Legal Framework and Assessment of Policy Gaps

WORLD BANK GROUP
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Background Note for the Gender Assessment

Chifundo Chilera and Irina Costache

This note reviews the legal, institutional, and policy framework that affects gender equality in the country, including efforts to enforce gender laws and policies.

1. Legal and Policy Framework

The Romanian Constitution (adopted in 1991 and amended in 2003) explicitly prohibits sex discrimination. It provides for equality of all citizens before the Law without discrimination based on race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property, or social origin (arts. 4 and 16). It also guarantees women and men equal opportunities to access public, civil, or military positions (art. 16 (3)), as well as the right to equal pay for women and men and the right to social protection (art. 41), including paid maternity leave (art. 47 (2)). It is important to note that Article 41(4), which stipulates the principle of equal pay for equal work, is limited in scope, and it only covers salaries, but not other payments, such as bonuses and benefits. In addition, Article 16(3), the State guarantees equal opportunities for women and men to access public office, is also limited in scope as it does not provide for temporary special measures. At the same time, the prohibition of sex-based discrimination does not apply to gender-based discrimination and the trans community, leaving them without constitutional safeguards.

Since 2002, when the first Law on equal opportunities for women and men was adopted1, Romania's legal and Policy framework remained dynamic yet fragmented, innovative, and in tune with EU legislation yet ineffective in tackling growing gender gaps. Possible explanations can be tied with 1) legal gaps, especially in a limited understanding of equality as equal treatment and a failure to highlight persistent gender gaps and address various disadvantages that women face; 2) fragmentation of the legal and institutional framework; 3) lack of an adequate monitoring and evaluation framework that includes independent evaluations and clear monitoring indicators connected with policy areas that are being addressed.

The primary Law that contains provisions regulating the central concepts in the field of gender equality is Law No. 202/2002 on equal opportunities for women and men. The Law stipulates measures to promote gender equality to eliminate all forms of discrimination based on this criterion in all spheres of social life: in the public sector and private, in the fields of employment, education, health, culture and information, politics, participation in decision-making, provision of and access to goods and services, the establishment, equipping or expansion of an enterprise or the commencement or expansion of any other

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form of self-employment, and in other areas regulated separately by special laws. Law 202/2002 was amended in 2012, 2015, 2018 (twice), and 2022 to comply with EU Directives and, in 2018, to comply with the provisions of the CoE Istanbul Convention.

Law 202/2002 is further supplemented by other legal documents that further detail the institutional and legal frame for gender equality, followed by a set of policies and laws that promote the principle of gender equality.

1.1. Specific Legislation:
Law No 202/2002 on equal opportunities and equal treatment for women and men

Amended by:

- Government Emergency Ordinance No 57/ 2022 amending and supplementing Law No 202/2002 on equal opportunities and equal treatment between women and men
- Law No 178/2018 amending and supplementing Law No 202/2002 on equal opportunities and equal treatment between women and men
- Law No 232/2018 on amending and supplementing Law No 202/2002 on equal opportunities and equal treatment of women and men
- Law No 229/2015 amending and supplementing Law No 202/2002 on equal opportunities and equal treatment of women and men
- Law No 115/2013 on the approval of Government Emergency Ordinance No 83/2012 amending and supplementing Law No 202/2002 on equal opportunities and equal treatment between women and men
- Government Emergency Ordinance No 83/2012 amending and supplementing Law No 202/2002 on equal opportunities and equal treatment between women and men

Institutional and legal regulations

- GD no. 262/2019 for the approval of the Methodological Rules for the application of the provisions of Law no. 202/2002 on equality of opportunities and treatment between women and men, republished, with subsequent.
- GD No 177 of 23 March 2016 on the organization and functioning of the National Agency for Equal Opportunities for Women and Men
- GD no. 1054/2005 for the approval of the Regulation on the organization and functioning of the county and Bucharest municipality commissions on equal opportunities between women and men (COJES)
- GD no. 933/2013 for the approval of the Regulation on the organization and functioning of the National Commission for Equal Opportunities between Men and Women (CONES)
Policies and laws promoting equal opportunities and equal treatment between women and men

