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SOCIAL DOMAIN

**INTERNATIONAL REGULATIONS
CONCERNING GENDER
DISCRIMINATION IN PROFESSIONAL
LIFE**

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Key words: Gender science, gender discrimination, gender equality, legal regulations.

Abstract: The paper is aimed at presenting legal regulations imposed by International Labour Organization, the United Nations and the European Union, and regarding gender equality in professional life. Issues relating to discrimination against women on labour market have been addressed by international institutions for over 60 years.

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Introduction

Equality of all citizens is a fundamental principle obeyed by democratic societies. Equal job and power opportunities policy is still one of the main pillars of international law. It is considered the main requirement of democracy.

International community takes action aimed at developing legal and institutional infrastructure which allows obeying gender equality rules as well as protecting against discrimination, sexual discrimination in particular. The United Nations, International Labour Organization and the European Union have developed guidelines for combating discrimination against women on labour market.

The paper is aimed at presenting legal regulations imposed by International Labour Organization, the United Nations and the European Union, and regarding gender equality in professional life. It seems vital to pay special attention to issues relating to discrimination against women particularly as the aforementioned regulations are complicated, and although the situation of women and men on labour market differs to a great extent.

Research on gender discrimination suggests that the situation of women on labour market is worse and there are many factors determining such a state of affairs (Balcerzak-Paradowska, 2001 and 2003; Dijkstra and Plantega 2003; Gawrycka, Wasilczuk, and Zwiech, 2007; Kalinowska-Nawrotek, 2005; Kryńska, 2001; Titkow, 2003; Zwiech, 2008 and 2003; World Bank, 2004; National Labour Inspectorate, 2005).

Women earn less and occupy lower positions in organizational hierarchy, are less often marked for professional training and face greater difficulties in gaining employment in the majority of the Member States, hence also in Poland.

Regulations regarding discrimination against women on labour market - imposed by International Labour Organization

First regulations regarding female work were imposed by International Association for Labour Legislation. The Association was established after the Paris Conference in 1900. It was a precursor of International Labour Organization, headquartered in Basel, which took on the translation and publication of labour legislation in particular countries. Furthermore, it organized a conference in Brno in 1906. Two conventions were established during the conference. The former regarded the reduction of white phosphorus use (toxic substance for the production of matches at that time), whereas the latter imposed a ban on night work for women.

International Convention banning Night Work for Women in Industry signed in Brno on 26 September 1906 was the first document that attempted to regulate female work. Once these two conventions had been adopted, a new chapter in the history of international relations began. The Association started to prepare regulations banning night work for young people and implementing a maximum ten-hour working day for juveniles and women. However, an outbreak of war in 1914 disallowed the implementation of the conventions.

International Labour Organization (ILO) was established in 1919 to make governments, entrepreneurs and trade unions take joint action aimed at social justice and improving the living conditions all over world¹. Regulations regarding female work are still one of priorities to ILO. During the first session in 1919, ILO adopted

¹ 183 countries are members of ILO (status on 15 May 2010).

normalizations concerning female work. Out of six conventions ratified then, two concerned women's labour: *Convention nr 3 of 29 October 1919 on employing women before and after childbirth* and *Convention nr 4 of 29 October 1919 on night work for women* (later amended by Convention nr 103 of 28 June 1952). Other conventions signed by ILO with reference to female work were: *Convention nr 41 of 4 June 1934 on night work for women*, amended by Convention nr 89 of 17 June 1948, Convention nr 171 of 16 June 1990, and *Convention nr 45 of 04 June 1935 on underground work for women*.

However, issues relating to discrimination against women on labour market were addressed by International Labour Organization only in 1951. On 29 June 1951 it adopted *Convention nr 100 on equal remuneration for male and female workers for work of equal value*. Subsequent Conventions ratified by ILO also referred to discrimination against women, e.g. *Convention nr 111 of 25 June 1958 on discrimination in the field of employment and occupation*, and *Convention nr 156 of 23 June 1981 on equality of opportunity and treatment for male and female workers with family responsibilities*.

Legal regulations imposed by the United Nations with reference to discrimination against women

The United Nations was the first international organization to raise issues relating to discrimination against women. It was in 1948 that the UN addressed the matter in Universal Declaration of Human Rights. Article 2 and Article 16(1) of the Declaration referred to the equality of women and men.

