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**Legislating for Equality:
The Implementation of the EU Equality *Acquis*
in Central and Eastern Europe**

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Abstract

Following the collapse of communism in Central and Eastern Europe (CEE) in 1989, the prospect of joining the European Union (EU) became a key goal of the transition process. Eight post-communist countries became new member states in May 2004, while Romania and Bulgaria hope to join in 2007. Before acceding to the EU candidate countries were required by the European Council of Copenhagen (1993) to fully implement all social, economic, and legal chapters of Community legislation (known as the *acquis communautaire*). While there was relatively little emphasis on the equal opportunities of men and women, Chapter 13 of the *acquis* ('Employment and social affairs') includes legislative provisions that seek to promote gender equality in the workplace. Some of these EU equality laws (e.g., maternity leave and equal pay) existed under communism, making both citizens and officials aware of their provisions; it can be argued that the communist regime hastened the legal codification of women's rights in CEE by implementing many equality measures in advance of Western Europe. Other equality provisions (e.g., reversal of the burden of proof in sex discrimination cases) are novel additions that – when properly enforced – will improve gender equality in the region. While most CEE countries have implemented the bulk of the equality legislation, this paper concludes that legislative harmonisation has made only a marginal change in practice as women remain numerically weaker than men and hold less favourable positions in most areas.

This paper considers the extent to which the equality *acquis* has been transposed, implemented, and enforced in Central and Eastern Europe. It begins by examining the pre-89 equality infrastructure, which provides a comparative basis for the paper's substantive analysis of the implementation of the ten directives that comprise the EU equality *acquis*. In particular, it discusses the legal mechanisms used to implement the legislation, evaluates whether pre-89 provisions have been strengthened or weakened, and highlights remaining problems in harmonisation. Next, the paper evaluates awareness of the equality directives among women, employers and judges. It analyses the enforcement of these directives by labour inspectorates and ombudspersons, while also noting the limited case law. It then examines relations between CEE governments and both NGOs and trade unions, considering whether these bodies are promoting awareness and enforcement of the equality legislation. In conclusion, the paper argues that legislative harmonisation has legitimised women's claim to genuine equality but has made only a marginal change in practice as women remain numerically weaker than men and hold less favourable positions in most areas.

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Amanda Sloat, PhD*

Abstract	1
1. Introduction	5
2. Gender Equality during Socialism	6
2a. Laws.....	7
2b. Institutions	16
3. Implementation of the EU Equality <i>Acquis</i>	20
4. Awareness and Enforcement of the EU Equality <i>Acquis</i>	54
4a. Awareness of directives.....	54
4b. Enforcement of directives.....	62
5. Relations between Government and NGOs/trade unions.....	70
5a. NGOs	70
5b. Trade Unions.....	75
6. Conclusion.....	78
6a. Has adoption of the EU equality acquis changed attitudes?.....	78
6b. Has adoption of the EU equality acquis changed practices?	81
References	84

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1. Introduction

Following the collapse of communism across Central and Eastern Europe (CEE) in 1989, countries began reforming their political and economic institutions according to the principles of democracy and market economics. The prospect of achieving membership in the European Union (EU) was a strong incentive during the transition process, a goal that was achieved by eight post-communist countries in May 2004. Prior to acceding to the EU, candidate countries were required by a decision of the European Council of Copenhagen (June 1993) to fully implement all social, economic, and legal chapters of Community legislation (the *acquis communautaire*). While there was relatively little emphasis on the equal opportunities of men and women, Chapter 13 ('Employment and social affairs') of the *acquis* includes legislative provisions that seek to promote gender equality in the workplace. However, transposition of the *acquis* into a country's statute books does not mean it has been fully implemented or enforced; this has been particularly problematic in the case of equality legislation.

This paper, which draws from data collected during an EU-funded research project, considers the extent to which the equality *acquis* has been transposed, implemented, and enforced in ten Central and Eastern European countries.¹ The first section of the paper discusses the pre-89 equality infrastructure (laws and institutions) in CEE, providing a comparative reference for the subsequent consideration of changes introduced by the EU *acquis*. Secondly, the paper analyses the implementation of the ten directives that comprise the EU equality *acquis*. It discusses the legal mechanisms used to implement the legislation, compares the pre-89 laws with EU regulations to see if existing provisions have been strengthened or weakened, and highlights remaining problems in harmonisation. Thirdly, the paper evaluates awareness of the equality directives, particularly through government action to promote familiarity among women,

¹ The research project focuses on the three Baltic countries (Latvia, Lithuania, Estonia), Central Europe (Hungary, Poland, Czech Republic, Slovakia), Eastern Europe (Bulgaria, Romania), and one country from the former Yugoslavia (Slovenia). The paper uses Central and Eastern Europe (CEE) as a shorthand reference for all ten countries.

employers and judges. It also analyses the enforcement of the directives, including the work of labour inspectorates and ombudspersons as well as limited case law. Fourthly, the paper examines relations between CEE governments and both NGOs and trade unions in terms of concerted action to promote awareness and enforcement of the equality legislation. In conclusion, the paper considers the extent to which the EU equality *acquis* has changed attitudes (of bureaucrats, the public, NGOs and trade unions) toward equality in the workplace and has altered actual working practices. It argues that legislative harmonisation has legitimised women's claim to genuine equality but has made only a marginal change in practice as women remain numerically weaker than men and hold less favourable positions in most areas.

2. Gender Equality during Socialism

When the assertion of the equal standing of women and men was at an early developmental stage in Central and Eastern Europe, it was influenced by the emergence of state socialism and the imperative to eliminate inequality in accordance with the principles of Marxism-Leninism. Because in a totalitarian system power was wielded by the *nomenklatura*, the equality of men and women was primarily achieved by providing for women's economic independence (see Uhrová 1994). Not surprisingly, the state socialist countries were distinguished by the particularly high economic involvement of women, which was ensured by the implementation of 'overall employment', as Marxist ideology saw the participation of women in paid work as the major precondition to ensuring their equal rights. As the socialist state expected women to participate fully in the post-war process of 'building socialism', it enacted 'protective' maternity and childcare laws and provided basic yet essential infrastructure (e.g., nurseries, school meals, comprehensive healthcare provisions, cheap and efficient transport, workplace canteens, a network of shops open long hours) to help working people and their families. The state also actively encouraged a negative perception of women who chose motherhood alone and working only in the home, as employed mothers in the labour market were the preferred ideal. The communist rhetoric of equal rights and gender ideology towards the family and motherhood led to the maintenance of male dominance in the public sphere (see Taljunaite 2004).

A widely shared belief across CEE is that the previous political regime left a legacy of gender equality in place. While some provisions established under state socialism appeared more favourable than those enacted by Western European countries, the motivation behind them and their social effects were entirely different. For example, the socialist government could easily

disguise unemployment by granting long parental leave; because mostly women requested this leave, their chances in the labour market were reduced. Consequently, the constitutional principles of equality and non-discrimination in the labour market were never actually enforced during state socialism (see Eberhardt 2004).

2a. Laws

In all 10 CEECs, the key provisions declaring gender equality were contained in constitutions modelled on Stalin's 1936 constitution and labour codes. Constitutional regulations provided women and men with equal rights in all areas of state, political, economic, social and cultural life. The constitution prohibited any form of discrimination, gave citizens the right to work and choose their occupation freely, required equal remuneration for equal work, ensured the rights to rest and dignity, and guaranteed social security during sickness and after retirement. It provided material and moral support for mothers and children, including the protection of pregnant women, paid leave of absence prior to and after giving birth, and a network of obstetrics facilities, nurseries and kindergartens. Many of these entitlements (e.g., free education, health care, paid sick leave, pensions) were wider and more generous than in Western capitalist countries. The labour code focused on the working conditions of all citizens with special provisions for women concerning labour and health protection measures. It further ensured equal treatment for both genders, equal pay for equal work, and maternity leave.

Both the constitution and the labour code stressed that working for the benefit of society is a primary obligation and a primary right, as well as an issue of honour, for every citizen. The principle of equality of rights in the state socialist society was used to support the social duties of women, who received their rights from their duty to work and bear children. While the labour code entitled every employee (regardless of gender) to equal remuneration for work of equal value and obliged the employer to facilitate the improvement of employees' professional qualifications, it also contained detailed regulations protecting – and thereby limiting – women's work.

The following section provides a brief overview of pre-89 'equality' laws across Central and Eastern Europe. They are arranged under the headings of the EU directives to be discussed in section three, thereby facilitating easier comparison of the difference made by the introduction of EU legislation to the equal protection available to women in CEE countries.

Equal Pay Provisions governing equal pay were generally stipulated in both the constitution and labour code in the post-war period. Most countries also ratified ILO agreement 100 on the same remuneration of working men and women for work of the same value in the mid-1950s. A typical example of such provisions can be found in the Czechoslovak Socialist Republic (CSSR) Constitution, which declared that citizens had the right to work and remuneration for the execution of this work according to its amount, quality, and societal value. The Labour Code gave women the same standing as men at work, while remuneration for labour was strictly divided. The code stated that wage tariffs, evaluation and classification of work, and pay bonuses were established according to principles and labour regulations laid down by the Federal Ministry of Labour and Social Affairs after negotiations with the Central Council of Trade Unions. However, the weakness of the legislation in most countries – such as Hungary – was that neither a definition of remuneration nor the concept of ‘work of equal value’ was included in the legislation.

Consequently, women generally received lower salaries than their male counterparts despite these legal provisions. In Hungary, for example, women’s wages were 20-30% lower than men’s (Hungarian Central Statistical Office, 1989). One of the main explanations for this gender pay gap is the way in which labour activities were catalogued into standardized job descriptions that were used to establish wage tariffs. Although this standardization was gender neutral as a rule, gender discrimination occurred in practice. For example, men were classified into higher wage classes and took higher bonuses even when they had the same job as women. Furthermore, traditionally female professions were undervalued in the tariffs compared to male ones. A second explanation for this gender wage disparity is the tendency of many women to work in low paid jobs with fixed wage levels such as clerks, shop sellers, teachers, doctors, and judges; those in some service sector occupations (i.e., waiters, hairdressers, taxi drivers) earned more money through tips. Third, the gender stereotype of men as the primary breadwinners suggested they should earn a larger salary to support their families. Thus, the labour market and pay structure were structurally distorted in favour of men as a result of prevailing attitudes that attributed a secondary value to women’s employment activities.

Equal Treatment at the Workplace CEE Constitutions guaranteed all citizens the rights to pursue further education and obtain qualifications, to choose a profession, and to work. Additional guarantees were created in the labour code to ensure the implementation of these rights. As the Hungarian situation demonstrates, there was no equivalent legislation to the EU equal treatment

directive although the principle was recognised to a limited extent. Equal treatment was only understood in the context of access to employment or in admission to and participation in educational institutions. The 1967 Hungarian Labour Code specified the ‘prohibition of differentiating in a negative way between any persons based on their gender, age, nationality, race or origin.’ In addition, Act XLIII of 1948 covered equal treatment and special protective measures for working women, seeking to eliminate any disadvantages women faced in their working lives and declaring their equal legal status in society. Similarly, two articles in the Romanian labour code dealt with the provision of equal treatment as a general principle. Article 2 guaranteed one’s right to work without any sex-related obstruction, according to one’s aptitude, professional preparation and aspirations, and the needs of the whole society. Article 14 ensured women wide possibilities to affirm themselves in conditions of full social equality with men, including the right to occupy any function or workplace based on their professional qualifications.

