ACT ON EQUAL OPPORTUNITIES FOR WOMEN AND MEN
BULGARIA

CHAPTER ONE: GENERAL PROVISIONS

Article 1. This Act lays down the relationships related to elimination of direct and indirect discrimination based on sex and the promotion of equal opportunities for women and men in all spheres of public life in the Republic of Bulgaria.

Article 2. This Act shall not apply to personal relationships between women and men, as well as to the relationships related to the canons, dogmas and statutory provisions of the religious communities.

Article 3 (1) Direct and indirect discrimination based on sex is prohibited.
(2) Sexual harassment shall be considered as a form of discrimination.
(3) The following shall not be considered as discrimination:
1. special measures provided for in law in regard to protection in cases of pregnancy, childbirth and breastfeeding;
2. incentive measures provided for in law in regard to women or men
3. qualificational requirements for activities for which the sex is determining factor due to the nature of the relevant activity or the way it is being carried out.

CHAPTER TWO: STATE POLICY IN THE FIELD OF EQUAL OPPORTUNITIES BETWEEN WOMEN AND MEN

Article 4. The Minister of Labour and Social Policy for Women and Men shall elaborate, coordinate and implement the national policy for the provision of equal opportunities for women and men.

Article 5. (1) A steering consultative body - National Council for the Equal Opportunities, hereinafter referred to as the ‘National Council’, shall be established with the Minister of Labour and Social Policy.
(2) The National Council shall consist of 20 members. It shall consist of five representatives of the government, the nationally representative employers’ and employees’ organisations, as well as of the non-governmental organisations working in this field.
(3) The Rules of Procedure of the National Council shall be issued by the Minister of Labour and Social Policy.
(4) The National Council shall be assisted in its activities by an administration. The structure and the functions of the administration shall be laid down with the Rules of Procedure of the National Council.
(5) The representatives of the government shall be determined by the Council of Ministers. The representatives of the nationally representative organisations of the employees, nationally representative organisations of the employers and of the non-governmental organisations shall be determined accordingly after conciliation between their head offices.

Article 6. An independent body – Public Defender (Ombudsperson) for the Equal Opportunities for Women and Men, hereinafter referred to as the ‘Public Defender’, shall be established for monitoring of the observance of the equal opportunities for women and men, for termination of the violations of the equality rights and for redressing of the inflicted damages.

Article 7. The state bodies and the bodies of the local self-government shall implement the equal opportunities policy within the scope of their powers in cooperation with the non-governmental organisations, as well as with the nationally representative employers’ and employees’ organisations.

Article 8. The municipal councils shall establish in the municipalities with a decision public councils for exertion of public control over this act’s application.
Article 9. Non-governmental organisations shall participate in the activities for creation of equal opportunities under terms and following procedures laid down in this Act.

Article 10. (1) The bodies mentioned in this Act shall periodically elaborate strategies, plans and programmes for the implementation of the national policy in the field of the equal opportunities for women and men.
(2) The terms and conditions for elaboration of strategies, plans and programmes as referred to in paragraph 1 shall be determined by an Ordinance of the Council of Ministers.

Article 11. (1) The state bodies shall be responsible for the creation and observance of equal opportunities for women and men during the drafting, adoption and implementation of the legislation.
(2) The issues within the competence of the Council of Ministers shall be submitted for consideration accompanied by a reasoned opinion on the conformity of the issue with the purposes of this Act approved by the Minister of Labour and Social Policy.

Article 12. The National Statistical Institute shall carry out the statistical activity in regard to the equality of women and men.

CHAPTER THREE: EQUAL OPPORTUNITIES IN EXERCISING OF THE RIGHT TO WORK

Article 13. (1) Women and men shall have equal opportunities to exercise their right to work.
(2) The employer must ensure for the women and men:
1. equal access to job vacancies;
2. equal opportunities in job placement;
3. equal working conditions;
4. the right to equal remuneration for equal work or work of equal value
5. equal opportunities for vocational training, improvement of professional qualification and obtaining of new qualification;
6. equal opportunities for professional development and promotion;
7. respect for the dignity at the workplace;
8. equal criteria when terminating unilaterally the employment or civil service relationship;
9. equal access to information.

