

Dissertation

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I declare that I work on this dissertation by my own, on the basis of listed resources.

Contents

Abstract	4
Introduction	7
<u>Chapter 1: Gender Equality in the Czech Republic</u>	11
1.1. Institutional Support of Gender Equality	12
1.2. Official Documents Relating to Advancement of Gender Equality	17
1.3. Women and Political Participation	22
1.4. Women in the Labour Market	23
1.5. Gender Equality and Civic Society	25
1.6. Situation before 1989	27
1.7. European Union Changing the Perspective on Gender Equality	28
<u>Chapter 2: Promoting Gender Equality in the European Union</u>	30
2.1. EC Treaty and EU Directives (Gender Equality Primary and Secondary Legislation)	32
2.2. Soft Law Relevant to Gender Equality	37
2.3. Institutions	42
2.4. Structural Funds Allocated to the Advancement of Gender Equality	45
2.5. Facts about situation in the EU	47
2.6. Model States	50
2.6.1. Great Britain	50
2.6.2. France	52
<u>Chapter 3: Position of the Czech Republic in the EU Conditions</u>	54
3.1. Implementation of the EU Legislation	56
3.2. Adherence to Soft Law on Gender Equality	62
3.3. Gender Mainstreaming in the Czech Republic	64
3.4. Distribution of Pre-Accession and Structural Funds	66
3.5. Strengthening Women's Position in the Labour Market	68
3.6. Addressing Men in Achieving Gender Equality	69
3.7. Barriers to Gender Equality	70
3.8. Ideal Future Progress of Gender Equality Policy in the Czech Republic	72
Conclusion	79

Bibliography	84
Annex 1	91
Annex 2	106

Abstract

The membership in the European Union (EU) has brought many advantages to Czech citizens. The equality between men and women is an important part of the EU ideology. However, gender equality is a new concept in the Czech Republic, and would be hardly that far, if the Czech Republic did not go through the EU accession process. European Union is the most important factor in achieving gender equality in the Czech Republic. Membership in the European Union is a positive step toward gender equality; however, the Czech Republic is still lagged behind in the issue.

In my final thesis, I will analyze the situation in regard to gender equality in the Czech Republic. I will focus on the progress related to the accession process, explaining who were the main actors influencing the development. I will bring in the recent situation, introducing the institutions related to advancement of gender equality and what are their deserts. It will be very worth mentioning what are the actual facts in the representation of women in the political and social life, and what is their role on the labour market, because it can later on leads us to some conclusions.

The European Union has a many instruments connected to gender equality and these are influencing not only the EU as a unit, but individual Member States as well. Therefore, it is very important to discuss all the instruments and their relevance. This would be taking part in Chapter Two, which would present the EU primary and secondary legislature, soft law, institutions, and structural funds, all connected to the gender equality. Some facts about the gender equality situation in the EU will be offered, and finally a model states, which are obeying all the measures and have sufficient institutional support for gender equality will be presented.

The last part of the thesis will come back to the Czech model and revise if it adhered to all EU requirements. Here it is very important not to look only at the official steps, but also at the practical utilization of the instruments transformed into our country.

In 2003, the Ministry of Labour and Social Affairs with Swedish experts finished a

twinning project *Improvement of Public Institutional Mechanism for Applying, Enforcing and Monitoring Equal Treatment for Men and Women*. Results of this project, together with interviews with gender experts will help to suggest further idealistic progression of gender equality mechanism.

The paper uses a comparative study method (comparing the situation in the Czech Republic with the requirements of the European Union) based on analyzing official and also unofficial documents (primary and secondary) and on the interviews carried out with important actors. It is clearly structured into parts that are connected to each other.

The first part on the Gender Equality in the Czech Republic is mainly based on the document *Priorities and Procedures of the Government towards Enforcement of Equal Opportunities for Men and Women* and *A Summary Report on the Implementation of Priorities and Procedures of the Government towards Enforcement of Equal Opportunities for Men and Women*. It is also using many other resources such as *Women and Men in Data*, *the Labour Code* and *the Employment Act*.

The second part is mainly based on official documents of the European Union: *EC Treaty*, *EU Directives*, *European Employment Strategy* and *Community Framework Strategy on Gender Equality*. Important source is also *the Report from the Commission on Equality between Women and Men in 2005*. For relevant information about the situation in the EU, interviews with EU actors were done.

The last part uses the same documents as the first part, added by the *Shadow Report on Equal Treatment and Equal Opportunities for Women and Men* and report done by Open Society Institute: *Equal Opportunities for Women and Men: Monitoring law and practices in the Czech Republic*. To know if the legislature was implemented an essential source is *Bulletin* published by the European Commission on *Legal Issues in Gender Equality* in the Member States. The chapter also uses the interviews with Czech experts and sources from the twinning project *Improvement of Public Institutional Mechanism for Applying, Enforcing and Monitoring Equal Treatment for Men and*

Women. Additional information was gathered by working in the non-governmental organization Gender Studies.

Introduction

The accession process of the Czech Republic (CR) to the European Union (EU) started in 1996 and brought many new dimensions to the transition – introduction of common policies, harmonization of law, market economy, and beside many others the concept of gender equality. It was under the Department for Integration into the European Union, that the first institutional support towards gender equality was established; it was the adoption of the *Acquis Communautaire*¹, respectively harmonization with EU law that made Czech law less discriminatory. It is very curious that even though the Czech Republic signed the UN Convention for the Elimination of all Forms of Discrimination against Women (CEDAW)² in 1987, no gender equality policies did take place until 1998, when the already mentioned institution was established and when the Ministry for Labour and Social Affairs (MLSA) started to produce *Priorities and Procedures of the Government towards Enforcement of Equal Opportunities for Men and Women*.

However, it is disappointing to proclaim that even now, in the year 2005, one year after the European Union enlargement, people are not aware of gender equality issues. There is an enormous lack of knowledge among people in regard to their rights and opportunities, unfortunately connected to many prejudices and traditional views. Because the CR had a high number of women in the labour market, because of compulsory employment and forcing women to fake emancipation during the communist history, in the early 1990s, an anti-emancipation battle began among people with the aim of not being connected to communist views. It took a long time to assure people that advancing gender equality does not have anything to do with communist ideology and that it is actually an important step towards democracy. Unfortunately, it must be said that not everybody has got to the point yet and that there are still people who think that a high number of women in the labour market proves the gender equality.

¹ "The phrase *acquis communautaire*, sometimes translated as 'the Community patrimony', denotes the whole range of principles, policies, laws, practices, obligations and objectives that have been or that have developed within the European Union. The *acquis communautaire* includes most notably the Treaties in their entirety, all legislation enacted to date, and the judgments of the Court of Justice." Bainbridge, Timothy & Teasdale, Anthony. The Penguin Companion to European Union. p.4

² See *Convention on the Elimination of All Forms of Discrimination against Women*. United Nations – Division for the Advancement of Women. <<http://www.un.org/womenwatch/daw/cedaw/>>

In the EU, gender equality is one of the key priorities and it is included into all EU policies by a concept called *gender mainstreaming*³. Gender equality is contained in the EC Treaty and in the secondary legislature; it is part of the *European Employment Strategy*⁴, as well as of many other strategy documents. It is mainly the European Commission, respectively the Unit of Equality for Men and Women, who makes the biggest effort in this area. It must be acknowledge that also thanks to commissioner Vladimir Špidla, the policy has not stagnated, but is proceeding. Because the process is always topical, we do not have to be frightened that the policy is going to decline even in the CR. If the CR wants to be a full and respected Member State of the EU, it must adhere to gender equality concepts and it must forward the issue so that one day equality will be reached. As the EU started as an external factor in the accession process, it is now the internal factor in this journey, which is only at its beginning.

The European Union is the most important factor in achieving gender equality in the Czech Republic. Membership in the European Union is a positive step toward gender equality; however, the Czech Republic is still lagging behind on the issue. In this thesis, I will analyze the situation in regard to gender equality in the Czech Republic. The focus will be on the progress related to the accession process, explaining who were the main actors influencing the development. This paper will develop on the recent situation; uncritically introducing the institutions related to advancement of gender equality and discuss their outputs. It is worth mentioning what are the actual facts in the representation of women in political and social life, and what is their role in the labour market, because it can later on lead us to some conclusions.

The European Union has many instruments connected to gender equality and these are influencing not only the EU as a unit, but individual Member States as well. Therefore, it is very important to discuss all the instruments and their relevance. This will be

³ It is a systematical advancement of priorities and needs of men and women in all areas of policies with the goal of achieving equal opportunities for men and women.
<<http://www.feminismus.cz/slovnicek.shtml>>

discussed in Chapter Two, which will present the EU primary and secondary legislature, soft law, institutions, and structural funds, all connected to gender equality. Some facts about gender equality situation in the EU will be offered and finally model states that are obeying all the measures and have sufficient institutional support for gender equality will be presented.

The last part of the thesis will come back to the Czech model and review if it has adhered to all EU requirements. Here it is significant not to look only at the official steps, but also at the practical utilization of the instruments transformed into our country. For example, it is already known that even though the harmonization of EU gender equality legislature was fully successful, the practical usage is very deficient.

In 2003, the Ministry of Labour and Social Affairs with Swedish experts finished a two years twinning project "Improvement of Public Institutional Mechanism for Applying, Enforcing and Monitoring Equal Treatment for Men and Women". The results of this project, together with interviews with gender experts⁵ will help to suggest further idealistic progression of gender equality mechanisms.

To support the thesis, the paper uses a comparative study method (comparing the situation in the Czech Republic with the requirements of the European Union) based on analyzing official and also unofficial documents (primary and secondary) and on the interviews carried out with important actors. It is clearly structured into parts that are connected to each other. It is important to show what is the situation in the CR, what is and what should be the situation in the EU and in the Member States and finally if the situation in the CR is co-responding with the part that should be the situation in the Member States.

The first part on Gender Equality in the Czech Republic is mainly based on the document *Priorities and Procedures of the Government towards Enforcement of Equal*

⁴ See *European Employment Strategy*. EUROPA.
<http://europa.eu.int/comm/employment_social/employment_strategy/index_en.htm>

⁵ All the interviews done for the purpose of this paper are enclosed as an Annex 1.

Opportunities for Men and Women and A Summary Report on the Implementation of Priorities and Procedures of the Government towards Enforcement of Equal Opportunities for Men and Women. It is also using many other resources such as *Women and Men in Data, the Labour Code and the Employment Act.*

The second part is mainly based on official documents of the European Union: *EC Treaty, EU Directives, European Employment Strategy and Community Framework Strategy on Gender Equality.* Important source is also *the Report from the Commission on Equality between Women and Men in 2005.* For relevant information about the situation in the EU, interviews with EU actors were carried out.

The last part uses the same documents as the first part, added by the *Shadow Report on Equal Treatment and Equal Opportunities for Women and Men* and report carried out by the Open Society Institute: *Equal Opportunities for Women and Men: Monitoring law and practices in the Czech Republic.* To find out if the legislature was implemented an essential source is *Bulletin* published by the European Commission on *Legal Issues in Gender Equality* in the Member States. The chapter also uses the interviews with Czech experts and sources from the twinning project *Improvement of Public Institutional Mechanism for Applying, Enforcing and Monitoring Equal Treatment for Men and Women.* Additional information was gathered by working in the non-governmental organization Gender Studies.

The situation on gender equality is still progressing and many materials are being published concerning the issue, mainly in the European Union. However, the paper is unique, because of its analysis of primary resources, and because no such paper has been published yet. Some new dimensions, not used in the already published resources, were developed, such as the clear connection between the requirements and their compliance.

Chapter 1: Gender Equality in the Czech Republic

The topic of equal opportunities for men and women is a long-term priority of the European Union and the United Nations. The Czech Republic has engaged itself to adhere to equal opportunities for men and women and to promote gender equality by signing the UN Convention on Elimination of All Forms of Discriminations against Women (CEDAW). In addition, it had accepted fulfillment of the Beijing Declaration and Platform for Action⁶, respectively results of the Fourth World Conference on Women in Beijing in 1995. CEDAW was signed already in 1987 and "by accepting the Convention, states commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination;
- to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises."⁷

Indeed, the most important engagement of the CR concerning the advancement of gender equality is the membership in the EU.

This chapter will overview the recent support to gender equality in the CR. It will introduce institutions, official documents and legislature advancing gender equality. A small part will be given to statistics concerning representation of women in the labour market, civic and political participation. This information develops a realistic picture about the recent situation in the CR. The last part of this chapter will bring in the role of the EU in the process. It is apparent that without the obligations to the EU, gender equality would not have been taken seriously until now. The accession process developed an institutional and official background for the issue. What are the

⁶ See *Beijing Declaration and Platform for Action - Fourth World Conference on Women*. UNESCO. <http://www.unesco.org/education/information/nfsunesco/pdf/BEIJIN_E.PDF>

⁷ *Convention on the Elimination of All Forms of Discrimination against Women*. United Nations. Division for Advanced Women. <<http://www.un.org/womenwatch/daw/cedaw/>>

requirements and obligations to the EU and how the CR is managing them will be fundamental for this essay.

1.1. Institutional Support of Gender Equality

To include and make provisions for results and recommendations of the Fourth World Conference on Women in Beijing, a Unit/Department for Equal Opportunities was set up by the Ministry of Labour and Social Affairs in 1998. Prior to it, there was no state policy on gender equality in the Czech Republic and consequently no institutional structures to enforce it. The Unit for Equality of Women and Men was established by the Czech Government at the Department of EU Integration and Foreign Affairs within the Ministry of Labour and Social Affairs. Additionally to drafting a national report on the Czech Republic's implementation of the Beijing Platform for Action, the Department's task was to develop equal opportunities policies and assign support for women – candidates for operative positions in governmental organs. One of the main tasks during the accession process was also to align Czech legislation with that of the European Union within the area of equal treatment of men and women. Today, the Unit's agenda goes above legislative matters and includes among its other activities the publishing of relevant documents and handbooks, organizing seminars and trainings for selected civil servants from other Ministries, and delegates surveys concerning gender issues. The Unit also functions as the secretariat of the Government Council for Equal Opportunities for Women and Men. The most important tool that the Unit has at its disposal is to set up the *Priorities and Procedures of the Government towards Enforcement of Equal Opportunities for Men and Women* and every year to make a *Summary Report on the Implementation of Priorities and Procedures of the Government towards Enforcement of Equal Opportunities for Men and Women*.⁸

The Unit is at the very bottom of the organizational structure of the MLSA. The placement of the Unit is not functional considering its current tasks. In the Shadow Report, written by the gender equality experts from NGOs and academic sphere, it is said that it does not provide for sufficient authority or links that are necessary for the

⁸ *Rovnost žen a mužů. (Equality of Women and Men.)* MLSA, <<http://www.mpsv.cz/cs/228>>

effective implementation of the equal treatment policy within the MLSA, or at the Inter-Ministerial level. As the coordinator of the equal treatment policy, the Unit is not equipped with adequate formal powers or sufficient resources. Therefore, it often has to depend on the good will of relevant actors to co-operate.⁹

In the same year as the Department/Unit, the Government established the Inter-Ministerial Commission on Equal Opportunities for Men and Women to facilitate the co-ordination of gender equality policies. Members of the Inter-Ministerial Commission were to participate in drafting and evaluating gender policies. In 2001, the Government replaced the Inter-Ministerial Commission with the Government Council for Equal Opportunities for Women and Men and endorsed the appointment of a part-time gender equality expert ('gender focal point') at each Ministry to facilitate the promotion of gender equality as a cross-sectional task. The Government Council is a permanent advisory body of the Government in the area of creating equal opportunities for men and women. It is situated in the MLSA. The Council draws up proposals promoting and achieving equal opportunities for men and women.

"The Council shall, in particular:

- a) discuss and recommend to the Government basis policies in implementing equal opportunities for men and women;
- b) coordinate the main directions of ministerial policies in the field of equal opportunities for men and women;
- c) set the range of priorities for ministerial projects to promote the implementation of equal opportunities for men and women;
- d) identify current problems of society related to equal opportunities for men and women;
- e) evaluate the efficiency of the implementation of the principle of equality between men and women."¹⁰

The Council consists of 23 members and includes representatives from all Ministries at

⁹ Pavlík, Petr. *Institutional and personnel support of the equal treatment policy*. In: Shadow Report on Equal Treatment and Equal Opportunities for Women and Men. Gender Studies, o.p.s. 2004. p.23

¹⁰ Rada vlády pro rovné příležitosti žen a mužů. (The Government Council for Equal Opportunities for Women and Men.) MLSA. <<http://www.mpsv.cz/cs/383>>

deputy minister level, regional representatives and selected NGOs, as well as an academic gender equality expert. It has no executive or supervisory powers; therefore, it can only make recommendations to the Government.

In the years 2003 and 2004 the Government Council came up with six proposals:

1. to elaborate information methodology of gender budgeting;
2. to prepare legislative modification of electoral laws that would ensure balanced representation of women and men in elected bodies;
3. to prepare legislative modification providing effective protection against domestic violence;
4. to make the materials submitted to the Government to include data (e.g. analyses, statistics) subdivided to men and women;
5. to make the issue of equal opportunities for men and women one of the priority themes for endowment projects;
6. to support the placement of a new European Union institution – European Gender Institute in Prague.¹¹

Gender focal points (GFP) or also called gender coordinators are persons at each Ministry, having as a part-time duty, responsibility for the equal treatment agenda within the respective Ministry. The Government left it to the Ministries to decide in the institutional placement of the GFPs and therefore, most of the GFPs are placed within the Human Resources Departments at desk officer level. It means that they are the lowest level civil servants and do not have any powers that would allow them to enforce the equal treatment policy within the Ministry. They usually report to a superior who is not familiar with gender issues. There is usually more than one management level between the GFPs and the Deputy Minister who is the member of the Government Council.

One of the most important tasks of GFPs is the elaboration of ministerial Priorities in the

¹¹ Rada vlády pro rovné příležitosti žen a mužů. (The Government Council for Equal Opportunities for Women and Men.) MLSA. <<http://www.mpsv.cz/files/clanky/397/letak.pdf>>

area of equal treatment of men and women.¹² When observing the work of the gender focal points, it must be said that the commitment is different in each Ministry. For example, one of the duties to fulfill the Priorities is the cooperation with NGOs. Some of the Ministries give a lot of effort to this activity, some of them none. For example, the Ministry of Industry and Trade cooperates with organization for public benefit Gender Studies and with the Association of Women Entrepreneurs and Managers, the Ministry of Education, Youth and Sport co-operates with Open Society on the project Gender in School, the Ministry of Agriculture assists to Czech Women's Union and the Ministry of Finances created together with experts from NGOs the strategy of gender budgeting. These co-operations are merits of the GFPs.

The Government Council for Human Rights (GCHR) that was established in 1998 has also equal opportunities on its agenda. The GCHR monitors implementation and adherence to the Czech Republic Constitution, the Declaration of Basic Rights and Freedoms, and other legal norms governing the protection and observance of human rights and basic freedoms. The GCHR also monitors the observance of international treaties and agreements in the area of protection of human rights and basic freedoms in the CR. With respect to gender equality, it is primarily the CEDAW treaty. As a control mechanism of the CEDAW the GCHR established the Committee for the Elimination of All Forms of Discrimination against Women. It also elaborates a Periodical Report on Implementation of the CEDAW in the CR, every four years. The Committee again does not have any executive or control powers. It can only offer motions to the GCHR. The GCHR's Annual Reports on the State of Human Rights should also reflect the equal treatment principles.¹³ However, when reading e.g. the 2002 Report, it does not systematically reflect the gender perspective.¹⁴

On the regional level, there are no structures responsible for implementation of the

¹² Pavlík, Petr. *Institutional and personnel support of the equal treatment policy*. In: Shadow Report on Equal Treatment and Equal Opportunities for Women and Men. Gender Studies, o.p.s. 2004. p.23-24

¹³ Rada vlády pro lidská práva. (The Government Council for Human Rights.) <<http://wtd.vlada.cz/scripts/detail.php?abbrev=rvkrlpstatut>>

¹⁴ Zpráva o činnosti Rady vlády pro lidská práva v roce 2002. (Report on the Activity of the Government Council for Human Rights in 2002.) <http://wtd.vlada.cz/files/rvk/rlp/dokumenty/zprava_cinnost_2002.pdf>

equal treatment policy. The regional *governors* can participate in the meetings of Government Council for Equal Opportunities as permanent members and some regions do take advantage of this opportunity to send their representatives to the meetings.¹⁵

In June 2002, a Permanent Commission on Family and Equal Opportunities in the Chamber of Deputies was established. It has 11 members from across the political spectrum, but it has not been very active. The only activity done till now was a training seminar for its members.¹⁶ The Commission does not publish any information concerning its activities.

