

Equal Opportunities
for Women and Men

*Monitoring law and
practice in new member states
and accession countries of the
European Union*

2005

PARTICIPATING COUNTRIES:

Bulgaria
Czech Republic
Estonia
Hungary
Lithuania
Poland
Romania
Slovakia
Turkey



Equal Opportunities for
Women and Men

Monitoring law
and practice in

Romania

by Roxana Tesiu, Florentina Bocioc

2005

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Preface

BRINGING THE EU HOME

“Bringing the EU Home” is a three-year project (2004–2006) conceptualized as a follow up to the Program on Equal Opportunities for Women and Men in the European Accession Process (EOWM), which was a joint initiative of the Open Society Foundation Romania and the Network Women’s Program of the Open Society Institute*. The EOWM projects stemmed from the Open Society Institute project to monitor the progress of candidate countries as they prepared themselves for integration into the European Union and ensured that they met the Copenhagen political criteria, particularly in relation to the independence of the judiciary, minorities’ rights, and anti-corruption. Given the *acquis communautaire* in the field of equal opportunities for women and men, which accession countries are required to adopt and comply with, an independent programme, EUMAP, to evaluate the status of accession countries from this perspective was developed.

An assessment of the status of equal opportunities, *de jure* and *de facto*, was carried out in seven of the ten candidate countries: Bulgaria, the Czech Republic, Estonia, Hungary, Lithuania, Poland and Romania. The EU Directives on equal opportunities provided the framework for monitoring and analyzing corresponding legislation, institutions and practices. The Directives related to the principle of equal pay for work of equal value; equal treatment as regards employment; protection of pregnant, and breastfeeding women, and women who recently gave birth; the burden of proof in cases of sex-based discrimination, and non-discrimination against part-time workers were analyzed in 2001. The remaining Directives on self-employed workers, parental leave, and social security schemes were assessed in 2002.

The final report, including an overview and executive summary for each country, was published in November 2002. Each country report and executive summary was translated into the national language and used as an advocacy/research tool. 2002 and 2003 were years of intensive outreach efforts, both nationally and at the EU level. Countries organized roundtables and meetings for NGOs, government officials, lawyers, and media to publicize the findings of the reports. The English version was used for advocacy at the EU level, and sent to members of Parliament from EU and candidate countries. Country information was presented twice at meetings in Brussels, and the final reports were launched at the European Parliament in November 2002.

* Monitoring the EU Accession Process: Equal Opportunities for Women and Men 2002, <www.eonet.ro>

The project “Bringing the EU Home” aims to promote awareness, advocacy and enforcement of equal opportunity legislation at the national level and to build the capacity of national actors in civil society to use EU-level mechanisms effectively. In this context, new, updated monitoring was carried out in 2004.

A detailed assessment of the legislative developments, institutional mechanisms, policies, programs and research at the national level was carried out in Bulgaria, the Czech Republic, Estonia, Hungary, Lithuania, Poland, Romania, Slovakia* and Turkey.*

Each country report contains key recommendations related to legislation, institutional mechanisms, policies and programs, awareness raising and research initiatives and outlines specific areas of concern. On-going updates will be made to the reports and available online, in order to ensure different groups can access the most current information easily.

The project further aims to help raise the significance of equal opportunities on the European agenda within new member states and within the process of on-going and new accession negotiations, and create a unique platform for new member states and accession countries. It is therefore about “bringing the EU home.”

We would like to thank all individuals who were involved in this monitoring project and whose invaluable contributions and support made the publication of these reports possible.

Éva Földvári
Senior Manager of Network Women's Program
Open Society Institute

Anastasia Posadskaya-Vanderbeck
Director of the Network Women's Program
Open Society Institute

* Slovakia and Turkey joined the project since 2004.

Acknowledgements

Consultant: Nicole Watson, *Consultant of the Equal Opportunities for Women and Men Project of the Network Women's Program*

NATIONAL EXPERTS:

Bulgaria: Gergana Ilieva, *Independent Expert*
Magdalena Delinesheva, *Center of Women's Studies and Policies*

Czech Republic: Barbara Havelkova, *Independent Expert*

Estonia: Mari-Liis Sepper, *Independent Expert*
Marika Linntam, *Independent Expert*

Hungary: Andrea Krizsán, *Central European University*
Enikő Pap, *Independent Expert*

Lithuania: Indre Mackeviciute, *Office of the Equal Opportunities Ombudsman*

Poland: Eleonora Zielinska, *Warsaw University School of Law*

Romania: Roxana Tesiu, *Center for Partnership and Equality*
Florentina Bocioc, *Center for Partnership and Equality*

Slovakia: Janka Debreceniová, *NGO 'Citizen and Democracy'*
Zuzana Ocnasova, *Slovak-Czech Women's Fund*

Turkey: Selma Acuner, *Ankara University*
Nevin Şenol, *Independent Researcher*

These national experts prepared full monitoring reports on equal opportunities for women and men on the basis of a detailed methodology prepared under the project "Bringing the EU home".

THE EDITORIAL TEAM:

Nicole Watson

Miklós Vörös

Enikő Pap

INSTITUTIONAL PARTNERS OF THE NETWORK WOMEN'S PROGRAM:

Bulgaria:	Tatyana Kmetova, <i>Center of Women's Studies and Policies</i>
Czech Republic:	Monika Ladmanova, <i>The Open Society Fund Prague</i>
Estonia:	Selve Ringmaa, <i>Open Estonia Foundation</i>
Hungary:	Zsuzsa Lestál, <i>MONA-Foundation for the Women of Hungary</i>
Lithuania:	Virginija Aleksejunaite, <i>Center for Equality Advancement</i>
Poland:	Agnieszka Grzybek, <i>OSKA-National Women' Information Center</i>
Romania:	Roxana Tesiu, <i>Center for Partnership and Equality</i>
Slovakia:	Viera Klementova, <i>Slovak-Czech Women's Fund</i>

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1. LEGISLATIVE OVERVIEW

During the past two years, Romanian laws concerning equal opportunities for women and men, discrimination and social security have been substantially amended. Some of the changes are meant to fulfill obligations of the Romanian Government to implement the European Union Directives on equal opportunities and anti-discrimination. Other amendments diminished the former provisions, without being contrary to the EU Directives.

