have the right to impose requirements related to the grounds referred to in Article 4, Paragraph 1, except in the cases under Article 7.

(2) Before conclusion of an employment contract the employer shall not have the right to request from the candidate information concerning the grounds referred to in Article 4, Paragraph 1 except in the cases under Article 7, or when this is necessary for the needs of an inquiry procedure for obtaining a permit for work with classified information, subject to the arrangements of the Law on the Protection of the Classified Information.

(3) The employer shall not have the right to refuse to employ a candidate on the grounds of
pregnancy, maternity or raising children.

(4) The employer shall not have the right to refuse to employ, or to employ under less favourable conditions, person on the grounds referred to in Article 4, Paragraph 1, except in the cases under Article 7.

**Article 13**

(1) The employer shall ensure equal working conditions regardless the grounds referred to in Article 4, Paragraph 1.

(2) In the cases when it would not lead to a disproportionate burden on the employer in organising and carrying out the production, and in the cases when there exist ways to compensate the objectively possible unfavourable consequences for the general production result, the employer shall provide working conditions, in view of the working time and the days off, complying with the requirements of the religion or belief, professed by a worker or employee.

**Article 14**

(1) The employer shall ensure equal remuneration for equal work and work of equal value.

(2) Paragraph 1 shall apply for all remuneration, paid directly or indirectly, in cash or in kind.

(3) The assessment criteria in determining the labour remuneration and the assessment of the work performance shall be equal for all employees and shall be determined by collective labour agreements or by the internal administrative rules regarding the salaries, or by the legal condition and order for assessment of the servants in the state administration with no reference to the grounds under Article 4, paragraph 1.

**Article 15**

The employer shall provide equal opportunities to the employees, with no reference to the grounds under Article 4, paragraph 1, for vocational training and increasing their professional qualification and re-qualification, as well as for professional development and promotion imposition or rank by applying equal performance criteria and indicators in the assessment of their activity.

**Article 16**

The employer is obliged to adapt the workplace to the needs of a person with disabilities when employing him/her or, when the disability occurs after the employment, unless the expenses for such adaptation are unreasonably excessive and they would impose serious burden on the employer.

**Article 17**

An employer who has received a complaint from an employee, considering him/her-self a victim of harassment, including sexual harassment, at the workplace must immediately carry out an investigation, take measures to stop the harassment, as well as impose disciplinary sanction in case the harassment has been committed by another worker or employee.
Article 18

The employer, in cooperation with the trade unions, must take efficient measures to prevent any form of discrimination at the workplace.

Article 19

In case of failure to fulfil the obligation under Article 18, the employer shall bear responsibility under this Law for acts of discrimination done at the workplace by a worker or an employee, employed by him/her.

Article 20

The employer shall apply equal criteria to disciplinary sanctions notwithstanding the grounds referred to in Article 4, paragraph 1.

Article 21

The employer shall apply equal criteria in exercising his/her right to unilateral discontinuation of the employment contract as set out in Article 328, paragraph 1, points 2) - 5), 10) and 11) and Article 329 of the Labour Code, or from the civil service status under Article 106, paragraph 1, points 2), 3) and 5) of the Law on the Civil Servant notwithstanding the grounds referred to in Article 4, paragraph 1.

Article 22

The employer shall display, on a place in the enterprise accessible for the employees, the text of this Law, as well as all administrative provisions and the clauses from the collective employment agreement, related to the protection against discrimination.

Article 23

(1) The employer shall provide information to the person who claims that his/her rights have been violated under this section upon request.

(2) The information referred to in paragraph 1 must contain the justification of the decision taken by the employer, as well as other relevant data.

Article 24

(1) The employer must, at the beginning of the employment, when this is necessary to achieve the objectives of this Law, encourage persons belonging to under represented sex or ethnic group, to apply for a certain job or position.

(2) The employer is obliged, in otherwise equal conditions, to encourage the vocational development and participation of workers and employees, belonging to a certain sex or ethnic group, when the latter are under represented among the employees performing certain work or occupying definite position.
Article 25

The territorial divisions of the Employment Agency must ensure equal opportunities to the unemployed persons for use and exercise of their rights, guaranteed by the Law, notwithstanding the grounds referred to in Article 4, Paragraph 1.

Article 26

The persons shall have the right to equal conditions of access to occupation or activity, to equal opportunity to their performing and development in them notwithstanding the grounds under Article 4, paragraph 1.

Article 27

The provisions under this Section shall apply also to discrimination on the grounds of sex in the regular military service of the armed forces, unless for performing activities and occupying positions where sex is determining factor.

Article 28

The provisions under this Section shall apply also mutatis mutandis to the civil service relationship.

Section II

Protection in exercising the right to education and training

Article 29

(1) The Minister of Education and Science and the local self-government bodies shall take the necessary measures not to allow any racial segregation in the training institutions.

(2) The head of the training institution shall take effective measures to prevent any form of discrimination on the place of training committed by pedagogical or non-pedagogical staff or a student.

Article 30

The head of the training institution shall display the provisions of this Law, and all administrative provisions related to protection against discrimination on an accessible place.

Article 31

The head of the training institution who has received a complaint from a student, considering him/her-self subjected to harassment committed by pedagogical or non-pedagogical staff or another student must immediately carry out an investigation and take measures to stop the harassment, as well impose a disciplinary sanction.
Article 32

The training institutions shall take appropriate measures in order to equalise the opportunities for efficient exercise of the right to education and training of the persons with disabilities, unless the expenses for such measures are unreasonably excessive and they would impose serious burden on the institution.

Article 33

(1) The head of the training institution shall provide information to the person who claims that his/her rights have been violated under this section, upon request.

(2) The information referred to in paragraph 1 must contain the justification of the decision, taken by the head or a lecturer, as well as other relevant data.

Article 34

In case of failure to fulfil the obligation under Article 29, paragraph 1, the head of the training institution shall bear responsibility for discrimination at the place of training by an administrative servant, lecturer or student in the meaning of this Law.

