

Equal Opportunities  
for Women and Men



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Equal Opportunities for  
Women and Men

Monitoring law  
and practice in

Slovakia

*by Janka Debreceniova, Zuzana Ocnasova*

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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.

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\* Monitoring the EU Accession Process: Equal Opportunities for Women and Men 2002, <[www.eonet.ro](http://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.

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\* Slovakia and Turkey joined the project since 2004.

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## 1. LEGISLATIVE OVERVIEW

### 1.1 Equal Pay for Equal Work

#### 1.1.1 National Legal Framework: General Provisions

A very general ‘flavor’ of the principle of equal pay for equal work and work of equal value can be derived from the Slovak Constitution.<sup>1</sup> Article 12(2) of the Constitution states that “fundamental laws and freedoms are guaranteed to all persons without regard to, *inter alia*, sex, gender, social origin, property or any other status. No one can suffer damage or disadvantage, or be given on the basis of these reasons, no one can be damaged, advantaged or disadvantaged.” Article 12 stands as a general crosscutting provision for applying all fundamental rights and freedoms contained in the Constitution. Therefore, Article 36, entrenching, *inter alia*, the right to a reward for work performed, is also covered by this general anti-discrimination provision. Apart from this, Article 36(b) contains a specific provision against arbitrary leave and against discrimination in employment, which also applies to remuneration.

The principle of equal pay can also be derived from the Act on Anti-Discrimination.<sup>2</sup> The Act on Anti-Discrimination contains a general statement that the principle of equal treatment in terms of employment relations shall also be observed in the field of remuneration.<sup>3</sup>

The principle of equal pay for equal work and for work of equal value is also contained in the Labor Code.<sup>4</sup> Apart from a general prohibition of discrimination contained in the Labor Code,<sup>5</sup> as applicable to all stages of employment (access to employment, working conditions and dismissal), Article 119(3) also contains a specific provision on equal pay for equal work and for work of equal value. Although there is an attempt in this provision to more closely specify what ‘work of equal value’ means, there are no other legislative lists that would provide a closer and more proper specification of equal work or work of equal value.

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<sup>1</sup> Act No. 460 of 1992, Constitution of the Slovak Republic, as amended, adopted on September 1, 1992, in effect from October 1, 1992.

<sup>2</sup> Act No. 365 of 2004 on Equal Treatment in Some Fields and on Protection Against Discrimination, as amended, adopted on May 20, 2004, in effect from July 1, 2004.

<sup>3</sup> *Ibid.*, Article 6(2) b).

<sup>4</sup> Act No. 311 of 2001, Labor Code, as amended, adopted on July 1, 2001, in effect from April 1, 2002.

<sup>5</sup> *Ibid.*, Article 13.

The principal Slovak public service legislation is contained in two separate laws - the Act on Performing Work in the Public Interest<sup>6</sup> (the employees covered by this law will further be referred to as public servants) and in the Act on State Service<sup>7</sup> (the employees covered by this law will further be referred to as civil servants). The former is complemented by the Act on Rewarding Some Employees when Performing Work in the Public Interest.<sup>8</sup>

The public employment legislation contains a precise and concise job classification which, when combined with the general provision on prohibition of any discrimination in working relations in the widest sense of the word, has the potential to guarantee equal pay for equal work and work of equal value, at least in theory. Moreover, the precise conditions for equal pay for equal work and work of equal value as contained in the Labor Code apply to public service relations covered under the Act on Performing Work in the Public Interest.

### 1.1.2 Job Classification

The public and private sectors differ in the legislative approach undertaken towards job classifications. In case of the private sector, there is no job classification that would enable employers and employees and other relevant actors to determine what should be considered as equal work or as work of equal value; remuneration is left to a purely individual or collective contractual basis. The only classification that could be applied by analogy is the classification contained in an attachment to the Labor Code which contains job classification for the purposes of determining a coefficient for setting the right minimum pay for each particular job. The criteria of classification contained in the amendment are: complexity, responsibility and physical/mental efforts.

The public service legislation, on the other hand, contains quite precise job classifications. These classifications set conditions for eligibility to perform each particular job and also conditions for remuneration. The remuneration usually does not only depend on the criteria stated, but also on the length of service.

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<sup>6</sup> Act No. 552 of 2003, on Performing Work in the Public Interest, as amended, adopted on November 6, 2003, in effect from January 1, 2004. This law covers employees of state organs, municipalities, regional bodies, legal persons set up by any of the previous bodies, etc.

<sup>7</sup> Act No. 312 of 2001, on State Service, as amended, adopted on July 2, 2001, in effect from April 1, 2002. Public service legislation for specific groups of civil servants, such as judges, prosecutors, members of the parliament, policemen etc., is contained in separate laws.

<sup>8</sup> Act No. 553 of 2003 on Rewarding Some Employees when Performing Work in the Public Interest, as amended, adopted on November 7, 2003, in effect from January 1, 2004.

The job classifications contained in the Government Regulation No. 111 of 2002 on Catalogues of Jobs to Be Performed in the Public Interest (according to the Act on Rewarding Some Employees when Performing Work in the Public Interest) contains a very detailed description of all activities to be subsumed under the individual job classes. They are ordered according to whether mental or physical work prevails in each particular job. Therefore, the chance that sex discrimination in remuneration will appear in this field of public service is very unlikely in theory. Also, the equal pay for equal job and for job of equal value provision contained in Article 119 of the Labor Code applies to most of public servants. However, a risky element that may appear in practice as a ground for discrimination is a provision on personal assessment and remuneration which can reach up to 100 per cent of the table salary “to appraise extraordinary personal capacities and results achieved when performing a job” or to reward “work performed beyond the requirements of a particular job.”<sup>9</sup> Here, an employer has quite a big leeway for determining the actual pay.

The Law on State Service does not contain such a general job classification, nor does it contain any ‘equal pay for equal job or job of equal value’ clause. Moreover, the scope for possible sex (and other) discrimination is even wider than in the employment in jobs performed in favor of the public interest. Apart from possibilities of personal assessment,<sup>10</sup> the law also contains a provision on regular multiplication (by one to four per cent) of the wage rates (resulting from the job classification) on the basis of individual job performance.<sup>11</sup> Civil servants are therefore much more likely to be discriminated against in terms of their remuneration than other employees in the private or public sector.

### 1.1.3 Available Legal Procedures

All employees who have been affected by a violation of employment laws are entitled to claim their rights before courts. In cases of discrimination based on sex or gender, the reversed burden of proof applies. There are no special labor tribunals in the Slovak Republic. Instead, Labor disputes are decided by civil tribunals.

According to Article 10 of the Act on Anti-Discrimination, in proceedings of breaches of the principle of equal treatment, everyone has the right to be represented also by a legal person who is either entitled to this representation by a special law or whose aim or subject of activities is protection against discrimination.

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<sup>9</sup> Article 10 of the Act No. 553 of 2003 on Rewarding Some Employees when Performing Work in the Public Interest, as amended.

<sup>10</sup> See the Act on State Service, Article 85.

<sup>11</sup> *Ibid.*, Article 82(3).

The special law that entitles an affected individual for this representation is the Act on the Slovak National Center for Human Rights,<sup>12</sup> as amended most recently in May 20, 2004. The relevant provision, in effect from July 1, 2004, states that one of the tasks of the Center is to provide legal aid to victims of discrimination and intolerance. A more detailed meaning of this task is contained in Article 1(3) of this law. The provision establishes that the Center is *entitled* to represent a party in case of a breach of the principle of equal treatment. Accordingly, it can be questioned whether there is any entitlement at all of a victim of discrimination on the basis of sex or gender to be represented by the Center (as entitlement of the Center logically establishes a right, not a duty of representation by the Center, and therefore an entitlement of a victim does not automatically follow thereof).

#### 1.1.4 Means of Informing Employees of Their Rights

Article 47(2) of the Labor Code states that in employing an employee, an employer is obliged to acquaint the employee with, *inter alia*, provisions governing prohibition of discrimination (but not specifically with the right to equal pay for equal work – therefore this duty can only be deduced from the general formulation of the prohibition of discrimination). This provision also applies to Labor relations based on the Act on Performing Work in the Public Interest. There is no such a provision in the Law on State Service.

Also, according to the Labor Code, trade unions have the right (among other rights) to information, and they are also endowed with competences to control employers. Article 239 of the Labor Code states that representatives of employees shall control the maintaining of employment regulations, *including wage regulations* and obligations following from the collective agreement. In order to perform these rights properly, the employee's representatives shall be authorized *inter alia* to request the necessary information and documentation from executive employees, request that the employer rectifies discovered faults, and request from the employer information on what measures have been taken to remove any faults discovered during an inspection. These regulations also apply to legal relations covered by the Act on Performing Work in the Public Interest. A similar provision is contained in the Act on State Service, although the practical scope for requiring information on equal pay for equal work is narrowed, as a provision on equal pay for equal work and for work of equal value is not present in this law.

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<sup>12</sup> Act No. 308 of 1993, on the Slovak National Centre for Human Rights, as amended, adopted on December 15, 1993, in effect from January 1, 2004.

There is another less straightforward way of informing employees of their right to equal pay for equal work, which is based on a provision of the Act on Labor Inspectorate.<sup>13</sup> According to this law (which applies to all employees and employers both in the private and the public sectors), one of the tasks of Labor inspection is to provide a free consultancy (on the level of basic professional information) to employees and employers about the most efficient ways of observing employment legislation.<sup>14</sup>

#### 1.1.5 Out of Court Alternatives

One possible means of redress in cases of discrimination according to the Labor Code allows employees who have been affected by a breach of the equal treatment principle to file a complaint and address it to their employer. The employer is obliged to respond to such a complaint without undue delay, abstain from such conduct and eliminate any resulting consequences.<sup>15</sup> This provision also applies to relations under the Act on Performing Work in the Public Interest. A very general provision on filing complaints in matters of performing public service is also contained in the Act on State Service.<sup>16</sup> A common feature of these provisions is that there are no procedural mechanisms specified for investigating the complaints.

There is also a possibility to initiate proceedings before the Labor Inspectorate.

According to the Act on State Service, the affected person in case of a breach of the principle of equal treatment can initiate proceedings either before a disciplinary commission or before a representative of an employer.<sup>17</sup>

Mediation as an out-of-court procedure is not dealt with in Slovak civil legislation, although mediation in private legal relations exists in practice. There is no information available on whether Labor mediation has ever taken place in Slovakia.

#### 1.1.6 Role of Trade Unions

From the point of view of their competences entrenched in legislation, trade unions could potentially have quite an important role in guaranteeing the observance of the

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<sup>13</sup> Act No. 95 of 2000, on Labor Inspection, as amended, adopted on February 8, 2000, in effect from July 1, 2000.

<sup>14</sup> *Ibid.*, Article 2 (1)(c).

<sup>15</sup> Labor Code, Article 13(5).

<sup>16</sup> The Act on State Service, Article 52 (1)(b).

<sup>17</sup> *Ibid.*, Article 3(4).

equal pay for equal work principle. The Labor Code, in Article 239, states that the employees' representatives shall control the maintaining of Labor regulations, including wage regulations and obligations stemming from the collective agreement.

This provision also applies to relations under the Act on Performing Work in the Public Interest. The Act on State Service contains a similar provision.

## **1.2 Equal Treatment for Women and Men as Regards Access to Employment, Vocational Training, and Promotion and Working Conditions**

### **1.2.1 National Legal Framework**

The adoption of the Act on Anti-Discrimination on May 20, 2004 can be considered as great leap forward in terms of equal treatment. Article 2 provides that:

“observing the principle of equal treatment lies in the prohibition of discrimination for whatever reason, in the exercise of rights and duties in accordance with good morals, and also in introducing measures of protection against discrimination, if the introduction of the measures can be demanded with regard to concrete circumstances and capabilities of the person who is obliged to observe the principle”.

This principle is then further incorporated into other laws dealing with equal opportunities in specific areas, such as in the field of employment, access to employment and vocational training, schooling, services, social legislation, and self-employment.

### **1.2.2 The Concept of Discrimination on Grounds of Sex**

The concept of discrimination, as legally defined, is well-established and goes even beyond the concept of discrimination as introduced in the Directive 2002/73/EC amending the Directive 76/207/EEC. According to Article 2(2) of the Act on Anti-Discrimination, discrimination comprises direct discrimination, indirect discrimination, harassment and adverse treatment; an instruction to discriminate and encouragement to discrimination shall also be deemed to be discrimination.<sup>18</sup> This concept further applies to other laws that deal with equal opportunities in specific

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<sup>18</sup> Act on Anti-Discrimination, Article 2(2).

areas, i.e. Labor legislation, legislation on access to employment and vocational training, schooling legislation, legislation on services, social legislation, etc.<sup>19</sup>

Direct and indirect discrimination are defined in accordance with the definitions contained in the Directive 2002/73/EC. Direct discrimination is defined as act or omission that causes one person to be treated less favorably than another person is, has been or would be treated in a comparable situation. Indirect discrimination is defined as a situation where an apparently neutral provision, decision, instruction or practice disadvantages a person compared with another person;<sup>20</sup> indirect discrimination does not occur when this provision, decision, instruction or practice is objectively justified by pursuing a legitimate aim and is proportionate and necessary to achieve this interest.<sup>21</sup>

Harassment is defined as such treatment that the affected person can reasonably consider to be unpleasant, inappropriate or offensive and

- a) the intent or effect of which is or can be a violation of the dignity of this person or creates a hostile, degrading or intimidating environment;
- b) the toleration of which can be perceived by the person affected as a precondition for a decision or exercise of rights and duties that are related to legal relations.<sup>22</sup>

From the abovementioned definition it can be said that the concept of harassment goes even further than the concept of harassment contained in the Equal Treatment Directive and its amendment. The added value is undoubtedly the second part of the definition, specifying in more detail the conditions under which certain behaviour can be also found unacceptable. However, a certain drawback of the concept of harassment in Slovak legislation lies in the fact that no specific definition of sexual harassment is contained in any Slovak legislation that contains an equal opportunities/Anti-Discrimination clause.

An instruction to discriminate is defined as an act which abuses subordination of a person for the purpose of discrimination of this person.<sup>23</sup> Encouragement to discriminate means persuading, instigating or assuring a person in the discrimination

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<sup>19</sup> Act on Anti-Discrimination provides a general framework for prohibition of discrimination and for this purpose provides the basic definitions that are further used in all the pieces of legislation that contain equal opportunity/equality clauses. The law prohibits discrimination on a number of reasons, sex being one of them.

<sup>20</sup> Act on Anti-Discrimination, Article 2(3).

<sup>21</sup> *Ibid.*, Article 2(4).

<sup>22</sup> *Ibid.*, Article 2(5).

<sup>23</sup> *Ibid.*, Article 2(6).



of a third person.<sup>24</sup> Therefore, the difference between an instruction to discriminate and between encouragement to discriminate lies in the level of subordination of the discriminated person in relation to the perpetrator.

The last item that falls within the definition of discrimination in the Act on Anti-Discrimination is adverse treatment, which is an expression for the prohibition of victimization.

The positive side of the definition of adverse treatment can not only be seen in the inclusion of prohibition of adverse treatment of a third person who has contributed to the disclosure of discriminatory treatment, but also in the fact that adverse treatment itself is deemed to be discrimination, and therefore deserves the same scope of protection.

The Act on Anti-Discrimination guarantees the equal treatment principle and prohibits discrimination on the basis of sex (in addition to other grounds) but provides only a general reference to the areas of social security, health care, providing goods and services, education, and Labor relations. In case of labor relations, discrimination on the basis of sex also encompasses discrimination by reason of pregnancy, and also discrimination by reason of sexual or gender identification.<sup>25</sup>

### 1.2.3 Access to Employment, Vocational Training and Promotion

Access to employment, vocational training and promotion are generally dealt with in the Act on Anti-Discrimination, and a more detailed elaboration on this area is contained in employment legislation and in the Act on Services of Employment.

The Act on Anti-Discrimination provides for equal treatment and thus prohibition of discrimination on the basis of sex in the field of access to employment, including job requirements (which can also encompass job advertisements), and conditions and means of performing employee selections. The act also provides for a general prohibition of discrimination in access to vocational training and job selection consultancies. A prohibition of discrimination in terms of promotion is contained in the Act on Anti-Discrimination as well.

The Labor Code is already more specific in terms of access to employment. Apart from the general equal treatment clause in Article 13 that applies to all employment relationships from beginning to end, it contains a special article on so-called 'pre-contractual relations'. Article 41 prohibits a future employer from requiring

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<sup>24</sup> *Ibid.*, Article 2(7).

<sup>25</sup> *Ibid.*, Article 6(3).

information on pregnancy and family background. This article also prohibits a breach of the equal treatment principle, and states that if either of these prohibitions are violated in pre-contractual relations by an employer, the person affected has the right to adequate pecuniary compensation. This article also applies to the entire field of public service.

The Act on Services of Employment contains a more detailed concept of equal treatment in access to employment and vocational training.

In order to ensure the application of the equal treatment principle in access to employment, the Act on Services of Employment also contains a provision on the duty of Labor offices to inform job applicants about their right to equal treatment in access to employment.<sup>26</sup> Moreover, Article 62 prohibits job advertisements that contain any restrictions or discrimination on the basis of, *inter alia*, sex, marital or family status, social origin or gender.

#### 1.2.4 Protective Measures for Women in the Labor Market

Article 6 of the Basic Principles contained in the Labor Code explains the philosophy behind special protection awarded to women in working relations:

“Women are guaranteed working conditions that enable them to engage in work with regard to their physiological conditions, and also with regard to their function in society as mothers. Women and men are guaranteed working conditions with regard to their family responsibilities in raising children and in caring for them.”

Article 8 of the Basic Principles establishes that employment relationships deserve special legal protection in periods of pregnancy or maternity and parenthood.

The Labor Code further elaborates the principle of protection of women, pregnant women and parents who care for children. Article 160 establishes that an employer shall be obliged to establish, maintain and improve the level of social facilities and personal sanitation facilities for women. Article 161 of the Labor Code further states that:

“women must not be employed in duties that are physically inappropriate for them or which harm their bodies, in particular such kinds of work which threaten their maternal role. The list of duties and workplaces that are prohibited for all women, pregnant women, mothers until the end of the ninth month following childbirth and women who are breastfeeding shall be established by the Regulation of the Government of the Slovak Republic [...]”

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<sup>26</sup> Article 13(z)(aa) of the Act on Services of Employment.

Regulation No. 272 of 2004, adopted by the government on May 21, 2004,<sup>27</sup> leaves out the special protection clause introduced by the Labor Code for women in general, and focuses instead on pregnant women, mothers until the end of the ninth month after giving birth, and mothers who are breastfeeding. The fact that the restrictive conditions from the past on employing women (such as the prohibition of night work) have been released serves as a positive signal towards trying to equalise the factual position of women in the world of work, and it is equally a positive signal towards removing the stereotypical perception of women as primary child- and family care-givers.

If other protective measures are guaranteed to women (apart from protective measures guaranteed because of women's pregnancy or early motherhood) by the Labor Code, then this protection (such as special protection in terms of working time or dismissal) is guaranteed to them with regard to their parental responsibilities, and this protection is equally granted to men who are performing childcare duties. These provisions contained in the Labor Code also apply to public service relationships.

### 1.2.5 Prohibition of Dismissal

Protection against dismissal in reaction to enforcing rights connected to the principle of equal treatment is encoded in equal treatment legislation in Slovakia. Adverse treatment (and hence an implicit prohibition of dismissal) is not only prohibited by the Labor Code and accordingly by the public service legislation, but is also prohibited by the Act on Anti-Discrimination which provides a general framework for equal treatment, and also deals with some particular areas where equal treatment has to be guaranteed, including employment relations. This act provides that adverse treatment (and therefore dismissal because a person affected by adverse treatment lodged a complaint) is one form of discrimination, and the affected person therefore deserves the same scope of protection as in all other cases of discrimination.

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<sup>27</sup> Government Regulation No. 272 of 2004, on Establishing a List of Duties and Workplaces that are Forbidden to Pregnant Women, to Mothers until the End of the Ninth Month Following Childbirth, and to Mothers Who are Breastfeeding, and a List of Duties and Workplaces Connected to a Specific Risk for Pregnant Women, for Mothers until the End of the Ninth Month Following Childbirth, and for Mothers Who are Breastfeeding and on Establishing Some duties for Employers when Employing These Women, adopted on May 21, 2004, in effect from May 1, 2004.

### 1.3 Protection of Pregnant Women from the Inherent Risk of Certain Activities and Related Employment Rights

#### 1.3.1 Legal and Conceptual Framework

Pregnancy and maternity are given special attention in the Constitution. Article 41 *inter alia* says that motherhood, parenthood and family are protected by law. It further states that special care shall be guaranteed to pregnant women, and that they shall be guaranteed protection in employment relations, including adequate working conditions.

