

MECHANISMS TO PROTECT WOMEN'S RIGHTS AT EUROPEAN AND INTERNATIONAL LEVEL

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ABSTRACT: *Equality between women and men is a fundamental right, a common value of the European Union and a necessary condition for achieving the goals of growth, employment and social cohesion at EU level. Although there are still a number of inequalities, in recent decades the EU has made significant progress in giving women and men equal opportunities. This is primarily due to equal treatment legislation, measures to integrate the principle of equal opportunities into all Community policies and specific measures to promote women.*

KEY WORDS: *women rights, governmental, discrimination, equality, dignity.*

JEL CLASSIFICATIONS: *K15, K330.*

1. INTRODUCTION

The dynamics of the human rights movement has been and is linked to the activity of international organizations as well as ideologies. While ideologies provided the basis and legitimacy of human rights organizations international intergovernmental and non-governmental organizations have played a role essential in the codification of legal norms of international human rights and monitoring their implementation by Member States. Thus, the United Nations played a decisive role.

2. REGULATIONS ON WOMEN'S CIVIL, POLITICAL, SOCIAL AND CULTURAL RIGHTS

The principles of non - discrimination and equality have been very clearly expressed since the two International Conferences in Dumbarton Oaks and San Francisco, respectively, at which the United Nations Charter was drafted . Thus, the UN Charter is the first international document that enshrined in specific terms equal

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rights between women and men. This principle is stated in the preamble so as and among the purposes and principles of the document "promoting and encouraging respect for human rights and the freedoms essential for all without distinction as to race, sex, language or religion". Similar provisions contain and other acts of the Organization of Nations United, such as: Declaration Universal Human Rights proclaimed on 10 December 1948, the Covenant on Civil and Political Rights adopted on 16 December 1966, or the Covenant on Economic, Social and Cultural Rights adopted on 19 December 1966.

However, most organisms' international bodies set up to ensure the principles laid down by the Organization International of Nations United, and Human Rights Committee or Commission on Human Rights, are not working directly to protect women's rights, but in the alternative, guaranteeing human rights in general. This situation can be explained by the fact that human rights are universal, and women's rights should not be guaranteed by special mechanisms other than those affected by human rights.

However, the reality is that special tools and mechanisms are needed to guarantee women's rights. Thus, as early as 1952, the United Nations General Assembly adopted the Convention on the Political Rights of Women. Translating into practice the principle set out in the preamble to the United Nations Charter, this convention is the first international treaty with a vocation for universality that defines the legal status of women in society. By adopting the Convention on the Political Rights of Women, the parties shall recognize that everyone is entitled to participate in the life of political society, so giving men and women equal enjoyment and exercise of political rights. Articles 1 and 3 of the Convention sets out the following specific rights of women: the right to vote in all elections, in conditions of equality with men, without any discrimination; women are eligible in terms of equality with men in all elected public bodies constituted under the law national without discrimination; women in conditions of equality, same as that and men to hold any public office and to exercise any of the functions of government established on the basis of legislation national, without any discrimination.

The list of women's rights guaranteed by the United Nations was completed in 1966 by the International Covenant on Civil and Political Rights. Article 25 of the Covenant provides that every citizen has the right and the possibility, without any discrimination: - to take part in the conduct of public affairs, either directly or through elected representatives; to elect and be elected, in regular elections, honestly, with universal and equal suffrage and by secret ballot, ensuring the free expression of the will of the voters; to have access, in general conditions of equality, to the public positions in his country. Thus, the Convention on the Political Rights of Women together with the International Covenant on Civil and Political Rights are the documents of the United Nations governing the political rights of women. These are the main tools that have led to the recognition of women's suffrage.