Article 35

(1) Persons, providing training or education, as well as the compilers of textbooks and learning materials, are obliged to give information and to apply methods of training and education in a way, focused on overcoming the stereotype of the roles of women and men in all spheres of the public and family life.

(2) The kindergartens, schools and high schools shall include in their educational curricula and plans training on the problems of the equality of women and men.

(3) Paragraph 1 shall apply also to overcoming the negative stereotypes towards racial, ethnic and religious groups, as well as towards persons with disabilities.

Section III

Protection in exercising other rights

Article 36

The trade unions, the vocational and other professional organisations and the employers’ organisations may not impose requirements to subscription, membership or participation in their activity on the grounds referred to in Article 4, Paragraph 1, with the exception of educational requirements in cases of vocational and other professional organisations.

Article 37

A refusal to provide goods and services, as well as providing goods and services of a lower quality or
under less favourable conditions on the grounds referred to in Article 4, paragraph 1 shall be forbidden.

Article 38

The state and public bodies and the bodies of local self-government shall conduct a policy to encourage the balanced participation of women and men, as well as for the representative participation of persons belonging to ethnic, religious or language minorities in the governance and the decision-making.

Article 39

(1) If the candidates for a position in the administration are equivalent in view of the requirements for occupying the position, the state and public bodies and the bodies of local self-government shall employ the candidate of the under represented sex until the achievement of a 40% representation in the respective administrative units.

(2) Paragraph 1 shall apply also in the selection of participants or board members, expert working groups, governing, counsellor or other bodies, unless those participants are determined my means of election.

CHAPTER THREE

COMMISSION FOR PROTECTION AGAINST DISCRIMINATION

Article 40

(1) The Commission for protection against discrimination, hereinafter called “The Commission”, shall be an independent specialised state body for prevention of discrimination, protection against discrimination and ensuring equal opportunities.

(2) The Commission shall exert control over the implementation and compliance with this or other laws regulating equality of treatment.

(3) The Commission is a legal person on budget support with head office in Sofia.

(4) The Commission shall report annually to the National Assembly on its activities not later than March 31 of the following year.

Article 41

(1) The Commission is a collegial body comprised of 9 persons, of which at least 4 jurists. The National Assembly selects 5 and the President of the Republic appoints 4 of the members of the Commission.

(2) The mandate of the members of the Commission is 5 years.

(3) In selection or appointment of the Commission members the principles of balanced participation
of women and men and participation of persons belonging to ethnic minorities shall be respected.

Article 42

(1) A member of the Commission may be only Bulgarian citizen who has:

1. completed higher education;
2. knowledge and experience in the field of human rights protection;
3. not been convicted of deliberate crime of general nature.

(2) Member of the Commission may not:

1. be a sole-proprietor, manager, procurator or member of executive or controlling bodies of commercial companies or co-operations, syndic or liquidator;
2. hold another paid position, except when he/she practices scientific or activities;
3. be a political party governing body member.

Article 43

The time, during which the person has worked as a member of the Commission, shall be acknowledged as time of service in the meaning of the Law on the Civil Servant.

Article 44

(1) The powers of a member of the Commission shall be terminated pre-term:

1. upon the member's request;
2. in case of inability to fulfil his/her obligations for more than six months;
3. in the event of conviction for deliberate crime of general nature;
4. in cases incompatibility.

(2) In occurrence of the provisions under Paragraph 1, the Chair of the Commission shall make a motivated proposal for dismissal to the National Assembly or to the President of the Republic.

(3) Within one-month period from the termination of the powers under paragraph 1, the National Assembly or the President of the Republic of Bulgaria shall select, or respectively appoint, a new member of the Commission who will perform the mandate of the dismissed member.

Article 45

(1) The Chair of the Commission shall receive a basic monthly remuneration equal to three average monthly salaries of the employees working under a labour contract or civil service status in the public sector in accordance with data from the National Institute of Statistics.
(2) The Deputy of the Commission shall receive a basic monthly remuneration equal to 80%, and the members of the Commission - 75% from the remuneration of the Commission's chairperson.

*Article 46*

(1) The Commission shall adopt Rules of Procedure, which shall be published in the *State Gazette*.

(2) The Commission shall be assisted in its work by an administration. The structure and functions of the administration, as well as the number of its staff, shall be laid down in the Rules of Procedure, referred to in paragraph 1.

*Article 47*

(1) The Commission for protection against discrimination shall:

1. find out violations of this and other laws, which regulate the equality of treatment, the offender and the affected person;

2. state prevention from and termination of the violation and restoration of the initial situation;

3. impose the provided sanctions and enforce administrative compulsory measures;

4. issue obligatory prescriptions for compliance with this and other laws, which regulate the equality of treatment;

5. appeal against the administrative acts, which are in contravention to this and other laws, which regulate the equal treatment, initiate claims before the court and act as a concerned party in proceedings under this and other laws, which regulate the equal treatment;

6. issue proposals and recommendations to the state and local self-government bodies to terminate discrimination practices and to revoke their acts, which have been issued in contravention to this and other laws, which regulate the equal treatment;

7. maintain a public register of the adopted and entered in force decisions and obligatory prescriptions;

8. issue statements on the conformity of the legal act drafts with the legislation for prevention of discrimination, as well as recommendations for adopting, revoking, amending and supplementing legal acts;

9. provide independent assistance to the victims of discrimination in constituting complaints against discrimination;

10. conduct independent researches related to discrimination;

11. publish independent reports and provide recommendations on all issues related to discrimination;
12. carry out other competencies, provided in the Rules of Procedure.

**Article 48**

(1) The Commission shall consider and take decisions about the filings in panels, which shall be appointed by the Chair of the Commission.

(2) The Chair of the Commission shall appoint permanent panels, which shall be specialised in discrimination issues:

1. on ethnic and racial grounds;
2. on the grounds of gender;
3. on other grounds, referred to in Article 4, paragraph 1.