As to equality in the labour market, it is mainly labour offices that are in charge of it. Labour offices enforce the state employment policy at the district level. They perform a number of functions, ranging from providing information to citizens (about available job openings, retraining opportunities, etc.), through offering services connected with helping job-seekers find suitable jobs and retraining courses. The labour offices also control the regulations related to employment. Accordingly, they are potentially a very important element of the institutional mechanism for implementing gender equality. They have the right to sanction employers for discriminating against their employees. Nevertheless, the employees, respectively lawyers at the labour offices did not go through any gender equality training. Next year the non-governmental organization Gender Studies prepares training for lawyer trainers that will then in turn train lawyers at the labour offices in various districts to fight against discrimination in the labour market and to help people that have faced discrimination in the labour market. The training is financed by European Social Fund and state budget of the CR.

Independently of the labour offices, a Women's Committee (currently the Committee for Equal Opportunities for Women and Men) was founded within the largest Czech Trade Union on the basis of a foreign initiative in 1992. Every member of the Committee is

¹⁵ Pavlík, Petr. *Institutional and personnel support of the equal treatment policy*. In: Shadow Report on Equal Treatment and Equal Opportunities for Women and Men. Gender Studies, o.p.s. 2004. p. 27

¹⁶ Marksová-Tominová, Michaela. Gender Assessment of the Impact of EU Accession on the Status of Women in the Labour Market in CEE. National Study: Czech Republic. Gender Studies, o.p.s. 2003. p. 14

4. Equalizing the social standing of women and men caring for children and dependent members of the family;
5. Paying attention to women's reproduction role and physiological differences;
6. Fighting violence against women;
7. Monitoring and evaluating the effectiveness of implementing the principle of equality of men and women.¹⁸

Every year the Government updates the Priorities. As the topic of this thesis is the advancement of the gender equality, it is worth listing the measures that were supposed to be taken in the year 2005 in connection with Priority 1: Promoting the principle of equality of men and women as a part of the Government's policy:

- a) As a part of the media policy, advance the principle of equal opportunities for men and women and inform about measures supporting the principle at each Ministry.
- b) Actively support choosing of relevant women candidates to positions in Government offices and in leading positions at Ministries, and other administrative bodies and institutions to accomplish balance representation of women and men in these bodies.
- c) Promote the principle of equal opportunities for men and women in questions of remuneration and working conditions at proceedings of Council of Economic and Social Agreement of the CR.
- d) Ensure that all the Ministries and administrative bodies cooperate with NGOs dealing with gender equality issues.
- e) Members of all Ministries should participate on international activities and programs that would deepen their knowledge of the gender equality issue.
- f) Begin or continue with educational activities in human rights focusing on equal treatment of men and women and on methodologies leading to gender equality. Ensure that all employees, also with powers to take decisions will attend those activities.

¹⁸ Aktuální text Priorit a postupů vlády při prosazování rovnosti mužů a žen. (Up-to-date text of Priorities and Procedures of the Czech Government in Promoting the Equality of Men and Women.) MLSA. <<http://www.mpsv.cz/cs/304>>

- g) When preparing legislative rules, mind including of institutes on elimination of disadvantages in representation of women and men in participation in decisive social activities.
- h) All concepts, decisive and evaluating process should take in consideration the viewpoint of equal opportunities for men and women.
- i) Continue in public debate about the problematic of equal opportunities for men and women in the goal of introducing the general public about the state policy of equal opportunities for men and women.
- j) Prepare the priorities for individual Ministries for the year 2006.
- k) Evaluate the implementation of the Priorities in the year 2005 (till January 31, 2006).
- l) Continuously work on results of gender analyses.
- m) Extend the offer of trainings of administrative officer of the issue of gender equality, with a possibility of usage of e-learning form of education.
- n) In the endowment policy, support projects promoting gender equality.¹⁹

All the priorities consist of various measures that must be fulfilled by all the Ministries. Based on the fulfillment of the priorities, at the end of each year the Ministry prepares *A Summary Report on the Implementation of Priorities and Procedures of the Government towards Enforcement of Equal Opportunities for Men and Women*.²⁰ The Report usually lists steps, activities and programs that individual Ministries accomplished when implementing particular measures. The main goals for the year 2004 were to decrease the gender pay gap and to advance women's decision-making positions. A positive development towards these goals was seen in the improvement of legislative measures related to gender equality or equal opportunities for men and women. It was emphasized that also social partners, such as the Czech-Moravian Trade Union or Association of Industry and Transport, played an important role in promotion of equal treatment for men

¹⁹ *Usnesení vlády České republiky ze dne 4. května 2005 č. 533 k Souhrnné zprávě o plnění Priorit a postupu vlády při prosazování rovnosti mužů a žen v roce 2004. (Government Resolution on Summary Report on the Fulfillment of Priorities and Procedures in Promoting Equality between Women and Men in 2004)* <<http://www.mpsv.cz/files/clanky/1371/usneseni.pdf>>

and women. On the other hand, it is not described anywhere in the Report, what particular role these Social Partners played. An important activity of the MLSA is the *Analysis of low number of women in political decision-making positions* that was carried out together with the Sociological Institute of Academy of Science of the CR. Concerning the 2004 developments, the Czech Republic still needs to:

- Remove gender stereotypes in the minds of Czech public and reinforce consciousness on equal opportunities for men and women mainly of decision-makers.
- Increase the number of women in decision-making positions.
- Improve conditions for reconciling family and professional life.
- Eliminate discriminatory behavior on the labour market and in employment.
- Improve prevention and protection in the area of domestic violence.²¹

Another document that relates to enforcement of equal opportunities for men and women is the Labour Code of the Czech Republic. It demands that the employer ensure equal treatment of employees. Focus should be given to equal salaries, further development and education of employees, and rising of employers. Since 2002, the labour law has been improved by many provisions regarding gender equality, the last time by the new employment law from 2004. The Code stresses equal treatment and bans discrimination when exercising the right for employment. It is the task of MLSA, labour offices, and employers to guarantee equal treatment to all people asking for employment.

The Labour Code lately, distinguishes between direct and indirect discrimination.²²

²⁰ See *Souhrnná zpráva o plnění Priorit a postupu vlády při prosazování rovnosti mužů a žen v roce 2004.* (Summary Report on the Fulfillment of Priorities and Procedures in Promoting Equality between Women and Men in 2004.) MLSA. <<http://www.mpsv.cz/cs/1370>>

²¹ *Souhrnná zpráva o plnění Priorit a postupu vlády při prosazování rovnosti mužů a žen v roce 2004.* (Summary Report on the Fulfillment of Priorities and Procedures in Promoting Equality between Women and Men in 2004.) MLSA. <<http://www.mpsv.cz/files/clankv/1372/zprava.pdf>>

²² Direct discrimination: behavior, when an employee was treated disadvantageously or advantageously than another employee according to his or her sex. Indirect discrimination: behavior, when an apparent neutral decision, distinction or procedure of the employer give disadvantage or advantage to an employee and not to another employee, according to his or her sex. *Zákoník práce – Část I. – Všeobecná ustanovení.* (Labour Code – Part one – General Regulations.) <<http://business.center.cz/business/pravo/zakony/zakprace/cast1.aspx>>

Moreover, it defines harassment and sexual harassment.²³ The Employment Act from 2004 adds to the Labour Code that in case of removing disadvantages, based on e.g. that there is one sex less represented, the employer is allowed to use positive disposals. The employer can e.g. give advantages to women, in case, that there is minimum or no women in the workplace. It is an advantage given to the disadvantaged sex for the reason of accomplishing the equality. The Act does not contain any quotas that could be used by the employer when casting employers. The Act prohibits demanding information that is not related to the exact job performance, e.g. family status.²⁴

The recent Labour Code seems almost sufficient toward the equal opportunities for men and women on the labour market, however, the time show, if the new law amendments will come to real practice. It is possible that law will be evaded.²⁵

From the Labour Code, women should be treated equally as men in the labour market and should have the same opportunities to enter the labour market. But, also the Constitution sets equal rights for men and women, and it offers basic guarantees for gender equality on the labour market and ban of discrimination. According to Article 4 of the Constitution, the protection of basic rights is the duty of judiciary. The CR has also the Document of Basic Rights and Freedoms that guarantee that women and men have equal right and those are inalienable, vested, and unavoidable.²⁶

International law obliges the Czech Republic to adhere to the principle of gender equality. Article 10 of the Constitution proclaims that ratified International Treaties on

²³ Sexual harassment means behavior of sexual character in any form that is perceived by the touched employee as unwelcome, inappropriate and offensive. Intention or effect of such behavior leads to decrease of self-confidence of afflicted person or to creation of hostile, humiliating or flustering work environment or that can be perceived as condition for decision influencing exercise of rights and obligations resulting from labor relations. *Ibid.*

²⁴ *Zákon o zaměstnanosti – Část I. - Uvodní ustanovení. (Employment Act – Part One – Introductory Regulations.)* <<http://business.center.cz/business/pravo/zakony/zamestnanost/cast1.aspx>>

²⁵ *Genderovy balíček 3/2005. Ženy na trhu práce. Příloha: Práva žen podle Zákoníku práce. (Gender Info-Package 3/2005: Women on the Labour Market. Annex: Women's Rights according to the Labour Code.)* Gender Studies, o.p.s. <http://www.feminismus.cz/download/GB_zakonikprace_0305.pdf>

²⁶ *Ibid*

human rights and general freedoms are superior to Czech law.²⁷

1.3. Women and Political Participation

The issue of women's political participation has become very discussed by the Czech media in the last year. One of the reasons was the creation of new political party *Equality of Chances (Rovnost šancí)*, together with a new women's platform of the *Christian and Democratic Union – Czechoslovak People's Party*, and proposal of the electoral law amendment including 30 percent quotas on the representation of women on the candidate lists of political parties in the House of Deputies elections. Certain attention was also given to the campaign of Gender Studies *Give Women the Voice!* The main goal of this campaign was to support women candidates in the European Parliament elections.

In the Czech Republic, women make up only 14 percent of the highest national decision-making bodies (17 percents in the Chamber of Deputies and 11 percent in the Senate).²⁸ There are two women in the Government presently. There is no woman regional governor and only two women vice-governors. Traditionally most women are represented in lowest levels of state administration. Women are more successful in local than parliamentary politics, they are more frequently nominated on the candidate sheets of political parties that have a lesser chance of securing seats and, in general, they more frequently occupy non-elective positions on the candidate sheets. Women account for 10 percent maximum of the wider leadership of all parliamentary political parties, even though women account for 26 to 52 percent in the membership base of these parties.

It is clear that Czech politics post 1989 has remained in the domain of men, especially in the case of parliamentary politics. After 1989, the representation of women in highest legislative bodies had dramatically decreased. In 1981, women made 28 percent of the

²⁷ e.g. International Covenant on Economic, Social and Cultural Rights, the CEDAW, the European Social Charter, and the Conventions of the ILO.

²⁸ Ženy a muži v datech. 2005. (Women and Men in Data, 2005) Czech Statistical Office & MLSA.

Parliament, in 1990 it was 11 percent and in 1992, it was only 9.5 percents.²⁹

Nowadays, political participation of women is still not a key issue for political parties and movements, or politicians at any level – regional or national. There is practically no area, in which women would prevail over men in executive positions. The Government is not aware of this situation and did not adopt any measures to improve the situation. There was almost no fulfillment of Priority 1.2.³⁰ since the existence of the Priorities and it is criticized even by the Reports.³¹ It is basically only the non-governmental, non-profit sector that tries to increase the political participation of women. Beside the already mentioned project of Gender Studies, NGOs are organizing seminars and round table with women politicians, but also with women that are planning to enter politics. An internet portal www.hlidacifena.cz is a lobbying and monitoring project that supports the position of women in politics. It contains mainly interviews with women politicians, analyses of candidate list in connection with representation of women and men, information from abroad, etc.

1.4. Women in the Labour Market

For a number of generations, the economic activity of women has been a necessary condition for maintaining the life norm of most Czech families. It is therefore more alarming that they still face long-term disadvantages in the Czech labour market. Generally, women face worse position on the labour market than men. On the side of employer, there still persists the opinion that women are a problematic labour force. The main reason is their burden of family roles, mainly maternity. Therefore, women have a worse position when looking for a job.

²⁹ *Genderovy balíček 01/2005 – Politická participace žen. (Gender Info-package 1/2005 – Political Participation of Women.)* Gender Studies, o.p.s. <http://feminismus.cz/download/GB_politika.pdf>

³⁰ Promoting the principle of equality of men and women as a part of the government's policy: Actively support choosing of relevant women candidates to positions in government offices and in leading positions at ministries, and other administrative bodies and institutions to accomplish balance representation of women and men in these bodies. *Aktuální text Priorit a postupů vlády při prosazování rovnosti mužů a žen. (Up-to-date text of Priorities and Procedures of the Czech Government in Promoting the Equality of Men and Women.)* MLSA. <http://www.mpsv.cz/lcs/304>

³¹ *Souhrnná zpráva o plnění Priorit a postupů vlády při prosazování rovnosti mužů a žen v roce 2004. (Summary Report on the Fulfillment of Priorities and Procedures in Promoting Equality between Women and Men in 2004.)* MLSA. <http://www.mpsv.cz/files/clanky/1372/zprava.pdf>

In Czech society distinguishing gender roles is very typical. Women are connected to family and private sphere and therefore they are thought not to take the job as their priority. On the other hand, men are seen as actively participating in public life and therefore they get higher positions at work. The economic, social and historical reality in Czech society is, that women work full time, as men do. The system of stereotypes and gender roles puts them in a double burden: manage the work and family together. The result is the unequal position of men and women in the family and also in the labour market.

The main problem concerning the labour market issue is that women are still not paid equally, even though the law prohibits pay discrimination. Women have limited chances in professional careers and they are less supported in further education and trainings. The pay gap between man and women is on average 26 percent. However, the difference in high qualified jobs, respectively among university graduated men and women is much more significant. Women in top positions earn about 55 percent of men's salaries.³² Women make up 44.2 percent of all employed people in the Czech labour market³³. Beside this number, they are not represented very much in the executive, respectively leading positions. The Gender Team of Faculty of Social Sciences at Masaryk University showed in its research that women were represented in top management positions in the best cases at the rate 1:5.³⁴

The Czech Statistical Office has a clear characteristic of the female labour force of the CR: "Employment of Czech women is high - the economic participation rate of women aged 15 and older is 51% (69% of men). Every tenth woman was only employed part-time (every thirtieth man was employed part-time). Ten percent of employed women worked in their own company, whereas the percentage of men was twice as high.

³² *Genderový balíček 3/2005. Ženy na trhu práce. (Gender Info-Package 3/2005: Women on the Labour Market.)* Gender Studies, o.p.s. <http://www.feminismus.cz/download/GB_trhprace_0305.pdf>

³³ *Ženy a muži v datech. 2005. (Women and Men in Data, 2005)* Czech Statistical Office & MLSA.

³⁴ *Zpráva z výzkumu: rovné příležitosti žen a mužů ve vybraných českých podnicích 2000 – 2001. (Report from the research: Equal Opportunities for women and men in selected Czech firms 2000-2001.)* Gender centrum FSS MU. 2002

Women employed full-time work 5 hours a week less than men, although women who work part-time work 2.5 hours a week more than men working part-time. The average monthly earning of women is a quarter less than that of men.³⁵

Next to wage differences women affront other forms of discrimination, direct or indirect. Women have more difficult access to leading and decision-making positions. If they care for children, they are getting only narrowed opportunities for career, training and further professional qualification. Women in leading positions usually must show higher assignments and they are asked for higher qualification than men are in the same position.

Women face higher unemployment. The number of unemployed women rises faster than the number of unemployed men, the difference now is about five percent.³⁶ New forms of harmonization of work and personal life are being introduced slowly and are not of particular interest even to trade unions in the “feminized” sectors of the labour market.

1.5. Gender Equality and Civic Society

Both the political and civic participation of women has changed significantly since 1989. Considering civil society, women have associated in various ways within wider social movements at all levels of the political spectrum. They have also created non-profit non-governmental organizations, which have operated in diverse areas of social life since the beginning of 1990s. Due to the influence of the EU, some issues, which women's groups have been advocating for a long time, have been recognized as social problems. This, in particular, concerns the discrimination of women in the labour market and the existence of domestic violence in Czech society.

Many foreign foundations and organizations did help the development of equal opportunities and feminism in the Czech Republic. Mainly, because there were no domestic financial resources for established civic organizations. This situation did not

³⁵ Ženy a muži v datech. 2003. (Women and Men in Data. 2003) Czech Statistical Office & MLSA.

³⁶ Ženy a muži v datech. 2005. (Women and Men in Data. 2005) Czech Statistical Office & MLSA.

change until 2004, when the CR entered the EU and most of the organizations started to be funded by the European Social Fund. Most important bearers of the gender equality are the NGOs. The first one to care about the issue – Gender Studies, was established in 1991 by a famous sociologist and dissident Jiřina Šiklová. It is also a contact place of all NGOs dealing with the issue of gender equality. There are around 50 organizations somehow dealing with women's or gender equality issues. Most of them used to be based on voluntary activities and are not professionalized. This fact has changed because of the accession process to the EU, which made the topic more important and allocated some financial resources for it. Therefore, more of the organizations started to be professionalized.

Women's organizations that were established after 1989 oriented generally on the issue of the position of women in society, some did associated in professional groups and oriented on a specific area of civic life. Nowadays, the topic, most frequently dealt with is women in the labour market, and it is not dropping the matter when saying that one of the reasons for it is that it is the main priority of the EU. Another, not less important topic is domestic violence – help to women-victims of domestic violence, lobbying activities related to this topic. Another significant issue is human trafficking, as well as unfortunately, behind and almost forgotten is the problem of rape. Other topics getting attention are the participation of women in politics, representation of women in media and gender in education. However, women's organizations have the problem that they are usually unable to attract the attention of a portion of the Czech population and the population is usually not aware of their activities.

The role of women's NGOs was very important during the accession. Those organizations have worked a lot on bringing the issue of gender equality, gender mainstreaming, gender sensitivity, and others closer to public, media, decision and opinion makers. "They supported the issue to become better understood, some women's NGOs organized discussion meetings for the public both in Prague and in the regions to see the positives (and negatives) of EU accession and membership with a

special focus on gender dimensions of the accession.”³⁷ On the other hand, Michaela Marksová-Tominova writes on this topic: “it can be said that civil society was not involved in the official EU accession process at all and their most important involvement came just three month before the referendum. In the first half of 2002, there has been a Committee for EU established within the Governmental Council for NGOs. This Committee mainly tried to produce documents for NGOs on how to use EU funds, but for entering into pre-accession debate, e.g. for being able to put remarks into Czech documents related to EU funds, it was too late.”³⁸

Women have played an important part in the process of the democratization of society and the development of civil society in the Czech Republic. They participated both in different social movements as well as activities focused directly on the promotion of women’s position in society.