The UN discussed discrimination against women in *International Covenant on Civil and Political Rights* of 19 December 1966 in Article 26, and stated that "the law shall prohibit any discrimination (...) on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

The Convention on the Elimination of All Forms of Discrimination Against Women of 18 December 1979 was a significant breakthrough and defined the essence of this discrimination. The Convention obliged particular states to pursue policy aimed at combating gender discrimination in every sphere of life and provide women with conditions for full development and promotion in every sphere of social, economic, political and public life. The Convention on the Elimination of Discrimination Against Women in the scope of employment puts an emphasis on the following rights that women should retain (Article 11):

- right to permanent employment and equal working conditions (working time, form of employment); right to equal job opportunities and criteria for selection;
- right to choose profession and job, to be promoted and have access to training;

- right to equal remuneration for work of equal value;
- right to social security;
- right to health care and safe working conditions.

Another regulation implemented by the UN on 20 December 1993 was *Declaration on the Elimination of Violence against Women*. Nevertheless, it should be noticed that this was declaration and not convention. While convention obliges particular countries to take actions and does not allow any exceptions, declaration does not have such legal force. The latter ought to be treated as a recommendation, thus actions contradictory to the convention do not lead to negative legal and international consequences. However, in this document the UN has explicitly stated that male domination and discrimination against women cannot be denied and should be combated in order to encourage full development.

In 1982, the UN established the Committee on the Elimination of Discrimination against Women (CEDAW), which was a major step in fighting the phenomenon. During the period 1986-2008, the Committee put forward 26 recommendations on the situation of women. As for professional life, the recommendations concerned equal access to employment and equal remuneration (Recommendation nr 13 of 1989), unpaid women working in family enterprises (nr 16 of 1991), migration of female workers (nr 26 of 2008). On the other hand, taken social policy into account, the recommendations referred to violence against women (nr 12 of 1989 and nr 19 of 1992), equality in marriage (nr 21 of 1994), gender equality in the public and political life (nr 23 of 1997), or equal access to health care (nr 14 of 1990, nr 15 of 1990, nr 18 of 1991, nr 24 of 1999) and education (nr 3 of 1987).

Regulations imposed by the European Union on discrimination against women in professional life

The European Union has provided the Member States with structural and institutional basis for pursuing equal opportunities policy (Dijkstra and Plantega, 2003, p.137). The policy involves:

1. making various spheres of social life and external environment available to everyone;
2. taking needs expressed by every individual into account;
3. making every individual participate in social life;
4. implementing a number of regulations, as well as equal rights and obligations to be met by everyone as rightful citizens.

The European Union has introduced directives, recommendations and programs of actions aimed at combating discrimination against women. Each of them differs as far as obligatoriness level is concerned. Directives oblige the States to introduce changes into national legislation by given deadlines. Recommendations and programmes are not obligatory. They are designed to make the Member States follow proper policy.

Founding Treaties of the Community (Treaty of Rome - Article 119, Treaty of Amsterdam - Article 141) include regulations on equal treatment of women and men in the field of employment. Furthermore, Treaty of Amsterdam (Article 13) bans discrimination.

So far the European Union has adopted a great number of directives on equal opportunities for women and men in professional life.

The first Council Directive on equal treatment of women and men was adopted in 1975. Directive 75/117/EEC of 10 February 1975 referred to the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women. This directive obliges the States to provide women and men with equal remuneration for work of equal value.

Another Council Directive (76/207/EEC of 9 February 1976) required the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. The Directive in question was amended in September 2002. It is now catalogued as 2002/73/EC and refers to sexual harassment as an act of sexual discrimination.

Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security refers to the statutory schemes which provide protection against the risks of sickness, invalidity, old age, accidents at work, occupational diseases and unemployment, and in social assistance.

Council Directive 86/378/EEC of 24 July 1986 has implemented the principle of equal treatment for men and women in occupational social security schemes, and particularly with reference to social security legislation that has not been referred to in the previous Directive and to employees or self-employed persons working in particular branches of industry or labour market sectors. Council Directive 96/97/EC of 20 December 1996 amended the aforementioned Directive.

Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood. It extends the principle of equal treatment to women in self-employment or working with their husbands.

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures encouraged improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

Council Directive 96/34/EC of 3 June 1996 offers men the possibility of taking parental leave. Council Directive 97/75/EC of 15 December 1997 amended the aforementioned Directive and extended it to the United Kingdom of Great Britain and Northern Ireland.

