



Law on Gender Equality in BiH

The Law on Gender Equality guarantees gender equality to everyone in all spheres of society, including, but not limited to, education, economy, employment and labour, social and health protection, sport, culture, public life and the media. (Official Gazette of BiH, No. 16/03, 102/09 and 32/10)

The Law on Gender Equality in BiH was adopted in 2003 and amended in 2009, while a consolidated text was published in 2010.

Forms of discrimination

The Law prohibits discrimination on the grounds of gender and sexual orientation. Discrimination on grounds of gender exists if one person or a group of persons is put into a less favourable position based on gender.

Direct gender-based discrimination exists when a person or a group of one gender is treated or may be treated less favourably than another person or group in the same or similar situation.

Indirect gender-based discrimination exists when an apparently neutral legal norm, criterion or practice equal for everyone, puts or may put a person or a group of one gender into a less favourable position in comparison to a person or a group of another gender.

Harassment is any unwanted conduct based on gender that aims at or has the effect of violating the dignity of a person or a group and creating an intimidating, hostile, degrading, humiliating or insulting environment.

Sexual harassment is any unwanted verbal, non-verbal, or physical conduct of a sexual nature that aims at or has the effect of violating the dignity of a person or a group, especially when this behaviour creates an intimidating, hostile, degrading, humiliating or offensive environment.

Gender-based violence is any conduct that causes, or may cause, physical, mental, sexual or economic damage or suffering, as well as any threat of such conduct which prevents a person or a group from enjoying their human rights and freedoms in public and private life. It can include domestic violence or violence in the wider community, committed or tolerated by authorities, and violence occurring in armed conflict.

Victimization occurs when a person or a group is put into a disadvantageous position because they reject an instruction to act in a discriminatory manner, they report discrimination, they testify or participate in any other way in a procedure of protection from gender-based discrimination.

Additionally, the Law determines that **discrimination in language** exists when only one grammatical gender is used as a generic term.



The Law on Gender Equality prescribes that equal representation of men and women exists when one sex is represented with **at least 40 per cent** in bodies at all levels of authority in BiH (state, entity, cantonal and municipal levels). This includes legislative, executive and judicial authorities, political parties, legal persons with public authorities and others that work under the control of the state, entities, cantons, cities, and municipalities, as well as appointments to delegations and international organizations or bodies,.

Examples of discrimination:

- *A supervisor or a colleague repeatedly makes unwelcome comments about a co-worker and puts his/her hands around his/her waist.*
- *A woman is fired during maternity leave.*
- *A less qualified female applicant for a job at a nursery is preferred to a more qualified male candidate owing to the assumption that a woman can do that job better than a man.*
- *The percentage of women in appointed positions in public bodies is well below 40 per cent.*

Examples of inequality:

- *In rural areas, the ownership of land and other properties is almost invariably and exclusively with men, though women equally contribute to providing for the economic needs of their families.*
- *Media do not ensure a proportionate share of the media space to women politicians compared to men, especially in pre-election campaigns.*

Obligations of competent authorities

The Law on Gender Equality in BiH established gender institutional mechanisms – the Gender Equality Agency at the state level and Gender Centres at the entity level – to monitor and ensure implementation of the Law and the BiH Gender Action Plan. Furthermore, all other public

bodies have a duty to take all appropriate and necessary measures in order to implement provisions prescribed by this Law and the BiH Gender Action Plan. They must do so by introducing measures for achieving gender equality, adopting new or amending existing laws, implementing the BiH Gender Action Plan, collecting data, keeping records and analysing and presenting statistical data classified according to gender.

The Gender Equality Agency and Gender Centres receive requests, depositions and complaints of citizens or groups that point to violations of the Law.

Court protection and penal provisions

Every person who claims to be a victim of discrimination may seek for judicial protection in accordance with existing procedure or through a special proceeding for protection from discrimination in compliance with the Law on Prohibition of Discrimination (Official Gazette of BiH, No. 59/09).

Public and private legal aid providers can assist the plaintiff by providing advice on the plaintiff's rights and by filing discrimination lawsuits.

The Institution of the Human Rights Ombudsmen of BiH can receive discrimination-based complaints and advise plaintiffs on their rights. The Institution of the Human Rights Ombudsmen may also provide recommendations and opinions, propose mediation, and initiate and participate in legal misdemeanour proceedings on behalf of the plaintiff.

All persons who consider themselves victims of sexual harassment, harassment and gender-based violence can report the perpetrators to the competent prosecutor's office. The Law on Gender Equality prescribes imprisonment for a term of six months to five years for certain discriminatory acts.