



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No.2004/2

ON GENDER EQUALITY IN KOSOVO

The Assembly of Kosovo

Based on the Constitutional Framework for provisional Self-Government in Kosovo, especially sections 3.1, 3.2 (a), (b), (c), (d), 5.1 (k), 5.7, 9.1.26 (a) and 9.3.3

Recognizing the need the establishment of the legal conditions on gender equality in all fields of social life in Kosovo

Hereby adopts:

The Law on Gender Equality in Kosovo

SECTION 1
GENERAL PROVISIONS

Purpose

1.1. The present law shall preserve, treat and establish gender equality as a fundamental value for the democratic development of the Kosovo society, providing equal opportunities for both female and male participation in the political, economical, social, cultural and other fields of social life.

1.2. The present law creates the conditions and opportunities for gender equality through policies that support overall development, especially for the improvement of the females' status, so that they are entitled to authority in the family and society.

1.3. The provision of equal rights is the duty of the entire society and means the elimination of any barriers in achieving gender equality.

1.4. Gender equality is based on the principle of equal behavior and equal opportunity. Its implementation is exercised through the undertaking of positive measures and gender equality awareness policies.

1.5. The present law specifies the general and specific measures that need to be undertaken for the provision of equal rights and specifies the responsible authorities and their relevant competencies.

SECTION 2 DEFINITIONS

2.1. *Gender equality*: shall mean equal participation for females and males in all relevant fields of social life, equal status, equal opportunities to be entitled to their rights and make use of their individual skills for the development of the society and equal benefit from the results of such development.

2.2. *Equal gender treatment*: shall mean the elimination of all direct and indirect forms of gender discrimination.

2.3. *Direct gender discrimination*: shall mean the unequal treatment of an individual compared to another individual of the opposite gender in the same or similar conditions.

2.4. *Indirect gender discrimination*: shall mean the placing of a certain individual in an unequal position with the neutral provisions, the standards or unequal treatment under the same or similar conditions, except in cases where such provisions, standards or treatment is indispensable and furthermore provided that such treatment can be justified by objective facts which are not based on any particular gender.

2.5. The present law considers the incitement of a person into gender discrimination as discrimination.

2.6. *Harassment and sexual harassment*: constitute gender discrimination.

2.7. *Harassment*: includes all forms of behavior that aim or constitutes a threat to personal dignity.

2.8. *Sexual harassment*: includes any form of sexual, verbal, non-verbal, physical or symbolic behavior that constitutes a threat to personal dignity.

2.9. *Legal measures*: are measures that aim at; achieving the complete equality of females and males in the society, that provide specific priorities that enable the members of a certain gender equal access in all fields of social life, eliminating the existing gender inequality providing certain rights.

2.10. *General measures*: are measures of a normative nature which aim at preventing gender discrimination through legislation that regulates specific fields, behaviors in certain circumstances or at undertaking the appropriate efforts for the provision of equal gender treatment, such as the penalties that shall be imposed in case of violation of these restrictions or requirements.

2.11. *Special measures*: are temporary measures that aim at providing gender rights and promoting gender equality in specific fields of social life which have been identified as not representing gender equality.

2.12. *Unequal representation*: within the meaning of 2.11, exists when the participation of a certain gender in a particular social field or in a segment of such field is lower than 40 %.

**SECTION 3
INSTITUTIONS AND LEADING BODIES**

3.1. The implementation of legal and affirmative measures establish equal participation for both females and males in legislative, executive, judicial bodies of all levels and in public institutions, so that representation of both genders in these institutions high its level of their representation in the general population of Kosovo.

3.2. Equal gender participation of both females and males, according to Section 3.1, is achieved in cases where the participation of the particular gender in the institutions, bodies or at the level of authority is 40%.

3.3. Equal gender participation, in compliance with section 3.2, must be observed during appointments in central and local government bodies.

3.4. Equal gender participation must be observed during the appointment of members of certain councils, committees and representative bodies within and outside Kosovo, by the competent institutions.

3.5. Gender equality must be observed when naming institutions, public undertakings, roads.

**SECTION 4
RESPONSIBLE BODIES FOR THE ACHIEVEMENT OF GENDER EQUALITY
AND THEIR COMPETENCES**

THE ASSEMBLY OF KOSOVO

4.1. The Assembly Kosovo shall observe the principles of equal gender representation during the establishment of working groups and delegations in accordance with its rules of procedure.