1.6. Situation before 1989

It was stated already in the declaration of independence of the Czechoslovak Republic in October 1918 that: “Women will be positioned politically, socially and culturally on the same level as men.” In 1920, the Constitutional declaration added that privileges based on sex, status and occupation are not to be acknowledged. Shortly after World War II, the assertion of the equal standing of women and men was being influenced by the entrance of state socialism, which argued that inequality had to be eliminated in accordance with the principles of Marxism-Leninism. The only women’s organization to have the right to exist was the Czechoslovak Women’s Union. No Government institutions specializing in the enforcement of equality of women and men existed during state socialism in the CSSR.³⁹

During socialism in the CR, women were formally equal with men and the law did not permit any discrimination, and the equality among citizens according to sex was

³⁷ Interview with Alena Králková, director of organization for public benefit Gender Studies (Annex 1).

³⁸ Marksová-Tominová, Michaela. Gender Assessment of the Impact of EU Accession on the Status of Women in the Labour Market in CEE. National Study: Czech Republic. Gender Studies, o.p.s. 2003. p.12

declared in pre-1989 laws. However, the discrimination did exist.

Women were working in low-grade occupations and their average wages were far lower than wages of men. Women were not occupied in leading or executive positions. Women were forced to work, but there were no changes in the division of labour in the household. Women were working, but also doing the entire household, caring of children or other dependant family members.

Equal treatment in employment was legislatively addressed only in very general terms in the Constitution of the Czechoslovak Socialist Republic, an important aspect of which was the legislatively engaged right and obligation to work. Discrimination was not mentioned or defined at all in Czech legislation before 1989. The term “discrimination” effectively appeared only in documents of an international character.

Special working conditions were set up for women, especially in view of their physiological characteristics related to pregnancy and motherhood. Inequalities in treatment at work were mostly seen in the gender pay gap and the gender unemployment gap. In the course of the first half of the 1990s, attention was clearly targeted at economic reform of the Czech labour market and related legislation regardless of equal treatment for men and women.

1.7. European Union Changing the Perspective on Gender Equality

As Alena Kralíková, the director of the non-governmental organization (NGO) Gender Studies, says, the breaking point for institutions to consider gender equality was only when the accession process started, i.e. when implementation of gender equality issues was discussed between the EU institutions and the CR.⁴⁰ It was in 1998, when the Czech Government launched association negotiations with the EU. The preparations of the Czech Republic for EU accession have strongly influenced the public discourse concerning women’s rights and equal opportunities for men and women. Thanks to

³⁹ Hašková, Hana. *Work Package 4 (Executive Summary): Implementing the Equality Acquis in the Czech Republic. Enlargement, Gender and Governance (EGG)*. <<http://www.qub.ac.uk/egg/>>

⁴⁰ Interview with Alena Kralíková, director of organization for public benefit Gender Studies (Annex 1).

these preparations, new institutions have been created⁴¹.

Patricia Sulcová from the Parliamentary Institute describes the influence of the EU accession on the establishment of the Government Council for Equal Opportunities for Men and Women. “Despite the negative attitudes towards any institutional support for the equal opportunities of women and men, Prime Minister Vladimír Špidla initiated the establishment of the Government Council for Equal Opportunities for Men and Women, despite opposition even from within his own party. The arguments he used in support of this body made it clear that the implementation of equal opportunities is related to the EU accession process, and adoption of certain legislative measures was necessitated by the need to bring Czech law into alignment with the *acquis communautaire*.” It is clear that institutions supporting equality of opportunities have been formed as a result of the need to harmonize legislation and the institutional framework of the CR with the EU countries rather than the conviction that implementing such institutions is important in order to improve the position of women in society. Such an approach is also reflected in the activity of some of these institutions.

Amendments to acts adopted before submitting the application to the EU addressed the issue of unequal position of women and men in the labour market only in the context of the family where the role of woman as mother was stressed. The issue of equal treatment for women and men was first addressed in the context of the preparation of the CR for accession to the EU.

The EU Accession process brought important changes to the Czech labour legislation, which has led to positive improvements in women's rights. The Labour Code, which entered into force on January 1, 2001, explicitly requires that employers provide women and men with equality in the work place, specifically with regard to: wages, vocational training and promotion prospects. Furthermore, in 2004 the Law of Employment was adopted, which goes much further in gender equality in the employment.

⁴¹ e.g. already mentioned Government Council for Equal Opportunities for Men and Women, the Committee for Elimination of All Forms of Discrimination of Women within the Government Council for Human Rights, etc.

It is already more than a year since the Czech Republic entered the European Union. Much had been done concerning gender equality and much has to be done in the future. However, it must be said, that membership in the European Union was a positive step towards gender equality. Because of the harmonization of Czech law with the *acquis communautaire*, the laws were modified.⁴² The CR entered many programs and projects supporting the advancement of equal opportunities for men and women in society.

According to Michaela Marksová-Tominová, member of the Government Council for Equal Opportunities for Men and Women and the vice-chairwoman of the Association for Equal Opportunities, the influence of the European Union on advancing gender equality was not sufficient. Looking at the Regular Report of the European Commission on the situation in the CR before becoming a Member State, the issue of gender equality is not mentioned there. The only recommendation the European Commission gave to the CR was in the Final Report saying that the CR should increase number of women in politics.⁴³

Chapter 2: Promoting Gender Equality in the European Union

Equal opportunities for men and women, correspondingly the gender equality are one of the fundamental priorities of the European Union. It can be said that equal opportunities are one of the policy of European Community. The document of the DG Employment called *European employment and social policy: a policy for people* lists the European equal opportunities rights:

- Men and women are entitled to equal pay for equal work and for work of equal value.
- Women must be given the same opportunities as men with regards to access to employment, training, ongoing training, career development and employment. The wording of job advertisements must be therefore gender-

⁴² Šulcová, Patricia. "Rovné příležitosti a práva žen v EU a kandidátských zemích." (Equal opportunities and rights of women in the EU and accession countries.) *Gender – Rovné příležitosti – Vyzkum*, 2/2002. <<http://www.genderonline.cz/index.php?page=clanek&subrubrika=19&clanek=160>>

neutral.

- Social security schemes (occupational and statutory) must provide equal benefits for both women and men.
- Authorities must treat women wishing to become self-employed in the same way as men setting up their own business.
- Female workers are entitled to maternity benefits and leave during pregnancy.

There are various instruments that advance gender equality in the EU. The most important are the EU Directives and the EC Treaty. Gender equality was already mentioned in the 1957 Rome Treaty, where the principle of equal pay was introduced. The 1997 Amsterdam Treaty gave the Community a specific legal basis to take action in the area of equal opportunities and equal treatment between women and men. Since this year the Community was not perceived only as an economic union, but also as a community aiming to ensure social improvement and development in the living and working conditions of its citizens. In addition, the *Charter of Fundamental Rights of the European Union* states the equality between men and women as a fundamental principle.⁴⁴ In terms of secondary legislation, 13 Directives in the field of gender equality have been adopted.⁴⁵

The *acquis* on gender equality has also considerably been shaped by a great number of judgments from the European Court of Justice (ECJ) whose task was to ensure that in the interpretation and application of the Treaty, the law is observed. The Court is one of the motivating forces of integration besides the Commission, dynamically interpreting and developing naturally incomplete legal concepts of a relatively young Community Law to a rational system of law. The case law has been an essential complement to the EC legislation on equal treatment, providing Member States with interpretation of EC

⁴³ Interview with Michaela Marksová-Tominová, Vice-chairwoman of Association of Equal Opportunities and member of the Government Council for Equal Opportunities for Men and Women (Annex 1).

⁴⁴ Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union. Overview. Open Society Institute– Network Women's Program. 2005. p. 9-10

⁴⁵ *Legislation – Legal acts on equal treatment.* EUROPA.

http://europa.eu.int/comm/employment_social/gender_equality/legislation/legalacts_en.html

law, leading to legislative changes in the Member States.⁴⁶

Additionally to the primary and secondary legislature, there are also important soft law instruments as *The Community Framework Strategy on Gender Equality* or *The European Employment Strategy* and also the concept of *Gender Mainstreaming*.

To control if the Directives and the EC Treaty are obeyed the *Unit for Equal Opportunities for Men and Women* was set up as a body of European Commission. Another important institution related to gender equality is the *Committee on Women's Rights and Gender Equality* in the European Parliament. In the future, a Gender Institute "to support the EU institutions and the Member States in promoting equality between women and men and combating sex discrimination"⁴⁷ will be set up. Not being an EU institution, but playing a very important role in advancing gender equality in the EU, is the European Women's Lobby (EWL).

2.1. EC Treaty and EU Directives (Gender Equality Primary and Secondary Legislation)

Within the EU, the principle of equal treatment expanded from various legal provisions to an indicative *Acquis Communautaire*. It is primarily based on the EC Treaty, Directives and the case law of the European Court of Justice. The EU has recently a significant collection of legislations relevant to the issue of gender equality. The principle of equal pay was introduced already in the Treaty of Rome in 1957. In 1992, the principle of gender mainstreaming was put in the EC Treaty, instructing that the principle of equal treatment should not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex.⁴⁸ The 1997 Amsterdam Treaty (Article 13, 137 and 141) set up a legal basis to take action in the area of equal

⁴⁶ "Women and men in an enlarged Europe." (Backgrounds documents for Malta Conference, 1-3 April 2004.)

<http://europa.eu.int/comm/employment_social/gender_equality/docs/documents/background_total.pdf>

⁴⁷ Citation of Vladimír Špidla, Commissioner for Employment, Social Affairs and Equal Opportunities. In: *Commission proposes Institute for Gender Equality*. EUROPA.

<http://europa.eu.int/comm/employment_social/news/2005/mar/genderinstitute_en.html>

⁴⁸ *Legislation - Equal treatment in the EC Treaty*. EUROPA.

<http://europa.eu.int/comm/employment_social/gender_equality/legislation/ectreaty_en.html>

opportunities and equal treatment between women and men. It allows positive discrimination: "promotion rules giving priority to women in the event of equal qualifications with men are thus consistent with European law."⁴⁹ The Article 137 and 141 serve as a legal basis for secondary legislation (Directives) for gender equality in the employment field, whereas Article 13 is a basis for Directives against discrimination outside employment. More specifically, Article 13 says that that the European Commission may take appropriate action to combat discrimination based on sex. Article 141 gives responsibility to the Member States: "Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied."⁵⁰ But the Council of the EU "shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value."⁵¹

The Article 2 of the EC Treaty provides that the promotion of equality between men and women is a task of the European Community. The text of the Article is: "The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities [...] to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States." Article 3 supplies that it should aim to eliminate inequalities, and promote equality between men and women in all its activities.⁵²

⁴⁹ European employment and social policy: a policy for people. Directorate-General for Education and Culture. European Commission. 2000. p.26

⁵⁰ Consolidated Version of the Treaty Establishing the European Community. Official Journal of the European Communities. 2002. Article 141.

<http://europa.eu.int/eur-lex/lex/en/treaties/dat/12002E/pdf/12002E_EN.pdf>

⁵¹ *Ibid.*

⁵² Already mentioned gender mainstreaming. Legislation - Equal treatment in the EC Treaty. EUROPA. <http://europa.eu.int/comm/employment_social/gender_equality/legislation/ectreaty_en.html>

The Directives in support of equality between women and men has mainly been developed in the field of employment. These directives constitute a fundamental step towards achieving gender equality. The first equal treatment Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women. The Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions followed in 1976. These two Directives together with Article 141 of the EC Treaty are forming the first and most fundamental *acquis* in the area of equal treatment of men and women. To progressively implement the principle of equal treatment for men and women in matters of statutory social security, Directive 79/7/EEC of 19 December 1978 was adopted.

Seven years later followed the Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes, complementing the previous Directives. This Directive was amended in 1996 by Directive 96/97/EC on the achievement of the principle of equal treatment for men and women in occupational social security schemes. In 1986, the Directive 86/613/EEC on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood followed. In 1992, Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding was adopted. While it addresses primarily the working conditions for pregnant or breast-feeding workers, it also includes a statutory right to paid maternity leave of at least 14 weeks. In 1996, the framework agreement on parental leave was adopted as Directive 96/34/EC. The text includes primarily a non-transferable leave for parents of at least 3 months, but payment for leave was left to the discretion of National Governments. In 1997, Directive 97/80/EC on the burden of proof in cases of discrimination based on sex was adopted. This Directive has laid down the European

Court of Justice's judicature as a formal act of law. It is put clear that in cases of discrimination on grounds of sex the complainant only has to establish before a court or other competent authority, facts from which it may be presumed that there has been discrimination, while it is for the respondent to prove that there is no breach of the principle of equal treatment.

In 2002, the equal treatment in employment Directive 76/207/EEC was substantially amended by Directive 2002/73/EC. The most important new elements the Directive contains are new definitions of indirect discrimination, harassment and sexual harassment as forms of discrimination. Protection against victimization and the right for associations to engage on behalf or in support of complainants in a judicial or administrative procedure are addressed. Bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex and their tasks are defined and an obligation for Member States to promote social dialogue with a view to fostering equal treatment has been established. Clear provisions on legal remedy and sanctions without prior upper limit are provided. The Directive had until 5 October 2005 to be transposed.⁵³

For the first time at the EU level the social reality of sexual harassment is legally defined as a situation in which "any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person in particular when creating an intimidating, hostile, degrading or offensive environment."⁵⁴ According to Article 2 of the Directive, based on national law, collective agreements or practice, the Member States shall encourage "employers and those responsible for access to vocational training to take measures to prevent all forms of discrimination on grounds of sex, in particular harassment and sexual harassment in the workplace." In this regard, the Member States are required to introduce measures to prevent sexual harassment in the workplace, by encouraging employers to promote equal treatment for

⁵³ *Legislation – Legal acts on equal treatment.* EUROPA.

<http://europa.eu.int/comm/employment_social/gender_equality/legislation/legalacts_en.html> All the directive connected to gender equality are listed in Annex 2.

women and men in a planned and systematic way, and to also draft equality plans on a regular basis.

The Directive also establishes the framework for setting up an independent body or bodies at the national level that contribute to the "promotion, analysis, monitoring and support of the equal treatment of all persons without discrimination on the ground of sex." The minimum requirements for the body are:

- pursuing claims on behalf of victims of discrimination through an administrative or judicial procedure;
- conducting independent surveys concerning discrimination;
- publishing independent reports and making recommendations on any issues relating to discrimination.⁵⁵

In 2004, a new Directive⁵⁶ was adopted on implementing the principle of equal treatment between men and women in the access to and supply of goods and services, based on Article 13 of the EC Treaty. The Directive applies to goods and service available to the public, which fall outside the area of private and family life. It lays down the principle that sex based actuarial factors should be eliminated. This Directive was not to be transformed yet.

The EU legislation is binding on the Member States, as Lydia la Riviere-Zijdel, president of the European Women's Lobby mentions, "in the area where Member States have given the EU the power to act, European laws take precedence over national legislation, and a national law that contravenes European law has to be changed. In other terms, if progress is made at European level, it must be incorporated at national level."⁵⁷ Member States are required to send a report to the EU about how they transposed all the directives, looking at how the transposition was carried out and whether it was carried

⁵⁴ Directive 2002/73/EC of the European Parliament and of the Council. Official Journal of the European Communities. <http://europa.eu.int/eur-lex/pr/en/oi/dat/2002/l_269/l_26920021005en00150020.pdf>

⁵⁵ Ibid.

⁵⁶ Directive 2004/113/EC of December 2004.

out correctly. If not transposed, the EC can ask the Member State to pay financial sanctions. Article 226 of the EC Treaty brings up: "If the Commission considers that a Member State has failed to fulfill an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations. If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice."⁵⁸ However, there is no more control of the EC towards the Member States on the adherence to EU legislature.

2.2. Soft Law Relevant to Gender Equality

The soft law⁵⁹ relevant to gender equality covers mainly *European Employment Strategy*, respectively the *Lisbon Strategy* and the *Open Method of Coordination*⁶⁰, and concept of *Gender Mainstreaming*. Another important strategic document concerning the gender equality is *The Community Framework Strategy on Gender Equality (2001-2005)*.⁶¹ By the soft law, the Commission calls for action to eliminate "inequalities and promoting equality between women and men" by setting important goals: "promoting gender equality in economic life, equal participation and representation, equal access and full enjoyment of social rights for women and men, gender equality in civil life, change of gender roles and stereotypes, as well as gender equality policy-making

⁵⁷ Riviere-Zijdel, Lydia. "Transposition and effective implementation of the acquis: A key element of gender equality policy." (Speech on conference "Women and men in an enlarged Europe", Malta, 1-3 April, 2004) <http://europa.eu.int/comm/employment_social/gender_equality/news/malte/zijdel.pdf>

⁵⁸ *Consolidated Version of the Treaty Establishing the European Community. Official Journal of the European Communities*, 2002. Article 226.

<http://europa.eu.int/eur-lex/lex/en/treaties/dat/12002E/pdf/12002E_EN.pdf>

⁵⁹ European Soft law covers all not-binding legislative acts of European Institutions, including Decisions, Recommendations, Opinions, Resolutions, Statements and Action Programs. *The ABC of Community Law*. European Commission. 2000. p.58, 68-69

⁶⁰ "The Open Method of Coordination (OMC) is a voluntary process that all Member States have committed themselves to pursuing in the context of the Lisbon Strategy. This method can be a way of creating greater visibility, encouraging a strategic and integrated approach, mainstreaming the issue of poverty and social exclusion, mobilizing all relevant actors and finally to encourage mutual learning. The OMC is supported by a Community Action Programme (2002-2006) to encourage cooperation in fighting social exclusion, which provides funding to a wide range of activities." *The Social Inclusion Process*. EUROPA. <http://europa.eu.int/comm/employment_social/social_inclusion/index_en.htm>

⁶¹ See *Community framework strategy on gender equality (2001-2005)*. EUROPA. <<http://europa.eu.int/scadplus/leg/en/cha/c10932.htm>>

mechanism.”⁶² although most of these policies are non-legally binding, they are of great importance for the development of Member States' policies in the respective fields.

The main goals of *The European Employment Strategy* (EES) are full employment, quality of work and productivity, employment and social cohesion. The strategy is designed to assure coordination of the Member States' employment policy priorities in line with the common priorities established at the EU level by the European Council. There are common Employment Guidelines for the Member States to follow the EES. The Member States describe how the guidelines were put into practice in National Action Plans on Employment. By these documents it can be observed to which extent gender equality remains on the employment agenda. Equal opportunities for men and women were included in the priorities of the Employment Guidelines. Thanks to the EES, more importance was given to equal opportunities for men and women.

The pillar of equal opportunities for men and women urged Member States to reduce the gender gap, to put in place policies to facilitate the articulation of family and professional life and to ensure better access to employment of women. In addition to equal opportunities for men and women being one of the four pillars, the Member States have agreed to apply the principle of mainstreaming gender equality throughout the other three pillars of the employment guidelines.⁶³ Since 2003, equal opportunities are not included in Employment Guidelines as a separate, but gender mainstreaming is still respected in all the new pillars. These are: full employment, improving quality and productivity at work, and strengthening social cohesion and inclusion.⁶⁴

The Lisbon Strategy, as a part of the *European Employment Strategy* is one of the

⁶² Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union. Overview. Open Society Institute– Network Women's Program. 2005. p. 10-11

⁶³ Until 2003, there were four main pillars: employability, entrepreneurship, adaptability and equal opportunities. Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union. Overview. Open Society Institute– Network Women's Program. 2005. p. 20.

