

# Ensuring the Implementation of the Principle of Gender Equality De Jure and De Facto: the Experience of the Countries of the European Union

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## ABSTRACT

Achieving equal rights and opportunities for men and women is an integral part of ensuring human rights. The inter-national ranking of the gender gap calculated by the World Economic Forum shows that there is a very big difference in its reduction in different countries of the world. The European Union has achieved the best results. This indicates the effectiveness of its measures to overcome gender discrimination. The analysis has shown that the countries — leaders in the gender gap reduction both consider gender equality a constitutional principle and include it in the sector specific legislation. They demand development and implementation of plans to overcome the gender discrimination from all organizations with more than 25 (30) people. These countries have created an effective mechanism to control ensuring the principle of gender equality, including administrative measures and even criminal prosecution in some countries.

**Keywords:** Gender mainstreaming, gender gap, gender discrimination, European Institute for Gender Equality, Ombudsman, positive discrimination, human rights, Northern Europe

## Introduction

Art. 2 of the Universal Declaration of Human Rights states that “everyone is entitled to all the rights and freedoms, without distinction of any kind, such as race, color, gender, language, religion, political or other opinion, national or social origin, property, birth or other status”<sup>1</sup>. Human rights reflect the values and ethical criteria being the backbone of the system of justice and are the basis for protecting citizens against discrimination. There are three generations of human rights: the first is civil and political rights, the second is socio-economic, and the third is collective or solidarity right.

The principle of gender equality is part of the third generation of human rights which ensures equal rights for all social strata of the population, be it children, women, people with disabilities, elderly people or other categories of citizens. The principle of gender equality is that women and men are independent (free) and equal subjects of law, including the well-known and equal autonomy of will in case of their participation in social ties and relations, the enjoyment of their rights and legitimate interests. This principle is an integral part of the system of principles for the observance of human and civil rights and freedoms. This issue has been well studied in Russian literature<sup>2</sup>. One of the first works that laid the foundation for further research was the work of S. Polenina which substantiates the concept of human rights for women<sup>3</sup>.

In the XXI century gender equality is becoming one of the key criteria by which one can judge the degree of development of democratic institutions and civil society in a particular country. At the national level, the contemporary democracies consider equality and freedom of women and men to be the basic social values and guarantee their observance by constitutions and other legal documents<sup>4</sup>. Integrating the gender perspective into policy (public and corporate) (gender mainstreaming) means that equality between women and men as an all-encompassing principle must be taken into account *in all*

<sup>1</sup> Universal Declaration of Human Rights [Electronic resource]. URL: [https://www.un.org/ru/documents/decl\\_conv/declarations/declhr.shtml](https://www.un.org/ru/documents/decl_conv/declarations/declhr.shtml) (accessed on: 28.03.2020).

<sup>2</sup> See, for example: *Alekseeva O. N.* The History of the Formation and Development of Fundamental Human Rights and Freedoms // *Colloquium-journal*. 2018. № 10 (21). Pp. 5–9; *Maksimov A. A.* Position of Gender Equality in the System of Principles of the Legal Status of the Person in Russia // *Problems of Law* 2012. № 5. Pp. 29–32; *Oleinik N. N., Oleinik A. N.* Historical Developments of Generations of “Human rights” // *Nauchnye vedomosti Belgorodskogo gosudarstvennogo universiteta. Seriya “Filosofiya. Sotsiologiya. Pravo”*. 2015. T. 33. № 14 (211). Pp. 120–128; *Shabailov D. V.* The Principle of Equality in the Context of the Principles of Equality and Justice [Printsip ravno-praviya v kontekste printsiptov ravenstva i spravedlivosti] // *Problemy upravleniya*. 2013. № 2 (47). Pp. 147–152.

<sup>3</sup> See: *Polenina S. V.* Women’s Rights in the Human Rights System: International and National Aspects [Prava zhen-shchin v sisteme prav cheloveka: mezhdunarodnyi i natsional’nyi aspekt]. M. : In-t gosudarstva i prava RAN, 2000. 255 p.

<sup>4</sup> *Voronina O. A.* Feminism and Gender Equality [Feminizm i gendernoe ravenstvo]. M. : Editorial URSS, 2004. P. 34.

decisions at every stage of the policy development process by *all* parties involved. In this case, the political process is understood as a multi-stage cycle that includes definition, planning, implementation and verification (monitoring and evaluation). In many cases, these stages are combined into a cycle that repeats as changes occur. Policy assessment can identify new problems that need to be addressed by adjusting the existing programs<sup>5</sup>.

Thus, it can be stated that the principle of gender equality, being an integral part of the concept of human rights of the third generation, is reflected both in scientific literature and in the political agenda of democratic countries. However, *de jure* recognition does not automatically mean *de facto* implementation. An analysis of the actual practice of ensuring the implementation of the principle of gender equality in the national legislation is required, as well as an assessment of the effectiveness of this legal norm in the society. Of highest interest in this regard is the experience of European countries that have been pursuing the policy of ensuring gender equality since the last quarter of the 20<sup>th</sup> century and have achieved notable success in this. Our article is devoted to the study and assessment of this experience.

**Research objective:** to analyze the practice of ensuring the implementation of the principle of gender equality in the legislation of the countries of the European Union. Special attention will be paid to the study of the legislation of Iceland, Sweden, Norway and Finland, because these countries have achieved the best results in overcoming the gender gap<sup>6</sup> in the society.

**Research methods:** comparative legal method, content analysis of regulatory legal acts, analysis of secondary sources on the research topic.

**Research hypothesis.** International requirements for the implementation of the principle of gender equality are a necessary but insufficient condition for a significant reduction of the gender gap in the country.

## Research results

As has been already noted, the principle of gender equality is one of the components of the concept of human rights of the third generation concept. In Europe, its guarantee is institutionalized at the supranational level. The standards and mechanisms for ensuring gender equality of the Council of Europe include the activities of a number of bodies and organizations, as well as a fairly large number of mandatory and recommendatory documents, their number growing constantly.