**Article 49**

(1) The Chair of the Commission shall:

1. represent the Commission, organise and steer the work of the Commission;
2. sign, amend and terminate the labour contracts and appoint the civil servants in the administration;
3. execute the budget of the Commission;

(2) The Deputy shall assist the Chair of the Commission in exercising his/her functions and shall substitute him/her in his/her absence.

**CHAPTER FOUR**

**PROCEEDINGS FOR PROTECTION AGAINST DISCRIMINATION**

**Section 1**

**Proceedings before the Commission for protection against discrimination**

**Article 50**

(1) Proceedings before the Commission shall be instituted after:

1. a complaint by the affected persons;
2. initiative of the Commission;
3. signals from natural or legal persons, state and local self-government bodies.
Article 51

(1) The complaint or signal to the Commission shall be in written form. In case they are written in foreign language they shall be accompanied with translation in Bulgarian.

(2) The complaint or signal should contain:
   1. the name or designation of the person submitting the complaint;
   2. the address or the head-office and the address of management of the person submitting the complaint;
   3. statement of the reasons, on which the complaint or signal is grounded;
   4. statement of what is demanded from the Commission;
   5. date and signature of the person submitting the complaint or of his/her representative.

(3) Anonymous complaints or signals shall not be examined by the Commission.

Article 52

(1) Proceedings shall not be instituted, and those already instituted shall be terminated, in case of three years have past after the occurrence of the violation.

(2) In case the Commission discovers that proceedings in court have been initiated on the same case, it does not institute, or terminate the proceedings, instituted before it.

Article 53

(1) No state fees shall be collected for proceedings before the Commission.

(2) The expenses done during the proceedings shall be covered by the budget of the Commission.

Article 54

(1) After the institution of proceedings the Chair of the Commission shall transfer the claim file to respective panel, which shall appoint a rapporteur between its members.

Article 55

(1) The rapporteur shall start an investigation in which he/she shall collect written evidences, necessary for the complete and comprehensive clarification of the circumstances in which he/she shall use servants and additional experts.

(2) All persons, state and local self-government bodies shall assist the Commission in the process of the investigation and they shall be obliged to provide the required information and documents, and to give the necessary explanations.

(3) The presence of commercial, industrial or other secret information, protected by the law may not
be used as a reason to refuse assistance.

(4) In case there are reasons for access to classified information, it shall be provided in accordance to the Law on the Protection of the Classified Information.

Article 56

(1) In exercising its powers the Commission shall have the right to:

1. require documents and other information, related to the investigation;

2. require explanations from the investigated persons about issues, related to the investigation;

3. examine witnesses.

(2) In case of refusal to provide information required by the Commission or a refusal to provide access to premises as well as other cases of not providing assistance to the Commission, the guilty persons shall bear responsibility under this Law.

Article 57

(1) In case there is a danger evidence to be lost or hidden or in case of extremely complicated collection of evidence, upon complainant’s request, the evidence may be collected through a compulsion over the persons or the premises, where it is.

(2) The compulsory collection of evidence under Paragraph 1 shall be conducted with permission from a Sofia City Court judge upon a request from the Chair of the Commission.

(3) In the day of the entry of the request, the judge issues an order, which shall be immediately enforced.

(4) The rapporteur shall collect the evidence for the investigation in co-operation with Ministry of the Interior bodies.

(5) During compulsory collection of evidence, the Commission may:

1. examine sites for the purposes of the investigation;

2. collect means of evidence for the purposes of the investigation.

(6) The substantial evidence and the originals of the documents taken shall be returned back to the persons, which they have been taken from, after completion of the investigation.

Article 58

(1) The collected documents and information shall be used only for the purposes of the investigation.
(2) The members of the Commission as well as the servants and the additional experts shall be obliged not to communicate the information, which constitutes a secret protected by the law, which they have received during the or in relation to performing their activity.

Article 59

(1) The investigation shall be carried out in 30-days period. In cases, which present factual or legal complexity, this period may be prolonged with up to 30 additional days with an order issued by the Chairperson.

(2) After completion of the investigation the parties shall be given an opportunity to get acquainted with the materials collected during the investigation.

(3) If in the process of the investigation, evidence for a committed crime has been found, the Commission shall send the claim file to the prosecution.

Article 60

(1) The speaker shall prepare a conclusion and shall submit the claim file to the chair of the panel, who shall call a session meeting in term of 7 days.

(2) The summons of the parties and the notifying of the concerned persons shall be carried out in accordance with the provisions of the Civil Procedure Code.

Article 61

(1) The sessions of the Commission shall be open.

(2) The sessions shall be held in camera upon the reasons and under the provisions of Article 105, paragraph 3 of the Civil Procedure Code.

(3) The members of the panel may be removed upon the reasons and under the provisions of Chapter Three of the Civil Procedure Code.

Article 62

(1) At the first session the rapporteur shall invite the parties to achieve a settlement. In case of agreement, expressed by the parties, the speaker shall call settlement proceedings session.

(2) In case of achieving an agreement between the parties on the basis of equal treatment during the settlement proceedings, the Commission shall approve it by a decision and shall terminate further proceedings.

(3) If the agreement is achieved only for part of the dispute, the proceedings shall continue for the unsettled part.

(4) The settlement approved by the Commission shall be enforced and the Commission exercise control over the compliance with the settlement.
Article 63

(1) In case of deciding the circumstances of the case are clarified, the chair of the panel shall provide an opportunity to the parties to communicate a statement.

(2) After factual and legal clarification of the case, the chair of the panel shall close the session and shall announce the day for the pronouncement of the decision.

(3) The decision shall be pronounced not later than 14 days after the holding of the session.

Article 64

(1) The decisions shall be taken with a simple majority by the members of session panel and shall be signed.

(2) A member of the panel who dissents with the decision of the majority shall sign the decision with a special opinion, which he shall motivate.

Article 65

With the stated decision the panel shall:

1. ascertain the committed violation;
2. ascertain the offender and the affected person;
3. determine the kind and the amount of the sanction;
4. enforce coercive administrative measures;
5. ascertain that no violation of the law has been committed and leave the claim without consideration.