Despite the provisions of the Universal Declaration of Human Rights, the UN Charter, and the two covenants, equal rights for women continue to discriminate. For this reason, in 1967, at the proposal of the Commission on the Status of Women, the UN General Assembly unanimously adopted the Declaration on the Elimination of

Discrimination against Women. According to the first article of the declaration, discrimination against women is unfair, being a violation of human dignity. Thus, Article 2 calls for the abolition of existing laws, customs, regulations and practices that lead to discrimination against women and the adoption of appropriate legal measures to ensure equal rights for women and men. The Declaration recognizes in other articles the following women's rights: civil liberties, the right to citizenship, civil rights, the repeal of discriminatory provisions in the penal codes, the prohibition of trafficking in women and the exploitation of female prostitution, the right to education, economic and social rights.

The International Year of Women is followed by the adoption by the UN General Assembly in 1979 of the Convention on the Elimination of All Discrimination against Women. The Convention is a multilateral treaty containing the substantive provisions of the Declaration on the Elimination of Discrimination against Women. The preamble reaffirms the need for fundamental human rights to be respected, especially those involving the elimination of forms of discrimination based on sex. It draws attention to the fact that discrimination against women means a violation of the principle of equal rights, constituting an obstacle to the participation of women on equal terms with men, the life political, social, economic and cultural. Thus, as and declaration, the Convention considers discrimination against women is incompatible with human dignity. Therefore, women's right to contribute equally to the improvement of living conditions must be promoted and protected. The novelty of the convention is that it establishes international mechanisms and levers for the implementation of its provisions. Thus, the signatory states must report to the United Nations information on the measures taken to achieve the objectives of the Convention. International bodies empowered to settle disputes between States Parties concerning compliance with the Convention shall also be provided for.

The Convention on the Elimination of All Forms of Discrimination against Women is structured in six parts, totaling 30 articles. The first part defines the term "discrimination against women" and sets out the legislative ways in which states must ensure respect for women's rights. Thus, discrimination against women is defined as "any differentiation, exclusion or restriction based on sex, which has the effect or purpose of compromising or annihilating the recognition, benefit and exercise by women, regardless of their marital status, on the basis of equality. between man and woman, of human rights and fundamental freedoms, in the political, economic, social, cultural and civil fields or in any other field ". In the second part, it establishes equality of civil rights and political ties between women and men. Among these most important rights are considered to be those established in Articles 7 and 8: the right to vote and to be elected, as well as the right to participate as a representative of the state in all international structures.

3. REGULATIONS ON VIOLENCE AGAINST WOMEN

The United Nations spoke explicitly about violence against women as a violation of human rights at the Second UN International Conference on Women's Rights, held in Vienna in 1993. The Conference stated that "women's rights are

inalienable and integral part of universal human rights ". Following this conference a United Nations Organisation has issued in December 1993, a Declaration to eliminate all forms of violence on women. According to the Declaration of Vienna and Program of Action of Vienna, the rights of women is a component inalienable and inseparable the rights universal of man , which does not have relativized by invoking customs cultural and traditional.

The Declaration on the Elimination of All Forms of Violence against Women lists the following forms of violence against women in the public and private spheres that constitute human rights violations:

- physical, sexual and psychological violence in the family, including physical and sexual abuse of girls;
- dowry violence;
- marital rape;
- mutilation of the female genital's and the other practices traditional adversely affecting the integrity of the female body;
- violence outside of marriage and violence in the context of exploitation;
- physical, sexual and psychological violence outside the community, including rape, sexual abuse, sexual harassment and intimidation in the workplace, in educational institutions, etc.;
- trafficking in women and forced prostitution;
- acts of physical, sexual and psychological violence committed by the state or committed with its consent, sexual and psychological violence no matter where it occurs.

4. REGULATIONS ON TRAFFICKING IN WOMEN

United Nations condemns slavery, trafficking and exploitation of women by drafting and adopting five conventions. Thus, the first international instrument aimed at combating trafficking in women was the Paris Agreement of 1904 for the Suppression of Trafficking in Women. In 1910, the International Convention on the Suppression of Trafficking in Women was adopted. In the same year, the first document adopted internationally to refer to publications with content obscene or relative commitment to repression circulation publications obscene. According to this document, the States Parties undertook to establish an authority to oversee the implementation of the commitment by various means expressly specified in the document.