The European Institute for Gender Equality<sup>7</sup>, hereinafter the EIGE, is an autonomous body of the European Union created specifically to pursue the policy of ensuring the implementation of the principle of gender equality. This implies integrating the gender perspective in all EU strategies and ensuing national policies, combating gender discrimination in all spheres of life, and raising the awareness of EU citizens about gender equality. The EIGE gathers, analyzes, processes and disseminates data and information on gender equality issues making them comparable, reliable and relevant to all stakeholders.

As an autonomous body, the EIGE operates within the framework of the European Union policies and initiatives. The European Parliament and the Council of the European Union have given it a central role in addressing gender issues and encouraging equality between women and men throughout the European Union. The EIGE provides expertise to the European Commission, European Parliament, EU member states. This contributes to a more justified policy of promoting gender equality in Europe.

One of the conditions for accession to the European Union is the recognition of the principle of gender equality and its enshrinement in the national legislation. In addition to the law itself, it is necessary to identify the body (official) responsible for its practical implementation. At the same time, the violators of the law may be subject to various kinds of sanctions, which turns this legal norm from a wish into a real instrument for monitoring of ensuring the equality of rights of women and men in the society. Each EU country solves this problem in its own way based on the specific features of its political system and legal framework. Depending on the level of recognition of the importance of striving for gender equality at the state level, various National Mechanisms for improving the female status and implementing the policy of achieving gender equality are being built<sup>8</sup>.

<sup>5</sup> What is gender mainstreaming [Electronic resource]. URL: <https://eige.europa.eu/gender-mainstreaming/what-is-gender-mainstreaming> (accessed on: 28.03.2020).

<sup>6</sup> *Gender gap* is differences between men and women in the sense that they receive different benefits from education, employment, services, etc. // Gender Glossary [Electronic resource]. URL: [http://www.policy.hu/khassanova/glossary\\_rus.htm](http://www.policy.hu/khassanova/glossary_rus.htm) (accessed on: 28.03.2020).

<sup>7</sup> Official website of the EIGE [Electronic resource]. URL: <https://eige.europa.eu> (accessed on: 28.03.2020).

<sup>8</sup> For more detail about the National Mechanisms see: Gender Equality in the Modern World: the Role of National Mechanisms [Gendernoe ravenstvo v sovremennom mire: rol' natsional'nykh mekhanizmov / otv. red. i sost. O. A. Voronina]. M. : Maks Press, 2008. 772 p.

There is also specialized gender legislation. For example, *Denmark* has adopted the Gender Equality (Consolidated) Law 2007<sup>9</sup>, the Law on Maternity in the Private Labor Market 2006<sup>10</sup>, the Consolidated Law on Equal Treatment of Men and Women in Employment and Maternity Leave 2006<sup>11</sup>, the consolidated Equal Pay for Men and Women Act 2008<sup>12</sup>. *Sweden* has adopted the Abortion Act (as amended in 2005)<sup>13</sup>, the Equality Ombudsman Act 2008<sup>14</sup>, and the Discrimination Act (as amended in 2012)<sup>15</sup>. Since 1999, the purchase of sexual services has been considered a crime. “Over the time of the operation of the law, street prostitution in Sweden has halved, and the share of the men buying sexual services has dropped by almost a third to 8%. Since 2009, a similar legislation has been in effect in Iceland and Norway, and in 2016 the French Parliament voted for the transition to the Swedish model”<sup>16</sup>.

*Austria* has the Federal Law on the Equal Treatment Commission and Equal Treatment Attorneys (revised in 2013), the Paternity Leave Act (revised in 2015)<sup>17</sup>, and the Maternity Protection Act (revised in 2015)<sup>18</sup>. Other countries also enact special laws to ensure gender equality<sup>19</sup>.

Table 1<sup>20</sup> shows the national wording of the principle of gender equality in the constitutions of the countries of the European Union, and states the bodies (officials) responsible for its implementation.

As the analysis of the data in Table 1 shows, there are many variants of the wording of the principle of gender equality and organizing the control over its observance. A common feature is the constitutional level of enshrinement of this principle as well as the existence of supervisory bodies at the national level. It can be a ministry (Iceland, Norway), a special institution (Belgium, Spain, the Netherlands), a federal agency (Germany), a commission (Bulgaria, Ireland, Malta, Portugal), a directorate (Hungary), a center (Luxembourg, Slovakia), a department (Latvia) or a council (Denmark, Romania, the Czech Republic). The commonest variant is the existence of a national ombudsman / controller / defender of equal rights for women and men, a minister or counselor on equality issues (Austria, Hungary, Greece, Denmark, Italy, Cyprus, Lithuania, Poland, Slovenia, France, Croatia, Estonia). In some cases, there is a collegial supervisory body and an official at the same time.

It should be noted that some problems of European integration are simultaneously the problems of ensuring gender equality. For example, the low employment among certain groups of immigrant women. Many women come from countries where men and women have clear and distinct roles and responsibilities in the family and in the labor market. In some countries of immigration, women are less educated than men. The experience and attitude of some immigrants towards gender equality are under a challenge in the European society which cannot put up with the fact that some people do not enjoy the same rights and opportunities as others. Problems are encountered in the areas of upbringing and education, work and business, health and protection from violence and abuse. These are areas that are of great importance for the development of the society and for human well-being, therefore they are in the area of special attention of European states.

<sup>9</sup> Lov om ligestilling af kvinder og mænd LBK nr 1095 af 19/09/2007 / Gender Equality Law [Electronic resource]. URL: <https://www.retsinformation.dk/eli/lt/2007/1095> (accessed on: 25.04.2020).

<sup>10</sup> Lov om barseludligning på det private arbejdsmarked (barseludligningsloven) LOV nr 417 af 08/05/2006 / Law on Maternity in the Private Labor Market (Maternity Law) [Electronic resource]. URL: <https://www.retsinformation.dk/eli/lt/2006/417> (accessed on: 25.04.2020).