4.2. The Assembly of Kosovo shall review and approve a resolution on the Kosovo Program for Gender Equality.

4.3. The Assembly of Kosovo, every two years, shall review and approve the Governments report on the implementation of the Kosovo Program for Gender Equality.

THE GOVERNMENT AND MINISTRIES

4.4. The Government shall draft the Kosovo Program for Gender Equality. The government shall establish a working group comprised of representatives of ministries, the Office for Gender Equality, municipalities, public institutions, civil society and other experts to work on this task.

4.5. The Government shall submit before the Assembly a draft resolution on the Kosovo Program for Gender Equality.

4.6. Every two years the Government shall report before the Assembly on the achievements of the Kosovo Program for Gender Equality.

4.7. The government and the ministries shall promote and provide for equal gender rights.

4.8. The Government, within its scope of work shall achieve the objectives of this law by undertaking general and special measures specified in the present law.

4.9. The Government shall establish an inter-ministerial council which shall be comprised of Gender Affairs Officers of the ministries. The specific tasks and responsibilities of such council shall be set in a special Government.

4.10. The ministries shall comply with the provisions of this law when drafting regulations or programs.

4.11. The ministries shall collaborate with the Office of Gender Equality during the preparation of draft-laws, amendments to existing laws and they shall review recommendations by such Office concerning draft-laws and other documents in the aspect of gender equality prior to their presentation before the Government which takes the decisions .

4.12. Each ministry shall appoint an officer for gender equality, who shall coordinate gender issues within the ministry. The authorities of the Gender Affairs Officers in the respective ministries shall be set in a special ministerial regulation, based on the Kosovo Civil Service Regulation.

4.13. The Gender Affairs Officer, as specified by the foregoing paragraph shall be responsible for the implementation of the gender equality strategy within the framework of ministry's competencies, based on this Law and in collaboration with Office for Gender Equality of Kosovo.

LOCAL GOVERNMENT BODIES

4.14. Local government bodies shall promote and establish equal opportunities, shall draft their policies taking into account gender equality and shall approve any necessary measures and undertake any activities to provide equal opportunities for both females and males.

4.15. Local government bodies shall establish an Office of Gender Affairs and shall appoint a Gender Affairs Officer in municipality. The competencies of the Officers in municipalities shall be set in a special regulation drafted by the Department of Local Administration in the Ministry of Public Services and the Kosovo Civil Service Regulation.

4.16. The Gender Affairs Officer in the respective municipality shall review every decision taken by the local government, prior to the endorsement.

4.17. The Gender Affairs Officer of the municipality shall collaborate with the Kosovo Office for Gender Equality.

SECTION 5
THE OFFICE FOR GENDER EQUALITY

5.1. The Government of Kosovo shall establish the Office for Gender Equality as a separate governmental institution.

5.2. The Office for Gender Equality shall:

- a) Implement and monitor the provisions of the present law and the regulations passed in accordance with the present law;
- b) Propose before the Government and the ministries the compilation, alteration and amendment of laws and regulations, and the approval of other measures;
- c) Draft gender equality promotion policies and supervise its implementation;
- d) Supervise the implementation of international acts and agreements on gender equality;
- e) Prepare reports on the implementation of the international acts and agreements, approved by the Government, on gender equality in Kosovo
- f) Coordinate the preparation of the Kosovo Program on Gender Equality, and monitor its implementation;
- g) Cooperate with the Gender Affairs Officers of the ministries and local governments;
- h) Cooperate with non-governmental organizations, acting in the field of gender equality, and provide partial funding for their projects or activities;
- i) Cooperate with public institutions and provide partial funding for their projects or activities;
- j) Propose the conditions and criteria for partial funding, which are determined by the government ;
- k) Coordinate activities for implementation of general gender regulations, including the facilitation of professional assistance for the development of appropriate methods and techniques.
- k) Propose research and analysis initiatives in the field of gender equality;
- m) Work on increasing gender equality awareness;
- n) Report before government on the activities of the Office for the previous year, no later than the end of March.

SECTION 6 THE GENDER EQUALITY ATTORNEY

6.1. The Gender Equality Attorney (the Attorney) shall be nominated by the Government and shall be appointed and dismissed by the Assembly.