In addition to the *right* to work, there was an implicit *obligation* to work as those who did not supply their own means of subsistence through ‘honest work’ were in danger of being accused of the criminal activity of ‘social parasitism’. All CEE countries had statutes concerning so-called ‘social parasites’ or ‘spongers’ (i.e., people out of school and unemployed). Such persons were obliged to produce evidence of their means of support and to report to certain agencies, as they were believed to be living at the expense of others. When this legislation was introduced in Poland, interesting debates occurred about women’s work. Based on the assumed ‘equality’ of all citizens irrespective of gender, legislators drafted a statute that was to apply to women as well. As they could not ignore the traditional family model in which women do housework for the benefit of their families, women were eventually excluded from the scope of the act. Behind this exclusion were the clear convictions that women who were not employed nevertheless work at home for their families, that their work is socially useful, and that for this reason they cannot be included in the category of ‘social parasites’. Thus, the work performed by women at home for their families was recognized indirectly to be unpaid professional work, although such a far-reaching conclusion was not explicitly expressed at the time.

Women’s equal participation in the family, at work, and in public activities was primarily assured through the special regulation of work conditions, special care during pregnancy and maternity, and the expansion of institutions and services to enable women to use all abilities necessary for participation in society. However, legislation ensuring the equal participation of women in the workplace also included special protective provisions. Legislators intended so-called ‘women’s

privileges' to take account of working women's needs in relation to childbearing and childrearing. The labour code banned numerous jobs that were supposed to be inappropriate for women, primarily pregnant women and women who had recently given birth (such as jobs involving hard manual labour). There were special conditions for women working night shifts. In addition, an employer was obliged to give a pregnant woman different work with the same salary if her health was likely to be jeopardised; pregnant women or mothers looking after children younger than 15 years of age were entitled to flexible or shorter working hours; mothers could take breaks to breastfeed, which were included in the number of hours worked; pregnant women and mothers with a child younger than one year could not be sent on business trips without their agreement, work in night-shifts or overtime, or be fired. Efforts were also made to enable women to combine professional and family duties by expanding the network of nurseries and kindergartens and by granting paid leave of absence to women for the purpose of taking care of an ill child.

These regulations, which ostensibly protected women, actually led to their discrimination in employment. It became difficult for women to engage in the more highly-paid occupations, such as driving buses, on account of these protections. In Estonia, women who worked in certain occupations (i.e., teachers, doctors, salespersons) were subjected to regular and compulsory gynaecological exams; men who worked in these spheres were not obliged to pass tests for venereal diseases (Laas 2004). The fact that the labour code exclusively (or primarily) provided female workers with certain rights resulting from having a child encouraged the burdening of women with all housekeeping and family duties and also decreased women's attractiveness on the labour market. While such legislation was intended as a privilege and reward for bearing children, it ensured women's rights only through the virtue of motherhood and ended up being discriminatory. These phenomena were particularly visible during the transformation period post-89, when it transpired that legal regulations based on gender differentiation supposedly serving to equalise employment opportunities of women and men in practice not only failed to provide an effective barrier against discrimination of women but also led to their exclusion from the labour market (Zieliński 1995, 21).

Equal treatment for self-employed Due to the centrally run economy and to the fact that all means of production constituted state property, self-employment was virtually non-existent for most of the state socialist period across CEE. With the gradual economic liberalization in the 1980s, this phenomenon started to emerge across Central and Eastern Europe but remained

marginal.² Consequently, few countries had provisions regarding the equal treatment of self-employed workers before 1989. Romania, for example, never had such legislation. In Hungary the scope of social provisions, including maternity benefits and childcare allowances, were extended to cover self-employment only after 1980. In Czechoslovakia, the constitution established that within the boundaries of socialist economic systems small private economies based on personal labour that did not exploit workers were permissible. The social security law gave 'self-employed' persons the right to participate in pensioners' insurance and sickness insurance under the same conditions as employees, and gave cooperating family members the same rights as 'self-employed' people. But in practice, it was an exceptional statute applying only to small and specific groups of workers such as performing artists, and small farmers.

Equal Treatment - Social Security CEE countries did not have *occupational* social security schemes under state socialism. However, the state managed the *statutory* social security system. In Hungary, for instance, the state required workers to contribute 10% of their gross incomes to the national insurance and social security fund and employers to pay another 43% toward this fund. In 1989, the state assigned 16.5% of the GDP to cover the special provisions. The constitution and labour code ensured social insurance for employees and their family members, which included sickness and accident benefits, maternity leave, pensions, and free medical care. Aside from maternity leave, these social supports were equally available to women and men; but some provisions, such as pensions, carried different rules of entitlement for each sex.

Imbedded in the insurance system was the notion of indirect discrimination against women, whose wages and social security contributions – and thus benefit entitlements – were lower than those of men. Different retirement ages – allowing women to retire five years before men³ in an effort to compensate for their earlier need to combine professional and family duties – further reduced the service time of women and consequently the value of their pension. In Hungary, it almost became an obligation for women to retire earlier than men -which meant lower retirement benefits. As a result, about 26% of Hungarian women lived below the minimum subsistence level by 1987 (Eberhardt 1990). In the Czech Republic, women also retired earlier than men (even earlier if they had children). The pension system required workers to have been employed for ten

² Before 1989, about 0.001% of the employed population in Hungary could be considered as self-employed. In 1988, 4000 of the 4,850,000 active wage earners belonged to this category. 33% of them were women who worked in the service sector and fashion industry (Eberhardt 2004).

³ In Poland the retirement age was 60 for women, as compared to 65 for men. In Latvia women could retire at 55 (even earlier for mothers with four or more children) and men at 60. In Hungary the retirement age was 55 for women and 60 for men.

years, and payments were calculated according to workers' earnings in their five best paid years. Thus, women generally received smaller pensions than men, as they had lower salaries and were less likely to be employed in professions (such as heavy manual labour) that offered higher pension rates.

Maternity leave Maternity provisions during state socialism were intended to support the state's pro-natalist policies. Through attractive benefits, the state tried to encourage and influence women to bear children in circumstances in which many mothers were unwilling or unable to give up their job for the sake of raising their children. These measures were generally very successful.⁴ The assistance provided for women during the first years of motherhood was part of an affirmative policy that was wrongly understood as promoting women's interests. Many parents disliked the family policies, which allowed limited time for childcare without the mother breaking her service record and losing her job.

Table 1: Maternity Leave Benefits across CEE pre-89

	Paid leave	Unpaid Leave	Payment
Bulgaria	Mother receives normal salary during leave - 45 days leave before birth, then 120 days for first birth, 150 for second, 180 for third and fourth, and 120 for subsequent births. Mother receives minimum wage for remainder of leave - 6 months for first child, 7 months for second, 8 months for third, and 6 months for subsequent children	Until child is 3, mother receives one-tenth of minimum salary	Lump sum (amount increases per child); family allowance if working (amount varies by number of children) until child is 16; extra 50% of minimal monthly salary if mother does not take leave after first fully paid day and child is not in a nursery
Czech	Monetary assistance based on previous salary for 28 weeks (37 if exceptions) if woman was participant in sickness insurance for at least 270 days during the last 2 years	Maternity leave until child is 3	90% of net earnings; maternity allowance for 28(37) weeks; maternity allowance after that – mother (in special cases father) received monthly lump sum (if she did not draw wages or monetary benefits from sickness insurance) until the child's 1 st , 2 nd or 3 rd birthday

⁴ About 66% of Hungarian women applied for the 'childcare grant' shortly after its introduction in 1969. Between 1979 and 1986, 83-88% applied for 'childcare benefit' (Hungarian Central Statistical Office 1989).

			(according to family circumstances)
Estonia	56 days before and 56 days after the delivery date (70 days for exceptions)	In late 1980s childcare period was 1.5 years; the first year was a small benefit income, the next 6 months were without income	100% of previous salary for 60 days before maternity leave; Lump sum to unemployed mothers
Hungary	Extending to 24 weeks with full amount of last monthly salary	Additional 1-1.5 years with childcare allowances (childcare benefit and childcare grant)	Lump sum to mother (2/3 average monthly wages) if she attended medical consultations at least 4 times during pregnancy
Latvia	8 weeks before and 8 weeks after delivery date	Since early 1980s the state partly paid (at a flat rate) leave for 1.5 years.	Paid at 100% of previous salary level for 56 days before and 56 days after delivery (70 days if complications) if mother was employed for at least 6 months before delivery.
Lithuania	8 weeks before and 8 weeks after the delivery date	Since early 1980s the state partly paid (at a flat rate) leave for 1.5 years.	Paid at 100% of previous salary level.
Poland	16 weeks (first child), 18 (for subsequent children), 26 (twins); in principle, 2 weeks before delivery; paid 100% of salary	Since 1968 (modified in 1975) unpaid parental leave for an employee raising a child up to 4 years of age, lasting no longer than 3 years.	Allowance of 80% of salary for 60 days (within 1 calendar year) to care for sick child under 14 years or given unpredictable situation (e.g. nursery closed) if child is under 8 year.
Romania	Paid pre-natal (52 days) and post-natal (60 days)	Unpaid leave of absence until child's first birthday	60-80% of the mother's monthly salary
Slovakia	Full payment for 28 weeks (37 weeks for single mothers or mothers with multiple births)	Employer obliged to give (unpaid) leave up to 3 years	90% of net earnings; after 28 (37) weeks, mother received monthly lump sum (maternity allowance) until child was 3 (while she stayed home)
Slovenia	365 days of parental leave, including 105 days of maternity leave (starting at least 28 days before birth) and remaining 260 days to be used by mother or father; alternatively, 105 days of maternity leave followed by part-time work until child is 17 months; extra 3 months for each additional child	No unpaid leave; after 1 year mother can work part-time until child's 3 rd birthday	100% of average salary level from preceding 12 months; monthly lump sum to unemployed mothers

Companies were required to transfer expectant mothers to less burdensome work and to ensure

that nursing mothers could breastfeed.⁵ In all CEE countries the work of the pregnant woman was safeguarded: no employment could be denied to her because of her pregnancy and no pregnant woman could be dismissed, nor could the conditions for her work be altered after the establishment of pregnancy. If a woman returned to her job after finishing maternity leave, the employer was required to reassign her to her original work and workplace. If it was not possible because the work was made redundant or the workplace was closed down, the organization had to assign her to other work according to her work contract.