<sup>11</sup> Lov om ændring af lov om forbud mod forskelsbehandling på arbejdsmarkedet m. v. LOV nr 240 af 27/03/2006 / Law on Amending the Law on Prohibiting Discrimination in the Labor Market, etc. [Electronic resource]. URL: <https://www.retsinformation.dk/eli/lt/2006/240> (accessed on: 25.04.2020).

<sup>12</sup> Lov om lige løn til mænd og kvinder LBK nr 899 af 05/09/2008 / Law on Equal Labor Remuneration for Men and Women [Electronic resource]. URL: <https://www.retsinformation.dk/eli/lt/2008/899> (accessed on: 25.04.2020).

<sup>13</sup> Abortlag (1974:595) / Abortion Act (1974:595) [Electronic resource]. URL: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/abortlag-1974595\\_sfs-1974-595](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/abortlag-1974595_sfs-1974-595) (accessed on 25.04.2020)

<sup>14</sup> Lagen om DO / Swedish DO Act [Electronic resource]. URL: <https://www.do.se/lag-och-ratt/lagen-om-do/> (accessed on: 25.04.2020).

<sup>15</sup> Swedish Discrimination Act (Diskrimineringslagen 2008:567) [Electronic resource]. URL: <https://www.do.se/lag-och-ratt/diskrimineringslagen/> (accessed on: 25.04.2020).

<sup>16</sup> See: *Dobrovidova O. M = F, or Equality in Swedish / M=Zh, ili Ravnopravie po-shvedsky/* [Electronic resource]. URL: <https://ru.sweden.se/ljudi/m-zh-ili-ravnopravie-po-shvedski/> (accessed on: 01.04.2020).

<sup>17</sup> Federal Act establishing parental leave for fathers (Paternity Leave Act — VKG) № 162/2015 [Electronic resource]. URL: [https://www.ris.bka.gv.at/Dokumente/ErV/ERV\\_1989\\_651/ERV\\_1989\\_651.html](https://www.ris.bka.gv.at/Dokumente/ErV/ERV_1989_651/ERV_1989_651.html) (accessed on: 25.04.2020).

<sup>18</sup> Maternity Protection Act 1979 — MSchG [Electronic resource]. URL: [https://www.ris.bka.gv.at/Dokumente/ErV/ERV\\_1979\\_221/ERV\\_1979\\_221.html](https://www.ris.bka.gv.at/Dokumente/ErV/ERV_1979_221/ERV_1979_221.html) (accessed on: 25.04.2020).

<sup>19</sup> For more detail see: A comparative analysis of gender equality law in Europe. Brussels: European Commission, 2016 [Electronic resource]. URL: [https://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=52837](https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=52837) (accessed on: 29.03.2020).

<sup>20</sup> The table was compiled based on the materials of sources Nos. 2, 6, 7, 11, 12 and the data of the official websites of the EU member states in Internet.

**National specific features of implementation of the gender equality principle in EU member states**

Country	Wording of the guarantees of human rights, including ensuring the gender equality principle, in the constitution of the country	Commitments (actions) of the country to prevent discrimination, including gender-based	Body (official) responsible for implementation of gender equality in the country
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
Austria* <sup>1</sup>	All citizens of the Federation are equal before the law. Privileges depending on origin, gender, position, class and religion are excluded.	Measures to promote de facto equality of women with men are acceptable, in particular by eliminating de facto inequalities	Ombudsman for equal treatment
Belgium* <sup>2</sup>	There are no class distinctions in the state; Belgians are equal before the law; enjoyment of the rights and freedoms recognized for Belgians must be ensured without discrimination	The law ordains measures to prevent discrimination on ideological and philosophical grounds	Institute for Equality of Women and Men
Bulgaria* <sup>3</sup>	All citizens are equal before the law. No restrictions in the rights or privileges based on race, nationality, ethnicity, gender, origin, religion, education, belief, political affiliation, personal status or property status are allowed	The main objectives of the foreign policy of the Republic of Bulgaria are national security and independence of the country, prosperity and fundamental rights and freedoms of Bulgarian citizens, as well as assistance in the establishment of a fair international order	Commission for Protection Against Discrimination
Hungary* <sup>4</sup>	The Republic of Hungary ensures equal rights for men and women with regard to all civil and political, as well as economic, social and cultural rights	The Republic of Hungary promotes the implementation of equality by measures aimed at eliminating the inequality of chances that citizens have in exercising their rights	Directorate on Equal Treatment; Ombudsman for Basic Rights
Germany* <sup>5</sup>	All people are equal before the law. Men and women have equal rights.	The state promotes de facto implementation of equality between men and women and helps to eliminate the harmful consequences of its violation	Federal Anti-Discrimination Agency
Greece* <sup>6</sup>	Greeks are equal before the law. Greek men and women have equal rights and obligations	Taking affirmative action to promote equality between men and women does not constitute discrimination based on gender. The state takes measures to eliminate the existing inequality, in particular, to the detriment of women	Greek Ombudsman
Denmark* <sup>7</sup>	Personal freedom is inviolable. No Danish citizen can be deprived of his/her liberty in any way on the basis of his/her political or religious beliefs or origin.	Government bodies must pursue gender equality within their portfolio and integrate gender equality in all planning and management (mainstreaming)	Ombudsman for equal treatment

