

V.V. Saskevich

# REPORT

ON THE RESULTS OF GENDER

EQUALITY ANALYSIS

OF BELARUSIAN LEGISLATION

REGULATING RELATIONS

IN THE FIELD

OF HIGHER EDUCATION



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This publication is the result of gender equality analysis of the Belarusian Legislation regulating educational, labour and other relations in the field of higher education. The publication is dedicated to the students of law specialties, professors and to all interested in the legislative aspect of gender theme.

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## PREFACE AND ACKNOWLEDGEMENTS

This study was conducted as part of the ongoing scientific cooperation between the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI), Lund, Sweden, and Belarusian universities (BSU, BSEU, BNTU), aimed at strengthening interaction between Belarusian and international scientists.

The report presents a summarized result of the analysis of Belarusian legislation regulating relations in the sphere of higher education, conducted in 2012 by researchers from Belarusian universities: Ekaterina Deikalo, Olga Yemelianovich, Elena Konnova, Victoria Lizgaro, Larissa Lukina, Elena Mlechko, Tatiana Pekhota, Veronika Saskevich, Elena Shedko, and a new analysis conducted by Veronica Saskevich in order to cover the missing issues relevant to the topic of the study and taking into account changes in legal regulation. This report and its conclusions reflect the views only of the authors and do not represent the position of the RWI.

The author is grateful to the RWI for the financial support of this study, to Olga Bezbozhna – for organizational and information support for the work on the report, to the international consultant and expert on gender equality issues Emina Abrahamsdotter – for methodological assistance and scientific guidance.

## LIST OF ACRONYMS

BSU – Belarusian State University  
BSEU – Belarusian State Economic University  
BNTU – Belarusian National Technical University  
CEDAW – Convention on the Elimination of All Forms  
of Discrimination against Women  
EdC – Education Code of the Republic of Belarus  
RLA – regulatory legal act (acts)  
PI – professors and instructors (faculty)  
of higher education institutions  
LC – Labor Code of the Republic of Belarus  
HEI – institution(s) of higher education  
RWI – Raoul Wallenberg Institute



## INTRODUCTION

**Relevance of Research Topic.** Gender as a social aspect of relations between men and women is manifested in all spheres of life, and higher education is no exception in this regard.

Belarus has ratified and signed a number of international instruments on gender equality and eradication of discrimination on the basis of sex: CEDAW resolutions of world conferences on women, including the Beijing Declaration and Platform for Action of the Fourth World Conference, and others. However, gender equality, equal legal status of women and men in higher education, equal opportunities to the right to education, the right to work are not possible without incorporation into national regulatory legal acts of state guarantees, regulations aimed at preventing all forms of discrimination on the basis of sex and creating conditions for gender equality. It immediately raises the question whether the current legal regulation of relations in the field of higher education in Belarus, corresponds with the provisions of these international instruments. Belarusian legislation regulating relations in the sphere of higher education, despite the adoption in 2011 of EdC, displays constant dynamics that renders existing research in this area partially obsolescent and further stimulates the scholarly interest in the topic and its relevance.

This study **aims** at determining whether existing Belarusian legislation ensures gender equality, equal legal status of women and men in higher education, equal opportunities for realizing the right to education, the right to work in this field, taking into account gender differences in the cases when it is necessary.

The study is supposed to answer the following questions (research problems):

- Do the certain legislative acts facilitate direct or indirect discrimination against women or men on the basis of their sex?
- Do the normative legal acts provide for equal access and equal opportunities in higher education for prospective students [*applicants*], students already enrolled in HEI and PI personnel, male and female, or do they lead to the provision of preferential treatment of female or male persons?
- Does the legislation take into account different needs and characteristics of both sexes?
- Are there any legal barriers to entry of women or men into HEI, including masters, postgraduate and doctoral studies?
- Does the legislation regulating relations in the sphere of higher education contain provisions aimed at accelerating establishment of effective equality between men and women in certain areas?

**Basic Concepts.** The report employs key concepts developed in sociology and accepted in international instruments, that is gender and biological sex, which differ in their content. Thus, in contrast to biological sex, gender is a social construct arising from the relations between members of different biological sexes or the same sex, and based on their roles in such a relationship. It includes economic, political and socio-cultural attributes, constraints and opportunities associated with belonging to men or women. As a social construct, gender can vary within and between cultures, is dynamic and open to change over time [26, p. 8].