Council Directive 97/80/EC of 15 December 1997 (on the burden of proof in cases of discrimination based on sex) burdens a defendant with a necessity to prove that no discrimination has occurred. Council Directive 98/52/EC of 13 July 1998 amended the aforementioned Directive and extended it to the United Kingdom of Great Britain and Northern Ireland.

Council Directive 2000/78/EC of 27 November 2000 has established a general framework for equal treatment in employment and occupation.

Council Directive 2004/113/EC of 13 December 2004 has implemented the principle of equal treatment between men and women in the access to and supply of goods and services.

And last but not least, Council Directive 2006/54/EC of 5 July 2006 required the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, and required transparency in legal acts so that all the regulations established in this scope were included in one text. Therefore, on 15 August 2009 Directives 75/117/EEC, 76/207/EEC, 2002/73/EC, 86/378/EEC, 96/97/EC, 97/80/EC, 98/52/EC were annulled and Directive 2006/54/EC was implemented.

The aforementioned Directives require the Member States to pursue equality policy and pay special attention to the creation of systemic solutions that allow combating discrimination against women. The Directives under discussion highlight the need for expert organs dealing with the popularization of equal treatment, monitoring equality policy and helping lay discrimination claims.

Recommendations and declarations are flexible instruments that require the Member States to take specific measures within their structures. It is worth mentioning the following recommendations on equalizing the opportunities for women and men, namely Council Recommendation 84/635/EEC of 13 December 1984 on the promotion of positive action for women, Council Resolution 84/C 161/02 of 7 June 1984 on action to combat unemployment amongst women, Commission Recommendation 92/131/EEC of 27 November 1991 on the protection of the dignity of women and men at work, Council Recommendation 96/694/EC of 2 December 1996 on the balanced participation of women and men in the decision-making process, and Council Resolution 95/C 296/06 of 5 October 1995 on the image of women and men portrayed in advertising and the media.

Programmes of action are also a fundamental element of equal opportunities policy pursued by the EU. So far five programmes have been implemented during the following periods: 1982-1985, 1986-1990, 1991-1995, 1996-2000, 2001-2006. Gender equality is currently addressed as part of the 6th Framework Programme 2006-2010.

The first programme of action dealt with legal barriers to equal opportunities for women and men as well as placed an emphasis on extending individual rights enjoyed by women. The second programme recommended that women should

continually educate themselves, depart from traditional decisions about education, and men ought to participate in housework to a larger extent. It also addressed issues relating to parental leave. The third programme discussed women's situation with reference to general labour market policy. It indicated the necessity to develop instruments helping reconcile career with household duties. The fourth programme was a continuation of integration approach. It was aimed at promoting equal opportunities while formulating, implementing and monitoring all the policies, measures and actions taken by society at a national, regional and national levels. This program raised issues relating to gender equality in decision-making process. The fifth program referred to actions aimed at shaping social awareness and combating xenophobia and intolerance.

Taken the programme currently implemented by the European Parliament into account, the popularization of gender equality has two aspects as gender issues should be addressed as part of various political strategies, and at the same time supported with the use of special measures. The programme addresses the following questions: violence against women and human trafficking, respect for women's rights as part of the European Neighbourhood Policy, development of plans for employment and social integration to be implemented at a national level to help women enter labour market and enjoy the same rights as men. Finally, to enforce the rule "equal remuneration for work of equal value". Furthermore, actions should be aimed at the development of women's entrepreneurship, shaping the policy aimed at reconciling private and professional life, greater participation of women in decision-making process and political life, opportunities for women to undertake scientific and research work, positive image and achievements of women portrayed in the media, and finally eliminating gender stereotypes, particularly with reference to labour market.

Conclusion

Issues relating to discrimination against women on labour market have been addressed by international institutions for over 60 years. The first organization that raised the matter was the UN (in 1948). International Labour Organization addressed the issue in 1951. The European Union has been continually introducing legal regulations regarding equal treatment of women and men in professional life. Therefore, anti-discrimination legislation is being developed.

Despite the regulations, the situations of female and male employees still differ considerably. That is why the EU has been implementing not only legal regulations, but also plans of action aimed at eliminating discrimination against women, enforcing the regulations in social life and developing social awareness.

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