⁶⁴ Council Decision of 12 July 2005 on Guidelines for the employment policies of the Member States. Official Journal of the European Union.
<http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l_205/l_20520050806en00210027.pdf>

instruments of gender equality. As is proclaimed in the Report from the Commission on Equality between Women and Men in 2005: "Strengthening the position of women in the labour market, guaranteeing a sustainable social protection system, and creating an inclusive society remains fundamental in order to reach the Lisbon goals." Therefore, Member States should work on lessening the high level of the gender pay gap and gender segregation⁶⁵ in the labour market. They should guarantee equal opportunities in the labour market for women and men with care duties, by supplying instruments that would allow them to work full time if they wish and also to return to full time jobs after a period of part time. One other important advance is that Member States should ensure that activities financed by the Structural Funds, respectively by the European Social Fund aim at decreasing gender pay gap and combating gender stereotypes in education and in the labour market.

The concept of gender mainstreaming is also a soft law measure. It is a systematic advancement of priorities and needs of men and women in all areas of policies with the goal of achieving equal opportunities for men and women. Governments of the EU Member States should propose gender mainstreaming in all strategies and programs, so before any decision is accepted, the analyses of influences on men and women is done. "Gender mainstreaming means integrating the gender equality objective into all Community policies. The unit assists other services of the Commission to gender mainstream their policies. The Framework Strategy and its annual work programme is an important instrument for achieving these aims."⁶⁶ The Council Of Europe defines gender mainstreaming: "The essential element in the definition of gender mainstreaming is its accent on policy processes. Gender mainstreaming is about organizing procedures and routines, about organizing responsibilities and capacities for the incorporation of a gender perspective. It is about organizing the use of gender expertise in policy-making, organizing the use of gender impact analyses in this process, organizing consultation and participation of relevant groups and organizations in the process. If none of this is

⁶⁵ "Concentration of women and men in certain types of employment and on certain levels jobs, whereas opportunities of women are more limited than opportunities of men (horizontal segregation). Women are also working in lower levels (vertical segregation)." <http://www.feminismus.cz/slovnicek.shtml>

done, then clearly gender mainstreaming has not started.”

In terms of the political dimension of gender mainstreaming, the Member States Governments are to issue political statements indicating the commitment to mainstream gender equality into all policies and programs and underlining the objective of achieving gender equality. According to EWL “effective gender mainstreaming cannot be achieved without:

- explicit political will and institutional commitment at higher level to the gender mainstreaming strategy, including systematic efforts to implement it;
- full engagement with the gender mainstreaming process from leaders and managers within the services, including clear lines of accountability and responsibility;
- development of adequate institutional capacity and expertise to carry out gender mainstreaming strategies;
- adequate budgets that support the people as well as the programs;
- ensuring the integration of a gender equality analysis and objectives in EU macro-economic policies and trade policies.”⁶⁷

As an overall assessment of the concrete ways of building gender mainstreaming as a strategy complementary to traditional equality policies, it is to be noted that in most of the twenty-five current EU Member States gender mainstreaming is weak outside of employment issues.⁶⁸

The Community Framework Strategy on Gender Equality (2001-2005) has as an objective “to establish a framework for action providing for gender mainstreaming in all Community activities in such a way that they help to attain the goal of removing

⁶⁶ *Gender Equality*. EUROPA.

<http://europa.eu.int/comm/employment_social/gender_equality/index_en.html>

⁶⁷ *European Women's Lobby Proposals for the new Social Policy Agenda 2006 – 2010*. EWL.

<http://www.womenlobbv.org/site/1/abstract.asp?DocID=273&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu=>

⁶⁸ *Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union. Overview*. Open Society Institute– Network Women's Program. 2005. p.25

inequalities and promoting gender equality.”⁶⁹ Alongside with the overall approach, the framework strategy proposes the introduction of special measures for women to remove persistent gender inequalities. The main priorities of the strategy are: promoting gender equality in economic life, promoting equal participation and representation, promoting equal access and full enjoyment of social rights for women and men, promoting gender equality in civil life, and promoting change of gender roles and stereotypes.

Concerning the topic of economic life, the strategy sets up measures to reduce occupational segregation and helping to reconcile working and family life. It encourages lifelong learning and access to active labour market measures for women and promoting the employability and access to IT jobs. It is seen as necessary to develop dialogue with the top management of enterprises operating in the European Union on their contribution to gender equality in economic life. It also suggests the creation of a European certificate to be awarded annually to enterprises which have developed good practice to promote gender equality.

In the section on participation and representation, significance is given to improving the gender balance in political decision-making by measures oriented on electoral systems, legislation, quotas and other measures dealing with gender balance in elected political bodies. They will also focus on the introduction of awareness-raising activities addressed to citizens on the need for gender balance in elected political bodies and inside political parties' structures. The measures will also focus on gender balance in economic and social decision-making by monitoring and evaluating the transition from education and training to working life as well as recruitment and career development for potential female top managers. It is also essential to improve gender balance in the European Commission.

In case of social rights the application of European legislation to social protection, parental leave, maternity and working time has to be improved. In the case of civil life

⁶⁹ *Community framework strategy on gender equality (2001-2005)*. EUROPA. <<http://europa.eu.int/scadplus/leg/en/cha/c10932.htm>>

the aim is to strengthen and further develop the enforcement mechanisms of the equal treatment legislation, together with better awareness of and training on equality rights and human rights of women. In the area of gender roles and stereotypes, it is logical that it aims to change behavior, attitudes and values that define and influence gender roles in society through education, the media, culture and science. Eliminating prejudices and stereotypes is keen for reaching gender equality.⁷⁰

Low representation of women in the Parliament and other political bodies is also a subject of concern. For the achievement of balanced representation relevant measures are needed. In 1995, the European Union accepted the resolution of the Council on balanced representation of women and men in decision-making positions, and in 1996, the Recommendation of the Council on balanced representation of men and women in the process of decision-making. It is said in the Recommendation that:

- balanced participation of men and women in decision-making is a basic component and requirement for democracy,
- insufficient representation of women is taken as a loss for the society,
- balanced participation of men and women in politics is "likely to give rise to different ideas, values and behavior which will result in more justice and equality in the world for both men and women",
- Member States should accept complex integrated strategies directed to support balanced participation of men and women in decision-making processes and developing relevant measures for reaching of this goal.⁷¹

2.3. Institutions

It is mainly the European Commission, who is in charge of the promotion of equal opportunities and it has also the responsibility of assessing the Member States to see if they are adhering to the legislature. The body in control of gender equality is the Unit for

⁷⁰ Ibid.

⁷¹ *Report from the Commission to the Council, the European Parliament and the Economic and Social Committee on the Implementation of Council Recommendation 96/694 of 2nd December 1996 on the Balanced Participation of Women and Men in the Decision-making Process.*
COMMISSION OF THE EUROPEAN COMMUNITIES.
<http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2000/com2000_0120en01.pdf>

Equality for Men and Women and it is under the responsibility of the commissioner for Employment, Social Affairs and Equal Opportunities, Vladimír Špidla.

The Unit was established in 1976 under the DG⁷² V "Employment and Social Affairs". The long term objective is to observe and ensure the realization of gender equality EU Directives. In addition, it supports the position of women in the labour market and in society. The Unit also advances inclusion of gender aspect to strategies and activities of the EU. The Unit is responsible for putting forward legislative proposals to the Council of Ministers, which negotiates it, edits it and accepts it in a form acceptable for all Member States. Another activity is, for example, support for multinational projects connected to equal opportunities for men and women in employment, reconciling professional and family life, media, decision making and mainstreaming.

Another department that is under the European Commission and deal with the gender equality is the Advisory Committee on Equal Opportunities for Men and Women. The Committee's remit is to help the Commission formulate and implement Community measures aimed at promoting equal opportunities for women and men and to encourage the continuous exchange of information on experience gained, and policies and measures undertaken in the fields in question between the Member States and the various actors involved.⁷³ There is also an expert group to balance gender equality in within European Commission's Committees.⁷⁴

Under the European Parliament, the main body related to gender equality is the Committee on Women's Rights and Gender Equality. The committee was established in 1984. The main function of the body is the protection of the *Acquis Communautaire* of gender equality and further development of equal opportunities for men and women.

⁷² DG – Directorate-general; "A DG is the main administrative unit within the European Commission. Each Commissioner is responsible for one or more DGs."... "The DGs, which vary in size, are each headed by a director-general and are dedicated to particular areas of policy." ... "In addition to the DGs, there are number of other services." Bainbridge, Timothy & Teasdale, Anthony. The Penguin Companion to European Union. p.116.

⁷³ *Advisory Committee on Equal Opportunities for Men and Women*. EUROPA.
<<http://europa.eu.int/scadplus/leg/en/cha/c10919.htm>>

The Committee is responsible for:

- definition, development and implementation of women's rights in the EU and support of this rights in states that are not members of the EU;
- promotion of gender mainstreaming to all areas of EU activity;
- explanation and reviewing all political programs and activities related to women;
- monitoring and introducing of international treaties and conventions related to women's rights;
- information policy and research of women's matters;
- equal opportunities for men and women on the labour market;
- continual review realization of the budget in the connection of equal opportunities.⁷⁵

The chairwoman of the Committee is Hana Zaborská from Slovakia; it has forty members, who are European Parliament representatives.

On 8 March 2005, the Commission adopted a proposal for the creation of a European Institute for Gender Equality. "The Institute should provide technical support for the Member States and the Community institutions by collecting, analyzing and disseminating reliable and comparable data at Community level and by developing methodological tools for better integrating gender equality in all Community policies, fostering dialogue and exchange of good practices. It should also give greater visibility to EU gender equality policy through the development of awareness rising and dissemination of information activities addressed to the stakeholders and the public at large. The Commission proposal is currently under discussion and it is expected that the Council and the European Parliament, co-legislators, will decide before the end of 2006, in order for the Institute to be operational in 2007."⁷⁶

⁷⁴ *Gender balance within the committees and expert groups set up by the Commission.* EUROPA.
<<http://europa.eu.int/scadplus/leg/en/cha/c10920a.htm>>

⁷⁵ *Committee on Women's Rights and Gender Equality.* European Parliament.
<http://www.europarl.eu.int/committees/femm_home.htm>

⁷⁶ Interview with Fay Devonic, Director of the DIRECTORATE G: Equal Opportunities of the DG for Employment, Social Affairs and Equal Opportunities (Annex 1).

At last it is worth mentioning the European Women's Lobby. Of course, it is not a European Union institution, but as a lobby group, it has day to day contact with the EU institutions: the European Parliament, European Commission and the EU Council of Ministers. A lot has been done thanks to this group. EWL is an umbrella organization of women's associations in the EU. It is a non-governmental organization bringing together over 4000 women's organizations across Europe. It aims at promoting women's rights and equality between men and women in the EU. EWL is active in different areas such as women's economic and social positions, women in decision-making, violence against women, women's diversity, etc. The EWL can be seen as a control mechanism over the EU institutions: "We ensure that equality between women and men remains visible and central to the political process of the EU, working through our members at national level and directly with European decision makers to influence and develop new policies to achieve equality."⁷⁷

2.4. Structural Funds Allocated to the Advancement of Gender Equality

The Structural Funds⁷⁸ are the main EU tools for re-distribution of resources between regions and between different groups in the population. Equal Opportunities for men and women are one of the priorities for men and women and there are incorporated into all operational programs.⁷⁹ Even in programs that are not directly connected to equal opportunities for men and women, they must respect this principle. Applicants must make provision for horizontal priorities in the project application even if the program and projects are directed to a different theme.

The structural fund, which is used to distribute money for advancing gender equality is the European Social Fund. Through the fund the main extent of the European Employment Strategy is put in practice at the national level of the Member States. "... the employability level represents one of the main tasks of the European Structural Funds,

⁷⁷ *About the European Women's Lobby. EWL.*

http://www.womenlobby.org/site/1abstract.asp?DocID=8&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu=

⁷⁸ European Regional Development Fund, European Agriculture Guidance and Guarantee Fund, European Social Fund, and Financial Instrument for Fisheries Guidance. *The Structural Funds. EUROPA.* http://europa.eu.int/comm/regional_policy/funds/prord/sf_en.htm

and as the female employability is significantly lower than the male one throughout the EU, it can be concluded that a consistent gender mainstreaming of the European Social Fund represents a major catalyst for putting gender equality into practice.”⁸⁰

An important financial program concerning focusing on equal opportunities was the Community Initiative EQUAL, which was also part of the European Social Fund. “The aim of the Community Initiative EQUAL is to promote new ways of combating all forms of discrimination and inequalities in the labour market on the basis of transnational cooperation and facilitate the social and occupational integration of asylum seekers.”⁸¹ Projects financed from this program are active now, and also the Czech Republic had received funding from EQUAL. One of the pillars is focusing directly to support equal opportunities for men and women and is divided into two sub-pillars “Reducing gender gap and desegregation” and “Reconciling of family and professional life”. Indeed, the principle of gender mainstreaming has to be taken in account in all the pillars.

As in EQUAL programme, all structural funds have to make provision for gender mainstreaming. The objective is to encourage the Member States “to make greater use of the Structural Funds in support of measures aimed at eliminating inequalities and promoting equality between women and men.”⁸² Incorporating the equal opportunities measurement into structural policies represents the need to decrease inequalities between women and men as regards to employment, training, access to the labour market and participation in the decision-making process. European Structural Funds are important tools helping to reach these objectives, according to the legal and economic requirements. Particularly, the Funds can play a key role in helping to reconcile work and family life, and integrate disadvantaged women.⁸³

⁷⁹ Together with e.g. environment they are part of so called horizontal priorities.

⁸⁰ Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union. Overview. Open Society Institute– Network Women’s Program. 2005. p. 25

⁸¹ EQUAL. EUROPA. <<http://europa.eu.int/scadplus/leg/en/cha/c10237.htm>>

⁸² Gender mainstreaming within the Structural Funds. EUROPA.
<<http://europa.eu.int/scadplus/leg/en/cha/c10237a.htm>>

⁸³ Ibid.

2.5. Facts about situation in the EU

As the *European Commission' Report on Equality between Women and Men* states "despite the slowdown in economic growth during the last few years and the limited employment growth, a positive trend towards closing gender gaps remains in education and employment in the enlarged EU 25, while the pay gap between women and men remains almost unchanged." In 2003, in the European Union the estimated gender pay gap was 15 percent. The risk of poverty was higher for women compared to men in 17 of the Member States. In 2003, there was an employment gender gap of 15.8 percent, while the unemployment gender gap was equal to 1.7 percent.⁸⁴ Women form the majority of those working part-time.

Women still outnumbered men in education. In 2004, the gap between women and men aged 20 to 24 attaining secondary educational level was 5 percentages in the EU. The percentage of women graduates increased to 58 percent in 2003. Women now also represent 41 present of PhD graduates.⁸⁵ Traditional patterns remain in the research field where men represented 86 percent of academic staff who are full professors in the EU in 2002. More women than men participate in adult education and training (life-long learning) in 21 Member States.⁸⁶

Between the years 1991 and 1999, the representation of women increased in all European institutions: in European Parliament from 19 to 31 percents, in European Commission from 10 to 25 percents, in the National Governments of Member States from 11 to 23 percents. After the European Parliament elections in 2004, 30.33 percents of 732 places were occupied by women. The most successful states from 10 new Member States are Lithuania (6 women from 12 deputies) and Slovenia (3 women from 7 deputies). From 24 Czech deputies in the European Parliament, there are five women.

⁸⁴ *Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Equality between Women and Men, 2005.*

COMMISSION OF THE EUROPEAN COMMUNITIES.

<http://europa.eu.int/comm/employment_social/news/2005/feb/gender_equality_2005_report_en.pdf> p.4

⁸⁵ *Ibid.*

⁸⁶ *Ibid.* p.11

There are only three women in the heads of Parliamentary Committees: social democrat Prevench Beres from France (Economic Committee), Luisa Mortantini from Confederation of European Left (Development Committee) and Anna Záborská from Slovakia (Committee on Women's Right and Gender Equality). Anna Záborská was elected, even though, there were many protests against her election, because of her expressions in press that homosexuality is a "health defect" and her party has doubts, if homosexuals can work as teachers. Such expressions are against European antidiscrimination lines.⁸⁷

Some Member States experienced a substantial increase of the number of women in the parliament since 2003 while others a slight decrease. The percentage of women in managerial positions in the EU has increased by one percentage point since 2002, to reach 31 percent in 2003. Very few women are members of the daily executive boards in top 50 companies.⁸⁸

Recently, the European Women's Lobby presented a Gender Equality Road Map for the European Community 2006 – 2010 as a model for the official Communication on gender equality to be put forward by the European Commission at the end of 2005. Part of the document describes the ideal institutional mechanisms for the realization of gender equality and gender mainstreaming at the European level. To strengthen the existing gender equality institutional mechanisms at EU level following actions has to be taken:

- Transforming the existing Unit on equal opportunities for women and men into a Directorate.
- Strengthening the mandate as well as the human and financial resources of the future European Commission Directorate on Gender Equality to give it the ability to influence policy and properly monitor the implementation of

⁸⁷ *Genderový balíček 01/2005 – Politická participace žen. (Gender Info-package 1/2005 – Political Participation of Women.)* Gender Studies, o.p.s. <http://feminismus.cz/download/GB_politka.pdf> p.30

⁸⁸ All Member States except four of them do not reach 15 percent women. *Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Equality between Women and Men, 2005. COMMISSION OF THE EUROPEAN COMMUNITIES.* <http://europa.eu.int/comm/employment_social/news/2005/feb/gender_equality_2005_report_en.pdf> p.11

legislation.

- Creating a women's information service within the Directorate to deal with awareness raising activities and public information.
- Allocating more resources to the Advisory Committee on Equal Opportunities for Women and Men to strengthen the interaction between the European and national levels, in particular to reinforce the impact of national gender equality bodies.
- Ensuring consistency between the work of the EU institutions and the work of the future European Gender Equality Institute by integrating the activities of the European Gender Equality Institute in the annual work programme of the EU institutions.
- Developing recommendations for the use of gender sensitive language in all official documents and interpretation in all EU official languages.⁸⁹

After evaluating the situation in the European Union, in the *Report on Equality between men and women*, the Commission gives several suggestions for improving gender equality in EU Member States:

- to strengthen national mechanisms for gender equality;
- to control implementation of the Directive 2002/73/EC;
- to organize avoiding gender segregation in the labour market and reducing the gender gap;
- to increase women's participation in the labour market;
- to examine pension systems to meet the needs of both women and men;
- to develop care facilities for children and other dependants and to recruit strategies for the harmonization of professional and private life, involving men to the same extent as women;
- to use Structural Funds, respectively the European Social Fund for the

⁸⁹ *Gender Equality Road Map for the European Community 2006-2010. EWL.*
<<http://ewl.horus.be/SiteResources/data/MediaArchive/policies/aender%20equality/EWL%20Road%20Map%20EN.pdf>> p.3-4

promotion of gender equality.⁹⁰

Other recommendation given by the Report is that “the promotion of equality between women and men implies changes for men as well for women. Therefore it is essential that both men and women actively participate in creating new strategies for achieving gender equality.” It means that the Member States should advance flexible work arrangements to enable the conciliation of professional and private lives for both men and women. Special attention should be given to men to increase their participation in family life. Member States should promote parental leave for both, mothers and fathers, again focusing more on fathers. In conclusion, the Member States should campaign sharing of responsibilities of care of children and other dependants between men and women. Concerning the adherence of *Beijing Platform for Action* the Member States should touch up the gender statistics and indicators, pay better attention to data related to immigration.⁹¹

2.6. Model States

If we look at all the Member States, there are some countries, that have relevant institutional support toward gender equality and the issue is taken seriously there. From my studies, those states are Great Britain, Ireland, France, and Sweden. France and Great Britain was chosen to be presented here to show model states.