These documents along with other instruments of international adopted in the first half of the twentieth century for the protection of women and children, leading to the adoption of the Convention for the Suppression of Trafficking in being human and exploitation of prostitution of others in 1949. This Convention aimed to combat trafficking in women and children, considering pimping and organizing prostitution as illegal activities. Thus, the States Parties to the Convention decide: "to punish any person who, in order to satisfy the passions of another: entices, attracts or urges, in view of prostitution, another person even with his consent; exploits another person's prostitution even with their consent "

Moreover, states undertake to sanction those who run or finance in any form, a house of tolerance. States Parties also undertake to communicate to the UN Secretariat-General any changes in legal rules, regulations and administrative practices relating to the subject matter of the Convention. However, this UN move was a failure as the treaty was adopted by a small number of states, and some states parties violated it. For example, although France has ratified the convention, it taxes prostitution, so that the state favors the opening of houses of tolerance through legislative regulations. In other states parties, prostitution is an unlawful activity, but the authorities show a tolerant and does not adopt sanctions drastic combat. Despite the tools created by the United Nations, the international community is facing serious violations of women's rights in the context of differences between the West and the East.

As can be seen, the United Nations has tried to promote and guarantee equality between women and men, but the doctrine pointed out that discriminatory practices that frequently affect women's status - such as rape, trafficking in human beings, exclusion from public life or other traditions that result in forms of violence against women - are not analyzed and interpreted as prejudicial. human rights. As a consequence, they do not fall within the scope of instruments International that Organization Nations United wants to guarantee respect for fundamental human rights. Such forms of discrimination against women persist even and in the countries that joined the various treaties international, including those adopted by the Organization of Nations United.

5. PROCEDURES FOR SANCTIONING VIOLATION ACTS OF WOMEN'S RIGHTS

The Convention on the Elimination of All Forms of Discrimination against Women is accompanied by an optional protocol which allowed discriminated persons in one of the areas mentioned in the Convention to address their complaints to the Commission for the Elimination of Discrimination against Women. Protocol has established and the conditions in which could be made a such a referral: State of which belongs to the person who addressed the complaint has to be signed in advance so Convention as and protocol optional; all ways legal for solving the problem in the interior of the state have to be exhausted. This work is available and then when the country that does not exist or a way for women of the - and express complaints, or if the courts national consider the rights of traditional or by custom over all other rights.

If a person or group of persons shall refer committing acts of violation of women's rights in countries signatory to the Convention, the Commission may request the Contracting State women take prior measures to ensure the rights of those affected. In addition, the Commission may initiate its own investigations if it has been informed of "serious or systematic infringements of the rights enshrined in the Convention".

Any violation of women's rights may also be brought before the International Court of Justice in The Hague for sanction. The International Court of Justice is the main judicial body of the United Nations. Jurisdiction take it is complementary jurisdictions criminal national, and according to the status of this Court has the

personality legal international, being competent to perform functions on the territory of any State -Part to Status.

6. POLICY ORGANIZATION, INTERNATIONAL LABOR ORGANIZATION (ILO)

Organization International Labor was the first institution international who legally adopted rules in favor of women's rights and thereby implicitly in favor of equality of opportunities between women and men. This debut took place in 1919 in Washington with the adoption of Convention no. 3 on maternity protection. Article 2 of the Convention defines the concept of woman and child: "the term woman means any person of any gender, of any age or nationality, whether married or not, and the term child refers to any child, whether legitimate or not." The Convention also introduces the woman's right to maternity leave of at least six weeks, as well as the employer's obligation to pay for such leave (art. 3). This Convention regulates at international level the impossibility of the employer to dismiss a woman on maternity leave (art. 4).