Table 1 continued

1	2	3	4
Ireland* <sup>8</sup>	All citizens, as human beings, must be equal before the law. This should not mean that the state is not obliged to take proper account of the differences in physical or moral ability and in social function differences in its legal instructions.	The state must, in particular, by its laws, as far as possible, protect against unfair attacks, and if such an injustice is committed, protect the life, personality, good name and property rights of every citizen.	Institute for Equality of Women and Men
Iceland* <sup>9</sup>	All are equal before the law and have human rights regardless of gender, religion, belief, nationality, race, skin color, financial status, origin and other factors. Men and women enjoy equal rights in all spheres.	After municipal elections, municipal councils appoint equality committees to discuss the equal status and equal rights of women and men in the respective municipality. The committees should advise local authorities on issues related to gender equality, and monitor and initiate measures, including specific measures, to ensure equal status and equal rights for women and men in the respective municipality.	Commission for Protection Against Discrimination
Spain* <sup>10</sup>	All Spaniards are equal before the law and no discrimination of any kind based on birth, race, gender, religion, opinion, or any other personal or social grounds is allowed	Public authorities ensure the conditions under which freedom and equality of individuals and their groups become real and effective, as well as eliminate all obstacles to their full development and promote the participation of all citizens in political, economic, cultural and social life	Directorate on Equal Treatment; Ombudsman for Basic Rights
Italy* <sup>11</sup>	All citizens have equal public dignity and are equal before the law without distinction of gender, race, language, religion, political beliefs, personal and social status	The task of the Republic is to remove obstacles of the economic and social nature which, actually restricting the freedom and equality of citizens, hinder the full development of the human personality and the effective participation of all workers in the political, economic and social organization of the country.	Federal Anti-Discrimination Agency
Cyprus* <sup>12</sup>	All people without exception are equal before the law, administrative authorities and justice, having the right to enjoy equal protection and equal treatment	Everyone enjoys all the rights and freedoms provided for by the Constitution, without any infringement of rights, indirect or direct, in connection with his/her communal affiliation, nationality, skin color, religion, language, gender, political and other convictions, national and social origin, place of birth, status, social affiliation or any other reason, unless the provision of the Constitution categorically determines otherwise	Ombudsman for administrative issues and human rights

1	2	3	4
Latvia* <sup>13</sup>	All people in Latvia are equal before the law and the courts. Human rights are exercised without any discrimination	The State recognizes and protects fundamental human rights in accordance with this Constitution, laws and international treaties binding on Latvia	Department of public integration and gender equality
Lithuania* <sup>14</sup>	Ensure the implementation of the equal rights of women and men enshrined in the Constitution of the Republic of Lithuania, as well as prohibit any discrimination of a person on the basis of gender, especially when it is related to family or marital status	State bodies provide for measures designed to ensure equal opportunities for women and men in strategic planning documents. Self-government bodies shall provide for measures designed to ensure equal opportunities for women and men in the strategic plan for the development of self-government and (or) in the strategic plan for self-government activities	Controller on equal opportunities
Luxembourg* <sup>15</sup>	Women and men are equal before the law	The state takes care of active assistance in removing obstacles that may exist in matters of equality between women and men	Equal Treatment Center
Malta* <sup>16</sup>	No person should be subjected to discriminatory treatment by any person acting on the basis of any written law or in the performance of the functions of any public institution or any public authority	The state must promote equality of men and women in the enjoyment of all economic, social, cultural, civil and political rights and, for this purpose, must take appropriate measures to eliminate all forms of discrimination between the sexes on the part of any person, organization or enterprise; the state must particularly strive to ensure that working women enjoy equal rights and receive equal pay for equal labor with men	National Commission on Equality Promotion
Netherlands* <sup>17</sup>	All people in the Netherlands should be treated equally under equal circumstances. Discrimination on the basis of beliefs, religion, political opinion, race or gender or for any other reason is not allowed	The king takes the following oath or makes the following promise on the Constitution: "I swear (promise) that I will defend and protect the independence and territorial integrity of the state to the best of my ability, that I will defend the rights and freedoms of each and every one of my subjects, that I will use the powers that I am vested with by the law to maintain and develop the well-being of each and every one, as befits a righteous and good king"	Dutch Institute for Human Rights
Norway* <sup>18</sup>	The duties of the state bodies include respect for and protection of human rights	Differentiated treatment promoting gender equality in accordance with the purpose of this law does not contradict its essence. This also applies to the special rights granted to women on the basis of biological differences between the sexes	Ministry for Children's Affairs and Equality



Table 1 continued

1	2	3	4
Poland* <sup>19</sup>	Women and men in the Republic of Poland have equal rights in family, political, social and economic life	The Republic of Poland provides Polish citizens belonging to national and ethnic minorities with the freedom to preserve and develop their own language, preserve customs and traditions, and develop their own culture	Ombudsman for human rights
Portugal* <sup>20</sup>	All citizens have equal public dignity and are equal before the law	The primary tasks of the state are: to contribute to the improvement of the well-being and quality of life of the people and real equality between the Portuguese, as well as the enjoyment of economic, social and cultural rights through the transformation and modernization of economic and social structures; promoting equality between men and women	Commission on equality in labor and employment; Commission on citizenship and gender equality
Romania* <sup>21</sup>	Citizens are equal before the law and public authorities without privileges and without discrimination	The state must ensure creation of the conditions necessary to improve the quality of life	National Council on combating discrimination
Slovakia* <sup>22</sup>	People are free and equal in dignity and rights. Fundamental rights and freedoms are integral, inalienable, non-limited and irrevocable	Fundamental rights and freedoms are guaranteed on the territory of the Slovak Republic to everyone regardless of gender, race, skin color, language, belief and religion, political or other beliefs, national or social origin, nationality or ethnic group, property status, gender and other circumstances. No one can be harmed, granted or denied benefits on the said grounds	National Center on Human Rights
Slovenia* <sup>23</sup>	In Slovenia, everyone is guaranteed equal rights and fundamental freedoms regardless of nationality, race, gender, language, religion, political or other beliefs, property status, origin, education, social status or any other personal circumstances. Everyone is equal before the law	The law must provide for measures to promote equal opportunities for men and women with regard to elections to state and local self-government bodies	Defender of the equality principle
France* <sup>24</sup>	People are born and remain free and equal in rights. Social differences can only be based on considerations of common benefit	State power is needed to guarantee human and civil rights; this power is established in the interests of all rather than in the private interests of those to whom it is entrusted	Defender of rights