6.2. The Gender Equality Attorney shall have a deputy, who is elected by the Attorney and is appointed by the Assembly.

6.3. The Gender Equality Attorney and his/ her deputy shall meet the following conditions:

- a) A degree in law;
- b) Work experience in human rights, and gender equality;
- c) Must have passed the bar exam.

6.4. The Attorney and his/her deputy shall be discharged from duty in the case of:

- a) Resignation accepted by the Kosovo Assembly;
- b) Permanent loss of capability to perform the duty;
- c) A court order for criminal offence;
- d) Non-fulfillment of the duties specified by the present law.

6.5. The Gender Equality Attorney shall monitor and supervises the implementation of the present law and shall report once a year before the Kosovo Assembly and in case of need even more frequently.

6.6. The Gender Equality Attorney shall review all cases of gender rules violations, cases of gender discrimination against individuals or groups of individuals committed by the government bodies, other bodies of public authority, employees of such bodies, employers or other legal and physical persons.

6.7. All individuals may address the Gender Equality Attorney cases of violations on gender basis, regardless of whether such individuals have been directly harmed or not.

6.8. The Gender Equality Attorney shall report and suggests before the competent bodies any cases of violation of the gender equality right and shall proposes the initiation of the penal or minor offense proceedings.

6.9. In case where the gender Equality Attorney determines that because of a conflict between the present law or any of its subsidiary normative acts with the Constitutional Framework or the regulations, it has come to the violation of gender equality principles, then The gender Equality Attorney shall have the right to request the initiation of a compatibility assessment procedure before the Assembly of Kosovo.

6.10. Government bodies and legal entities with public authorizations, employers and other legal and natural persons are obliged to immediately present all necessary information and provide the necessary documentation at the request of the Gender Equality Attorney, no later than 30 days after the request delivery date.

6.11. The Gender Equality Attorney and his/her employees shall protect and hold all information obtained during the exercise of their advocacy duty as an official secret.

6.12. The Gender Equality Attorney shall draft the rules of procedure for his/her office and shall regulate the internal work system, the services provided by experts and other issues of importance in accordance with law and applicable regulation.

SECTION 7 REVIEW OF GENDER EQUALITY VIOLATION CASES

7.1. Any individual, non governmental organization, association or other organization may submit before the Gender Equality Attorney a request in writing for the review of an alleged gender equality violation.

7.2. The Gender Equality Attorney shall also accept anonymous requests in writing, provided that they contain a reasonable amount of information.

7.3. The request for the review of a violation case must be submitted no later than 1 year after the alleged violation.

7.4. The Gender Equality Attorney may review a case of violation after the expiry of the submission date if he/she deems it necessary for the implementation of the present law.

7.5. The Gender Equality Attorney shall only review the gender equality violation cases foreseen by the present law.

7.6. The Gender Equality Attorney may require the presence of the conflicting parties prior to its decision on the case.

7.7. The Gender Equality Attorney shall review a given request within a period of thirty (30) days after its submission date.

7.8. The Gender Equality Attorney shall notify the parties concerning his/her decision and shall request the enforcement of such decision within a period sixty (60) days from the date of its decision.

7.9. The Gender Equality Attorney's decision is subject to judicial review, in compliance with the applicable law.

SECTION 8 THE FUNDING OF THE GENDER EQUALITY ATTORNEY AND OF THE KOSOVO OFFICE FOR GENDER EQUALITY

The Gender Equality Attorney and the Kosovo Office for Gender Equality shall be funded by the Kosovo Consolidated Budget.

SECTION 9
THE COLLECTION OF INFORMATION AND GENDER STATISTICS

9.1. All data and statistical and non-statistical information collected, verified and processed by the central and local bodies, public services and institutions, public and private undertakings and other entities shall be presented according to the gender structure.

9.2. Gender equality must be taken into account during the preparation of reports, analysis and projects by the central and local bodies, public institutions, public and private undertakings and other entities.

9.3. The Institutions of Kosovo which according to the relevant laws are authorized to collect, verify process and analyze statistics, shall include the gender indicator on all of their activities, population registration, demographic surveys, and any surveys of other kinds.

9.4. All data, statistical and non-statistical information that are collected, verified and processed in compliance with section 9.1 shall become a composite part of a statistical data base and may be accessed in accordance with the legal provisions that regulate the protection of the citizens' personal data, and in compliance with the Law on the Access of Official Documentation.

SECTION 10
POLITICAL PARTIES

10.1. All registered Political Parties shall ensure, in compliance with section 3.2, that both females and males are equally represented .