2.6.1. Great Britain

Since 1997, Great Britain set up a new infrastructure giving to the position of women in Government more importance and making the agenda of gender equality in the central Government's attention. Therefore, next to the Minister for Women sitting in the House of Lords, women and equality questions were taken into account also by State Minister of Health, State Secretary for Northern Ireland and State Secretary for Wales. All

⁹⁰ *Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Equality between Women and Men, 2005.*

COMMISSION OF THE EUROPEAN COMMUNITIES.

http://europa.eu.int/comm/employment_social/news/2005/feb/gender_equality_2005_report_en.pdf p.6-

9

⁹¹ *Ibid.* p.7-11

Government policies have included gender mainstreaming into all levels of preparation, implementation and evaluation of policies.

Interdepartmental Women and Equality Unit⁹² was established for the support of Minister for Women and for ensuring that Government policies are giving importance to women's interests. The Unit is part of the Cabinet Office and coordinates the Network of Women's Policy that includes all the Ministries and their policies on gender equality.

The Equal Opportunities Commission⁹³ is an independent statutory organ that is financed by Secretary of State for Education and Employment. Commissioners represent trade unions' members, employers, vocational and educational organizations' representatives. The working team of the Commission has an equivalent status to state officers. The goal of the Commission is to propose laws, training and propaganda activity to eliminate all forms of discrimination, to advance equal opportunities for men and women, and revise and suggest annexes to legislature on discrimination.

Under the Secretary of State for Education and Employment occurs the Sex and Race Equality Division that has the responsibility over equality issues mainly when coordinating and representing Government policy. Every Ministry reviews the effects of its own policy on diverse groups.

An independent advisory body is the Women's National Commission. The Commission works together with the Women and Equality Unit. It has access to the Minister for Women and it is a primary communication node for women in the United Kingdom. The Commission has its own members and also partner organizations. The aim of the Commission is to control the Government to advance the gender equality among public.

In February 2002, the Government of the United Kingdom introduced laws allowing political parties to use positive measures to eliminate unequal representation of women

⁹² Women and Equity Unit. <<http://www.womenandequalityunit.gov.uk/>>

⁹³ Equal Opportunities Commission. <<http://www.eoc.org.uk/>>

and men that were voted in regional, state and European elections. The law allows political parties to use positive actions.

2.6.2. France

In France, the Committee for "Women's Work" was established already in 1965 under the Ministry of Labour. In 1974, a first State secretary for women's conditions, directly responsible to the Prime Minister was found and first regional delegates for women's situation were named. The year 1978 was very productive concerning the gender equality. Three instruments for the support were set up: State Secretary for Women Employment responsible to the Minister of Labour, the Ministry for Women's Conditions and Inter-Ministerial Committee for Actions in Favor of Women.

The French equal treatment legislature focuses on:

- the principle of equal pay for work of equal value;
- professional equality between men and women – concentrating on social dialogue, equal representation of employees, etc;
- sexual harassment;
- moral and sexual harassment in the workplace;
- feminization of occupational names, titles and official positions;⁹⁴
- parity law⁹⁵ on equal access of men and women to electoral mandates and public functions.

The Governmental organ that is responsible for equal opportunities is called *Services for Women's Rights and Equal Opportunities* (SWREO) and it is part of the Ministry of

⁹⁴ Donlevy, Vicky. "Rovné příležitosti pro muže a ženy.(Equal Opportunities for Men and Women.)" (Presentation from seminar April 16, 2002.) <http://www.mpsv.cz/files/clankv/926/2597_cz.pdf>

⁹⁵ The parity law sets that every candidate list must have on the second place woman and on every second place men. When the political party proposes the candidate list that is not obeying this requirement, it is sanctioned by decreasing of the financial benefit to political parties. The sanction is adequate to the difference of number of women or men in the candidate list. The law does not apply to all levels of political decision-making, but to those it does, it noted a very good result. *Závěrečná doporučení z projektu "Zlepšení veřejného institucionálního mechanismu pro zavedení, posílení a kontrolu prosazování rovných příležitostí pro muže a ženy."* (Final recommendations from the project "Improvement of Public Institutional Mechanism for Applying, Enforcing and Monitoring Equal Treatment for Men and Women".) <<http://www.mpsv.cz/files/clankv/976/Final2.pdf>> p.21

Labour and Solidarity. It leads and coordinates a network of delegations in individual regions and oversea districts. In all of administrative units, there is a *Regional/Departmental Delegation for Women's Rights and Equal Opportunities*. The role of the SWREO is:

- To put into practice Governmental policy with the aim of support of equal opportunities for men and women.
- To coordinate and supervise the network of regional and departmental delegations.
- By projects promoting gender equality support the NGOs.
- To organize the activity of the *Inter-Ministerial Committee for Women's Rights*.

Goals of the organ are very obvious:

- Support equal opportunities for men and women in the workplace.
- Play an active role in promotion and protection of the human rights of women.
- Promote and support the basis of parity and increase women's participation in civic life.
- Ensure better harmonization of private and professional life.
- Put into practice gender mainstreaming.

The *Inter-Ministerial Committee for Women's Rights* serves equality in the workplace mainly. In various working groups it discusses texts attempting gender equality in the workplace and advices and proposes actions in the goal of improving the equal opportunities for men and women in the workplace. Besides equality in the workplace, the institution also focuses on access to decision-making positions, human rights of women, harmonization of professional and private life, women in culture, and reinforcing the resources assessed to advancing of the gender equality. An advising centre working in France is the *National Information and Documentation Centre for Women and Family*.⁹⁶

⁹⁶ Donlevy, Vicky. "Rovné příležitosti pro muže a ženy.(Equal Opportunities for Men and Women.)" (Presentation from seminar April 16, 2002.) <http://www.mpsv.cz/files/clanky/926/2597_cz.pdf>

It must be said that the institutional support for human rights of women and gender equality is very huge in Great Britain and France. In addition, in France, it is supported by the parity law, which is one of the instruments of achieving gender equality.

Chapter 3: Position of the Czech Republic in the EU Conditions

The Czech Republic had officially adhered to all the requirements given by the European Union before the May 1, 2004. The amendment no. 155/2000 also called the "harmonizing amendment" implemented some 30 EU Directives, including those 11 connected to equal opportunities⁹⁷, into Czech law. However, as Kristina Koldinská, the reporter to the *Bulletin of the Commission's network of legal experts on the application of Community law on equal treatment between women and men*, points out in here report about the CR, the practice is a little different. "The national legislation seems to be fully harmonized with abovementioned Directives. However, from a practical point of view, many problems still remain."⁹⁸ The labour law had been developed with many provisions relating to gender equality.

In connection with adherence of all measures connected to gender equality, Kristina Koldinská says: "All the equal treatment Directives which the Czech Republic was under a duty to implement have now been transported into Czech law. However, the actual application of all the relevant measures could still prove extremely difficult, because Czech society is not yet used to applying the anti-discrimination norms and they are viewed with suspicion, including the courts."⁹⁹ Barbara Havelková, reporter to the Open Society Institute about Equal Opportunities for Women and Men in the Czech Republic, focusing on monitoring law and practice, adds to the topic: " It has been accepted that the gender equality relevant *Acquis Communautaire* had been transposed. This does not necessarily mean that the legislation concerning equality between men and women is being implemented. More than a year after accession, the equally important segments

⁹⁷ Directive 2002/73/EC was to be transposed in October 2005, Directive 2004/113/EC was not be transposed yet.

⁹⁸ *Bulletin Legal Issues in Gender Equality*. European Commission, n2/2005.

<http://eur-lex.europa.eu.int/comm/employment_social/gender_equality/docs/2005/bulletin05_2_en.pdf> p.22-23

of implementation – application, compliance by the private sector and enforcement are lacking or severely underdeveloped. There is a great gap between *de iure* and *de facto*.¹⁰⁰

The institutional mechanism has been improved a lot since 1998, because several bodies dealing with issues of equality and discrimination of women have been established. The problem connected to the institutions is that “their powers are restricted to report-writing and issuing recommendations; none of them have the power to assign tasks, give binding directions or effectively inspect other Government bodies.”¹⁰¹ There are policies and programs related to gender equality and research and statistics improved and enriched a lot.

Also it is clearly seen that discrimination in the labour market is present in the CR, however till the first half of 2003, there was no case brought to court concerning this form of discrimination.¹⁰² Women or men do not usually know about their rights and they are scared of being stigmatized. This can be seen mostly with sexual harassment, which has never been taken seriously in the CR and for that reason people who were sexually harassed usually leave their job.

This chapter will focus on adherence to EU measures in both ways – officially and practically. It will look at the harmonization of Czech legislature with the EU legislature, implementing soft law, where a special part will be given to gender mainstreaming, and distribution of pre-accession and structural funds. Inspired by the European Commission’s report about gender equality, it will look also at strengthening women’s

⁹⁹ *Bulletin Legal Issues in Gender Equality*. European Commission, n1/2005.
<http://europa.eu.int/comm/employment_social/gender_equality/docs/newsletter/bulletin05_1_en.pdf>
p.21-23

¹⁰⁰ Interview with Barbara Havelková, lawyer, author of *Equal Opportunities for Women and Men: Monitoring law and practice in the Czech Republic*, published by Open Society Institute in a project *Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union*. (Annex 1)

¹⁰¹ *Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union. Overview*. Open Society Institute– Network Women’s Program. 2005. p. 61-62

¹⁰² Marksová-Tominová, Michaela. *Gender Assessment of the Impact of EU Accession on the Status of Women in the Labour Market in CEE. National Study: Czech Republic*. Gender Studies, o.p.s. 2003. p.66

position on the labour market and at addressing men in achieving gender equality. Finally, it will look at the barriers for achieving gender equality in the CR and the future ideal progress on the issue.

3.1. Implementation of the EU Legislation

As already mentioned in the introduction of this chapter, all of the EU Directives that were supposed to be implemented in the accession period were successfully implemented. A different situation is with the new Directive 2002/73/EC. There are doubts about the transposition of this Directive into the Czech system. In addition, as with most of the implemented directives remains the problem of practical usage.

The main problem connected to the adherence to EU measures is the observance of Article 141 (1) of the EC Treaty that sets out the principle of equal pay for male and female workers of equal work for work of equal value. The wage gap in the Czech Republic remains around 25 percent. Stěpán Jurajda in his book *Gender Wage Gap and Segregation in Late Transition* demonstrates that both "structural and individual discrimination contribute to the gap." Barbara Havelková shows three main problems in connection to Czech legislation and gender wage gap:

1. the general lack of understanding of the concept of gender equality;
2. concern the legislation on labour relations which are notorious for breaching legal rules;
3. suspicious cause of the gender aspect.

The Czech community is not mature enough to understand, develop and define the concept of equality or gender equality in particular.¹⁰³

Jurajda distinguishes three types of gender wage gap, which also explains the main reasons for the gap: "(i) the gender wage difference attributable to differences in productive characteristics of men and women, (ii) the pay difference one can explain

¹⁰³ Interview with Barbara Havelková, lawyer, author of *Equal Opportunities for Women and Men: Monitoring law and practice in the Czech Republic*, published by Open Society Institute in a project *Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union*. (Annex 1)

using measures of female segregation and so attribute to potential violations of the equal employment opportunity clauses, and (iii) the unexplained part of the gap, which represents an upper limit on the violation of the equal pay act."¹⁰⁴

In connection with Article 141 (1) of the EC Treaty, respectively with the Directive 75/117/EEC, it must be said that this principle is not obeyed in any country of the European Union; therefore, much has to be still done at the EU level.

The implementation of the principle of the equal treatment of men and women as regards access to employment, vocational training, promotion and working conditions occurred in two waves. The first concerned Directive 76/207/EEC and 97/80/EC, the second one focused on the implementation of Directive 2002/73/EC. The equal treatment principles had to be implemented in three major Czech Acts: the Labour Code, the Employment Act and the Civil Procedural Code. The labour Code included a paragraph that prohibits direct and indirect discrimination. However, Kristina Koldinská writes in her report that there has to be more done: "no further elaboration in secondary legislation has yet taken place, which left Czech lawyers at a loss as to how to apply the prohibitions. So far, therefore, no important judgments regarding discrimination on grounds of sex have yet been rendered."¹⁰⁵ In the area of employment policy, new legislation has been approved recently. The new Employment Act introduces the prohibition of discrimination and the obligation to guarantee equal treatment of all persons in the application of various labour-law rights."¹⁰⁶

Regarding this Directive the Labour Code contained specific definition of following terms: direct and indirect discrimination, harassment and sexual harassment. The important Anti-Discrimination Bill is still awaiting its second reading in Parliament. In case that the Bill will be approved, victims of discrimination in the labour market will

¹⁰⁴ Jurajda, Štěpán. *Czech Gender Segregation and Wage Gap with Anti-discrimination Legislation*. CERGE-EI. 2004. <http://www.cerge-ei.cz/pdf/dp/DP125_2004.pdf> p.1

¹⁰⁵ *Bulletin Legal Issues in Gender Equality*. European Commission. n1/2005.

<http://europa.eu.int/comm/employment_social/gender_equality/docs/newsletter/bulletin05_1_en.pdf>

p.22

¹⁰⁶ *ibid*, p.23

have possibilities to apply to Public Protector of Rights. Next to it the Bill protects against discrimination in access to employment, self-employment, working conditions, remuneration, and membership in occupational organizations.

The Employment Act came into force on October 1, 2004. There are no doubts that this act was set in the harmonization of the Czech law with the EU law. In the introductory regulation, the Act reinforces the principle of equal treatment and abolishes the principle of discrimination based on sex. One of the priorities of the state policy of employment is then mainly realization of measures supporting the achievement of equal treatment for men and women. The act gives the direct obligation to the MLSA, labour offices and employers to provide equal treatment for all people asking for employment. The Act, also as the Labour Code distinguishes between direct and indirect discrimination and defines harassment and sexual harassment. The Act is described more deeply in Chapter 1 of the paper.

Concerning the question of occupational pensions as regulated by Directives 86/378/EEC and 96/97/EC no legislation has been yet established. In 2002, a proposal to introduce occupational training was rejected by Parliament.¹⁰⁷

The Council Directive 92/85/EEC¹⁰⁸ has been implemented by means of major amendment of the Labour Code. Czech law, historically, provided quite a high level of protection to pregnant women; it was part of the communist propaganda. If the work of pregnant women involves tasks that might endanger her pregnancy, the employer must transfer her to another job, but with an equal wage. "If the work does not merit an equal wage, the worker can claim a sickness benefit to make up for the lost part of her income. Similar rules apply to breastfeeding mothers. A pregnant woman working a night shift can ask to be transferred to a day shift. There are no doubts of practical usage of

¹⁰⁷ *Bulletin Legal Issues in Gender Equality*. European Commission, n1/2004.

http://europa.eu.int/comm/employment_social/gender_equality/docs/newsletter/bulletin04_1_en.pdf

p.24

¹⁰⁸ On the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. *Legislation – Legal acts*

Directive 92/85/EEC, because the requirements were already in practice before the accession. However, it must be said that some of the legislation is too protective and employers are not sufficiently motivated to employ people, especially women with small children. For this reason, pregnant women or care-giving mothers belong to the most widely discriminated category of workers.¹⁰⁹

In relation to the directive on parental leave¹¹⁰, Czech law grants parental leave for a mother of a child at the end of her maternity leave and to the father of a child as of the day when the child is born, to the extent applied for, until the child reaches the age of three.¹¹¹ In this case, it is clear that the father is discriminated. In maternity leave, the mother receives so called "financial support for motherhood", which is a ration of health insurance. The amount of the ratio is 69 percent from her last wage. This ratio is given to fathers only if they are lone parents. If they are not, they can only have parental leave, where the benefit makes only 1.54 times the minimum wage. Presently the parental benefit is 3,573 CZK a month, which is about 123 €. ¹¹² Such a law does not correspond with the EU strategy to involve fathers more deeply in childcare and the upbringing of children.

As regards to the Directive on equal treatment of self-employed persons¹¹³, it was not necessary to take any special measures to implement its provisions. In Czech law, there were no measures that could have made possible the discrimination of a self-employed person on grounds of sex.¹¹⁴

on equal treatment. EUROPA.

<http://europa.eu.int/comm/employment_social/gender_equality/legislation/legalacts_en.html>

¹⁰⁹ *Bulletin Legal Issues in Gender Equality*. European Commission. n2/2005.

<http://europa.eu.int/comm/employment_social/gender_equality/docs/2005/bulletin05_2_en.pdf> p.23-24

¹¹⁰ Council Directive 96/34/EC. *Legislation – Legal acts on equal treatment*. EUROPA.

<http://europa.eu.int/comm/employment_social/gender_equality/legislation/legalacts_en.html>

¹¹¹ *Bulletin Legal Issues in Gender Equality*. European Commission. n2/2005.

<http://europa.eu.int/comm/employment_social/gender_equality/docs/2005/bulletin05_2_en.pdf> p.23

¹¹² *Matěřská a rodičovská dovolená a pracovní právní podmínky zaměstnání rodičů pečujících o děti*. (Maternity and parental leave and labour-law conditions for employing parents of small children.)

MI. SA. <<http://archiv.mpsv.cz/scripts/simple.asp?lg=1&id=5446>>

¹¹³ Directive 86/613/EEC. *Legislation – Legal acts on equal treatment* EUROPA.

<http://europa.eu.int/comm/employment_social/gender_equality/legislation/legalacts_en.html>

¹¹⁴ *Bulletin Legal Issues in Gender Equality*. European Commission. n2/2005.

<http://europa.eu.int/comm/employment_social/gender_equality/docs/2005/bulletin05_2_en.pdf> p.24

In connection with the 2002 Directive and also with the equality on the labour market, the Anti-discrimination law was proposed, but it was not accepted yet. The proposal adjusts the equal treatment and protection against discrimination not only in the access to employment and occupation, but also in working conditions (such as career increase and wages), membership in occupational organizations, employees' and employers' organizations, access to education, health care, social security and social advantages, and access to goods and services, including housing. A unified law is proposed because:

- It provides resources for ensuring equal treatment legislature for a huge number of people.
- It provides legislative basis for receiving information on ensuring equal opportunities.
- Without an unified anti-discrimination law there would be a need of updating of tens of new legislative rules.
- An additional enlargement of European legislature on equal treatment is expected; therefore, it is easier to update only one law.¹¹⁵

It is very important to discuss the Directive 2002/73¹¹⁶, because it had to be implemented by October 2005. Concerning the question put to Dagmar Zelenková, the Head of the Unit of Equal Opportunities for Women and Men at the MLSA, if the Directive was already implemented, the answer was very short: "The Directive was fully implemented." It is therefore very curious that there is no information on the web page of the Ministry concerning this Directive. Article 8a of the Directive states: "Member States shall designate and make the necessary arrangements for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex. These bodies may form part of agencies charged

¹¹⁵ *Antidiskriminační zákon. (Anti-discrimination Bill.) Diskriminace.* <<http://www.diskriminace.cz/dt-zakon/>>

¹¹⁶ On the implementation of principle of equal treatment for men and women as regards access to employment, vocational training an promotion, and working conditions. *Legislation – Legal acts on equal treatment.* EUROPA. <http://europa.eu.int/comm/employment_social/gender_equality/legislation/legalacts_en.html>

at national level with the defense of human rights or the safeguard of individuals' rights." Controversially, concerning Dagmar Zelenková's answer, such a body has not been established yet. A monitoring document of the Open Society Institute from 2005 raises the issue: "most of the national bodies in charge of gender equality do not meet the minimum standards established through the legal provisions of Directive 2002/73/EEC, especially in terms of pursuing claims on behalf of the victims of discrimination through administrative and judicial procedures."

It is written in a document published by the MLSA within the project "Improvement of Public Institutional Mechanism for Applying, Enforcing and Monitoring Equal Treatment for Men and Women" that "there is no state organ that would fulfill the requirement of Article 8a of the Directive 2002/73/EC. [...] Such an institution must be established as a new center for equal treatment or within the office of Public Protector of Rights with extended competence and more resources." Such changes are mentioned in the Anti-discrimination law.¹¹⁷ Because, the law was not yet been ratified, it is clear that the institution was not established.