The notions of equal opportunities and equal treatment began to be used in 1958, when the International Labor Organization adopted Convention no. 111 on discrimination in labor work and the profession. Through this Convention, the ILO provides for mandatory minimum standards for signatory states in order to protect the individual against discrimination.

World Labor Organization Convention no. Regulation (EC) No 183/2000 lays down certain ideas and guidelines to encourage Member States to introduce protective measures in the field of maternity in their legislation, thus contributing to the protection of women's rights at international level. Also, the ILO Convention provides for the right to sick leave, indicating the minimum duration, expressed in weeks, but also the minimum amount of allowance that the employee must receive during maternity leave (2/3 of the woman's minimum income). Convention provides and women's right for pregnant women or nursing breaks to be treated as periods worked, which is due to pay. At the end of maternity leave, according to the ILO Convention, she has the right to return to the same or a similar position.

European Union policy. Equality between women and men is a fundamental right, a value common to all Member States and a necessary condition for achieving the fundamental values and objectives promoted by the European Union.

The European Union has recognized from the outset the importance of equal treatment, enshrining in the Treaty of Rome the principle of equal pay for men and women, for equal work (art. 119). Ideologists consider Article 119, the source of legislation Community with regard to equality between women and men in the work.

The Amsterdam Treaty (1997) includes an article on the general principle of non-discrimination. The European Union can eliminate all forms of discrimination, including sex. Actions shall be taken by the Council of Ministers by decisions taken unanimously on the basis of proposals from the Commission and after consulting the European Parliament. Moreover, the Amsterdam Treaty explicitly reinforces the principle of equality between men and women in the workplace (art. 141). For the

purposes of this article, pay "means the minimum or ordinary wage, either in cash or in kind, which the worker receives, directly or indirectly, for his work from his employer.". Paragraph 2 of the same article establishes that the remuneration to understand the basic salary or minimum, treatment and all other benefits paid directly or indirectly, in cash or in kind, which the worker for his work. Equal pay without discrimination based on sex, involves:

a) the remuneration granted for the same work paid in the agreement to be established on the basis of the same unit of measurement;

b) the remuneration granted for a job paid in relation to the time worked must be the same for an identical job.

Article 141 has direct effect, both vertically and horizontally, in the sense that it gives rise to rights and obligations both between States and natural persons and between individuals. The Amsterdam Treaty transformed equal treatment between men and women into a community goal (art. 2) by providing for the need to eliminate inequality and promote equality between men and women (art. 3 para. 2). The Treaty introduces the concept of positive discrimination, on the basis of which Member States can take action to promote women in order to balance the situation in the fields of work.

Before the adoption of the Treaty of Amsterdam, the competence of the community to act directly against discrimination has been challenged and, of that, Article 13 introduced by the Treaty has represented an important development in the field of non-discrimination, attributing Council powers for the taking measures to combat the discrimination on the basis of sex, race, origin, ethnicity, religion or opinion, disability, age or orientation sexual. Article 13 does not constitute a ban on direct to discrimination, but in May rather a provision that allows the community to adopt a series of measures against discrimination. This prohibition on discrimination is addressed to the Member States. It is applied and the plan horizontally, ie in agreements collective of work and the contracts of individual to work and gives protection against discrimination, direct and indirect.

The Council is also tasked with acting on a proposal from the Commission to combat discrimination.

Also, by the Treaty of Amsterdam provided for the suspension clause that can be used against Member States that infringe repeatedly principles underlying the European Union, including the principle of equality of gender.

The Lisbon Treaty (2009) establishes a clear European vision of equality between women and men by reaffirming the principle of gender equality in all European Union policies: "In its actions, the Union seeks to eliminate inequalities and promote equality between men and women. "

The Charter of Fundamental Rights of the European Union, a document that has the legal value of a treaty, refers to the principle of equality between women and men and includes provisions on maternity, emphasizing the rights of pregnant women and mothers. Thus, Article 33 provides that reconciling life family and life training, everyone has the right to be protected against dismissal on grounds of maternity, as well and the right to paid maternity leave and a paternity leave granted after birth or adoption of a child.