Article 66

The decision shall be in written and shall contain:

1. the name of the authority that issued it;
2. the factual and legal grounds for its issuing;
3. operative part, in which the kind and the amount of the sanction or the coercive administrative measure, if such should be imposed;
4. the authority and the term before and within which the decision may be appealed.

Article 67

(1) The Commission shall carry out a control over the compliance with the coercive administrative measures.
(2) The person to whom the coercive administrative measure has been imposed shall be obliged to take measures to implement the obligatory prescriptions and to communicate the Commission in written in term specified in the decision, which may not be longer than 1 month.

(3) In case of not implementing by the persons in-charge the obligatory prescriptions, the Commission shall send a report containing proposals for undertaking relevant measures to the respective state and local self-government bodies.

(4) The Commission may send the decision to other authorities, which are interested in the completed investigation, for information, or to undertake relevant actions.

**Article 69**

The decisions of the Commission shall enter into force, if:

1. they have not been appealed against within the term;
2. the appeal submitted has not been taken into consideration;
3. the achieved settlement among the parties has been proved by the decision.

**Article 70**

(1) On issues, which are not regulated by the provisions in this Section, the provisions of the Law on the Administrative Proceedings shall apply.

(3) The fines and property sanctions on the enforced decisions of the Commission shall be collected under the provisions of the Tax Procedure Code.

**Section II**

**Judicial proceedings**

**Article 71**

(1) Besides the cases under Section I, any person whose rights under this or other laws regulating the equal treatment have been violated may lodge a claim before the Regional Court through which to demand:

1. the violation to be ascertained;
2. the defendant to be sentenced to terminate the violation and to restore the status quo as it was before the violation, as well as to restrain in future from further violations;
3. compensations for damages.

(2) The trade union organisations and their units, as well as the non-for-profit legal persons carrying out activities beneficial to the public may, upon request from persons whose rights have been violated, lodge a claim before the court. These organisations may step in as a concerned party into a
pending legal action under Paragraph 1.

(3) In cases of discrimination when rights of many people have been violated, the organisations under Paragraph 2 may lodge an independent claim. The persons whose rights have been violated may step into the legal action as an assisting party as referred to in Article 174 from the Civil Procedure Code.

**Article 72**

(1) The persons referred to in Article 71, Paragraphs 1 and 2 may, within one month period from the lodging of the claim, communicate this fact to the public by means of publications or by other, chosen by them, written means through sending an invitation to other affected persons, trade unions organisations and their units, as well as non-for-profit legal persons carrying out activities beneficial to the public to, step into the proceedings.

(2) The persons under Paragraph 1 may step into the proceedings not later than the completion of the oral competitions.

**Article 73**

(1) Any person whose rights have been violated by an administrative act issued in contravention to the provisions of this or other laws regulating the equal treatment may appeal it before the Court following the provisions of the Law on the Administrative Proceedings, accordingly under the Law on the Supreme Administrative Court.

**Article 74**

(1) In the cases under Section I, any person who has suffered damages from violation of rights under this or other laws regulating the equal treatment may lodge a claim for compensation following the general provisions against the persons and/or the bodies who have caused the damages.

(2) In the cases when the damages have been caused to persons by illegal acts, actions or lack of actions of state bodies and officials, the damage claim shall be lodged following the provisions of the Law on the Responsibility of the State for Damages Caused to Citizens.

**Article 75**

(1) On issues, which are not regulated by the provisions in this Section, the provisions of the Civil Procedure Code shall apply.

(1) No state fees shall be collected for court proceedings under this Law and the expenses shall be covered by the budget of the Court.
CHAPTER FIVE

COERCIVE ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENAL PROVISIONS

Section I

Coercive administrative measures

Article 76

(1) For prevention and termination of the violations of this or other laws regulating the equal treatment, as well as for prevention and removal of the harmful consequences of such violations, the Commission, on its own initiative or after a proposal of trade unions, natural or legal persons may apply the following coercive administrative measures:

1. to give obligatory prescriptions to the employers and the officials to remove violations of the legislation for prevention of discrimination;

2. to stop the execution of illegal decisions or orders of employers or officials, which lead or may lead to discrimination;

(2) The Commission’s decisions for applying coercive administrative measures under the provisions of this Section may be appealed following the provisions of Article 68. The appeal proceedings shall not stop the execution of the compulsory administrative measure unless the Court orders otherwise.

Section II

Administrative penal provisions

Article 78

(1) A person who commit discrimination, within the meaning of this Law, shall be punished with a fine of 250 to 2,000 BGN, unless he/she is liable to more severe punishment.

(2) A person who does not present in term evidence or information demanded by the Commission, or impedes, or do not provide access to sites subject of examination shall be punished with a fine of 500 to 2,000 BGN.

Article 79

A regularly subpoenaed witness who fails to appear without good reasons before the Commission to testify shall be punished with a fine of 40 to 100 BGN.

Article 80

(1) A person who does not implement an obligation deriving from this Law shall be punished with a fine of 250 to 2,000 BGN, unless he/she is liable to more severe punishment.
(2) When the violation has been committed during performing the activity of a legal person, the latter shall be imposed with a material sanction of 250 to 2 500 BGN.

(3) For permission to commit violation referred to in Paragraph 1, the head of the legal person shall be punished with a fine of 200 to 2 000 BGN unless he/she is liable to more severe punishment.

Article 81

In case the violations under Articles 78 – 80 are committed for the second time, a fine, respectively a material sanction of double size of the amount of the initially imposed fine/sanction shall be imposed.

Article 82

(1) A person who does not implement the provisions of a Commission’s or Court decision issued under this Law shall be punished with a fine of 2 000 to 10 000 BGN, unless he/she is liable to more severe punishment.

(2) In case the violation continue after three months of the entry into force of the punishment measure under Paragraph 1, a fine shall be imposed of 5 000 to 20 000 BGN.

Article 83

The sums collected from imposed fines or material sanctions following the provisions of this Section shall be entered into the republican budget.

Article 84

(1) The acts for ascertaining of violations shall be constituted by members of the Commission determined by the Chair of the Commission.

