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Exchange of good practices on gender equality

Reducing the gender pay gap

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Reducing the gender pay gap

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1. Introduction

Women in Slovakia earn in average considerably less than men. In the past decade the European average of the gender pay gap has decreased. In contrary the gender pay gap in Slovakia belongs to the highest and it is constantly increasing. Statistical data show that in 1997 the difference was 21,5 % while in 2009 it was 25,3% (the average monthly earnings of men coming close to 933 € while those of women not reaching 714 €).

The Act on Equal Treatment in Certain Areas and Protection against Discrimination ("Anti-discrimination Act")¹ came into force on July 1, 2004. It has established the basic legal framework of the Slovak anti-discrimination law extending the scope of the anti-discrimination regulation over the fundamental rights and freedoms guaranteed by the Constitution. The statutory obligation to observe the principle of equal treatment within the areas stipulated by law applies to everyone. The principle of equal treatment is applicable only in connection with rights of persons that are stipulated by special laws. Discrimination is prohibited *inter alia* on the grounds of sex, marital status and family status, political or other opinion, social origin, property, gender or other status. Adopting measures for protection against discrimination is a legal duty. It is also necessary to take good morals into consideration (for the purposes of extending the protection against discrimination). By good morals are understood generally recognised principles of behaviour in legal relationships – honesty, non-abusive rights exercise etc. The Anti-Discrimination Act is the basic and crosscutting law in the area of anti-discrimination. It lays down the duty to observe the principle of equal treatment in the fields of "labour relations and related legal relations, social security, health care, provision of goods and services and in education"².

The Labour Code directly obliges the employer to treat employees equally in compliance with the principle of equal treatment laid down by the Anti-discrimination Act for the area of employment and other similar legal relationships. The principle of equal treatment shall be applied only in connection with rights of persons provided for under special laws regulating employment, occupation and other gainful activities or functions. Thus it covers the entire sphere of employment, self-employment and occupational relationships in the public and private spheres. The right to satisfactory working conditions, remuneration, and protection against arbitrary dismissal including discrimination at work is basically guaranteed by the Article 36 of the Constitution (and also by the Anti-discrimination Act). According to the Basic Principles of the Labour Code, women and men shall have the right to equal treatment as far as access to employment, pay and promotion, vocational training and working conditions are concerned.

As far as equal pay is concerned, the Labour Code provides that "wage conditions must be agreed without any form of sex discrimination". This applies to "all remuneration for work and benefits that are paid or will be paid in relation to

¹ Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws (Anti-discrimination Act), as amended

² Section 3 paragraph 1 of the Anti-discrimination Act

employment according to the other provisions of this act or special regulations”.³ Women and men in Slovakia have the right to “equal wage for equal work or for work of equal value” which is the work of the same or comparable complexity, responsibility and urgency carried out in the same or similar working conditions (with the same or comparable productivity and results of work). A wage is considered to be financial (or in kind) settlement, provided by an employer to an employee for work. Compensations of different kinds, discharge benefits, severance allowances, travel reimbursements, contributions from the social fund, revenues from capital stocks / shares or bonds or tax bonuses are not considered as wages.

The comparison of women’s and men’s earnings according to age groups shows that the gender pay gap is universal, concerning all age groups. The biggest gap – when women earn almost one third less than men is the age group of 35 – 39 years (34,5 %). Then the gap slightly decreases – to about 20% in the age group of 55 - 59. As the labour force is ageing the number of women from the 35-64 age category in the labour market is growing, which deserve special attention due to their specific status; women 45+ represent also an overwhelming majority of contributing family workers, disproportionately more involved in taking care of dependant persons (80%) and family members (60%), which prevents them from pursuing their professional career. This particular group is most affected by last changes in the pension system reform in 2005. Due to gender segregation in employment and the gender pay gap, the retirement pension of women is on average reduced by 19 % compared to men’s pension (and still decreasing; it fell by 0.5% in 2009). Also in Slovakia we may speak on that account not only about feminisation of ageing but also about feminisation of poverty, or multiple discrimination of women 45+.