Thus, the concept of «gender» is not identical to the concept of «biological sex». The following concepts were also referred to in analyzing the regulatory legal acts:

- gender equality meaning by that that all human beings are free to develop their personal abilities and make choices without the limitations of predefined rigid gender roles; that the different behaviours, aspirations and needs of women and men are taken into account and are equally valued;
- gender justice meaning by that justice in access of women and men to socioeconomic resources such as education, and the state when men and women are equal participants and have equal access to socioeconomic resources [26, p. 8].

**Research Methodology.** To conduct the study, the researchers selected the acts of Belarusian legislation which govern education and related relations, labour relations and relations related to social welfare of citizens. The researchers selected the materials taking into account such aspects as the need to ensure completeness of the research and existing limits on the report's volume (20 pages). Because of that, we considered only the documents that affect the most important aspects of the topic, and we excluded from the study certain rules and regulations that have no gender content and cannot have any gender impact, and have no specific relevance to higher education. In accordance with the assigned task, statistical data, data obtained from questionnaires and other such materials have not been considered in the report, as they are the subject of another study, conducted as part of cooperation between the RWI and Belarusian universities.

The study has been carried out using means of legal analysis and interpretative content analysis of legal texts from the gender perspective which focused on defining how a specific legal norm affects women or men [25, p. 8]. The legal text has also been subjected to linguistic analysis from the gender perspective, following the recommendations of the British Sociological Association [28] and the British Columbia Law Institute [27].

Furthermore, with some exemptions caused by the subject of research, the method of Gender Impact Assessment was employed to estimate the gender impact [25, pp. 20-21; 26, p. 8]). The research established correspondence between the objectives and content of the regulatory legal act in its real context, clarified the extent to which the status of women and men were affected by a specific document, evaluated possible implications of a legal norm for women and men in order to ascertain that they are not discriminatory and do promote gender equality.

# 1

## **General Characteristics of Legislation Establishing Legal Basis of Higher Education System in the Republic of Belarus**

The legal bases of the higher education system in the Republic of Belarus have been established by the Constitution of the Republic of Belarus [4] and the Education Code of the Republic of Belarus [2].

Constitutional legal provisions relating specifically to participation of women and men in the educational relationship stipulate that women are guaranteed equal opportunities in getting education and professional training, in employment and job (or service) promotion, in the socio-political, cultural and other areas, and creation of conditions for protection of their health and safety, and it is consistent with the CEDAW requirements [4, Art. 32; 3, Art. 2, 3]. Equal opportunities for work remuneration for women and men belonging to PI shall be ensured by Art. 42, which established that persons working as employees are guaranteed a fair share of the remuneration in the economic results of labour in accordance with its quantity, quality and social significance but not below the level that provides them and their families free and dignified existence. Meanwhile, it is directly stipulated that women and men have the right to equal remuneration for work of equal value [4]. Art. 49, providing the right to education, establishes equal conditions and opportunities for getting higher education by students regardless of sex [4]. The norms of the Constitution of the Republic of Belarus are further elaborated on in EdC [2], which regulates social relations on the right to education, as well as the associated relations aimed at creating conditions for the realization of this right, and in the LC [24].

Art. 3 of the EdC establishes the right of citizens to education, as well as state guarantees in the field of education. The measures to ensure this right listed in Art. 3, Sec. 7 of the EdC are not discriminatory to women or men and they indirectly take into account gender differences, stipulating that the right of citizens of the Republic of Belarus for the education is provided also through creation of conditions for getting education tailored to individual needs, abilities and needs of students (Sec. 7.6) [2].

As noted by E.V. Shedko, Art. 18 of the EdC defining the goals and objectives of education mentions formation of moral, aesthetic and ecological culture, culture of family relations but says nothing about gender culture and fails to include the aspect of upbringing a gender-sensitive personality<sup>1</sup>. Sec. 5 of this Article among the basic components of education lists gender education aimed at developing the student's ideas of the role and life purpose of men and women in modern society [2]. This wording has ambiguous content. On the one hand, the concepts of «gender upbringing», «modern society» indicate quite progressive nature of the norm. On the other hand, without knowing what the document developers meant

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<sup>1</sup> Шедько, Е.В. Гендерный анализ законодательных актов в сфере образования Республики Беларусь.

by words about the role and life purpose of men and women, these words can be perceived as meaning their traditional roles, predefined by biological sex. In addition, the Belarusian legislation does not define «gender», «gender education».