- GD NO. 1.547/2022 for the approval of the National Strategy for promoting equal opportunities and equal treatment between women and men and for preventing and combating domestic violence 2022 -2027
- GD NO 592/2021 for the approval of the National Strategy to prevent and combat sexual violence SINERGIE 2021-2030
- GD no. 877/2018 on the adoption of the National Strategy for the Sustainable Development of Romania 2030
- Law No 22/2016 on the declaration of 8 March - Women's Day and 19 November - Men's Day
- Law No 23/2015 declares 8 May the Day of Equal Opportunities for Women and Men.
- Government Ordinance No 137/2000 on the prevention and sanctioning of all forms of discrimination, republished with subsequent amendments and additions.

Some key revisions corresponding to each significant change

In 2012, the government emergency Ordinance NO 83/ 2012 amended the equality law to comply with Directive 2010/41/EU of the European Parliament and Council regarding the application of the principle of equal treatment between men and women engaged in independent activity and repealing the Directive 86/613/EEC and added to the forms of discrimination harassment and sexual harassment.

In 2015, the Law was amended again, this time more substantially at the same time with the re-establishment of the National Agency for Equal Opportunities between Women and Men. The revisions included: a definition of sex and gender (Art.4 d.2 and d.3), definitions of gender stereotypes, the introduction of the concept of gender budgeting, and a definition of psychological harassment as an act that is repetitive.

After signing the CoE Istanbul Convention, new revisions were introduced through Law. 178/2018: introduction of the definition of gender-based violence - in accordance with Article 3(d) of the Istanbul Convention; regulating the general regime for the occupations of equal opportunities expert and equal opportunities technician and the duties of these occupations; the introduction of the possibility for public and private sector legal persons with more than 50 employees, central and local public, civil and military institutions and authorities to identify an employee to whom they can assign gender equality tasks in their job description; introducing the possibility for legal entities in the public and private sector to opt for the employment of an expert/technician on an equal opportunities basis, within the existing budget for salary

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2 Law No 202/2002 on equal opportunities and equal treatment between women and men, published in the Official Gazette, Part I, No 627 of 19 July 2018
costs; inclusion in the composition of COJES of representatives of the DGASPC and of the County Council, respectively of the General Council of Bucharest.


- Care leave
- Flexible work arrangements
- Prohibition of discrimination for demanding care leave or flexible work arrangements
- Protection from termination for employees on care leave or for requiring flexible work arrangements.

The Law on Equal Opportunities is complemented by the Government Ordinance No. 137/2000 on the prevention and combating of all forms of discrimination (hereafter Anti-discrimination Law) that contains similar central concepts applicable for all grounds of discrimination, including sex/gender. Because the administrative body that is the most active in applying the Law in cases of complaints of sex discrimination is one and the same for all grounds of discrimination, the National Council for Combating Discrimination (CNCD), the above-mentioned confusion has been handled by applying the Anti-discrimination Law primarily, with the Gender Equality Law being complementary. This approach is more favorable to the victims because the level of protection provided by the Anti-discrimination Law is higher than that contained in the Gender Equality Law. The downside of this approach is that the Gender Equality Law is less frequently used, and courts and national equality bodies are not developing the case law of the Gender Equality Law.

One of the particularities of the Romanian legal framework in the field of gender equality is fragmentation. The central concepts are regulated on the one hand in the Anti-discrimination Law (the general Law that applies to discrimination on all grounds, including sex/gender) and on the other hand in the Gender Equality Law (the special Law that applies strictly to discrimination on the ground of sex/gender). Most of the time, the definitions are similar, but this duplication creates confusion, and, in some instances, it means lower protection against discrimination on the ground of sex/gender compared to other grounds.

The Gender Equality Law provisions prevail in relation to the Anti-discrimination Law because they are considered special Law. For example, the Gender Equality Law has lower administrative fines compared
to the Anti-discrimination Law. Another key particularity refers to the over-reliance on legal measures to promote equality and non-discrimination, to the detriment of program piloting and monitoring.