There was no official notion of paternity leave in Central and Eastern Europe during state socialism, as reflected by the recent change in legislation in the Czech Republic (see Hašková, Kolářová and Pomahačová 2004). Caring men could only claim child allowance if they were unmarried, widowed, divorced, or single workers who for serious reasons did not live with a female partner but cared for a child on the basis of a decision by an authorized body or whose partner (mother of the child) had died. Further, male workers who cared for children whose mothers were not given monetary assistance during maternity and could not (or were not allowed to) care for their children due to a serious long-term illness, could claim the allowance. Although the pre-89 creation of extensive institutional daycare facilities for preschool and school-aged children helped gender equality by ensuring women's access to employment, this gradual progress toward equality was resisted because care for young children continued to be understood (and was reflected in the legislation) as a purely women's affair. On one hand, the socialist labour code declared equality between women and men at work and further obliged employers and national committees to be responsible for the establishment of preschool institutions. On the other, the labour code explicitly discriminated against male caretakers of small children (e.g., the pre-1989 labour code required employers to satisfy applications for modifications in the working time of all female caretakers of small children, but only single male caretakers of small children). The current legislative regulation is gender neutral, as a male caretaker no longer has to be single to exercise this right. Unfortunately, there has been a rapid decrease in the numbers of preschool institutions post-89 and as fathers rarely apply for this right women remain most affected.

Organisation of Working Time Because socialist economies functioned on the premise of full employment, the state created the necessary infrastructure to help citizens fulfil their duties and

⁵ In Romania, women caring for children younger than 6 years of age were entitled to work part-time. In Slovenia, companies had to allow nursing mothers to work part-time until the end of the sixth month (or until eight months if required).

also regulated working time. The household tasks remained unchanged as the responsibility of women, leaving women overworked and with little time for themselves.⁶ The provisions included in the Czechoslovakian constitution give an overview of the general legislative situation regarding the organisation of working time across CEE (see Hašková, Kolářová and Pomahačová 2004). It ensured that everyone had the right to rest after performed work through legal regulation of working time, paid holidays, and the care of the state and social organizations about the use of workers' free time for recreation and cultural activities. The constitution also established the right to the protection of health and to healthcare. The pre-1989 Labour Code regulated the organisation of working time in detail, ensuring a maximum 43-hour week, three weeks paid holiday, and a 12-hour rest between shifts. Compared to the EU *acquis*, the pre-89 laws had a shorter minimum length of holiday time, provided insufficient regulation of night work, but included the possibility to provide paid compensation for unused holiday time.

Burden of Proof in Sex Discrimination Cases There were no specific regulations for nor any concept related to the reversal of the burden of proof in cases of sex discrimination. Accusations of sex discrimination in employment were provided for in to Article VII of the pre-89 Czechoslovakian labour code, which established that women had the right to the same standing at work as men and stated that working conditions had to enable the participation of women in work. A dispute could also be solved by referring to Article 20 of the Constitution, which established equal opportunities for all citizens and equal rights for men and women regarding the family, workplace, and public life. In Hungary there was also no tradition of case law, which made it difficult to secure legal remedy in cases of discrimination. Incidents of indirect discrimination, usually latent but occasionally explicit in job advertisements (and always directed against women), were sometimes brought to the attention of the public and criticized by women's organizations, the women's sections of trade unions, and women sociologists interested in women's issues, but to little effect.

Part-time work Provisions on part-time work differed between CEE countries. Very few individuals were interested in the option of part-time work:⁷ employees realised that half of their already low wages would not be sufficient for survival and would affect them adversely in their

⁶ Among active earners in Hungary, women's share of domestic work was more than 50% while men's was barely 2-3%. Among non-active earners, the situation was essentially the same though an extra 3-4% of duties fell on women. The remaining 47-48% of work was done in cooperation (Hungarian Central Statistical Office 1986).

⁷ In Hungary pre-89, only 3% of the female workforce was engaged in part-time work (Eberhardt 2004).

pension rights, while employers tried to avoid extra administration and the reorganisation of work schedules. In Hungary, the rights and entitlements of part-time workers were the proportional equivalent of those in full-time employment. The Romanian labour code included two provisions on part-time work, referring to the individual labour contract (Article 64) that is drawn up for an indefinite period of time (Article 70). However, in Czechoslovakia neither the Labour Code nor other legal precepts established any exceptions or special work conditions for employees who worked part-time. It was stated that earnings should be provided in proportion to hours worked; employers could arrange shorter than established weekly hours in work contracts for operational reasons, on the employee's request, or due to health or other serious reasons on the part of the employee if it would not harm organizational operation. Employers were also required to create conditions under which such requests could be fulfilled. If a woman caring for children younger than 15 years of age, a pregnant woman, or a single worker applied for reduced working hours or for other suitable modifications to the established work week, the employer was required to fulfil his/her request as long as it was not obstructed by serious operational reasons.

2b. Institutions

Having examined the pre-89 laws intended to address gender equality during state socialism, the remainder of this section provides an overview of the institutions that were responsible for managing this legislation.

Government Many CEE countries did not have special institutions in place to deal specifically with gender equality, as the state socialist governments believed that existing ministries could also handle women's issues (see Antić and Bahovec 1995, Bahovec et al 2002). Governmental bodies overseeing women's issues were attached to and divided among several ministries. For example, in Bulgaria Ministry of Labour and Social Care handled women's welfare. In Czechoslovakia, some gender issues were managed within the Ministry Department for Care of Family and Youth, the government committee for the preparation for marriage and parenthood, and the committee for population policies. The Ministry of Labour and Social Affairs oversaw the implementation of decrees dealing with discrimination and gender equality from the International Labour Organisation (ILO) and United Nations (UN). In Estonia, the Ministry of Social Security (1946-1979) and of Social Welfare (1979-1990) dealt with family benefits. In addition, the Department of Training, Employment and Welfare and the Department of Social Welfare Establishments managed the provision of welfare services. In Romania the Ministry of Labour

oversaw the implementation, monitoring and enforcement of equality legislation. The Ministry of Health was responsible for implementing the pro-life policy, safeguarding the health of pregnant women, and administering the network of child-care facilities. The Economic and Education Ministries worked to raise the professional qualifications of women in the labour force, while the latter also managed kindergartens.

However, Poland was distinct in its early creation of the Government's Plenipotentiary for Women, which was established in 1986 as part of the implementation of the recommendations of the World Conference on Women in Nairobi. It was originally attached to the Ministry of Labour and Social Welfare with the rank of Undersecretary of State. The Ombudsperson for Civil Rights was established in 1987, creating legal avenues for litigating civil rights offences (including women suffering from gender discrimination). It maintained a particular interest in gender discrimination, forcing the Constitutional Tribunal to deal with complaints relatively often; however, only the most striking cases of gender equality infringement received public attention. The first decisions in which the Constitutional Tribunal ruled statutory provisions unconstitutional concerned sex discrimination (Garlicki 1995).⁸ In 1987 the Tribunal considered a Ministry of Health regulation that established a 50% admission quota for male and female students applying to medical schools. Since there were more female applicants, several were denied admission even though their scores were higher than those of some male candidates who were accepted. The Tribunal ruled that the regulation was contrary to the constitutional principle of equality. In 1988 the Tribunal considered a 1982 statute on pensions, which increased the necessary period of work from five to ten years before allowing employees who had begun to work after the age of 40 or who had a 10 year break in employment to acquire a disability pension. This provision, according to the ruling, violated the constitutional principle of equality since it discriminated against women who had begun their paid employment only after a period of childrearing (see Fuszara 2004).

Labour Inspectorate Some CEE countries had a labour inspectorate to assist with the enforcement of equality issues. In Hungary, for example, the central office of Labour Inspection

⁸ Most of the sex discrimination complaints reviewed by the Constitutional Tribunal were filed when a woman (Professor Ewa Letowska) served as the Ombudsperson. It is difficult to say to what extent the Ombudsperson's gender was relevant to the willingness of the office to pursue complaints lodged by women; however, it is striking that her annual reports to the *Sejm* (Polish parliament) always included a separate section on sex discrimination, while subsequent male holders of the position discontinued this practice (see Fuszara 2004).

was given the power to handle general discrimination-related problems that were reported to them by workers in individual factories. As for legal redress, specialized labour courts were established to deal with issues relating to employment and in order to relieve the workload of regular courts. Poland established the National Labour Inspectorate in 1981 to monitor, among other things, compliance with labour code provisions on the protection of women and maternity. Estonia's Labour Inspectorate was established in 1918 and worked until the country's annexation by the USSR in 1940, and was only re-established in 1990. During the Soviet period state supervision was suspended and formal supervision duty was given to the Council of Estonian Trade Unions and local trade union committees who worked under guidance from the Communist Party in Moscow.

Trade Unions Across CEE trade unions played a role in monitoring discrimination and equality issues. For example, in Hungary every party cell in each trade union organisation, state administration and workplace appointed an individual to be responsible for the implementation of new policies for women. Senior managers were required to document the achievements of these policies for women in annual reports detailing progress on production. This well-organised state policy could be called a 'communist mainstreaming strategy' (Eberhardt 2004). In Romania, the trade unions communicated state and party policies towards employees to their members. According to Article 167 of the labour code, trade unions were involved in the elaboration and implementation of all regulations concerning workers' rights and obligations, including labour protection, wages, holidays and leave. In practice, trade unions were involved in the distribution of certain social benefits (social housing, holiday tickets for recreation, methane gas containers for cooking), but they were primarily expected to persuade the employees of the fairness of communist policies.

Women's organisations Communist-created women's councils were expected to be the official representatives of women. They operated both locally and at workplaces, and their members were often appointed by the party's ruling body. They helped disseminate and promote the party's policies toward women, such as equality, family stability, and the growth of the birth rate. In some countries (such as Latvia) they supported issues such as the promotion of child care institutions, improvements in working conditions, or the availability of part-time work.

The history and development of women's organisations differs by country, as the following examples demonstrate. In Slovenia the Yugoslavian government established a specialized

association of women in the first decade after World War II, entitled the *Antifašistična fronta žena* (Antifascist Front of Women), that dealt with the position of women and what at that time was called ‘the woman’s question’. But after less than a decade, this association was abolished and women’s issues were handled within existing government institutions (see Bahovec 2004). In Hungary, the ruling party (MSZMP) decided in 1970 that the ‘woman’s question’ should be overhauled and changed. It passed a resolution aimed at raising women’s participation to a more visible level, believing that women’s involvement in public life would be facilitated by their greater prominence in their towns and workplaces. The Party dissolved its women’s organisation, the Hungarian Women’s Democratic Alliance (*Magyar Noek Demokratikus Szövetsege*, MNDSZ), and created a new body of professional women, the National Council of Hungarian Women (*Magyar Noek Országos Tanácsa*, MNOT). This new body became responsible for carrying out the Party’s resolutions, as well as for coordinating and proposing new policies and research on issues and themes relevant to women. The organisation was led by a president and a general secretary, both of whom were members of the Party’s Central Committee (see Eberhardt 2004).