The terminology used in EdC is not always gender-neutral. For example, describing the subjects of educational relations, EdC along with the gender-neutral terms like «natural person», «those studying», «faculty», uses predominantly masculine nouns despite parallel existence of feminine equivalents of these nouns: postgraduate, doctoral student, masters' student, undergraduate student, applicant [2, Art. 30, 50]. Linguistic sexism is a problem not only of EdC but also other acts of Belarusian legislation, therefore further on in the report we will not dwell on this aspect.

## **Gender Equality Analysis of Norms Establishing Legal Status and Regulating Activities of Students and Faculty of the HEI**

### **2.1. Admission of Persons to Get Higher Education**

The general requirements set by the EdC concerning the admission of persons who wish to get higher education have no explicit gender content and do not contain gender-based barriers to entry of women or men into the universities, as HEI are obliged to consider all the applicants who turned to them to be educated, in accordance with the established admission procedures. Admission of students is carried out within the maximum numbers of students specified in a special permit (license) for educational activities, or in accordance with the admission control caps, taking into account the requirements of sanitary norms, rules and hygienic standards [2, p. 57] with no priority given to female or male persons<sup>2</sup>. General requirements for the admission of persons to get higher education, including a certain level of education, need to attend a professional and psychological interviews, professional selection for admission to certain specialties, are equally applicable to both male and female persons [2, p. 213].

The RLA establishing rules for the admission of persons to get higher education of the I and II stage specify general provisions, documents to be submitted to get higher education, order of entrance examinations, list of persons entitled to preferences when enrolling into the HEI, order of enrollment into the HEI [10; 22]. These documents contain no gender-denominated norms, they articulate no direct or indirect barriers to admission of female or male persons to the HEI.

### **2.2. Organization of Educational Process. Internal Rules for Students**

The organization of educational process in the HEI is based on the general requirements set forth in the EdC. For example, Article 91 lists the basic requirements for the organization of educational process: education quality assurance; health of students; compliance with sanitary norms, rules and hygienic standards, and others [2]. We support the view of E.V.Shedko that this Article does not provide for gender-based approach to students, gender culture of interaction and communication with female and male students of educational institutions<sup>3</sup>. The general requirements specified in the Art. 212 of EdC have no explicit gender content. It stipulates that the educational process in the implementation of educational programs of higher education is carried out in students' groups or individually, at the same time it does not set any proportions of sexes in a students' group [2].

Each HEI shall develop and adopt internal rules for students that are binding [2, Art. 20, 32]. Let us consider these documents taking as examples the internal rules of the Belarus State University and Belarusian National Technical University. The Internal Rules for Students at the BSU fix equal rights for men and women, social guarantees and obligations of students, basic rights and duties of authorized officials of the BSU; establish rules on disciplinary responsibility of students, termination of

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<sup>2</sup> See, for example, <http://www.bsu.by/Cache/pdf/595203.pdf>.

<sup>3</sup> Шедько, Е.В. Гендерный анализ законодательных актов в сфере образования Республики Беларусь

educational relations, encouragement of students, order inside the university buildings and areas, which can equally be applied to individuals of either sex [20]. The Rules do not contain provisions which refer to the gender-loaded terms or regulations that may directly in a different way affect the legal status of men or women, or which violate the rights of female or male students. In general, the document is gender-neutral<sup>4</sup>. The establishment of a binding obligation of officials to be attentive to the needs and requests of students, to ensure the improvement of their cultural and living conditions [20] should be regarded as a positive aspect which allows to pay attention to gender differences among students.