The core protective legislation for pregnant workers is contained in the Labor Code, and it also applies to public service relations. An important part of this legislation is also contained in a legal act of a lower legal force, namely government regulation No. 272 of 2004, establishing a list of works or workplaces that are either prohibited or risky for pregnant women, for women who have recently given birth or for women who are breastfeeding, and establishing some duties for employers who employ these women.<sup>28</sup>

The Act on Anti-Discrimination contains an explicit provision stating that discrimination for reasons of pregnancy or maternity is considered to be discrimination based on sex.<sup>29</sup>

The Labor Code then establishes the framework for the protection of pregnant women in the field of labor law. It provides for the general prohibition of performing certain kinds of work which are listed in detail in the abovementioned government regulation, and it also prohibits work that is dangerous for pregnant women for subjective reasons confirmed by a medical certificate. The Labor Code further establishes the framework for the temporary adjustment of working conditions or for transferring women concerned to other work, or granting them leave for a necessary period of time with financial compensation. It also contains protective measures for cases of dismissal, and also provisions on working time adjustments. It further contains provisions on maternity and parental leave, and also provisions on breaks for breastfeeding.

#### 1.3.2 Risk Assessment and Employers' Obligations

A general provision on risk assessment and elimination in terms of protection of pregnant women is contained in the Labor Code (Article 161). Pregnant woman cannot be employed in duties which, according to medical opinion, jeopardise the pregnancy for health reasons pertinent to her person. This is equally valid for mothers

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<sup>28</sup> See footnote 35.

<sup>29</sup> Act on Anti-Discrimination, Article 6(3)(a).

until the end of the ninth month following childbirth, and women who are breastfeeding.

It can be seen from this article that the protection of these groups of women is guaranteed in two ways: on a general, universal basis which follows a general assessment of risks undertaken to protect pregnant women, women who have recently given birth and women who are breastfeeding, and also on an individual basis where establishing a risk and guaranteeing special protection is a matter of assessment of the situation in each particular case.

The regulation which was adopted pursuant to this provision is Government Regulation No. 272 of 2004, issued on May 21, 2004 (in effect from May 1, 2004).

The list of duties and workplaces that are forbidden are contained in Annex 1 of the Regulation. Annex 2 contains a list of duties and workplaces that are considered to be particularly risky. In addition, the employer is obliged to assess risks in case of duties and workplaces other than those contained in the annexes.

Article 3 of the Regulation states that an employer must, in cases of duties and workplaces connected to a specific risk, assess the character, degree and duration of this exposition. The employer then evaluates all the risks in terms of health and safety and with regard to a medical opinion which takes into consideration all the possible effects of the risks, and decides about taking particular measures. The Regulation further contains a provision that emphasises that a pregnant woman, a mother until the end of the ninth month following childbirth and a woman who is breastfeeding can under no circumstances be forced to perform duties that are potentially capable of jeopardising safety and health or can have effect on pregnancy or breastfeeding.<sup>30</sup> Also, Article 5 of the Regulation provides that an employer shall inform a woman who is concerned by the Regulation and the employees' representatives of the results of the risk assessments and about measures taken in order to guarantee safety and health.

Employers' obligations following the risk assessment are again governed by the Labor Code (these obligations refer equally to pregnant women, mothers until the end of the ninth month following childbirth, and to women who are breastfeeding). Article 162 enumerates alternatively or cumulatively the steps that must be taken if a risk assessment shows that a woman is performing work that is either forbidden or is jeopardising her pregnancy on the basis of a medical opinion. The first step to be taken is a temporary adjustment of working conditions. If this is not possible, then the employer must move the woman to other work that is appropriate for her and where she will be capable of earning the same pay as was agreed in an employment contract. If a woman is moved to other work where she is not able to receive her usual salary, she

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<sup>30</sup> Article 4 of the Regulation.

is entitled to be paid the difference according to special provisions of the law of social insurance.<sup>31</sup> Finally, if it is not possible to move a woman to another working position with daily work or to other appropriate work, the employer is obliged to grant her leave with wage compensation.

### 1.3.3 Night Work

The Labor Code defines night work as work performed between 10 p.m. and 6 a.m.<sup>32</sup> For the purposes of the Labor Code, a night worker is a worker who either performs duties that require regular night work performance for at least three consecutive hours, or a worker who presumably works at night, for a minimum of 500 hours per year.<sup>33</sup>

There is no general prohibition of night work for pregnant women, women who have recently given birth or women who are breastfeeding. However, Article 55(2) states that if a pregnant woman or a mother of a child under nine months performs duties that are prohibited to these women or if, according to a medical opinion, these duties jeopardise her pregnancy or maternal role, then this woman must be moved to other work, under the conditions established by Article 162.

There is another provision contained in Article 55(2) of the Labor Code which sounds favourable for pregnant women and mothers of children under nine months. If a woman in this category requests to be moved to other work, then an employer is obliged to meet this request.

### 1.3.4 Maternity Leave

Maternity leave is primarily dealt with in the Labor Code, and related financial entitlements are covered by the Act on Social Insurance.<sup>34</sup>

The Labor Code, in Article 166 onwards, states that in connection with childbirth and caring for a newborn child, women shall be entitled to maternity leave for a duration of 28 weeks. If a woman gives birth to two or more children at the same time, or if a single woman is concerned, maternity leave shall be for a duration of 37 weeks. In

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<sup>31</sup> Act No. 461 of 2003 on Social Insurance, Articles 44–47.

<sup>32</sup> Labor Code, Article 98(1).

<sup>33</sup> *Ibid.*, Article 98(2).

<sup>34</sup> Act No. 461 of 2003, on Social Insurance, as amended, adopted on October 30, 2003, in effect from January 1, 2004.

connection with caring for a newborn child, a man shall also be entitled to parental leave in the same extent, if he is caring for the newborn child.

In order to deepen the care for a child, an employer shall be obliged to grant women and men, at their request, with parental leave up until the child reaches three years of age. If this concerns a long-term-seriously disabled child requiring extraordinary care, an employer shall be obliged to grant parental leave until the child reaches six years of age. Such leave shall be provided to the extent of the parent's request; generally, always for a period of at least one month.

Article 167 of the Labor Code introduces general rules for commencing and terminating maternity leave. In general, a woman shall commence maternity leave at the beginning of the sixth week prior to the expected day of childbirth. However, she cannot commence her maternity leave earlier than from the beginning of the eighth week prior to this day.

According to Article 168, in the case of a stillborn child, a woman is entitled to 14 weeks leave.

Maternity leave connected to childbirth cannot be shorter than 14 weeks and cannot be terminated or interrupted before six weeks from the day of confinement.

According to Article 169 of the Labor Code, an entitlement to maternity and parental leave is equally granted to a woman or a man who, on the basis of a valid decision of a court or other authorised organ, takes a child into their care in substitution for parental care, and is aimed at a future adoption or fostering care. In such a case, maternity leave or parental leave shall be granted for a period of 22 weeks from the day care for the child is undertaken.

Apart from the provisions on maternity leave connected to a childbirth, special leave is also granted to mothers who are breastfeeding. According to Article 170 of the Labor Code, a mother who is breastfeeding her child is entitled, apart from regular working breaks, to special breaks for breastfeeding. These breaks are treated as work performance and the breastfeeding woman is provided with wage compensation equal to her average pay.

The financial terms of maternity leave are governed by the Act on Social Insurance. The maternity benefit is a component of sickness pay,<sup>35</sup> and is almost exclusively (with a very few rigidly specified exceptions) granted to women. For the same period of time, the maternity benefit is only awarded to one insured person.<sup>36</sup> The maternity benefit is

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<sup>35</sup> Act on Social Insurance, Article 13(1).

<sup>36</sup> *Ibid.*, Article 52(2).

a day allowance, and the exact amount to be paid is 55 percent of the basis for the benefit calculation.<sup>37</sup>

### 1.3.5 Antenatal Examinations

The Slovak Labor Code provides for a paid time-off from work needed for medical examinations connected to pregnancy, if the examinations cannot be performed during working hours.<sup>38</sup>

### 1.3.6 Prohibition of Dismissal and Employment Rights

Except in specified cases, it is prohibited to give notice to an employee while she is pregnant or on maternity leave, or while she or he is on parental leave<sup>39</sup> (this period, according to Article 64 of the Labor Code, is known as “protected period”).

It is also prohibited to immediately terminate an employment relationship with a single worker caring for a child younger than three years of age. However, if reasons for an immediate termination of the employment relationship arise, an employer can choose to terminate the employment relationship by giving notice to an employee belonging to one of these groups, apart from an employee on maternity or parental leave.<sup>40</sup>

A pregnant woman or worker on maternity or parental leave is not only protected in terms of prohibition of dismissal, but also in terms of the protection guaranteed to workers who cease their maternity or parental leave. If such workers return to work following their maternity or parental leave, they are, pursuant to Article 157 of the Labor Code, entitled to be transferred back to their original work and working position. If this is not possible, in case such work is no longer performed or the workplace has been cancelled, the employer must transfer the employee concerned to other work corresponding to the employment contract.

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<sup>37</sup> This basis is the average daily income of the insured person that is taxable, achieved prior to the year when the maternity benefit entitlement has been claimed. See Articles 55 and 138 of the Act on Social Insurance.

<sup>38</sup> Labor Code, Article 141(2)(a) point 3.

<sup>39</sup> Labor Code, Article 64(1)(c).

<sup>40</sup> If a notice is given, an employment relationship ceases after a period of notice of at least two months has elapsed. See Article 62(1) of the Labor Code.



## 1.4 The Burden of Proof in Cases of Discrimination Based on Sex

### 1.4.1 Legal and Conceptual Framework Concerning Indirect Discrimination

The definition of indirect discrimination in the Act on Anti-Discrimination is almost identical with the definition of indirect discrimination contained in the Directive 2002/73/EC amending Directive 76/207/EC 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. This definition does not necessarily require the group approach towards determining whether particular treatment has been indirectly discriminatory.

### 1.4.2 The Burden of Proof – Rules of Evidence

The reversed burden of proof in cases of discrimination has been encoded in the Labor Code since 2001 (with the Code in force since April 1, 2002) for cases brought to courts by individuals in employment relations. Currently, the shift in burden of proof for civil procedures and the means of redress are contained in the new Act on Anti-Discrimination and further reflected correspondingly in other relevant laws.

The burden of proof provision of the Act on Anti-Discrimination itself provides that:

“The respondent is obliged to prove that he or she has not breached the principle of equal treatment, if the plaintiff provides the court with evidence from which it is possible to draw a reasonable judgement that the principle of equal treatment has been breached.”<sup>41</sup>

This formulation of the burden of proof is further referred to in other relevant laws, by a general reference to the judicial protection entrenched in the Act on Anti-Discrimination.

A similar reference is contained in the Act on State Service, and in other acts governing employment relations of specific groups of employees (employed mainly in public service). The same judicial protection with a shift in the burden of proof also applies to the Act on Performing Work in the Public Interest. It also applies to all other laws that contain an equal treatment clause.

According to the Act on State Service, a person affected by a violation of the principle of equal treatment can also initiate administrative proceedings either before a

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<sup>41</sup> Act on Anti-Discrimination, Article 11(2).

disciplinary commission or before a representative of an employer<sup>42</sup>. In these proceedings, the reversed burden of proof applies as well.

In other proceedings that are available in cases of violation of the principle of equal treatment, the burden of proof is not shifted (in case of proceedings before Labor inspectorates, the proceedings are governed by the Administrative Code where regular administrative procedures apply).

### 1.4.3 Case Law

Although discrimination has been prohibited in employment legislation since 2001 and this prohibition has been accompanied by a possibility of judicial remedies based on the reversed burden of proof, until now there has only been one known case where a victim of discrimination opted for a judicial remedy for this kind of breach of law. This case was decided by the District Court in Zvolen in 2003.

## 1.5 Non-Discrimination against Part-Time Workers

### 1.5.1 National Legal Framework and Employment Conditions Concerning Part-Time Workers

The Labor Code does not define ‘part-time worker’ or contain a specific definition of comparable full-time worker.

The principle of non-discrimination for the purposes of protection of part-time workers, as expressed in the Labor Code, reflects a notion of rather formal equality. Article 49(5) of the Labor Code states that an employee in an employment relationship with reduced working time may not be advantaged or disadvantaged compared with an employee employed for the statutory weekly working time. This notion is reinforced by the wording of Article 49(4), which says that an employee in an employment relationship with reduced working time is entitled to a wage corresponding to the reduced working time.

A provision that seems to be quite unfavourable for part-time workers in terms of their employment protection is contained in Article 49(6) of the Labor Code. This provision provides that an employment relationship with reduced working time when the working time is less than 20 hours per week may be terminated with notice by an employer or employee for any reason or without giving a reason. The existence of an employment relationship with an employee for reduced working hours also excludes

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<sup>42</sup> See Article 3(4) of the Act on State Service.

the application of other protective provisions applicable to full-time workers or part-time workers with working time exceeding half of the statutory working time.<sup>43</sup> The Labor Code does not explain the objective grounds that justify this differential treatment. This provision only entered into the Labor Code by its amendment by the Act No. 210 of 2003. Before this amendment, a generally applicable principle of equal treatment providing for no exceptions was prescribed for all part-time workers.

The abovementioned conditions all apply to employment relationships covered by the Act on Performing Work in the Public Interest. For civil service relationships, only the provision of Article 164(2) of the Labor Code apply. So, the possibility for part-time employment is not excluded for civil employment sector, although there is no express provision providing for equal treatment in part-time and full-time employment relationships in case of civil service legislation.

In social security, contributions and benefits are based on equal conditions for both full-time and part-time workers: the fixed percentage of contributions and the fixed percentage of benefits are independent on the income earned; the law derives contributions from the actual incomes and does not distinguish between part-time workers and full-time workers. However, there is an upper income limit above which no levies are drawn, which may be disadvantageous for women in cases of job-sharing where their individual incomes do not exceed this limit, but the combined income of both job-sharers would exceed the limit for drawing social contributions from the employer. This means that in such cases (although they are very unlikely in practice as job-sharing is not a common form of employment in Slovakia and the upper limit for drawing social contribution is nevertheless quite high) women may be disadvantaged as they are potentially more frequent job-sharers than men.

## **1.6 The Principle of Equal Treatment for Self-employed Workers and Their Assisting Spouses**

### **1.6.1 National Legal Framework**

So far, Directive 86/613/EC has only been explicitly implemented by the Act on Services of Employment, newly drafted at the beginning of the year 2004.

There is no special law in Slovakia on self-employed workers and their treatment. There are, however, several laws that define the concept of self-employed worker, all

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<sup>43</sup> Labor Code, Article 49(7). For example rights connected to collective dismissal or an entitlement to have employee's employment relationship termination negotiated with employees' representatives.

for the purpose of the particular laws. These laws include the Act on Services of Employment and the Act on Social Insurance.

In the acts that contain a definition of self-employed worker, the principle of equal treatment is expressly established, in accordance with the concept of equal treatment as expressed in the Act on Anti-Discrimination (apart from the Act on Old-Pension Saving where, although this concept is established, the equal treatment clause is slightly different from the one contained in the Act on Anti-Discrimination and the other previously mentioned acts). The other laws that deal with particular occupations constituting self-employed workers, such as the Act on Advocacy,<sup>44</sup> or the Commercial Code, although they do not contain any specific equal treatment provisions, do not contain any provisions that would be contrary to the equal treatment principle.

There are no limitations contained in the Commercial Code that would prevent or restrict setting up a commercial company between spouses.

The status of a ‘contributing partner’ is dealt with in Slovak legislation in a very confusing way. Until recently, the law recognized and defined the concept of the contributing member, and this institute had a significant meaning in terms of the voluntary social insurance a contributing member could opt for if his or her self-employed worker was insured. The entrenchment and a definition of a contributing partner (in Slovak legislation, this institute was known as a ‘cooperating person’) in the previous Act No. 413 of 2002 on Social Insurance<sup>45</sup> were abolished by the current Act 461 of 2003 on Social Insurance. Currently there are still some laws that contain a possibility of performing certain occupations through contributive partnerships – such as the Act No. 138 of 1992 on Authorized Architects and Authorized Civil Engineers, as amended.<sup>46</sup> However, these laws, for purposes of definition, contain a reference to the abolished Act on Social Insurance (No. 413 of 2002), so there is practically no legal definition and no legal/social protection for such persons under the current legal conditions.<sup>47</sup>

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<sup>44</sup> Act No. 586 of 2003, on Advocacy, adopted on December 4, 2003, in effect from January 1, 2004.

<sup>45</sup> ‘Cooperating person’ was defined in Article 7 of this act as a spouse who participates on activities of a self-employed worker, and in case of self-employed workers in agriculture, also other relative of this person, such as a child, sibling, parent-in-law, etc.

<sup>46</sup> In Article 3(6).

<sup>47</sup> With the exception of the Act No. 123 of 1996, on Additional Pension Insurance, as amended, adopted on March 21, 1996, in effect from July 1, 1996. This act, however, does not define the concept of a cooperating person.

Accordingly, the Slovak concept of a contributing partner, if there is any at all, is nevertheless very vague, and it certainly does not meet the criteria as they are prescribed in the Directive 86/613/EC.

### 1.6.2 Contributory Social Security System for Self-Employed Workers

Self-employed workers are either compulsorily insured against social risks if they meet certain conditions stated by the law, or they can opt for voluntary insurance if the compulsory insurance does not concern them.

The particular risks against which self-employed workers are insured, both compulsorily or voluntarily, include: sickness, caring for a family member, pregnancy or maternity, old age, invalidity, death, and unemployment (this risk can only be insured against on a voluntary basis).<sup>48</sup>

### 1.6.3 Legal Means of Redress

For ‘regular’ cases of social insurance, a special administrative procedure provided for in the Act on Social Insurance applies, with a possibility of a latter reinvestigation of the case before a court.<sup>49</sup> Also, for cases where the rights stemming from the principle of equal treatment as provided for in the Act on Anti-Discrimination have been breached, the affected insured person has the right to recourse in court in accordance with the relevant provisions of the Act on Anti-Discrimination.<sup>50</sup> This, *inter alia*, means that the reversed burden of proof applies to violations of the equal treatment principle in cases of social insurance.<sup>51</sup>

## 1.7 The Framework on Parental Leave

### 1.7.1 National Legal Framework

As mentioned earlier, the Labor Code distinguishes between maternity leave and parental leave. Maternity leave is an entitlement that is provided specifically for women and is

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<sup>48</sup> Act on Social Insurance, Articles 14–19.

<sup>49</sup> *Ibid.*, Articles 172–225.

<sup>50</sup> *Ibid.*, Article 6(4).

<sup>51</sup> See Articles 9–11 of the Act on Anti-Discrimination.

connected to a childbirth and care for a child. This entitlement lasts for 28 weeks (or 37 in case of multiple births). A man is, however, also entitled to parental leave in the same extent as maternity leave is granted to a mother if he cares for a newborn child. Parental leave is an entitlement that is granted to both women and men.

The Labor Code does not explicitly provide that parental leave can be taken by both parents simultaneously. However, the law does not exclude this possibility, and the wording of the relevant Article<sup>52</sup> implicitly allows this possibility. However, this opportunity of simultaneous parental leave taken by both parents is excluded in practice by the fact that social security during parental leave is almost exclusively limited to supporting only one parent.

### 1.7.2 Social Security During Parental Leave

According to the Act on Parental Benefit,<sup>53</sup> a parental benefit is a state social benefit through which the state makes a contribution to a parent to provide personal and proper care for a child up to three years of age or for a child with a long-term unfavourable state of health up to six years of age.<sup>54</sup>

The law applies equally to biological parents and to other persons who care for the child, such as adoptive or foster parents, or persons who are responsible for raising of the child after a decision of a court.<sup>55</sup>

If caring for the same child, the parental benefit can only be granted to one of the parents. There is only one minor exception when the benefit can be granted equally to both parents. This is in case of concurrent care for the child performed by both parents, when the second parent applying for the benefit has an income from work, and fulfils all the conditions for being granted the benefit. This concurrent benefit, however, can only be drawn for one month and only until the child reaches three months of age.<sup>56</sup>

The conditions for granting the benefit are: personal and proper care for at least one child under three years of age, or for a child with a long-term unfavourable state of health under six years of age; the condition of personal care is fulfilled when an earning

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<sup>52</sup> Labor Code, Article 166.

<sup>53</sup> Act No. 280 of 2002, on Parental Benefit, as amended, adopted on May 16, 2002, in effect from January 1, 2003.