Table 1 continued

1	2	3	4
Croatia <sup>*25</sup>	Freedom, equality, national equality and equality of the sexes, peacekeeping, social justice, respect for human rights, inviolability of property, nature and environmental protection, rule of law and a democratic multi-party system are the highest values of the constitutional order of the Republic of Croatia and the basis for the interpretation of the Constitution	Respecting the will of the Croatian people and all citizens, decisively expressed in free elections, the Republic of Croatia is formed and develops as a sovereign and democratic state in which equality, freedom, human and civil rights are guaranteed and ensured, as well as their economic and cultural progress and social welfare are implemented	Ombudsman for gender equality
Czechia <sup>*26</sup>	Fundamental rights and freedoms are guaranteed to everyone regardless of gender, race, skin color, language, belief and religion, political or other convictions, national or social origin, national or ethnic minority, property status, gender or other circumstances	Ratified and published international treaties on human rights and fundamental freedoms, their obligations assumed by the Czech Republic, are directly operating and take precedence over domestic law. The legislative regulation of all political rights and freedoms and their interpretation and use must create opportunities for free competition of political forces in a democratic society and ensure its protection	Government Council on equal opportunities for women and men
Estonia <sup>*27</sup>	All people are equal before the law. No one can be discriminated against because of his/her nationality, race, skin color, gender, language, origin, religion, political or other opinions, as well as property and social status or other circumstances	Ensuring rights and freedoms is an obligation of the legislative, executive and judicial authorities, as well as local self-governments	Ombudsman for gender equality and equal treatment

<sup>\*1</sup> Constitution of Austria [Electronic resource]. URL: <https://worldconstitutions.ru/?p=160> (accessed on: 25.04.2020).

<sup>\*2</sup> Constitution of Belgium [Electronic resource]. URL: <https://legalns.com/download/books/cons/belgium.pdf> (accessed on: 25.04.2020).

<sup>\*3</sup> Constitution of the Republic of Bulgaria [Electronic resource]. URL: <https://legalns.com/download/books/cons/bulgaria.pdf> (accessed on: 25.04.2020).

<sup>\*4</sup> Constitution of the Republic of Hungary [Electronic resource]. URL: <https://legalns.com/download/books/cons/hungary.pdf> (accessed on: 25.04.2020).

<sup>\*5</sup> Constitution of the Federal Republic of Germany [Electronic resource]. URL: <http://vivovoco.astronet.ru/VV/LAW/BRD.HTM> (accessed on: 25.04.2020).

<sup>\*6</sup> Constitution of Greece [Electronic resource]. URL: <https://legalns.com/download/books/cons/greece.pdf> (accessed on: 25.04.2020).

<sup>\*7</sup> Constitution of the Kingdom of Denmark [Electronic resource]. URL: <https://worldconstitutions.ru/?p=152> (accessed on: 25.04.2020).

<sup>\*8</sup> Constitution of Ireland [Electronic resource]. URL: [http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/ireland/irelnd-r.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/ireland/irelnd-r.htm) (accessed on: 25.04.2020).

<sup>\*9</sup> Constitution of the Republic of Iceland [Electronic resource]. URL: [http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/iceland/icelnd-r.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/iceland/icelnd-r.htm) (accessed on: 25.04.2020).



- \*<sup>10</sup> Constitution of Spain [Electronic resource]. URL: <http://vivovoco.astronet.ru/VV/LAW/SPAIN.HTM> (accessed on: 25.04.2020).
- \*<sup>11</sup> Constitution of the Republic of Italy [Electronic resource]. URL: <https://legalns.com/download/books/cons/italy.pdf> (accessed on: 25.04.2020).
- \*<sup>12</sup> Constitution of the Republic of Cyprus [Electronic resource]. URL: [http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/cypros/cyprus-r.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/cypros/cyprus-r.htm) (accessed on: 25.04.2020).
- \*<sup>13</sup> Constitution of the Republic of Latvia [Electronic resource]. URL: <https://legalns.com/download/books/cons/latvia.pdf> (accessed on: 25.04.2020).
- \*<sup>14</sup> Constitution of the Republic of Lithuania [Electronic resource]. URL: <https://worldconstitutions.ru/?p=115> (accessed on: 25.04.2020).
- \*<sup>15</sup> Constitution of the Grand Duchy of Luxembourg [Electronic resource]. URL: <https://legalns.com/download/books/cons/luxembourg.pdf> (accessed on: 25.04.2020).
- \*<sup>16</sup> Constitution of Malta [Electronic resource]. URL: <https://worldconstitutions.ru/?p=145> (accessed on: 25.04.2020).
- \*<sup>17</sup> Constitution of the Kingdom of Netherlands [Electronic resource]. URL: <https://legalns.com/download/books/cons/netherlands.pdf> (accessed on: 25.04.2020).
- \*<sup>18</sup> Constitution of the Kingdom of Norway [Electronic resource]. URL: <https://legalns.com/download/books/cons/norway.pdf> (accessed on: 25.04.2020).
- \*<sup>19</sup> Constitution of the Republic of Poland [Electronic resource]. URL: <https://legalns.com/download/books/cons/poland.pdf> (accessed on: 25.04.2020).
- \*<sup>20</sup> Constitution of the Republic of Portugal [Electronic resource]. URL: [http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/portugal/portug-r.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/portugal/portug-r.htm) (accessed on: 25.04.2020).
- \*<sup>21</sup> Constitution of Romania [Electronic resource]. URL: <https://legalns.com/download/books/cons/romania.pdf> (accessed on: 25.04.2020).
- \*<sup>22</sup> Constitution of the Republic of Slovakia [Electronic resource]. URL: <https://legalns.com/download/books/cons/slovakia.pdf> (accessed on: 25.04.2020).
- \*<sup>23</sup> Constitution of Slovenia [Electronic resource]. URL: <https://worldconstitutions.ru/?p=109> (accessed on: 25.04.2020).
- \*<sup>24</sup> Constitution of France [Electronic resource]. URL: <https://legalns.com/download/books/cons/france.pdf> (accessed on: 25.04.2020).
- \*<sup>25</sup> Constitution of the Republic of Croatia [Electronic resource]. URL: <https://legalns.com/download/books/cons/croatia.pdf> (accessed on: 25.04.2020).
- \*<sup>26</sup> Constitution of the Republic of Czechia [Electronic resource]. URL: [https://legalns.com/download/books/cons/czech\\_republic.pdf](https://legalns.com/download/books/cons/czech_republic.pdf) (accessed on: 25.04.2020).
- \*<sup>27</sup> Constitution of the Republic of Estonia [Electronic resource]. URL: [http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/estonia/estoni-r.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/estonia/estoni-r.htm) (accessed on: 25.04.2020).