Article 14. (1) A collective agreement may stipulate more favourable provisions for ensuring the equal opportunities than those provided for in the act, as well as incentive measures for achieving balanced gender representation in the undertaking.
(2) An individual employment contract contrary to this Act or evading it shall be void and null.
(3) A collective agreement contrary to this Act or evading it shall be void and null.
(4) Separate clauses of an individual employment contract or a collective agreement may also be proclaimed void and null. In such cases the relevant imperative provisions of the law shall apply in lieu of the nullified provisions.
(5) The nullity of the employment contract or the collective agreement, or of the separate clauses of the individual employment contract or collective agreement shall be proclaimed by the court.

Article 15. (1) An employer of more than 20 workers and employees shall appoint by a written order an official responsible for the equal opportunities for women and men after consultations with the employees' representatives.
(2) The functions and the tasks of the official referred to in paragraph 1 shall be determined by an Ordinance of the Minister of Labour and Social Policy.
(3) The employer must not place at disadvantaged position such an official or undertake disciplinary punishments against him/her due to his/her actions in implementation of this Act.
Article 16. When announcing a job vacancy, the employer is not entitled to post by whatsoever means, directly or indirectly, qualificational requirements related to the applicants’ sex, except for activities where sex is a decisive factor.

Article 17. (1) A special log shall be kept in undertakings with more than 20 employees in which all job vacancies, all job advertisements and all candidates for a job vacancy shall be recorded. (2) The log as referred to in paragraph 1 shall be kept by the official responsible for the equal opportunities for women and men.

Article 18. (1) The employer must not select a job applicant only on the basis of his/her sex. (2) The employer must not pose questions to the applicants, orally or in writing, related to his/her family or parental status or duties. (3) The employer must not refuse to employ a person on the grounds of pregnancy, maternity or raising a child.

Article 19. The employer shall provide equal working conditions for women and men.

Article 20. (1) The employer shall provide equal payment for women and men for equal work or work of equal value. (2) Paragraph 1 shall apply to all kinds of remuneration, paid directly or indirectly, in cash or in kind. (3) The criteria for assessment of the work for the purpose of determination of remuneration shall be equal for men and women and shall be defined by collective agreements or in the internal (company) salary rules after consultations with the employees’ representatives. (4) The employer shall apply equal criteria for assessment of the quality of work of women and men when determining their remuneration.

Article 21. (1) The employer shall provide equal opportunities for vocational training, improvement of the professional qualification and obtaining of new qualification, regardless of the sex of the worker. (2) The employer shall create conditions for maintaining and improvement of the professional qualification of employees on leave for raising of a child.

Article 22. The employer shall provide equal opportunities to women and men for their professional development and promotion by applying equal criteria and indicators for evaluation of their activity.

Article 23. The employer shall apply equal criteria in regard to women and men in conducting the disciplinary responsibility.

Article 24. The employer shall apply equal criteria in regard to women and men in exercising his right to unilateral termination of the employment relationship under Article 328, paragraph 1, points 2-5, 10 and 11 and Article 329 of the Labour Code or of the civil service relationship under Article 106, para. 1, points 2, 3 and 5 of the Civil Servants Act.

Article 25. Organisation of work, as well as other measures permitting the conciliation of the professional and family or parental responsibilities of women and men may be stipulated in a collective agreement.

Article 26. (1) Sexual harassment at the workplace by the employer or an employee is prohibited. (2) An employer who has received a complaint from an employee who considers himself harassed sexually by another employee shall carry out an investigation and undertake measures for its prevention. (3) The employer must not place into a disadvantaged position or take disciplinary punishments against an employee as a result from his actions to oppose to or complain about sexual harassment. (4) An employee who testifies for sexual harassment is entitled to the same protection.
Article 27. The employer must place in an accessible to the employees place in his premise the text of this act, as well as all regulations and stipulations of the collective agreement and the internal regulations related to equal opportunities for women and men.

Article 28. (1) The employer must provide on request an information to the person claiming that his rights under this chapter have been violated. 
(2) The information under paragraph 1 must contain the grounds for the decision taken by him.

