Executive Summary for Hungary

Introduction

The change of government in May 2002 brought important changes to the approach to gender equality policy in Hungary. The shift from a conservative government to a socialist liberal one was clearly reflected in the field of equal opportunity policies. In addition, the accession of Hungary to the EU spurred some improvements.

The first and most important change was the shift in the governmental approach to the need for a comprehensive anti-discrimination policy in Hungary. In November 2002, soon after the governmental changes, the preparation of the Hungarian comprehensive anti-discrimination act was launched by the Ministry of Justice. The Act was accepted by the Parliament in December 2003 and entered into force in January 2004. From its inception, the draft proposed to tackle discrimination on all grounds, including gender, together. It proposed to establish only one specialised agency, with eventually separate departments for each ground of discrimination.

A second element of change concerned the gender equality mechanism. In 2002, the newly elected government repeatedly changed the status of the mechanism. The changes on the one hand gave the issue a different, higher status. On the other hand, the issue of equal opportunities on all grounds, including gender equality, was brought under a single institutional umbrella. Only one small department of the mechanism deals with gender equality.

A third major trend of change has been a shift in the process of Hungary's accession to the EU from an emphasis on legal harmonisation towards an emphasis of policy implementation. Within this framework, several policy documents have been developed, and policy processes have begun that are crucially relevant from the point of view of equal opportunities on grounds of gender. All of these processes treat equal opportunities and gender equality as important horizontal principles.

With regard to the equal treatment between women and men, the most important and most comprehensive step in Hungarian legislation in the past two years has been the Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities (hereinafter called the AET). The act came into force in January 2004. Its scope extends to the entire public sector, and with some exception in the private sector. The scope of the Act does not extend to – *inter alia* – family law relationships and relationships between relatives. Article 7 (1) of the Act states that "direct negative discrimination, indirect negative discrimination, harassment, unlawful segregation,

victimisation, and any orders issued therefore constitute a breach of the principle of equal treatment […]".

The Act defines in more detail the concepts of direct and indirect discrimination, harassment, unlawful segregation, instruction to discriminate and victimisation. It provides for shifting the burden of proof and allows for *actio popularis*. The AET initiates the creation of an Equal Treatment Authority as of January 2005, and the launching of a National Equal Opportunity Programme. The objectives of the Program are to prevent negative discrimination and to promote the equal opportunities of certain specific social groups in all aspects of life.

The law is relatively progressive in its definitions and in the forms of discrimination that it covers. However, the Equal Treatment Authority, judges and law enforcement professionals are to play an active role in the future to interpret and complete the definitions with real content.

The main criticisms formulated against the Act have concerned the fact that by regulating discrimination on all grounds within the framework of one single law, it remains on a very general level and the specifics of the different grounds may be diluted. A major evaluation and criticism of the Act in terms of its adequacy to pursue gender equality was formulated by the Hungarian Women's Lobby in their document commenting on the Draft Act launched in November 2003.[1] While the Alliance appreciated the political will to finally take on board the issue of anti-discrimination after several years of neglect, they especially criticized the Act's inability to deal with the specific forms of discrimination that occur in the case of the different grounds, and especially on grounds of gender. They warned that the absence of specific gender equality related articles in the act might maintain the need for a separate gender equality act in Hungary. Another criticism concerned not so much the law, but the policy surrounding it and the lack of encouragement and support for victims, relevant NGOs and society to work towards the implementation of the law. The Alliance also warned that the Act does not deal with several major fields of discrimination, such as discrimination occurring in court procedures and discrimination occurring through discriminatory laws.

Although many changes, brought about primarily by the AET, have been introduced in Hungarian legislation, there remain some gaps and discrepancies as measured against

[1] Opinion and critique of the Hungarian Women's Lobby concerning the Draft Act on equal treatment and the promotion of equal opportunities. 28 November 2003. Magyar Női Érdekérvényesítő Szövetség bírálata és javaslatai az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról szóló törvényjavaslathoz. 2003. November 28. http://habeascorpus.hu/allaspont/kritika/antidiszkr.kozl.2003.11.28.htm.

the words of the Directives. Gaps are caused in some places by not conforming *de jure* to the text of the Directives. In other cases, and this is more prevalent, inconsistencies can be derived from the failure of the Hungarian policy framework to follow the spirit of the Directives – to move beyond the wording of legal amendments and implement general gender equality. The major problem is the lack of or sporadic nature of comprehensive, informative, awareness raising policies, programs, campaigns and materials, wide range training programs for the policymakers and law enforcement officials concerning equal treatment and gender equality.