To summarize the deficiencies of implementing gender equality directives, are: there is no clear definition of direct and indirect discrimination and the law on occupational pension security and the law of equal opportunities have still not been passed. In addition, there is no support for self-employed female workers, measures aimed at increasing women's salaries, support for flexible work arrangements, and increase of women's influence in party structure, and specific information campaigns and awareness-raising.

As to the practical usage of the legislation, Štěpán Jurajda found out that "despite the new legislation almost two thirds of the gender wage gap remains unexplained and

¹¹⁷ *Závěrečná doporučení z projektu "Zlepšení veřejného institucionálního mechanismu pro zavedení, posílení a kontrolu prosazování rovných příležitostí pro muže a ženy" (Final recommendations from the project "Improvement of Public Institutional Mechanism for Applying, Enforcing and Monitoring Equal Treatment for Men and Women").* <<http://www.mpsv.cz/files/clanky/976/Final2.pdf>> p.14

segregation still represents a major source of the gap.”¹¹⁸ Petr Pavlik in the Shadow Report writes: “While the equality of men and women is guaranteed in the Czech Republic’s system of law, it is not yet fully realized in real life. The problem still lays in persistent stereotypes about the roles of men and women (gender stereotypes) in the thinking of Czech society. It is obvious that changes in the value orientation of Czech society and eliminating prejudices and stereotypes are very slow processes.”¹¹⁹

3.2. Adherence to Soft Law on Gender Equality

Czech soft law related to gender equality and to the soft law of the European Union includes. Joint Inclusion Memorandum on Social Inclusion and National Action Plan on Social Inclusion, Priorities and Procedures of the Czech Government in Promoting the Equality of Men and Women, and the National Lisbon Reform Programme for the Czech Republic. Part of it is also the concept of gender mainstreaming, which has a separate section in this chapter.

According to the EU social inclusion process, and especially the Open Method of Coordination on poverty and social exclusion, the Czech Republic prepared a Joint Inclusion Memorandum on Social Inclusion and is preparing a National Action Plan on Social Inclusion. The first part of those documents makes comprehensive description of the economic and social situation in the Czech Republic. In this concern, it is very important to say that the Czech Republic improved a lot the system of researches and statistics to observe the position of women and men in the society. For the National Plan of Social Inclusion, the MLSA disaggregated data by sex in all areas that can be gender sensitive, such as demographic trends, employment trends and at risk poverty rates, educational trends, social negative phenomena and vulnerable groups. The newly established gender statistics has provided data on the present status of women and men from the social perspective in the just mentioned areas. The statistical Office, in cooperation with the MLSA has every year, since 2001, produced a statistical

¹¹⁸ Jurajda, Štěpan. *Czech Gender Segregation and Wage Gap with Anti-discrimination Legislation*. CERGE-EI. 2004. <http://www.cerge-ei.cz/pdf/dp/DP125_2004.pdf> p.6

publication entitled *Focused on Women*. In 2003 and the second half of 2005 a publication, prepared together with Swedish specialists *Women and Men in Data* was published. It contains statistical data about the current position of women and men in the Czech Republic and it resulted from a broader cooperation within the Statistical Office, MLSA and the Ministry of Health, the Ministry of Interior, the Ministry of Justice, etc. So far also other Ministries than the MLSA were taken to cooperate on gender related activity. Zuzana Zajarošová, National Action Plan on Social Inclusion Coordinator at the MLSA, said: "On the basis of the gender sensitive data we identify the gender gaps and analyze trends in women's and men's situations."¹²⁰

The state prepares the National Plan of Action, respectively the National Gender Equality Strategy, which is called *Priorities and Procedures of the Czech Government in Promoting the Equality of Men and Women*, which were already introduced in the first chapter of this paper. However, the Priorities are only partly based on a detailed analyses of the field, and as was mentioned by the authors of the Shadow Report, the lack of conception restrains a systematic elimination of inequality of men and women and results in many key aspects being left out. It was stated by the Shadow Report that: the Governmental and the Ministerial Priorities were not prepared based on a detailed gender impact analyses in individual areas of social life. Neither the Government nor individual Ministries have created functional control mechanisms to check the implementation of the Priorities.¹²¹

Six Government Reports have been written so far. Their quality, as the quality of Priorities, is increasing due to better understanding of various gender concepts, input from the EU, and greater experience of responsible officials with gender agenda. However, until the Government and the Ministries create a functional supervisory

¹¹⁹ Pavlík, Petr. *Priorities and procedures of the Government in Promoting the Equality of Men and Women*. In: Shadow Report on Equal Treatment and Equal Opportunities for Women and Men. Gender Studies, o.p.s. 2004. p.17

¹²⁰ Zajarošová, Zuzana. "Gender Mainstreaming in Social Inclusion in the Czech Republic." (Speech on conference "Women and men in an enlarged Europe", Malta, 1-3 April, 2004)
<http://europa.eu.int/comm/employment_social/gender_equality/news/malte/zajarosova.pdf>

¹²¹ Shadow Report on Equal Treatment and Equal Opportunities for Women and Men. Gender Studies, o.p.s. 2004. p.1

mechanism for evaluation of the fulfillment of the Priorities, the Government Reports cannot be seen as adequate account of promotion of equality of men and women in the CR.¹²²

Following the recommendations of the Government Council for Equal Opportunities for Men and Women, the cabinet assigned to the Ministry of Finance to prepare an informative methodology on gender budgeting.¹²³ The document contains instructions for the Central Government, Regional and Municipal Governments on how to redistribute money fairly, in connection with gender budgeting. Concerning the knowledge of redistributing public money in the Czech Republic, it must be said, that the only result of this activity was the publishing of this document.

The National Lisbon Reform Programme for the CR sets as a goal a female employment rate of 57,6 percent.¹²⁴ Concerning the position of women in the labour market, the Programme lists the inequalities women face¹²⁵, but there are no solutions or recommendations to change it. The only issue dealt with in this connection is the reconciliation between professional and family roles. By looking at this issue, the Priority to promote equal opportunities for women and men in the labour market is officially fulfilled.

3.3. Gender Mainstreaming in the Czech Republic

In 2001, a Governmental Resolution included the application of gender mainstreaming among the Governmental tasks. Unfortunately, some Ministries see gender

¹²² Ibid.

¹²³ Gender budgeting is the redistribution of financial resources from public budgets in accordance to interests of men and women. Informativní metodika rozpočtování z hlediska rovnosti žen a mužů. (Informative methodology of gender budgeting.) Ministry of Finances and Ministry of Labour and Social Affairs. 2004. p.8

¹²⁴ The recent percentage is 50.5. Ženy a muži v datech. 2005. (Women and Men in Data, 2005) Czech Statistical Office & MLSA.

¹²⁵ "Female economic activity in the CR is high. Czech women however have to face persistent handicap and higher unemployment on the labour market. The earnings of women reach on average only 74% of men's earnings. while the greatest gap is between earnings of men and women with university education. Apart from inequalities in wages, women have to face other forms of discrimination, e.g. prejudices concerning age, motherhood and family obligations. In case of female graduates, maternity leave is

mainstreaming as part of the human resources agenda only and consider the task fulfilled when non-discriminatory conditions for employment of women and men are ensured.¹²⁶ The whole implementation of gender mainstreaming was strongly conditioned by the accession of the Czech Republic to the EU. Gender mainstreaming has never been one of the priorities of the Czech Government, nor has it been a topic for discussion in Czech society. Moreover, the legislative changes that were seen as necessary condition for the accession of the Czech Republic to the EU were not supported by any analysis of the conditions, situation or needs of Czech society. Rather, such changes occurred formally and without the participation of experts, politicians or officials active in the area of gender equality. One of the consequences of this purely formal process implemented by politicians and officials without either knowledge or expertise in implementing a gender equality strategy, has been a lack of interest among the public on this issue, as well as a lack of knowledge, and also disapproval of gender equality at both a political level and in the media.

Concerning the institutional mechanism supporting gender mainstreaming Zuzana Zajarošová, states: "In the Czech Republic all central administration bodies are obliged to implement gender mainstreaming principles in all sector policies. At the beginning of 1998 within the Department for EU Integration and International Relations at the Ministry of Labour and Social Affairs the Unit for Equality of Men and Women was established. The role of this unit is to coordinate the domestic policies according to equal treatment for men and women. All Ministries were invited in 1999 to implement the gender mainstreaming method, but there has not been successful development. With a view to promoting gender mainstreaming and equal treatment for men and women, gender focal points in all Ministries were created in 2002. The team that prepares the Joint Inclusion Memorandum and at present National Action Plan cooperates closely with the Unit for Equality and the Vice-Chairman of the Committee on Social Inclusion is at the same time a member of the Governmental Council for Equal Opportunities of Men and

expected, which implies difficult reintegration into the profession." *National Lisbon Programme 2005 – 2008: National Reform Programme of the Czech Republic*. <<http://wtd.vlada.cz/vrk/leu.htm>>

¹²⁶ Havelková, Barbara. *Equal Opportunities for Women and Men: Monitoring law and practice in the Czech Republic*. Open Society Institute – Network Women's Program. 2005. p.26

Women.*¹²⁷

The institutional support for gender mainstreaming policies was developed as late as the beginning of the accession period in 1998. Several institutions already mentioned previously were developed since then. On the topic of gender mainstreaming in new Member States the Open Society Report declares: "Gender mainstreaming appears not to have been given much attention within national strategies aimed at advancing gender equality in the new Member States and Candidate Countries. In this way, a gender mainstreaming strategy has not been valued as an effective tool for monitoring and improving women's status."¹²⁸

3.4. Distribution of Pre-Accession and Structural Funds

The EU membership has opened a lot of new challenges for each of the accession countries. During the accession process, the countries had the possibility to finance institutional building or infrastructure development from the EU pre-accession instruments. After entering the EU, pre-accession instruments were replaced by Structural Funds.

Economic impacts of the projects financed by all available instruments were relatively well documented and monitored. The projects had significant positive and negative social impacts at national and regional level. Because of existing gender roles and stereotypes, the social impacts were not distributed equally between women and men. Moreover, the missing gender dimension at the project level helped the conservation and strengthening of gender roles. Even though gender equality represented one of the most important horizontal priorities in the programmes funded from the European resources, the Czech foundations re-granting of European funds have been rather gender-insensitive. "In 1998, Gender Studies was sent an official response, declining

¹²⁷ Zająrošová, Zuzana. "Gender Mainstreaming in Social Inclusion in the Czech Republic." (Speech on conference "Women and men in an enlarged Europe", Malta, 1-3 April, 2004)

<http://europa.eu.int/comm/employment_social/gender_equality/news/malte/zajarosova.pdf>

¹²⁸ Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union. Overview. Open Society Institute– Network Women's Program. 2005. p.48

one project submitted to the Socrates National Agency within the Gruntvig programme. The letter said that gender equality did not need to be supported since women and men had already been equal in the Czech Republic. Gender Studies asked the European Commission Socrates office for its official response which then refuted the Czech National Agency's letter and apologized to Gender Studies for lack of knowledge and orientation in gender issues on the part of the National Agency in Prague.¹²⁹

There were only very few projects related to gender equality or given to women's NGOs. The most successful grant scheme for organizations in gender equality field was Phare – Access 1999. The aim of the program was to promote the implementation of the *acquis communautaire* where state activities were missing, and to promote integration of groups or individuals at risk of exclusion after the accession process was concluded.

It is important to note that the successful organizations, in particular Phare programmes, were all the time the same ones: Profem, Gender Studies, and Czech Women's Union. All of them have a long tradition and during the time of accession period, all of them had, to certain degree, guaranteed institutional funding.¹³⁰

One of the agencies distributing EU funds since the beginning of the 1990s, the National Training Fund, has published its draft of the document "Strategy of Human Resources Development for the Czech Republic." This document does not mention anywhere in its 53 pages gender issues at all.¹³¹ This agency continued to function as a distributor of EU money even after the CR entered the European Union. It is therefore a question, if such an important agency is gender sensitive.

Because of inadequate distribution of the EU Pre-accession funds, it is now a very new experience for women's NGOs to receive funding from the European Structural Funds. The situation has improved a lot since the CR entered the European Union and

¹²⁹ Gender Audit of the EU Pre-Accession Funds (1999-2004). Gender Studies, o.p.s. 2005. p.10-11

¹³⁰ Ibid. p.6

¹³¹ Marksová-Tominová, Michaela. Gender Assessment of the Impact of EU Accession on the Status of Women in the Labour Market in CEE. National Study: Czech Republic. Gender Studies, o.p.s. 2003. p.13

nowadays the distribution of fund is sufficiently connected to equal treatment for men and women. It can be said that there are not enough potential receivers of the resources. Most of the organizations dealing with women's issues received the funding already, therefore, new and new organizations are being established or developed, which is a very positive result. There are programs that are directly positioned for equal opportunities for men and women, usually from the European Social Fund and there are programs that are not directly served for the issue, but equal opportunities must be included to the program as a horizontal priority. The Ministry of Interior together with Gender Studies publishes an internet newsletter monthly, "Equal Opportunities for Men and Women in Structural Funds".¹³² The distribution of financial resources of the European Social Fund in the Czech Republic is one of the main improvements of the Czech Republic in enforcing gender equality.

3.5. Strengthening Women's Position in the Labour Market

Economic activity of women is one of the Government Priorities. The Government claims that it is supporting women to re-enter the labour market after caring for children or other family members. Promotion of flexible working conditions is seen as important, however no concrete activity for such promotion have been done yet. The problem that is absolutely overlooked by the Government is gender segregation. "The Czech labour market is visibly segregated according to gender. Women dominate the non-manual jobs without management or director personnel, and the most unskilled worker categories. According to wage and payment categorization, women dominate the lower levels and men increasingly occupy the highest levels."¹³³ Even though, it is also one of the Government Priorities, no measures have been taken to reduce the gender pay gap. Recent statistics also shows that the higher position in the administrative hierarchy, the smaller percentage of women in it. It can be clearly seen though that the Czech Government is not doing much to strengthen the position of women in the labour market.

¹³² See Zpravodaj Rovná příležitosti ve strukturálních fondech. (Newsletter Equal Opportunities in Structural Funds.) <<http://zpravodaj-rp.strukturalni-fondy.cz/index.html>>

¹³³ Marksová-Tominová, Michaela. Gender Assessment of the Impact of EU Accession on the Status of Women in the Labour Market in CEE. National Study: Czech Republic. Gender Studies, o.p.s. 2003. p.32

Towards the private sector, the Government directed an information campaign promoting equality in the workplace. However, no motivation measures or mechanisms to control the fulfillment of the principle of equality have been adopted.¹³⁴

As a positive step toward the strengthening of women's position in the labour market must be seen in the complete harmonization of Czech law with the EU law. The already described Employment Act and hopefully once ratified Anti-discrimination Bill are strengthening women's position enormously.

3.6. Addressing Men in Achieving Gender Equality

"The promotion of equality between women and men implies changes for men as well as for women. Therefore, it is essential that both men and women actively participate in creating new strategies for achieving gender equality."¹³⁵ An analysis carried out by the Institute of Sociology of the Academy of Sciences of the Czech Republic shows that campaigns influencing the male identity and campaigns supporting fatherhood are needed.¹³⁶ Therefore, the Department for Family Policy at the MLSA prepares a campaign influencing greater participation of fathers in child caring. In addition a lot of activities are being carried out concerning this issue by NGOs as part of the Initiative Equal.

Gender Studies will have, as a part of the Fifty-Fifty project that is financed from the EQUAL Initiative, a campaign focusing on larger participation of men on the parental leave and on the child care in general. It will be directed at the change of the public view on fathers' roles and realization of career and life strategies of men, which should have a positive influence on a change in career and family schemes of women. There are three main reasons why Gender Studies chose fathers as one of its target groups:

¹³⁴ Havelková, Barbara Equal Opportunities for Women and Men: Monitoring law and practice in the Czech Republic. Open Society Institute – Network Women's Program. 2005. p.28

¹³⁵ Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Equality between Women and Men, 2005. COMMISSION OF THE EUROPEAN COMMUNITIES.

http://europa.eu.int/comm/employment_social/news/2005/feb/gender_equality_2005_report_en.pdf p.7

1. The percentage of men taking parental leave is very low – about one percent.
2. Men's role is perceived very stereotypically in the CR, men are seen as main breadwinners of the family and therefore privileged in the labour market.
3. Men are discriminated in family life and in child bearing.¹³⁷

The participation of fathers in parental leave has been slowly increasing in the last few years, but the gap between the numbers of women and men going on parental leave is still huge. The share of men receiving parental benefit in the years 2001 - 2003 has increased from 0.77 percent to 0.9 percent.¹³⁸ Concerning the roles of men and women, the Czech public is still very conservative. The mother is viewed as care-taker, and the father as the bread-winner in the family.

Alena Králíková thinks that the role of men did not change a lot since the emancipation of women started: "The process of emancipation of men did not start yet and their roles are de facto in crises. Basically, men operate only with those roles, they have the historical experience with and they do not pick up new roles and if yes, then only provisionally or as an additional role – they are helping women, but it is not their standard role."¹³⁹

3.7. Barriers to Gender Equality

The distaste of Czech politicians and the public to take the issue of gender equality seriously can be observed also in the period before 1989 when equality was formally linked to the right to employment and the obligation for all women and men to work. It should also be noted that during the entire period of transformation of the Czech society, the activities of non-Governmental organizations were strongly affected by the legacy of the Czechoslovak Women's Union, which prior to 1989 was linked to the Communist

¹³⁶ Výsledky sociologického výzkumu Podpora využívání rodičovské dovolené muži. (Results from the research: Support for using of parental leave by men.) Institute of Sociology, Academy of Science of the Czech Republic. 2003. <<http://www.mpsv.cz/files/clanky/956/pruzkum.pdf>>

¹³⁷ "Role rovných příležitostí mužů a žen v prosperitě společnosti. (Role of equal opportunities for men and women in society's prosperity.)" Gender Studies, o.p.s. 2005. (unpublished presentation)

¹³⁸ Výsledky sociologického výzkumu Podpora využívání rodičovské dovolené muži. (Results from the research: Support for using of parental leave by men.) Institute of Sociology, Academy of Science of the Czech Republic. 2003. <<http://www.mpsv.cz/files/clanky/956/pruzkum.pdf>>

Party of Czechoslovakia.

The negative view towards equal opportunities is mainly connected to communist history in the country, when women were basically forced into "equality". Therefore, the main obstacle for achieving real equality between men and women is the belief that gender equality was already achieved during communism. "Awareness of gender issues is generally low for a number of reasons. Firstly, the way in which the issue was approached during communism, and the belief that gender equality was secured, led to its later trivialization. In addition, during the process of democratization and transition, due to many other political and economic problems, gender equality was not identified as a priority either by the society at large or by decision-makers. At the same time, the lack of gender research and specific statistics means that there was no background against which this information could be placed."¹⁴⁰

The tradition of Czech society is that women are less respected, because the society is mainly formed by men. The social environment is based on education, which is still gender segregated. For example, in reference to Czech textbooks, most of them are very stereotypical and lack gender neutrality. It is difficult to fight against gender stereotypes in students' minds, if they still study from gender insensitive textbooks.

So as it is obvious, the main barriers for gender equality are the prejudices and stereotypes of Czech society and the unwillingness of the decision-makers to change something. It is clear from the paper, that political elites support the issue or to say the least are concerned about the issue, only because it is one of the EU priorities. The stereotypes of the general public are mainly caused by insufficient knowledge about the issue. There are not enough information campaigns; this fact is again reasoned by the unwillingness of the political decision-makers to inform the society about such issue.

According to Alena Křížková and Hana Hašková from the Sociological Institute of the

¹³⁹ Králíková. Alena. Speech on the Conference Women's Leadership. October 4, 2005.