(2) The punishments shall be imposed by a decision of the Commission for protection against discrimination, and they may be appealed following the provisions of the Law n the Supreme Administrative Court. The appeal procedure shall stop the implementation of the decision that was appealed against.

(3) On issues, which are not regulated by the provisions in this Section, the provisions of the Law on the Administrative Violations and Punishments shall apply.
ADDITIONAL PROVISION

§ 1. For the purpose of this Law:

(1) “Harassment” shall be any unwanted conduct on the grounds referred to in Article 4, Paragraph 1, expressed in a physical, verbal or any other manner, which has the purpose or effect of violating the person’s dignity or creating a hostile, degrading, humiliating or intimidating environment, attitude or practice.

(2) “Sexual harassment” shall be any unwanted conduct of sexual character expressed physically, verbally or in any other manner, which violates the dignity or honour or creates hostile, degrading, humiliating or intimidating environment and, in particular when the refusal to accept such conduct or the compulsion thereto could influence the taking of decisions, affecting the person.

(3) “Persecution” (“victimisation”) shall be:

a) less favourable treatment of a person, who has undertaken or is supposed to have undertaken, or will undertake an action in defence against discrimination.

b) less favourable treatment of a person when a related person has undertaken or is supposed to have undertaken, or will undertake the actions for protection against discrimination.

c) less favourable treatment of a person who has refused to discriminate in the conditions.

(4) “Actions for protection against discrimination” may include: submission of a petition or a signal; filing of a claim or witnessing in a proceedings on protection against discrimination;

(5) “Instigation to discrimination” shall be direct and purposeful encouragement, instruction, exertion of pressure or prevailing upon someone to discriminate when the instigator is in a position to influence the instigated.

(6) “Racial segregation” shall be the issuing of an act, the performing of an action or omission, which leads to compulsory separation, differentiation or dissociation of persons based on their race, ethnicity or skin colour.

(7) “Less favourable treatment” shall be any act, action or lack of action, affecting directly or indirectly rights or legal interests;

(8) “On the grounds, referred to in Article 4, Paragraph 1” shall mean on the grounds of the actual present or past, or presumed presence of one or more of these features in the discriminated person or in a related person, or a supposedly related person when this constitutes the reason for the discrimination;

(9) "Related persons" shall be the spouses, relatives of direct descent without limitation, collateral relatives up to fourth level inclusive and in-law relatives up to third level inclusive; the guardian and the trustee; the guarded and the paternalised; concubines; employer and
employee; persons where one is part of the management of the other; business partners; persons who, because of other circumstances may be considered directly or indirectly dependant on the claimant and the dependence is the reason for discrimination; persons, on whom the claimant could be directly or indirectly dependant and that is the reason for the discrimination; persons accompanying the claimant at the moment of undertaking act of discrimination when this connection is the reason for the discrimination;

(10) “Sexual orientation” shall mean heterosexual, homosexual or bisexual orientation.

(11) “Multiple discrimination” shall be discrimination on grounds, including more than one of those referred to in Article 4, Paragraph 1.

(12) “Recurring infringement” shall be the infringement made within a year’s time of the enforcement of the punishment for an equal infringement of this Law.

(13) “Marital status” shall mean the status of a spouse or factual living together, and taking cares for dependent because of age or disability descending, upward or collateral relative up to third level.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. Within a three-month period from the entry into force of this Law the National Assembly shall elect and the President shall appoint their quotas of members of the Commission.

§ 3. Within a three-month period from the determination of the members under §2, the Commission shall adopt the Rules of Procedure referred to in Article 46, Paragraph 1.

§ 4. This Law shall revoke:


§ 7. Within three-month period from entry into force of this Law the Minister of labour and Social Policy and the Minister of the Defence shall issue the ordinances referred to in Article 7, Paragraph 2.

§ 8. This Law shall enter into force of January 1, 2004.
Appendix E

Law of the Republic of Lithuania on Equal Opportunities
LAW OF THE REPUBLIC OF LITHUANIA
ON EQUAL OPPORTUNITIES

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 on 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:

   1) special protection of women during pregnancy, childbirth and nursing;

   2) compulsory military service prescribed by the law exclusively for men;

   3) different pensionable age for women and men;

   4) requirements for safety at work applicable to women aimed at protecting the women’s health owing to their physiological properties;

   5) specific work which can be performed only by a person of a particular sex;

   6) 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;
7) 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(1). 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(1). 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 COMPLAITS

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:

   1) the addressee - the Equal Opportunities Ombudsman;

   2) the complainant’s first name and family name or the name of the institution and the address;

   3) 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;

4) definition of the decision or acts against which the complaint is being filed, the time and circumstances under which they have been committed;

5) an application to the Equal Opportunities Ombudsman;

6) the date of writing of the complaint and the signature of the complainant.

2. Attached to the complaint may be:

1) a copy of the contested decision;

2) the available evidence and its description;

3) 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:

1) 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;

2) the complaint was filed after the expiry of the time limit specified in Article 20 of this Law;

3) investigation of the circumstances specified in the complaint is not within the competence of the Equal Opportunities Ombudsman;

4) a complaint on the same issue has been investigated, is under investigation in court or, under the law, must be investigated in court;

5) 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:

   1) the presence or absence of the decisions or acts against which the complaint is being made;

   2) on what grounds or under what circumstances the decisions have been adopted or the acts have been committed;

   3) whether the decisions and acts cited in the complaint are in contravention of the laws and other legal acts;

   4) 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;

   5) 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:

   1) to refer the material to investigative bodies if indications of an offence have been established;

   2) 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;

   3) to hear cases of administrative offences and impose administrative sanctions;

   4) to dismiss the complaint if the violations mentioned in it have not been corroborated;

   5) to discontinue the investigation if the complainant withdraws the complaint or there is a lack of objective data on the committed violation;

   6) to give a notice for the committed violation;

   7) 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 15th 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.
Appendix F

Description of the Romanian Law on Equal Opportunities between Women and Men
ROMANIAN LAW ON EQUAL OPPORTUNITIES BETWEEN WOMEN AND MEN

Law No. 202/2002 is the first legislative instrument specifically regulating measures adopted in the equal opportunities field. Its objective is to eliminate direct and indirect gender based discrimination in all spheres of public life in Romania (Art. 1(1)). Equal opportunities are defined as implying women and men’s equal treatment as well as the taking into account of their different abilities, needs and goals (Art. 1(2)).