A significant increase in complaints submitted to The Slovak National Centre for Human Rights (SNCHR - Equality body) in the area of labour law has been noted since the beginning of the economic crisis in October 2008 - on grounds of age, gender and disability. People complaint about work conditions, mobbing or bossing but many complaints also concern selection processes or personal interviews. In 2008 the National Inspectorate of Labour in Košice received 83 complaints about discrimination out of which 26 were validated. The number of complaints about discrimination in the area of labour increased by 22 % (in comparison with 2007), while the number of cases in which complaints were validated as discrimination decreased by 62 %. Both institutions at the same time agreed that it is difficult to prove discrimination and they clearly articulated the need for systemic changes, especially in the area of prevention. Despite the claims, changes did not occur up to now, the number of received complaints about violating the Labour Code by employers rapidly grew and the situation has even more deteriorated with the continuing economic crisis. In 2009 labour inspectorates worked on 74 complaints of discrimination out of which they actually considered only 17 as valid. Simultaneously, labour inspectorates recommended over 50 % of applicants to resolve the issue by legal action or referred them to SNCHR or NGOs (!). Labour inspectorates – and to some extent also Slovak National Centre for Human Rights - which are according to antidiscrimination legislation (and under international human rights conventions and treaties) authorised and required to act in cases of discrimination fail to address such cases and complaints effectively, “sweeping them under the carpet” without any penalties or at least not solving them satisfactory from the point of view of discriminated persons.

³ Paragraph 1 of Section 119a, Labour Code No. 311/2001 Coll. as amended

2. Transferability issues

The gender pay gap is apparent also within respective sectors. In 2009, the gender gap was the largest in service workers /shop and market sales workers (women earning 36,8 % less than men) and craft / related trade workers (32,6 %). These were followed by legislators / senior officials and managers (31,4 %). Also in well-paying sectors women earn less than men. In all four analyzed sectors, the gender pay gap has increased within the past 10 years. It should also be stressed, that the gender pay gap occurs without exception in all sectors, even in the feminised ones.

Increasing educational level does not automatically mean that women get better positions and a better pay. In 2009 the gap was biggest in women with University Bachelor degree (34,7%) but even the PhD. degree does not protect women from the gap close to average (24 %). In spite of a higher education level, women occupied less than a third of the highest level jobs. In 2006, among legislators and top managers there was only 27, 9 % of women. On the other hand, women prevailed in office jobs and in services and trade (almost 70 %). Analyses of concrete occupations show that more than 40 % of women work in only 5 occupations (shop assistants, cleaners and domestic workers, restaurant workers, office workers and nurses). However, even if women hold top positions or work in the highest-paying occupations they do not earn the same money as men. The gender pay gap is the most pronounced in the highest paying occupations.

In Slovakia, there are two institutions providing data about the gender pay gap: the Bureau of Statistics of the Slovak Republic and Trexima. Data sources are surveys of the income structure and so called integrated system of labour value based on the selection of employers' organisations providing statistical data on behalf of their employees which is the practice to some extent similar to the methodology of Logib-D instrument. What they have in common is the fact that discriminatory mechanism stay undiscovered. Data provided by the Bureau of Statistics of the SR are based on annual averages; Trexima publishes gender differences for the third quarter of each given year. Gender pay gap is larger when comparing monthly earnings rather than hourly rates as monthly wage is influenced by the number of hours spent working, overtime, and other bonuses. According to the data provided by Trexima, in the fourth quarter of 2009 the difference in hourly wages between men and women was 21,9 %, in monthly income it was 24,4 %. Compared to hourly rates, monthly averages increase the gender pay gap in 2,5 %. In addition to differences in the labour market status and gender difference in the employment rate, this difference is also caused by a different system of income calculation (especially its premiums and bonuses that are two times higher in men). The substance of confidentiality of any income issues in this respect is making the usage of both good practices – German and Austrian questionable.

The gender difference in remuneration varies according to distinguished components of the income. The difference between women and men in Slovakia varies also according to individual components of the final financial remuneration. They reflect labour market segregation (both horizontal and vertical), lower remuneration in occupation with the prevalence of women. Other differences are more biased by the number of hours spent working and the type of job, (by financial compensations for worse working conditions, overtime payments or specific additional payments), while others allow for more subjectivity (merit and performance bonuses, premiums).