<sup>54</sup> Act on Parental Benefit, Article 1(2).

<sup>55</sup> *Ibid.*, Article 2.

<sup>56</sup> *Ibid.*, Article 2(3).

parent or a parent studying at a university or high school maintains the care for a child by other adult person and does not place his or her child into crèche, kindergarten or a similar facility.

For the rest of cases of parental leave, the law either provides for wage compensation or for social security benefits. Wage compensation is granted to a parent who accompanies a family member to a medical facility in case of a sudden illness or accident, or in case of an arranged appointment; this leave with a wage compensation can only be granted for no more than seven days per year, and the accompaniment must be inevitable.<sup>57</sup> The care benefit is provided for in days, commencing with the first day of providing care and ending with the last day of care (but not later than on the tenth day), and it makes up 55 percent of the basis for the benefit calculation.<sup>58</sup> For one particular case, the benefit can only be paid to one insured person.<sup>59</sup> A concurrent payment of a parental benefit or a maternal benefit with the treatment benefit is, according to Article 43 of the Law on Social Security, not possible.

## 1.8 The Principle of Equal Treatment in Occupational Social Security Schemes

### 1.8.1 National Legal Framework

The Constitution, in several articles, contains provisions on protection of persons against various social risks. For example, Article 35(3) contains a provision according to which the state is obliged to materially secure citizens who, for reasons independent on their fault, cannot perform the right to work themselves. Article 39 provides for adequate material security in old age and in case of incapacity to work, and also in cases of loss of a family provider. Article 39 also provides for the right to help in material need, in order to secure basic living conditions. Article 40 provides for the right to free medical treatment and equipment on basis of medical insurance. Article 41 provides for the right of parents who care for children to a special help from the state. This article also provides for special treatment for pregnant women.

The system of social security in Slovakia has undergone numerous changes (both structural and ‘cosmetic’) in the last few years. These changes can be characterized as common for a society burdened by the weight of a residual socialist regime, and by

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<sup>57</sup> Labor Code, Article 141(2)(c) point 1.

<sup>58</sup> This bases is an average day income of the insured person that is taxable, achieved prior to the year when the maternity benefit entitlement has been claimed. See Article 55 and Article 138 of the Act on Social Insurance, as well as Articles 40, 41, 42.

<sup>59</sup> *Ibid.*, Article 42(2).

challenges stemming from the requirements of a market economy and merit system, and also from the requirements of the accession process to the European Union. However, the end of the year 2003 and the beginning of the year 2004 brought changes that significantly reshaped the entire concept of social security. These changes included the adoption of Act No. 461 of 2003 on Social Insurance, and the adoption of Act No. 43 of 2004 on Old-Age Pension Saving.

The current social security system is governed principally by the abovementioned laws – in particular by the Act on Social Insurance and by the Act on Old-Age Pension Saving. Old-age and invalidity pensions are also covered by the Act No. 123 of 1996 on Additional Pension Insurance. Health insurance is covered by a special act, in particular by the Act No. 273 of 1994 on Health Insurance. Social legislation is complemented by the Act No. 195 of 1998 on Social Assistance.

The Slovak social insurance system does not contain a specific statutory regulation of occupational social security schemes. Some provisions of the Act on Additional Pension Insurance, however, could be considered as laying down conditions for occupational social security schemes.

The Act, amended, *inter alia*, by the Act on Anti-Discrimination, contains a specific equal treatment clause, corresponding to the one contained in the Act on Anti-Discrimination. The Act also does not contain any discriminative provisions as regards access to insurance or exercising the rights stemming there from that would be contrary to the Directive 79/7/EEC. However, women may in practice be disadvantaged due to the significant pay gap, more frequent breaks in women's careers due to child-care and family duties, by women's more frequent performance of part-time work, etc. Women may in practice also be disadvantaged by the fact that the first ten days of sick leave are not covered from social security schemes, but these costs are instead borne by the employer.<sup>60</sup> These all reasons undoubtedly have a strong potential to lower the actual benefits women can gain from the social security system, as the system is based on merits and formal equality, or to disadvantage women in other ways.

Out of the legally sanctioned equality exceptions mentioned in the Directive 79/7/EEC, the most remarkable are the maternity leave benefit and a compensatory benefit for pregnant women or women who have recently given birth who were moved to a different work (this contribution only applies to women in employment relationships, not to self-employed women). A person other than a mother is entitled to the maternity leave benefit very exceptionally, and the entitlement is never cumulative with a benefit of a mother.

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<sup>60</sup> See Articles 1, 4, 5, 7, 8 of the Act No. 462 of 2003 on Income Compensation during Temporary Working Incapacity of an Employer, adopted on October 30, 2003, in effect from January 1, 2004.



Another area where unequal treatment between men and women is statutorily sanctioned in the Act on Social Insurance is the area of old pension benefits entitlements. Although the law newly provides for a universal old pension age of 62 years with no regard to the sex of the insured person, the act still contains provisions that act as an exception to the general provision for the old-pension age of 62 years and provide for a gradual equalisation of the currently diversified old pension ages with pension limits being lower than 62 years. These diversified pension limits are a result of the previously distinctive determination of the old-pension age, depending on the sex of a pensioner, on the number of children a woman had raised, and in some cases also on the type of job an insured person performed.

The act also provides for a possibility for early retirement ages, provided that the insured person has been insured for at least ten years, and the total sum of his or her pension benefit would be higher than 1.2-multiple of the living minimum, determined on a basis of a special law.

According to Article 2 of the Act on Old-Age Pension Saving, old-age saving is saving in the personal account of a saver. The law again distinguishes between old pensions, early old pensions, and survivors' pensions and does not contain any discriminative provisions that would be contrary to the wording of the Directive 79/7/EEC. The law also prohibits direct and indirect discrimination on a number of grounds (sex, gender, property, social, marital and other status, etc.), apart from cases provided for by law. The anti-discrimination provision, however, is not in full harmony with the more elaborated principle of equal treatment as contained in the Act on Anti-Discrimination and other laws harmonized therewith.

The third pillar of the pension system has its basis in the Act on Additional Pension Insurance. The aim of this act is to enable an insured person to gain an additional pension income in old age or during invalidity and to enable his or her survivors to gain an additional pension income for case of death of the insured person. Participation of an employer and employees in this system of pension insurance and the level of the contributions of the employee can be agreed on in a collective agreement.<sup>61</sup>

Although the Act on Additional Pension Insurance does not contain any overtly discriminative provisions, it does not contain any explicit prohibition of discrimination whatsoever, nor any clause guaranteeing the principle of equal treatment, and hence no specific legal protection thereof.

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<sup>61</sup> Act on Additional Pension Insurance, Article 1(3).

The Health Insurance Act<sup>62</sup> and the Social Assistance Act<sup>63</sup> both contain an explicit equal treatment provision. This provision is fully in accordance with the concept of equal treatment and the means of protection thereof as entrenched in the Act on Anti-Discrimination.

### 1.8.2 Legal Means of Redress

For all of the abovementioned laws through which social security is realised, apart from the Act on Additional Social Security Schemes, and apart from the Old-Age Pension Saving, the principle of equal treatment applies in the same manner as it is entrenched in the Act on Anti-Discrimination. Apart from the application of the same concept of equal treatment, the social security laws also contain the same scope of judicial protection as is provided for by the Act on Anti-Discrimination. For this type of procedure, rules for civil procedure apply, apart from the reversed burden of proof which applies under the Act on Anti-Discrimination.

In case of a breach of the prohibition on discrimination contained in the Act on Old-Age Pension Saving, Article 9 of this law also provides for judicial protection with a reversed burden of proof. Article 54 of the Act on Additional Social Security Schemes also contains a provision on solving disputes by means of judicial procedures, but, as this law contains no explicit equal-treatment or anti-discrimination provisions, this judicial protection can only be applied to the implicit prohibition of discrimination stemming from the general non-discriminative provisions of the law, and without the reversed burden of proof.

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<sup>62</sup> Act No. 273 of 1994, on Health Insurance, as amended, adopted on August 24, 1994, in effect from January 1, 1995.

<sup>63</sup> Act No. 195 of 1998, on Social Assistance, as amended, adopted on May 19, 1998, in effect from July 1, 1998.

## 2. INSTITUTIONAL MECHANISMS

### 2.1 The Department of Equality and Anti-Discrimination<sup>64</sup>

The Department of Equality and Anti-Discrimination ('Department') was established in 1999 as a subsection of the Ministry of Labor, Social Affairs and Family of the Slovak Republic (MLSAF), subordinated to the Section of Social Inclusion of MLSAF. The Department was originally established to focus on equal opportunity issues, but in 2003, the competences of the Department were extended to include the field of discrimination.

The competences and roles of the Department are determined by its position in the structure of the Ministry, and more generally by the roles of the Ministry as stated by the Program proclamation of the Government and by the conceptual plan of the Ministry. The particular roles and competences of the Department are specified in the Organizational Order of the Ministry.

As stated in the Organizational Order, the Department, in cooperation with other departments, shall carry out the tasks of the Ministry in the field of equal opportunities of women and men and in the field of anti-discrimination, and it shall mainly realize these activities:

- creation of state policy in the field of equal opportunities and anti-discrimination;
- conceptual activities and creation of principal legislative measures in the field of equal opportunities and anti-discrimination;
- coordination of the state system of equality of women and men, minorities and marginalized groups of citizens;
- implementation of international agreements in the field of human rights; coordination of international projects in the field of gender equality;
- monitoring and evaluation of equal opportunities between men and women in the field of employment relationships, in the field of assertion of women in politics and in family relations, including programs and projects of the European Social Fund;

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<sup>64</sup> Most of the information about the Department of Equal Opportunities and Anti-Discrimination was acquired through an interview taken at the Department on July 7, 2004 with Ms. Kusendová and Ms. Vránová. The rest of information was gained by interviews taken afterwards either by phone or by email, with Ms. Mesochoritsová, the head of the Department, with Ms. Kusendová, with Ms. Vránová, and with Ms. Bartoňová. I would hereby like to thank them for all the prompt and willing assistance that followed our numerous questions and requests.

- social programs and activities aimed at inclusion of endangered groups of citizens, national minorities and a part of the Roma population;
- fulfilling tasks connected to accession activities of the Slovak Republic and the EU, and fulfilling tasks that are connected to the membership of the Slovak Republic in the EU;
- evaluation of program documents that are focused on problems of women and on equal opportunities for women and men.

As can be seen from the above enumeration of the tasks and activities of the Department, the Department can be characterized as a body with initiating, coordinative, cooperative, consultative, controlling, and supervisory functions for the field of equal opportunities with a potential to influence the policies of many other bodies. The Department has, however, no competence to take binding enforceable decisions and no competence to sanction possible perpetrators in cases of possible breaches of the equal treatment principle. Also, as the Ministry as such is hierarchically organized, no decision (in the field of the quasi decision-making capacity the Department currently has in terms of its actual initiative, supervisory, consultative etc. competences) of the Department can be taken independently but instead all decision-making ends up at the top of the structure – that is, in the hands of the Minister who has the official power to sign all documentation submitted in the name of the Ministry.

Although the tasks of the Department were originally outlined as tasks within the scope of activities of the Ministry, the actual enumeration of the tasks and activities seems to be exceeding the scope of the tasks of the Ministry itself and seems to go further beyond, to in fact represent a body with an agenda of interdisciplinary character.<sup>65</sup> This presumption is not only reflected in the enumeration of the actual tasks, but is also a result of looking at the actual activities the Department is performing. This judgment can only be supported by the fact that there are no such or similar bodies at any other ministry nor at any other central institution, so the tasks which are currently assigned to the Department have a universal outreach, although

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<sup>65</sup> The Ministry of Labor, Social Affairs and Family as a whole has so far not adopted any gender mainstreaming strategy connected to the overall Ministry's mission and tasks. This is in a way a bit paradoxical: one of the departments of the Ministry – the Department of Equality and Anti-Discrimination – is committed to fulfilling aims and tasks that do not, on a general level, belong into the scope of the Ministry's interests.

constrained by the abovementioned limitations in the Department's competences and by the formally limited scope of agenda the Ministry as such has.<sup>66</sup>

The Department does not have any local or regional bureaux – it is a typically centrally organized body.

The cooperation of the Department with NGOs has so far been quite satisfactory.<sup>67</sup> The NGOs concerned are mainly NGOs dealing with gender issues or other women's NGOs. The cooperation comprises mainly sharing of information and expertise and mutual invitations of experts to trainings and seminars. The cooperation also lies in consultations and using NGOs' expertise when drafting proposals, commenting documents or preparing concepts and programs by the Department (currently, NGO representatives are members of *ad hoc* commissions on preparation of a strategy on prevention and elimination of violence against women and in the family, and also of an *ad hoc* commission that is working on a framework mainstreaming strategy which is currently under preparation).

Other partners of the Department are mainly academics and other professionals on gender issues. The Department also cooperates with international organizations, such as the institutions and structures of the EU, the Commission on the Status of Women, the European Women's Lobby, etc.

External monitoring of the performance of the Department does not exist. The monitoring is only performed on an internal basis, and no special reports are made thereon.

The access to information about the activities of the Department, and also about the Department, is very poor. The Ministry's website does not pay any specific attention to the Department or to its activities<sup>68</sup> – the information that the Department exists at all can only be deduced from studying the Ministry's organizational scheme that is, in

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<sup>66</sup> The fact that other ministries do not have departments that would specifically deal with equal opportunities, women's issues or gender issues also causes problems in practice. When, for example, interdisciplinary groups composed of representatives of ministries are formed in order to, for example, draft legislation, there is always a very high fluctuation of people who are represented in these commissions as ministries do not have staff at their disposal who would permanently deal with gender or equal opportunities issues and have a good expertise thereon. This undoubtedly decreases the quality of the work done in this field.

<sup>67</sup> This information has been gained in interviews with representatives of the Department, as well as from various non-governmental sources. There is no official basis – either legal or contractual – for such cooperation. Instead, the so far satisfactory communication is a result of personal contacts between the representatives of the Department and NGO representatives.

<sup>68</sup> And neither to the topic of equality of opportunities as such.

form of a table, published on the Ministry's website. There is, however, no more detailed information on the Department's tasks or activities. Neither the Organizational Order of the Ministry is published on its website, so there is no way to learn about the tasks and activities of the Department by use of the official website of the Ministry only.

However, some of the documents that the Department has prepared or is reporting on are accessible on the website, such as the National Action Plan for Women and the Concept of Equal Opportunities for Men and Women (although the evaluation reports on these documents that the Department has drafted are not accessible through the Internet).<sup>69</sup> There is detailed information on the Ministry's website about the program *Family Friendly Employer* that is run by the Department.

Here are some of the most important activities that the Department has undertaken:

- drafting the Concept of Equal Opportunities for Men and Women;
- annual monitoring of the National Action Plan for Women and drafting a report on its implementation;
- monitoring and drafting reports on implementation of the Concept of Equal Opportunities for Men and Women;
- trainings of administrators (both on central and local levels) who deal with Structural Funds on gender issues aspects (how to take it into consideration when dealing with Structural Funds projects and evaluating them);
- administering the program "Family Friendly Employer";
- preparing and running seminars for social partners in the field of equal opportunities (also partly focused on equal remuneration);
- editing and publishing the publications: *Family Friendly Employer*, *Women and Men in Slovakia I-II*; *Gender Statistics* (edited in cooperation with the National Center for Family Studies).

For further information on the activities of the Department, see Annex to this report.

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<sup>69</sup> It should, however, not be any problem to gain the information through using the Act No. 211 of 2000, as amended, on Free Access to Information, adopted on May 17, 2000, in effect from January 1, 2001. According to this law, an institution or a person which is obliged to make information accessible according to this law, has a duty to provide a person requiring an information with this information unless this information is not at this institution's or person's disposal or unless the information belongs to a closely specified group of information that have to be undisclosed for reasons of protecting privacy, business secret, official secret, etc.

## 2.2 Committee of the National Council of the Slovak Republic for Human Rights, Minorities, and Status of Women

The Committee of the National Council of the Slovak Republic for Human Rights, Minorities, and Status of Women (further on as ‘Committee’) is a mechanism that is supposed to serve *inter alia* gender equality on legislative level. It was established by the Resolution of the National Council of the Slovak Republic No. 15 of October 15, 2002 on the Proposal to Establish Other Committees of the National Council of the Slovak Republic.<sup>70</sup> In general, committees in the National Council (further on as ‘Parliament’) act as initiative and control organs. The legal basis for establishing and functioning of parliamentary committees is set for by the Act No. 350 of 1996 on Legislative Rules of Law-Making in the National Council of the Slovak Republic.<sup>71</sup>

The Committee, as stated on the Parliament website,

“discusses law proposals, international treaties and some governmental programs from the point of view of their conformity with human rights ... A special attention is devoted to gender equality. In its activities, it cooperates, apart from central organs of state administration, mainly with the ombudsman, with the Institute of the Memory of the Nation, with the Office for Personal Data Protection, with the Slovak National Center for Human Rights, and with other institutions and non-governmental organizations active in the field of human rights.”<sup>72</sup>

The Committee has competences that the law generally grants to all parliamentary committees. The main competences of parliamentary committees are:

- submitting law proposals to the Parliament, as well as other recommendations in the field of their competence. They can also submit proposals or suggestions to government members or to heads of other central institutions of state administration;
- monitoring of the observance and implementation of legal acts, and requesting the government members to provide remedy; if a remedy has not been provided, a committee shall inform the Parliament thereon;

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<sup>70</sup> After the election in 2002 and before establishing new parliamentary committees of the newly-elected Parliament, women’s NGOs and experts required establishing an independent committee that would promote equality of opportunities of women and men. Instead, issues connected to a very general and vague concept of “status of women” have been added to the agenda of the already-existing Committee for Human Rights and Minorities.

<sup>71</sup> See Articles 45–56 of this Act.

<sup>72</sup> See <http://www.nrsr.sk/main.aspx?sid=vybory/zoznam>.

- discussing the principal issues of social development in the field of action of each particular committee; committees discuss issues that are either allocated to them by the Parliament, or they can do it from their own initiative;
- cooperating with organs of public administration, and using the suggestions and proposals of these organs.<sup>73</sup>

The access to information about the Committee and its activities is provided through the official website of the Parliament.<sup>74</sup>

The Committee had a question over adopting the Act on Anti-Discrimination, which was adopted on May 20, 2004 (see the section on implementation of the EU equal treatment directives into Slovak legislation), and it recommended the Parliament to adopt this act.<sup>75</sup>

For further information on the Committee's work, see Annex to this report.

### **2.3 Commission for Equal Opportunities and Status of Women in the Society**

The Commission for Equal Opportunities and Status of Women in the Society (hereinafter, the "Commission") was set up by the Committee for Human Rights, Minorities, and Status of Women on March 25, 2003 as its advisory body.<sup>76</sup> Initiative for the establishment came from the bottom – from representatives of civil society (mainly women's NGOs).

The main objectives and activities of the Commission comprise commenting on proposed legislation that concerns women and gender issues, such as labor legislation, social legislation, electoral legislation (the case of non-adopted electoral law on quotas on parliamentary voting lists), equal treatment legislation (the Commission worked on

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<sup>73</sup> Act No. 350 of 1996 on the Legislative Rules of Law-Making in the National Council of the Slovak Republic, Articles 45(3), 46, 47.

<sup>74</sup> See the website [www.nrsr.sk](http://www.nrsr.sk).

<sup>75</sup> See the Common Report of Committees No. 276 of 2004 on Discussing the Government proposal of the Act on Equal Treatment in Some Areas and on Protection Against Discrimination... (Act on Anti-Discrimination) – print 566. Can be found at <http://www.nrsr.sk/appbin/xweb/xweb.asp?verb=explore&file=vybory\lpn>.

<sup>76</sup> The legal basis for the establishment of the Commission was Article 61 of the Act No. 350 of 1996, on Legislative Rules of Law-Making in the National Council of the Slovak Republic. The Commission was established by the decision of the Committee on Human Rights, Minorities, and Status of Women No. 47 of 2003. Can be found at <http://www.nrsr.sk/appbin/xweb/xweb.asp?verb=explore&file=vybory\lpn>.



the Act on Anti-Discrimination). The Commission is also devoted to issues of violence against women.

The Commission takes its decisions by consensus and voting. The Commission has only advisory status – that is, no real decision-making power. All comments and suggestions should pass through the Committee and be presented in the Parliament as the Committee’s suggestions. Although the Committee adopted about 80 percent of the Commission’s advisory opinions, these opinions have not passed through the Parliament in most of the cases.<sup>77</sup>

The Commission is, in principle, not prevented from making any proposals for gender equality strategies or concepts that could then possibly be forwarded to Parliament by the Committee for Human Rights, Minorities, and Status of Women. Such an initiative, however, has not been taken yet.