¹⁴⁰ Monitoring the EU Accession Process: Equal Opportunities for Women and Men. Overview. Open Society Institute. Budapest, 2002. p.19

Academy of Sciences, there are eight reasons why women have not found significant opportunities in formal political structures after 1989:

1. "The introduction of multi-party elections.
2. The reluctance of political parties to place women on the electoral list.
3. The lack of interest among women in male-dominated "high" level politics, as demonstrated in their reluctance to run for political office (politics is foreign and of little immediate interest).
4. The existence of stereotypes regarding the electoral attitudes towards women politicians (men often do not vote for women, and women are often also reluctant to elect women).
5. The re-emergence of patriarchal values and the relegation of women to the private sphere.
6. The belief that women's issues are not pressing enough and do not deserve immediate attention while a stable democratic system still needs to be developed.
7. The lack of political experience, knowledge, and awareness among women.
8. The lack of networks and informal ties that would provide women with necessary support system."¹⁴¹

3.8. Ideal Future Progress of Gender Equality Policy in the Czech Republic

One of the main concerns for progress of gender equality is the limited understanding of the concept gender, gender stereotypes, gender equality, gender mainstreaming, and equal opportunities. Therefore one of the main goals of the institutions at the beginning of its path is to propose a campaign that would introduce such basic concepts to the general public. Once the general public understands it, it is easier to go further.

This is supported by Barbara Havelková, who emphasizes awareness-raising, saying that the MLSA should use commercial channels for the promotion of equality and should promote laws on gender equality once adopted, fight gender stereotypes in families,

¹⁴¹ Haškova, Hana & Křížková, Alena, eds. Women's Civic and Political Participation in the Czech Republic and the Role of European Union Gender Equality and Accession Policies. Sociological Papers. Institute of Sociology, Academy of Sciences of the Czech Republic. 2003. p.10

promote the sharing of family responsibilities and especially support fathers on parental leave, concern with sexual harassment, etc. In order for all society to accept the principle of equal treatment, the policy must work systematically with public opinion. Therefore, an information campaign is also needed. The Ministry of Justice should publish cases decided by courts as a part of an information campaign. It is necessary to allocate funds from the State Budget in possible combination with EU funds for a public awareness campaign and legal advisory centers so women can start discriminatory cases.¹⁴²

It is only the Directive 2002/73/EC that supposes the existence of some institutional body promoting gender equality, competences of the rest of the European Community's Law are not applicable to the existence of various national institutions. However, in democratic states, where law governs, existence of certain institutions is expected. For the effective accomplishment of the human rights, some international treaties on human rights require the existence of relevant institutions. Similarly, also the EU, to secure efficient pursuance of the EC' legislation, calls for some institutions. By analyzing the equal opportunities' institutions in the Czech Republic, it is important to mention that there is no state institution that would fulfill the requirement of Article 8a of the Directive 2002/73/EC. Therefore, such an institution has to be established to obey all the EU primary and secondary law concerning the equal opportunities and equal treatment.

Gender equality, as a new issue in the Czech Republic requires experts in institutions that are concentrating only on this issue. In addition, all the institutions must be on a relevant structural level, if not, it can not influence the decision makers and no action will be taken. It is very important to strengthen the positions of institutions related to gender equality and also the position of gender focal points. Only when these people have relevant powers, something can be really changed. And it is also acknowledged by Alena Králíková. According to her, it is necessary to give more power to the Government Council for Equal Opportunities for Women and Men, especially in the connection with

¹⁴² Havelková, Barbara. Equal Opportunities for Women and Men: Monitoring law and practice in the Czech Republic. Open Society Institute – Network Women's Program. 2005. p.45

budget, decision-making powers, officers, accountability for its duties and political respect, or to establish and finance a new body – Ministry or a special department in a Ministry – to make more progress on the topic.¹⁴³

For Barbara Havelková the institutional mechanism needs to include gender as a factor in the creation of their budget. Specific mechanisms should be developed to review the implementation of equality legislation in practice.

One of the moving points should be the approval of the Anti-discrimination bill. "This law provides already existing ombudsman with new competencies regarding protection and help against discrimination. If it works properly, it could be a good and effective solution. Another one could have been a separate, independent body, but this did not happen in the Czech Republic."¹⁴⁴ By passing the Anti-discrimination Bill, all requirements of the Directive 2002/73/EC will be satisfied.

In 2003, the MLSA together with Swedish experts ended a twinning project "Improvement of Public Institutional Mechanism for Applying, Enforcing and Monitoring Equal Treatment for Men and Women". It was a great activity of the Ministry to coordinate such a project and the results and recommendations were very meaningful. It is then very bizarre that almost none of them have been realized till this day. The main recommendations are:

1. The Government should demonstrate its political will by publishing a "declaration on mission", where equal opportunities for men and women would be defined as a concrete aim of the Government. The Government must emphasize that all Ministers have a concrete responsibility for integration of the viewpoint of equal opportunities for men and women into their spheres of action and in their resolutions within the respective Ministry.
2. The Government should name a Minister for equal opportunities for men and women. It can be an already named Minister that is responsible of most of the

¹⁴³ Interview with Alena Králíková, director of organization for public benefit Gender Studies (Annex 1).

¹⁴⁴ Interview with Kristina Koldinská, lawyer, Czech reporter to the *Bulletin Legal Issues in Gender Equality* published by the European Commission (Annex 1).

aspects of equality, e.g. the Minister responsible for labour and social affairs. The Minister liable for equal opportunities for men and women would be in charge of gender mainstreaming, coordination of policies in the area of equality of men and women and their exaction, etc.

3. The MLSA should change its name to Ministry of Labour, Equality of Men and Women, and Social Affairs.
4. The Government should prepare and propose to the Parliament the law proposal that would ask for preparing all official statistics applying to men and women.
5. The Government should prescribe that all documents submitted to the Government must include gender analysis, together with statistics sectioned to men and women, where is possible.¹⁴⁵

There are also other important recommendations not related only to the role of Government, but also to other state bodies. The crucial ones are:

- The Minister for Equality of Men and Women should be the chairperson of the Council of Equal Opportunities for Men and Women and the status of the Council should be relevantly changed. In the activities of the Council, an emphasize has to be given to the coordination of implementing the gender mainstreaming at all the Ministries and to the evaluation of effectivity of equal opportunities measures.
- At each Ministry, the Deputy Minister, general director or another high position state officer that is directly subjected to the Minister should be named as a employer responsible for the integration of the equal opportunities for men and women viewpoint to all activities of the Ministry.
- All the politicians and state officers should be continuously trained in general issues of gender equality and also in concrete issues of the problematic that is relevant to their workload.

¹⁴⁵ *Závěrečná doporučení z projektu "Zlepšení veřejného institucionálního mechanismu pro zavedení, posílení a kontrolu prosazování rovných příležitostí pro muže a ženy." (Final recommendations from the project "Improvement of Public Institutional Mechanism for Applying, Enforcing*

- All the Departments existing in various Ministries should integrate the viewpoint of equal treatment for men and women to their every day activities.
- In some of the Ministries¹⁴⁶ the number of gender focal points has to be increased from one to four. (They will still have the part-time position.) Those employers should help to the Deputy Minister and all the departments to integrate equal treatment for men and women viewpoint. They should be directly subjected to the Deputy Minister.
- The other Ministries should increase the number of gender focal points from one to two and they should be relocated from human resources departments to the secretary of the Deputy Minister.
- In connection with the Directive 2002/73/EC, a relevant body should be named or established. The body should have these competences:
 - o Offering of independent help to victims of discrimination when applying and disposal of the complaint regarded to the discrimination.
 - o Performing independent surveys on discrimination.
 - o Publishing of independent reports and proposing recommendations to all issues related to discrimination.
- Because there is no institution on the regional level dealing with the gender equality issue, the Report recommends that all Regional Councils should name one of its members to be similar to the Minister of Equality for Men and Women at the regional level. It might be the regional vice-supervisor. He/she should be responsible for promoting gender mainstreaming into regional activities. One officer should be dedicated only to the issue of gender equality at each region. In the long-run (five to ten years) in each region a Department for Equality between Men and Women should be established.
- All employers of the labour offices should be trained in the issues of gender equality. That will help them to map the general conditions of men and women in the labour market from the gender perspective.

and Monitoring Equal Treatment for Men and Women".) <<http://www.mpsv.cz/files/clanky/976/Final2.pdf>>

¹⁴⁶ p.7
MLSA, Ministry of Education, Youth and Sport, Ministry of Justice, and Ministry of Interior. Ibid. p.12

- Concerning the legislature, there should be a law that dictates to employers to systematically support equal treatment with men and women in the work place.¹⁴⁷

To improve the situation of women in the labour market it is necessary to allocate funds for detailed researches on discrimination of women on the labour market including mapping of the gender wage gap. The comparison of male and female average wage should be done at all levels of the public administration. Training of labour inspectors concerning equal opportunities legislation has to be organized, as well as training and re-qualification courses for women. All the measures need to have clear deadline and have to be monitored.

To increase participation of women in politics, the Government should accept a compact conception that would focus on balanced representation of women and men in decision-making positions in all areas of public life. Part of this concept must be yearly mapping of men and women in decision-making positions in Ministries and other state institutions, including the executive councils.¹⁴⁸

One significant development should be the improvement of the communication between the state and the NGOs. It is necessary that they cooperate on their projects and they support each other. As Alena Králíková answered to one of the questions in the interview: "It is also important to deepen the communication with NGOs dealing with gender issues. Moreover, ideally, the whole issue could be "underlined" by open and pronounced support from the side of political representation..."¹⁴⁹

Very useful recommendations, but very similar to those already mentioned by Report of the twinning project, are also given by the Open Society Institute Report:

- Government officers at all levels of the administration should be trained on gender issues.

¹⁴⁷ Ibid. p.7-20

¹⁴⁸ Ibid. p.21

¹⁴⁹ Interview with Alena Králíková, director of organization for public benefit Gender Studies (Annex 1).

- An evaluation of the fulfillment of tasks should be carried out as a matter of priority, and the process should be given to bodies unaffiliated with their execution.
- Gender should be included as a factor in the creation of budgets of all institutions and an overview of the allocation of funds of gender equality should be made available.
- An equality policy should be established at the regional and municipal levels, and one member of the council should be made responsible for equality.
- The rules of procedure in Government should require a gender analysis for all proposed, measures and legislation. Measures must be taken to reduce gender pay gap; e.g. employers ought to be obliged to annually report the overall level of remuneration paid to their employees disaggregated by sex.
- Incentives should be created to support men in the sharing of family responsibilities.
- All Ministries should commission a gender analysis of their departmental agenda. Specific policies should be complemented with the process of gender mainstreaming; specifically, gender analyses of the fields as the basis for decision-making, gender education of all government officers, and consultation and coordination of policies from gender perspective.
- Specific mechanisms should be created to assess the implementation of equality legislation in practice. The MLSA has to make a campaign to promote gender equality.

A major barrier for the progress of the gender equality advancement is the lack of political will on the top levels to deal with the issue. Usually, the fulfillment of EU obligations is determined by the civil society. It is not the priority of the Government, neither is it a strategy of the Ministries. The quality of effort usually varies across the institutions. Thanks to the European Structural Funds, the lack of financial resources is not a major problem any more.

Michaela Marksová-Tominová wishes that the state will be engaged more in the support

of the issue, e.g. that the Government would propose a large campaign and that the parity law will be proposed and passed one day. In addition, as with all the other experts, she thinks that the institutional support should be enlarged and given sufficient budget.¹⁵⁰

Conclusion

In May, the Czech Republic celebrated one year of its membership in the European Union. Much has changed since the CR entered the EU and much has stayed the same. Concerning the policy of equal opportunities for men and women and gender equality in the Czech Republic, huge positive progress has been made. The EU, as an internal factor, has played the most important role in this advancement accompanied by the civic society, respectively women's NGOs.

Compared to the situation in 1998, the institutional support for gender equality increased, mainly because of the adherence to EU measures, but also because of the fulfillment of the UN Convention for the Elimination of all Forms of Discrimination against Women and the results of the Fourth World Conference on Beijing (Beijing Declaration and Platform for Action). Recent institutional support is set up for the Department for Equality of Women and Men, Government Council for Equal Opportunities for Men and Women, gender focal points at each Ministry, Committee for the Elimination of All Forms of Discrimination against Women under the Government Council for Human Rights, Permanent Commission on Family and Equal Opportunities in the Chamber of Deputies and Women's Committee of the Czech Trade Union. Even though it seems that there are enough institutions advancing gender equality, the main problem is that all of these institutions are at the lowest level of institutional hierarchy. Those bodies have only advisory competences, and therefore, they cannot influence the situation without the will of political leaders and decision-makers. The greatest advice that this paper can give is that the institutions dealing with gender equality must receive more "power" to be able to influence gender policy in the CR.

¹⁵⁰ Interview with Michaela Marksová-Tominová, Vice-chairwoman of Association of Equal Opportunities and member of the Government Council for Equal Opportunities for Men and Women (Annex 1).

Official documents are also continuously improving. The Priorities and Procedures of the Government towards the Enforcement of Equal Opportunities for Men and Women are finally finding their structure. However, a deficiency is that they are not usually fulfilled, even in spite of not admitting it in the Summary Report on the Implementation of Priorities and Procedures of the Government towards Enforcement of Equal Opportunities for Men and Women.

The documents that were influenced the most by harmonization with the *Acquis Communautaire* are the Labour Code and the Employment Act. Both of these surpassed a sufficient improvement toward elimination of the discrimination against women. The ideal Anti-Discrimination Bill is waiting for approval in the Parliament. Only after passing the law the Czech Republic can feel absolutely satisfied with obedience to all EU requirements connected to gender equality. As was confirmed by many experts, the next step is the practical usage of those documents. There are still imperfections with it.

All the EU Directives that CR was supposed to implement before entering the EU were successfully implemented. Some of them were already part of the Czech legislature, some of them were supplemented. Most of the *Acquis Communautaire* was applied when the Labour Code and Employment Act were developed. There are doubts about implementation of the Directive 2002/73/EC, which was to be transposed in October 2005. There is not a sufficient institution that would correspond with the requirement of this Directive. Only after passing the Anti-Discrimination Bill will this institution be set up.

A great improvement can be seen with the distribution of EU funds. As was observed in the accession period, the financial resources were not being distributed to projects advancing gender equality, because the topic was perceived as unimportant and women were seen as already having equal opportunities as men. Since the CR entered the EU, the distribution of the funds have been more respectful of EU priorities and the issue of equal opportunities for men and women has recently received enough financial resources to be advanced. Indeed, it is again the influence of the EU that changed this

situation. Most of the EU grants require taking gender mainstreaming and equal opportunities into account.

On the other hand, as the authors of the Shadow Report points out, there are some key issues that have not been addressed by the Czech Government yet. These are: the pay gap, equal opportunities for women and men in leadership and managerial positions, research and development, etc.

To advance gender equality, the gender mainstreaming brought in by the EU has to be accomplished by grassroots campaigning pressure on the part of women's movements. Pressure from below can ensure that the issues of gender equality are kept on the agenda of the institutions, and that gender sensitive policies are not only written into the legislation, but are also given enough financial and human resources to be used in practice. Both political will and grassroots activism are therefore necessary preconditions for achievement of gender equality. And it is crucial that the state - political sphere communicates with NGOs - activist sphere. Recently, the activist sphere started to receive enough resources to fulfill its role. The political will is still missing in the CR, but it is substituted by the EU instruments.

The main barriers in the CR to achieving gender equality are the perception of gender equality that it is not important for economic development and the opinion that men and women are already equal. Another obstacle is that decision-makers are not willing to admit that equal opportunities for men and women should be part of all aspects of the society.

Gender stereotypes are much too prevalent in the CR. They usually allow women to be only in strictly defined roles, where there is no chance of getting out of these roles. Women are always put together with the family and household and men with work and public life. Czech society is not familiar enough with the issue to break these stereotypes. Much effort has to be given to educate the society on equal opportunities for men and women and on the possibilities women can have in their lives. There is a

very limited understanding of the concept of gender, gender stereotypes, gender equality, gender mainstreaming, and equal opportunities. A current objective of the Czech institutions should be a campaign that would introduce general concepts. Additionally the campaign should also focus on: promotion of laws on gender equality once adopted, promotion of sharing of family responsibilities and especially supporting fathers in child caring, and sexual harassment.

The concept of equal opportunities for men and women rests on the effort to ensure the equal positioning of men and women in the society. Women and men should have the same rights to develop their capabilities and according to their deliberation to participate in economic, political and social life. No impediments, such as gender stereotypes, should be put in their way.

Policies will be gender sensitive if they take into account specific features of men's and women's lives and if they make an effort to eliminate inequalities and support the equal distribution of resources. It is important to acknowledge that women and also men play concrete gender roles and that not only women, but also men and the society itself will profit if the principle of gender equality is respected.

The driving force of gender equality in Europe should be legislation, supplemented by gender mainstreaming, gender budgeting and funding instruments. It will not be easy in an enlarged Europe to achieve real equality between men and women, partly because we all bring our own gender equality history, which is based on the manifestation of historically unequal power relations between men and women that have led to the domination over and discrimination against women by men and to the prevention of women's full advancement. The legislation is essential in challenging the inequality and discrimination that women face on a daily basis.

Even if there was no European Union and no Czech membership in its structures, equal opportunities for men and women, respectively equal chances afforded to both sexes, should represent the key issue of the government and its institution, private sphere and

public society. Why? Because each sex makes about 50 percent of the citizens, voters and tax-payers. The author's hope is that Czech society realizes this someday.

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Interview with Alena Králiková, director of organization for public benefit Gender Studies. Questions were asked by Alexandra Jachanová Doleželová. 2005. Annex 1.

Interview with Barbara Havelková, lawyer, author of Equal Opportunities for Women and Men: Monitoring law and practice in the Czech Republic, published by Open Society Institute in a project *Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union*. Questions were asked by Alexandra Jachanová Doleželová. 2005. Annex 1.

Interview with Cécile Gréboval, Policy Co-ordinator, European Women's Lobby. Questions were asked by Alexandra Jachanová Doleželová. 2005. Annex 1.

Interview with Dagmar Zelenková, Head of the Department of Equal Opportunities for Men and women, MLSA. Questions were asked by Alexandra Jachanová Doleželová. 2005. Annex 1. (Only one question was answered).

Interview with Fay Devonic, Director of the DIRECTORATE G: Equal Opportunities of the DG for Employment, Social Affairs and Equal Opportunities. Questions were asked by Alexandra Jachanová Doleželová. 2005. Annex 1.

Interview with Kristina Koldinská, lawyer, Czech reporter to the *Bulletin Legal Issues in Gender Equality* published by the European Commission. Questions were asked by Alexandra Jachanová Doleželová. 2005. Annex 1.

Interview with Michaela Marksová-Tominová, Vice-chairwoman of Association of Equal Opportunities and member of the Government Council for Equal Opportunities for Men and Women. Questions were asked by Alexandra Jachanová Doleželová. 2005. Annex 1.

Annex 1. – Interviews with gender equality experts:

1. Alena Králiková, director of organization for public benefit Gender Studies.
2. Barbara Havelková, lawyer, author of *Equal Opportunities for Women and Men: Monitoring law and practice in the Czech Republic*, published by Open Society Institute in a project *Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union*.
3. Cécile Gréboval, Policy Co-ordinator, European Women's Lobby.
4. Dagmar Zelenková, Head of the Department of Equal Opportunities for Men and Women, MLSA.
5. Fay Devonic, Director of the DIRECTORATE G: Equal Opportunities of the DG for Employment, Social Affairs and Equal Opportunities.
6. Kristina Koldinská, lawyer, Czech reporter to the *Bulletin Legal Issues in Gender Equality* published by the European Commission.
7. Michaela Marksová-Tominova, Vice-chairwoman of Association of Equal Opportunities and member of the Government Council for Equal Opportunities for Men and Women.