1.1 Protective Measures for Pregnant and Breastfeeding Workers

The main legislative changes are related to the protective measures for pregnant workers and women who have recently given birth or are breastfeeding. Almost all the recommendations made in the first report related to the *Council Directive 92/85/EEC of 19 October 1992 on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who Have Recently Given Birth or Are Breastfeeding* have been incorporated into Romanian law. The legal acts that introduce those provisions are:

- Emergency Government Ordinance No. 96 of 2003 on Maternity Protection at the Working Places;¹
- Law No. 25 of 2004 on Approval of the Emergency Government Ordinance No. 96 of 2003 on Maternity Protection at the Working Places;²
- Methodological Norms of April 7, 2004 for the appliance of the Emergency Government Ordinance No. 96 of 2003 on Maternity Protection at the Working Places.³

Thus, the concepts 'pregnant worker', 'worker who has given birth' and 'breastfeeding worker' are now legally defined as follows:⁴

¹ Emergency Government Ordinance No. 96 of 2003 on Maternity Protection at the Working Places, published in the *Official Gazette* 750 of October 27, 2003.

² Law No. 25 of 2004 on Approval of the Emergency Government Ordinance No. 96 of 2003 on Maternity Protection at the Working Places, *Official Gazette* 214 of March 11, 2004.

³ Methodological Norms of April 7, 2004 for the appliance of the Emergency Government Ordinance No. 96 of 2003 on Maternity Protection at the Working Places, *Official Gazette* 378 of April 29, 2004.

⁴ Emergency Government Ordinance on Maternity Protection in the Workplace, Article 2.

- A “*pregnant worker* is a woman who has notified her employer in writing about her physiological condition of pregnancy and attached a medical document from the family doctor or her gynecologist for confirmation of her condition.”
- A “*worker who has given birth* is a woman who is resuming her active employment after maternity leave, not later than six months from the day she gave birth, and who has asked the employer, in writing, for the applicable legal protection measures, and attached a medical document from the family doctor for confirmation of her medical status.”
- A “*breastfeeding worker* is a woman who, upon resuming her active employment after maternity leave, is breastfeeding and has revealed to the employer, in writing, the beginning and the estimated end of the breastfeeding period, attaching a medical document from the family doctor for confirmation of her medical status.”

At the same time the following procedures were introduced:

- the employer’s obligation to review and assess the working conditions, as well as to inform pregnant and breastfeeding workers and workers who have recently given birth about those conditions;⁵
- the employer’s obligation to grant an exemption from work (“maternity risk leave”) if it is not possible to transfer the employee to a different job within the workplace;⁶
- the employer’s obligation to allow female employees to attend a medical examination during working hours without a decrease in pay;⁷
- the list of agents, processes and working conditions that physically and/or mentally affect pregnant and breastfeeding employees are to be made public;⁸
- the obligation to take a maternity leave of 42 days after the birth (from the total of 126 days of maternity leave that women are entitled to take before and/or after the birth);
- protection against the dismissal of women taking maternity leave or maternity risk leave, and against the dismissal of men and women who are taking parental leave or special leave to attend to sick children up to seven years or, in the case of disability, up to 18 years.⁹

⁵ *Ibid.*, Articles 5 and 6.

⁶ *Ibid.*, Article 10.

⁷ *Ibid.*, Article 15.

⁸ *Ibid.*, Annexes 1 and 2.

⁹ *Ibid.*, Article 21.

1.2 Labor Code

The Labor Code went through a major revision at the beginning of 2003. In the new version of the Labor Code, Article 125 stipulates that pregnant women, women who have recently given birth or are breastfeeding cannot be forced to do night work.¹⁰ The Labor Code also mentions other important aspects relevant in the prohibition of gender discrimination:

- Article 287 regulates the reversal of the burden of proof in work conflicts. Although the article does not make direct reference to gender discrimination and is applicable only to work conflicts (excluding the initial phase of job advertising or the process of job selection, e.g. a job interview), the European Commission stated in its *2003 Regular Report on Romania's Progress Towards Accession* that “the directive on the burden of proof has been transposed by the Labor Code.”¹¹ Nevertheless, although Romanian anti-discrimination legislation has been updated recently, a reference to the reversal of the burden of proof in discrimination cases, including gender discrimination, has yet to be made.¹²
- Article 147 gives the right to take a few days of extraordinary paid leave in cases of special family events. These days are not included among the usual leave.
- Chapter VIII of the Labor Code regulates part time work. According to Article 101 of the Labor Code a part time work contract allows employers to hire people to work not less than two hours per day, and not less than ten hours per week. Part-time employees have the same rights as the full-time employees.¹³
- Articles 108 to 116 of the Labor Code regulate the application of flexible work programs.

Other rights related to the equal opportunities for women and men were already included in the former Labor Code, thus amendments were not necessary.

¹⁰ Law No. 53 of 2003, the Labor Code, published in the *Official Gazette* 72 of February 5, 2003, Article 125.

¹¹ European Commission, *2003 Regular Report on Romania's Progress towards Accession* (Brussels: European Commission, 2003), p. 76. Available at http://europa.eu.int/comm/enlargement/report_2003/pdf/rr_ro_final.pdf.

¹² Iustina Ionescu, “Legal and Institutional Context of Discrimination in Romania,” in *Combating Discrimination: Efficiency of the Governmental and Non-Governmental Initiatives* (Bucharest: Agentia de Monitorizare a Presei, 2004), p. 17.

¹³ Law No. 53 of 2003, the Labor Code, Article 103.

