

Introduction

The Program on *Equal Opportunities for Women and Men in the European Accession Process* (EOWM) is a joint initiative of the Open Society Foundation Romania and the Network Women's Program of the Open Society Institute. Its conception stems from the Open Society Institute project to monitor the progress of candidate countries as they prepare themselves for integration into the European Union and ensure that they meet 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 the countries in accession are required to adopt and comply with, an independent programme 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 candidate countries: Bulgaria, the Czech Republic, Estonia, Hungary, Lithuania, Poland and Romania, and the EU Directives on equal opportunities provided the framework for monitoring and analysing the 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, 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 analysed in 2001; while the remaining Directives on self-employed workers, parental leave, and social security schemes were assessed in 2002.

The Programme Director, with the assistance of an expert working group comprised of experts from Western and Eastern Europe, devised the methodology based on the content of the EU Directives and EU case laws. The experts were also charged with supervising the completion of the Monitoring Reports by the national experts. Questions related to each specific Directive were issued, addressing key aspects from a legal, conceptual and factual point of view. The research was carried out in each candidate country by teams of local experts from various backgrounds: lawyers, sociologists, scholars, women's rights advocates from local NGOs or international agencies or from trade unions. Throughout the project, debates were organised within each country to enable a discussion and critique of the draft reports, sections of which were discussed with different constituencies and presented to the European Commission.

Each country report provides concrete recommendations on how to ensure full compliance with all of the Directives and outlines specific areas of concern. The full

report will be published in the fall of 2002 and on-going legislative updates will be available on the EOWM website (www.eonet.ro). The country reports contain the latest information available as of 15 July 2002.

The findings of the reports illustrate how women's human rights and equal opportunities for women and men are perceived in the candidate countries, all of whom have undertaken several steps in order to comply with EU standards, adopting a host of new laws and in most cases amending their Labour Codes. The overall assessment is that the EU accession is a positive process for raising social standards, and standards on gender equality in particular. The process has primarily influenced legislation in the field of employment, specifically equal pay and access to employment, the establishment of gender equality institutions and special legislation. The shift in the burden of proof and the adoption of provisions on parental leave provisions can be seen in some countries, as can the removal of certain measures that claim to be protective towards women, but which are in fact discriminatory.

The Opinion of the European Parliament from April 2002 commends countries in accession, including the Czech Republic and Hungary, and to some extent Poland, Lithuania and Estonia, for the progress they have made. Bulgaria and Romania still lag behind the standards in many respects, although the recent adoption of the Law on Equal Opportunities in Romania will certainly bring the country into the above group that has been commended, at least from the formal point of view of legal harmonisation.

This critical assessment is valid despite the fact that as of June 2002 all of the countries under review had already closed Chapter 13 "Employment and social policy" of the negotiation process. The Chapter was closed with certain conditions dictated by the Commission for these countries, including in the field of gender equality. The fulfilment of these conditions must be thoroughly monitored by the European Commission, the European Parliament and the NGOs in the countries in accession.

In order to promote further progress, EU bodies and, in particular, the European Commission, which is responsible for the enlargement process, should monitor the implementation of the Directives under review around the critical issues presented in the national reports and in this overview. Pressure should be put on governments that do not demonstrate enough flexibility, and more specifically, pressure should be exerted to ensure the following:

- The explicit introduction of the principle of equal treatment;
- The introduction of a legal definition of indirect discrimination;
- The introduction of a provision for the shift in the burden of proof;
- The adoption of the possibility for introducing positive action;

- The establishment and strengthening, through financial and personal resources, of institutional mechanisms for gender equality.

In addition, the reports all collectively underline the following points:

- The adoption of special gender equality legislation should be strongly encouraged.
- There should be a special focus on supporting the elimination of gender stereotypes through broad educational campaigns, and new educational programmes.
- There should be explicit mention throughout the entire negotiation process, and beyond it, of the integration of a gender approach into other aspects of the negotiation process with the EU. Gender equality standards should accordingly be emphasised through and beyond the accession process.
- The implementation of the commitments made during the negotiation process should be thoroughly observed and monitored, with a special focus on the gender issues raised through these national reports.
- Special attention should be paid and resources should be allocated for the establishment and strengthening of institutional gender equality structures, and for the development of respective policies by the governments.
- The increased role of civil society, namely of NGOs, in the process of accession should be taken into consideration and a permanent dialogue with EU bodies should be established.
- Dialogue between the governments of the candidate countries and civil society should be strongly encouraged.
- Financial resources should be allocated towards raising gender awareness and the implementation of the EU gender equality standards at the local level in the accession countries.
- Financial resources should be allocated for programmes and projects of NGOs, as well as government programmes with NGO assistance, in the field of research, awareness raising of EU standards, training of professionals and the judiciary, and for respective pilot initiatives, contributing to the fulfilment in letter and in practice of the *acquis communautaire*.

The Open Society Institute, through its Network Women Program and national foundations and in cooperation with local and European NGOs, will continue to closely monitor the developments in these countries and to advocate for a gender inclusive approach to EU accession.

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