In Czechoslovakia in June 1945 the National Women’s Front was established, bringing together the female representatives of four political parties and the non-party Czechoslovak Women’s Council. Soon after the war many existing feminist associations were obligatorily integrated into the Council. But because the Council endorsed the pre-war National Women’s Council in its aims and structure, its existence after February 1948 was unacceptable; thus, the Action Committee of the Czechoslovak Women’s Council was established as the basis for the only women’s organization. As a result of the merger of the Czechoslovak Women’s Council and *Živena* (the Slovak Women’s Union), the Czechoslovak Women’s Union (CSWU) was created but lasted for only a short time. It was replaced by women’s committees based on the Soviet model, whose regional national committees were comprised of culturally active workers, National Front representatives, and female deputies of regional national committees. In 1967 the Communist Party unexpectedly revived the CSWU as a mass organization. The party proclaimed that women comprise a social group whose foundation is not only women’s biological difference and maternal function but also that women’s role as mothers has certain social and economic consequences for them. While CSWU was the only official institution that was allowed to represent women’s interests and rights, its activities – visible chiefly at its conventions – were filled with empty political phrases. CSWU bodies were occupied by the highest political tier of female representatives of the Central Committee of the Czech Communist Party (see Hašková,

Kolářová and Pomahačová 2004), further consolidating party control of the ‘woman question’. As the agendas of all economic and social organisations were tightly controlled by the communist party, the ability to explore gender inequalities – even as they related to women as workers and mothers – was dependent on the party.

3. Implementation of the EU Equality *Acquis*

Section three examines the ten equality directives that CEECs were required to implement as part of the EU *acquis communautaire*. It provides a brief overview of the aims of the directive, and examines the legislative mechanisms used to implement the legislation.⁹ As all countries implemented the same pieces of legislation, this section focuses on the main legal mechanisms used to implement the legislation and highlights areas where the legislation is incomplete.

1) Equal pay

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 *Official Journal L 045 19.02.75 p.19, Incorporated by OJ L 001 03.01.94 p.484*¹⁰

The objective of this directive is to reinforce the basic laws with standards aimed at facilitating the practical application of the principle of equality to enable the protection of all employees in the Community. The principle of equal pay requires the elimination of all sex-based discrimination for the same work or for work to which equal value is attributed. If a job classification system is used to determine pay, it must be based on the same criteria for both men and women. Member States are required to ensure the removal of all provisions appearing in collective agreements, wage scales, wage agreements or individual contracts of employment that are contrary to the equal pay principle. Employees have the right of recourse to judicial process to

⁹ Eberhardt (2004) argues that in one respect, there is no difference between the pre- and post-89 periods: “both are ruled by a patriarchal structure of ideas and values that were supported and legitimated by the state itself. This legitimacy primarily springs from legislation that, while asserting equal rights for all citizens, also includes provisions putting women at a relative disadvantage as compared to men. Many of the measures, originating under the previous state socialist political regime, survived almost unchanged because of the underlying norms remained the same to date.” Consequently, there is a continuation of both laws and government attitudes – particularly in the field of gender relations (see Kis 2000).

¹⁰ Information on the purpose and content of EU directives is taken from the EU website for DG Employment and Social Affairs on Equality Between Men and Women: <http://europa.eu.int/scadplus/leg/en/s02310.htm>

pursue their claims, and are protected against dismissal in reaction to a complaint aimed at enforcing compliance.

Table 2: Equal Pay – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	Anti-discrimination bill (2003), Law of Ombudsman (2004)	National Commission, Ombudsman
Czech Republic	Charter of Fundamental Rights and Freedoms (2/1993), ILO no. 100, Employment Act (435/2004), Act on Wages (1/1992), Act on Salary (143/1992), Collective Bargaining Act (99/1963, 150/2002, 309/1999), Labour Code (65/1965, 221/1999, 218/2002, 1/1991, 9/1991, 1/1992, 236/1995, 201/1997, 186/1992 – repealed by 361/2003, 154/1994, 2/1991), acts focusing on salary in specific occupations	Ministry of Labour and Social Affairs, Labour Bureaus, Czech Statistical Office, Government Council for Equal Opportunities, Public Defender of Rights
Estonia	Wages Act (1994), ILO No. 100 (1996), Amended Wages Act (2002), Employment Contracts Act (1992), Gender Equality Act (2004)	Labour Inspectorate, Legal Chancellor
Hungary	Constitution (1949 amended 1989, Articles 70/B(2), 66(1) and 70/A(1)), Labour Code (Sections 5(1) of 1967 and 142/A(1) of 2001)	Authority of Equal Opportunities, Ombudsman, Labour Inspectorate
Latvia	Labour Law (2001)	Labour Inspectorate
Lithuania	Constitution (1992), Employment Contracts Act (1991), Wages Act (1991, Article 1(2)), Collective Agreements Act (1991, Article 12 (4)), Equal Opportunities Act (1999)	Office of Equal Opportunities Ombudsperson, Labour Inspectorate, courts.
Poland	Constitution (1997, Article 33), Labour Code (1974 amended in 2001, Articles 9, 11 ² , 18 ^{3c})	No specific body. Only those monitoring labour law compliance (State Employment Inspection, Social Employment Inspection, Commissioner for Civil Rights Protection/ Ombudsperson)
Romania	Constitution (2003, Article 38(4)), Labour Code (2003, Article 5(1), 154), Code of Civil Proceedings, Law 202/2002 on Equal Opportunities for Women and Men, Governmental Ordinance 137/2000 on Preventing and Punishing all Forms of Discrimination (2002)	Work Inspection Authority, Courts, National Council for the Prevention of Discrimination
Slovakia	Labour Code (311/2001), Civil Service Act (312/2001), Public Service Act (552/2003 and 553/2003), Collective Bargaining Act (2/1991), Anti-Discrimination Act/Act on Equal Treatment in Some Areas and Protection against Discrimination (365/2004)	Slovak National Centre for Human Rights; Civil Service Office SR; Ministry of Labour, Social Affairs and Family SR; courts
Slovenia	Constitution (1946, amended 1991), ILO no. 100 (1952), Employment Relationship Act (1990, amended 2002), Equal Opportunities for Women and Men Act (2002)	Labour Inspectorate, Bureau for Equal Opportunities

In most CEECs the provision of equal pay is one of the oldest pieces of gender equality legislation on the statute books. The **constitution** establishes equality between men and women in all countries, while specific provisions ensuring citizens the right to work and to receive the same remuneration for their work can be found in the constitutions of the Czech Republic, Hungary, Lithuania, Poland, Romania and Slovenia. For example, the Polish constitution states in

Paragraph 1 of Article 33 that men and women shall have equal rights – amongst others – in social and economic life. Paragraph 2 says this principle also applies to employment, guaranteeing in particular the equal right of men and women to equal pay for work of similar value.

Most countries also have additional provisions detailed in their **labour codes**, including the Czech Republic, Hungary, Latvia, Poland, Romania, and Slovakia. In Poland, for example, Art. 11² of the labour code stipulates: ‘The employees shall have equal rights for the equal performance of the same obligations; in particular it refers to the equal treatment of men and women in employment’. Article 18^{3c} explains that: ‘The works of equal value are works which require from the employees comparable professional skills and qualifications certified by documents set forth in separate regulations or by practice and professional experience, as well as comparable responsibility and effort’ (§ 3). Further provisions ensure that collective bargaining agreements and employment contracts must not infringe upon the principle of equal treatment, enabling the injured person to file a court claim and receive compensation (art. 9 par. 4).

Most countries passed **supplementary legislation** to clarify and strengthen the labour code provisions. In Slovenia, equal pay is more precisely defined in the Employment Relationship Act (2002), where Article 133 provides that for equal work and for work of equal value, employers are bound to pay workers equal wages irrespective of gender. Estonia adopted the amended Wages Act in 2001, meeting the obligation of the directive by requiring equal pay for the same work or for work of equal value and prohibiting discrimination on grounds of sex with regard to all aspects and conditions of remuneration. In Lithuania the Act on Employment Contracts (1991) ensures equal rights for all employees, regardless of their sex and based on their professional qualifications. The Act on Wages (1991) prohibits the reduction of an employee’s wages on grounds of sex, considering that quantity and quality of work are the main grounds for differentiating between employees’ pay. The Act on Collective Agreements (1991) provides that conditions, provisions and obligations of a collective agreement that are less favourable to an employee than those established by national legislation and employment contracts shall be invalid. The Act on Equal Opportunities (1999) obliges employers to respect the principle of equal pay for work of equal value. A 2002 Romanian law on Equal Opportunities for Women and Men explicitly defines the principle of equal pay in Article 4(c) as ‘paid activity that shows, when compared with another activity using the same indicators and units of measure, that similar or

equal knowledge and professional skills were used and that similar amounts of intellectual and/or physical effort were exerted’.

A few countries, including Latvia and Bulgaria, passed entirely new legislation to introduce the equal pay provision. The Bulgarian parliament passed anti-discrimination legislation in 2003.¹¹ It prohibits direct and indirect discrimination based on gender, race, colour, ethnicity, and citizenship, political and other convictions, religion or belief, disability, age, sexual orientation, marital status or descent. Its main purpose is to guarantee efficient protection against discrimination, equal treatment, and equality before the law and equal opportunities to be involved in public life. It includes the provision of equal pay for equal work, and consolidates the content of several other directives discussed in this section into a single act.

Several countries have yet to be in full compliance with the legislation due to their failure to develop a job **classification system** offering the same pay criteria for male and female employees. In Hungary, for example, such criteria exist only for public employees and civil servants. Poland also lacks a general system of occupational classifications for the purpose of defining remuneration, as well as a universal system of valuing work and established criteria that would permit comparison of various kinds. In Romania, the hierarchy of wages is different according to the complexity of the work; salaries are determined through specific normative acts, the Collective Work Agreement, or for private sector employees the minimum wages negotiated by each company and trade union.

Despite the existence of this legislation across CEE, women remain discriminated against in terms of their wages. In the Czech Republic, for example, there is approximately 25% difference in remuneration to the detriment of women.¹² In Poland the National Labour Inspectorate (2000)

¹¹ The Bulgarian government planned to implement the *acquis* through a special bill, proclaiming and protecting the principles of equal pay, equal treatment at the workplace, and non-discrimination. Between July 2000 and February 2001 the Bulgarian Gender Research Project began drafting the bill in co-operation with NGO experts and officials in the Ministry of Labour and Social Policy. On 29 March 2001 the draft bill was not discussed in parliament due to a lack of time; on 24 January 2002 the bill was put on the parliament agenda again; on 3 April 2002 the 39th National Assembly voted it down. Between 1 January and 31 July 2002, an anti-discrimination bill was drafted on the recommendation of the Council of the Fight against Racism and Xenophobia with the Council of Europe and the United Nations High Commission for Human Rights. The anti-discrimination bill was approved by the Cabinet on 12 September 2002, passed by parliament in 2003, and came into force in 2004.