1.3 Parental Leave

Regulations related to *parental leave* have also been amended. According to Law No. 19 of 2000 on the Public System of Pensions and Other Social Security Rights, parental leave was granted to women or men until the child reached the age of two or, in the case of a disabled child, up to the age of three. Either parent was granted a parental leave benefit amounting to 85 percent of their average salary over the preceding six months. According to the new Law No. 577 of 2003,¹⁴ the amount of parental leave benefit was settled at “85 percent of the average gross medium salary used to substantiate the budget of the social security scheme and approved through the law on the social security budget.”¹⁵ This provision came into force at the beginning of 2004, and the parental leave benefit for 2004 was estimated at 6,000,000 ROL (Romanian Leis) per month (46 Euros per month). An additional important change concerning the provisions on parental leave was an extension from six months to ten months of the compulsory minimum length of social security coverage.¹⁶ These changes can be considered to be a step back from the earlier regulations for the following reasons:

- The Government lost the chance to really encourage men to take parental leave by establishing a fixed amount of money, which is, on average, lower than what men could earn by going to work instead of taking parental leave. Non-governmental organizations recommended that the Government establish a threshold for the minimum amount for the parental leave benefit (at the level of 85 percent of the average gross medium salary used to substantiate the budget of the social security scheme) and retain the formula of calculating the amount based on employees’ salaries. This way, men and women who earn less than the average salary would enjoy more revenues, and men and women who earn more than the average salary would maintain their living standards.
- The extension of the minimum length of social security coverage from six months to ten months diminishes the chance for women and men to take parental leave if they have not worked for at least ten months before the birth of the child. In a country where family planning is not part of everyday life, and where it is very difficult for a pregnant woman to find a job, many parents (men and women) can discover that they are not entitled to parental leave benefits because their work contracts have not been at least 10 months in length.

¹⁴ Law No. 577 of 2003 on Approving the Emergency Government Ordinance No. 9 of 2003 on the Modification and Completion of the Law No. 19 of 2000 on the Public System of Pensions and Other Social Security Rights, published in the *Official Gazette* 1 of January 5, 2004.

¹⁵ *Ibid.*, Article 125(2).

¹⁶ *Ibid.*, Article 98(4).

People employed in the agricultural sector are not obliged to be insured in the public pension system.¹⁷ They can choose to conclude an individual contract with the House of Pensions.

1.4 Anti-Discrimination Legislation

Anti-discrimination legislation in Romania includes gender discrimination issues. As a result, gender discrimination is addressed both by anti-discrimination and equal opportunity laws. During the last two years, anti-discrimination laws have also been amended by introducing the concepts of ‘indirect discrimination’, ‘harassment’, ‘victimization’ and ‘disposition to discriminate’. Moreover, the fines for discriminatory acts have also been increased.

In the process of changing the legislation on anti-discrimination, the National Council for Combating Discrimination proposed the term ‘gender’ as a criterion for discrimination, replacing the term ‘sex’. This proposal has not been accepted by the Parliament.

1.5 Self-Employed Persons

The definition of ‘self-employed person’ was introduced in Romanian law in 2002¹⁸ and was amended in 2004, through Law No. 300 of 2004 on Authorizing Persons and Family Association which Independently Carries on Economic Activities.¹⁹ According to Article 3 of the Law No. 300 of 2004, a person is self-employed if he or she carries out economic activities independently. A self-employed person has the right to be insured in the public pension system and to receive other social assistance benefits in the public health insurance system and in the unemployment insurance system.²⁰ However, this law makes no reference to the principle of equal opportunities for women and men.

In its 2003 methodology rules, the National Institute of Statistics defines the category of ‘self-employed individual’ as “a person who carries out economic activity in his [or

¹⁷ Emergency Government Ordinance No. 9 of 2003 on the Modification and Completion of the Law No. 19 of 2000 on the Public System of Pensions and Other Social Security Rights, published in the *Official Gazette* 167 of March 17, 2003, Article 5.

¹⁸ Law No. 507 of 2002 on the Organization and Carrying out of Economic Activities by Physical Persons, *Official Gazette* 582 of August 6, 2002.

¹⁹ Law No. 300 of 2004 on Authorizing Persons and Family Associations that Independently Carry on Economic Activities, published in the *Official Gazette* 576 of June 29, 2004.

²⁰ *Ibid.*, Article 3(2).

her] own unit or in individual business, not employing an employee and either being helped or not by contributing family members. This status also includes independent entrepreneurs [...], self-employed persons [...], occasional or day-workers, holders of management or franchise contracts who do not employ an employee, as well as individual farmers or persons who work in agricultural associations.”²¹

In the second half of 2004, the Ministry of Labor, Social Security and Family worked on an amendment of the Law No. 202 of 2002 on Equal Opportunities for Women and Men to introduce the provisions of the Directive 2002/73/EC of 23 September 2002 amending Council Directive 76/207/EEC on the Implementation of the Principle of Equal Treatment for Men and Women as regards Access to Employment, Vocational Training and Promotion, and Working Conditions. The first draft of the amendment raised important questions concerning the accuracy of transposing the 2002 EU Directive.

2. INSTITUTIONAL MECHANISMS

2.1 Parliamentary Commissions

The Parliament has two bodies that address issues of gender equality: the Deputy Chamber Commission on Equal Opportunities for Women and Men and the Senate Commission on Equal Opportunities for Women and Men.²² Unfortunately, these committees have not been able to fulfill their mandate due to the lack of real political interest in the field of equal opportunities for women and men, as well as a lack of financial resources to sustain their activity.

The Deputy Chamber Commission on Equal Opportunities for Women and Men is officially comprised of 21 deputies (18 women and three men), and has the following domains of activity:

- the elimination of any form of sex-based discrimination and the improvement of women’s social status;

²¹ National Institute of Statistics, *Household Labor Force Survey: Fourth Quarter 2003* (Bucharest: NIS, 2003), p. 8.

²² For the founding documents of these committees, see the Deputy Chamber Decision No. 24 of 2003 on Setting up the Commission on Equal Opportunities for Women and Men and the Senate Decision No. 10 of 2003 for Completing the Article 56(2) of the Senate’s Regulation.

- the integration of the principle of equal opportunities for women and men in legal initiatives, policies and programs;
- the monitoring of the application of legal provisions included in international documents signed and ratified by Romania, concerning equal opportunities for women and men.