SECTION 11
CIVIL SOCIETY

11.1. Non-governmental organizations, associations and foundations in the field of gender equality shall collaborate and coordinate their work with government institutions and other institutions as foreseen by the present Law.

11.2. Civil society bodies contribute to the implementation of the present law.

SECTION 12
ECONOMY

12.1. The economical, financial, employment and social welfare legislation and the macro-economic, micro-economic, financial and privatization programs including the right of heritage and property, loans and natural resources shall enable the equal and full participation of both females and males.

12.2. The competent bodies and legal entities with public authorizations, and financial institutions shall, under equal conditions, provide both females and males with access to revenues and the distribution of revenues that are allocated for the stimulation of businesses and self-employment.

SECTION 13 EMPLOYMENT

13.1. Public and private sector undertakings and legislative and executive institutions shall provide equal rights and opportunities for females and males in labor and employment sector.

13.2. Vacancies shall be available equally for females and males.

13.3. Announcement of job vacancies shall not contain any words or expressions that might cause gender discrimination. This paragraph 13.3 shall not be applied to cases where such announcement or declarations are published to achieve a gender balance in a certain professional sector, provided however that such intention is clearly stated in the annunciation.

13.4. The election criteria and conditions for the vacancies of any field or sector and in all professional levels in the private and public sector, take into account gender equality.

13.5. Employers shall pay an equal salary for both males and females, for the same work and for the work of the same importance and shall also provide equal employment and working conditions and rights.

13.6. Employers ensure that both female and male employees have equal opportunity to attend education and professional training and attend courses that aim to improve professional skills or prepare them for other professions.

13.7. Employers or institutions that provide professional training or any individual participating in such training shall not discriminate any individual on gender basis.

13.8. Employers shall provide equal treatment for females and males in the labor sector and shall take measures to ensure that vacancies or positions are not categorized specifically for females or males.

13.9. Employers take all necessary measures to enable females and males to correspond to both their professional and family obligations. The time schedule, in accordance with the needs of labor the market and family state of employees, must be organized in such a way that female employees can return to their previous posts after maternity leave, parental leave, abortion leave, sick leave or after the time spent out of the place of work due to family emergencies or professional training.

13.10. All female and male employees have the right to become members and take active part in the employees' or employers' unions or in any other professional organization and receive the benefits from such membership.

13.11. Harassment and sexual harassment in the working place is prohibited.

13.12. The expulsion of an employee is prohibited in cases when such employee demands the implementation of the present law.

13.13. Expulsion from work, temporary suspension, unfairness regarding the work safety, working conditions or the recognition of his/her work due to his/her complaint for sexual harassment or discrimination on gender bases, is prohibited.

13.14. In cases of job cuts or job closings, discrimination on gender basis is prohibited.

13.15 Unpaid work of females and males is considered as a contribution to the development of the family and the society in cases of:

- a) The care for family welfare;
- b) The care for children;
- c) The care for other members of the family;
- d) The work on agriculture and family economy, etc;

The rights established by the present paragraph shall be implemented in compliance with the legislation of social insurance, politics and other measures .

13.16. Protection during work for females and males as well as the benefits from social insurance for short time labor, temporary labor and home labor shall be regulated by the applicable legislation.

SECTION 14 EDUCATION

14.1. Equal right to education must be provided for females and males in all levels of education to ensure their equal active participation in the society, family and the labor market.

14.2. The competent bodies and institutions in the field of education of all levels shall establish, implement and supervise policies with the purpose of ensuring gender equality, especially concerning:

- a) Access to education;
- b) Gender Equality Education;
- c) The preparation, approval and implementation of the of the curriculum
- d) The preparation of school materials and texts and the review of existing school materials;
- e) Research on the status of genders in Kosovo, as a specific method in education.
- f) The inclusion of females and males in professional and advisory training, for those professions which have been traditionally considered only for males or females;
- g) Equal participation of females and males in all sports and leisure activities during the educational hours.

14.3. Gender discrimination is prohibited in all schools and other educational and pedagogical institutions.

SECTION 15 MEDIA

15.1. All media (written, audio-visual and electronic) shall promote equality between females and males through:

- a) Educational programs;
- b) Ensuring possibility for the equal presence of female and male journalists in their staff;
- c) Promoting the equal role of females and males in the society;
- d) Providing accurate and complete information on gender equality.