¹² In the Czech Republic this difference has risen slightly in the last six years, with the largest increase among those with higher education (Czech Statistical Office 2002). Despite every attempt to explain these earnings differentials by factors such as a) the number of hours worked, b) the length and kind of workload,

monitored the remuneration of women and men from 1997-1999 in terms of the employers' observance of the provisions referring to the protection of women's work and the prohibition of discrimination on the grounds of gender. It found discrimination in 29% of establishments. Although in these establishments women's salaries were only 2% lower than men's in 1998 and 8% in 1999, the disproportion in other occupational groups, such as the service sector, was much higher (e.g. in 1999 women earned 79% of men's salary). Research on equal remuneration has shown that although women are often better educated than their male colleagues in equivalent posts, women's salary constitutes only 60 to 70% of men's pay (Domański 1992; see also Women's Rights Centre 1990, Polish Government 1996, Polish Statistics Office 2000).

2) Equal treatment as regards access to employment (76/207/EEC)

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 *Official Journal L 269, 05/10/2002 P. 0015 – 0020*

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 *Official Journal L 039 14.02.76 p.40, Derogation in 194N, Incorporated by OJ L 001 03.01.94 p.484*

These directives aim to ensure equal treatment for men and women in terms of their access to employment, vocational training and career advancement, and working conditions. There should be no discrimination on grounds of sex in the conditions, including selection criteria, for access to all jobs or posts at all levels of the hierarchy. The principle applies to access to all types and all levels of vocational guidance, basic and advanced vocational training, and retraining. However, member states may exclude occupational activities in which the sex of the worker is a determining factor due to the nature or the context of the activity. The amended version of the Directive defines sexual harassment for the first time at Community level. It requires member states to ensure that proper compensation can be obtained for damages, and encourages employers to take preventive measures against sexual harassment and to provide employees with appropriate information on equal treatment in the workplace. The new Directive requires a woman on maternity leave to be protected

c) overtime work, d) the concentration of women in lower paid professions, firms and sectors or branches of the labour market, etc, various studies concluded that a certain part of these differentials cannot be explained by any other means than the unequal appraisal of women's and men's work (see Jurajda 2000, Fischlová and Prokešová 2003). Since 1998 the government has concentrated on methods of investigating and monitoring wage relations (see the 'Report on the Fulfillment of Government Priorities and Procedures in Enforcement of the Equality of Men and Women').

and entitled to return to her job or an equivalent post on terms that are no less favourable. It also clarifies that a difference of treatment that is based on a characteristic related to sex may be lawful if it constitutes a determining occupational requirement.

Table 3: Equal Treatment as regards access to employment – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	Anti-discrimination bill (2003), Law of Ombudsman (2004)	National commission, Ombudsman
Czech Rep.	Charter of Fundamental Rights and Freedoms (2/1993), Labour Code (Laws 65/1965, 221/1999, 218/2002, 186/1992 198/2002, 312/2002 on specific occupations, 349/1999 on Public Defender of Rights), Employment Act (435/2004)	Ministry of Labour and Social Affairs, Labour Bureaus; Ministry of Education, Youth and Sports; Bureaus of School Inspection; Government Council for Equal Opportunities; Public Defender of Rights
Estonia	Constitution (1992, Article 12 prohibits discrimination after 2004 amendment); Gender Equality Act (2004, Article 6)	Labour Inspectorate, Legal Chancellor
Hungary	Constitution (1949 amended 1989, Articles 70/A, 66(1)), Civil Code (1959, Article 76), Labour Code (1967, Section 5 (1) ; 2001, Section 142/A)	Authority of Equal Opportunities, Ombudsman, Labour Inspectorate
Latvia	Labour Law (2001)	Labour Inspectorate
Lithuania	Constitution (1992, Article 29), Equal Opportunities Act (1999, Article 8), Employment Contracts Act (1991, Article 19, 4(1))	Authority of Equal Opportunities, Ombudsman, Labour Inspectorate
Poland	Constitution (1997, Articles 32, 33), Labour Code (Articles 11 ³ prohibits direct or indirect discrimination at workplace, 18 ^{3a} equal treatment for women and men as regards access to employment, 18 ^{3b} defines behaviours that infringe equal treatment, 18 ^{3d} and 18 ^{3e}), Employment and Unemployment Act (1994, Article 12 obliges labour offices to provide assistance for all seeking employment)	No specific body - only those monitoring labour law compliance
Romania	Governmental Ordinance no. 137/2000 on Preventing and Punishing All Forms of Discrimination , Law no. 202/2002 on Equal Opportunities for Women and Men, Law no. 53/2003 of the Labour Code, Law no. 61/2002 for the approval of Emergency Governmental Ordinance no. 89/2001 for the modification and completion of certain provisions in the Penal Code on infractions regarding sexual life	National Council for the Prevention of Discrimination; Work Inspection Authority; Inter-ministerial Advisory Commission for Equal Opportunities (CODES); Office of the Ombudsperson; Ministry of Labour, Social Solidarity and Family; National Agency for Employment and Vocational Training; National Agency of Public Servants
Slovakia	Constitution (460/1992), Labour Code (311/2001), Civil Service Act (312/2001), Public Service Act (552/2003 and 553/2003), Employment Act (5/2004), Collective Bargaining Act (2/1991), Health Safety and Protection Act (330/1996), Anti-Discrimination Act (365/2004), Act on Further Education (386/1997), Changes in the	Slovak National Centre for Human Rights; Centre for Labour, Social Affairs and family; Labour, Social Affairs and Family Offices; National Labour Inspection; Ministry of Labour, Social Affairs and

	Employment Act (387/1996)	Family
Slovenia	Constitution (1991, Article 14 from 2004 amendment prohibits discrimination based on race, gender, language, religion), ILO no. 111 (1961, 1992), ILO no. 156 (1987, 1992), Employment Relationship Act (1990), Labour and Social Courts Act (1994), Equal Opportunities for Women and Men Act (2002), Employment Relationship Act (1977, amended 2002)	Labour Inspectorate, Ministry of Justice, Bureau for Equal Opportunities

The **constitution** already included provisions on equal treatment in the workplace in the Czech Republic, Hungary, Lithuania, Slovakia and Slovenia. For example, the principle of equal treatment can be found in the Hungarian Constitution (1949, revised in 1989). Article 66(1) contains general provisions on equality for women and men, while Article 70/A(1) ensures that the human and civil rights of all persons shall be respected without discrimination based on race, colour, gender, language, religion. The principle of equal treatment regarding access to employment can be derived from general constitutional provisions (Article 70/B) on the right to work and the freedom to choose employment.

Most countries also have additional provisions detailed in their **labour codes**, including the Czech Republic, Hungary, Lithuania, Poland, Romania, and Slovakia. For example, in Slovakia, Sections 1 and 6 of the Labour Code guarantee equal treatment for women and men in terms of access to employment; pay conditions and promotion; education and working conditions. Paragraph 13 forbids any discrimination and refers to the Anti-Discrimination Act (2004): equal treatment includes ban of discrimination on grounds of marital status, family status or any other status. The Labour Code for the first time defines and bans indirect discrimination, while Amendment 210/2003 of the Labour Code introduces definitions of direct discrimination and harassment in line with the directive (Hrubala 2003).

Hungary is distinct in that ‘harassment’ has not yet been defined or legally prohibited. The Equal Treatment legislation passed in 2004 reflects the EU’s general anti-discrimination policy, banning all discrimination based on sex, age, ethnicity, marital status, sexual orientation, disability etc. In Section 10(1) generic harassment is punished, but the legislation does not explicitly prohibit sexual harassment at the workplace. Although the Ministry of Justice accepts the need for such legislation in the future, the current legislation sanctions only individual discrimination cases, and does not examine nor give any legal measures against discriminatory legal acts, social and economic habits or judicial attitudes, contrary to Article 5(1) of the EU Directive 76/207/EEC.

Section 10 fails to protect employees from dismissal in reaction to a complaint, only including general sanctions in infringement cases. In addition, the law only covers the public sector (i.e., local governments, armed forces, the police, educational and social institutions, medical services) as discrimination in the private sector is not sanctioned at any level.

Most countries passed **supplementary legislation** to clarify and strengthen the provisions. In Lithuania, for example, Article 8 of the Act on Equal Opportunities (1999) states that ‘it is prohibited to specify requirements in job or educational advertisements that give priority to either sex and to request information from job seekers about their civil status, private life or family plans’. Article 19 of the Act on Employment Contracts (1991) prohibits employers from refusing employment on grounds of sex or any other factors that do not affect the person’s professional qualifications. Article 4(1) provides that institutions of education and science must ensure equal conditions for women and men regarding: 1) admission to vocational educational institutions colleges, institutions of higher education, and qualification improvement courses; 2) award of grants and student loans; and 3) the selection of curricula and knowledge assessment. In Poland, Article 12 of the Act on Employment and Unemployment from 1994 obliges labour offices to provide assistance for everybody in finding employment regardless of sex and prohibits employers from placing sex-based requirements that discriminate against candidates in information about available jobs.

A few countries passed entirely new legislation to introduce the provisions on equal treatment in the workplace. As explained above, Bulgaria introduced the Anti-discrimination Bill (2003) and Latvia passed the Labour Law (2001). Estonia passed the Gender Equality Act in April 2004, which defines direct and indirect discrimination as well as sexual harassment; it also requires the promotion of gender equality by state institutions, local governments, and employers. In Slovenia the main law governing equality of access to employment, vocational training and promotion is the Employment Relationship Act (2002). Article 6 ensures women and men equal opportunities and equal treatment in employment, promotion, training, education, retraining, wages, work absences, employment relations, working hours, and cancellation of employment contracts. It prohibits employers from advertising vacancies only for men or women, unless a specific gender is an essential condition for the work to be performed (Article 25). In making employment contracts employers may not require candidates to provide information on their family or marital status, pregnancy, or other information that is not directly connected to the employment (Article 26). Article 45 defines sexual harassment as per the directive, and binds employers to provide the

kind of working environment in which no worker will be exposed to such treatment. Rejection of sexual harassment by an affected worker may not be a reason for discrimination in employment and work. The resolution of disputes regarding the making and cancelling of employment contracts and regarding the rights, duties and responsibilities deriving from employment at labour courts is provided by the Labour and Social Courts Act (1994).

This directive has affected some pre-89 legislation, whose intended protection of women was later found to be discriminatory. An example from the Czech Republic concerns the socialist Labour Code that prohibited the employment of women in some kinds of work that were defined as being physically inadequate for women or as endangering their ‘maternal mission.’ Because Decree number 261 from the Legal Collection of 1997 still contained prohibitions for *all* women against some kinds of work, the discrepancy between this prohibition and the principle of equal treatment was removed in the new decree (number 288 from the Legal Collection of 2003). The new legislation now prohibits certain kinds of work and workplaces *only* for pregnant women, lactating women, mothers until the end of the ninth month after having given birth, and adolescents. (Other jobs, such as mining, remain prohibited for all women as required by ILO agreement no. 45, though this provision is expected to change.) The real states of pregnancy and maternity are thus no longer confused with a ‘maternal mission’ of all women.