Given the diversity of the ways to ensure the implementation of the principle of gender equality in the European Union, the question arises about the effectiveness of the work of national bodies of protection against discrimination in terms of gender, about assessing the success of individual countries in ensuring equality of rights and opportunities for its citizens: women and men.

It should be remembered that reducing gender inequality is important not only from the standpoint of democracy and the protection of human rights; it is also a condition for the prosperity of economy and society. Ensuring the full development and proper deployment of half of the world's workforce, which is women, has a profound impact on the growth, competitiveness and development of future economies and businesses around the world. In view of this, international organizations have developed a number of indicators for assessing the level of gender inequality in the society, the best known of them being the Global Gender Gap Index. It was introduced for the first time by the World Economic Forum in 2006 as a framework for determining the scope of gender differences and tracking the progress of overcoming them over time.

The index compares the national gender differences according to economic, educational, medical and political criteria and builds a ranking of countries that allows effective comparisons in terms of regions and income groups. The rankings are designed to provide global awareness of the challenges

arising from gender differences and the opportunities created by reducing them. The methodology and quantitative analysis of the ranking are intended to serve as a basis for developing effective measures to reduce the gender gap. The latest report is dated 2020 and provides information on 153 countries<sup>21</sup>.

Today, the global gender gap in the world averages 68.6%. This means that there is still 31.4% left before gender parity. The positive trend is that over the past year 101 out of 149 countries have improved their position at least slightly. At the same time, no country in the world has yet reached full parity, and only the first five countries in the ranking have closed at least 80% of the gap. Among them are four Northern European countries (Iceland, Norway, Finland and Sweden), one Latin American country (Nicaragua, 5<sup>th</sup> position). Table 2 presents regional differences in terms of economic, educational, medical and political criteria. The leader is Western Europe, with the region of Central Asia and North Africa being the last.

Table 2

**Regional differences in terms of economic, educational, medical and political indices of the gender gap<sup>22</sup>**

Figure 8 Regional performance 2020, by subindex

	Overall Index	Subindexes			
		Economic Participation and Opportunity	Educational Attainment	Health and Survival	Political Empowerment
Western Europe	0.767	0.693	0.993	0.972	0.409
North America	0.729	0.756	1.000	0.975	0.184
Latin American and the Caribbean	0.721	0.642	0.996	0.979	0.269
Eastern Europe and Central Asia	0.715	0.732	0.998	0.979	0.150
East Asia and the Pacific	0.685	0.663	0.976	0.943	0.159
Sub-Saharan Africa	0.680	0.666	0.872	0.972	0.211
South Asia	0.661	0.365	0.943	0.947	0.387
Middle East and North Africa	0.611	0.425	0.950	0.969	0.102
Global average	0.685	0.582	0.957	0.958	0.241

0  1

Table 3 presents the values of the gender gap index for the best countries and those being at the bottom of this ranking in 2020. At the end of the list, as expected, were the Arab countries. The 20 best countries include 10 countries — members of the European Union. This allows stating that the efforts of supranational institutions to promote gender equality were not in vain. The USA took the 53<sup>rd</sup> position in the ranking of 2020, Russia — 81<sup>st</sup>, China — 106<sup>th</sup>.

The presence of African, Asian and Latin American countries among the leaders of the ranking evidences that there is no direct connection between the level of economic development and the gender gap in the society. The position of women in Nicaragua appears to be better than in Germany, Great Britain or the United States. From the point of view of the dynamics of this index, a significant variation is also noticeable. It is the developing countries that have made a significant leap forward in bridging the gender gap. For example, Nicaragua has reduced it by 0.147 over 12 years of observations, while Sweden by 0.007 only. The study of the reasons for this is beyond the scope of this article, therefore, we will limit ourselves only to the statement of the fact that the countries of Northern Europe have always been among the leading countries with the best indicators.

Analysis of the dynamics of the gender gap in general shows that the countries of the world are overcoming it in very different ways but generally quite slowly. One of the reasons for this is the different legal basis for these activities. Obviously, this is due to the degree of attention paid by the state pays to the solution of this problem.

<sup>21</sup> For more detail see: Report of the International Economic Forum: Global Gender Gap Report 2020 [Electronic resource]. URL: <https://www.weforum.org/reports/global-gender-gap-report-2020> (accessed on: 28.03.2020).

<sup>22</sup> Global Gender Gap Report 2020. P. 22 [Electronic resource]. URL: <https://www.weforum.org/reports/global-gender-gap-report-2020> (accessed on: 28.03.2020).

Table 3

**The Global Gender Gap Index 2020 rankings<sup>23</sup>**

Rank	Country	Score (0–1)	Score change (2018–2006)
1	Iceland	0.877	+0.095
2	Norway	0.842	+0.043
3	Finland	0.832	+0.036
4	Sweden	0.820	+0.007
5	Nicaragua	0.804	+0.147
6	New Zealand	0.799	+0.048
7	Ireland	0.798	+0.065
8	Spain	0.795	+0.063
9	Rwanda	0.791	n/a
10	Germany	0.787	+0.034
11	Latvia	0.785	+0.076
12	Namibia	0.784	+0.098
13	Costa Rica	0.782	+0.089
14	Denmark	0.782	+0.036
15	France	0.781	+0.129
16	Philippines	0.781	+0.029
17	South Africa	0.780	+0.068
18	Switzerland	0.779	+0.079
19	Canada	0.772	+0.055
20	Albania	0.769	+0.108
21	United Kingdom	0.767	+0.031
22	United States	0.724	+0.020
23	Ukraine	0.721	+0.042
24	Russian Federation	0.706	+0.029
25	China	0.676	+0.020
26	Syria	0.567	n/a
27	Pakistan	0.564	+0.020
28	Iraq	0.530	n/a
29	Yemen	0.494	+0.034

Taking into account that the principle of gender equality is a component of the general concept of human rights, it is necessary to analyze the best practices of its implementation in order to give recommendations for improving the legislation of those countries where this principle is enshrined but is yet insufficiently implemented.