The Commission's tasks are as follows:

- to promote the application of the principle of equal opportunities for women and men in the national legislation;
- to monitor the integration of the equal opportunities principle within sectoral policies and programs, through collaboration with the social partners and public institutions responsible in the field;
- to give a consultative notification on legal drafts and legislative proposals with an impact on women's and men's status;
- to monitor Romania's progress within the process of harmonizing national legislation with EU standards in the field of equal opportunities for women and men, as well as Romania's progress with regard to international obligations assumed in the field of equal opportunities for women and men;
- to participate in the elaboration of the National Strategy for promoting equal opportunities for women and men, and monitor its application by debating the periodical reports issued by the governmental structures with tasks in the field;
- to consolidate the partnership with civil society, aimed at raising social solidarity through promoting equal opportunities;
- to act for changing the mentality and discriminatory attitudes;
- to support the publication of research, studies, public opinion polls and statistics on the status of women;
- to collaborate with similar structures placed at the EU level and with regional networks active in promoting the equal opportunities principle for women and men.

The Senate Commission on Equal Opportunities for Women and Men placed at the Senate level has 11 senator members (six women and five men), and has the following tasks:

- to examine and discuss legal drafts and legislative initiatives aimed at elaborating reports or notifications on the elimination of any form of sex-based discrimination and the improvement of the status of women in society, as well as

on the integration of the equal opportunities for women and men principle in the legislative process, in the policies and programs targeting women and men;

- to monitor the application of the legal provisions on the principle of equal opportunities for women and men in light of the international documents ratified by Romania;
- to request reports, notices and documentation from the public authorities concerning the activities in its sphere of competence;
- to elaborate notifications on the written amendments set down by the senators or the parliamentary groups;
- to collaborate with similar European structures in the field of equal opportunities for women and men;
- to pursue ongoing collaboration with the national structures in charge of the application of the gender policies with the aim of elaborating legal initiatives in the field of equal opportunities for women and men;
- to perform parliamentary investigations when considered necessary and to present reports to the Permanent Office.

2.2 Government Offices

The institutional mechanisms of the government dealing with gender equality issues are only decorative. It is difficult to define the domain of their activity due to a significant number of legal changes over the past four years. Thus, through the reorganization of the Ministry of Labor, Social Solidarity and Family,²³ the former Directorate for Equal Opportunities has been removed from the ministry's structure. The structure that is currently responsible for dealing with gender equality in the governmental sector is the Inter-Ministerial Consultative Commission on Equal Opportunities for Women and Men.²⁴ Its profile and tasks were modified through a significant number of legal acts, and the role of this structure and how its tasks are to be fulfilled in an efficient way are no longer clear. Based on the legal provisions of the Government Decision No. 967 of 1999, the defined scope of the Commission's functioning is to assure a "permanent information exchange on the experiences and

²³ Government Decision No. 737 of 2003 on the Reorganization and Functioning of the Ministry of Labor, Social Solidarity and Family, published in the *Official Gazette* 483 of July 7, 2003.

²⁴ Hereinafter 'The Commission'. The Commission was set up based on the provisions of the Government Decision No. 967 of 1999 on the Establishment and Functioning of the Inter-Ministerial Consultative Commission on Equal Opportunities for Women and Men, published in the *Official Gazette* 583 of November 30, 1999.

measures in the field of gender equality and the elaboration of recommendations to the central public administration authorities on the formulation and implementation of sectoral policies for promoting equal opportunities and equal treatment.”²⁵ According to the legal provisions of the Government Ordinance No. 967 of 1999,²⁶ the Commission has the following tasks:

- to disseminate, through the public administration authorities, the concept of gender mainstreaming, in order to incorporate the principle of equal opportunities for women and men and to eliminate the sex based discrimination within the elaboration of the sectoral public policies;
- to evaluate the application and implementation stage concerning the legal framework on equal opportunities for women and men;
- to promote the exchange of experience and information in the field of equal opportunities for women and men;
- to elaborate recommendations for supporting the performance of the governmental and non-governmental structures in applying gender mainstreaming policies;
- to elaborate periodical reports on the status and condition of women in Romania, as well as on the application of the equal opportunities policies in different activity sectors.

The above described governmental mechanisms based on the legal provisions of the Government Ordinance No. 967 of 1999 will cease to exist on April 15, 2005, according to the legal provisions of the new adopted Government Decision No. 84 of 2004.²⁷ The government mechanism on gender equality is under revision, as the issue of equal opportunities for women and men is undergoing legal changes. Thus, the Law No. 202 of 2002 on Equal Opportunities for Women and Men²⁸ has already been amended through the legal provisions of the Government Decision No. 84 of 2004, with the aim of incorporating the changes generated by the Council Directive 2002/73/EC of September 23, 2002, amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

²⁵ Government Decision No. 967 of 1999, Article 1.

²⁶ *Ibid.*, Article 2.

²⁷ Government Decision No. 84 of 2004 on the Modification and Completion of the Law No. 202 of 2002 on Equal Opportunities for Women and Men, adopted on August 19, 2004, and published in the *Official Gazette* 799 of August 30, 2004.

²⁸ Law No. 202 of 2002 on Equal Opportunities for Women and Men, adopted on April 19, 2002, published in the *Official Gazette* 301 of May 8, 2002.

Based on the provisions of the Government Decision No. 84 of 2004, the National Agency on Equal Opportunities between Women and Men is to be set up starting on January 1, 2005. The Agency will start to function on March 1, 2005 with a number of 30 public officers and contractual personnel assured from redistribution of the vacant places within the Ministry of Labor, Social Solidarity and Family.

According to the legal provisions of the Government Decision No. 84 of 2004, the Agency is to be set up as a subordinated structure within the Ministry of Labor, Social Solidarity and Family and its budget is to be assured from the Ministry's budget.²⁹ It is established that the Agency shall be run by a President, with an official position assimilated to a General Director within the Ministry of Labor, Social Solidarity and Family.³⁰ Unfortunately, such a placement within the governmental system does not assure the needed decision power for the Agency and a significant budget to be efficiently used for accomplishing its attributions. It is to be underlined that the legal amendments to the Law No. 202 of 2002 through which the Agency was established represent the results of a common twinning project between the European Commission and the Romanian Government.³¹ The expert team that assured the consultancy on behalf of the European Commission is represented by Spanish experts. The expert team's proposal for modifying the Law No. 202 of 2002 recommended that the Agency shall be an independent body, subordinated to the Parliament, with a distinct independent budget. Such a placement within the institutional environment in Romania would assure the needed independence and decision power for the Agency in order to fully address and encompass its mandate, as well as a representative national structure.