In December 2022, Romania adopted a new National Strategy for the Promotion of Equal Opportunities and Treatment between Men and Women and Preventing Domestic Violence for the period 2022-2027 and its operational plan. This is the first policy document in the history of the field to be documented on a prior independent, comprehensive diagnosis of gender gaps from available data sources and a thorough analysis of policy gaps. Moreover, the strategy document also involved a stakeholder consultation where NGOs were asked to respond to a questionnaire regarding: 1) their area of expertise in gender equality and the prevention and combating of domestic violence and 2) they were asked to identify core priority areas of intervention that could lead to increase of gender equality. The current strategy covers the following six areas:

1) Prevent and combat gender stereotypes in education.
2) Increase access to medical services for men and women – focus on perinatal care for vulnerable women; increase access to sexual and reproductive health, including family planning; increase access to cancer screening programs.
3) Increase equal opportunity between women and men in the labor market, including the rate of labor force participation and earnings through the following actions - mainstreaming gender in occupational policies and monitoring periodically the gender gap in labor force participation and employment; consolidating the principle of equal pay for equal work through increasing transparency of salaries both in public and in the private sector; reducing the risk of poverty and social exclusion among women through adequate skill training programs; promoting non-discriminatory workplaces and sanctioning all forms of gender-based discrimination;
4) Increasing access to services for all persons active in the labor market, including through the opening of creches
5) Promoting balanced participation of men and women in decision-making at all levels (under this goal, there are actions that pertain to monitoring women's and men's participation in decision-making in public administration; elections; political parties; identifying best practice examples that increase women's access to decision making in private companies; leadership workshops for women in political parties, promoting affirmative measures to increase the participation of women in decision making in politics and economic life; zipper quota systems for electoral; gender mainstreaming in peace and security policies;
6) Gender mainstreaming through areas such as improving policymaking through a gender mainstreaming approach, developing institutional capacity for gender budgeting and conducting gender impact assessments for sectors such as health and employment, raising awareness regarding the gender expert role within organizations, including the principle of multiple discrimination in policy formulation and implementation.

While the measures under this strategy are bold, comprehensive, cross-sectorial, and transformational in vision, the actual implementation of these measures will depend on ANES’s leverage power among other
Ministries, on the budgeting of all the measures as well as on its monitoring framework. So far, the monitoring methodology of the strategy is still in the works.

1.2. Policy and Legal framework that addresses equal opportunities between women and men

Equality between women and men in employment

a. The principle of equal pay for women and men

The Romanian Constitution stipulates under Art.41, para 4, that "for equal work, women have equal pay with men." The document lays down the principle of equal pay but only in a limited fashion. It does not cover work of equal value, only equal work, and it only applies to salaries, not to other types of remuneration or benefits for work. Despite the Constitutional provisions, Article 6(3) of the Labour Code fully transposes the principle of equal pay. It applies to equal work and work of equal value and to "all the elements and conditions of remuneration." Similar provisions are stipulated in Articles 6(b) and (c) of the Anti-discrimination Law and Article 7(c) of the Gender Equality Law. While there is little case law to test the legal validity of the above provisions, a recent report found that the National Council for Combating Discrimination did express opinions on cases of pay discrimination brought against the council. While the case law is limited, in 2021, the CNCD issued an opinion regarding a situation of discrimination when a female employee, upon return from childcare leave, was provided a lower salary compared to other colleagues, and the period of maternal leave remained unaccounted for in establishing the number of years of seniority.

b. Wage transparency

With regard to wage transparency, the law imposes confidentiality. Under Article 162 of the Labor Code, it is stipulated that the individual salary is determined by individual direct negotiations between the employer and the employee. Moreover, according to Article 163(1) of the Labour Code, salaries are confidential; the employer has a legal obligation to take measures to ensure confidentiality. The law intends this provision to be a right of the employee. However, because the wording of Article 163(1) of the Labor Code is general, there is the understanding that not only employers but also employees have an obligation to keep their salaries confidential. The Law stipulates only one exception – trade unions or the representatives of employees may access information regarding salaries in order to promote the employees' interests and defend their rights. Unlike in the public sector, in the private sector, there is total discretion in wage negotiations between employer and employee, which has the potential to create some specific difficulties for women in applying the principle of equal pay for equal work or work of equal value.