The Internal Rules for Students of the Belarusian National Technical University [21] have been analyzed by L.S.Lukina, who notes that they do not contain any provisions which refer to gender-loaded terms or establishing gender-based barriers in getting education at the university. Thus, for example, paragraphs 5-6 contain an extensive list of rights and responsibilities of students, paragraph 7 lists the actions that are «strictly forbidden» to undertake. All these provisions may equally be applicable to both male and female students. Chapter 3 establishing general requirements for organization of educational process in the implementation of educational programs, also does not contain discriminatory provisions. The author points out paragraphs 27 and 29 which include norms reflecting gender balance (both male and female endings of the verb «to defend» are used [*zashchitil(a)*]). Chapters 4 and 5 regulating the application of disciplinary measures are gender-neutral, they do not contain norms that discriminate by gender. Chapter 6 states that students get encouraged depending on their performance<sup>5</sup>.

### 2.3. Social Protection of Students

The EdC defines social protection of students as a set of measures established by the state in order to ensure the education of students, aimed at their material maintenance, providing them with state social benefits, rights and guarantees specified by the legislative acts [2, Art. 36]. E.V.Shedko believes that in general the provisions of the EdC on social protection of students do not take into account the interests of single mothers (fathers)<sup>6</sup>. The most important measure of social protection of students is a scholarships or other payments of various types [2, Art. 42]. The regulations on scholarships, conditions and procedures for their appointment and payment are concentrated not only in EdC but also in other regulatory legal acts [8; 12]. The norms contained in these documents are mostly gender-neutral, but there are also some gender-related ones among them. In particular, determining the categories of persons who receive a social scholarship, EdC took account of the needs of pregnant women concerning additional social protection, and it established the identical opportunities to get a social scholarship for both men and women having children under the age of eighteen [2, paragraph 5, Article 42]. The pregnant women who are on a pregnancy leave provided in the case of normal pregnancy since the 24<sup>th</sup> week of pregnancy and in case of pathologically proceeding pregnancy – since any period, persons receiving pregnancy and childbirth

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<sup>4</sup> Лизгаро, В.Е., Саскевич, В.В. Анализ локальных нормативных правовых актов Белорусского государственного университета на предмет гендерного равенства

<sup>5</sup> Лукина, Л.С. Анализ нормативных правовых актов законодательства Республики Беларусь

<sup>6</sup> Шедько, Е.В. Гендерный анализ законодательных актов в сфере образования Республики Беларусь

benefits are excluded from receiving a scholarship [8, paragraphs 32-34]. This approach is due to the fact that, when necessary, social support for these persons is provided in another way – by paying them temporary disability benefits (in case of a pathologically proceeding pregnancy) or maternity and childbirth benefits [5, Art. 8, 9; 6].

Other cash payments aimed at social protection of students include financial aid which is provided on basis of internal regulations of the HEI. Thus, the Regulation on the Provision of Material Aid to the BSU Students [19] does not contain any norms which refer to gender-loaded terms, and it contains no rules that may directly in a different way affect the legal status of men or women. The document establishes no barriers to the provision of material assistance to female or male students at the BSU, it does not distinguish between women and men in providing them with material assistance in the event of birth, marriage, or to cover the needs related to raising children [19, Ch. 3].

Students are provided with places to live in dormitories on the basis of Art. 44 of the EdC, Regulation on Dormitories, and local regulatory acts of HEI [2, Art. 44; 15; 18; 23].

The EdC declares equal opportunities for students of both sexes with respect to getting a place to live in the dormitories. The Regulation on Dormitories is a gender-neutral document, but, in our opinion, it was necessary for the Regulation to take into account specific and unique needs and characteristics of women and men in setting requirements for dormitories' living conditions and equipment. In particular, the gender differences are not taken into account in Chapter 5, «Dormitory Use, Its Maintenance and Repairs» [15].

The Regulations on Dormitories for the Persons Studying at the BSU [18] do not contain provisions which refer to gender-loaded terms. The document establishes no barriers to persons of a particular gender to obtain housing in a dormitory or wishing to be registered to obtain it. In general, the document is gender-neutral and it does not establish additional rights or obligations, special conditions for use and repair of premises depending on the sex of an individual. The Regulations do not establish detailed requirements for living conditions at a dormitory making reference to the legislation of the Republic of Belarus. The Rules of Residence in Dormitories for the Persons Studying at the BSU [23], establishing internal regulations in dormitories, access control, rights and responsibilities of residents, order of encouragement and application of disciplinary measures, do not contain any provisions which refer to gender-loaded terms, and establish no rules that may differently affect the legal status of men or women. The Rules establish no barriers for persons of a particular sex to live in residential premises in a dormitory. In general the document is gender-neutral.