Through the legal provisions of the Government Decision No. 84 of 2004 a National Commission on the Equal Opportunities between Women and Men (NCEO) will also be set up. The Commission is headed by the Agency President and will continue to fulfill the responsibilities of the current Inter-Ministerial Consultative Commission on Equal Opportunities for Women and Men. In terms of composition, the National Commission will comprise "representatives of ministries, other central public administration bodies subordinated to the Government, trade union representatives, as well as representatives of the employers' associations located at the national level, representatives of the non-governmental organizations with a well-known activity in the field of equal opportunities for women and men, appointed by consensus by the non-governmental organizations active in the field."³²

²⁹ Government Decision No. 84 of 2004, Article 1(15).

³⁰ *Ibid.*, Article 1(16).

³¹ *Setting up the National Agency on Equal Opportunities between Women and Men*. PHARE Romania-Spain Twinning Project, Phare RO 02/IB/SO-01.

³² Government Decision No. 84 of 2004, Article 1(16).

3. POLICIES, PROGRAMS AND AWARENESS-RAISING

3.1 Policies and Programs

In line with the above-mentioned legal attributions of the Romanian institutional mechanisms on gender equality, no reference on policies and activities on gender equality can be made. The National Action Plan on Equal Opportunities between Women and Men, provided for in the Government Decision No. 1273 of December 7, 2000³³ did not reach its established objectives in their entire description. The action objectives stipulated for in the mentioned legal norm were not accomplished. As such, in this regard, Romania fails to meet its obligations in relation to gender equality.

Almost four years after the National Action Plan on Equal Opportunities between Women and Men was approved, the Government finally adopted its Decision No. 285 of March 4, 2004 on the application of the National Action Plan.³⁴ The significant delay in the process of adoption reveals a lack of political commitment to the issue of gender equality in Romania. According to the legal provisions of the Government Decision No. 285 of 2004,³⁵ new structures on gender equality were set up. These structures are represented by the “specific structures on equal opportunities for women and men” located within the central public administration authorities and within their public de-concentrated services. As long as they are based on the legal provisions of the Article 4 of the Government Decision No. 285 of 2004, these specific structures are supposed to be set up within the limits of the personnel posts and budgetary allocations already approved it is to be underlined that these structures are functioning only on the paper. In the same way, the information activities and professional training on the legislation regarding gender equality to be carried out by the central public administration authorities shall be assured within the limits of the already approved budgetary allocations, according to the legal provisions of the Article 6 of the Government Decision No. 285 of 2004. Therefore, it is to be emphasized that these activities will not be carried out as long as there are no funds independently secured.

There are no state policies to promote women’s participation in the labor market, such as promoting flexible working arrangements, supporting women to re-enter the labor market after the leave to care for children. There are no state policies or initiatives

³³ Government Decision No. 1273 of 2000 on the Approval of the National Action Plan on Equal Opportunities between Women and Men, adopted on December 7, 2000, published in the *Official Gazette* 659 of December 15, 2000.

³⁴ Government Decision No. 285 of 2004 on the Application of the National Action Plan on Equal Opportunities between Women and Men, adopted on March 4, 2004, published in the *Official Gazette* 236 of March 17, 2004.

³⁵ *Ibid.*, Article 4.

aiming to reduce gender pay gap, even if in the discourse of the state official representatives this gender pay gap reality is recognized and mentioned. There are no state policies or structures aiming to involve men in sharing family responsibilities. In general, aspects such as reconciling work and family life, changing attitudes on gender stereotypes, or encouraging men to take greater family responsibilities are absent from the political discourse. Specific programs and initiatives in these fields are still addressed by the non-governmental organizations or other actors of the civil society.

3.2 Awareness-Raising

Although a law on transparency in decision-making has been in force since February 2003,³⁶ it cannot be said that access to information from state institutions has been improved. The Ministry of Labor, Social Solidarity and Family (the main institution dealing with gender equality) does not fully comply with the requirements of this law, involving NGOs in debates on gender equality legislation only formally, without taking their point of view into consideration.

The only campaign promoting gender equality was run for a period of three months (from June to August 2003) by a non-governmental organization, the Academia Catavencu Agency for Media Monitoring. The campaign was dedicated to raising awareness on discrimination and of the existence of the National Council for Combating Discrimination. Some of the spots and posters of the campaign were dedicated to gender discrimination. The program was financially supported by Open Society Foundation–Romania.

4. RESEARCH AND STATISTICS

4.1 Gender Pay Gap

In October 2002, women's average income was 82.6 percent of men's average salary.³⁷ The gender pay gap decreased constantly between 1995 and 2002, from 21 percent in 1995 to 17 percent in 2002. This situation is not due to an explicit policy to encourage the elimination of gender pay gap, but is the result of a system of establishing the salaries on the basis of working time, qualification for the work and length of service.

³⁶ Law No. 52 of 2003 on Transparency in Public Administration Decisions, published in the *Official Gazette* 70 of February 3, 2003.

³⁷ National Institute of Statistics, "Time Series," in *Romanian Statistical Yearbook 1990–2002* (Bucharest: NIS, 2004), Chapter 4, p. 10.

Experts estimate that the gender pay gap is greater in the private sector than in the public one. One reason for this is that many payments for salaries are made unofficially – thus, officially, most of the employees have the legal minimum wage.

The level of salaries is officially monitored by the Labor Inspection, an institution of the Ministry of Labor, Social Solidarity and Family. This institution verifies whether salaries are determined according to the law (respecting the minimum wage, the regulation related to the calculation of the wage, etc.). At the same time, periodical statistics regarding the level of salaries are published by the National Institute for Statistics. During the past years the gender dimension has been introduced into the variables of the national statistics; thus, more and more data are being disaggregated by gender.

4.2 Women in Decision-Making

After the municipal elections were held in June 2004, no official data was made public concerning the number of women in central and local decision-making bodies. According to the data related to election participants, a greater number of women were included on the election lists. If the 2004 election is compared with those in 2000, much more public debate was dedicated to women's participation in politics. Due to these debates, the main political parties expressed their position related to women's participation in election, and in politics, in general.