c. Equal opportunities and equal treatment of women and men in matters of employment
According to Article 7 of Law No 202/2002, all workers benefit from the principle of equal opportunities and equal treatment between women and men in employment relations, including self-employed persons. These legal provisions apply to all persons, including civil servants and contract staff in the public and private sectors, from public institutions, as well as military personnel in the public sector and all other categories of persons whose status is regulated by special laws. Law No 202/2002 also mentions strict exceptions from its principles in jobs where, due to the nature of the professional activities or the setting in which they are carried out, a characteristic related to the gender criterion is a genuine and determining occupational requirement.

d. Pregnancy, maternity, and adoption.

The laws that define the main concepts of work-life balance are OUG No.96/2003 on the protection of maternity in the workplace and OUG 111/2010 regarding parental leave and the monthly allowance for parental leave. In addition, OUG No. 158/2005 on leaves and allowances from social health insurance complements the legal framework with general provisions regarding leave, and the Gender Equality Law stipulates the main guarantees against discrimination for leave-takers. The National Law defines a pregnant worker as a worker who has recently given birth and a worker who is breastfeeding. Article 2(c) of OUG No. 96/2003 on the protection of maternity in the workplace defines a pregnant worker as a woman who informs her employer of her pregnancy status in written form and attaches a medical certificate from her GP or a gynecologist confirming her status. Maternity leave lasts for 126 days (made up of pre-natal leave) and most natal leave, according to Articles 23-24 of the OUG No. 158/2000, and the monthly allowance for maternal health-risk leave is 75 %. The regular maternity leave allowance is 85% of the average monthly income for the last six months of the 12 months of mandatory contribution prior to requesting maternity leave, and it is uncapped. The parental leave entitlements last for 24 months (until the child is two years old). If both parents are eligible for the leave, two months must be taken by the non-claiming parent. If not, the total amount of paid leave is 22 months. This strategy is meant to foster more gender-equal arrangements. Either parent (irrespective of gender) is entitled to apply for parental leave, and in return, they receive a monthly allowance of 85 percent of earnings over the last 12 months. The monthly benefit is calculated at 2.5xISR5 and cannot be lower than 1,314 [265.66 EURO] nor higher than 8500 RON [1,718.49].

In April 2016, a new leave was introduced for adoptive parents, called accommodation leave; this leave is separate from (or alternative to) parental leave. The accommodation leaves lasts one year (and can cover the period before the actual adoption decision is issued when the child is put in the adoptive parents' care in view of adoption) and is accessible to only one adopting parent if he/she is insured according to Article 46¹ of Law 273/2004 as amended. The leave lasts for one year, and a monthly allowance is paid throughout the leave. Then, it increased to 85% of the average monthly income for the last six months of the 12 months of mandatory contribution prior to requesting leave, ranging between EUR 370 – EUR 1 730 (RON
1 700 –RON 8 500). Unlike parental leave, during accommodation leave, the person is allowed to obtain income (up to EUR 1 250) from activities other than the contract that was suspended due to the leave.

Furthermore, instead of accommodation leave, the adoptive parent may opt for parental leave until the adopted child is two years old, according to Article 8(2) of OUG No. 111/2010, subject to the same conditions as for natural parents.

e. Retirement age

Law, No 263/2010 on the unitary public pension system, provides in Article 53 para. (1) that “the standard retirement age is 65 for men and 63 for women”. According to Article 56 para. (1) lit. (c) of the Labor Code, the individual employment contract is automatically terminated on the date on which both the standard age and the minimum contribution for retirement are met. The difference in the standard retirement age for women and men is a problem both in terms of equal treatment and in terms of compliance with the rights laid down in the Romanian Constitution.