Institutional mechanisms

A major concern in this area is the absence of a significant gender equality mechanism in Hungary. While elevation of the mechanism to the ministerial level is a very welcomed fact, concerns can be formulated about the weakening of the specific gender equality 'voice.' It seems, based on trends that have prevailed in the last years (since June 2003), that merging the gender equality mechanism with other governmental mechanisms in charge of equal opportunity policies on other grounds has lead to the weakening of the gender equality voice. The absence of this, as well as a specific gender equality 'face,' is in itself a problematic feature in a policy context where gender equality concerns are not on a higher segment of the policy agenda. The creation and maintenance of a distinctive gender equality voice within the government carries an important symbolic message towards the polity including both its female and male members. This does not necessarily entail an entirely independent gender equality mechanism, however. There can be careful ways to design such a symbolically representative mechanism even within a general equal opportunity policy framework as the one launched in Hungary in mid 2003.

Beyond public representation, another issue of concern for the mechanism is its resources, both human and financial. Part of the reason why the gender equality mechanism lost its distinctiveness is the very limited resources and weight it has within the Office for Equal Opportunities. The staff is incredibly small considering the tasks gender equality mechanisms are usually assigned within the policy environments of most EU member states.

A final more general concern is the attribution of tasks and development of an operational strategy for the Hungarian gender equality mechanism. Tasks attributed to the mechanism by the annual report remain at a general level. Most activities of the Directorate concentrate on awareness raising, with very little emphasis on other activities that could contribute to the promotion and better implementation of gender equality policy in Hungary. Several successful gender equality mechanisms operate in different member countries of the European Union, and there are very accessible ways to learn about the good practices and also failures of different other gender equality mechanisms that have a longer history on which to draw than Hungary.

The Council for Women's Affairs, seen in the Hungarian policy framework as the main institutional guarantee for the implementation of gender mainstreaming, has been inoperative since 2002. This is a major concern both because this is the only forum in Hungary where women's NGOs, gender equality policy experts and representatives of the government could regularly consult on gender equality issues, and because in its absence the Hungarian approach to gender mainstreaming looses its legitimacy. There are two possible ways to address this problem. One solution is to re-launch the Council, appoint – re-appoint its members and redefine its tasks so that it can meaningfully start implementing a gender mainstreaming strategy in Hungary. Alternatively, the tasks of the Council could be regrouped to a strengthened gender equality mechanism. In this case, the mechanism's approach to involving women's NGOs and experts in its work, and undertaking co-ordinative roles with respect to all governmental activities in the field of gender equality, should be strengthened considerably.

Policies, Programs and Awareness-raising

The major concern in this field is the absence of a co-ordinated comprehensive gender equality policy in Hungary, a concern that is clearly related to the above discussed absence of a significant gender equality mechanism. An analysis of the situation in Hungary shows that different fields of relevance for gender equality might have policies or programs dealing with gender equality, but there is an absence of a co-ordinated strategy that would give a direction and an evenness to progress in the field of gender equality.

Research and statistics

Gender segregated data[2] reveals that 45% of all employed are women; 96% of office workers are women; 65% of assisting positions requiring higher education are women; 10% of managers in the private sector are women and 30% of entrepreneurs are women.

Despite the higher level of education of women, their brut average income is 19% lower than men's. In positions of comparable income both in the private and the state sector, women are paid on average some 13-14% less than men. Women are over represented in poorly paid state sector jobs, such as health care and education.