According to statistical data from 2002, 30 percent of members in legislative bodies, executives, top position-holders in public administration, and other leaders in socio-economic and political units were women.³⁸ The figure has increased constantly since 1995, when it was 28.2 percent.³⁹

4.3 Gender Segregation in the Labor Market

The pattern of gender segregation in the labor market has been preserved as in previous years, and more women than men can be found in the sectors financed by the state budget (education, health, social services, trade, hotels and restaurants, etc.). Relevant statistics from 2002 revealed that:

- among self-employed persons, 32.5 percent were women;
- among employers, 26 percent were women;

³⁸ NIS, Romanian Statistical Yearbook 1990–2002, Chapter 3, p. 12.

³⁹ UNDP, Human Development Report 2001–2002, UNDP, p. 89.

- among employees, 44 percent were women;
- among unpaid family workers, 70 percent were women;
- among members of an agricultural holding or of a cooperative, 45 percent were women.⁴⁰

In the fourth quarter of 2003, the unemployment rate⁴¹ was 6.7 percent at the national level.⁴² Men represented a larger proportion among the unemployed (59.7 percent), especially those belonging in the age group of 25–49 years.⁴³ The average length of unemployment status was 26.3 months. The longest duration of unemployment was registered for women in the age group 50 years and older (34.6 months), and the shortest duration (14.4 months) was registered for men in the age group of 15–24 years.⁴⁴

4.4 Reconciliation of Family and Professional Responsibilities

A paper on women's and men's participation in working and private life is currently being prepared at the National Institute of Statistics. The paper will focus on issues such as life conditions, work, education, and health. The statistics were due to be published in October 2004.

According to the Gender Barometer, in 2000, 63 percent of the population agreed that women are more responsible than men for taking care of household duties. From the total Romanian population, 83 percent agreed that the men are the household head (82 percent of women agreed with this statement), and 53 percent of the population considered that men are not capable of raising children.

The majority of the household duties are performed by women, together with the child raising duties. Available data on the number of nurseries, the number of which have decreased regularly since 1999, supports this. There were 388 nursery units in 1999 and only 288 nursery units in 2002.⁴⁵ The number of kindergartens decreased from 12,529

⁴⁰ NIS, *Romanian Statistical Yearbook 1990–2002*, Chapter 3, p. 10.

⁴¹ Unemployment is defined according to the International Labor Organization standards: ILO unemployed are persons aged 15 years and over who in the reference period fulfill the following conditions: who has no job and does not carry out an activity in order to get income; is looking for a job, in the last four weeks using various active methods to find it; is available to start work within the next 15 days, if a job is found now (see NIS, *Household Labor Force Survey 2003*, p. 8).

⁴² NIS, *Household Labor Force Survey 2003*, p. 30.

⁴³ *Ibid.*, p. 30.

⁴⁴ *Ibid.*, p. 31.

⁴⁵ NIS, *Romanian Statistical Yearbook 1990–2002*, Chapter 6, p. 2.

in 1999–2000 to 9,547 in 2002–2003, although the number of children enrolled in kindergartens increased from 616,313 in 1999–2000 to 629,703 in 2002–2003.⁴⁶

There is no official data on parental leave schemes. It is assumed though that the number of men taking parental leave is not statistically significant.

4.5 Gender and Education

The number of girls and boys in the school-aged population in 2002–2003 was equal. There are more boys than girls until the primary and secondary level of education, but then the number of girls exceeds the number of boys by approximately four percent in tertiary education.⁴⁷ This is because more boys drop out of school than girls. The number of boys is significantly higher in special education (for children with disabilities). Girls only make up 38 percent of the total number of children in special education.⁴⁸

Women represent 57 percent of graduates in tertiary graduation. In 2002, 26 percent of women graduated from tertiary education out of the total number of women enrolled at this level of education. The percentage of men graduating from tertiary education is 20 percent of the men enrolled.⁴⁹

4.6 Health Care

Statistical data from 2002 indicates that among the medical personnel in units with state majority ownership:

- 66.7 percent of physicians were women;
- 64 percent of dentists were women;
- 89 percent of pharmaceutical chemists were women;
- 91 percent of ancillary medical staff were women;
- 85.4 percent of auxiliary staff were women.⁵⁰

The maternal mortality rate, at the end of 2002, was 22.2 per 100,000 live births.⁵¹

⁴⁶ *Ibid.*, Chapter 7, p. 6.

⁴⁷ *Ibid.*, Chapter 7, p. 7.

⁴⁸ *Ibid.*, Chapter 7, p. 7.

⁴⁹ *Ibid.*, Chapter 7, p. 8.

⁵⁰ *Ibid.*, Chapter 6, p. 5.

4.7 Violence in the Workplace

In 2003, the Partnership for Equality Center, a non-governmental organization conducted a survey on domestic violence and violence in the workplace.⁵² This was the second research on the issue in Romania. The first was conducted by the Gender Barometer,⁵³ and involved a survey on gender issues run by the Open Society Foundation–Romania in 2000.

According to data from the 2003 research – using the indirect method of assessment, based on the question: “do you have a relative or a close acquaintance who was asked to engage in sexual relations in exchange of professional and/or material benefits or in order not to lose a job over the last two years?” – 4.7 percent of the population said that someone close to the respondent had been a victim of sexual harassment over the previous two years. In 90 percent of cases the victims were women, in 55 percent of cases the abuser was a “boss” or a “manager” and in 24 percent of cases a “business owner”.⁵⁴ At the same time, a direct method of assessment was also used, identifying ten types of sexual harassment at the workplace or at school. At the national level, ten percent of the population admitted that at least someone (a man or woman) had looked at her/him in an inappropriate way (five percent of cases took place in the last 12 months), eight percent of the population declared that someone has addressed her/him in improper language and made dirty jokes knowing that it disturbed her/him (four percent in the last 12 months), and six percent of the population admitted that someone had made obscene gestures at her/him (three percent in the last 12 months).⁵⁵

Moreover, 11.4 percent of the population revealed that they have experienced at least one type of sexual harassment in their lifetime (this ratio is 14.3 percent among women and 12.9 percent among men).⁵⁶

According to the research, the topic of sexual harassment in the workplace or at school is of little interest for the population of Romania when it does not involve asking for sexual relations. Over a quarter of the women in Romania and 40 percent of men do

⁵¹ *Ibid.*, Chapter 6, p. 13.