1.3. Women's Participation in Public Life

Equal opportunities for women and men to hold public office and public office are expressly guaranteed under Article 4 of the Romanian Constitution. Law No 202/2002 also contains express regulations on gender balance in political and public life in Chapter IV on Equal opportunities for women and men to participate in decision-making. Art. 21 para. (1) stipulates that central and local public, civil and military institutions and authorities, economic and social units, as well as political parties, employers and trade union organizations, and other non-profit entities operating under their own statutes, shall promote and support the balanced participation of women and men in leadership and decision-making and shall take the necessary measures to ensure the balanced participation of women and men in leadership and decision-making. These provisions shall also apply to the nomination of members and/or participants in any board, expert group, and other management and/or advisory structures.

According to Article 22, to achieve de facto equality of opportunity and treatment between women and men, central and local public institutions and authorities, social dialogue structures, employers and trade unions, and political parties shall ensure fair and balanced representation of women and men at all levels of decision-making. All governmental and parliamentary commissions and committees shall ensure fair and equal representation of women and men in their composition. Despite clear indications for balanced representation in decision-making as provided by Law 202/2002, little progress is noted in this area, particularly when it comes to women in politics. This is also because the definitions are general, and there are no guidelines for implementations, nor a monitoring mechanism or penalties for non-compliance.

The only piece of legislation that is more concretely directed at increasing the number of women in politics is Law No 334/2006 on the financing of political parties and electoral campaigns, republished. The Law
stipulates in Art. 18 para 2 that for political parties that promote women on electoral lists, on eligible seats, the amount allocated from the state budget will be increased twice in proportion to the number of seats obtained in elections by women candidates.

Currently, two draft bills on temporary special measures for women in politics stand before the Parliament.

1.4. Gender Equality and Education
The national provisions regarding gender equality in education are concentrated in Articles 14 and 15 of Law 202/2002 and mainly regulate the prohibition of any discrimination on the basis of sex in education and the role of the relevant Ministry of Education in implementing and monitoring the principle of gender equality in education with a view to combat gender stereotypes. A draft joint ministerial order for the inclusion of notions on gender violence and gender equality in the school curriculum has not been adopted, although tackling discrimination and gender stereotypes in education is one of the key CEDAW country recommendations. While access to education is generally gender equitable, the Ministry of Education has been invited to partner in educational projects on teaching gender equality and preventing intimate partner violence. The Ministry often remained silent on this type of initiative. In 2020, a bill on banning gender education in all forms of education was voted on in Parliament and repealed by the Constitutional Court.

1.5. Gender equality and access to health
Accordingly, both GEO 137/2000 (in Section II on Access to public administrative and legal services, health, other services, goods, and facilities) and Law 202/2002 (in Chapter III on equal opportunities and treatment in access to education, health, culture, and information) contain provisions expressly prohibiting discrimination in the field of health.

Article 16 of Law No 202/2002 stipulates that any form of discrimination based on sex is prohibited with regard to the access of women and men to all levels of health care, disease prevention, and health promotion programs. However, many women from vulnerable communities have limited access to health services. The lack of access to health services is particularly worrisome for pregnant women.

Another area of gender inequality is related to the lack of access to sexual and reproductive health.
2. Gender Equality Institutional Arrangements

2.1. Overall Institutional Framework
The National Agency for Equal Opportunities between Women and Men is an institution under the Ministry of Family, Youth, and Equal Opportunities which is mandated to coordinate the implementation of government policies and strategies in the field of equal opportunities between women and men and for preventing and combating domestic violence. It can propose legal amendments and national plans of action and oversees ensuring their implementation and their harmonization with international human rights law. It also collects statistical data and conducts surveys and analyses. The Agency was re-established in 2015 after it had been dissolved in 2010 due to budgetary cuts. While its role is salient in pushing for equal opportunities policies, its role could be further strengthened, as it lacks monitoring functions and sanctioning power, and there are no subordinated territorial structures at the county level. Moreover, there is no specific budgetary allocation for the implementation of the National Strategy for the Promotion of Equal Opportunities and Treatment between Women and Men and Preventing and Combating Domestic Violence and its operational plan.

