



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	Romania
Title:	Legal amendments of the Gender Equality Law: harassment sanctioned, level of fines diminished
Date:	15 February 2019
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<u>Context</u>	
Issue at stake:	New amendment of the Gender Equality Law sanctions harassment while lowering the administrative fines for discrimination and harassment on the ground of sex.
Ground of discrimination:	Sex
Source:	Legislation
Field:	Other
Applicable law:	Legea nr.232 din 2 august 2018 pentru modificarea și completarea Legii nr. 202/2002 privind egalitatea de șanse și de tratament între femei și bărbați (Law No.232 of 2 August 2018 on the amendment of Law No. 202/2002 regarding equal opportunities between women and men)

Content

Law development: On 6 August 2018, a new amendment of the Gender Equality Law entered into force after being adopted by the Parliament on 10 July 2018 and promulgated by the President on 2 August 2018.

The Chief of the Commission on Equal Opportunities between Women and Men from the Chamber of Representatives, MP Oana Bîzgan, promoted the amendment, as a bill to sanction harassment which takes place in the street. Before the adoption of the amendment, the Gender Equality Law only provided definitions of harassment, sexual harassment and psychological harassment, omitting to include these in the list of behaviours sanctioned by Article 37.

The new provisions place under the power of police, gendarmes, and local police, the mandate to sanction all behaviours of harassment, sexual harassment and psychological harassment, irrespective whether it takes place in public or in the private sphere.

The amendment downgrades 10 times the level of administrative fines that can be issued in case of all the other forms of sex discrimination, including harassment, from a fine between RON 3 000 (EUR 631) to RON 100 000 (EUR 21 052) to a range between RON 3 000 (EUR 631) and RON 10 000 (EUR 2 105).

Key points of analysis: The inaccuracies in the Gender Equality Law, including the fact that previously harassment was not included in the list of forbidden behaviours that are sanctioned by this law, come from the repeated amendments of the law without coordination between various articles of the law. This new amendment aims to address

such an inaccuracy. At the same time, because several national laws overlap in the field of equality and non-discrimination – for example the Gender Equality Law and the Anti-Discrimination Law – definitions and institutional mandate also overlap.

For example, before the adoption of the Law 232/2018, harassment, including harassment on the ground of sex, was already sanctioned under the Anti-discrimination Law (Government Ordinance No.137/2000 on the prevention and sanctioning of all forms of discrimination, Articles 2 (5) and 26.(1)). The National Council for Combating Discrimination sanctioned several cases of sexual harassment or harassment on the ground of sex grounding its decisions on the Anti-Discrimination Law, not on the Gender Equality Law. From this point of view, this amendment is only doubling already existing provisions. What Law 232/2018 does, is that it gives power to the police and gendarmes to sanction sexual harassment, instead of the National Council for Combating Discrimination, an institution that developed a certain level of expertise of working on equality and non-discrimination for the last 15 years.

Another example of negative effects of the existing two laws that overlap is the fact that Law 232/2018 lowers 10 times the administrative fines for discrimination and harassment on the ground of sex. Along with the message that sex discrimination and harassment, is no longer considered as serious an offence as it was before, this change also places sex discrimination on an inferior place compared to discrimination on all the other protected grounds because the provisions of the Anti-Discrimination Law stipulate higher fines. According to Art.26 of the Anti-Discrimination Law, the fines range between RON 1 000 (EUR 210) and RON 30 000 (EUR 6 310) for discrimination against an individual and RON 2 000 (EUR 420) and RON 100 000 (EUR 21 052) for discrimination against a group or a community.

Internet link source:

- The legislative process available at: http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?cam=2&idp=17052.
- The law is available at: http://www.cdep.ro/pls/proiecte/docs/2018/pr258_18.pdf.