In general, it can be said that the Commission generally has a role to advise and influence actors playing important role in making legislation. However, the Commission has not so far shown the most meaningful and satisfactory influence possible.

For further information on the Commission’s work, see Annex to this report.

## 2.4 Slovak National Center for Human Rights

New significant tasks have been allocated to the Slovak National Center for Human Rights (‘Center’), (established in 1994), by an amendment of the act governing the functioning of the Center,<sup>78</sup> realized through the adoption of the Act on Anti-Discrimination.<sup>79</sup> The previous generally-formulated tasks of the Center as tasks in the field of protection of human rights were substituted through this amendment by a more specific enumeration of tasks allocated to the Center. Hence the tasks the Center is obliged to perform from July 1, 2004 are mainly:

- monitoring and evaluation of the observance of the principle of equal treatment according to the Act on Anti-Discrimination;

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<sup>77</sup> This information was provided by the Chair of the Commission, Mr. Jozef Heriban, during an interview taken on July 13, 2004.

<sup>78</sup> Act No. 308 of 1993 on the Slovak National Center for Human Rights, as amended, adopted on December 15, 1993, in effect from January 1, 1994.

<sup>79</sup> Act No. 365 of 2004 on Equal Treatment in Certain Fields and on the Protection Against Discrimination, and on Amending and Complementing Certain Laws, adopted on May 20, 2004, in effect from July 1, 2004.

- realizing research and surveys in order to provide data in the field of human rights;
- preparing educational activities and participating in informational campaigns with the aim to increase tolerance in society;
- providing legal aid to victims of discrimination and intolerance;
- publishing expert opinions, either on request or from own initiative, on observance of the principle of equal treatment;
- providing library services;
- providing services in the field of human rights.<sup>80</sup>

The Center is also entitled to represent a litigant in proceedings concerning breaches of the principle of equal treatment.<sup>81</sup>

The Center shall annually publish a report on observance of human rights in the Slovak Republic. The reports shall be published on the Internet and also through periodicals.<sup>82</sup>

According to the interview with the director of the Center carried out on August 26, 2004, the Center deals with gender- and equality issues on inter-sectional basis – there are various departments in the Center where gender equality (and equality and fight against discrimination in general) is given attention. This is especially the case of the Department of Research and Monitoring, of the Department of Education, and of the Department of Legal Aid.

The framework for cooperation with NGOs is not provided for in the act establishing the Center (apart from a provision whereby the Center is entitled to request from NGOs information on observance of human rights<sup>83</sup>). The Plan of Activities of the Center for 2004, however, contains several provisions where the Center counts on cooperation with NGOs, and also on cooperation with other institutions and professionals representing mainly the public sphere. As the director of the Center confirmed in an interview on August 26, 2004, cooperation with NGOs lies within the sphere of interests of the Center, and there are currently various fields of activities where the Center and NGOs cooperate. Currently the Center mainly uses the independent and objective expertise of NGOs, and invites NGO representatives to participate in its conferences and possibly also in its other activities. In general, the

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<sup>80</sup> Act No. 308 of 1993 on the Slovak National Center for Human Rights, as amended, adopted on December 15, 1993, in effect from January 1, 1994, Article 1(2).

<sup>81</sup> *Ibid.*, Article 1(3).

<sup>82</sup> *Ibid.*, Article 1(3).

<sup>83</sup> *Ibid.*, Article 1(5).

cooperation is rather working on a non-formal basis and is not supported contractually (with exception of contracting independent experts for particular pieces of work done for the Center).

Out of the activities of the Center undertaken in 2004 that might be of interest for the purposes of this report is a conference organized on May 20, 2004 that involved a workshop on the principle of equal treatment and prohibition of discrimination, with focus on European and the freshly-adopted Slovak equal treatment legislation.<sup>84</sup> A similar conference was prepared by the Center for December 10, 2004. This conference was to cover *inter alia* the fight against discrimination and the implementation of the principle of equal opportunities.

Currently, the Center is preparing a report on observance of human rights in the Slovak Republic in 2004, and it should contain a special chapter on equal treatment and prohibition of discrimination (with focus on European anti-discrimination directives, case-law of the European Court of Justice concerning affirmative action and European policies concerning gender mainstreaming, as well as with focus on Slovak equal treatment legislation). The report should also contain a short chapter on socio-economic aspect of gender equality.<sup>85</sup>

Among other activities that are planned in the Plan of Activities of the Center for 2004 with relevance to this chapter (apart from the abovementioned ones) is preparation of a research analysis on effects of termination of employment due to organizational reasons on women between 40 and 60 years of age, in connection with limited chances of these women for re-employment.<sup>86</sup>

For further information on the Center's work, see Annex to this report.

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<sup>84</sup> The conference took place the same day the new Act on Anti-Discrimination was adopted. There was a heated debate on the possibility of introducing measures of affirmative action entrenched in the act in connection with racial and ethnic origin (see Article 8(8) of the Act on Anti-Discrimination).

<sup>85</sup> In both of the activities mentioned in this and the previous paragraph the Center is cooperating with NGOs. The cooperation lies primarily in using experts with independent and objective views from the non-governmental sector for producing the Center's outputs.

<sup>86</sup> See page 8 of the Plan of Activities of the Slovak National Center for Human Rights for 2004.

## 2.5 The Ombudsman

The National Action Plan for Women, adopted by the Slovak Government in 1997, recommended that the institution of the Ombudsman be created for all human rights fields (for more information see section Policies of this report). The institution of the ombudsman was established in Slovakia in 2001, by the Act No. 564 of 2001 on Public Defender of Rights<sup>87</sup> (which is simultaneously the official title for the Slovak ombudsman).

The current legal framework governing the position of the Slovak ombudsman in terms of his competences in the field of equal treatment is, however, very limited. An ombudsman has only a competence over observance of human rights in general (he has no particular competence in the field of equal treatment or prohibition of discrimination),<sup>88</sup> and he can only exercise his competences in relation to organs of state administration, organs of regional self-administration, and to legal and natural persons (with some exceptions<sup>89</sup>) who, with regard to a special law, are taking decisions about rights and duties of natural and legal persons in the field of public administration.<sup>90</sup> This means that ombudsman's power over observance of the principle of equal treatment is not fully excluded as it falls within the ambit of general protection of human rights, but it is very much constrained by the ombudsman's power to investigate cases of breaches of human rights in relation to public sphere only. In other words, the ombudsman is not at all entitled to search cases of breaches of the principle of equal treatment or of prohibition of discrimination in private sphere.

The ombudsman's competences are also limited as regards the means he can use in order to investigate cases of breaches of human rights and to provide redress. His main competences comprise the right to enter the premises of organs of public administration and to obtain all information and documentation relevant for investigating cases of human rights breaches (which he can initiate either on request of a natural or legal person, or from his own initiative), and to propose measures for redress to the institutions concerned. In case the ombudsman does not find the measures adopted by the institutions concerned sufficient, he shall inform the superior organ thereon. The ombudsman, however, has no power whatsoever to impose sanctions for breaches of human rights.<sup>91</sup>

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<sup>87</sup> Act No. 564 of 2001 on Public Defender of Rights, as amended, adopted on December 4, 2001, in effect from January 1, 2002.

<sup>88</sup> *Ibid.*, Articles 1 and 3.

<sup>89</sup> *Ibid.*, Article 3(2).

<sup>90</sup> *Ibid.*, Article 3(1).

<sup>91</sup> *Ibid.*, Articles 13–22.

Quite a significant tool the ombudsman can use in order to generally help the protection of human rights is an annual report he is obliged to submit to the Parliament.<sup>92</sup> So far, no cases of breaches of the principle of equal treatment or of the prohibition of discrimination have been reported on in his reports, and no information indicating that he would be dealing with such cases appears on his website.

## 2.6 Center of Employment, Social Affairs and Family and Offices of Employment, Social Affairs and Family

Some roles that may be of significance in terms of gender equality are allocated to the Center of Employment, Social Affairs and Family (hereinafter, the “Center of Employment”), and to offices of employment, social affairs and family (hereinafter, ‘labor offices’). The Center of Employment is a budgetary organization, connected to the budget of the Ministry of Labor, Social Affairs and Family (i.e., it is placed at executive level).

The Center of Employment administers, controls, coordinates and methodically directs state administration in the field of social affairs and employment services that is performed by labor offices.<sup>93</sup> (The state administration realized by the Center of Employment and by labor offices is governed by the Ministry of Labor, Social Affairs and Family.<sup>94</sup>) The legal basis for the Center of Employment and for labor offices is the Act No. 453 of 2003 on Organs of State Administration in the Field of Social Affairs, Family and Employment Services, and the Act No. 5 of 2004 on Services of Employment. Although neither of the acts contains a specific provision that would be primarily aimed at gender equality and that would adjust the Center’s and labor offices’ tasks and competences to exclusively support such an aim,<sup>95</sup> the Act on Services of Employment contains various provisions that, if interpreted and implemented properly, can contribute to achieving gender equality in the field of employment and access to employment.

According to some provisions of the Act on Services of Employment, labor offices can also very significantly contribute to achieving gender equality in terms of access to employment. Generally, they can provide financial help and/or financial incentives to

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<sup>92</sup> Act No. 564 of 2001 on Public Defender of Rights, Article 23.

<sup>93</sup> Act No. 453 of 2003 on Organs of State Administration in the Field of Social Affairs, Family and Employment Services, as amended, adopted on October 30, 2003, in effect from January 1, 2004, Article 4(6)(b).

<sup>94</sup> *Ibid.*, Article 3(a).

<sup>95</sup> Furthermore, neither the Center nor the labor offices have special departments or employees who would deal exclusively or principally with gender issues.

disadvantaged unemployed/job applicants/employees in cases of access to employment or vocational training. Although all these enabling provisions are formulated in gender-neutral way, in practice they have potential to favor women to a high extent. The particular ways how labor offices can help women to access the labor market and to catch up with its requirements, and also to reconcile their professional and family lives, are the following:

- A labor office can cover up to 100 percent of costs of training of an unemployed person that will help her or him to establish herself or himself in the labor market.<sup>96</sup> In case an unemployed person who participates in a training that prepares her or him for the labor market is a parent caring for a child who has not started compulsory schooling yet, a labor office can provide a training participant with a contribution that will cover the costs of the care for the child provided by a facility/institution according to the law (e.g., kindergarten or a natural person providing professional care in accordance with the law).<sup>97</sup>
- A labor office can cover up to 90 percent of costs of trainings provided to employees by their employers, if these trainings contribute to better employability of these employees. The condition for being provided such a

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<sup>96</sup> Act on Services of Employment, Article 46. In 2003, the overall number of unemployed who got such a training was 24,711, out of which 13,787 were women (55.6 percent). The overall sum spent on these trainings in 2003 was 193,074,089 SKK (4,831,968 Euros). In the first half of 2004, the overall number of unemployed whose costs of training were covered by labor offices was 5,256, out of which 3,156 were women (59.9 percent). The overall money spent on the trainings so far is 2,727,085 SKK (68,249 Euros). The apparently low number of supported unemployed individuals and of the money spent on the support is said to be caused by the process of public procurement, and also by the delays caused by changes in legislation (in particular by the Act on Services of Employment which was adopted at the beginning of 2004 as in effect from February 1, 2004).

<sup>97</sup> Act on Services of Employment, Article 46. As was explained by the speaker of the Center of Employment on request for information, the implementation of this legislative tool is not separately monitored, as it is statistically irrelevant. The reasons described by the speaker are: 1) Complications connected to providing the evidence on expenses incurred for the childcare services; 2) Non-unity of the system of paying fees for these services in individual districts/towns; 3) Some of the pre-school facilities do not provide the clients with receipts at the moment of paying the fees, but require the payment to be received in cash without a receipt; 4) Some of the pre-school facilities require the fees to be paid six months in advance. If a training of an unemployed individual starts after realization of the payment, it is not possible to consider such a payment as an eligible expense.

financial contribution is that an employer employs the employee for at least another twelve months.<sup>98</sup>

- A labor office can also provide an unemployed person who decides to initiate performing a self-employed activity with a financial contribution for that purpose, provided that the person so supported performs the self-employed activity for at least two consecutive years. This contribution can represent as much as 24-multiple of monthly minimum wage<sup>99</sup> determined by law plus social contributions paid by an employer.<sup>100</sup>
- A labor office can provide an employer who creates a new workplace for the purpose of employing a disadvantaged applicant as defined by the Act on Services of Employment<sup>101</sup> with a financial contribution of up to 24 times the monthly pay of the newly-recruited applicant plus social contribution paid by the employer for this employee during this period of time.<sup>102</sup>

The real access to information about the Center and Labor Offices is difficult to assess objectively as their website is not working at the time of writing.

For further information on the activities of the Center, see the Annex.

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<sup>98</sup> Act on Services of Employment, Article 47. Up to now, this provision has not been applied in 2004. In 2003, altogether 329 employees took advantage of these provisions. The sex of the beneficiaries was not monitored.

<sup>99</sup> Monthly minimum wage is currently determined by the Government Regulation No. 400 of 2003 on Establishing the Amount of Minimum Wage, adopted on September 22, 2004, in effect from October 1, 2004. The amount of monthly minimum wage is SKK 6,500 (163 Euros).

<sup>100</sup> Act on Services of Employment, Article 49. In the first eight months of 2004, these contributions were given to 3,144 unemployed persons. Out of these, 1,073 (34 percent) were women. The total sum spent on these contributions during the period mentioned was 178,348,435 SKK (4,463,437 Euros).

<sup>101</sup> Article 8 of this Act defines a disadvantaged applicant *inter alia* as: person older than 50 years of age; person who has not been performing a paid activity and who has neither been preparing for occupation due to the reason that he or she could not reconcile employment with parental duties; solitary person caring for a child younger than 10 years of age.

<sup>102</sup> Act on Services of Employment, Article 50. In the first eight months of 2004, the contributions for employing a disadvantaged applicant for employment were paid to 740 applicants, out of which 363 (49 percent) were women. The overall sum paid in the form of the contributions was 35,663,105 SKK (892,523 Euros).

## 2.7 National Labor Inspectorate and the Labor Inspectorates

The National Labor Inspectorate and the labor inspectorates fulfill their tasks pursuant to the Act on Labor Inspection,<sup>103</sup> adopted in 2000. Labor Inspection is defined as

- inspection over the observance of labor legislation and working conditions of employees including working conditions of women..., occupational safety and health, wage legislation, and obligations following from collective agreements, and inferring liability from breaches of this legislation and collective agreements;
- providing free consultancy to employers on how to observe the abovementioned rules.<sup>104</sup>

Although a specific duty to control the observance of the equal treatment principle is not entrenched in the Act on Labor Inspection, these rules shall nevertheless be observed on the basis of the general formulation of what labor inspection comprises.

Breaches of these rules can be fined by labor inspectorates with fines up to 1,000,000 SKK (25,013 Euros) in administrative proceedings.<sup>105</sup>

In 2003, on request of the Ministry of Labor, Social Affairs and Family, labor inspectorates conducted two special controls, one connected to observance of provisions on equal remuneration of men and women for equal work and work of equal value, and the other concerning observance of provisions on equal treatment and on reconciling working and family life. The results were as follows:

In the first of the controls, labor inspectorates were controlling observance of Labor Code provisions on equal remuneration. Sixty-three mainly private employees were controlled on a random basis all over Slovakia, mainly in sectors such as industry, hotels and restaurants, retail and wholesale. For the purposes of the controls, employees were asked to fill in (anonymously) special questionnaires, and employers were controlled in a standard way of checking documentation. In only two out of the 63 cases discrimination in remuneration was proved. The reasons were partly clarified during a telephone interview conducted with an employee of the National Labor Inspectorate: it is very difficult to judge what equal work and work of equal value is,

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<sup>103</sup> Act No. 95 of 2000 on Labor Inspection, as amended, adopted on February 8, 2000, in effect from July 1, 2000.

<sup>104</sup> *Ibid.*, Articles 2(1) and (3).

<sup>105</sup> *Ibid.*, Article 17(1) (a).



and it is also very difficult to develop a suitable methodology that would enable inspectors to reveal cases of unequal remuneration.<sup>106</sup>

The second control was focused on controlling the observance of general equal treatment provisions protecting women and special provisions protecting women and men caring for young children after coming back to work after parental leave. The control was carried out in 55 places mainly of private sector. The control showed that “the controlled employers are in principle observing the equal treatment principle, as entrenched in the Labor Code. In this field, neither any complaints nor any other submissions were recorded.”<sup>107</sup>

From the annual reports of the National Inspectorate, it also follows that individual employees do not submit complaints concerning discrimination or unequal treatment to labor inspectorates. This was also confirmed by the abovementioned interview.

The interviewed person also indicated that employers are very often not aware of legal aspects connected to equal treatment. Moreover, what also follows from the annual reports of the National Inspectorate is that employers do not consult with labor inspectorates issues connected to equal treatment.

Further information about the Labor Inspectorate is contained in the Annex.

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<sup>106</sup> The interview was conducted on July 15, 2004. The name of the interviewed person has not been recorded.

<sup>107</sup> The Report on Activities of the Organs of State Administration in the Field of Labor Inspection and about Labor Protection in 2003, shortened version, p. 7. See the website [http://icop.safework.gov.sk/nip/spravy/sprava\\_2003.pdf](http://icop.safework.gov.sk/nip/spravy/sprava_2003.pdf).

### 3. POLICIES, PROGRAMS AND AWARENESS-RAISING

#### 3.1 Policies

In Slovakia there are two main policy documents concerning gender equality: the National Action Plan for Women (hereinafter, the 'Action Plan') and the Concept of Equal Opportunities for Men and Women (hereinafter, the 'Concept'). The National Action Plan was adopted in 1997<sup>108</sup> on the basis of the Beijing Platform and it is the main policy document setting basis for equal treatment policy. The Concept of Equal Opportunities for Men and Women was adopted in 2001. Due to the accession of the Slovak Republic to the European Union, the duration period of the National Action Plan should be shortened,<sup>109</sup> and in 2005 it should be replaced by a new complex gender mainstreaming policy document that should substitute both the National Action Plan and the Concept of Equal Opportunities.<sup>110</sup>

The annual progress report on the National Action Plan is presented to the Slovak Government. The implementation report of the Concept is submitted to the Council of Economic and Social Agreement.<sup>111</sup> In the Concept of Equal Opportunities, individual state institutions are already committed to implementation, although the implementation is not monitored by the government.

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<sup>108</sup> See the Decision of the Government No. 650 of 1997 adopted on September 16, 1997 on Adopting the National Action Plan for Women.

<sup>109</sup> Originally, the duration of the National Action Plan was planned for 10 years, i.e. till 2007.

<sup>110</sup> Currently, the aims and tasks of the policy documents are not updated.

<sup>111</sup> Although the progress reports are often criticized for their excessive formalism and for not describing the real state of affairs and of the fulfillment of the tasks defined. Similarly, the government is often criticized for doing controversial steps that do not seem to be in accordance with the aims and tasks declared in these policy documents. An example of this is the adoption of the Basic Treaty between the Slovak Republic and the Holy See (in 2000), which entrenched the right of the Catholic Church to teach religion in all schools and school facilities belonging to the Slovak educational system, and which correspondingly entrenched the right of persons of Catholic belief to exercise their belief in connection with the principles of Christian ethics in education towards parenthood. Subsequently, according to the Treaty between the Slovak Republic and the Holy See on Catholic Education adopted in 2004, classes of religion have become a compulsorily elective subject at schools. This has been strongly criticized by numerous NGOs and by the public; one reason for criticism being the contradictory character of the Treaty and of the subsequent measures in relation to the policy documents that aim to achieve gender equality.

### 3.1.1 The National Action Plan for Women

The government, in 1997, adopted the National Action Plan for Women as the principal program document for the next 10 years. The impulse for the development of this plan was the Beijing Declaration. The National Action Plan is more a declaratory statement of the government on the priorities in the field of equality of women and men rather than a deeply elaborated policy document with clearly defined tasks and responsibilities for individual actors. It is hard to say what the starting points and the actual needs were at the time of drafting the document, and how the particular measures proposed were going to address the problems and meet the needs as the document contains no analysis of the situation in and before 1997 (the time when the document was drafted). Many of the information contained therein seem to be relying on commonly-known facts, such as the fact that there is violence against women or that there is a gender pay gap.

The Action Plan does not articulate any clear vision or objectives and, as has been said above, it neither specifies the needs and problems it is trying to address. The basis for the Action Plan can only be deduced from the sole introductory sentence of this policy document, and it reads as follows:

“The government, under the terms of its responsibility for creation of conditions for the society development, is obliged to supervise the field of legislation, education, economic policies, employment policies, social and family policies, including population policies, so that they affect both women and men in a progressive and non-discriminatory manner.”