⁵² Partnership for Equality Center, *National Research on Domestic Violence and Violence in the Workplace: Romania 2003* (Bucharest: PEC, 2003), hereinafter “PEC, Research on domestic violence and violence in the workplace.”

⁵³ Open Society Foundation – Romania, *Gender Barometer* (Bucharest: OSF, 2000).

⁵⁴ PEC, *Research on Domestic Violence and Violence in the Workplace*, p. 129.

⁵⁵ *Ibid.*, p. 122.

⁵⁶ *Ibid.*, p. 130.

not even talk about this subject.⁵⁷ Only 50 percent of the population, men and women, without distinction, know that there is a law punishing sexual harassment.⁵⁸

4.8 Gender Stereotypes

There is little research on gender stereotypes in primary and secondary schools: the first one was conducted in 1997 by AnA – Romanian Society for Feminist Analyses⁵⁹ and was published under the title of *Gender and Education*. In the last two years, two important studies were conducted in the field of gender and education: *Explicit and Implicit Gender Manifestations in Education Curricula and Textbooks*, by Laura Grunberg and Doina Olga Stefanescu, and *Training Pupils for a Private Life from a Privacy Perspective* by Otilia Dragomir, Elena Balan and Cristina Stefan.⁶⁰

According to these studies:

- Gender roles are mostly traditional ones and often anachronistic: women are only viewed as teachers, queens, poets, but men are pictured in 29 different types of professions. Most of the women and men are dressed in traditional clothes and pursue traditional occupations: women are sewing, baking bread, spinning, and men are hoeing, mowing, and cutting woods.
- The world that is described in the textbooks is mainly masculine (visually and linguistically): from a total of 5,505 images with people, 3,281 are with men/boys, and only 756 with women/girls.⁶¹
- Gender is often defined by differences and not by similarity: men are never doing what women are doing, they are never part of the private life (under 1 percent of the images of boys/men included actions specific to private life).

According to a third study, *Perspectives on Gender Dimension in Education*:⁶²

⁵⁷ *Ibid.*, p. 136.

⁵⁸ *Ibid.*, p. 137.

⁵⁹ Laura Grunberg and Mihaela Miroiu (eds.), *Gender and Education* (Bucharest: AnA, 1997).

⁶⁰ Both studies have been financially supported by Partnership for Equality Center and have been published in Lazar Vlasceanu (ed.), *The School at the Crossroads: Changing and Continuity in the Curricula of Obligatory Education* (Iasi: Editura Polirom, 2002), pp. 150–206.

⁶¹ Laura Grunberg and Doina Olga Stefanescu, “Explicit and Implicit Gender Manifestations in Education Curricula and Textbooks,” in *The School at the Crossroads: Changing and Continuity in the Curricula of Obligatory Education*, Lazar Vlasceanu, ed. (Iasi: Editura Polirom, 2002), p. 158.

- Teachers have serious difficulties in defining the gender perspectives of education, and most of them are ‘gender blind’.
- A significant number of teachers have declared that they are against or skeptical about the value of a gender perspective in education.⁶³
- Most of the symbols of power and social prestige used in schools are masculine (pictures with men writers, leaders or male personalities).⁶⁴

4.9 Case Law

Between September and December 2003, the Labor Inspection sanctioned seven employers for not respecting legal provisions on equal opportunities for women and men.

According to the statements of the representatives of National Council for Combating Discrimination, 18 cases of gender discrimination were discussed and decided by the Council between 2002 and the first half of 2004. However, no details were provided on the nature of cases.

The media only rarely comments on gender discrimination issues. Most cases are related to sexual harassment, but these cases are not viewed from a gender perspective and are not perceived as being gender discrimination. At the beginning of 2003, the topic of parental leave was covered widely by the media, due to the pressure non-governmental organizations put on the government in order not to change the legislation on parental leave. Although the media supported the civil society actions, the gender perspective of the issue was not included, parental leave being seen mainly as “women’s right to take care of the child.”

⁶² Institute for Educational Sciences, UNICEF, *Perspectives on Gender Dimension in Education* (Bucharest: UNICEF, 2004).

⁶³ *Ibid.*, p. 33.

⁶⁴ *Ibid.*, p. 118.

5. KEY AREAS OF CONCERN AND RECOMMENDATIONS

5.1 Key Areas of Concern

The activity of the Parliamentary structures is still decorative and does not generate a concrete impact on the equal opportunities for women and men agenda in Romania. The process of establishing the National Agency for Equal Opportunities is a very important political step in order to recognize the social reality of the obstacles to gender equality in Romania; however, the Agency must be given and guaranteed the financial and human resources to meet its established mandate. In the absence of these concrete means, the Agency is going to be another governmental structure that lacks national impact in the field of equal opportunities for women and men.

The National Agency is supposed to function with a number of public officers from the territory, already enrolled in the Directions for Social Dialogue. However, these public officers have too many tasks already given by different legal acts in the field of Social Dialogue activity. As such, the equal opportunities mandate will be just another task added to their job descriptions, without real chances to be followed as a priority.

The lack of integrated and consistent state policies on various aspects of gender equality dramatically affects the level of addressing them in practice. The situation is more serious as gender equality policy is promoted only in words, and on very limited occasions.

There is no serious and significant political commitment to the issue of gender equality in Romania. Therefore, the legal norms aimed to put in practice gender equality commitments undertaken by the Romanian Government are inadequately structured and lack practical implementation. The monitoring function of the legal commitments assumed by the Romanian state in terms of gender equality is absent.

Civil society is not really involved in the process of decision-making related to gender equality; and there are no campaigns to promote gender equality legislation or public campaigns on gender issues: sexual harassment, sharing family responsibilities.

The gender pay gap still exists; and gender disaggregated data is still lacking, especially data that would give a better picture of the gender situation in the main policy areas (such as the social security scheme, for example). There are no strategic plans for training teachers on gender issues or plans to introduce the gender perspective in educational curricula. The media is not gender sensitive; and there is an enormous need for training media experts on gender issues, and introducing a gender sensitive code of writing.