All the questions were prepared by the author and asked by the author of the dissertation.

Interview with Alena Králiková, director of organization for public benefit Gender Studies.

1. What was the breaking point for the state institutions to include gender equality in their policies?

Unfortunately, it was only the start of the accession process, i.e. the point when implementation of gender equality issues was discussed between the EU institutions and the Czech Republic. Although Czech institutions were to report on their successes within CEDAW implementation far earlier than in the end of 20th century, it did not mean anything "serious" for the state institutions to start any implementation of gender sensitive policies and measures.

2. Did the membership in the European Union support advancement of equal opportunities for men and women in the Czech Republic?

I do not really want to confirm it fully. I think that to certain extent it did, but hadn't we had the "tradition" of CEDAW, Beijing+5 etc. and activities of NGOs, it would have been much more difficult for the state institutions and government to launch equal opportunities "process". Thanks to the EU accession process and membership the Czech Republic could have followed what was done earlier and declared – again to a rather limited extent – its dedication to gender equality. The question remains if anything besides this "declared dedication" is being truly, systematically and strategically realized...

3. What was the role of women's NGOs in the accession process?

Their role was definitely very important especially when it comes to bringing the issue of gender equality, gender mainstreaming, gender sensitivity etc. closer to the public, media, decision and opinion-makers etc. They supported the issue to become better understood, some women's NGOs organized discussion meetings for the public both in Prague and regions to make them see positives (and negatives) of the EU accession and membership with special focus on gender dimensions of the accession.

4. Were the EU pre-accession funds distributed in the CR with regard to gender mainstreaming?

Unfortunately not at all. Just have a look in the publication published by Gender Studies and Aspekt analyzing gender perspectives in the pre-accession funds distributed between 1999-2004 and you will see that gender equality did not represent a "horizontal priority", and if any women's NGOs ever received a grant, they were three or four out of a large number of NGOs (moreover, they were usually either Gender Studies, proFem or Czech Women's Union, or Czech Helsinki Committee – which is not a "women's" organization by definition and focus).

5. Was the Czech law already harmonized with the EU legislation in regard to gender equality?

Definitely yes, most of it took place already before the accession; some harmonization was realized in 2004. The problem, however, remains in the state not being able to bring information on all the changes close to the public...

6. Does the government maintain equal opportunities for men and women sufficiently?

No, it does not. Its strategies are more or less haphazard; the only body that "tries to" focus on gender issues, gender mainstreaming and other gender sensitive measures is the Governmental Council for Equal Opportunities. However, due to lack of any "power", its function is not considered serious and the government does usually not approve its actions or suggestions...

7. Is the institutional support to gender equality adequate in the CR and do the institutions advance the gender equality enough?

Again, my answer is negative – neither the government, nor the institutions do provide sufficient support to gender equality – considering institutional, strategic, "political" and financial support.

8. What would be the ideal instrument for advancing gender equality in the CR?

Either providing more "power" to the above-mentioned Council (i.e. budget, decision-making powers, officers, accountability for its duties and political respect!), founding a specific body (ministry, special department in a ministry) and organizing a specific programme supporting NGOs dealing with gender issues (this could be managed by either the Council with increased power and responsibility or the ministry/department...). Moreover, ideally, the whole issue could be "underlined" by open and pronounced support from the side of political representation...

9. What should be the further progress of the gender policy in the Czech Republic?

I think it could be put under headlines of education/ training of decision-makers at the Czech institutions (i.e. ministries etc.), awareness-raising campaign targeted at the public, support to NGOs (institutional and financial etc.), "political" and strategic support to gender issues and many other minor and rather long-term activities...

Thank you for answering the questions.

Interview with Barbara Havelková, lawyer, author of Equal Opportunities for Women and Men: Monitoring law and practice in the Czech Republic, published by Open Society Institute in a project *Equal Opportunities for Women and Men. Monitoring law and practice in new member states and accession countries of the European Union.*

1. **Did the Czech Republic implement all Directives connected to equal opportunities for men and women? Do the implemented Directives work in practice in the Czech Republic?**

The EC/EU policy and legal doctrine subdivides the process of implementation into up to six parts (transposition, application, compliance, enforcement, policy evaluation and policy reform). It has been accepted, that the gender-equality relevant *acquis communautaire* has been **transposed**. This does not necessarily mean that the legislation concerning equality between men and women (here reference is made to Art. 141 of the Treaty Establishing European Community and the 12 Directives) is being implemented. More than a year after the accession, the equally important segments of **implementation – application** (establishment of procedures and administration of measures by relevant authorities), **compliance** (by the private sector) and **enforcement** (checking and ensuring/compelling conformity in the private sector by the relevant authorities) are lacking or severely underdeveloped. So is the continuous **policy evaluation** (checking whether the adopted methods of application and enforcement bring about the desired results) and subsequent **policy reform** (learning from the lessons drawn from the evaluation stage). There is a great gap between situation *de iure* and *de facto*.

2. **Article 141 (1) of the EC Treaty sets out the principle of equal pay for male and female workers of equal work or work of equal value. Does this principle work in practice in the Czech Republic?**

The wage gap in the Czech Republic remains around 25 %. I do not have the expertise to investigate the labour-market related reasons, so I'll concentrate on the legal aspects. It has been shown, that both structural discrimination and individual discrimination contribute to the gap. The law takes notice and tries to remedy: the prohibition of discrimination covers both direct discrimination (individual cases where the criterion for lower remuneration is directly sex of the worker) and indirect discrimination (structural, where apparently neutral measures have disparate impact on men and women). The question I'm asking myself is, when the law "guarantees" the rights, why is the litigation in the area of wage discrimination virtually non-existent?

There are a plethora of answers, but one lies with the legal profession. The regulation of equality between men and women is new and in the Czech legal environment encounters three problems:

- 1) the general lack of understanding of the concept of equality or to put it more boldly some disgust with the concept among others due to the communist past,
- 2) the regulation mostly concerns labour relations which are notorious for breach of legal rules, so breaching new rules is business as usual and doesn't receive much attention,
- 3) the gender aspect causes suspicion.

The interpretive community is not mature enough to understand, develop and define the concept of equality (ad 1) or gender equality in particular (ad 3).

The misunderstanding and misapplication concerns substantive as well as procedural law.

Another aspect which I noticed in attorneys as well as judges is the tendency to mistrust the victim of discrimination. Often, denigrating comments can be heard (attorney in a sexual harassment case: "she is a very particular women, overly responsive, has a third husband already as far as I know") or are even mentioned in the decision (regarding "conflict full personality" or professional incapability of the victim). They are passed on as "sketch-in" anecdotal evidence from the employer, even though they are not necessarily relevant to the decision and are never subjected to proof.

3. How does the European Union control if the Czech Republic implemented all the Directives connected to equal opportunities for men and women?

The implementation of Directives is a duty of the Member States. The state of implementation is often subject to reporting duty to the Commission of the European Community, the Commission also receives complaints from citizens. If an inadequate implementation is found, the Commission communicates with the Member States as to the possible remedies of the breach, having as ultimate tool the infringement procedure under Art. 226 EC Treaty. The Court of Justice of European Communities then reviews the adequacy of the implementation including the method of implementation (national law/regional law/administrative act...). Two important points should be mentioned here:

- 1) actions of the administration and the courts are attributable to the state,
- 2) the Court of Justice reviews not only the transposition, but also effectiveness of the Community law.

This makes the Czech Republic theoretically liable for misapplication of directly effective Community law (for ex. Art. 141 EC Treaty) by a court or an administrative body (an infringement procedure here is however highly improbable).

4. The Directive 2002/73 (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) was required to be transposed in national legislations by October 2005. Did the Czech Republic accomplish all the requirements?

The Art. 8a "body for promotion..." has not yet been established. Other obligations mostly transposed, the question is again other aspects of implementation.

5. What would be the ideal institutional support for the promotion of equal opportunities for women and men on the national level?

Equal Opportunities Commission with the finances, powers and independence it has got in Great Britain or Ireland (for example).

Thank you for answering the questions.

Interview with Cécile Gréboval. Policy Co-ordinator. European Women's Lobby.

- 1. How does the European Union control that all Directives concerning the equal opportunities for men and women have been applied in all member states? Does it control that each country promotes equal opportunities sufficiently?**

I think the process is that Member States are required to send a report to the EC about how they transposed the directives, looking at how the transposition was done and whether it is correctly done. If not transposed, the EC can ask the MS to do so and there can be financial sanctions. Then for the implementation itself, I think that this is not sufficiently controlled by the EC, there should be more monitoring, for example we're asking for a report on how the 2002 gender equality directive was transposed and its application in the MS.

There is also a procedure whereby anyone may lodge a complaint with the Commission against a Member State about any measure (law, regulation or administrative action) or practice which they consider incompatible with a provision or a principle of Community law.

- 2. Article 141 (1) of the EC Treaty sets out the principle of equal pay for male and female workers of equal work or work of equal value. Does it work in practice? Does the European Union, respectively European Commission, support practical compliance of the Article by the Member States?**

Obviously not, looking at figures! I think that equal pay is a complicated issue in terms of going to court and proving it occurred. It is an issue to be dealt with by social partners as well, in terms of classification of pay etc.

- 3. Article 13 of the EC treaty states that the EU may take action to "combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation". What are the actions taken to combat discrimination based on sex?**

3 directives were adopted on the basis of article 13, including one on gender equality concerning goods and services in December 2004.

- 4. Are there any compulsory institutions or other instruments for the Member States concerning promotion of gender equality?**

Treaty articles and directives are binding for Member States.

The United Nations CEDAW convention + optional protocol are also binding for those EU Member States that have ratified them.

- 5. What would be the ideal institutional support for the promotion of equal opportunities for women and men on the national levels and on the European Union level?**

Here is the text of the EWL "Road Map for Gender Equality 2006-2010" concerning institutional mechanisms:

"Specific institutional mechanisms on equality between women and men are indispensable tools for the implementation of legislation and political commitments. In particular the implementation of gender mainstreaming necessitates strong institutional mechanisms, because this horizontal strategy needs coordinated action by a wide variety of actors within public institutions. While some new mechanisms for gender equality have been set up within the European Commission since 2000, their efficiency is hampered by lack of adequate human and financial resources, inadequate training, an unclear mandate and the absence of effective political leadership at the highest level."

Thank you for answering the questions.

Interview with Dagmar Zelenková, Head of the Department of Equal Opportunities for Men and Women. MLSA.

Dagmar Zelenková informed me that she and nobody from Department of Equal Opportunities for Men and Women at the Ministry of Labour and Social Affairs have time to answer my questions. Therefore, she answered only one question.

- 1. The Directive 2002/73 (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) was required to be transposed in national legislations by October 2005. Did the Czech Republic accomplish all the requirements?**

Yes, the Directive was already fully implemented.

Thank you for answering the question.

Interview with Fay Devonic, Director of the DIRECTORATE G: Equal Opportunities of the DG for Employment, Social Affairs and Equal Opportunities.

- 1. How does the European Union control that all Directives concerning the equal opportunities for men and women have been applied in all member states? Does it control that each country promotes equal opportunities sufficiently?**

The principle of equal treatment of men and women has been enshrined in the EC Treaties since the establishment of the European Economic Community in 1957. It has been implemented in a number of fields by EU legislation over the past 30 years, and developed in extensive case law by the European Court of Justice. The Commission monitors the application of this legislation. An infringement procedure (Article 226 of the Treaty establishing the European Community (consolidated text) is possible when a Member State has not fulfilled the implementation of a European directive. Article 226 "If the Commission considers that a Member State has failed to fulfill an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations. If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice."

- 2. Article 141 (1) of the EC Treaty sets out the principle of equal pay for male and female workers of equal work or work of equal value. Does it work in practice? Does the European Union, respectively European Commission, support practical compliance of the Article by the Member States?**

Although the principle "equal pay for work of equal value" has been for a long time enshrined in law, it has not yet been effectively put into practice and there is still a pay gap of about 15% on average in the EU. The Equal Pay Directive 75/117/EEC and Art. 141 EC are the relevant European legislation in that area. Directive 97/80/EC on the burden of proof in discrimination cases complements these basic rules. These legal provisions are binding for the Member States.

The existing gender pay gap mostly finds its reasons in practices such as wage arrangements, collectively agreed and company-internal procedures, criteria and rules for job evaluation that appear to be gender neutral in their formulation but result in wage disadvantages for women. In 2001, under the Programme relating to the Community Framework Strategy on Gender Equality, the European Commission launched an open call for proposals considering the issue of "equal pay" and financially supported 27 projects on equal pay throughout the EU.

- 3. The Directive 2002/73 (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) is required to be transposed in national legislations by October 2005. Is it already known if the Member States have transposed it in time?**

After the expiration of the deadline concerning the implementation of the Directive 2002/73/EC the Commission is currently examining the notified transposing acts. Most Member States have notified transposition in time.

- 4. Article 13 of the EC treaty states that the EU may take action to “combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”. What are the actions taken to combat discrimination based on sex?**

The Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services was adopted on the legal basis of ART 13 EC Treaty.

- 5. One of the goals of the Lisbon Strategy is to strengthen the position of women in the labour market. What are the instruments to achieve the goal?**

The promotion of gender equality is an explicit component of this Strategy through a dual approach including gender mainstreaming and specific actions. An important boost to this process has also been given by the Lisbon Council who fixed a target for the European Union to achieve at least 60% female employment rate and 70% of the overall employment rate by 2010; and by the Barcelona Council, where EU Heads of States and Government have set a concrete target for childcare supply: 90% of children between three years old and the mandatory school age and at least 33% of children under three years of age by 2010.

A central role is given to policies of reconciliation between work and family life (parental leave, work-time flexibility, part-time, ...), especially through the provision of services for children and other dependants. To be effective, policies to reconcile work and family life should be addressed not only to women, but also and especially to men.

Women's active participation in the labour market and the elimination of gender gaps in all spheres of life are pivotal and key factors for the Union to achieve full employment, social cohesion, long-term economic growth, and sustainable development in a knowledge-based society.

- 6. Vladimír Špidla (Commissioner for Employment, Social Affairs and Equal Opportunities) officially announced the setting up of a new European Institute for Gender Equality. What will be and what should be the purpose/mission of the institute?**

The Commission adopted a proposal for the creation of a European Institute for Gender Equality on 8 March 2005. The Institute should provide technical support for the Member States and the Community institutions by collecting, analyzing and disseminating reliable and comparable data at Community level and by developing methodological tools for better integrating gender equality in all Community policies, fostering dialogue and exchange of good practices. It should also give greater visibility to EU gender equality policy through the development of awareness-raising and dissemination of information activities addressed to the stakeholders and the public at large. The

Commission proposal is currently under discussion and it is expected that the Council and the European Parliament, co-legislators, will decide before the end of 2006, in order for the Institute to be operational in 2007.

Interview with Kristina Koldinská, lawyer, Czech reporter to the *Bulletin Legal Issues in Gender Equality* published by the European Commission.

- 1. Did the Czech Republic implement all Directives connected to equal opportunities for men and women?**

Yes

- 2. Do the implemented Directives work in practice in the Czech Republic?**

Yes, I think so.

- 3. Article 141 (1) of the EC Treaty sets out the principle of equal pay for male and female workers of equal work or work of equal value. Does this principle work in practice in the Czech Republic?**

Well, in practice not really, women get cca 73% of men's salaries, but the reason is more historical and sociological one (women normally accept less paid works).

- 4. How does the European Union control if the Czech Republic implemented all the Directives connected to equal opportunities for men and women?**

The system of monitoring is the same, as for Old Member States. The Czech Republic has to report on implementation of Directives, in case, the so called "notification tables" do not arrive, infringement process starts from letter of intend and ends up by ECJ, if necessary (still not happened).

- 5. The Directive 2002/73 (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) was required to be transposed in national legislations by October 2005. Did the Czech Republic accomplish all the requirements?**

Yes.

- 6. What would be the ideal institutional support for the promotion of equal opportunities for women and men on the national level?**

At the beginning of December 2005 the Czech Chamber of Deputies adopted the law on antidiscriminative measures (it should pass through Senate and be signated by president). This law provides already existing ombudsman with new competencies regarding protection and help againts discrimination. If it works properly, it could be a good and effective solution. Otherone could have been a separate, independent body, but this did not happen in the Czech Republic.

- 7. What is the best EU instrument of promotion of equal opportunities? What is the best instrument of promoting equal opportunities for men and women**

at national level?

On EU level, the best instrument is of course the directives, accompanied by information campaign. There is no best instrument at national level, for each society the solution is different and therefore instruments are different, as the historical starting-points defer between each other.

8. How does the European soft law (e.g. Framework Strategy on Gender Equality or European Employment Strategy) influence the promotion of equal opportunities for men and women in the Czech Republic?

The influence is very strong in legal terms; the Czech law had to be changed a lot regarding gender equality. Starting from the legal changes, we hope, the mind of the society is going to be changed accordingly as well, but it will require time and a lot of work.

Thank you for answering the questions.

Interview with Michaela Marksová-Tominová, Vice-chairwoman of Association of Equal Opportunities and member of the Government Council for Equal Opportunities for Men and Women.

1. What was the breaking point for the state institutions to include gender equality in their policies?

There were more breaking points. The first one was, when one of the deputies of Czech Social Democrats asked the Prime Minister in 1997, what was the practical fulfillment of Beijing Platform of Action. In 1998, first Priorities and Procedures of Government toward Equal Opportunities for Men and Women were accepted. Other important step was, when the Priorities asked all the Ministries to have one part-time gender focal point. As very important I see the establishment of Government Council for Equal Opportunities for Men and Women.

2. Did the membership in the European Union support advancement of equal opportunities for men and women in the Czech Republic?

I think that not enough. When you see the analysis of Pre-accession Evaluation Reports of the European Commission, the gender equality is not mentioned there. The only thing is that the CR implemented relevant legislature to the Labour Code. However, this was compulsory. There were no recommendations concerning the issue. The only thing mentioned in the last report was that the CR should increase number of women in politics.

3. What was the role of women's NGOs in the accession process?

I think that the role was minimal. Nobody took them in consideration, nobody asked them about anything. Women's NGOs did not have relevant resources to start some action by them own.

4. Were the EU pre-accession funds distributed in the CR with regard to gender mainstreaming?

Not at all. Czech institutions that distributed the EU finances did not have any clue about gender issues. Unfortunately, the EU did not control the distribution.

5. Was the Czech law already harmonized with the EU legislation in regard to gender equality?

I think that it was part of the obligatory implementation, therefore, yes.

6. Is the institutional support to gender equality adequate in the CR and do the institutions advance the gender equality enough?

Not at all. The problem is that the Government Council for Equal Opportunities for Men and Women does is limited, it has no budget for project and it can only advise to the Government.

7. What should be the further progress of the gender policy in the Czech Republic?

I hope that state structures will be more engaged and will support more gender equality. The state must cooperate with NGOs, some big campaign should be made. An institutional support with relevant competences is necessary. Accepting the party law could be also helpful.

Thank you for answering the questions.

Annex 2. – Gender Equality Directives.

Taken from the source: *Legislation – Legal acts on equal treatment. EUROPA.*
<http://europa.eu.int/comm/employment_social/gender_equality/legislation/legalacts_en.html>

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services;

Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;

Council Directive 98/52/EC of 13 July 1998 on the extension of Directive 97/80/EC on the burden of proof in cases of discrimination based on sex to the United Kingdom of Great Britain and Northern Ireland;

Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex;

Council Directive 97/75/EC of 15 December 1997 amending and extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC;

Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes;

Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC;

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC);

Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood;

Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes;

Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security;

Council Directive 76/207/EEC of 9 February 1976 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;

Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women.