The leaders of the world gender equality ranking are four countries of the European Union: Iceland, Norway, Sweden and Finland. Let us consider their practice of ensuring the implementation of the principle of equal rights and freedoms of women and men in more detail.

In each of these countries: 1) there is a law on equality between men and women or a law on discrimination; 2) there are bodies monitoring the observance of the principle of gender equality; 3) each organization with more than 25 (30) employees develops and implements a plan to ensure gender equality; 4) non-observance of the law is subject to sanctions: administrative fines or even criminal prosecution (for more details, see table 4).

<sup>23</sup> Global Gender Gap Report 2020. P. 9 [Electronic resource]. URL: <https://www.weforum.org/reports/global-gender-gap-report-2020> (accessed on: 28.03.2020).

**Comparative analysis of national mechanisms of ensuring gender equality in the countries –  
leaders of the global gender equality ranking**

Country	Name of the gender equality law	Name of responsible bodies / officers	Gender equality plan	Sanctions for non-performance of the law / plan
Iceland* <sup>1</sup>	Law on equal status and equal rights of women and men	Equal Rights Complaints Committee, Gender Equality Bureau, Gender Equality Council, Gender Equality Directorate	Companies and organizations with 25 or more employees must adopt a gender equality plan or integrate aspects of gender equality in the policy regarding their employees on an annual basis	Daily fines may amount up to 50,000 ISK per day
Norway* <sup>2</sup>	Equality and Anti-Discrimination Act	Ombudsman for Equality and Anti-Discrimination, Department for Equality, Non-Discrimination and International Relations, Committee for Gender Equality, Council for Equality and Discrimination	Employers 'and workers' organizations must make vigorous, targeted and systematic efforts to promote equality and prevent gender discrimination in their respective fields of activities	Punishment in the form of a fine or imprisonment for a term not exceeding three years
Sweden* <sup>3</sup>	Anti-Discrimination Law (Act)	Commission to Suppress Violations of Democracy, Ombudsman for discrimination issues	An employer who employed 25 or more employees at the beginning of the calendar year must draw up a plan for achieving gender equality at the enterprise every three years. During the year, the employer must document the work on the application of active anti-discrimination measures * <sup>4</sup>	Administrative fine or imprisonment for up to three years
Finland* <sup>5</sup>	Men and Women Equality Law	Ombudsman for equal opportunities under the Ministry of Justice; Ombudsman for gender equality; Commission on equality and gender equality	If an employer employs at least 30 employees on a regular basis, the employer must draw up a plan of ensuring equality at least every two years, in particular, regarding labor remuneration and other labor conditions which is to include measures to encourage equality	Anybody violating the discrimination ban is to pay compensation to the affected person. The refund is to be at least 3,240 EUR

\*<sup>1</sup> Lög um jafna stöðu og jafnan rétt kvenna og karla / Law on Equal Status and Equal Rights of Women and Men of Iceland. No. 10. March 6, 2008. [Electronic resource]. URL: <https://www.althingi.is/lagas/nuna/2008010.html> (accessed on 25.04.2020).

\*<sup>2</sup> Act relating to equality and a prohibition against discrimination (Equality and Anti-Discrimination Act) of Norway [Electronic resource]. URL: <https://lovdata.no/dokument/NLE/lov/2017-06-16-51> (accessed on 25.04.2020).

\*<sup>3</sup> Diskrimineringslagen / Anti-Discrimination Act of Sweden [Electronic resource]. URL: <https://www.do.se/lag-och-ratt/diskrimineringslagen/> (accessed on: 25.04.2020).

\*<sup>4</sup> Active measures are prevention and advocacy work to combat discrimination in the organization and other ways to encourage equal rights and opportunities regardless of gender, gender identity or expression, ethnicity, religion or other beliefs, disability, sexual orientation or age).

\*<sup>5</sup> Laki naisten ja miesten välisestä tasa-arvosta / Закон о равенстве мужchin и женщин 8.8.1986 / 609 Finland [Electronic resource]. URL: <https://www.finlex.fi/fi/laki/ajantasa/1986/19860609> (accessed on: 25.04.2020).).

Note that in half of the cases, the combat against gender discrimination is an integral part of the overall fight against discrimination, including based on religion or ethnicity. Therefore, the laws are called “On equality and the prohibition of discrimination” (Norway)<sup>24</sup> or “On Discrimination” (Sweden)<sup>25</sup>.

Sweden, for example, used to have “five basic regulations prohibiting discrimination in labor relations: the Law on Equal Opportunities for Men and Women in the Work Sphere (1991)<sup>26</sup>; the Law on the Prohibition of Ethnic Discrimination (1999)<sup>27</sup>; the Law Prohibiting Discrimination of People with Disabilities (1999); the Law Prohibiting Discrimination Based on Sexual Orientation (1999)<sup>28</sup>; Prohibition of Discrimination of Employees Working Part Time and Employees with Fixed-term Employment Act (2002)<sup>29</sup>. On January 1, 2009, a new Anti-Discrimination Act entered into force<sup>30</sup>. It replaced the anti-discrimination laws in Sweden by uniting them into a single regulatory act that additionally prohibited discrimination based on age and sexual identity. As a result, the prohibition of discrimination extended to the following grounds: gender, self-identification or self-expression atypical for a particular gender, nationality, religion or belief, disabilities, sexual orientation, age<sup>31</sup>.

In reality, this approach is more modern. Scientific studies show that gender inequality is in practice included in different types of other inequalities, therefore, to overcome it, it is necessary to use an intersectional tool that “addresses different types of discrimination simultaneously and helps to understand how different combinations of identities affect access to rights and opportunities”<sup>32</sup>. In other words, the movement towards gender equality should be carried out by combating discrimination on various grounds: race, religion, language, country of origin, etc.