In accordance with Art. 49 of the EdC students have the right to following leaves of absence: academic leave; to care for a child up to the age of three; for military service. It also specifies that the academic leave of absence for medical reasons is granted in the case of normal pregnancy since the 24<sup>th</sup> week of pregnancy and in the case of pathologically proceeding pregnancy since any time. This provision takes into account gender differences, but it does not worsen the legal position of women, because they can also be granted an academic leave of absence but for other medical reasons. The wording of the Paragraph 3 of that Article is incorrect in terms of gender equality (it is discriminating against the rights of men as fathers), since it specifies that a leave of absence to care for a child up to the age of three is granted to a mother of a child at her request after a break in her studies due to childbirth. Leave of absence to care for a child up to the age of three is provided instead of the child's mother to the child's father enrolled in an educational institution (organization implementing educational programs of postgraduate education) if he is actually caring for the child [2].

The issues related to the social support of students and faculty who have children are also regulated by the Law of the Republic of Belarus of 29 December 2012 «On State Assistance to Families with Children» [5]. E.Mlechko underlines that a significant part of this document is gender-marked. When necessary, for example discussing the situations related to pregnancy and childbirth as states and processes that are unique to women, the legislators took into account gender differences and «the [respective] articles directly address women as representatives of a gender group without displaying the so-called «gender blindness» and resorting to such formless terms as a subject, a person, a citizen, and so on».<sup>7</sup>

In accordance with the aforementioned Law, benefits are classified into three groups: maternity benefits, family benefits, temporary disability benefits for child care. The fact that the pregnancy and childbirth benefits were unequivocally included into the first group, discriminates against the rights of men-fathers, because these benefits are granted not only in connection with pregnancy and childbirth but also with the adoption and establishment of guardianship for a child under the age of three months [5, Art. 3, 7]. Also the rights of men-adopters and guardians are infringed upon by the norm of the second part of Art. 7, which stipulates that women have the right to pregnancy and childbirth benefits, as well as by the provisions of Art. 21 «Terms of Applying for State Benefits», which declare that the right to pregnancy and childbirth benefits emerges on the day when the **woman** in accordance with the law shall be exempt from work (service) or study in connection with pregnancy and childbirth and adoption, establishment of guardianship for a child under the age of three months. At the same time, Art. 8, establishing the period for which pregnancy and childbirth benefits are granted, includes the gender-neutral norm that these benefits are granted to a person who has adopted a child or is appointed a guardian for a child under the age of three months [5].

Inclusion of the benefits paid to women who have registered with the public health organizations before the 12th week of pregnancy into the group of maternity benefits, and gender content of Art. 10 of the Law «On State Assistance to Families with Children» is fully justified due to biological reasons and objectives pursued by the legislators (to care for the health of a pregnant mother and child) [5].

The provisions of Art. 11 and 12 of the Law under consideration which deal with childbirth benefits and childcare benefits for a child under three years grant equal rights to these benefits to men and women (mothers (stepmothers) or fathers (stepfathers), adoptive parents, child's guardians, as well as in the cases specified by law, family members or relatives of the child). For the persons studying in the HEI who are caring for a child under the age of three years, a special procedure is established for determining the amount of the childcare allowance for a child under three years, the same for male and female persons. (Art. 13) [5].

Discriminatory against both women and men are the norms of the Law «On State Assistance to Families with Children» which deal with the benefits for children over three years of specific categories of families, because they regard only a man as the family breadwinner, compared with a woman<sup>8</sup>: «benefits for children over three years

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<sup>7</sup> Млечко, Е. Отчет по анализу Закона Республики Беларусь от 30.10.1992 № 1898-ХІІ «О государственных пособиях семьям, воспитывающим детей» (в редакции Закона Республики Беларусь от 09.11.2009 № 51-3)

<sup>8</sup> Млечко, Е. Отчет по анализу Закона Республики Беларусь от 30.10.1992 № 1898-ХІІ «О государственных пособиях семьям, воспитывающим детей» (в редакции Закона Республики Беларусь от 09.11.2009 № 51-3)



of specific categories of families are appointed, if able-bodied... father (stepfather) in a complete family...: works or carries out an activity in the Republic of Belarus which brings earnings (income)..., is a military serviceman, a member of lower or higher ranks of the Ministry of Internal Affairs, Investigative Committee of the Republic of Belarus, organs of financial investigations of the Committee for State Control of the Republic of Belarus, organs and units of the Ministry for Emergency...» [5].