3) Equal treatment with regard to statutory social security schemes (79/7/EEC)

Council 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 *Official Journal L 006 10.01.79 p.24, Incorporated by OJ L 001 03.01.94 p.484*

The Directive applies to the working population, including workers whose activity is interrupted (by illness, accident or unemployment), persons seeking employment, retired or invalidated workers and self-employed persons. The principle of equal treatment means that there should be no discrimination on grounds of sex, in particular as concerns: the scope of the schemes and the conditions of access thereto, the obligation to contribute and the calculation of contributions, and the calculation of benefits and the conditions governing the duration and retention of entitlement to benefit.

Table 4: Equal Treatment with regard to Statutory Social Security Schemes – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	None	None

Czech Rep.	Charter of Fundamental Rights and Freedoms 2/1993, Pension Insurance Act (155/1995), 100/1988 regarding social security, 54/1956 regarding employee insurance, 88/1968 regarding prolonging maternity leave and compensation, 32/1957 regarding care in the armed forces, 117/1995 regarding state social support, 482/1991 regarding social needs, 582/1991 regarding the organization of social security, 114/1988 regarding the activities of Czechoslovak governing bodies regarding social security, 150/2002 on administrative judicial regulations, 99/1963 on civil judicial regulations.	Social Security Administration, Statistical Office, Ministry of Labour and Social Affairs, Ministry of Healthcare, Public Defender of Rights.
Estonia	Health Insurance Act (1998), Unemployment Insurance Act (2002), Funded Pensions Act (2001), Aliens Act (1993, amended 1997), Social Welfare Act (1995, amended 2001)	Labour Inspectorate, Labour Board and local offices, Unemployment Insurance Fund, Pension Board, Gender Equality Commissioner (currently recruiting for position)
Hungary	Eligibility for Social Security Provisions and Private Pensions and the Coverage of these Services (1997, Act LXXX), Social Insurance Pension Provision (1997, Act LXXXI), Private Pension and Private Pension Funds (1997, Act LXXXII), Mandatory Health Insurance Provisions (1997, Act LXXXIII), Furthering Employment and Provisions for the Unemployed 1991, Act IV)	Authority of Equal Opportunities, Ombudsman, National Health Insurance Fund, National Pension Insurance Directorate General
Latvia	Social Insurance Law (1995)	States Agency of Social Insurance
Lithuania	Constitution (1992, Article 39), Equal Opportunities Act (1999, 3(1)), Act on the Principles of the Social Security System (1990, Article 5), Act on State Social Security (1991), Act on State Social Security Pensions (1994), Pension Funds Act (2000)	Equal Opportunities Ombudsman, Department of Labour and Equal Opportunities at the Ministry of Social Affairs and Labour
Poland	Act on Social Security Systems (1998, Article 2 ^a ensures equal treatment for all insured persons regardless of sex, civil status or family status)	No special monitoring body - Social Security Commissioner plays role in monitoring compliance.
Romania	Law no. 19/2000 on the Public System of Pensions and other Social Security Schemes; Law no. 145/1997 on Health Social Insurances; Law no. 76/2002 on the Unemployment Insurance System and Labour Occupancy; Law no. 418/2001 regarding the minimum guaranteed income; Emergency Governmental Ordinance no. 105/2003 regarding Complementary Family Allowances and Support Allowance for Single Parent Families	National House of Pensions and Other Social Insurance Rights and Benefits; Territorial Houses for Pensions; Directors of Public Health; National Agency for Employment and Labour Force and Territorial Agencies; Trade Unions; General Territorial Directorate; Ministry for Labour, Social Solidarity and Family
Slovakia	Social Insurance Act (461/2003), Anti-Discrimination Act (365/2004)	Slovak National Centre for Human Rights; Centre for Labour, Social Affairs and family; Labour, Social Affairs and Family Offices; Ministry of Labour, Social

		Affairs and Family; courts
Slovenia	Constitution (1974, amended 1991), Pension and Disability Insurance Act (1999), Equal Opportunities for Women and Men Act (2002), Health Care and Health Insurance Act (1992), Labour and Social Courts Act (1994), Employment and Insurance Against Unemployment Act (1991)	Ministry of Labour, Family and Social Affairs; Ministry of Health; Ministry of Justice; Bureau for Equal Opportunities; Employment Service

Bulgaria is the only country that has yet to implement this directive. While all CEE countries had statutory social security schemes during the pre-89 socialist era, only three have **constitutional provisions** that guarantee their citizens this right: the Czech Republic, Lithuania, and Slovenia. For example, the Charter of Fundamental Rights and Freedoms, which is part of the constitutional order of the Czech Republic, guarantees its citizens in Article 30 the right to material security in old age, while incapacitated, and in unemployment. All who suffer from material need are entitled to such assistance as is essential for securing their basic living conditions. No country amended the **labour code** to implement this directive, choosing instead to introduce **new legal provisions**. For example, in Slovenia the Pension and Disability Insurance Act (1999) establishes the scope and conditions of insurance and the manner of calculating contributions and payments. The Health Care and Health Insurance Act (1992) requires insurance companies to treat all insured persons equally in terms of rights and obligations; however, premiums for supplementary payments towards the cost of health services are calculated on the risks to which insured persons are exposed, and gender is taken into account. Unemployment insurance is regulated by the Employment and Insurance against Unemployment Act (1991). In Poland, a principle of non-discrimination is provided in Article 2a of the Act on Social Security Systems of 1998 specifying that the principle of equal treatment applies to conditions of coverage by the social security system, the duty to pay and assess premiums for social security, assessment of the benefit level, and the period of benefit payments and maintaining rights to benefits.

In some countries, differences remain in the retirement ages for women and men – as allowed by Article 7 of the directive. In Slovenia, the Pension and Disability Insurance Act (1999) enables women to retire two years earlier than men in an equally paid-up pension period (Article 36); as this takes into account an adjusted scale for allocating pensions, women are not deprived in the amount of pension payments as a result of a shorter insured period. By reducing the difference between the genders, the legislation tightens up the conditions for women as they could previously retire five years earlier than men. The Act envisages a further gradual reduction of differences in retirement conditions. In Poland there are doubts about the legality of regulations in the Act on

Occupational Social Security Schemes (1997), which maintains a different retirement age for women and men *when* the employer covers the base premium. Such differentiation does not meet the requirements of directive 96/97/EEC as interpreted by the European Court of Justice. In the Czech Republic, gender inequalities persist in the retirement age of women and men, as women's retirement age remains dependent on the number of children they have raised.¹³ The current law regarding the retirement age is formulated transiently, with the goal of raising the age of eligibility by 2012 for men from 60 to 63, for childless women from 57 to 63, and for mothers from 53-56 to 59-62 according to the number of children. (A complete revision of the pension system, which may affect the different retirement age regulations, is being planned.) The Hungarian parliament passed the Pension Act in 1997, which introduced a 'genderless' retirement age at 62. With one exception¹⁴ there are no explicitly discriminatory measures. However, indirect discrimination arises from women's unequal status in the labour market (Eberhardt 2004). First, women are often without legal employment and thus remain outside the scope of social security regulations. Second, given their larger share of family duties (i.e., motherhood, caring for sick children and/or relatives) and lower service time, their insurance contribution is usually lower and results in a smaller share of their social security benefits. Third, because of the existing wage gap, women's contributions and benefits are proportionately less.

4) Equal treatment with regard to occupational social security schemes (86/378/EEC)

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 *Official Journal L 225 12.08.86 p.40, Incorporated by OJ L 001 03.01.94 p.484*. Amended by Council Directive [96/97/EC](#) of 20 December 1996. Amended by *OJ L 046 17.02.97 p.20*

The Directive applies to the working population, including self-employed workers, workers whose activity is interrupted (by illness, maternity, accident or involuntary unemployment), persons seeking employment, and retired and disabled workers. It concerns occupational schemes providing protection against the risks of sickness, invalidity, old age, industrial accidents, occupational diseases and unemployment. The principle of equal treatment implies that there shall be no discrimination based on sex regarding the scope of the schemes and the conditions of access to them, the obligation to pay contributions and the calculation of the contributions, and

¹³ According to pre-1989 and current legal regulations, the time spent caring for children has been included in the period of pensioners' insurance under the same conditions for men and women.

¹⁴ The provision about the conditions of entitlement for unemployment benefit of Act IV of 1991 on Employment contains discriminatory rulings based on family status, as it applies different criteria for single parents and women with children who can refuse employment offers in other towns or far from their homes. The same applies to Act III of 1993 on Social Administration and Social Allowances.

the calculation of benefits and the conditions governing the duration and retention of entitlement to benefits. Furthermore, it includes a provision enabling men and women to benefit from a flexible retirement age system.

Table 5: Equal Treatment with regard to Occupational Social Security Schemes – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	None	None
Czech Rep.	None	None
Estonia	Labour Protection Act (1992), Occupational Health and Safety Act (1999), Health Insurance Act (1998, amended in 2001), Social Protection of the Unemployed Act (1994), Unemployment Insurance Act (2001), Employment Service Act (2000), Social Welfare Act (1995, amended in 2001), Gender Equality Act (2004)	Labour Inspectorate, Bar Association
Hungary	Eligibility for Social Security Provisions and Private Pensions and the Coverage of these Services (1997, Act LXXX), Social Insurance Pension Provision (1997, Act LXXXI), Private Pension and Private Pension Funds (1997, Act LXXXII), Mandatory Health Insurance Provisions (1997, Act LXXXIII), Establishment and Management of Voluntary Mutual Insurance Funds (1993, Act XCVI)	Authority of Equal Opportunities, Ombudsman, National Health Insurance Fund, National Pension Insurance Directorate General
Latvia	Labour Protection Law (2002)	Labour Inspectorate
Lithuania	Act on Collective Agreements and Contracts (1991, Article 3)	Equal Opportunities Ombudsman, Department of Labour and Equal Opportunities at the Ministry of Social Affairs and Labour
Poland	Act on Occupational Social Security Schemes (1997), Act on Social Security Systems (1998, Art. 2 ^a)	No specific monitoring body.
Romania	Government recently approved – and submitted to parliament – a draft law regarding the privately administered compulsory pension funds.	None as yet
Slovakia	Social Insurance Act (461/2003), Anti-Discrimination Act (365/2004)	Slovak National Centre for Human Rights; Centre for Labour, Social Affairs and family; Labour, Social Affairs and Family Offices; Ministry of Labour, Social Affairs and Family; courts
Slovenia	Pension and Disability Insurance Act (1999), Equal Opportunities for Women and Men Act (2002), Labour and Social Courts Act (1994)	Ministry of Labour, Family and Social Affairs, Ministry of Justice, Bureau for Equal Opportunities

Section two of this paper noted that CEE countries did not have *occupational* social security schemes under state socialism; consequently, none had provisions in their **constitutions** or

labour codes. Bulgaria, the Czech Republic and Romania still have not implemented this directive, while it remains incomplete in Hungary. The directive concerns employment systems of social security that the Czech Legal Code does not contain. The establishment of this provision is possible through the pension reforms being considered by the current government. However, there are currently neither concrete solutions nor obligatory decisions about the establishment of employment social security schemes; future reforms depend upon political decisions. In Romania, existing complementary methods do not ensure the transposition of the directive. The government recently approved a draft law regarding privately administered compulsory pension funds; a draft is still being considered by the parliament for approval. In Hungary the exact provisions included in the directive do not exist. During state socialism, the government eliminated both the general insurance system and some specific occupational insurance schemes and replaced them with a state managed system of statutory social security. In 1993, the Act on the Establishment and Management of Voluntary Mutual Insurance Funds was adopted, enabling the establishment of a funds system by the workers themselves. However, this instrument cannot qualify as an occupational social security system as prescribed by the directive because employers are not obliged to become members and pay at least part of the membership fee for their employees.