Article 29. The employer must not undertake any disciplinary punishments towards an employee due to the fact that he/she had complained about violation of his/her rights under this Chapter.

Article 30. The provisions laid down in this Chapter, except for Articles 14, 20, para.3 and 25, shall apply also to regular service in the armed forces except for the fulfilment of activities for which the sex is a determining factor.

Article 31. In disputes on violated rights under Articles 15 (3), 16 –24 and 27 - 30 the burden of proof for the lack of discrimination is placed on the employer in case that from the facts established by the plaintiff it can be presumed that there was discrimination.

Article 32. The territorial divisions of the National Employment Service must ensure the guaranteed by law rights of unemployed persons regardless of their sex.

CHAPTER FOUR: EQUAL OPPORTUNITIES FOR WOMEN AND MEN IN PARTICIPATION IN THE POLITICAL LIFE AND GOVERNANCE

Article 33. The state bodies and the bodies of the local self-government, the managing bodies of the companies, political parties and other non-profit legal entities shall promote and facilitate the balanced participation of women and men in the governance and decision making.

Article 34. (1) The state and territorial executive bodies shall employ preferentially the applicant from the under-represented sex in case the applicants meet the requirements for the post in question equally until a 40 per cent representation of this sex is reached, unless there are objective reasons for non-compliance with this requirement.
(2) Paragraph 1 shall also apply to the nomination of members of or participants in any councils, expert working groups, managing, consultative or any other bodies, except for the case, when such members or participants are subject to election.

CHAPTER FIVE: EQUAL OPPORTUNITIES IN EDUCATION AND TRAINING

Article 35. The schools and training institutions shall provide equal opportunities for everybody regardless of his sex in:
1. access to education and/or training;
2. the educational and/or training process, including assessment of the knowledge acquired;
3. graduation.

Article 36. (1) The schools and training institutions are not entitled when announcing the qualificational requirements to impose directly or indirectly whatsoever restrictions related to the sex of the applicant or applicants.
(2) Incentive measures in the field of education; training and vocational education and training can be introduced for reduction of the existing imbalanced participation in a specific profession or area of activity.
(3) The terms and conditions for the application of the measures as referred to in paragraph 1 shall be determined in an ordinance of the Minister of Education and Science and the Minister of Labour and Social Policy after consultations in the National Council.
Article 37. (1) Sexual harassment in the higher schools (universities) by an administrator, professor or another student is prohibited.
(2) The head of a higher school (university) who has received a complaint from a student, who considers himself harassed sexually by administrator, professor or another student, shall carry out an investigation and undertake measures for its prevention.
(3) The head of a higher school (university), the administrators and the professors must not place into a disadvantaged position or take disciplinary measures against a student as a result from his actions to oppose to or complain about sexual harassment.
(4) A student, professor or administrator who testifies for sexual harassment is entitled to the same protection.

CHAPTER SIX: REMOVAL OF NEGATIVE STEREOTYPES OF ROLES OF WOMEN AND MEN

Article 38. (1) Persons providing education and training, as well as authors of textbooks and study materials shall present information and apply training methods aiming at removal of the negative stereotypes of the roles of women and men in all spheres of public life, including the family.
(2) The kindergartens, schools and high schools shall include in their educational programmes and plans training on the gender equality issues.

Article 39. Requests for and designing and distribution of advertisements and announcements, which are humiliating for the dignity of women and men are prohibited.

Article 40. Information distributed through the media must not contain or provoke discrimination based on sex.

CHAPTER SEVEN: PUBLIC DEFENDER (OMBUDSPERSON)

Article 41. For the post of the public defender are eligible Bulgarian citizens with higher education in law, high professional and moral qualities and at least 15 years experience as a legal practitioner.

Article 42. The public defender shall be nominated and elected by Parliament for a period of 6 years.

Article 43. During the term of office the public defender shall not be entitled to hold a post of a state official, to receive any other remuneration than from professorship or scientific publications, to perform any other public function nor to be a member of a political party or a trade union.

Article 44. (1) The powers of the public defender shall be terminated in one of the following cases:
1. resignation;
2. expiry of the term of office;
3. death or pertaining incapability to perform his/her duties due to a grave illness;
4. conviction with an effective sentence for an aforethought criminal offence.
(2) In cases referred to in points 1 and 2 of paragraph 1, the public defender shall continue to fulfil his/her duties until the election of the new one.