The document itself is a five-page document, containing a one-sentence statement serving as an introduction (see above), and a list of eight priorities of the government, each of them elaborated in more detail (although the priorities, strategies and measures envisaged are formulated too generally).

The document is more of reactive rather than of proactive character, and the reader often gets the impression that the approach undertaken when drafting the document was not systematic and comprehensive enough. Also, the National Action Plan often deals with partial questions, instead of trying to address the most serious obstacles that generally prevent women from full and equal enjoyment of their rights.<sup>112</sup> The

<sup>112</sup> One of the examples is one of the measures proposed under the first aim of the document. In order to realize the equal position of a woman in the family, in workplace and in the society, one of the measures proposed is “to support development of services (mainly upbringing of and care for children) in families of women active in politics, or perhaps in families of women and men in managerial positions.” There was no such a measure proposed for ‘average’ women with no leading managerial or political positions. This clearly shows that the concept which served as the starting point when drafting the document certainly had its pitfalls.

document does not mention the need to remove gender stereotypes. Instead, the document seems to be based on traditional conceptions of family roles that are assigned to the representatives of each particular gender.

In general, it seems that the conceptual framework for drafting the document was not based on the principle of equal treatment but instead it was aimed at improvement of the situation of women (as it is expressed in the document title itself).

The particular priorities of the government, as expressed in the National Action Plan, are as follows:

1. to implement legislation to create equal positions for a woman in the family, in the workplace and in society, in general;
2. to create space for personal choices in development of life strategies of women in the family, workplace and in society;
3. to create conditions in order to eliminate economic inequality that may lead to material distress of women;
4. to shape public opinion towards respect of gender equality through the education system and media;
5. to create conditions for the protection and promotion of women's health;
6. to eliminate violence against women;
7. to create conditions for personal development and work satisfaction for women with lesser development chances (defined as rural, Roma, unemployed and disabled women and women insufficiently prepared for their maternal role);
8. to promote activities of organizations oriented toward support and development of women on both national and international levels.<sup>113</sup>

For fulfillment of the priorities envisioned in the Action Plan, several measures are proposed. These concern monitoring (improvement of statistical database and research in relevant areas, control of legislative provisions in the employment area), awareness raising, and creating supportive environments for regional and other initiatives. The Action Plan proposes certain legislative changes, such as establishing the institution of ombudsman, restructuring the parental and social security system schemes, and improving legislation aimed at tackling violence against women and trafficking in women. Other policy measures presented in the plan include special tax regimes for employers employing women with children, promoting flexible working arrangements, improving health and childcare services and housing policies.

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<sup>113</sup> The National Action Plan for Women, available at [www.employment.sk](http://www.employment.sk) (in Slovak).

As has already been indicated above, some measures are more family- rather than gender-oriented (childbirth support, support for families with more children, education of Roma mothers), or they are directly connected solely to women's maternal role (health and education policies), or only to certain selected groups of women. An example can be the fourth priority, aimed at forming public opinion in a way that would achieve respect for equality of men and women. This priority allocates tasks to the Ministry of Education that are formulated with regard to creating curricula for elementary schools focusing on, *inter alia*, education towards marriage and parenthood, and towards "respect for life from the conception to a natural death."<sup>114</sup> The way this particular measure is formulated again reinforces the impression that equality of men and women, according to the Action Plan, has its roots in a traditionally perceived family.

Summing up the National Action Plan for Women, it can be said that, in general, it has many weaknesses in terms of promoting gender equality. Some provisions only target women indirectly, and the envisioned measures are formulated too generally and vaguely. The document does not at all create an impression that gender equality should be of concern to the whole society. At the same time, relevant institutions are not committed to develop their own action strategies to implement the National Action Plan.

The Department of Equality and Anti-Discrimination monitors, on a yearly basis, the implementation of the National Action Plan. The Department is responsible solely for assessing the progress of the implementation and does not have any enforcement power over other state institutions involved in the implementation process. According to the implementation report for 2003, some of the measures proposed by the National Action Plan have already taken place and some are developing only on regional or local levels in the form of isolated programs. For a short summary of the 2003 report on the implementation of the National Action Plan, see Annex.

### 3.1.2 The Concept of Equal Opportunities for Men and Women

The Concept of Equal Opportunities, adopted by the Government in 2001, builds upon the experience gained during the period of implementation of the National Action Plan which showed several weaknesses, including the absence of public discussion and of a complex approach to the concept of equality. That is why new approaches to the tasks adopted by the National Action Plan need to be dealt with

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<sup>114</sup> *Ibid.*

from the point of view of a more complex understanding – i.e., from the point of view of a concept.<sup>115</sup>

In its introduction, the Concept refers to human dignity as to one of the basic attributes of a democratic society. It further explains that issues of equality of opportunities should be understood as opportunities of human beings to freely develop their abilities and use their opportunities without any permanent obstacles that would be represented by gender roles or by any other barriers to participation on economic, political and social life of the society based on sex. The document in its introduction also puts in that issues of equality of opportunities should be considered as inherent part of universal human rights. It further emphasizes that it is important to introduce equality of opportunities not only *de jure*, but also *de facto*. It simultaneously stresses that in order to make the process of creating new supportive institutional mechanisms effective, the issue of gender equality must become a problem of the whole society, not just of women themselves. It therefore calls for a gender mainstreaming approach that integrates the needs and priorities of both women and men into all spheres of life.<sup>116</sup> It is undoubtedly a positive feature that this kind of conceptual document contains an express reference to human dignity and to the need of a shift from formal equality to equality of results, as well as to the need of conceptual and adequate institutional approaches to achieve gender equality in practice.

The Concept is much more complex and elaborated than the National Action Plan. It analyses the whole background resulting to the adoption of the Concept, and it also briefly defines the international and European context of gender equality and equality of opportunities (including examples of best practices from several European countries). The Concept further defines its aim as

“to outline the strategic steps for a complex solution, i.e. covering both legislative and institutional provision for equality, particularly in three priority areas where inequality between women and men is most conspicuous in the Slovak Republic: labor market, public and political life, and reconciliation of family and working life.”

The Concept declares that the main principles on which it was elaborated are: one, constitutionality; two, gender mainstreaming; and three, democracy. The Concept emphasizes numerous times that in order to efficiently pursue equality of opportunities, it is inevitable to institutionally guarantee the application of the principle, and this should happen on all levels – i.e., not only on the level of state administration, but also on municipal and regional levels. The Concept also stresses

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<sup>115</sup> The Concept of Equal Opportunities for Men and Women, available at <http://www.employment.sk> (in Slovak).

<sup>116</sup> *Ibid.*

that de facto gender equality can only be achieved if all areas will be tackled by a general strategy on equality that should be adopted in the future.

The Concept then analyses the situation concerning gender equality in the aforementioned areas, and proposes measures and recommendations for the implementation of the concept of equal opportunities.

### *3.1.2.1 Indicators of Discrimination of Women in Employment*

The Concept identifies the following factors as indicators of discrimination of women in employment:

- rooted prejudices about men being more fit to carry out certain types of work or certain offices;
- career promotion and participation of women in leading positions is not adequate to the roughly similar level of qualification of women and men;
- preference given to men over women in filling job vacancies, due to the fear of the employer that a woman will go on maternity leave and will stay at home due to care after a sick child.

The above factors, according to the Concept, result in differences in remuneration, which is, *inter alia*, a consequence of job segregation. Therefore the measures proposed are mostly oriented to the application of the principle of equal treatment of men and women in the labor market (including equal pay for equal work and for work of equal value) and in matters related to social security and occupational social security schemes. Some measures tackle the stipulation of working conditions aimed at reconciliation of working and family life. The National Labor Inspectorate together with the Confederation of Trade Unions are responsible for ensuring the control of the principle of equal pay for equal work and work of equal value.<sup>117</sup>

According to the Concept, the Ministry of Labor, Social Affairs and Family together with tripartite partners are responsible for the promotion of flexible working arrangements, their inclusion into the general agreement and collective arrangements, and for providing incentives for employers to create possibilities of flexible working regimes. As mentioned above, although the legislation creates conditions for flexible working arrangements, there is a lack of interest for these types of working regimes on the side of both employers and employees. On the basis of the Concept, the Ministry of Labor, Social Affairs and Family initiated the annual competition “Family and Employment” rewarding the most family-friendly employers.<sup>118</sup>

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<sup>117</sup> For more details see Section 4 on Research and Statistics.

<sup>118</sup> For more details see Subsection 3.2 on Programs.

### *3.1.2.2 Low Representation of Women in Public and Political Life*

According to the Concept there are number of reasons for the low representation of women in public sphere. Firstly, it is the predetermination by the family environment, where family is regarded as primary territory for women and a woman politician has to combine family commitments with political career, which may be very problematic. This reflects the deeply enrooted stereotypes in our society that place women next to the “family fireplaces” and reject politically engaged women. The entry of women into politics is thus made more difficult. Hence it should be the task of society, not only of an individual family, to consider introducing supporting mechanisms or temporary measures in general sense.<sup>119</sup> The Concept is also referring to the recommendations of UN Commission for the Elimination of Discrimination against Women that recommended lying down time schedule for achieving of a minimum 30 percent representation of women in politics.

The objectives of this priority aim to increase participation of women in public and political life by the introduction of short-term temporary measures (quotas) with the objective to increase the rate of women’s representation on the election lists and nominations of women in leading political functions<sup>120</sup> and by promotion of activities (training, seminars, education, enlightenment), focused on raising women’s interest in engaging in political and public life. Despite the commitment of the Ministry of Interior the governmental legislative proposal did not include the quota rule and the parliamentary activities in order to include it into the law did not succeed.

### *3.1.2.3 Reconciliation of Family and Work Responsibilities*

Reconciliation of family and work responsibilities require changing of the perspective of looking at the traditional model of a family in which a woman performs major responsibilities and duties. The following aspects are typical examples of the status of women and men in Slovak families:

- disproportionate double burden on women;
- unequal distribution of partner roles, or low participation of men in taking care of the family and in child-rearing;
- lack of reconciliation of working and family life;
- a need to restructure parenthood on a partnership basis.<sup>121</sup>

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<sup>119</sup> The Concept of Equal Opportunities for Men and Women, available at <http://www.employment.sk>.

<sup>120</sup> Although the task of introducing quotas should have been fulfilled by 2002, the political consensus on introducing quotas has not been achieved yet.

<sup>121</sup> The Concept of Equal Opportunities for Men and Women, available at <http://www.employment.sk>.



The principal policy measure refers to the principle of reconciliation of working and family life and targets the improvement of social service provisions related to children, elderly and disabled.<sup>122</sup> The rest of measures attempt to eliminate violence against women. As mentioned above, certain progress has been achieved in this area. The national concept of elimination of domestic violence is under preparation.

#### *3.1.2.4 Gender Stereotypes*

The Concept underlines the need for education and awareness-raising aimed at the elimination of gender stereotypes and at increasing general gender sensitiveness. In particular, it refers to the need of conducting seminars, lectures, conferences, educational programs on TV etc. that can bring about the necessary changes. The Concept also calls for gender-desegregated statistics for purposes of identifying and analyzing gender relations. Adequate research should, according to the Concept, be also conducted in order to identify the areas of gender inequality and help to analyze the mechanisms that may lead to its removal.

Unlike the National Action Plan for Women, the Concept is more specific regarding the changes required for school curricula and explicitly formulates the need for incorporation of issues such as gender equality, gender stereotypes and domestic violence into curricula of primary and secondary schools. It also calls for promotion of gender- and equality issues in life-long training programs. The Ministry of Education, however, has not introduced such an agenda up to the moment.

The Concept also envisioned seminars and trainings in gender equality policies for state administration and local self-governments, record keeping of the equal opportunities agenda and research in this area. The trainings were initiated only on the basis of launching Structural Funds as gender mainstreaming is one of the EU requirements. The Department of Equality and Anti-Discrimination has organized several trainings for state officers directly dealing with Structural Funds and for representatives of self-governments as a part of EU-funding trainings.

#### *3.1.2.5 Implementation of the Concept*

The Concept of Equal Opportunities between Men and Women identifies the main problematic areas in respecting gender equality, and attempts to design concrete solutions to some of them. Although the Concept does not cover all policy areas and in some cases lacks a systematic approach or foreseeing other policy tools besides legislative and normative measures (the “employers’ competition” is a positive exception), it shows much more gender-oriented and professional approach towards the status of women in Slovakia than the National Action Plan.

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<sup>122</sup> For more information on childcare services, see Section 4 on Research and Statistics.

The Concept was adopted by the Government and as such it has committed several state institutions to its implementation. However, the fulfillment is questionable. While the progress report on the National Action Plan is presented directly to the Government, the progress report on the Concept is drafted by the Department of Equal Opportunities and Anti-Discrimination and forwarded to the Council of Economic and Social Agreement (a tripartite institution). The monitoring agency – Department of Equal Opportunities and Anti-Discrimination – has again only monitoring and not enforcement powers.

The progress report for 2003 was in preparation at the time of writing of this report.

### 3.1.3 The National Action Plan for Employment

The National Action Plan for Employment (NAP) for 2003 was adopted by the Slovak Government on May 21, 2003<sup>123</sup> after it was drafted and submitted by the Ministry of Labor, Social Affairs and Family. The NAP is a document whereby the Slovak Government is incorporating the European Employment Guidelines adopted under and after the Luxembourg process.<sup>124</sup> According to the Government decision, the actors responsible for implementing the NAP are ministers and other heads of central organs of state administration. The Government, however, also recommended other persons and institutions on both central and regional level – such as the Confederation of Trade Unions, Association of Employers' Unions, the Plenipotentiary of the Government for Roma Issues, the heads of self-governing regions – to cooperate on the implementation of the NAP.

The NAP follows the four-pillar structure of the EU Employment Guidelines (employability, entrepreneurship, adaptability, and equal opportunities). The individual guidelines, structured according to the four pillars are elaborated further into priorities, aims and tools which are focused on solving problems of the Slovak labor market.<sup>125</sup> In its brief introduction the document emphasizes the need to incorporate the priorities of employment into other areas such as the field of taxation or social protection. Before the actual elaboration of the individual guidelines the document contains an analysis of the macroeconomic framework, structural characteristics for employment, main aims for 2003 including the anticipated development of macroeconomic indicators, conditions for implementation of the NAP

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<sup>123</sup> See Government Decision No. 392 of 2003 on the National Action Plan for Employment for 2003, adopted on May 21, 2003.

<sup>124</sup> For more information on European Employment Strategy see, for example, C. Barnard, *EC Employment Law* (Oxford and New York: Oxford University Press, 2000), pp. 44–51.

<sup>125</sup> The National Action Plan for Employment is available at <http://www.employment.gov.sk>.

and its regional aspects, brief characteristics of the four pillars and the financial support for the implementation of the NAP. The analysis of the guidelines is also preceded by identifying horizontal aims for enabling achievement of full employment in a knowledge-based society.

As has been mentioned above, the four pillars that serve as a framework for both the European Employment Strategy and the Slovak NAP are *employability*, *entrepreneurship*, *adaptability*, and *equal opportunities*.

Equal opportunities for men and women are principally dealt with in the fourth pillar of the NAP. However, the NAP emphasizes that the aspect of equal opportunities for men and women shall be taken into consideration in cases of implementation of all the guidelines of the NAP. It is, however, very difficult to judge whether the other three pillar guidelines not dealing directly with equal opportunities have the potential to bring about positive results in terms of equal opportunities – as it is difficult to solve this question primarily in case of the European Guidelines (mainly because of the very controversial character of finding the balance and reconciliation between flexibility and social security and between flexibility on the side of an employer and flexibility on the side of an employee).

The fourth pillar – “Strengthening Equal Opportunity Policies” – focuses on three guidelines which it then further elaborates: first, the approach of general implementation of the principle of equal opportunities; second, resolving the differences in representation of men and women; and third reconciling working and family life.

### *3.1.3.1 The Approach of General Implementation of the Principle of Equal Opportunities*

The general explanatory framework for this guideline puts in that the general educational level of female workforce is higher than the general educational level of male workforce. In spite of this fact, some inequalities in the labor market still persist. The NAP therefore finds it inevitable to increase the participation of social partners when implementing policies of equality of opportunities in access to employment and in employment itself. Also, the NAP identifies the need to overcome stereotypes in perceptions of the position of women in the society, and it recommends involving NGOs in achieving the aim of removal of gender stereotypes.

The particular aims in terms of this guideline are: developing a system of evaluation of the situation in the field of equal opportunities of women and men across all the guidelines, and preventing discriminatory practices in all areas where discrimination can take place.

The particular tools that are proposed by the NAP for this guideline are: collecting data on evaluation and assessment of equal opportunities for men and women, and continuous monitoring and evaluation of implementation of the principle of equal opportunities for men and women when implementing the guidelines in all four pillars of the NAP. The NAP also mentions trainings of staff responsible for monitoring and evaluation of implementation of the principle of equal opportunities in practice.

### *3.1.3.2 Resolving the Differences in the Representation of Men and Women*

The situation concerning unequal representation of women and men in Slovakia, according to the NAP, is characterized by occupational segregation, lesser representation of women in higher managerial positions, high pay-gap, 'double burden' imposed on women in their work and family, and difficulties in access to credits if they want to start performing self-employed activity (due to the sphere of interest of their entrepreneurship).

The aims are then defined as follows: creating conditions for a gradual removal of women's segregation in the labor market and in remuneration; stabilizing, or possibly lowering the differences between average earnings of men and women; creating conditions for decreasing long-term unemployment of women; increasing awareness on forms and reasons of sex-based discrimination in the labor market.

The tools proposed are mainly: supporting campaigns through media; implementation of policies of equal opportunities in access to employment; monitoring of the existing state of implementation of equal opportunities at selected employers; carrying out supportive projects for female entrepreneurs who are starting running their businesses; increase the attention to strengthening women's legal awareness; incorporating of equal opportunities for men and women into primary and secondary school curricula; trainings of teachers of primary and secondary schools in order to encourage their pupils to take part in non-traditional subjects and to be involved in non-traditional occupations; thorough segregation of statistics according to sex on national, regional, district etc. level; regular taking of controls by labor inspectorates in the field of equal opportunities, with emphasis on equal remuneration.

### *3.1.3.3 Reconciling Working and Family Life*

The main concerns connected to this priority are identified as external (on the side of the society – such as latent discrimination of parents – mainly mothers with young children in cases of searching for work, and disinterest of employers to create workplaces for shortened working hours) and internal (complicated access to jobs that require traveling and performing jobs away from the places of residence of parents of young children, difficulties with working on shifts as parents often have no accessible childcare).

The NAP defines the following items as aims that should overcome the aforementioned difficulties: improving the status of persons with parental responsibilities in the labor market; support of the model of family-oriented employment for both men and women with parental responsibilities; extending the network of services for families caring for children.

The tools that the NAP designs for implementation of these aims are mainly the following: increasing legal awareness of citizens; promoting of family-friendly policies with focus on reconciliation of working and parental responsibilities; sustainability and improvement of the system of pre-school facilities; initiate providing services of individual domestic care for children by institutions of the non-governmental sector; creation of a diversified scale of forms of employment for parents with children who cannot afford working under 'standard' conditions – that is, promoting flexible working arrangements; intensifying controls mainly in the field of working conditions focused on reconciling working and family responsibilities.

The Ministry of Labor, Social Affairs and Family was obliged by the government to submit an annual report on implementation of the NAP (this should have happened by March 31, 2004<sup>126</sup>). Also, the Ministry was bound by the government decision by which it adopted the NAP for 2003 to draft a proposal of the National Action Plan for Employment for 2004. So far, neither of these documents have been published, although the Ministry declares that work is being taken on them and they are in the process of their finalization.

### 3.2 Programs

There is only one governmental program that could be considered as a 'genuine' gender-equality targeted program – the Family-Friendly Employer (if we omit the existence of trainings that are organized in cooperation with labor offices - but these are not primarily targeted at women and the statistical data about these programs are not complete). Even this program, however, although it has a potential to contribute to enhancement of gender equality, is lowly publicized among the public. The rest of programs are performed almost exclusively by NGOs. What is also apparent is the fact that many of the issues that need to be tackled in order to achieve a shift towards gender equality are not covered by programs at all (for example, harassment in the workplace, changes of attitudes regarding family responsibilities, encouraging men to take greater roles in the family etc.).

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<sup>126</sup> The time of writing this report was August 2004.

Some causes for this state of affairs that can be very easily identified at first sight: first, lack of initiative, and possibly also interest, from the government; second, lack of publicity and awareness about the numerous and diversified aspects of gender equality and hence necessity of such programs; and third, lack of positive incentives and appropriate conditions for NGOs to use their expertise in this field.