Derived community normative framework. The European Union institutions have taken action at various levels to promote equality between women and men. Thus, the European Council and he expressed willingness policy to participate in promoting equality of opportunity, adopting a series of resolutions and recommendations, the latest referring to participate equally to men and women in decision-making. Thus, although the European Convention on Human Rights does not enshrine in a general way, the principle of equality between women and men is prohibited, according to art. 14, any discrimination based inter alia on sex differences in what the rights it protects. Moreover, through Protocol no. 7 Add the Convention to lay down the principle of equality of rights and duties of spouses in marriage.

The European Social Charter contains a number of specific rights in favor of women, including: equal pay for workers, regardless of gender; protection of working mothers and women; social and economic protection of women and children. The 1988 Additional Protocol includes the right to equal opportunities and undifferentiated treatment in the workplace and in the professional field, without discrimination on grounds of sex. And the Revised Social Charter contains a special clause prohibiting any discrimination, including on the basis of sex. According to doctrine, the most important document developed by the Council of Europe in the field of women's rights, is the Declaration on Equality between Women and Men of 1988. This document states that "equality is an integral part of human rights and the eradication of any discrimination based on sex is a condition sine qua non of democracy and an imperative of justice social."

By this statement, Member States of the Council states that in order to accelerate the establishment of equality in fact between women and men are needed on temporary special measures:

- protection of women's individual rights;
- participation of women in the life of political economic, social and cultural;
- women's access to all levels of public office;
- access to education and free choice of the type of education and the training of professional initial and continuous;
- eradicating violence against women in the family and in society;
- promoting women's economic independence;

However, the first Commission document on gender equality is Directive 76/207 / EEC on the implementation of the principle of equal treatment between men and women as regards access to employment, training and promotion and working conditions, which lays down the obligation for Member States to include in their national legislation the provisions necessary to ensure equal treatment for men and women as regards access to employment, training and vocational promotion, and as regards working conditions. In Article 2 of the Directive is defined principle of equality of treatment under c Arui " there will be no one kind of discrimination on the basis of sex, directly or indirectly, by reference in particular to the status material or family ". In paragraph 2 of the same article is provided for a single exception to this principle relating to activities in that " due to the nature of their or the environment in which are carried out the sex worker is a factor determining "

By paragraph 3 of the same article is inserted in legislation Community concepts of discrimination indirect and act positively in favor of women, by offering the possibility of Member States to adopt provisions on the protection of women, with the difference related to pregnancy and maternity.

However, Directive 76/207/ EEC does not define the concepts of discrimination, direct or indirect, because, previously, have been adopted Directive 2000/43 / EC on putting in application of the principle of equality of treatment between persons without distinction of race or origin, ethnic, and Directive 2000/78 / EC on creating a framework generally in favor of equality of treatment in matters of employment and work, which defines discrimination directly and indirectly. The result has been necessary the adoption of Directive 2002/73 / EC to add these definitions in the field covered by Directive 76/207 / EEC. Directive 2002/73 / EC makes reference, by also to harassment and harassment sexual declaring them up contrary to equality of treatment between men and women. It stresses that these forms of discrimination are manifested not only in places of work, but also, with the opportunity of joining in a place of work and training professional. For such, the directive emphasizes the law on which it is she located the leave of maternity or to end it by the - and resume the place of work or one equivalent in terms that to not them either in May less favorable and to benefit from any improvement of conditions of work to which she would have been entitled to during the absence of his. Any treatment May least favorably suffered by a woman related to pregnancy or the leave of maternity in the meaning of Directive 92/85 / EEC constitutes discrimination within the meaning of Directive 2000/73 / EC.