Article 45. In performing his/her functions, the public defender shall be bound only by the law and shall be guided by his/hers personal conscience and morals.

Article 46. The public defender shall:
1. consider complaints and signals for violation of the rights provided for in this Act and carry out inspections on the basis of such complaints and signals;
2. in cases of established violations issue suggestions and recommendations for termination of the violation, for removal of the reasons which led to the infringement, as well as for redressing its consequences;
3. issue mandatory prescriptions and punitive decrees in cases prescribed by this Act;
4. refer to the specialised control bodies under this Act in case there is evidence of an administrative offence or refer to the prosecutor in case there is evidence of a committed crime
5. make a review of the existing legislation and of the practical implementation of this Act and submit to the competent authorities reasoned proposals for to the legislation;
6. be entitled to require and receive timely, complete and precise information related to the fulfilment of his/her duties;
7. prepare and submit to Parliament an annual report;
8. inform the Parliament on cases of extremely grave offence of basic rights and disrespect of equal opportunities.
9. publish a bulletin.

Article 47. The public defender may act on his initiative when he establishes that the conditions necessary to respect equal opportunities for men and women are not created or there is a violation of this Act.

Article 48. (1) No one can refuse to provide information to the Public Defender related to the fulfilment of his/her duties on a basis that the required information is considered to be state, official or commercial secret.
(2) The public defender must not disclose the facts considered to be state, official or commercial secret, as well as the personal data of which he/she has become aware of during fulfilment of his/her duties.

Article 49. (1) The Public Defender shall be assisted in his/her activities by an administration, which shall be a legal person with a seat in Sofia.
(2) The public defender shall issue the rules for procedure and organisation of his/her activity.

Article 50. (1) The public defender shall reply in one-month period from the date of the submission the complaint or the signal.
(2) Complaints and signals for offences committed more than two years ago shall not be considered.

Article 51. (1) The complaints shall contain:
1. information about the petitioner;
2. information about the person against whom the complaint is filed;
3. short description of the facts related to the offences of the rights provided for in this Act.
(2) The signals shall contain:
4. information about the person who has submitted the signal;
5. information about the person or persons whose rights have been violated;
6. information about the person against whom the complaint is filed;
7. short description of the facts related to the offences of the rights provided for in this Act.

Article 52. Complaints and signals to the public defender can be submitted regardless of the fact that there exist other means for redressing.
(2) The complaints and signals shall not be considered by the public defender when there is a pending procedure before the court.

Article 53. (1) The bodies and persons who have received recommendations and suggestions must declare in two months period whether they accept them.
(2) The bodies and persons as referred to in paragraph 1 shall inform forthwith the public defender on the measures which they have undertaken, as well as on the terms in which they intend to undertake such measures.
(3) The public defender shall inform forthwith the petitioners or the persons who have submitted the signal on the undertaken measures referred to in paragraph 2.
Article 54. The public defender shall publish annually a black book of employers and institutions, which have not complied with his/her recommendations and/or suggestions.

Article 55. The expenditures in regard to the activities of the public defender shall be included in a separate chapter of the State Budget.

CHAPTER EIGHT: CONTROL

Article 56. (1) The Ministry of Labour and Social Policy and the Ministry of Education and Science and the public defender shall exercise the overall control over the observation of this act within their powers.
(2) The specialised controlling bodies are the Executive Agency “Chief Labour Inspection”, the Inspectorate with the National Employment Service and the Education Inspectorate.
(3) The bodies referred to in paragraph 2 shall carry out inspections on complaints by affected persons, as well as when being referred to by the trade unions, non-governmental organisations or the public defender.

Article 57. (1) When performing their controlling functions the inspectors shall be entitled to:
1. visit without any limitations the employer’s administration;
2. require explanations and submission of documents, inquiries and information;
3. receive the required information directly from the persons who have lodged the complaint;
4. draw up statements for the established violations;
5. issue mandatory instructions to the employer/the appointing body/ for removal of the established violations.
(2) The inspectors must:
1. establish the facts strictly during the inspections carried out;
2. not disclose the information related to the inspections before their completion;
3. not use information received during the inspections for other purposes.
(3) In case the inspector establishes infringements of the law, which contain evidence of a criminal offence, the inspector shall forthwith the prosecution.