In addition, there is no detailed information available on gender discrimination cases resolved by the Labor Inspection or the National Council for Combating

Discrimination. The procedures (criteria, norms, plans, strategies) through which political parties nominate candidates on the election list are not sufficiently transparent; and the political parties are not obliged to introduce any measures to encourage the women's participation in politics.

5.2 Recommendations

5.2.1 Legislative Measures

- The Romanian Government should ensure that legal norms aimed to implement gender equality commitments are adequately structured to comply with the relevant EU Directives and they are capable of practical implementation.
- The Romanian Government should ensure that its legal commitments are monitored and their implementation mechanisms are evaluated.
- Civil society should be consulted in a more systematic way in the process of drafting gender equality legislation.

5.2.2 Institutional Mechanisms

- The activity of the Parliamentary structures should cease to be only decorative and should generate a concrete impact on the “equal opportunities for women and men” agenda in Romania.
- The National Agency for Equal Opportunities should be given and guaranteed the financial and human resources to meet its established mandate.
- The National Agency for Equal Opportunities should ensure the equal opportunities mandate is followed as a priority.

5.2.3 Policies and Programs

- Integrated and consistent state policies on various aspects of gender equality should be developed as a matter of priority.
- Specific policies addressing the gender pay gap should be put in place by the Government.
- A gender perspective should be introduced in educational curricula, and trainings for teachers on gender issues should be initiated by the Ministry of Education and Culture.

- A gender sensitive code of reporting and training programs should be developed for the mass media.
- More transparent procedures should be established regarding the nomination of candidates on the election list.
- Specific measures to encourage women's participation in politics should be introduced (for example, a quota system).

5.2.4 Awareness-Raising

- Detailed information on gender discrimination cases solved by the Labor Inspection and the National Council for Combating Discrimination should be made available to the public, together with a complete report on these institutions' activities.
- Information on the process of drafting gender equality legislation should be made more accessible to the public.
- The government should develop and implement public campaigns on gender equality legislation and on gender issues in order to increase the public awareness on the topic. These campaigns should include simple and effective messages conveyed in an accessible language.

5.2.5 Research and Statistics

- The inclusion of sex variables in collecting statistical data should be continued in order to have more gender disaggregated data.
- The committed inclusion of gender perspective in the mass media should be regularly monitored.

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Equal Opportunities for
Women and Men:
Monitoring law and practice
in new member states and
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WHAT IS THE SITUATION IN ROMANIA?

Since 2002, Romanian legislation on equal opportunities for women and men, discrimination and social security schemes has been substantially modified. The main changes that took place relate to protective measures for pregnant workers, women who have recently given birth, and breastfeeding women. In addition, the Labor Code underwent a major revision in 2003.

Institutional mechanisms on gender equality in Romania are at the parliamentary and governmental level.

The Government only recently expressed its interest in introducing policies that would encourage women to re-enter the labor market after taking leave to care for children. There are no state policies yet to promote women's participation in the labor market (such as promoting flexible working arrangements, or increasing the number of accessible child care services) or policies that encourage men to take more responsibility in family life. There are also no state policies or initiatives to reduce the gender pay gap.

WHAT DO THE FACTS SAY*?

- In October 2002, women earned 82.6 percent of men's salary;
- In 2002, women made up 30 percent of members of legislative bodies, and directors of public institutions and socio-economic and political units;
- In 2004, the National Council for Combating Discrimination received 13 complaints of gender discrimination (approximately 3.7 percent of the total number of complaints) and resolved eight of them;
- Following the 2004 parliamentary elections, only ten percent of Members of the Parliament are women (9.4 percent in the Senate and 10.5 percent in the Chamber of Deputies).

* Sources of data: *Romanian Country Report* (prepared as part of the report: *Equal Opportunities for Women and Men: Monitoring law and practice in new member states and accession countries*, available at www.cpe.ro); the *Annual Report of the National Council for Combating Discrimination, 2004* and the CPE (Center for Partnership and Equality) records.

DISCRIMINATION AGAINST WOMEN

“Discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

(Convention on the Elimination of All Forms of Discrimination Against Women, Article 1.)

THE EU'S COMMITMENT TO GENDER EQUALITY

“The EU has a long-standing commitment to promoting gender equality, enshrined in the Treaty since 1957.

The Community legal framework ensures that women and men are equal before the law. [...] Moreover, equal treatment legislation is a firmly established integral part of the *acquis communautaire* that countries applying for EU membership have to respect.”

(Community Framework Strategy on Gender Equality (2001-2005), Introduction; http://europa.eu.int/comm/employment_social/equ_opp/index_en.htm)

THE ACQUIS COMMUNAUTAIRE

“The *acquis communautaire* is the body of common rights and obligations which binds all Member States within the European Union. It comprises Community law, all acts adopted under the second and third pillars of the European Union and the common objectives laid down in the Treaties.”

(http://www.eu2005.lu/en/savoir_ue/glossaire/glossaire_a/index.html#Acquis%20communautaire)

WHAT DO THE EXPERTS SAY?

- A lack of real political interest in gender equality, combined with a lack of financial resources to sustain the activities of gender equality mechanisms, has meant that these mechanisms are largely decorative;
- The lack of public campaigns contributes to the low awareness of the general public regarding equal opportunities for women and men and anti-discrimination legislation;
- There are no public policies or programs to implement the adopted legislation on equal opportunities and anti-discrimination.

WHAT NEEDS TO BE DONE?

- Parliamentary structures charged with the gender equality mandate must ensure that their activities have a concrete impact on equal opportunities for women and men;
- The National Agency for Equal Opportunities should be given more independence, and guaranteed financial and human resources in order to meet its established mandate;
- The government should put in place specific policies to reduce the gender pay gap;
- A gender perspective should be introduced in educational curricula, and trainings for teachers on gender issues should be initiated by the Ministry for Education and Culture.

DID YOU KNOW:

The gender pay gap has decreased consistently between 1995 and 2002. However, this situation is not due to an explicit policy to eliminate the gender pay gap, but is the result of a system of establishing salaries on the basis of working time, qualification for work and length of service. Experts estimate that the gender pay gap is greater in the private sector – where many salary payments are made unofficially – than in the public sector.

MORE INFO:

www.cpe.ro