Undoubtedly, the government should take the primary role and initiative in creating and running programs that would help to improve the situation. The programs should fit within a framework of a precisely elaborated and institutionally supported mainstreaming strategy, should be prepared on a basis of evidence-based need-analyses, and should be properly monitored and evaluated. An important element of these programs should be a corresponding public campaign in which public representatives should naturally belong to the campaigners.

### 3.2.1 Programs on Increasing the Representation of Women

The initiative “Forum of Women 2000” created by several women’s NGOs and supported by the MATRA program, implemented a project called Increasing of Women’s Participation in Public and Political Life in Slovakia. The aim of the project was to increase the participation of women in public and political life at all levels. During the project, a public discussion on the representation of women was opened. Discussions that took place in media covered obstacles women face if they want to be more visible in politics. Quotas were suggested for overcoming these difficulties. Trainings of trainers were also conducted. As part of the project, several regional trainings were organized to enhance the capacity of women to actively participate in public and political life.

The initiative of the Commission of Equality for Men and Women belonging to the Confederation of Trade Unions<sup>127</sup> is also trying to increase the representation of women in trade unions’ representative bodies. The Commission is running a special project which comprises mainly trainings and campaigning for increased participation of women in trade unions’ structures.

### 3.2.2 Assessment of the Implementation of Legislation

An assessment of the implementation of existing legislation on gender equality is only done on partial bases, under the terms of the monitoring of implementation of the National Action Plan for Women and the Concept for Equality of Men and Women, both of which also concern changes in legislation. The monitoring is performed by the

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<sup>127</sup> The Confederation of Trade Unions established the Commission of Equal Opportunities for Men and Women in 2003 as its advisory organ.

Department of Equality and Anti-Discrimination (see the previous sections), as it also has a competence to comment on any national legislation.

The National Labor Inspectorate also has a limited capacity in controlling gender equality legislation. It is responsible for controlling the implementation of the equality provisions (including equal pay) contained in the Labor Code. There is, however, no special program at official level that would specifically deal with gender-equality legislation assessment on a basis of a precise methodology.

In 1998 and 2004 an NGO called “Alliance of Slovak Women” drafted a shadow report on the implementation of the CEDAW.

### 3.2.3 Training Programs

Despite the fact that organizing of trainings for state administration is included in the Concept of Equal Opportunities of Men and Women, gender equality trainings only took place with regard to the implementation of structures governing the EU Structural Funds. The Department of Equality and Anti-Discrimination organized a training for employers dealing with Structural Funds on gender mainstreaming and on assessment of gender impacts of submitted project proposals. The Department is currently also preparing an ongoing series of trainings on gender mainstreaming for regional and local self-administrations. The primary focus of these trainings, however, is to prepare relevant actors for applying for Structural Funds. Hence, the knowledge gained on gender equality issues is only a ‘side effect’ for public administration representatives.

Municipalities, psychological counseling centers and NGOs also organized several local awareness-raising training seminars. NGOs mainly dealt with the issue of violence against women, and they also initiated a few advocacy trainings. Other NGOs also organized trainings for school teachers on gender stereotypes, and there was also one training seminar on gender issues organized for female journalists. Mothers’ centers<sup>128</sup> are also becoming active in awareness-raising activities of their members.

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<sup>128</sup> There are about 40 mothers’ centers working on a basis of civic associations in Slovakia. Most of them are members of the Union of Mothers’ Centers. For more information see [www.materskecentra.sk](http://www.materskecentra.sk).

### 3.2.4 Structures to Support the Implementation of the *Acquis Communautaire*

There are three structures that are in place to indirectly support the implementation of the *acquis* related to equal opportunities: The Department of Equality and Anti-Discrimination, the Institute of Law Approximation Section of the Government Office, and the Deputy Prime Minister for European Integration, Human Rights and Minorities. In more general sense, the structure that is also responsible for implementing the *acquis* related to equal opportunities is the Ministry of Labor, Social Affairs and Family which is in many cases made responsible by the Government for implementing the tasks that were generated by existing policy documents (the Ministry as such is responsible for many tasks specified by the Concept of Equal Opportunities of Men and Women or by the National Action Plan for Employment, and it is also the Ministry which subsumes the Department of Equal Opportunities and Anti-Discrimination under its organizational structure).

For more information on the Department of Equality and Anti-Discrimination, see Section 2 on Institutional Mechanisms and Section 3.1 on Policies of this report.

The Institute of Law Approximation is a section of the Government Office which is mainly responsible for tasks connected to approximation of the law of the Slovak Republic to the law of the EU. It performs mainly expert, supervisory, conceptual, methodological, documentary, informational and analytical activities. Among the particular activities of this section are:

- providing independent expert opinions on the actual state of approximating Slovak law to the Deputy Prime Ministers of the Government for Legislation, to the Legislative Council of the Government, and to the Government itself;
- cooperating with ministries and other central organs of state administration when these bodies are drafting legislative proposals;
- organizing a centralized collection of data concerning the actual state of approximating Slovak law to the law of the EU;
- assuming responsibility for the central registration of official translations of legal instruments of the Slovak Republic and the EU.<sup>129</sup>

According to the Plan of Activities of the Government of the Slovak Republic for 2004, the Deputy Prime Minister for European Integration, Human Rights and Minorities is responsible for implementation of tasks some of which are connected to implementation of equal opportunities. Examples of these tasks are:

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<sup>129</sup> See <http://aprox.government.gov.sk/web/webiap.nsf?OpenDatabase>.



- submitting a report on the state of preparation of the Slovak Republic for drawing pre-accession funds, the Cohesion Fund, and the Structural Funds;
- submitting the Action Plan on Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism, and Other Forms of Intolerance for 2004–2006 (this document has already been submitted but is more oriented at fight against discrimination on the basis of grounds enumerated in the title of the document; it contains no reference to gender equality);
- proposing the concept of the state financial policy for support of non-governmental organizations and non-profit organizations, with emphasis on creation of conditions of sustainability of the third sector and transparency of financing from public budgets (this tasks was allocated for October 2004).<sup>130</sup>

### 3.2.5 Programs on Family Responsibilities

There was no information available on programs to encourage men to take a greater role in family life, changing attitudes regarding family responsibilities, encouraging the sharing of parental leave schemes by both parents, sexual harassment in the workplace, or gender equality in social security schemes. Such programs probably do not exist.

The Ministry of Labor, Social Affairs and Family, in cooperation with the Association of Businesswomen, organizes a competition called “Family Friendly Employer” as a part of an audit called ‘Family and Work’. The competition started in 2001. Its aims are:

- to increase awareness and sensitivity to family and work reconciliation and to motivate employers to implement family-friendly measures;
- to provide best-practice models;
- to deepen equality of women and men.

Employers can apply to participate in the program in three categories: *family policies; equality of women and men; and the most original family-friendly measure.*

The winner gains the Family-Friendly Award (an award of the Minister of Labor, Social Affairs and Family) and he or she is enlisted in the list of family-friendly employers. In 2003 twenty-five employers applied for the competition. Information about the competition is published at the Ministry’s website. However, public awareness about the competition is very low. The competitors are evaluated according to questionnaires they have to fill in and provide with a statutory declaration that the

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<sup>130</sup> See <http://www.rokovania.sk/appl/material.nsf/0/592AF6C291C0316DC1256DFD004A-5DD3?OpenDocument>.

data contained in the questionnaires are truthful, with no further verification by the Ministry. This can be considered as a drawback of the competition.

The Association of Businesswomen in cooperation with mothers' centers in eastern Slovakia is implementing a pilot project on tele-working. The activities of the project target mothers on parental leave, as well as employers in order to introduce this type of working arrangement. The outcome of the project will be a job-agency specialized on tele-working.

### 3.2.6 Programs Supporting and Encouraging Self-Employment

The National Agency for the Development of Small and Medium Enterprises organizes a competition for businesswomen called "Extraordinary Businesswoman of the Slovak Republic in 2004". The aim is to promote women who achieved extraordinary results in managing business and to encourage other women to start their own businesses. The competition has these categories: first, extraordinary businesswoman; second, novice businesswoman; and third sympathy award for small businesses.<sup>131</sup>

Also, there are some non-governmental organizations who offer micro-loans to women starting their businesses (Foundation Integra, VOKA – specialized on women living in rural areas). The Agency for Rural Development organizes a program supporting socially disadvantaged women in their business careers. The Association of Business Women provides counseling for female entrepreneurs starting their businesses.

### 3.2.7 Impact Assessment

There is no general framework for assessing the impact of these programs. If a program was supported by donor organizations, the evaluation is performed according to their procedures.

## 3.3 Awareness-Raising

The public access to information about gender equality is generally low and complicated. Apart from a few institutions' websites which contain partial information that can be considered as information dealing with gender equality (for example the Ministry's of Employment, Social Affairs and Family website which contains the relevant legislation, the policy documents on gender equality, information on the program "Family-Friendly

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<sup>131</sup> [http://www.nadsme.sk/vyn\\_podnikatelka\\_2004.htm](http://www.nadsme.sk/vyn_podnikatelka_2004.htm)

Employer”, and so on; the National Labor Inspectorate’s website which contains a brief information on the controls undertaken on equal remuneration and on equal treatment of men and women and parents caring for young children, and so on), there are no official government websites where gender equality would be dealt with as a special issue of concern or where this issue would be highlighted. In other words, those who wish to learn about issues connected to equal opportunities or gender equality need to undertake a serious research. Also, many of the institutions which should, as a part of their mission, focus on gender equality (and on equality as such) – such as the Ombudsman or the Slovak National Center for Human Rights, contain very little or no information dealing with the topic. Moreover, a lot of information on gender equality is spread over numerous public institutions and these bits of information are often not accessible. There are, however, some NGOs whose websites deal with equality, prohibition of discrimination and gender equality issues.

There are also a few publications where gender equality is dealt with: *Slovakia 2003. A Global Report on the State of Society* (this publication contains chapters on gender equality and public participation of women);<sup>132</sup> *Gender Equality: Why Do We Need It?*;<sup>133</sup> and *On the Way to the European Union: A Guide not for Women Only*.<sup>134</sup> However, due to their dates of publication, not all of the information contained in them is still valid, nor do they cover the most recent legislative and implementation developments (e.g., the adoption of the Act on Anti-Discrimination or policies related to the EU Structural Funds).

As regards access to legislation, this is partially provided by individual ministries and state institutions that provide legislation that concerns their field of administration (the Act on Anti-Discrimination which is in effect from July 2004 is not yet published on any governmental website). Each municipality is also obliged to have one printed form of each piece of legislation adopted in the Slovak Republic; this way of acquiring information on legislation by the public is used very rarely, and this is because it is not known among the public that such a possibility exists, and also because this form of acquiring information on legislation is very inconvenient as legislation is very often amended, and so comprehensive final texts are not accessible. There are a few NGOs who publish booklets and brochures on equality and prohibition of discrimination, including gender equality, and prohibition of discrimination on the basis of sex and gender.

<sup>132</sup> *Slovakia 2003. A Global Report on the State of Society* (Bratislava: Institute for Public Affairs, 2004).

<sup>133</sup> E. Kvapilová and S. Porubánová, *Rodová rovnosť: prečo ju potrebujeme?* (Gender Equality: Why Do We Need it?) (Bratislava: Center for Work and Family Studies, 2003).

<sup>134</sup> *Na ceste do Európskej únie. Sprievodkyňa nielen pre ženy* (On the Way to the European Union. A Guide not for Women Only) (Bratislava: Záujmové združenie žien Aspekt (Women’s Interest Association of ‘Aspect’), 2002).

So far, no campaigns have taken place on gender equality and on prohibition of discrimination on the basis of sex and gender, on the gender pay gap, family reconciliation or sexual harassment (or harassment in general). The only gender-related campaigns that took place in Slovakia were oriented to violence against women, reproductive rights and trafficking. All campaigns were organized by non-governmental organizations with no state support.

What comes out of the previous brief analyses is the fact that there is not much done in the field of awareness-raising about gender equality. If there is some public access to information, this access is possible mainly via governmental websites which only contain very partial and non-systematized information on gender equality. The rest is provided by non-governmental organizations. A very limited scope of information is also published in printed form, where NGOs again play an important role. There have not been any campaigns initiated, performed or supported by the government. The few campaigns that have taken place so far were all realized by NGOs.

## 4. RESEARCH AND STATISTICS

### 4.1 General Statistical Data

The Statistical Office of the Slovak Republic monitors the structure of pay and employment on a yearly basis. As the data for 2003 will be ready in October 2004, the data that are currently at the disposal are from the year 2002. According to these data, the average women's salary in 2002 was 71.7 percent of men's salary, which was 16.9 percent under the national average (in comparison with men's average pay which was 15.8 percent above it). The pay gap existed in all age and education categories. The biggest difference was recorded in the category of respondents between 30–39 years of age. With higher education, the pay gap has a tendency to increase: women with university degree earned 65 percent of the income of their male counterparts. With regard to occupations, the biggest difference appeared in the category Legislators, Senior Officers and Managers (62 percent), and Craft and Trade (67 percent). At the same time, women are highly under-represented in these categories. The least differences were found in the category Agriculture and Fishery (86.5 percent).<sup>135</sup> The differences in pay between women and men are caused by several factors, such as different percentage of representatives of individual sexes in different income categories of occupations and employment sectors, uneven division of family responsibilities, and low representation of women in top managerial positions.

The gender segregation can be traced in both vertical and horizontal dimensions; the Statistical Office only keeps data on horizontal segregation, but if wage statistics and statistics of occupational and sectoral distribution of men and women are combined, the situation in vertical segregation can be indicated. Women are over-represented in the health- and social care, education, and in the financing and insurance sectors. Mining and utilities are the male sectors. An obvious occupational segregation appears in the categories of professionals, technicians and associate professionals, clerks and service workers, and shop- and market-sales workers, which seem to be female occupational categories. On the other hand, craft- and trade-workers, plant- and machine operators, legislators, senior officials, and managers are mostly male occupational categories.<sup>136</sup> The fact that women represent only one third of the last category (where they, moreover, earned only 62 percent of men's salaries) indicates the existence of the glass-ceiling phenomenon in Slovakia. In addition, women also earned less in 'female' sectors such as education, health and social care (83.7 percent in the health and social care and 76 percent in education). The pay gap in these sectors is

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<sup>135</sup> *Štruktúra miezd zamestnancov v SR, 2002* (Structure of pay of employees in Slovak Republic in 2002) (Bratislava: Statistical Office of Slovak Republic, 2003).

<sup>136</sup> According to Kvapilová and Porubánová, *op.cit.*, p. 41.

above the national average pay gap but the salaries are still lower. Therefore the hypothesis that even in “female” sectors men reach higher positions may be relevant and may lead us to the conclusion on vertical segregation. The sectors with the most obvious pay inequalities are the financing and insurance sectors. Although the majority (66.8 percent) of employees in these sectors are women, they only earned 63 percent of male salaries.

As the statistics show, the traditional family model is still persistent; men serve mostly as breadwinners while women primarily play the role of family care-takers. The research on family patterns supports this statement. No specific research oriented at family patterns exists in Slovakia (the provided data come from a report of a think tank ‘IVO’ that involved questions on household sharing responsibilities).<sup>137</sup> The majority of household responsibilities lie on women; over 80 percent of women are solely or mostly responsible for cooking and cleaning. In the area of childcare the situation is better: here ‘only’ 68 percent of women are mainly responsible for taking care of children. Interestingly enough, when the respondents were asked about an ideal division of household responsibilities, 68 percent of women and 56 percent of men declared that in an ideal family the division of responsibilities is equal. The tendency of more equal household-responsibilities sharing rises with higher education of respondents. However, the reality in most Slovak families is represented by a traditional model of household- and family-responsibilities division.

The Statistical Office of the Slovak Republic provides several pieces of research which help to analyze the situation of women in Slovakia. The most important areas are demographic statistics and statistics on employment, unemployment and pay structure. The respective ministries are currently under the process of enlarging the statistical research segregated by gender in relevant policy areas. So far, there are many areas of statistics where gender desegregated data are missing – which is the case of, for example, access to loans, access to property, indicators of poverty and social exclusion and also of some kinds of health-related statistics. The Ministry of Labor, Social Affairs and Family is transforming its data-processing and statistics on women and men participating on social-system schemes as the social-benefits and pension systems are changing. In Slovakia the parental leave scheme is based on a universal model which means that both parents can be its beneficiaries (up to the end of the third year of age of a child). Therefore it is more efficient for family’s economy if a partner with lower salary goes on parental leave (and, obviously, in most cases this is a woman). According to the statistics of the Ministry of Labor, Social Affairs and Family, only 2.5 percent of all parental-leave scheme beneficiaries are men.

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<sup>137</sup> *Empirical Data from Sociological Research* (Bratislava: Institute for Public Affairs, June 2002).

The Ministry of Health is improving its databases and can provide desegregated data for the health situation of Slovak inhabitants. The Health Yearbook of the Slovak Republic<sup>138</sup> has a chapter on care for females. The average age of male inhabitants is 34.6 years, and the average for females 37.7 years of age. There is an ongoing trend of a decline in the birth-rate; according to current statistics, the average number of children per one woman is 1.2. The abortion rate is 39.3 percent per 100 newborn children and has a declining tendency. One of the reasons is the increasing usage of contraception (a quarter of women in their fertile age). The Ministry of Education has not yet desegregated all relevant statistics with regard to gender.<sup>139</sup> The Institute of Education Information and Prognosis provides desegregated statistics on numbers of males and females among schoolchildren, students and teachers. These statistics show that women in the education sector are over-represented, especially in lower educational institutions (84 percent of primary-school teachers are women). On the university level, women represent 42.6 percent of university teachers. The sectoral segregation, however, is already visible at the elementary school level. The number of school children and students desegregated by gender is approximately equal (with possible differences being caused by demography) when levels of education are considered in general (that is, in terms of general focus on primary, secondary and tertiary education). There are, however, big differences when considering school orientation: the majority of students in secondary schools specialized in the fields of economic affairs, library management, teaching and health care are girls, while the majority of students in secondary vocational schools and forestry-specialized schools are boys. The gender distribution of teachers copies the gender distribution of students (the most critical case is library secondary schools with no male teachers).<sup>140</sup> Thus, horizontal segregation starts already on the secondary school level.

## 4.2 Gender Education

There is no specific gender-oriented education in schools. Some topics related to the reproductive rights and education towards parental and family responsibilities are covered in curricula for biology, civics, and ethics. The education itself does not reflect gender aspect and it is mostly family-oriented only. According to an analysis of the

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<sup>138</sup> *Health Yearbook of Slovak Republic, 2002* (Bratislava: Institute of Health in Information and Statistics), available at [www.uzis.sk](http://www.uzis.sk).

<sup>139</sup> *Report on the Implementation of National Action Plan for Women in 2003* (Bratislava: Ministry of Labor, Social Affairs and Family, 2004).

<sup>140</sup> According to the statistics of The Institute of Education Information and Prognosis, available at [www.uips.sk/statis/index.html](http://www.uips.sk/statis/index.html).

literature used in secondary schools,<sup>141</sup> books for family- and parental-education lessons contain a number of gender stereotypes (professional choice, family responsibilities, or “good girl/good boy” examples). Other feminist NGO analyzed schoolbooks for primary school and presented the same results. There was also a small survey made in 2003 in 20 primary schools in Bratislava on gender approaches of teachers to gender roles of girls and boys, which showed that teachers do have stereotypical approaches to girls and boys.<sup>142</sup> Despite the effort of NGOs, the Ministry of Education did not make any changes in the curricula, in the content of books or in the whole context of sexual- and partnership-education system.

### 4.3 Parental Leave

Due to the traditional understanding of gender roles and the existing pay gap, mostly women (97.5 percent) ‘take advantage’ of parental leave. The ‘female’ dilemma of choosing between a professional career and family care is also influenced by the low affordability of child-care facilities. In 1991 the act on nurseries for children under three years of age was cancelled. Since then, there is no agency on central state level that would be responsible for this type of childcare. In practice, this means that there are no standards for nurseries, no quality monitoring systems and no general statistics. Municipal offices are entitled to found such childcare centers, and are then responsible for their financing. The Center for Work and Family Studies realized the only existing research on this type of childcare facility.<sup>143</sup> According to this research, in a majority of towns and municipalities only one nursery is available (with two exceptions: Bratislava Old Town and Žilina).<sup>144</sup> The payment for these services differs; in most of the cases it is unitary (the highest sum was approximately on the level of paid parental leave). In bigger cities the fee may be means-tested. The research taken indicates that the existing services are not sufficient; the supporting statements are based on existence of waiting

<sup>141</sup> M. Bosá, “Úloha školských učebníc v procese rodovej socializácie” (The Role of School Books in the Process of Gender Socialization), a paper presented at the conference Women’s Spheres in May 2004 in Banská Bystrica, Slovakia. Available at <http://www.esfem.sk>.