Estonia, Hungary, Poland, Slovakia and Slovenia used mostly the **same legislative instruments** to implement both social security directives. Latvia and Lithuania introduced **new provisions**. The latter, for example, established a new type of social insurance in 2000 relating to insurance for occupational accidents and professional diseases. Article 3 of the Act on Collective Agreements and Contracts (1991) provides that the following issues are to be addressed in collective agreements: the terms of payment for work and its regulation; admissibility to work and working conditions; health and safety work; the terms of work organisation, as well as the terms of work and rest regimes; the training and re-qualification of employees; social guarantees for employees and their family members. The monitoring bodies are generally the same as those used for the other social security directive.

5) Equal treatment for self-employed and their assisting spouses (86/613/EEC)

Council 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 *Official Journal L 359 19.12.86 p.56, Incorporated by OJ L 001 03.01.94 p.484*

The Directive's primary objective is to improve the status of assisting spouses. It defines 'self-employed workers' as 'all persons gainfully pursuing a gainful activity for their own account', and covers their spouses who are not employees or partners but habitually participate in the worker's activities. It requires member states to ensure equal treatment in the establishment of a business or other self-employed activity, ensure the conditions for the formation of a company are not more restrictive for spouses working together than between unmarried persons, allow spouses to join a contributory social security scheme voluntarily if they are not protected under the self-employed workers' social security scheme, examine under what conditions female self-employed workers and the wives of self-employed workers may have access to national social services during pregnancy or motherhood, and encourage the recognition of spouses' work.

Table 6: Equal Treatment for Self-Employed and Assisting Spouses – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	None	None
Czech Rep.	Charter of Fundamental Rights and Freedoms (2/1993), Business Code (513/1991), Family Act (94/1963), Civil Code (40/1964), Labour Code (65/1965, 155/1995 regarding pensioners' insurance), Social Security Act (1000/1988), Civil Procedures Act (99/1963), 309/1999 regarding Law Collection and Collection of International Contracts.	Ministry of Labour and Social Affairs, Czech Social Security Administration, Ministry of Agriculture
Estonia	Social Tax Act (amended in 2003), Commercial Code (RT I 1995, 26-28, 355), Gender Equality Act (2004)	Tax and Customs Board, Social Insurance Board, Gender Equality Commissioner
Hungary	Right of Foreign Citizens to be Established as Independent Entrepreneurs for Economic Purposes (1998, Act LXXII), Private Enterprises (1990, Act V), Social Security and Private Pension Provisions (1997, Act LXX), Cooperatives (1992, Act I), Labour Code (1996), Acts on Social Security (1998), Parliament Resolution No.50 of 2000	Authority of Equal Opportunities, Ombudsman
Latvia	Social Insurance Law (1995)	States Agency of Social Insurance
Lithuania	Act on Farmers (1999), Act on State Social Insurance (1991)	Departments of Social Security and Labour, and of Finance, Equal Opportunities Ombudsman
Poland	Act on Social Security of Farmers (1990, Art.1, 5) Act on Social Security Systems (1998, Art.6); Commercial Activity (1999, Art 5)	No specific monitoring body.
Romania	Law no. 507/2002 on Organisation and development of economic activities by individuals; Labour Code (Law no. 53/2003), Public System of Pensions and Other Social Security Schemes (Law no. 19/2002), Social Health Security (Law no. 145/1997); Law no. 32/2000 regarding insurance societies and the supervision of insurance	National Agency for Employment and Labour Force and Territorial Agencies; General Territorial Directorate – Labour Social Solidarity and Family; House for National Pensions and Other Social Insurance Benefits and the Territorial Houses for Pensions;

		Public Health Ministerial Directions; National Commission for Monitoring Insurance Contracts
Slovakia	Social Insurance Act (461/2003), Anti-Discrimination Act (365/2004), Commercial Act (455/1991)	Slovak National Centre for Human Rights; Centre for Labour, Social Affairs and family; Labour, Social Affairs and Family Offices; Commercial Offices; Ministry of Labour, Social Affairs and Family; courts
Slovenia	Constitution (1991), Equal Opportunities for Women and Men Act (2002), Labour and Social Courts Act (1994), Companies Act (1988, 1993), Pension and Disability Insurance Act (1999), Parental Protection and Family Benefit Act (2001), Health Care and Health Insurance Act (1992)	Bureau for Equal Opportunities; Ministries of Labour, Family and Social Affairs; of Economy, of Justice, of Health

Bulgaria is the only CEE country that has yet to implement this directive. Only the Czech Republic and Slovenia referenced **constitutional provisions**, while Hungary and Romania are the only countries that amended the **labour code** to implement this directive. Most countries introduced or amended **social security legislation**. Polish laws meet the directive's requirements. Article 1 of the 1990 Act on the Social Security of Farmers guarantees that the insurance of farmers covers persons living in the same household or nearby; Article 5 ensures regulations of this act also apply to the farmer's spouse, unless the spouse does not work on the farm. In the Act on Social Security Systems (1998), Article 6 provides mandatory pension and disability insurance for persons working with a person conducting non-agriculture activity.

There are **problems** in some countries with the implementation of the directive. In Slovakia, the Social Insurance Act (2003) defines a self-employed person; but the Anti-Discrimination Act (2004), which gives any self-employed person the right to equal treatment, fails to mention an assisting person (spouse). The Hungarian terminology that circumscribes the subject matter of this Directive is not consistent with the EU's use of 'self-employed': it may refer to independent as well as foreign and individual entrepreneurs, including agricultural producers and contributing family members. The lack of uniform regulation complicates efforts to enforce compliance with the relevant norms, further weakening women's already often marginal role as the spouse of a self-employed worker. In Estonia spouses are covered by health insurance in the cases of pregnancy and maternal leave; however, other laws do not guarantee protection for the self-employed worker's spouse, as all persons are expected to be legally sole proprietors or employees and to pay social tax. At the beginning of the 1990s farmers' spouses and family members had

insurance and state guarantees; from 1993-2004 there were attempts to get some remissions for farmers' family members, but opponents argued that all people should be treated equally and so farm families cannot have extra advantages. Consequently, the spouses of many farmers or self-employed persons do not have social protection, face an insecure future in terms of pension provisions, and lack temporary replacements during interruptions in their occupational activity due to pregnancy or motherhood; they are entitled to cash benefits under the health insurance schemes and to social security on a uniform basis in both rural and urban areas.

It is also worth noting that self-employment is a relatively **new concept** in Central and Eastern Europe. Romania is a typical example, as self-employed workers were very scarce during the state socialist period. Such workers did not have equal rights with state-sector employees, whom the state found easier to oversee and control; for example, the wife and children of a self-employed worker would not receive the survivor's benefits. After 1989, the transition to a market economy meant the appearance and proliferation of self-employed workers. In 1998, there were 1,453,000 self-employed workers listed in Romania, of which 32% were women; there were also 1,192,000 non-remunerated family workers (most of them in the agriculture sector), 70.6% of whom were women (*Comisia națională* 2000, 27). Together, these categories represent almost 40% of the active labour force. Being an unpaid worker is an important activity for women in rural areas, where 27% are registered as unemployed and are therefore financially dependent on the breadwinner of the family. Women who are unpaid workers or agricultural workers on their own land are vulnerable as they are not covered by insurance and only have access to child and family benefits (UNIFEM and UNDP 2002, 30).

6) Protection of Pregnant Women, women who have recently given birth and women who are breastfeeding (92/85/EEC)

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) *Official Journal L 348 28.11.92 p.1*

The directive takes minimum measures to protect the health and safety of pregnant workers, women workers who have recently given birth, and women who are breastfeeding, by considering them to be a specific risk group. The Commission drew up guidelines on the assessment of the chemical, physical and biological agents and industrial processes considered dangerous for the health and safety of these workers. Employers must ensure that the workers in question avoid these

risks by adjusting their working conditions or working hours, or if necessary by moving the worker to a new job. These workers should not be obliged to perform night work during their pregnancy and for a period following child birth. Maternity leave must be for an uninterrupted period of at least 14 weeks before and/or after delivery, two of which must occur before the delivery. Women may not be dismissed for reasons related to their condition during the period from the beginning of their pregnancy to the end of the period of leave from work.

Table 7: Protection of Pregnant Women – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	Pre-89 legislation	Ministry of Labour and Social Affairs, Work Inspectorate
Czech Rep.	Charter of Fundamental rights and freedoms (2/1993, Art. 32.2), Notice 208/2003 regarding the prohibition of pregnant women, breastfeeding women and from particular types of work; Regulation 178/2001 determining protection of employees during work; Labour code (65/1965), Law no. 361/2003, Law no. 218/2002, Law no. 221/1999 on special types of occupations	Ministry of Labour and Social Affairs, Work Inspectorates of the Czech Work Safety Bureau, Ministry of Healthcare
Estonia	Parental Benefit Act (entered into force on 1.1.2004), Occupational health and safety requirements for work of pregnant and breastfeeding women (Regulation No. 50 of the Government on 7 February 2001), Holidays Act (1992, amended in 2001), Health Insurance Act (1998, amended 2002)	Labour Inspectorate Social Insurance Board
Hungary	Labour Code (1992, Sections 54, 58, 85 (1), 90(1), 102(2) 107, 121, 138 (1), (6)); Decree No.33 of 1998; Act LXXXIV on Family Provisions (1998); Act LXXXIII on Mandatory Health Insurance (1997); Act XCII on Labour Safety (1993) and Decree No.5 (1993) issued by the Ministry of Labour on the Executive Provisions of the act; Decree No.33 (1998) issued by the Ministry of Welfare; Government Decree No. 2401 (1995); Government Decree No.218 (1999)	Ombudsman, Labour Inspectorate
Latvia	Labour Law (2001)	Labour Inspectorate
Lithuania	Act on Holidays (1991, Article 18, 8), Act on Sickness and Maternity Social Insurance (2001)	Equal Opportunities Ombudsman and the Department of Labour and Equal Opportunities at the Ministry of Social Affairs and Labour
Poland	Labour Code (1974 as amended in 2001 and 2003, Art. 87, 177, 179, 180-185, 227)	No specific monitoring body.
Romania	Emergency Governmental Ordinance no. 96/2003 on maternity protection at working place approved and modified by Law no. 25/2004; Labour code (Law no. 53/2003); Public System of Pensions and Other Social Security Schemes (Law no. 19/2000)	Territorial Work Inspection Agencies; National Agency of Public Servants; County Houses for Pensions and Other Social Insurance Benefits; Public Health Directions
Slovakia	Constitution (460/1992), Labour Code (311/2001),	Slovak National Centre for