The smallest difference between women and men is in the fixed base pay. In 2009 it was less than 21,7 %, which is in 3,6 % less than in the case of the overall income. A much bigger difference can be observed in those components of income that depend on subjective assessment of entitlement or on collective bargaining – merit and performance bonuses. In 2006, women in the Slovak Republic received on average

bonuses in 50 % lower than men, and their premiums and bonuses represented only 52, 9 % of those of men. This huge difference indicates that women in Slovakia probably receive less bonuses than men (and/or work in positions where they are not provided). This injustice increases the already existing gender pay gap even further.

According to data of Trexima the comparison of the private and public sector, the situation in Slovakia is in line with European trends. Salaries in the private sectors are overall much higher – as well as the gender pay gap. While the average hourly earnings of women in the public sector in the last quarter of 2010 was about 82,5 % of that of men, in the private sector it is about 76,5 %.

Data provided by the Bureau of Statistics of the SR are often irregular, discontinuous and do not follow the same format or indicators. The gender pay gap should be monitored regularly and has to be included in reports about the situation of women and men presented to the government and parliament – just like it happens at the EU level. More attention should also be paid to internal monitoring / evaluation / research of employers covering also gender equality issues. An initial probe has been carried out by Trexima with specific gender focus. In other projects the issue of the gender pay gap has been tackled mostly at the level of opinion polls. Therefore, more effort should be exerted also to achieve improvement in the area of data collection, monitoring and research. Lack of transparency and awareness of Slovak employers in gender issues indicates that the implementation of any good practice should be preceded by their intensive education and training. Also early opening of wide public discussion on gender equality issues is inevitable. After all, this transformation cannot be hidden – or even disguised. However, a thorough and in-depth contextual (and factorial) analysis must be done by a multidisciplinary team of experts (sociologists, psychologists, economists, lawyers, etc.) at the beginning of (or even before) any effort to transfer a good practice from one country to another or to transform and apply any methodology initially developed for certain political conditions, societal setting or historical background.

3. Policy debate

The level of implementation of any anti-discrimination policies in Slovakia – including the reduction of gender pay gap - could be hardly assessed efficiently as it is hard to find examples of such policies. Institutions themselves are not doing systematic research, data collection and/or monitoring to assess the implementation of anti-discrimination legislation and the adoption of preventive measures and/or policies in the field. Although in Slovakia they are the judicially enforceable duty that goes beyond the scope of the EU Directives on anti-discrimination, however, they are not implemented.

Another problem is that those NGOs wanting to focus mostly on watchdog, monitoring and advocacy activities in the field of coping with discrimination of women have very limited funding resources. Also they are missing independent sources of funding as - according to the nature of discriminatory behaviour and very low human rights awareness in general - it cannot be expected that it would be easy to find supporters either in public or in private sectors. It is possible that for these reasons these NGOs will have to reduce their activities or even terminate them instead of intensifying them (what would be most desirable).

Our media monitoring of the period from 1 January 2009 to October 2011 shows that there is no clear articulation of the issue concerning the issues of discrimination of women in public discourse. Media follow perceptions of discrimination common to the public, affirming and reproducing prejudice and stereotypes, topics related

discrimination on the ground of sex and gender are either absent or they do not reflect, take into consideration or explain gender aspect of described situations or problems. In terms of language, the generic masculine is used to talk also about women. Informing is imbalanced with a scarce room for presenting the standpoints of people who are discriminated against, expert opinions, public institution representatives, etc. Public authorities neither reflect discrimination adequately nor put it in context of human rights, antidiscrimination legislation and the Constitution. Discrimination is not perceived as a structural problem by media, resulting in state and public institutions not being held accountable in this matter.

When the Statistical Office of the Slovak Republic published the information in May 2007 that women in Slovakia earn 27 % less than men it became one of most important topics (at least for two months as gender dimension was something new). But instead of opening fully the public discussion on the issue and looking on the problem from different aspects relevant to good practice in other EU countries the intensity of public discourse on the topic gradually diminished – in media as well as in society.

In general government leaders in Slovakia have not said much yet about discrimination of women and its economic impacts (among them also gender pay gap). If there had been any debates or controversies by the political representatives in the media space concerning the gender pay gap and its negative impact on the whole society it was more often in the sense of stressing an issue of burden represented by those who are discriminated (e.g. pregnant women, single mothers, Roma women, etc.) with the tendency accusing them for problems the whole society suffers because of them and/or for the losses caused by solving those problems.

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