The National Agency for Equal Opportunities between Women and Men coordinates an inter-ministerial body, The National Commission for Equal Opportunities between Women and Men. The National Commission includes representatives of the relevant ministries, central public administration units, trade unions, employers' associations, and non-governmental organizations (NGOs) active in the field of gender equality. National Commission meets biannually, and its members are drawn to work in support of the implementation of the National Strategy. During the COVID-19 pandemic, this body did not meet. Law 202/2002 also established county commissions on equal opportunities between women and men (COJES). These are consultative and informative bodies that report to the National Commission for Equal Opportunities between Women and men and are composed of representatives of the local public administration, entities subordinate to the local public administration, trade unions, and local NGOs. They have yet to be made operational in all counties. In 2018, amendment 178/2018 to Law 202/2002 introduced the possibility for public and private institutions with more than 50 employees to hire an "equal opportunities expert" or designate an employee to oversee gender equality, who is tasked with making recommendations for implementing the principle of equal treatment between women and men. However, only a few institutions have appointed them.

There are two relevant parliamentary commissions: the Commission for Equal Opportunities for Women and Men, in the Chamber of Deputies, and the Commission for Human Rights, Gender Equality, Religious Denominations, and Minorities, which take certain legislative and other initiatives on women's rights and
gender equality. Their continued and strengthened engagement with relevant institutions and women's and girls' organizations further contributes to promoting women's and girls' rights.

An additional element in this institutional framework is the National Council forCombating Discrimination is a central mechanism for combating discrimination and is a tribunal-like equality body. In addition to its competence to initiate bills to harmonize legal provisions with gender equality principles, it formulates decisions on cases and legally binding recommendations and also sends legal opinions to courts in specific cases. The institution is known for taking a strong stance against discrimination, including in cases involving high-level politicians. The appointment of the members of its steering board by Parliament, as a guarantee of institutional independence, has, in practice, proved to be an obstacle, and the institution has been affected by the budget cuts. Moreover, it does not have a presence at the county level.

2.2. Legislation and Policy in the Field of gender-based violence.

Violence Legislation

The discussion of the scope of domestic legislation on gender-based violence is also necessary for terminological clarification.

In Romania, both the special Law and the national strategy explicitly refer only to domestic violence, without mentioning "violence against women" or "gender-based violence against women." The Istanbul Convention expressly includes both, right from the title: Council of Europe Convention on Preventing and combating violence against Women and domestic violence. In this analysis, we have consistently used the terms "violence against women" and "gender-based violence against women," believing that it is more comprehensive in relation to the social phenomenon itself and not limited to the private sphere, as the term "domestic violence" does.

In 2017, the CEDAW Committee, in its Concluding Observations on Romania’s combined 7th and 8th periodic reports, expressed concern about the limited scope of existing national legislation on gender-based violence against women, legislation on protection orders, as well as the envisaged strategy on gender equality and domestic violence because all legislation excludes: 1) gender-based violence outside the home; 2) violence committed in consensual unions; 3) limitations in the definition of rape and marital rape and 4) combating violence against Roma.

The major piece of Law that addresses domestic violence is Law No. 217/2003 for preventing and combating violence in the family. The provisions of the Law No.217/2003 are supplemented by provisions of the criminal code, which further details criminal offenses within the family. As in the case of gender equality law, the Regulation of domestic violence also improved on a constant basis. The process accelerated after 2016 when the Romanian Parliament ratified the CoE Istanbul Convention. By 2018, a revision of the provisions of the Law included a change in its title and definitions switching from providing protections only for violence within the family to introducing the term domestic violence. However, changes to the Criminal Code did not keep up with the shifts in the Law on domestic violence, and its terminology and area of application remain bound to the field of violence within the family.
Law no. 217/2003 for preventing and combating violence in the family ranks above a regular law in that it entails a system of administrative sanctions for breaching norms and also provides for civil protection measures for victims of domestic violence.