The Russian Federation does not yet have special laws on ensuring the principle of gender equality. This leads to the fact that there are still unresolved issues of improving some norms of the family, criminal, criminal and penal, pension legislation, as well as the legislation in the field of education and ensuring the health of citizens, from the point of view of the implementation of the principle of equality of men and women. Moreover, as the recent discussion of the draft federal law on combating domestic violence has shown, some legal norms may conflict with others. This relates to the decriminalization of beatings, which in fact makes the very idea of a law to combat domestic and domestic violence meaningless. All this explains the extremely modest position of our country in the international ranking to reduce the gender gap in the society.

## Conclusion

The above analysis allows confirming the research hypothesis that the demand to follow the principle of gender equality enshrined in the international law is a necessary but insufficient condition for a significant reduction in the gender gap in the country. In practice, the countries of the world have very different results in bridging the gender gap in the rights and opportunities of their citizens. While Iceland,

<sup>24</sup> Act relating to equality and a prohibition against discrimination (Equality and Anti-Discrimination Act) of Norway [Electronic resource]. URL: <https://lovdata.no/dokument/NLE/lov/2017-06-16-51> (accessed on: 25.04.2020).

<sup>25</sup> Diskrimineringslagen / Discrimination Act of Sweden [Electronic resource]. URL: <https://www.do.se/lag-och-ratt/diskrimineringslagen/> (accessed on: 25.04.2020).

<sup>26</sup> Lag (1979: 1118) om jämställdhet mellan kvinnor och män i arbetslivet / Law (1979: 1118) on Equality of Women and Men in Labor Life [Electronic resource]. URL: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-19791118om-jamstalldhet-mellan-kvinnor\\_sfs-1979-1118](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-19791118om-jamstalldhet-mellan-kvinnor_sfs-1979-1118) (accessed on: 25.04.2020).

<sup>27</sup> Lag (1994: 134) mot etnisk diskriminering / Law (1994: 134) against Ethnic Discrimination [Electronic resource]. URL: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1994134-mot-etnisk-diskriminering\\_sfs-1994-134](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1994134-mot-etnisk-diskriminering_sfs-1994-134) (accessed on: 25.04.2020).

<sup>28</sup> Lag (1999: 133) om förbud mot diskriminering i arbetslivet på grund av sexuell läggning / Law (1999: 133) on Prohibition of Discrimination in Labor Life based on Sexual Orientation [Electronic resource]. URL: <https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1999133-om-forbud-mot-diskriminering-i-sfs-1999-133> (accessed on: 25.04.2020).

<sup>29</sup> Prohibition of Discrimination of Employees Working Part Time and Employees with Fixed-term Employment Act (2002: 293) [Electronic resource]. URL: <https://www.government.se/4ac82e/contentassets/bf6cc61affe746dc9fff402361e4cfe5/sfs-2002293-prohibition-of-discrimination-of-employees-working-part-time-and-employees-with-fixed-term-employment-act.pdf> (accessed on: 25.04.2020).

<sup>30</sup> Discrimination Act [Electronic resource] URL: [http://www.do.se/Documents/pdf/new\\_discrimination\\_law.pdf](http://www.do.se/Documents/pdf/new_discrimination_law.pdf). (accessed on: 29.03.2020).

<sup>31</sup> See: *Isaeva E. A., Stefanova K. I. The Battle for Gender Equality in Sweden: Steps to Success / Борба за гендерное равенство в Швеции шаг к успеху* [Electronic resource]. URL: <http://jurnal.org/articles/2012/uri1.html> (accessed on: 01.04.2020).

<sup>32</sup> Theory of intersectionality: an instrument of gender and economic justice [Electronic resource]. URL: <http://ravnopravka.ru/2011/03/теория-пересечений-intersectionality-инструмент-ге/> (accessed on: 29.03.2020).

the leader of the world ranking, has a gender gap of only 12.3%, in Yemen, which is in the last position of the ranking, this gap is 50.6%. To effectively reduce the gap in the rights and opportunities of women and men, it is necessary to supplement the effect of the international law with the development and implementation of a regional and national legislation.

In the countries of the European Union, the principle of gender equality is institutionalized at the supranational level. The European Institute for Gender Equality has been established and is successfully operating. Its main task is to integrate the gender perspective into all EU strategies and national policies of the EU member states, to combat gender discrimination in all spheres of life, and to raise awareness of EU citizens about gender equality. As a result, 10 countries out of the 20 leading countries in bridging the gender gap are European Union states.

At the same time, each of the 27 EU countries implements the principle of gender equality in its own way. It is a constitutional principle, but it is often included in the broader context of respect for human rights and the fight against discrimination. There are various bodies controlling the observance of the principle of gender equality: ministries, institutes, agencies, commissions, directorates, centers, councils, departments. The commonest variant is the existence of a national ombudsman / controller / defender for the equal rights of women and men, a minister without portfolio or an equality adviser. In some cases, countries simultaneously have a collegial supervisory body and an officer.

The leaders of the world ranking of gender equality are four countries of the European Union: Iceland, Norway, Sweden and Finland. A specific feature of their national mechanisms for ensuring gender equality is that, apart from laws on gender equality and the bodies controlling their implementation, all organizations with more than 25 (30) employees are obliged to develop plans to combat discrimination, including on the basis of gender, and to report on their implementation. Violators are subject to administrative punishment, and even criminal prosecution in a number of countries. This turns the principle of gender equality into a real legal norm. At the same time, the implementation of this principle in these countries is ensured at all levels of lawmaking: general, private, and industry-related.

Not everything in the European practice of combating discrimination on the basis of gender is positive and indisputable, of course. There are cases when citizens abuse their rights making unfounded claims against employers, hoping to receive material compensation. There is a certain asymmetry in favor of protecting the rights of women; men often become objects of discrimination, especially in the family law. In addition, the fight against new forms of discrimination deserves attention, for example, electronic (digital) inequality related with the fact that women have fewer opportunities to get education in the field of IT technologies and modern jobs. All this is only just beginning to be reflected in the European legislation and may become the subject of our further research of the chosen topic.

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