Executive Summary for Romania

Introduction

In the last two years the Romanian legislation concerning equal opportunities for women and men, discrimination and social security schemes has been substantially modified. Some of the changes are meant to fulfil the obligations of the Romanian Government to implement the European Union Directives on equal opportunities and on anti-discrimination. Other amendments diminished the former provisions, without being contrary to the EU Directives.

The main changes that took place are related to the protective measures for pregnant workers, 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 introduced in Romanian legislation.

The Labour Code underwent a major revision at the beginning of 2003. In the new version of the Labour Code, an article is dedicated to regulating night work for pregnant women, women who have recently given birth or are breastfeeding. Other important aspects are mentioned in the same law, including: the reversal of the burden of proof in a work conflict (Article 287); the right to take a few days of leave in case of special family events without loss of pay (those days are not included in the usual leave, Article 147); regulations on part time work (part time employees benefit from the same rights as fulltime employees; regulations on the flexible work programs (Articles 108-116). Other rights related to equal opportunities for women and men they have remained as in the former Labour Code.

Regulations related to parental leave have also been modified. According to the Law 577/2003, the benefit for parental leave has been settled at "85 percent of the average gross medium salary used to substantiate de budget of the social security scheme and approved through the law on budget of social security schemes." An additional important change concerning the provisions on parental leave was the extension of the compulsory minimum length of subscription to social security schemes from six months to ten months. These changes are considered to be a step back from the earlier regulations given that:

- 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 men earn by going to work and not taking parental leave.

- The extension of the minimum length of subscription to social security schemes from six months to ten months has diminished the chance for women and men to take parental leave if they are not working at least ten months before the child's birth.

Anti-discrimination legislation in Romania also includes the issue of gender discrimination. As a result, the topic is addressed both in anti-discrimination legislation and in equal opportunities legislation. In the last two years the legislation on anti-discrimination measures has been also amended by introducing the following concepts: indirect discrimination, harassment, victimisation, disposition to discriminate, and the fines for discrimination have been increased.

The definition of a self-employed person was introduced in Romanian legislation in 2002 and was modified in 2004, through *Law 300/2004 on Authorising Persons and Family Association which Independently Carries on Economic Activities*. No references to equal opportunities for women and men principles are made in this law.

In the second half of 2004 the Ministry of Labour, Social Security and Family is going to work to amend the Law 202/2002 on Equal Opportunities for Women and Men by introducing 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 amendments raised important questions related to the accuracy of the transposition of the 2002 EU Directive.

Institutional Mechanisms

The institutional mechanisms on gender equality in Romania are placed at the Parliamentary and Governmental level.

At the Parliamentary level, the national mechanism on gender equality is comprised of two bodies: the Commission on Equal Opportunities between Women and Men, placed at the Deputy Chamber level, and the Commission on Equal Opportunities for Women and Men, placed at the Senate level. Unfortunately, both bodies proved not to be in a position to work for their mandate because of a 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.

At the Governmental level, the institutional mechanisms on gender equality are decorative, and their tasks are difficult to follow 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, the former Directorate for Equal Opportunities has disappeared from the ministry's structure. The structure that currently has tasks on gender equality in the governmental sector is the Inter-Ministerial Consultative

Commission on Equal Opportunities for Women and Men. Its tasks were modified through a significant number of legal acts; as a result, the role of this structure, and how its tasks are to be efficiently fulfilled, are unclear.

The above described governmental mechanisms based on the legal provisions of the Governmental Decision 967/1999 will cease to exist on April 15th 2005, according to the legal provisions of the newly adopted Governmental Decision 84/2004. The governmental mechanism on gender equality is under review, in light of changes to the legal framework on equal opportunities for women and men. Thus, the Law 202/2002 on Equal Opportunities for Women and Men[1] has been amended through the legal provisions of the Governmental Decision 84/2004, with the aim of incorporating the changes generated by the Council 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.

Based on the provisions of the Governmental Decision 84/2004, the *National Agency on Equal Opportunities between Women and Men* will be set up on 1 January 2005. The Agency will begin to function on 1 March 2005.