15.2. The Broadcasting and publishing of gender discrimination programs, materials or information is prohibited.

15.3. The public display of any individual in a way that constitutes an insult, or degradation on gender or sexual basis is prohibited.

SECTION 16 GENDER EQUALITY AND CIVIL RIGHTS

16.1. The age of adulthood for both genders in Kosovo is eighteen (18).

16.2. Marriage is legally recognized, by the civil registration act and establishes rights and obligations, except if otherwise foreseen by other legislation.

16.3. The marriage registration act is allowed after reaching the age of consent, except if otherwise foreseen by other applicable laws.

16.4. Any person female or male may not register more than one marriage at the same time.

16.5. Conditional and forced marriages and marriages against the will of the persons who are to be married are illegal and punishable by law.

16.6. The property created during matrimony is registered in the public registers as a common property in the name of both partners.

16.7. The institution that exercises the registration of property shall to act in accordance with paragraph 16.6 of the present law.

16.8. The work of both partners through which common property is created, is considered equal contribution for the creation of the common property.

16.9. The common registered property in compliance with section 16.7, is administered jointly and may not be alienated without the consent both partners.

16.10. In case of divorce, the common property is equally divided.

16.11. In case of the death of one of the spouses, the inherited property is divided between the surviving partner and the other inheritors in compliance with the applicable law.

16.12. Children of both genders are entitled to an equal share of the inherited property.

16.13 Inheritors , females and males can obtain and can renounce his/hers share, after the registration of their inherited property.

16.14. People of both genders shall have equal access to the insurance system and social welfare during their entire life.

SECTION 17 PENALTY PROVISIONS

17.1. Employers are subject to a fine of 1.000 to 5.000 Euros in case of violation of paragraph 13.5 of the present law.

Responsible person is subject to fine of 500 to 1.500 Euros in case of violation of paragraph 13.5 of the present law .

17.2. Employers are subject to a fine of 5.000 to 10.000 Euros in case of violation of paragraph 13.12, 13.13 of the present law.

Responsible person is subject to fine of 1.000 to 3.000 Euro in case of violation of paragraph 13.12 and 13.13 of the present law.

17.3. Legal entities are subject to a fine of 5.000 to 10.000 Euros in case of violation of paragraph 15.2 of the present law.

Responsible person is subject to fine of 1.000 to 3.000 Euros in case of violation of paragraph 15.2 of the present law .

17.4. The authorized institutions and the person responsible for the registration of properties in the public register are subject to a fine of 10.000 to 20.000 Euros in case of violation of paragraph 16.7 of the present law.

17.5 Funds collected by fines are collected into Kosovo Consolidate Budget.

SECTION 18 INTERIM PROVISIONS

18.1. Within a period of 6 (six) months from the entry into force of the present law the Kosovo Government shall submit to the Assembly of Kosovo, the Resolution on the Kosovo Program for Gender Equality.

18.2. Within a period of 3 (three) months from the entry into force of the present law, the Kosovo Government shall issue a regulation for the establishment of the Office for Gender Equality.

18.3. Within a period of 3 (three) months from the entry into force of the present law, the Kosovo Government shall nominate the person for the gender Equality Attorney position before the Assembly of Kosovo.

18.4. Within a period of 30 (thirty) days from the date of accepting the proposal from paragraph 18.3, the Assembly of Kosovo shall appoint the Gender Equality Attorney.

18.5. Within a period of 30 (thirty) days the Gender Equality Attorney shall nominate his/her deputy before the Assembly of Kosovo.

18.6. Within a period of 30 (thirty) days from the day of receiving the proposal specified in paragraph 18.5, the Assembly of Kosovo shall elect the Deputy of the Gender Equality Attorney.

18.7. Within a period of 3 (three) months from the entering into force of the present law, the Ministries shall appoint the Officers of Gender Affairs.

18.8. Within a period of 3 (three) months Municipal Administration appoint the Officers of Gender Affairs in the Municipality.

SECTION 19 FINAL PROVISIONS

19.1. Judicial protection of gender equality is guaranteed.

19.2. Gender discrimination is prohibited by law in all fields of social life in Kosovo.

19.3. This Law does not impede the implementation of other laws into force, which set gender equality violation penalties.

SECTION 20 ENTRY INTO FORCE

The present law shall enter into force after the approval by the Assembly of Kosovo and its promulgation.

**Law No.2004/2
19 February 2004**

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