There are manifestations of gender inequalities in the Art. 18 and 20 of the Law «On State Assistance to Families with Children» because they, as indicated by E.Mlechko, emphasize the connection that links predominantly the woman with the sphere of family and childcare<sup>9</sup>. This is evidenced, for example, by the title of Article 18 (Benefits for Temporary Incapacity to Care for a Sick Child... **in the Case of Illness of the Mother** or Another Person Actually Caring for the Child); norm of Art. 20 that in a full family the state benefits shall be appointed in the place of work (service), study, training in clinical internship of the **child's mother (stepmother)**. And only if the mother (stepmother) in a full family is not working (is not serving) and is not learning, the state benefits are granted in the place of work (service) or study of the child's father (stepfather) [5].

#### 2.4. Transfer, Restoration and Expulsion of Students

General norms concerning the change and termination of educational relations, as well as their restoration to get education are provided in Articles 78-80 of EdC [2]. They do not have explicit gender content, and they exert the same effect on men and women. The Regulations on the Order of Transfer, Restoration and Expulsion of Students more thoroughly regulate these relations [14]. This document does not contain gender-expressed norms it and regulates the rules for transfer, restoration and expulsion of students which are identical for male and female students. As a positive aspect counts the fact that the aforementioned Regulations does not include a legal norm which was effective earlier and restricted women's rights [13]. As noted by L.S.Lukina, paragraph 5 of this document put female students in a clearly worse situation compared to male students because the female students who could have left the higher education institution with a valid reason, had not been entitled to get restored to the first year of studies, with the exception of female cadets, although one should not forget about negligible numbers of the latter<sup>10</sup>.

#### 2.5. Placement of Graduates

The placement of the HEI graduates is regulated by Art. 83 of the EdC [2] and the Resolution №821 of the Council of Ministers of the Republic of Belarus of June 22, 2011 (hereinafter – Resolution 821) which is developing further the legal foundations laid in the EdC [7].

Regarding the issue of this study, E.V.Shedko believes that gender-expressed norms of the Art. 83 of EdC establish opportunities and rights of pregnant women, married men and women, mothers (fathers) with children under three years, to receive a free

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<sup>9</sup> Ibid.

<sup>10</sup> Лукина, Л.С. Анализ нормативных правовых актов законодательства Республики Беларусь

placement to the place of residence, work or service of the spouse<sup>11</sup>. According to E.V.Konnova, this legal norms shall ensure taking into account the objectively existing gender differences (pregnant women's need for clinic visits, complications that may arise in the process and as a result of a change of residence during pregnancy, difficulties that a pregnant woman may encounter if she would have to travel to a work place situated far from residence place, which can also be fraught with risk to the fetus). An important role, apparently, is played also by the legislator's wish to ensure the unity of the family in the prenatal period and after birth. Orientation of the rule solely on women and the exclusion from its scope of men who have pregnant wives, makes it impossible to achieve these objectives in cases when the placement concerns a graduate with a pregnant wife who does not permanently live and work in the territory of the Republic of Belarus. In this situation, a pregnant woman may face a choice: to move with her husband to be placed, and subject herself and expose the fetus to the above risks, or not to move for some time and so split the family for such an important period of life. In this regard, it appears that this provision would become non-discriminatory in gender terms and more responsive to the interests of the family, if it provided for the graduates having pregnant wives, an opportunity for job placement and employment in the place of residence of the family<sup>12</sup>.

