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THE LEGAL ASPECT IN THE FIELD OF GENDER INEQUALITY, THROUGH THE PRISM OF THE EXPERIENCE OF DIFFERENT COUNTRIES

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Abstract. *The article presents the gender inequality that has very deep historical roots and is among the most difficult to eliminate. In the legislation related to gender inequality, three phases are distinguished: one of maternity protection (even at the expense of equality), one of equality and one in which differentiated measures are introduced but aimed at restoring equality. These include actions and positive measures to rebalance electoral representation, adopted in various ways in various legal systems. The given aspect was examined from the point of view of their gender aspect in the activity of economic agents in the Republic of Moldova.*

Key words: *gender aspect in career, gender inequality, position with managerial responsibility, Global Gender Gap Index*

JEL Classification: J 16, K

Introduction

The figure of women in labor law has a controversial position today. Such a relationship has been influenced to a certain extent by the evolution of the view of women in Western society. On the other hand, we also do not try to hide the existence of a persistent gap between men and women, which has its place in the field of work. This is a legacy of the mentality of the forefathers, who saw women's emancipation as the exception rather than the rule. Over the years this subject certainly, and fortunately, is no longer considered a serious problem today, as it was in the past, but which nevertheless deserves increased attention and careful reflection, so that one can find that balance of gender equality both in everyday life. life and professional career.

From the study of the distinguished and vast legal literature related to this topic, it can be deduced at first glance that the issue of gender inequality is many years old. If we start from the experiences of the pre-fascist and fascist periods, we understand that the discipline of women's work presented a field of great interest that needed protection. The aspect of protection was clearly predominant, as sometimes the model of the worker was embodied by the male gender, that is, men occupied the key positions of society, in accordance with the patriarchal conception prevailing before the family and then the society in general.

Consequently, it was the female gender that absolutely needed increased protection and attention, so that the roles of wife, mother, and then protector of the family hearth could be preserved first. The discipline of women's work thus presents considerable limitations and

constraints on the role of women as employees and full contenders to occupy positions with managerial responsibility. Gender differences were for these reasons obvious and were deliberately noted or amplified. We understand that, as a consequence of this vision, the occupation of the female labor force could not be full, given the fact that unpaid work, or rather domestic work, was often left on the shoulders and responsibility of women, while the basic roles were assigned to men, without giving women the opportunity to build a career.

The turning point occurred with the affirmation of the constitutional principles, especially through the common results that our country recorded after the adoption of art. 16 of the Constitution of the Republic of Moldova - which contains the principle of equality. However, from reading the information related to the principle of equality and despite its current validity in our legal system, it is found that the conception of the female figure is still outdated and perhaps it can be said, outdated if we consider the culture and social thinking prevalent nowadays. From this moment, the labor legislation experienced a new phase of development aimed primarily at the implementation of the constitutional program and progressively started on a path that looked favorably on equal treatment and equal opportunities in the field of work between the sexes and the constant improvement of women. employment.

Content

The Republic of Moldova is a party to seven of the nine basic international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol. In February 2017, the government signed the Council of Europe Convention on preventing and combating violence against women and domestic violence. In accordance with the Association Agreement between the European Union and the Republic of Moldova, signed in June 2014, the Republic of Moldova undertook to gradually harmonize its legislation with EU standards and international instruments, including in the field of gender equality and non-discrimination.

The main legislative framework that promotes gender equality consists of: Law no. 5 of February 2006, on ensuring equal opportunities between women and men, Law no. 45 of March 2008, regarding the prevention and combating of family violence and Law no. 121 of May 2012, on ensuring equality. Other laws contain specific articles and references on ensuring gender equality in various fields. For example, by Law no. 71 of April 2016, 15 legislative acts were amended and supplemented, introducing, among other things, the 40% gender quota for party lists and the government cabinet, and paid paternity leave, and by Law no. 196 of July 2016, 11 legislative acts in the field of preventing and combating violence against women were amended. Relevant government strategies include the Strategy for ensuring equality between women and men in the Republic of Moldova for the years 2017 – 2021 and the National Strategy for the prevention and combating of violence against women and family violence for the years 2018 – 2023.

Despite the many advances made, equality in everyday life is not yet a reality. This is especially true for women who face exclusion or

multiple discrimination, such as women with disabilities or Roma women. Women continue to be underrepresented in decision-making positions in political and public life, have a low unemployment rate and face vertical and horizontal segregation, do most of the work

unpaid home care and experience high levels of gender-based violence in everyday life. The implementation of the legislative and policy framework on gender equality is lagging and there is a gap between the formal and effective observance of women's rights. Policies that promote gender equality are not supported by adequate funding, and the understanding and commitment of the parties responsible for their implementation is at an insufficient level.