Activities Professional on which Member States may exclude from the field of application of Directive 76/207 / EEC need to be limited to those who require hiring a person of a particular sex, in consideration of the nature of activities professional concerned, the objective pursued must to be legitimate and in accordance with the principle of proportionality, as set out in the case law of the European Court of Justice.

7. CONCLUSIONS

In essence, the documents drawn up by the European Union institutions and adopted by the Member States aimed to affirm and guarantee gender equality, so that women no longer have to choose between family life and career, to be paid equally to men for the same work. to occupy an equal number of functions of the highest in the business and the administration.

However, equal opportunities are far from being achieved in the context of the European Union. Statistics show that women who work part-time are more numerous than men, and are, on average, less paid than men, occupying fewer positions of responsibility.

Alongside the instruments created, the European Union has launched extensive projects over time to combat the negative effects of gender inequality by developing Member States' legislation in six priority areas: economic independence - equal for women and men, reconciling life. private and professional life, equal representation in decision-making, eradication of all forms of violence based on gender, gender stereotypes, promoting equality mainstreaming in external policies and development.

More European Commission and he is committed to carefully watch the implementation of the directives on the implementation of the principle of equal treatment between women and men in the access to employment, vocational training and promotion, and access to goods and services. Violation of these directives by any Member State entails severe penalties from the European Union.

The analysis of the main attributions of all international and European bodies working in the field of women's rights reveals that the agencies, in order to ensure the principle of non-discrimination, make efforts to educate and train women, carry out public awareness campaigns, support states to implementation of various public policies with reference to equal opportunities.

Advances in international and regional legislation, the structures created and the action programs initiated have led to an improvement in the situation of women in most countries of the world. However, despite these steps, the situation of many women does not live up to the standards. There are still states in which women do not enjoy equal status with men. There are also areas of activity in which the principle of non-discrimination is not yet fully applied, such as the political field in which women are restricted from access to management positions.

There is no doubt that international and regional bodies will continue to fight to support and promote women's rights.

REFERENCES:

- [1]. Aurescu, B., Nastase, A. (2015) *Drept internațional public. Sinteze*”, ediția a 8-a, Editura CH Beck, 2015
- [2]. Balahur, D. (2007) *Protectia europeană a drepturilor omului. De la Magna Charta la Carta Drepturilor Fundamentale a Uniunii Europene*. Ed. Universității Al. I.Cuza, Iasi
- [3]. Bock, G. (2002) *Femeia în istoria Europei*, Editura Polirom, Iași, Ed.Polirom
- [4]. De Beauvoire, S. (1998) *Al doilea sex*, Editura Univers, București
- [5]. Hecker, E.A. (2004) *A short history of women's rights*, Ed. Blackmask
- [6]. Miga-Besteliu, R. (2000) *Organizații Internaționale Inter-guvernamentale*, Ed. ALL Beck, București, pp. 47
- [7]. Drepturile femeii – reglementări internaționale și naționale, IRDO, București, 1995
- [8]. Șanse egale, șanse reale. Studii și cercetări privind drepturile femeii – Equal Opportunities, Real Opportunities. Studies and Research on Women's Rights, IRDO, București, 1996
- [9]. Drepturile femeii – egalitate și parteneriat, IRDO, București, 1997
- [10]. Drepturile femeii – egalitate și parteneriat, ediția a II-a revizuită și adăugită, IRDO, București, 1997
- [11]. Raport privind drepturile femeilor și instituțiile naționale pentru drepturile omului (contribuție la raportul OSCE), IRDO, București, 2012
- [12]. Raport al Institutului Român pentru Drepturile Omului către Biroul Înaltului Comisariat ONU pentru Drepturile Omului cu privire la formele de discriminare multiplă și violență împotriva femeilor și fetelor în contextul rasismului, xenofobiei și intoleranței - Cum afectează discriminarea multiplă drepturile femeilor și fetelor, 27 ianuarie 2017
- [13]. Convenția pentru eliminarea tuturor formelor de discriminare împotriva femeii