CHAPTER NINE: SANCTIONS AND INDEMNITIES

Article. 58. (1) Infringements under Chapter Three, except for Articles 16, 17, 18, 21 and 32 shall be established with an act issued by a labour inspector.
(2) Infringements under Articles 16, 17, 18, 21 and 32 shall be established with an act issued by an inspector from the Inspectorate with the National Employment Service.
(3) Infringements under Articles 35 - 38 shall be established with an act issued by an education inspector.
(4) Infringements under Articles 39 and 40 shall be established with an act issued by an official from the Public Defender’s administration determined by him/her.

Article 59. (1) Infringement of this Act shall be punished by a fine in amount of 500 to 1000 leva imposed on the natural persons or property sanction in amount of 2000 to 5000 leva imposed on the sole proprietors and legal entities.
(2) Failure to fulfil the inspector’s mandatory instruction under Article 57, paragraph 1, point 5, shall be punished by a fine or property sanction in amount of 1000 to 2000 leva, imposed on the employer, and by a fine in amount of 750 to 1500 leva, imposed on the responsible official.

Article 60. (1) On violation of Articles 26 or 37, the offended person can submit to the punitive body, before a punitive decree is issued, a request for indemnities for the damages suffered at the amount of four average salaries of the employer, or the administration of the state or executive authorities, respectively.
(2) When Article 37 is infringed by a student the claim under the paragraph 1 can be in amount not exceeding 500 leva.
Article 61. (1) Persons whose rights under this Act have been violated are entitled to a claim before a court.
(2) The court procedures under Chapters Three and Five are free of charge.
(3) The claims for violated rights as provided for in Articles 15 – 24, 27 – 30, 32 and 35 - 38 shall be considered in accordance with procedure laid down in Chapter 12a of the Civil Procedures Code.

Article 62. (1) Trade unions and their divisions, the non-governmental organisations and the public defender shall be entitled to represent before the court the persons whose rights under this act have been violated on their request.
(2) The representatives as referred to in paragraph 1 shall not be entitled to come to agreements, settle, withdraw or reduce the claims of the persons represented by them, nor to receive money on their behalf, unless there have been an explicit authorisation for such actions.

ADDITIONAL PROVISION

§ 1. For the purpose of this Act:
1. “employer” means the term established in § 1, point 1 of the Additional Provisions of the Labour Code or the employing body within the sense of Chapter 3, Section 3 of the Civil Servants’ Act.
2. “direct discrimination” means the placement of a person into a disadvantaged or advantaged position on the grounds of his/her sex;
3. “indirect discrimination” means application of apparently permitted by law provisions in a manner that leads to de facto placement of persons from one sex into a disadvantaged or advantaged position in comparison to the persons from the other sex;
4. “sexual harassment at the workplace” means any unwanted behaviour, related to the sex of the person aiming at or leading to offence of a person’s dignity and/or creation of environment of intolerance, anxiety, humiliation, hostility;
5. “incentive measures”/ it means affirmative action/ means temporary special measures aiming at achievement of equal opportunities for women or men.

FINAL PROVISIONS

§ 2. This Act shall enter into force from 1 January 2002, except for Article 30 and § 5, which shall enter into force from 1 January 2003.

§ 3. (1) The Minister of Labour and Social Policy shall invite the bodies and organisations referred to in Article 5, paragraph 2 to present their nominations for the National Council in one-month period from the entry of this Act into force.
(2) The bodies and organisations referred to in Article 5, paragraph 2 shall nominate their representatives in the National Council in one-month period.
(3) The Minister of Labour and Social Policy shall convene the first meeting of the National Council on its first meeting.

§ 4. The Civil Procedures Code shall be amened as follows:
A new letter “м” shall be created in Article 126a: “upon claims under Article 61, para. 3 of the Act on Equal Opportunities for Women and Men”.
§ 5. Article 88 of the Act on the Defence and the Armed Forces of the Republic of Bulgaria shall be repealed.