Article 5(1) prohibits direct or indirect gender discrimination. Article 5(2) specifies a number of exceptions that do not amount to such discrimination:

a. special measures for the protection of maternity, birth and breast-feeding;

b. temporary incentive measures for the protection of certain categories of men and women; and,

c. qualification requirements for fields of activities where gender particularities constitute a determining factor given the activity’s specific conditions and mode of operation.

Direct gender discrimination is defined as any disadvantageous treatment inflicted by reason of one’s gender, pregnancy, maternity, birth or when a paternity leave is granted (Art. 4a). Indirect discrimination occurs where apparently neutral criteria or practises affect people belonging to one gender; an exception to this prohibition of indirect discrimination is provided when the criteria or practice can be justified by objective factors, unrelated to gender.

Chapter II deals with Equal opportunities and treatment between women and men in the labour field. This covers, according to article 6, non-discrimination with regard to:

a. access to a profession or activity;

b. employment in all vacant positions and at all hierarchical levels;

c. equal income for equal work;

d. professional information and advise, vocational counselling, learning, training upgrading and retraining vocational programs;

e. promotion at any hierarchical or professional level;

f. working conditions and observance of health and safety norms;

g. benefits, different from those related to pay; and,

h. protection measures or social security.
Article 7 states that employers shall ensure equal opportunities and treatment between women and men in work relations and include provisions prohibiting discrimination in the companies’ statutes. Employers shall also systematically inform their employees, by way of posters, of their right to equal opportunity and treatment.

Article 9 provides that maternity cannot constitute a discrimination motive for the selection of applicants for a position. It also prohibits asking the applicant to submit to a pregnancy test, except where particular working conditions prevent pregnant or breast-feeding women from occupying the position.

Article 10 states that sexual harassment is any behaviour that aims at:

a. creating in the workplace an atmosphere of intimidation, hostility or discouragement for the affected employee; or

b. negatively influencing the employee’s personal situation with regard to his/her professional promotion, pay, access to formation, when the employee refuses relations of a sexual nature.

Article 11 adds that company statutes shall include disciplinary sanctions for employees violating other employee’s right to dignity by discriminating against them. Employers shall also inform their employees, by way of posters, of the prohibition of sexual harassment.

Article 12 states that the unilateral modification by the employer of work relations or work conditions following the invocation by the employee of the Act’s provisions constitutes a prohibited discrimination (i.e.: victimisation.). Article 13 provides that contracting parties to collective agreements negotiated at the national or company level shall include provisions prohibiting discrimination and establishing dispute settlement procedures.

Chapter III deals with equal opportunities and treatment with regard to access to education, health, culture and information. Article 14 thus prohibits any gender discrimination in the access to all levels of instruction and vocational training. Teaching institutions shall include in teaching programs measures calling for equal opportunities and treatment between women and men. Article 15 adds that the Education Ministry will promote school textbooks, university courses, guidelines for the implementation of analytical programs which will not include neither gender discrimination aspects nor negative behaviour stereotypes with regard to women’s and men’s role in public and family life.

For its part, article 16 prohibits any gender discrimination in the access to all levels of medical assistance, disease prevention and health promotion programs. Article 18 states that public culture institutions and other structures and formations promoting culture shall create conditions enabling non-discriminatory access to cultural products.

Article 19 prohibits advertisements which violate human dignity, offending on a gender basis someone’s image or honour. Article 20 provides that the information broadcast by mass-media shall respect equal opportunities and treatment between women and men and shall not promote any form of gender discrimination.

Chapter IV deals with equal opportunities between women and men with regard to decision-making. Article 21 provides that central and local public authorities, political parties and non-profit organizations shall promote and support women’s and men have balanced participation in their
decision-making process. Article 22 adds that central and local public authorities shall adopt measures encouraging women’s and men’s balanced participation in the social partners’ deciding authorities.

Chapter V enumerates the public authorities competent to monitor and implement the legislation adopted in the field of equal opportunities between women and men. The Labour Ministry’s task are to:

a. abrogate legislative and administrative provisions which violate equal opportunities and treatment between women and men; and,

b. amend the same provisions where they are included in collective work conventions, individual work contracts, companies’ statutes and independent profession’s statutes (art. 23).

The Labour Ministry also ensures that the Acts’ provisions are implemented through the following institutions:

a. National agency for the Working force’s Employment
b. National Pension Fund, Labour Inspection
c. National Council for Vocational Training
d. National Institute on Scientific Research in the Labour and Social protection fields
e. National Institute on Research and Development for Labour Protection
f. Health and Family Ministry
g. National statistics Institution
h. Ombudsman
i. Social and Economic Council

Article 32 provides that trade unions shall name, within each company’s trade unions, representatives competent to ensure the respect of equal opportunities between women and men in the labour field. The representatives will take into considerations complaints emanating from victims of alleged gender discrimination and will try to solve the dispute.

Chapter VI deals with the settlement of gender discrimination disputes. Article 33 provides that employees have the right, when they consider themselves victims of gender discrimination, to complain and to request the support of a trade union or of an employee’s representative. If mediation at the company’s level fails, employees can institute proceedings in courts and obtain indemnities for their material or moral prejudice as well as the removing the consequences of the discrimination. Article 34 grants the same rights where discrimination takes place outside the labour field.
Chapter VII deals with sanctions, which range from 1.5 million lei to 15 million lei. Violations of the Act’s provisions are certified, and fines imposed by Labour inspectors, Education inspectors, Health inspectors and Culture inspectors.
Appendix G

Law of the Republic of Tajikistan on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of Such Rights
LAW OF THE REPUBLIC OF TAJIKISTAN

On State guarantees of equal rights for men and women and equal opportunities in the exercise of such rights.