The analysis of the Resolution 821 conducted by O.V.Yemelianovich and T.M. Pekhota has showed that there are no norms explicitly discriminating men or women in this legal act. The analysis' authors suggest that in general all the possibilities and conditions for the implementation of the rights associated with the placement and assignment to work, targeted training, reimbursement of training costs are provided in equivalent volume to both men and women. They notice positive aspects indicating gender neutrality, as the document uses the term «person» instead of «men» in relation to getting education in the field of security and law enforcement structures which are often associated with the work performed by men. The same approach is evident in other regulations which state that the graduates are placed to work under the terms set out in paragraph 6 of Article 83 of the EdC if they submit a copy of the marriage certificate and certificate of employment issued by the employer and specifying the position of the husband (wife), assigned to an office in the government agencies, including the police and law enforcement agencies. In this case, it is very important that the legislator, thus, takes into account gender equality [7]<sup>13</sup>.

The Art. 84 and 87 of the EdC dealing with graduates' job placements and granting the graduates the right to self-employment do not contain gender-denominated norms and their consequences are identical for men and women [2]. The same can be said about the procedure and conditions for provision of the first job place for graduates of state institutions of higher education who got full-time education at the expense of the republican and (or) local budgets [17].

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<sup>11</sup> Шедько, Е.В. Гендерный анализ законодательных актов в сфере образования Республики Беларусь

<sup>12</sup> Коннова, Е.В. Результаты гендерного анализа некоторых правовых актов, регламентирующих поступление и обучение в магистратуре, аспирантуре и докторантуре БГУ

<sup>13</sup> Емельянович, О.В., Пехота, Т.М. Исследование на тему «Гендерный анализ нормативных правовых актов Республики Беларусь в области распределения выпускников ВУЗов, внутренних нормативных правовых актов УО «Белорусский государственный экономический университет», типовой и учебной программ по дисциплине «Беларуская мова. Прафесійная лексіка»

## 2.6. Admission for and Undertaking of Postgraduate and Doctoral Studies

Analyzing the RLA regulating relations related to admission for and undertaking of post-graduate and doctoral studies [11; 16], E.V. Konnova concludes that they do not contain explicitly gender-loaded terms. As far as their content is concerned, these regulatory legal acts also do not discriminate, they provide equal access for men and women to undertake graduate and doctoral studies as well as equal conditions and opportunities in this field. There are no regulatory barriers to entry of women into postgraduate and doctoral programs. The analyzed acts do not create obstacles for scientific guidance or scientific consultation for graduate students, doctoral candidates. However, the author notes the existing problem of gender-neutral language used in the regulation of matters of postgraduate training. The linguistic focus on male persons is strengthening in the acts specifically aimed at regulating this sphere<sup>14</sup>.

## 2.7. Main Features of Legal Status of PI

The LC prohibits discrimination in employment relations, including restriction of labor rights or receiving any benefits based on sex (Art. 14). At the same time, it makes a reservation that it does not consider as discrimination any distinctions, exemptions, preferences, and constraints caused by the need for special care provided by the state for the persons in need of stronger social and legal protection (women, minors, persons with disabilities, persons affected by the Chernobyl disaster, etc.). [24]. Thus, the wording of the LC Article prohibiting discrimination is flawed from the gender equality perspective, as all women are regarded as subjects with limited capacities in need of stronger social and legal protection. In our view, this article should better focus on pregnant women, as well as require taking into account gender differences in labour legislation when establishing distinctions, exemptions, restrictions and preferences. General requirements for the teaching staff (Art. 51 CoQ) are gender neutral, contain no gender-based obstacles to the implementation of teaching activities, and the limitations which they introduce for certain categories of persons (e.g., having a criminal record) aim at ensuring the quality of education [2].

Positions of teaching staff (assistant, lecturer, senior lecturer, associate professor, professor, department head) in HEI are filled on competitive basis [2, Art. 203]. The competition order defined by the Government of the Republic of Belarus [1] does not establish barriers for women to fill teaching positions, as the competition is held in order to select persons having profound professional knowledge, scientific achievements in the relevant field of science, [and who are able to] conduct training of highly qualified professionals and develop their intellectual and creative abilities. This purpose predetermines the content of requirements for persons participating in the competition. Competition is not advertised for positions that are occupied by pregnant women and women with children under the age of five years [1]. This provision, on the one hand, takes into account gender differences and specific features of the state of pregnancy, making for pregnant women an exception from the general rule of filling vacant positions through a competition. On the other hand, it is discriminatory against men with children under five years, as no exception is made for them. In addition, the wording of paragraph 8 discriminates also against