Women are very poorly represented in national politics. There was a slight increase in their representation with the 2002 elections: the number of women MPs between 1998 and 2002 from 32 to 35 meaning, 9.1% of all MPs. From this total, MSZP has 23 women MPs, FIDESZ has nine, MDF has one, and SZDSZ has two. An interesting improvement can be noticed with the European elections when the FIDESZ-MPSZ list had six women among its 18 candidates (three out of its 12 MEPs are women), the MSZP list of 24 had five women on its first ten spots (four out of its nine MEPs are

[2] Data in this section is 2003 data from National Employment Action Plan. p. 43.

women). The liberal SZDSZ had eleven women candidates on a list of 24 (neither of its two elected MEPs were women[3]). Finally, the MDF had one woman on the first ten spots of candidates, in the first spot; she entered the EP[4].

Key Recommendations

- The Minister for Equal Opportunity should keep the issue of gender equality as high on the agenda as equal opportunity concerns on other grounds. Regular media statements and press releases should be launched in which timely gender equality issues are commented upon;
- The Directorate for Gender Equality and its legal successor should strive to have an independent and distinctive public voice and face within the Office, be present in all public activities related to gender equality policy, participating in all relevant policy debates, and public debates, taking part in important women's NGO meetings, and launching consultation processes with established feminist experts. A distinctive newsletter and annual report, and a separate branch on the website would be possible first steps;
- The permanent staff of the Directorate should be increased. Policy experts on gender equality policy should be involved regularly in the work, possibly on a permanent basis;
- Tasks attributed to or considered important by the Directorate could be subcontracted to women's NGOs, in this way promoting the development of a policy sensitive proactive feminist civil society, but also bringing about a more efficient functioning of implementation of gender equality policy;
- The budget of the Directorate should be increased accordingly to allow for involving more staff and experts and to allow for tasks and resources to be allocated to NGOs;
- Policy research should be initiated and funded by the Directorate aiming to develop a comprehensive strategy for the mechanism to pursue. Research should investigate possible tasks to be fulfilled, organisational issues, alternatives with respect to increasing available resources – both human and financial;
- The Directorate should develop a comprehensive strategy or action plan for promoting and implementing gender equality policy in Hungary, applicable both for the short term (next one year) and for the long term (next five years), but detailed enough to propose clear specific targets for every relevant sector, to

[3] Recently the first (male) candidate stepped down and was replaced by the third candidate on the list of the party: a women. The balance of liberal MEPs is now 1-1.

[4] http://www.valasztas.hu

allocate tasks, people and resources. The strategy should be developed in a participatory manner, involving experts and NGOs;

- A regular internal and external monitoring, evaluation and review mechanism for the strategy should be set in place. An inter-ministerial committee (or make use of the Council for Women's Affairs) for periodical evaluation and review of the strategy should be formed. All relevant Ministries should have their appointed representatives in charge for gender equality issues. Policy experts and NGOs should also be involved in the process;
- Horizontal gender segregated data at all governmental levels in all sectors should be generated systematically;
- The Directorate for Gender Equality should maintain a database of up-to-date gender segregated data where feasible and data sources;
- The Directorate should maintain a database of all gender equality related litigation;
- The Government, and specifically the Directorate, should encourage research on gender equality policy in Hungary and its compatibility with European standards expressed both in terms of hard law and in terms of softer policies.
- The Council for Women's Affairs should be relaunched, or the tasks for co-ordinating the implementation of gender mainstreaming in Hungary should be attributed to another body, possibly to an enhanced gender equality mechanism;
- A separate gender equality chapter to the National Equal Opportunity Program should be developed;
- Following the spirit of the National Employment Plan within the framework of the gender equality strategy, separate chapters should be dedicated to comprehensive policies (not just small programs) for addressing the issues of:
  - Sharing unpaid work between parents, for example by introducing forms of childcare benefits that can only be claimed by fathers, and by launching widespread awareness raising campaigns on the issue;
  - Facilitating the re-entry of women into the labor market, by allowing part-time and flexible work in parallel with certain forms of childcare benefits, and by providing more flexible child care facilities (accommodated to customary working hours);
  - Developing a chapter addressing sexual harassment. Employers should be required to develop their own company level procedures for sexual harassment to be included in their equal opportunity plan; awareness raising campaigns should also be launched;

- Developing a chapter concerning the improvement of the political representation of women. Widespread public debate on the issue of quotas should be initiated, and women politicians should engage in and discuss the issue.