The Law regulates relations with the purpose of ensuring equal rights for men and women in the social, political, and cultural spheres, and in any other sphere, which law has the purpose of eliminating discrimination on the basis of sex. The Law establishes state guarantees of equal opportunities for men and women.

CHAPTER 1. GENERAL PROVISIONS.

Article 1. Main definitions.

The following defined terms are used in the Law:

*gender* - social relations between men and women in all spheres of public life, including rights, ideology and culture.

*gender policy* – state social activity aimed at ensuring gender equality.

*equal rights* – equality of rights, obligations and responsibilities of men and women under the Law.

*gender equality* – equal gender status and equal opportunities for the exercise of rights, allowing men and women to develop their potential abilities, skills for participation in political, economic, social and cultural progress and use of its achievements.

*equal opportunities* – practical achievement of equal conditions for the exercise of rights by men and women in conformity with the Constitution and laws of the Republic of Tajikistan and also generally accepted norms and principles of international law.

*discrimination* – any distinction, exclusion or restriction 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.

Article 2. Legislation of the Republic of Tajikistan on state guarantees for equal rights of men and women and equal opportunities in the exercise of such rights.

Legislation of the Republic of Tajikistan on state guarantees for equal rights of men and women and

* ABA/ CEELI Tajikistan Comment: This definition derives from Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women to which the Republic of Tajikistan became a party on 26 October 1993.
equal opportunities in the exercise of such rights is based on the Constitution of the Republic of Tajikistan, which consists of the Law, other normative legal acts and also international and legal acts recognized by the Republic of Tajikistan.


Discrimination is prohibited on the basis of sex in any sphere.

Violation of the main principle of gender equality (violation in the conduct of the state policy or commitment of any action which places men and women in an unequal position on the basis of sex) is considered to be an act of discrimination and is subject to prohibition in accordance with the order established by the Law.

Normative legal acts containing discriminatory norms on the basis of sex are ineffective.

Exceptions to the prohibition of discrimination:

- special measures undertaken for the protection of the health of men and women;
- special protection of women in respect of pregnancy and birth;** and
- practical measures undertaken for the implementation of provisions of the law.

Article 4. Obligations of public authorities on ensuring equal opportunities for men and women (gender equality).

Within their competence, organs of state power, hukumats, are obliged to:

- conduct gender education for all officials using the system of training and re-training of specialists of the state apparatus;
- assist in the achievement of equal opportunities for men and women, including by the adoption of normative legal acts, the creation of procedures and the taking of other concrete measures, including the elimination of all rationales and conditions impeding the achievement of real gender equality;
- elaborate and introduce special programs aimed at the elimination of discrimination on the basis of sex in daily life; and
- include measures in state programs the purpose of which is to ensure the constitutional rights of citizens and the strengthening of the stability of society, in the regional plan of action on social sphere development and also in measures taken with the purpose of ensuring gender equality.

** ABA/ CEELI Tajikistan Comment: This clause derives from Article 4 (2) of the Convention on the Elimination of All Forms of Discrimination Against Women to which the Republic of Tajikistan became a party on 26 October 1993.
Article 5. Equal representation of men and women in state organs.

The State guarantees equal participation of men and women in the governing of the State. The State ensures equal representation of any sex in legislative, executive and judicial branches of state power via legal, organizational and other mechanisms.

Article 6. State guarantees on ensuring equal opportunities of men and women in the sphere of education and science.

Institutions of science and education of any property form are obliged to:

- ensure equal conditions for men and women regarding access to main, general, secondary professional and higher education, to all forms of professional education and qualification for advancement, and to participation in the fulfillment of educational and scientific progress;

- incorporate gender studies courses in educational curriculums, promote the development of research on questions of gender equality and conduct programs designed to promote gender awareness of citizens;

- use educational programs and manuals that do not include statements that are discriminatory on the basis of sex; and

- create favorable conditions for girls from the mountain rayons and rural areas for their admission to university and further education in secondary and higher professional educational institutions.

This article is also effective in respect of education and qualification for advancement in the military educational institutions.

Article 7. Consideration of family responsibilities of employees of either sex while carrying out service and labor duties.

During the course of the hire, promotion, professional education, establishment of labor regimes and also retirement of employees including officials, the requirements of legislation in respect of the rights and guarantees to a person of either sex with family obligations should be taken into account.

Employers should have system of retraining and advancing the qualifications of employees of either sex, essentially including that required in connection with breaks in labor activity permitted by the legislation such as birth, the raising of children, military service, and fulfillment of other state duties.

*** ABA/CEELI Comment: Institution or organization of any property form is taken to mean any institution or organization formed under the Constitution of Tajikistan, adopted on 6 November 1994, (art. 12) and the Civil law, Part I of Tajikistan, adopted on 30 June 1999, (art. 236).
CHAPTER 2. STATE GUARANTEES FOR ENSURING EQUAL OPPORTUNITIES OF MEN AND WOMEN IN THE IMPLEMENTATION OF THE ELECTION LAW.

Article 8. Ensuring equal opportunities of men and women in the implementation of the election law.

The election system of the Republic Tajikistan is recognized to ensure equal election rights and to guarantee for a person of either sex the right to participate in the political process.

In respect of the promotion of political party or election block candidates for elections taking place all over Tajikistan, male and female candidates should be represented equally in each list.

Article 9. Ensuring equal opportunities of men and women in the formation of election commissions.

The Constitutional principle of equal rights and equal opportunities for men and women should guide the formation of the Central commission on elections and the oblast, city, rayon and district election commissions as well as the conduct of Referendums.

CHAPTER 3. GUARANTEES FOR ENSURING EQUAL OPPORTUNITIES OF MEN AND WOMEN IN THE SPHERE OF STATE SERVICE.

Article 10. Ensuring equal opportunities for men and women in respect of state service.

It is prohibited to establish any direct or indirect restrictions or advantages on the basis of sex in respect of state service.