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<sup>14</sup> Коннова, Е.В. Результаты гендерного анализа некоторых правовых актов, регламентирующих поступление и обучение в магистратуре, аспирантуре и докторантуре БГУ

women having children under five years, as it is based on the traditional idea that women should be involved in the upbringing of children and care for them. The retirement benefits for PI are arranged on the same basis as those of other physical persons. The law on retirement benefits contains a significant amount of gender-marked norms. For example, it defines the terms of pensions appointment and procedures for determining their volume which differ for men and women. The right to an age-based retirement pension, a pension based on length of work (service) is given to women five years earlier than men, and upon reaching the different ages (55 and 60 years, respectively) [9, Art. 11, 48]; a similar situation exists with regard to the length of work (service) taken into account to calculate a pension volume [9, Art. 23]. All this said above points out that the legislation continues to harbour traditional ideas of women as representatives of the weaker sex in need of special protection. Analysis of the Art. 19 of the Law «On Retirement Benefits Provision» does not allow for a clear conclusion. On the one hand, establishment of special, milder terms of appointing age-based pension for mothers with many children takes into account the gender differences (additional burden on the body of woman who gave birth to five or more children), and therefore the law has reduced for them the retirement age and the required length of work (service). On the other hand, in order to get these rights to retirement benefits one shall not only give birth to but also raise children up to eighth year of age, and men-fathers (stepfathers) are also involved in the upbringing of children [9, Art. 19].

## CONCLUSION

The gender equality analysis of the Belarusian legislation regulating relations in the field of higher education leads to the following conclusions.

The Belarusian legislation on higher education as a whole is free from discriminatory provisions against women or men as it is establishing for them equal opportunities to the right to education. There are no legal barriers to the entry of women or men into the HEI, including master's programs, postgraduate and doctoral studies. The requirements for the organization of educational process in the HEI, internal rules for the students, regulations governing the relations concerning transfer, restoration and expulsion of students, placement of graduates, graduate studies and doctoral studies do not facilitate discrimination against women or men on the basis of sex.

There are, however, some legal norms aimed at providing social support to students and faculty of the HEI and set in the Law of the Republic of Belarus «On State Assistance to Families with Children» which are discriminatory against both women and men because they regard only a man as the money-earner and family breadwinner compared with a woman; they classify pregnancy and childbirth benefits as maternity benefits when defining the rules of appointment of these benefits and so they fail to take into account the social roles of men-fathers, adoptive parents or guardians. There are no obstacles in the legislation for the appointment of women to the PI positions. However, the current order of the competition conducted to fill such positions contains a provision that discriminates against men and women with children up to five years. For the latter, a non-competitive procedure is established. For men, this exception is not provided, and the very wording of the norm is based on the traditional idea that it is the women who should be involved in the upbringing of children and care for them.

The wording of the LC Article prohibiting discrimination is flawed from the gender equality perspective, because it regards all the women as subjects with limited capacities in need of stronger social and legal protection. In our view, this article should better focus on pregnant women, as well as require taking into account gender differences in labour legislation when establishing distinctions, exemptions, restrictions and preferences. The legal norms of Art. 3 EdC, which establishes the right of citizens to education and state guarantees in education sphere, Art. 49 of the EdC, which deals with students' leaves of absence, Art. 83 of the EdC, which establishes the possibilities and rights to be granted a free job placement, a significant part of the Law of the Republic of Belarus «On State Assistance to Families with Children», legal rules on replacement of the PI positions through competition, the Internal Regulations for Students of the BSU are directed at taking into account the different needs and characteristics of both sexes. The Regulations on Dormitories approved by the Council of Ministers is problematic in this regard because it fails to take into account the needs and peculiarities of women and men as it defines requirements for living conditions and dormitories' equipment.

No provisions of the law regulating relations in higher education aimed at accelerating achievement of effective equality between men and women in specific areas (for certain specialties of higher education, appointments to faculty positions, etc.) have been identified.

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**Report on the results of gender  
equality analysis of belarusian legislation  
regulating relations in the field  
of higher education**

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