Programs, Policies and Awareness raising

It is not possible to make references to policies or programs on gender equality in Romania. The National Plan of action on equal opportunities between women and men, provided for in the Governmental Decision 1273 from December 7th 2000, did not meet its established objectives in their entirety. The action objectives stipulated in the legal norm were not accomplished. As such, in this regard, Romania has failed to meet its obligations in relation to gender equality.

Four years after the National Plan for action on equal opportunities between women and men was approved, the Governmental Decision 285 from 4 March 2004 on the application of the National Plan was adopted. According to the legal provisions of the Governmental Decision 285, 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, based on the legal provisions of Article 4 of Governmental Decision 285, these specific structures are to be set up within the limits of the personnel posts and budgetary allocations already approved, it is to be underlined that these structures function only on paper. In the same way, the information activities and professional training on legislation on gender equality to be

[1] See the Law 202/2002 from April 19th 2002 on Equal Opportunities for Women and Men, published in the *Official Gazette* 301/May 8th 2002.

carried out by the central public administration authorities are to be assured within the limits of the already approved budgetary allocations, according to the legal provisions of the Article 6 of Governmental Decision 285. Therefore, it is to be highlighted that these activities will not be carried out as long as no funds are independently secured.

There are no state policies to promote women's participation in the labor market, such as promoting flexible working arrangements, or supporting women to re-enter the labor market after taking leave to care for children. There are no state policies or initiatives to reduce the gender pay gap, even if in the discourse of state official representatives the gender pay gap reality is recognized and mentioned. There are no state policies aimed at involving men in sharing family responsibilities. As a general remark, aspects such as reconciling work and family life, changing attitudes on gender stereotypes, or encouraging men to take greater family responsibilities are absent from political discourse. Specific programs and initiatives in these fields are still addressed by non-governmental organizations or other civil society actors.

Research and Statistics

In October 2002, women earned 82.6 of men's average income.[2] The gender pay gap has decreased constantly from 1995 to 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 the length of service. The specialists estimate that the gender pay gap is bigger in the private sector than in the public sector. One reason for this is that many payments for salaries are made unofficially, so, officially, most employees have the legal minimum wage.

After the local elections in June 2004, no official data was made public related to the number of women in central and local decision-making bodies. According to the data related to the election participants, a greater number of women were included in the election lists. Comparing the elections of 2004 with those from 2000, there was considerably more public debate dedicated to women's participation in politics. According to statistics, in 2002, 30 percent of members of the legislative bodies, executive, leaders of public administration, leaders and clerks of socio-economic and political units were women.[3] The number has been increasing constantly since 1995 (at which time it was 28.2 percent).[4]

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[2] National Institute of Statistics, *Romanian Statistical Yearbook 1990–2002 time series,* 2004, chapter 4, p. 10 (hereafter, NIS, *Romanian Statistical Yearbook 1990–2002*)

[3] NIS, *Romanian Statistical Yearbook 1990–2002,* chapter 3, p. 12.

[4] UNDP, *Human Development Report 2001–2002,* UNDP, p. 89.

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

According to the statements of the representatives of the National Council for Combating Discrimination, between 2002 and the first half of 2004, 18 cases of gender discrimination have been resolved by the Council. No details were provided about the nature of cases.

Key recommendations

- The activity of the Parliamentary structures should move beyond the 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;
- Integrated and consistent state policies on various aspects of gender equality should be developed as a matter of priority;
- The legal norms aimed to put in practice gender equality commitments undertaken by the Romanian Government should be adequately structured and capable of practical implementation;
- Specific policies addressing the gender pay gap should be put in place by the Government;
- The inclusion of sex variables in collecting statistical data should be continued in order to have more gender disaggregated data;
- 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;
- Detailed information on gender discrimination cases solved by the Labour Inspection and the National Council for Combating Discrimination should be made available, together with a complete report on these institutions' activities;
- More concrete measures should be taken to introduce the obligation of the mass media to respect the dignity of persons (women and men). A deontological code should be created and should also include a gender perspective (or gender issues);

- 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);
- Civil society should be more involved in the process of drafting gender equality legislation, and the access to public information on the issue should be increased;
- The Governmental institution should organise public campaigns on gender equality legislation and on gender issues in order to increase the public awareness on the topic.