Law no. 178/2018 at point 2 to supplement Article 4 with letter l) of Law no. 202/2002 defines: "gender-based violence" as the act of violence directed against a woman or a man, motivated by gender. According to the Law, gender-based violence against women is violence that disproportionately affects women. Gender-based violence also includes, but is not limited to, the following acts: domestic violence, sexual violence, female genital mutilation, forced marriage, forced abortion, forced sterilization, sexual harassment, trafficking in human beings, and forced prostitution".

Moreover, the Penal Code expressly regulates offenses related to domestic violence in Article 199 of Chapter III: Crimes committed against a family member.

The country fares well in terms of laws and regulations that affect women's economic opportunity, but pension reforms emerge as a key lagging area. The country has a high score of 90.6 on the Women, Business, and Law Index3 by the World Bank in 2022, higher than the regional average observed across Europe and Central Asia (84.1). While the country fares well when looking at mobility, the workplace, entrepreneurship, assets, pay, marriage, and parenthood, it lags in its laws regarding pensions. There are laws mandating equal pay for men and women, women do have the same rights to remarry as men, and there is parental leave; however, the mandatory retirement age for men and women is not the same, and men and women cannot retire with full or partial pension benefits at the same age. This, together with lower lifetime earnings and longer life expectancies, can lead to significant inequalities in retirement wealth. Implicit bias in legislation, that is, laws or regulations that, because of typical social arrangements and economic behavior, tend to have different implications for men than for women needs to be carefully considered (Stotsky, 2020).

Despite this robust legislative and institutional setup, challenges remain high when it comes to implementing and monitoring concrete measures and evaluating outcomes.

The Romanian government has made efforts to reduce gender-based violence. For example, Law No 217, passed in 2003 to reduce gender-based violence, define various forms of violence and criminalize marital rape. It was amended in 2012 and 2017 to provide protection orders. As of 2017, Romania had trained 1,100 gender equality experts and 4,000 technicians whose roles are to implement local and national strategies to promote gender equality and eliminate domestic violence. In 2016, the Istanbul Convention, i.e., the Council of Europe agreement on preventing and combating violence against women and domestic violence, was signed and ratified by Romania. Romania has made significant progress in expanding the provision of shelters for those experiencing domestic violence with concerted efforts by the government,

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3 The Women, Business and the Law index measures explicit discrimination in the law, legal rights, and the provision of certain benefits, areas in which reforms can bolster women’s labor force participation.
non-governmental organizations, and faith-based institutions. However, many shelters are not run for women only (EIGE, 2021). However, it is important to note that attitudes toward gender-based violence continue to affect the effective prevention and response to gender-based violence. For example, the 2016 Special Eurobarometer reports that 32% of respondents in Romania viewed domestic violence as a private matter (compared to 15% at the EU level); thus, women may be less inclined to report violence cases to authorities (Romania Gender Assessment, 2018).

While the Law does not offer strong protection for LGBTIQ, the courts have been progressive in upholding their rights in the country. In June 2020, the Constitutional Court in the country ruled against a proposed law that aimed at banning the discussion of gender in education, particularly the theory and opinion on gender identity4. Nonetheless, Romania remains one of the few countries in the EU which do not offer avenues for same-sex couples to enter civil marriage or civil partnership, as well as denies recognition to same-sex couples married abroad5.

Beyond a review of laws to promote gender equality, this assessment aims to account for the extent to which the existing legislation is being implemented and analyze key gender data and capacity gaps and specific actions taken by the government and/or civil society organizations to address gender inequities. This analysis will complement information from the latest Women, Business, and the Law to determine explicit and implicit biases in the legislation and an assessment of implementation gaps in the legal system. The team is in conversations with the Women, Business, and Law team that is conducting pilot research on legal implementation gaps to see if Romania can be included among the pilot countries.

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4 Human Rights Watch, December 17, 2020
5 as per the Civil Code of Romania, Article 277 (2)