<sup>142</sup> K. Minarovičová, “Čo sa v škole o nerovnosti naučíš...” (What You Learn about Inequality at School...), in J. Cviková, J. Juráňová (eds.), *Ružový a modrý svet: Rodové stereotypy a ich dôsledky* (The Pink and the Blue World: Gender Stereotypes and their Consequences) (Bratislava: Občan a demokracia (Citizen and Democracy) a Záujmové združenie žien Aspekt (Women’s Interest Association “Aspect”), 2003), pp. 248–257.

<sup>143</sup> D. Gerbery and E. Kvapilova, *Zariadenia detskej starostlivosti o deti predškolského veku vo vybraných krajinách Európskej únie a na Slovensku* (Childcare Facilities in Selected EU Countries and in Slovakia), (Bratislava: Center for Work and Family Studies, 2003).

<sup>144</sup> The research covered only 30 towns in Slovakia.



lists in some nurseries, a significant establishment of mothers' centers and development in private childcare services.

The increasing interest for childcare facilities and the vacuum in the legislation concerning childcare for younger children lead to a lowering of the entrance age to kindergartens, which now has to be higher than two years of age (in comparison with a threshold of three years from before 1994). The Ministry of Education is the responsible agency on the central level. According to the Ministry's statistics, there were 3,206 state-founded, 17 church- and 12 private-owned kindergartens in 2002.<sup>145</sup> The demand for public kindergartens is higher than the places offered. The coverage of this type of childcare services represents 62 percent of the children population.<sup>146</sup> Kindergartens belong under the competencies of the Ministry of Education. In the decentralization process, the founding and funding of educational institutions was transferred to municipalities. Parents do contribute to the financing of facilities in small amounts (significantly lower than in case of nurseries). The quality-standards for kindergarten services were adopted in 1996 but the relevant data are not available, except for statistics. According to a research called "Family Policies and Young Families' Needs",<sup>147</sup> parents were satisfied with the quality of childcare facilities in general, but the research was not representative and did not cover all facilities. The parents' suggestions for improvements concerned mainly the flexibility of facilities (regarding opening hours, access of parents, summer closing), working time (most of them close at 4 p.m.), financial costs (in case of nurseries) and the equipment used in these facilities.

#### 4.4 Women in Decision-Making Bodies

The representation of women in the decision-making bodies in Slovakia is still extremely low. Only 19.3 percent of Members of the Parliament are women. Until 2003, there was one female deputy spokesperson of the Parliament. (She resigned due to political changes in the leading coalition in 2003). The situation in executive bodies is even worse; there is no female minister in the government. From 22 state secretaries two are female and the overall percentage of women in the top state administration is 5.3 percent. In municipal elections in 2002 only 2.2 percent of women were elected as town mayors. The situation

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<sup>145</sup> According to the statistics of The Institute of Education Information and Prognosis, available at [www.uips.sk/statis/index.html](http://www.uips.sk/statis/index.html).

<sup>146</sup> According to Gerbery and Kvapilova, *op.cit.*, p. 57.

<sup>147</sup> See B. Bodnárová, R. Dzambazovic, J. Filadelfiová, D. Gerbery, K. Pařková, S. Porubánová, *Rodinná politika a potreby mladých rodín* (Family Policies and Young Families' Needs) (Bratislava: Center for Work and Family Research, 2004), p. 142.

is better in municipalities where the percentage reached 20.3 percent.<sup>148</sup> The gender composition of regional decision-making bodies is not known; the Statistical Office of the Slovak Republic does not provide gender-segregated data on election results in general. Regarding the under-representation of women in decision-making positions, an interesting public debate was opened on a quota system. An amendment of election legislation opened the space for an NGO campaign on the introduction of a quota system to party-nomination lists. The Parliamentary Commission for Equality supported this idea. Finally, the Parliament did not approve this change. The public debate presented in the media was highly controversial and it showed the sensitivity of the issue of affirmative-action measures in the Slovak society. Another debate on affirmative action accompanied the adoption of the Act on Anti-Discrimination; this act, however, did not at the end of the day introduce a possibility for adoption of affirmative-action measures that could favor women.

#### 4.5 Discrimination in the Workplace

There was no public debate on discrimination at the workplace. No cases of such discrimination were covered by the media; the NGOs specializing on legal aid only dealt with one case (see the paragraph below). The National Labor Inspectorate supervises discrimination regarding equal remuneration since 2002; according to its controls, there were five cases of unequal pay of women in 2002 and two such cases in 2003. In 2003 the National Labor Inspectorate undertook a probing of discrimination of parents with young children. No illegal practice was proved to exist.<sup>149</sup> Despite the results found by official supervisors, the survey of young parents disclosed the difficulties mothers face after parental leave when searching for a job, and in several cases women on parental leave were said to be unfairly dismissed from their former workplace despite the legal protection they have.<sup>150</sup> According to this survey, and taking into consideration the pay-gap situation, it seems that discrimination of women is more common than the official results of monitoring reflect. According to an employee of the National Labor Inspectorate<sup>151</sup>, discrimination at the workplace is difficult to prove, there are no standards set for evaluation of work of the same quality, and employees do not even disclose discrimination in anonymous surveys. This

<sup>148</sup> According to E. Kvapilová and S. Porubánová, *Rodová rovnosť: prečo ju potrebujeme?* (Gender Equality: Why do We Need It?) (Bratislava: Stredisko pre štúium práce a rodiny (Center for Work and Family Studies), 2003), p. 58.

<sup>149</sup> National Labor Inspectorate, available at [www.nip.sk](http://www.nip.sk).

<sup>150</sup> See B. Bodnárová, *et al.*, *op.cit.*, pp. 122–125.

<sup>151</sup> The interview was conducted on July 15, 2004. The name of the interviewed person has not been recorded.

situation may be caused by the combination of the fear women face from losing their jobs, low awareness of anti-discrimination protection entrenched in the legislation among the public, and in insufficient methodology of labor inspectorates. According to the interviewee, the inspectors performing the controls did not receive special training on discrimination-at-workplace's indicators.

As for case-law, there is only one case known on discrimination in employment. In this case, decided in 2003,<sup>152</sup> a female plaintiff was removed from coordinating a project she wrote herself and which she had been designed to coordinate. She was substituted by a male colleague of hers with lower qualification and less experience. The judge deciding the case correctly applied the reversed burden of proof, and the court decided that the change in the personal assignment of the project was not valid.<sup>153</sup> There are no other cases known either on access to employment, working conditions, or unfair dismissal connected to unequal treatment based on sex, gender or family status. Neither there is any case known on harassment whatsoever.

Sexual harassment is not explicitly dealt with in Slovak law (legislation only covers harassment in general).

#### 4.6 Trade Unions

Trade unions do not have fight against discrimination of women as their priority. The representation of women in top managements of trade union is low (two from 21 representatives, despite the fact that 51 percent of members are women). Since 2003 the Commission of Equality for Men and Women established by the Confederation of Trade Unions is working on improvement of this situation in trade unions. The Commission is very active in changing the representation of women in the management; they are trying to build informal networks for women and to lobby for increased female representation, as well as to disseminate information on gender equality. Trade unions were successful in lobbying-actions for a more relaxed regime of decreasing the female retiring age. The Commission is preparing a brochure on equality of men and women, and actively cooperates with national equality institutions – the Department of Equality and Anti-Discrimination, the Parliamentary Commission on Equal Opportunities of Women and Men (of which trade unions are also members).

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<sup>152</sup> By the District Court in Zvolen.

<sup>153</sup> For more information on this case, see Section 1 above.

## 5. KEY AREAS OF CONCERN AND RECOMMENDATIONS

### 5.1 Key Areas of Concern

Although attempts have been made to tackle the issues of gender inequality, these efforts have not yielded sufficient results in practice. The following areas of concern are identified:

There is no comprehensive gender equality strategy in Slovakia. The main policies are contained in three different documents (the National Action Plan for Women, the Concept of Equal Opportunities for Men and Women, and the National Action Plan for Employment). Although the independent existence of the National Action Plan for Employment is justified by the special requirements of the European Employment Strategy, the other two policy documents either deal with some of the issues in their remit in a different way (the National Action Plan for Women uses more family-oriented and rather reactive approach, compared to the Concept of Equal Opportunities for Men and Women where the approach focuses more on gender equality and mentions a mainstreaming approach), or they overlap in some aspects. This dichotomy will hopefully be resolved through the adoption of the announced gender mainstreaming strategy that is expected in 2005.<sup>154</sup>

The formulation of the priorities and tasks in the policy documents are often very general and abstract. Also, in some cases they omit important issues that should be dealt with at policy levels. For example, the measures that were proposed for the field of education lack express formulation of the need to change the whole environment at schools that is currently determined by the curricula, by the content of books and reading materials, and also by the personal approaches of teachers who are not getting specific trainings oriented at gender issues and gender stereotypes on systematic and conceptual basis. A similar example is the field of advertisement which is not even identified as an issue of concern when dealing with media and public awareness. The same situation can be identified in case of harassment which has not been mentioned in any of the documents at all.

There is no special methodology for evaluating the process and results of fulfillment of the tasks allocated to individual actors on the basis of the policy documents. Instead, the reporting and evaluation process is often only based on collection of data that are forwarded to the Ministry of Labor, Social Affairs and Family by individual subjects, and these data are not further verified. Moreover, there are no other reports prepared

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<sup>154</sup> This information about the preparation of the gender mainstreaming strategy was gained from an interview undertaken at the Ministry of Labor, Social Affairs and Family with the employees of the Department of Equal Opportunities and Anti-Discrimination on July 13, 2004.

by other institutions – e.g., shadow reports drafted by NGOs – that would monitor the fulfillment of these policy documents independently.

There is no accountability (political or other) foreseen for the non-fulfillment of tasks that are allocated to individual actors (mainly ministries) under policy documents.

The policies are not backed by sufficient institutional mechanisms that would be supported by appropriate expertise of the actors involved and by sufficient budgetary resources. There is no body that would inter-sectorally deal with equality of women and men on the executive level. Moreover, neither ministries nor any other bodies partially responsible for implementing the aforementioned gender equality policies have units that would act in these institutions as coordinating and interdepartmental bodies with appropriate expertise (possibly apart from the Ministry of Labor, Social Affairs and Family which has the Department for Equal Opportunities and Anti-Discrimination – but nevertheless this ministry has not adopted any mainstreaming strategy and ‘gender optics’ is not present in any other department of the Ministry). Similarly, majority of these bodies are centrally-oriented and they do not have any regional units. Also, what is lacking is a systematic training of the actors involved in dealing with gender and equality issues (including legal, political, social, philosophical and other aspects) who are responsible for the implementation of the policies at all the levels.

In the implementation process, many of the aims and tasks are not further converted into appropriate programs. Often a task is considered to be fulfilled by making a legislative change which, although it is a prerequisite for changing the situation in a particular field, is only a departure point for making structural changes (which is, for example, the case of flexible working arrangements). Sometimes even further detailed policies in particular fields would be of help – as is the case with removing gender stereotypes from schools where a complex policy approach would certainly be desired.

There is very little work done on publicity of the policies. Although all the abovementioned policy documents are put on the website of the Ministry of Labor, Social Affairs and Family, there is no publicity around them.

The Ministry of Labor, Social Affairs and Family is currently under delay with submitting reports on implementation of the policies. It also delayed drafting the National Action Plan for Employment for 2004 which is not ready yet at the time of writing this report.

## 5.2 Recommendations

### 5.2.1 Legislative Measures

- As a part of this integrative approach, gender equality assessment of newly-prepared legislation should be obligatory.
- Legislation in other fields, such as taxation and social security, should be reassessed for its gender impacts.
- All changes in legislation should be followed by an evidence-based gender-impact assessment.
- A reduction in the tax base for donations made to NGOs by individuals and firms should be considered.

### 5.2.2 Institutional Mechanisms

- An inter-sectoral coordinating body with real responsibilities and competences should be set up on the executive level.
- The already-existing bodies should be restructured in order to make gender equality issues a part of the everyday agenda of all organizational units.
- Relevant centrally-established bodies should consider establishing regional bodies.
- The establishment of an independent body should be considered in the field of enforcement of gender equality with appropriate competences – such as an ombudsman for equal opportunities.
- Appropriate methodologies and mechanisms should be developed to evaluate and assess the implementation of the policies. More actors (both governmental and non-governmental) should be involved in monitoring and evaluating the implementation of the policies.

### 5.2.3 Policies and Programs

- The government and all other responsible actors should undertake a more comprehensive and integrative approach towards gender equality policies.
- A gender mainstreaming approach to which relevant responsible actors would be committed both in the formal and in the real sense of the word should become a commonplace.

- Programs that have the potential to efficiently contribute to improving of the situation in the field of gender equality should be established to support policies. Where appropriate, partial policies on sectoral levels should also be prepared and implemented.
- Gender equality should more clearly and expressly become a priority for the government.
- Gender training programs developed for all actors, including representatives of legal professions, should be initiated.
- The government should cooperate with NGOs not only in terms of sharing expertise, but also by encouraging and supporting them to run programs on gender equality.
- Governmental project schemes for which only NGOs would be eligible should be opened to increase the chances of participation for small and local NGOs.

#### 5.2.4 Awareness-Raising

- More publicity should be devoted to policies and programs in the field of equal treatment for women and men, and more emphasis on political responsibility should be put on relevant individual actors. Publicity should also include spreading information on legal means of redress (including practical aspects) in cases of violating the principle of equal treatment, with an emphasis on the reversed burden of proof.
- The fields of education and media should take a leading role in building public awareness and positively influencing the situation in the field of equal opportunities.
- The Ministry of Education should adopt a complex approach towards tackling the issues of gender roles and gender stereotypes.
- The government should create an informational platform about all aspects of gender equality, for example through a special website that would provide complex information on the principle of equal treatment, forms and examples of discrimination, legal means of redress, information on institutions that can provide advice or consultations, information on institutions that can investigate cases of breaches of relevant legislation and information on the results of these investigations, information on sample codes of conduct that could be adopted by employers in the workplace, list of good-practice examples (both domestic and foreign), and databases of

case-law (both judicial and administrative, and possibly also cases taken before the ombudsman).

- Other means of spreading this information should be developed to accommodate the fact that not everyone has internet access.
- Appropriate campaigning, with the financial, organizational and personal involvement of the government, should be initiated and concentrate on issues that have so far not enjoyed much focus (e.g., sexual harassment, harassment in general, sharing family and parental responsibilities, removing gender stereotypes, etc.).
- The media should be actively involved in public campaigns, and to this end journalists and other representatives of the media should be trained on all aspects of gender equality.



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## ANNEXES

### Annex 2.1 The Department of Equality and Anti-Discrimination

The activities of the Department shall, in particular, comprise:

- drafting proposals for legislative amendments (in cooperation with the legislative department of the government), drafting legislative intents guaranteeing equal opportunities for women and men in all areas of life, and supervising the anti-discriminative legislation;
- preparing conceptual materials, program materials, proposals of measures, and initiating supportive actions for improvement of the situation in applying the principle of equal opportunities;
- participating in the work of harmonizing the law of the Slovak Republic with the law of the EU in the field of equal opportunities for women and men;
- coordinating the promotion of the principle of equal opportunities for women and men into all governmental policies on the basis of agreements and recommendations adopted by the United Nations (UN), the Council of Europe (CoE), the International Labor Organization (ILO), the Organization for Economic Cooperation and Development (OECD), and other international organizations;
- participating, from a substantive point of view, in the assessment of international agreements, in the preparation of their ratification, and in the drafting of evaluative national reports;
- administering and controlling the exercise of state administration;
- passing and implementing methodological guidelines and drafting professional opinions on legislation in the field of their competence;
- cooperating with other ministries and with other central organs of state administration; with organs of state and communal administration at all levels; with the Confederation of Trade Union Syndicates of the Slovak Republic; with associations of employers; and with non-governmental organizations when implementing the principle of equal treatment; and
- elaborating an annual evaluation, in cooperation with other responsible subjects, of:
  1. the National Action Plan for Women in the Slovak Republic (and annual report on the status of its fulfillment to be submitted to the Government); and



2. the Concept of Equal Opportunities for Women and Men (and submitting an evaluation report to the Council of Economic and Social Agreement).

The staff of the Department is composed of ten members (eight women and two men). Seven of these members are dealing with gender issues (although not all of them in their full capacity). They have varied educational background – the Head of the Department has a degree in political science and journalism, and the rest have degrees in sociology, pedagogy, history, civics, law, philosophy and psychology. Although there is no compulsory or official scheme on gender trainings or other gender-specific education for the members of the Department staff, most of them acquire this type of knowledge in an autodidactic way. A very important and positive aspect of the gender-related experience of the staff is also the fact that some of the members have dealt with the topic professionally in the past, and a few of them have an experience with work in the non-governmental sector (and with women's organizations specifically).

The budget of the Department for 2004 is 515,000 Korunas (12,858 Euros). This sum does not involve salaries of the staff; it is only designated to cover activities of the Department. Out of this, 215,000 Korunas (5,368 Euros) is allocated for the program *Family Friendly Employer*. Also, the Department can also use educational facilities of the Ministry, so this in fact makes the budget a bit higher as the use of these facilities can lower the amount of money spent e.g. on rental of training or conference rooms. The Department can also draw financial resources from other sources – it can, for example, raise funds from participating in international projects. This has already happened when the Department elaborated the program *Equal Opportunities in the Slovak Republic*, which was supported by a MATRA project. There was also a seminar on the experience of European countries in the field of equal remuneration of men and women and on taking controls in this area – in cooperation with the Technical Assistance Information Exchange Office. There were also other projects with the participation of the Department that were co-financed from external sources. Currently, there is an educational project under preparation that shall be financed by the United Nations Development Program (UNDP).

Currently, the following activities are under preparation:

- participating in the preparation of a strategy to prevent and eliminate violence against women and in the family;
- working out a framework strategy for gender equality;
- preparing a project (with the UNDP) titled *Gender Mainstreaming of National Policies and Programs*. The project should be focused on pursuing gender sensitive policies on both national and regional levels. The project, if it is realized, will have three phases:

1. training of experts in the field of gender mainstreaming;
2. drafting analyses of both the National Action Plan for Employment and the Pension Reform with the aim to find out to what extent gender mainstreaming approach had been used when preparing these strategies;
3. supporting the implementation of gender-sensitive policies in selected national programs and strategies;
- elaborating a long-term project titled *Education of Employers in State and Communal Administration* with the aim to educate employers of regional bodies, communal politicians, representatives of regional NGOs about gender equality and equality of opportunities of women and men.

## **Annex 2.2 Committee of the National Council of the Slovak Republic for Human Rights, Minorities, and Status of Women**

Committees can also invite to their meetings members of the Government, heads of other central organs of state administration, and require them to give explanations and submit reports and other relevant documents. These representatives are obliged to attend these meetings and provide the information requested.<sup>155</sup> Also, committees may invite to their meetings professionals and other persons, and require opinions from them. They can also request institutions to provide them with their expert opinions.<sup>156</sup>

Decision-making in parliamentary committees is also governed by the Act on Legislative Rules of Law-Making in the National Council. According to Article 52 of this Act, committees take decisions through public voting by majority of members present, and the minimum number of members that must be present in order to take a valid vote is more than half of all members.

The Committee for Human Rights, Minorities, and Status of Women has fifteen members, out of which three are women. The members of the Committee have various educational backgrounds: some members are lawyers, some are teachers, and there is also a medical doctor among them.<sup>157</sup> The members of the Committee do not have any

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<sup>155</sup> Act No. 350 of 1996 on the Legislative Rules of Law-Making in the National Council of the Slovak Republic, Article 53(2).

<sup>156</sup> *Ibid.*, Article 54.

<sup>157</sup> Information on the level of education of the Committee members is not officially available to the public.

specific training on gender issues – this type of education is left upon their own initiative.<sup>158</sup>

There is no special budget for functioning of the Committee. Participation on activities of parliamentary committees is one of the duties of all parliament members that are paid by their salary. All parliament members are also entitled to personal assistants. Besides, parliament members are entitled to use the parliamentary library and all its facilities (such as the facility to have a research done on request of any parliament member on any topic).