In Moldova, women represent approximately 21% of deputies, 21% of ministers, 21% of mayors, 30% of local councilors, 18% of district councilors. They participate less than men in the labor market, the employment rate for women being 39% compared to 43% for men, and for women with children under 6 the employment rate being 40% compared to 57% for men with the same age. situation.

Also, 66% of their total working time on unpaid activities (4.9 hours per day), while men spend almost twice as much time on it (2.8 hours per day);

Internationally, in the last decades, a multitude of normative acts have been approved in support and regulation of this subject.

A source of law in the context of gender equality legislation is Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment between men and women in matters of employment workforce. and employment.

As well as Directive 2000/78 of 27.11.2000 creating a general framework in favor of equal treatment in terms of employment and employment.

The rules regarding gender equality and diversity are also contained in Directive 2013/36/EU, regarding access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms.

In the 60th recital of the aforementioned directive, the idea was presented that "in order to encourage independent opinions and critical challenge, the composition of the governing bodies of the institutions should be sufficiently diverse in terms of age, gender, origin geography, education and professionalism. experience, to bring together diverse opinions and types of experience". In addition, it notes that "the balance between men and women is particularly important to ensure an adequate representation of the organizational structure, noting that entities that do not reach a threshold of representation of the underrepresented gender should take appropriate measures as a priority".

It is also emphasized that "diversity should be one of the criteria for determining the composition of governing bodies" and that this criterion should be applied more generally and in the context of the institutions' recruitment policy.

According to art. 88, para. 2, lit. a), of Directive 2013/36/EU, the appointment committee must establish "an objective of representation of the underrepresented gender in the governing body", as well as the elaboration and development of a policy aimed at increasing the number of members belonging to the underrepresented gender. According to art. 91, para. 10, within the same directive, the member states and/or the competent authorities have the task of prescribing the obligation of the respective entities and nomination committees to take into account a wide range of qualities and skills in the selection of the members of the management body and to adopt in for this purpose measures to promote diversity within it.

From the normative provisions mentioned above, it appears that, in the sectors most affected by crises, the legislator's intervention focuses on strengthening governance rules and internal controls, regarding the independence and professional qualification of candidates destined to occupy positions with managerial responsibility. For this, it is necessary to adopt a policy to promote diversity in the processes of selection and appointment of candidates.

In the Republic of Moldova, only EC directive 2000/78 was transposed, both through Law no. 5 of 09.02.2006 on ensuring equal opportunities between women and men, as well as by Law no. 121 of 25.05.2012 on ensuring equality. We mention that society is constantly changing, so it is necessary for the Republic of Moldova to keep up with the provisions of the EU, especially since the Republic of Moldova obtained the status of a candidate country for the European Union.

Since the 2000s, state public authorities have begun a reflection on ways to increase the presence of women in corporate governance bodies. Two types of instruments have been identified: the introduction by law of optional or mandatory gender quotas and the adoption of self-regulatory initiatives based on moral mechanisms, which push companies to adopt gender-oriented behaviors in the context of the respective codes of conduct.

We note that, in addition to the regulatory provision of quotas, there is an alternative, which is different, namely an obligation assisted by a sanction.

As well as the possibility of adopting corporate governance codes, in which recommendations are inserted, intended to guide the action of companies towards the "Compliant or justified" principle, according to which companies that do not comply with the balance constraint are required in general. to explain the reasons.

Currently, three models coexist in Europe for achieving gender balance in company boards:

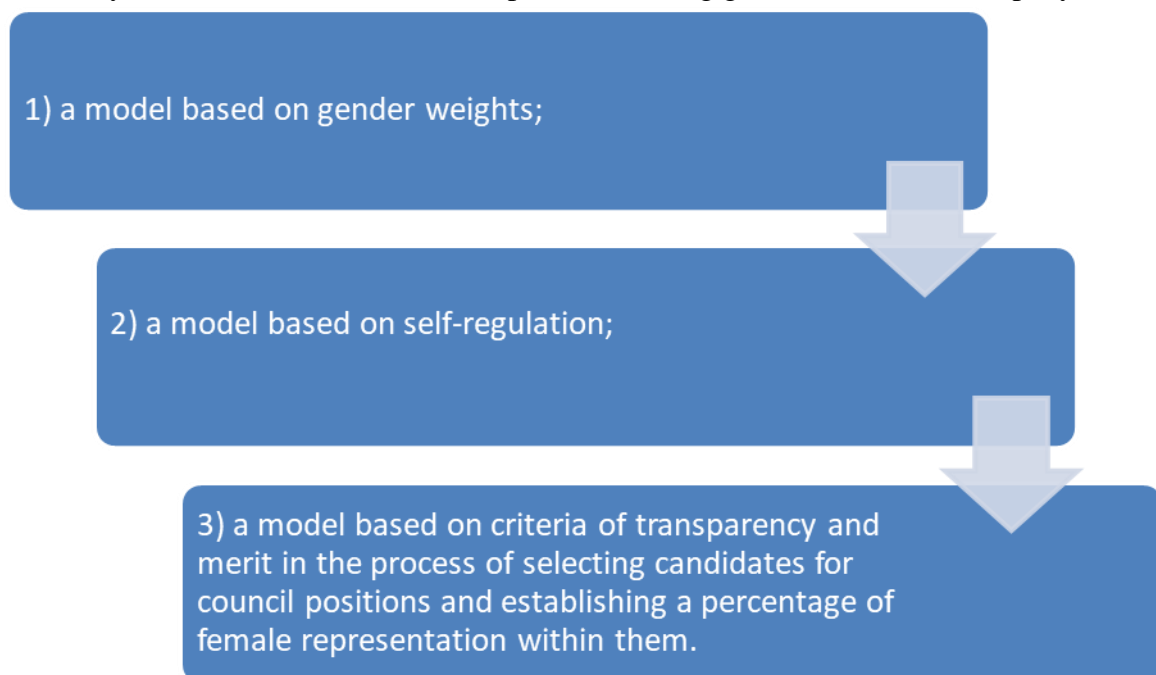


Fig.1. Models for achieving gender balance in company management

Source: elaborated by author

The aforementioned measures adopted in Norway in 2003 belong to the first type, as well as interventions implemented in Spain in 2007, in France in 2010 and in Italy in 2011. Followed by experiences from Sweden, the United Kingdom, Finland and Germany the third type is attributable to the proposal for a European directive on gender balance.

It should be noted that companies that do not comply with the conditions laid down by the Norwegian legislation on gender equality in company boards are sanctioned by the higher organizations by dissolution/dissolution.

The large listed companies in Spain, which have around fifty employees, have been motivated in this country with economic incentives to draw up plans to promote equal opportunities and to provide, by 2021, a minimum participation equal to the a little over forty percent, of each sex on the boards of directors.

In Italy, Law no. 103 of January 27, 2011, stipulates that women will be employed within six years, in a proportion of at least forty percent of the seats on the boards of directors of public and private companies. In case of non-compliance with this division criterion, the Italian legislator did not provide for a rigid sanction, such as the dissolution of the company, but opted for a more flexible solution, which is not likely to endanger the operation of the company. This entails, on the one hand, the nullity of the documents appointing the members of the board of directors of the administration, in which the quota reserved for the less represented sex is not respected, and on the other hand, the suspension of the directors' fees, if the composition of the board does not guarantee compliance with the constraint on gender balance.

The approval of this law was aimed at changing the political, social and cultural context, which is characterized by Italy's chronic backwardness in terms of the implementation of equal opportunities between men and women. The Global Gender Gap Index is a synthetic indicator developed annually by the World Economic Forum to measure the degree of gender equality in the various states of the world. Therefore, it highlights the delay registered by our country: for example, according to the 2021 report, Moldova ranks 28th out of 156 countries, while in 2022 it ranked 16th out of 146 countries.

Therefore, the introduction at the level of actions in favor of the underrepresented gender in corporate bodies, represents an important link for our country, which was recently named a candidate for the European Union, and which must comply with the appropriate standards and indicators in order to proceed to the next stage.

Conclusion

In this sense, the disciplines that appeared in the following period and that are up to the present day, tried to reconcile in the most effective way, the difficulties between the legal systems and the conditions for working women. An important achievement, achieved through the evolution of the context just described, was certainly the unprecedented improvement of the principle of equality in the attempt to achieve balance.

The concept of gender equality involves a review of the tools available to restore gender balance and leads to structuring them only as temporary and incomplete help to change a de facto imbalanced situation. With this in mind, it is necessary to operate the transition from "quota", which was created as a suitable tool to protect a minority group from being discriminated against,

to "equality", because women should not be considered a minority group and discriminated against, since they make up fifty percent of humanity.

Therefore, the principle of parity democracy does not call for the reservation of jobs for women, understood as the subjects of a discriminated group, but for the guarantee of a female presence in the labor field, which tends towards equality. Which in fact is a regulated right both internationally and nationally. In particular, the model of parity democracy requires that this parity be implemented, for both genders, in both the public and private spheres.

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