Heads of state organs and appropriate officials are obliged to ensure equal access of citizens to state service positions in conformity with skills and professional preparation without regard to the sex of the candidate.

Men and women should equally participate in the competitions for vacant positions, including leadership positions.

The advertisement of competitions for only one sex is not allowable.

Article 11. Ensuring equal access of men and women to the competitions for positions of the state service.

The holding of competitions for vacant positions in the state service are ensured by the human resources departments of state organs, the participation of which in competitive commissions is obligatory.

The human resources departments of state organs are obliged to submit to a competitive commission data on gender balance in the state service in addition to information about education and professional training of individuals taking part in the contest as required by the law. Analogous data must be submitted by the human resources departments of state organs in connection with the attestation of officials, promotion, and increase of salaries.
CHAPTER 4. GUARANTEES FOR THE PURPOSE OF ENSURING EQUAL OPPORTUNITIES OF MEN AND WOMEN IN THE SOCIAL-ECONOMIC SPHERE.

Article 12. Obligations of organs of state power, organs of local self-government of state power on ensuring equal rights for men and women in the social economic sphere.

Organs of state power, local organs of state power and heads of organizations of all property forms are obliged to ensure equal access for men and women to the economic resources of society, including movable property, real estate, land, financial assets, credits and also ensuring free enterprise and any other activity not prohibited by legislative acts.

Article 13. Advancing gender equality in the sphere of labor relations.

For the purposes of advancing the achievement of gender equality in the sphere of labor relations, the employer (head of state organ or organization of any property form) must ensure:

- equal opportunities for men and women in connection with the conclusion of labor contracts;
- equal access of men and women to vacant positions;
- equal salary for men and women, having the same position;
- equal opportunities to obtain qualifications for advancement, retraining, and promotions;
- safe labor conditions, ensuring life and health for both men and women.

Article 14. Showing lack of intention in the case of discrimination on the basis of sex.

In the event of a labor suit in respect of discrimination on the basis of sex filed in court or another organ by an employee, trade union or another public union, which suit aims to protect the interests of an employee, the employer has the burden to demonstrate the lack of discriminatory intent in the case of discrimination.

Article 15. Guarantees for gender equality in respect of the mass termination of employees.

In the event of the mass termination of employees exceeding one-third (1/3rd) of the total number of employees of an enterprise, institution, organization, the number of terminated individuals of one sex should be proportional to the percentage that individuals of that sex represents among the personnel remaining with the enterprise, institution or organization.

Article 16. Including measures on ensuring equal opportunities of men and women in the collective contracts and agreements.

In connection with collective-contract regulation of the social labor relations, it is necessary to include in collective contracts and agreements provisions ensuring equal rights and opportunities of men and women and conditions that enable men and women to combine their professional and family duties.
Trade unions, employers and authorized state organs are responsible for ensuring that such rights, opportunities and conditions are preserved in collective contracts and agreements.

Article 17. Monitoring for ensuring equal rights of men and women and equal opportunities in the exercise of such rights in the social economic sphere.

For the purposes of conducting a system analysis of the achievement of equal rights and equal opportunities of men and women in the social labor sphere, evaluating whether changed circumstances require measures to prevent discrimination on the basis of sex or elimination of existing discrimination on the basis of sex, and also for drafting proposals to create state social programs, the competent organ of the Republic of Tajikistan must organize constant monitoring of the achievement of equal opportunities for men and women in the given sphere.

Monitoring results will be highlighted by Mass Media.

CHAPTER 5. MECHANISM OF ENSURING EQUAL RIGHTS OF MEN AND WOMEN AND EQUAL OPPORTUNITIES IN THE EXERCISE OF SUCH RIGHTS.

Article 18. Authority of the Government of the Republic of Tajikistan on ensuring equal rights of men and women and equal opportunities in the exercise of such rights.

The Government of Republic of Tajikistan, with the purpose of ensuring equal rights and freedoms of men and women and equal opportunities in the exercise of such rights and freedoms within its competence, shall:

- elaborate a united state gender policy aimed at the achievement of the social equality of men and women in all spheres of the state and public life and guarantee the effectiveness of this policy;
- draft republican programs on ensuring gender equality and the exercise of gender equality rights; and
- direct and supervise the activity of the executive organs of the state power and hukumats in the areas of the protection and achievement of gender equality, the selection and appointment of women to responsible positions, and the upbringing of the young generation of the governing personnel among girls and women.

Article 19. Authority of state organs on ensuring gender equality in the Republic of Tajikistan.

The organs of State power, with the purpose of ensuring gender equality in the Republic of Tajikistan, must enforce compliance of the Law within their area of competence.

The organs of state power, with the purpose of ensuring gender equality, must publish annual

**** N.B. According to the preamble of the Law, the Law regulates relations with the purpose of ensuring equal rights for men and women in the social, political, and cultural spheres, and in any other sphere. Thus, monitoring gender equality in accordance with Article 17 would seem to require monitoring all spheres referenced in the preamble.
reports on the implementation of the Law in the mass media of the Republic of Tajikistan.

**Article 20. Participation of the public unions in ensuring equal rights of men and women and equal opportunities in the exercise of such rights.**

Trade unions and other public unions, including those created for the purpose of realizing the constitutional principle of equal rights and equal opportunities for men and women, have the right to:

- participate in the elaboration of the decisions of the state organs and hukumats in respect of equal opportunities for men and women in the social economic sphere; and
- represent and protect rights of men and women in courts and other state organs.

**Article 21. State review of compliance of legislation with state guarantees of equal gender rights and equal opportunities in the exercise of such rights.**

Supervision of the compliance of legislative and other normative acts with state guarantees for equal gender rights and equal opportunities in the exercise of such rights is to be conducted by the general prosecutor and other prosecutors of the Republic of Tajikistan.

**Article 22. Liability for violation of the Law.**

Juridical entities and physical individuals bear responsibility for any violation of the Law as established by order of the Republic of Tajikistan.

**Article 23. Effectiveness of the Law.**

The law is effective upon its official publication.