### **Annex 2.3 Commission for Equal Opportunities and the Status of Women in Society**

The Commission has 18 members (out of which one is a man). The Commission is chaired by a male representative of the Committee for Human Rights, Minorities, and Status of Women.<sup>159</sup> The members are mainly representatives of women's NGOs, the print and electronic media, as well as academic and research institutions. This structure was created (through nominations by NGOs and other bodies, followed by a selection undertaken by the Committee) with the aim to create conditions for cooperation with different organizations (the media, various NGOs, the Department for Equal Opportunities and Anti-Discrimination, trade unions, etc.). However, due to the status and the budget of this institution not much has really happened in this field.

The expertise of the members cannot be objectively assessed, it can only be guessed from the list of institutions the Commission's members are representing. Examples of the institutions represented are: an NGO dealing with violence against women; an NGO representing Christian women; an NGO representing Roma women; another NGO dealing with responsible parenthood; the Slovak Academy of Sciences; representatives of the university communities, etc. From this kind of estimation, it can be said that not all of the experts are inevitably gender-oriented.<sup>160</sup>

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<sup>158</sup> This information was provided during an interview taken on July 13, 2004 with Mr Jozef Heriban, a member of the Committee.

<sup>159</sup> The Chair of the Commission is not a member of the Commission according to the list of members published on the Parliament's website.

<sup>160</sup> The process of selecting the members of the Commission has also been criticized as a non-transparent one, with unclear rules for selection of the candidates. Some proposed experts, although they were known for their numerous activities and clear attitudes in the field of gender equality, were not accepted. On the other hand, some of the members of the Commission clearly represent the attitudes of a traditional role of women in society.

There is no specific budget for functioning of the Commission, apart from some resources allocated to cover traveling costs of the Commission's members and refreshments during the Commission's meetings. The expertise of members is not covered. (The way of financing the activities of the Commission and particularly the expertise of its members may be one of the reasons why no serious attempt has been undertaken to initiate more radical and conceptual changes).

Meetings of the Commission take place on an *ad hoc* basis, approximately every three months, on average.

There is no official monitoring of the functioning of the Commission. The minutes from Commission's sessions are available on the Internet. The statute of the Commission is not published at the Parliament's website.

#### **Annex 2.4 Slovak National Center for Human Rights**

The Center is an independent legal person set up by law, with its seat in Bratislava.<sup>161</sup> It is a centralized body and currently has no offices in other parts of Slovakia – even though the action plan of the Center for 2004 contains, as a priority, the creation of a net of contact points in all regions of Slovakia. The justification for setting such a priority is the fact that

“as the Center will, pursuant to the Act on Anti-Discrimination which is under preparation [the Plan of Activities was drafted in January 2004 when the Act on Anti-Discrimination was not yet adopted], perform monitoring of observance of human rights in this field ... and provide consultancy, it is inevitable to extend its capacity. The seat of the Center in Bratislava is crucial in terms of communication with state and public administration, but is lowly accessible to inhabitants of other regions of Slovakia. ... It is therefore inevitable to create contact places in every region of Slovakia.”<sup>162</sup>

The organs of the Center are the Board and the Executive Director.<sup>163</sup> The Board has nine members, selected from among persons who exercise natural authority and trust in the field of human rights and who are installed by heads of institutions such as law faculties, ombudsman, prime minister, and minister of employment. The Board votes and votes off the Executive Director, approves the statute of the Center, approves the

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<sup>161</sup> Act No. 308 of 1993 on the Slovak National Center for Human Rights, as amended, adopted on December 15, 1993, in effect from January 1, 1994, Articles 1(1) and 2(1).

<sup>162</sup> Plan of Activities of the Slovak National Center for Human Rights for 2004, adopted on January 20, 2004, p.6. The document can be found at <http://www.snslp.sk/index.html>.

<sup>163</sup> Act No. 308 of 1993, on the Slovak National Center for Human Rights, Article 3.

budget proposal of the center, and also the plan of its activities.<sup>164</sup> The Executive Director governs and controls the activities of the Center and is responsible to the Board.<sup>165</sup>

Currently, there are twelve people working for the Center on a full-time basis. Out of these, seven are working on actual project activities of the Center. They have a diversified educational background – three of them are lawyers, two are philosophers, one is an adult-educator and one is a social worker.

The Center is financed from subsidies of the state budget, and it can also finance its activities mainly from donations from domestic and foreign natural and legal persons.<sup>166</sup>

The Center's budget for 2004 is 8,280,000 Korunas (an equivalent of 207,219 Euros). Out of this, 7,577,000 Korunas (189,626 Euros) represents the regular state budget contributions, the rest represents money from other sources.<sup>167</sup> Out of the overall budget, 3,304,000 Korunas (82,688 Euros) covers program costs, the rest is allocated to administrative costs. Out of the overall budget, 2,000,000 Korunas (50,053 Euros) has been allocated to the Center from the state budget for fulfilling the tasks connected to the newly-adopted Act on Anti-Discrimination after its adoption on May 20, 2004.

The Center is also preparing a project for representatives of self-government which will also comprises lectures on the Act on Anti-Discrimination for representatives of municipal and regional bodies.

The website of the Center is informative but it certainly needs improvement. Although it contains the basic information on the Center and its representatives, and also basic domestic and international documents on human rights protection, as well as a small database of institutions that can provide help and assistance in cases of human rights breaches, it contains no specific reference to equal treatment and its means of redress. Moreover, although it is declared by the Center that it will publish on the Internet information on cases of breaches of human rights, no information of this kind is actually published on the Center's website. Although the Center declares through its Plan of Activities that it will continuously put information about activities of the Center on its website, so far such information are rather brief. No reports on

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<sup>164</sup> *Ibid.*, Article 3(a).

<sup>165</sup> *Ibid.*, Article 3(b).

<sup>166</sup> *Ibid.*, Article 2.

<sup>167</sup> Part of the sources was granted to the Center by the Government on a basis of a project submitted by the Center in connection with the governmental Action Plan on the Prevention of All Forms of Discrimination, Racism, Xenophobia and other Manifestations of Intolerance for 2004 and 2005 (this action plan does not deal with the fight against discrimination on the basis of sex or gender). The rest was granted by the Visegrád Fund.

observance of human rights in the Slovak Republic from previous years are published on the Center's website either.<sup>168</sup>

## **Annex 2.6 Center of Employment, Social Affairs and Family and Offices of Employment, Social Affairs and Family**

According to Article 12 of the Act on Services of Employment, the Center of Employment shall annually draft a proposal of priorities of employment services and submit it to the Ministry for approval.<sup>169</sup> Also, the Center shall, after consulting with the Ministry of Education, adopt state programs of education and preparation for the labor market.<sup>170</sup>

Also, the Center of Employment has the power to supervise observance of the Act on Services of Employment.<sup>171</sup> As specific equal treatment and prohibition-of-discrimination provisions are contained in this act, the Center of Employment has a power to control the observance of equal treatment provisions as they are contained in this act.<sup>172</sup> When the information on whether specific control of the observance of the equal-treatment and prohibition-of-discrimination principles were undertaken by the Center of Employment and what were the results of these controls were asked, the director of the Controlling Department of the Center of Employment replied:

“In the first and in the second half of 2004, plans for supervisory activities were drafted in accordance with the priorities for supervisory activities, determined by the Ministry of Labor, Social Affairs and Family on the basis of a risk analysis, and they were focusing mainly on the supervision of state budgetary resources. In case of a complaint filed as a form of impulse for initiating supervisions with this focus [i.e., supervision focusing on observance of the principles of equality of opportunities and prohibition of discrimination], the Controlling Department will perform such a supervision on an operational basis, within the limits of its own personal capacities, or it

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<sup>168</sup> However, as the executive director of the Center informed in an interview undertaken on August 26, 2004, the website is currently being rebuilt and it should soon contain much more information than it offers now.

<sup>169</sup> Act on Services of Employment, Article 12(b).

<sup>170</sup> Act on Services of Employment, Article 12(f).

<sup>171</sup> Act on Services of Employment, Article 12(m). Although the information on whether the Center of Employment has drafted a proposal of priorities of employment for 2004, the information has not been given by the Center of Employment.

<sup>172</sup> Equal treatment provisions are contained in Article 14 of the Act. They are fully in accordance with the equal treatment provisions as they are entrenched in the Act on Anti-Discrimination (see the section of this writing on implementation of the EU directives).

will possibly include this type of supervision within the plan of its supervisory activities for the upcoming periods.<sup>173</sup>

It can be deduced from the answer of the director of the Controlling Department that controls of observance of the equal-treatment and prohibition-of-discrimination principles have neither been performed so far, nor they are a priority for the future, although the door is open if there is demand.

## Annex 2.7 National Labor Inspectorate and Labor Inspectorates

The National Inspectorate is an organ of state administration that is responsible to the Ministry of Labor, Social Affairs and Family, financed from the state budget. It directs and controls labor inspectorates and unifies and rationalizes their working methods. It is an organ of appeal in cases where labor inspectorates take first-instance decisions. It also provides professional education and training to employees of labor inspectorates. It annually submits to the Ministry of Labor, Social Affairs and Family a report on state of labor protection and on its activities and activities of labor inspectorates.<sup>174</sup>

Labor inspectorates (there are eight of them in Slovakia, one for each region) are, *inter alia*, responsible for performing inspections (including providing free consultancies as these are also considered to be labor inspection), for providing professional education and trainings for labor inspectors. They also decide on fines for breaches of rules defined at the beginning of this subsection. They can also submit proposals for labor safety improvement to the National Labor Inspectorate.<sup>175</sup>

As the interviewed person informed, two employees of the National Inspectorate participated in international trainings concerning equal treatment aspects (however, these persons are not conducting labor inspection controls). There was no information acquired on trainings or gender expertise of representatives of labor inspectorates.

No special equal treatment supervision is planned in the upcoming future, the reason being that the Ministry has not ordered any.

The National Labor Inspectorate's website contains no specific information on equal treatment. It, however, very intensively focuses on occupational safety and health. The website provides links to all labor inspectorates, but their websites only contain contact information.

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<sup>173</sup> A reply to a request for information submitted on the basis of the Act No. 211 of 2000 on Free Access to Information. The reply was obtained on October 12, 2004.

<sup>174</sup> Act No. 95 of 2000 on Labor Inspection, Article 5.

<sup>175</sup> *Ibid.*, Article 6.

### Annex 3.1.1 The National Action Plan for Women

The 2003 report on the implementation of the National Action Plan enlists the priorities (one to eight) and the accomplished tasks connected to those priorities:

1. Creating equal positions for women in the family, workplace and society, as it is entrenched in the legislation.

This priority includes creating the institution of the ombudsman, monitoring of human and women's rights, providing gender-desegregated statistics, implementing housing policies and re-regulating the use of the surname for a married woman.

The institution of the ombudsman was introduced into Slovak law in 2001. In the National Action Plan this institution was envisioned to protect human rights in all areas. Under the current law, the ombudsman can handle only cases of violation of human rights by institutions of public administration and does not deal with discrimination cases at all. In 2003 there was no specialized institution monitoring women's rights. The desegregated data gathering has been improved.<sup>176</sup> Although one of the housing policy measures was specially oriented on solution of housing situation after divorce, this area has not been implemented. Since 2002 a woman can use both her original surname and her husband's surname.<sup>177</sup>

2. Making space for personal choices in development of life strategies of women in the family, workplace and in society.

This priority is oriented to family and work reconciliation. The Labor Code enables all types of flexible working arrangements and parents taking care of children less than 15 years can shorten their working time in an employment contract. Despite this possibility, only 2.4 percent of employees take this advantage. According to the progress report on the National Action Plan, this measure is perceived ambiguously; employers usually do not provide relevant working positions and, for employees, this means lower pay and obstacles to their careers.<sup>178</sup>

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<sup>176</sup> The Implementation Report of the National Action Plan, Ministry of Labor, Social Affairs and Family, 2004. For more details see section 4 in the main text on Research and Statistics.

<sup>177</sup> This provision is formulated in the legislation as enabling one of the spouses to both keep her or his original surname and adopt her or his future spouse's. However, it is still inherently construed on the traditional concept of a woman adopting her husband's surname, as only one of the partners, not both, can adopt their spouse's surname. This will in practice mean that it will usually be women who will opt for the double surname, and men will only retain their original (as there is no possibility for both partners to adopt the surname of the other spouse).

<sup>178</sup> Implementation Report, *op.cit.*



### 3. Eliminating economic inequality that may lead to the material distress of women.

Measures contain pay gap monitoring, special tax regimes for employers employing mothers with children less than 15 years of age, support of self-employment of women and state payment of pension insurance during the parental leave. The achievements are only partial; the pension insurance covered by state makes up 60 to 70 percent of the average salary (the Action Plan calculated with 100 percent), specialized programs for self-employment of women are carried mostly by non-governmental organizations.<sup>179</sup> The Ministry of Finance does not plan any change in the taxation system and the pay gap is 71.7 percent.<sup>180</sup>

### 4. Shaping public opinion towards the respect of gender equality through the education system and the media.

As mentioned above, the measures concerning educational system are formulated in traditional terms stressing the importance of family values. As such, the measures are incorporated in the education but they do not tackle gender stereotypes and equal treatment.

### 5. Improving the protection and promotion of women's health.

As has been mentioned above, the measures related to these priorities do not in fact include gender equality principles. The government did not guarantee any media campaign related to gender issues or women's health despite the commitment in the Action Plan.

### 6. Eliminating violence against women.

In 2002 several legislative changes in favor of victims of violence against women have been made. The definition of a victim of domestic violence was expanded in scope by adding the category of a close person defined as "a former spouse, former partner, a parent of a common child as well as a person who resides or has resided in the same household with the offender." The victim's consent with prosecution is not required. The sentences in case of domestic violence got stricter. One of the most positive changes is that it is an offender, not the victim, who has to leave the house and a prohibition to approach the victim for less than five meters and stay in proximity of the victim's residence can be ordered by court.

In 2003 the police elaborated a methodology of how to deal with these cases; training seminars were organized in several regions; and family relations of the victim and the offender became a part of police statistics.<sup>181</sup> The services

<sup>179</sup> For more details see Section 3.2 on Programs in the main text.

<sup>180</sup> Implementation Report, *op.cit.*

<sup>181</sup> *Ibid.*

for victims of violence against women are mostly provided by NGOs and some of their services can be covered by regional social system budget. The cooperation of all involved parties (law enforcement agencies, social and health workers) is functioning only in some localities and trainings were organized separately for each profession and in most cases were initiated by NGOs.

7. Promoting personal development and work satisfaction among women with lesser development chances (defined as rural, Roma, unemployed and disabled women and women insufficiently prepared for their maternal role).

The measures related to this priority were oriented to creation of work places for women with lesser development chances but only few local initiatives have taken place in relation to unemployed, rural or Roma women. The legislation provides for several active measures to support employment of disabled persons. The relevant proportion of envisioned measures is related to educational and cultural activities connected to the development of rural areas, or specifically to Roma population stressing the role of mothers in education of their children. These measures do not target women directly.

8. Supporting the activities of organizations oriented towards the development of women on both national and international levels.

The priority comprises support of gender-related research, support and promotion of equality projects and cooperation with international institutions. The most important project on governmental level was a project called Equal Opportunities in the Slovak Republic, realized by the Department of Equality and Anti-Discrimination and the Coordination Committee for Women at the Ministry of Labor, Social Affairs and Family<sup>182</sup> in cooperation with the MATRA program.

The project started in 2002 and continued through 2003. Work of the MATRA expert group established through the project focused on gender equality in three areas: the institutional environment, the political arena, and social dialogue. Based on the analysis of all three areas the MATRA expert group developed a draft institutional framework for gender equality. After the election in 2002 the political climate has changed and the priorities of the newly elected government switched toward unemployment, social scheme

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<sup>182</sup> The Coordination Committee for Women at the Ministry of Labor, Social Affairs and Family existed from 1996 to 2002. It was originally founded as a consultative, cooperative and initiative organ of the government that was supposed to focus on promoting interests of women in the society. Its opinions did not have binding force for the government and Parliament but instead had only a character of recommendations. In 2002, the Minister of Employment, Social Affairs and Family of the newly-elected government had to confirm the further existence of the Coordination Committee. This did not happen and the existence of the Committee was thus terminated.

and pension reform. Despite the fact that these areas have significant gender impact, the gender perspective was not fully recognized.

The results of the MATRA project have not been fully implemented. One of the accomplishments of the project is the Commission for Equal Opportunities and Status of Women, established as an advisory structure of the Parliamentary Committee for Human Rights, Minorities and Status of Women. The recommendations, however, also included other institutional structures that were not introduced: a structure at the governmental level with a clear legal mandate for coordination, implementation and monitoring of national gender equality policies. This institutional mechanism was recommended to have sufficient competencies and resources to carry out its responsibilities. Also, each ministry and all regional and local levels were advised to create a body specialized in gender mainstreaming. And third, the establishment of an independent body for monitoring the implementation of equality of women and men, acting also as a lobbying and public-awareness institution, was suggested.<sup>183</sup> According to the new Act on Anti-Discrimination, the National Center for Human Rights currently has this mandate to a certain extent.

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<sup>183</sup> M. Piggot and M. Appel, “Inštitucionalizácia rodovej rovnosti na Slovensku: príklad inovatívneho a strategického prístupu” (Institutionalization of Gender Equality in Slovakia: Example of An Innovative and Strategic Approach), in *Rodová rovnosť: prečo ju potrebujeme?* (Gender Equality: Why Do We Need it?), E. Kvapilová, and S. Porubánová, eds. (Bratislava: Center for Work and Family Studies, 2003), pp. 114–123.

Equal Opportunities for  
Women and Men:  
Monitoring law and practice  
in new member states and  
accession countries  
of the European Union

## FACT SHEETS - 2005

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### WHAT IS THE SITUATION IN SLOVAKIA?

National laws in Slovakia have essentially been harmonized with the *acquis communautaire*. There is no specific gender equality law in Slovakia, but provisions have been incorporated into the Labor Code and the Anti-discrimination Act. As the legal provisions in this area were only adopted recently, it is difficult to make far-reaching conclusions about their application at this time.

Until March 2005, the only institutional mechanism responsible for gender equality policies was the Department of Equality and Anti-Discrimination under the Ministry of Labor, Social Affairs and Family of the Slovak Republic. The Ministry decided to restructure itself, however, and the department was merged into a new section: the Department of Family and Gender Policies. The main priority of this new mechanism is the reconciliation of work and family life. The previous department had a much wider scope and greater human resources.

### WHAT DO THE FACTS SAY\*?

- Women employees continue to earn almost 28 percent less than their male counterparts. The gender pay gap exists in all categories of age and education. Among persons with higher education, the gender pay gap has a tendency to increase: women with a university degree earned 35 percent less than men;
- In 2004 the parental benefit was paid to the mother in 97.5 percent of cases.

### WHAT DO THE EXPERTS SAY?

- The position of the institutional mechanism for gender equality has been lowered continually since 1995;
- The main priority of the new Department of Family and Gender Policies is the reconciliation of work and family life. As this is the only institutional mechanism for gender equality in Slovakia, such a reduced role is unacceptable;
- Due to the crosscutting character of gender equality issues, it is not enough for the institutional mechanism to be based under a sole ministry;

\* Sources of data: *Slovakian 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.osf.sk](http://www.osf.sk)); and the *Empirical Data from Sociological Research* (Bratislava: Institute for Public Affairs, June 2002).

## 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](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)*

- There is no comprehensive gender equality strategy in Slovakia. The formulation of the priorities and tasks in the policy documents are often very general and abstract. Also, in some cases they omit important issues that should be dealt with at the policy level;
- In the implementation process, many of the aims and tasks are not translated into appropriate programs;
- There is a lack of social awareness about gender equality, the right to equal treatment and available remedies.

## WHAT NEEDS TO BE DONE?

- New institutional bodies must be created and granted enough authority and means to guarantee their effectiveness;
- A comprehensive gender equality strategy should be created and adopted;
- An inter-sectoral coordinating body with real responsibilities should be set up at the executive level. The existing bodies should be restructured to make the issue of gender equality part of the everyday agenda;
- The government and other responsible actors should undertake a more comprehensive and integrated approach towards gender equality policies and incorporate gender mainstreaming into all policy areas. As part of this integrated approach, a gender equality assessment of newly-prepared legislation should be obligatory and all changes in legislation should be followed by an evidence-based gender-impact assessment;
- To mainstream gender equality, the issue should be included in programs at different levels;
- The fields of education and media should take a leading role in raising public awareness about and promoting gender equality.

## DID YOU KNOW:

82 percent of women and 56 percent of men believe that women are in a worse situation compared with men. Although the public commonly recognizes the unequal status of men and women in society, the state is concerned only marginally with these issues. Non-governmental organizations have taken the lead in promoting gender equality.

## MORE INFO:

[www.osf.sk](http://www.osf.sk)