	Social Insurance Act (461/2003), Health Safety and Protection Act (330/1996), Anti-Discrimination Act (365/2004), Civil Service Act (312/2001), Public Service Act (552/2003 and 553/2003); Government Regulation (272/2004) lists risky work forbidden for pregnant women, mothers up to 9 months after giving birth, breastfeeding mothers	Human Rights; Centre for Labour, Social Affairs and family; National Labour Inspection and its regional offices; Ministry of Labour, Social Affairs and Family; courts
Slovenia	Employment Relationship Act (1977, amended 2002), Parental Protection and Family Benefit Act (2001), Occupational Health and Safety Act (1999), Rules on protection of health at work of pregnant workers and workers who have recently given birth and are breastfeeding (2003), Rules on the preparation of safety statement with risk assessment (1999)	Labour Inspectorate; Ministry of Labour, Family and Social Affairs; Ministry of Health; Office for Health and Safety at Work

Bulgaria is still relying on pre-89 legislation, which provides *de jure* if not *de facto* protection. The Czech and Slovak Republics are the only two CEE countries that have **constitutional provisions** on maternity protection rights. For example, Article 28 of the Slovak constitution entitles women, young people and persons with disabilities to special health protection and working conditions. Article 41 gives pregnant women the right to special treatment, legal protection in working relations and adequate working conditions, as described in the law. Half the CEE countries (Czech Republic, Hungary, Latvia, Poland, Slovakia) used existing or new **labour laws** to implement the provisions of the maternity leave directive. In Slovakia, the Labour Code implements the regulations on dismissing pregnant women and women on maternity leave (this was part of pre-89 legislation); it prohibits the employer from asking for any information related to woman's pregnancy (a new legislative feature). For the first time it defines the terms 'pregnant employee' and 'breastfeeding mother', while still entitling breastfeeding mothers to take breaks for feeding as pre-89. Others introduced **new legislation**. For example, Estonia passed the Parental Benefit Act (2004), which regulates the conditions and procedures for the payment of parental benefit and seeks to compensate for the loss of income arising from rearing a child and to support the combination of work and family life.

Generally speaking, newly implemented and revised legislation created an even **more favourable** maternity situation for women in CEE. Romanian legislation contained more precise provisions and more detailed statements, especially with respect to the obligations of the employer and to women's ability to defend their rights with the support of trade unions. Many rights were extended in terms of the period of leave and monetary benefit: the maximum length of parental leave for infant care was extended from 12 to 24 months; such leave is now paid, unlike pre-89; the maternal

leave for pregnancy and nursing was also extended by 14 days, currently totalling 126. However, these provisions have a double-edged effect: on one hand, they improve women's maternity and maternity-related leave entitlements; on the other hand, they can act as a means of keeping women out of the workforce for an extended period of time. In the Czech Republic small modifications occurred systematically, such as the removal of the *prohibition* on sending pregnant women and women caring for children under 1 year of age on business trips and its replacement with the necessary *approval* of the woman of being sent on such trips. Another important change is the voluntary nature of sickness insurance for the self-employed, from which maternity benefit is provided. An additional provision introduced in some CEE countries concerns the paid availability of paternity leave. In Latvia, for example, fathers have been entitled to 10 days of paternity leave during the month after the birth – but this has only been paid since 2004.

Furthermore, some countries have provisions that **exceed the EU minimum**. In Slovenia, the Parental Protection and Family Benefit Act (2001) provides maternity leave of 105 days – one week longer than prescribed by the Directive. The mother must begin maternity leave 28 days prior to the expected date of birth, as opposed to the European requirement of taking leave two weeks prior to the birth. (While the length of the pre-birth maternity leave is more generous than the EU requirement, this Slovenian provision is also more restrictive as it limits a woman's control over her maternity leave.) During absence from work, parental benefit is calculated and amounts to 100% of the average basis over the past 12 months. The Directive provides that this benefit must be at least equal in value to benefit paid for sick leave, which amounts to 80% of the average basis and exceeds the European minimum.

However, there are exceptions to the generosity of maternity regulations. In Lithuania, the system retains its Soviet-era features while reducing the provisions available pre-89. Some Hungarian laws – especially in respect to relieving pregnant women from work duties – seemed more favourable during state socialism. The only inconsistency in the Hungarian legislation compared to the EU directive is the categorical prohibition of night work to pregnant workers and young mothers. One of the most urgent problems emerging in legal enforcement in this area is the unlawful termination of the employment of women with young children. Employers are not strongly prevented from dismissing mothers with small children, and are already reluctant to hire young women in the first place.

Table 8: Maternity Leave Provisions, Pre- and Post-89

	Paid leave Pre-89	Paid Leave Post-89	Payment Pre-89	Payment Post-89
Bulgaria	Normal salary during leave - 45 days before birth, then 120 days for first birth; Minimum wage for remainder of leave - 6 months for first child	Normal salary for 135 days (45 days before birth); 50% of minimum monthly salary to raise child for 2 years; unpaid leave until child is 3	Lump sum; family allowance (if working) until child is 16; extra 50% of minimal monthly salary if mother does not take leave after first fully paid day and child is not in a nursery	Same
Czech	Monetary assistance based on previous salary for 28 (37) weeks if woman participated in sickness insurance for at least 270 days during last 2 years	Same	Monetary assistance - 90% of net earnings for 28(37) weeks; then maternity allowance - mother (in special cases father) received monthly lump sum (if s/he did not draw wages or monetary benefits from sickness insurance) until child's 1 st , 2 nd or 3 rd birthday (according to family circumstances)	Monetary assistance - 69% of net earnings for 28(37) weeks; then parental allowance - mother (or father) receives monthly lump sum of 1.54 times the living wage (if s/he does not draw monetary benefits from sickness insurance) until child's 4 th birthday
Estonia	56 days before and 56 days after delivery date (70 days with some exceptions), paid at 100% of the previous salary level	70 days before and 56 days after birth (70 days if complicated birth or multiple births)	100% of previous salary for 60 days before maternity leave; Lump sum to unemployed mothers	Childbirth allowance (120 days before birth and 6 months after), then parental benefit – based on average income (or minimum wage for those unemployed for previous 360 days) of 1 month during preceding calendar year
Hungary	Extending to 24 weeks with full amount of last monthly salary	24 weeks (with 4 before birth)	Lump sum to mother (2/3 average monthly wages) if she attended medical consultations at least 4 times during pregnancy	Lump sum to mother if she attended medical consults; those paying social security for at least 180 days before birth receive monthly benefit' at 70% of average daily wage
Latvia	8 weeks before and 8 weeks after delivery.	Same	Paid at 100% of previous salary level.	Same
Lithuania	8 weeks before and 8	70 days before birth	Paid at 100% of	Childbirth allowance

	weeks after delivery.	and 56 days after birth (70 days if complicated childbirth or multiple births)	previous salary level.	(100% of average daily wage) for 70 days before birth and 56 days after. Lump sum after birth. Then parental benefit – 70% of average daily wage for the first year, and lower fixed rate during second and third year
Poland	16 weeks (first child), 18 (for subsequent children), 26 (twins); in principle, 2 weeks before delivery; paid 100% of salary	Same	Allowance of 80% of salary for 60 days (within 1 calendar year) to care for sick child under 14 years or given unpredictable situation (e.g. nursery closed) if child is under 8 year.	Maternity allowance equal to average pay during 6 months of work preceding birth
Romania	Paid pre-natal (52 days) and post-natal (60 days)	Extended to 126 days	60-80% of mother's monthly salary	85% of average monthly wages of the employed population
Slovakia	Full payment for 28 weeks (37 weeks for single mothers or mothers with multiple births)	Same	90% of net earnings; after 28 (37) weeks, mother received monthly lump sum (maternity allowance) until child was 3 (while she stayed home)	55% of gross earnings; after 28 (37) weeks receive lump sum (parent's allowance) per month until child is 3; if parent returns to work during this period and does not put child in kindergarten, then s/he receives about a third of this sum per month
Slovenia	365 days of parental leave, including 105 days of maternity leave (starting at least 28 days before birth) and remaining 260 days to be used by mother or father; alternatively, 105 days of maternity leave followed by part-time work until child is 17 months; extra 3 months for each additional child	Same - plus additional 90 days for fathers during maternity leave (part of which can be postponed until child is 8 years old)	100% of average salary level from preceding 12 months; monthly lump sum to unemployed mothers	Benefit is 100% of previous 12-month average; this also applies to the first 15 days of fathers' leave, while social security covers the remaining 75 days

7) Organisation of working time (93/104/EC)

Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time *Official Journal L 307, 13/12/1993 p. 0018 - 0024*, Amended by Directive [2000/34/EC](#) of 22 June 2000 of the European Parliament and of the Council. *Amended by OJ L 195 01.08.00 p.41*

The main objective of this directive is the adoption of minimum requirements covering certain aspects of the organisation of working time connected with workers' health and safety. The directive defines the terms 'working time', 'rest period', 'night work', 'night worker', and 'shift work'. The amendment adds the terms 'adequate rest', 'mobile worker', and 'offshore work'. Member States shall take measures to ensure that workers enjoy: the minimum daily rest period of eleven consecutive hours per period of 24 hours; the minimum period of one rest day on average immediately following the daily rest period in every seven-day period; for a daily period of work of more than six hours, a break as defined by the provisions of collective agreements, agreements concluded between social partners or national legislation; not less than four weeks' annual paid holiday, qualification for which shall be determined by reference to national practice/legislation; an average weekly working period of not more than 48 hours, including the overtime for each seven-day period. In addition, normal hours of work for night workers must not exceed an average of eight hours in any 24-hour period.

Table 9: Organisation of Working Time – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	Pre-89 legislation	Trade unions, Labour Inspectorate
Czech Rep.	Labour Code (Law 65/1965), Law no. 20/1966 regarding public healthcare, Law no. 258/2000 regarding protecting public health.	Ministry of Labour and Social Affairs, Labour Bureaus, Public Defender of Rights
Estonia	Employment Contracts Act (1992), Collective Agreements Act (1993, amended in 1999, 2000, 2003), Law of Obligations Act (2002)	Labour Inspectorate
Hungary	Government Decree No. 1031 (1994) on the principles of long-term demographics policy	Authority of Equal Opportunities, Ombudsman, Labour Inspectorate, Office for Women's Issues of the Ministry of Social and Family Affairs
Latvia	Labour Law (2001)	Labour Inspectorate
Lithuania	Act on Employment Contracts (1991, Article 22), Act on Labour Protection (1993; revised 2000, Articles 45 and 46(2))	Office of the Equal Opportunities Ombudsperson; Labour Inspectorate.
Poland	Labour Code (Art. 139-140 on principles of interrupted and task work time, Art. 142- 143 on right to request schedule changes)	No specific monitoring body.
Romania	Labour Code (Law no. 53/2003 on the Labour Code), Law no. 25/2004 for the approval of the Emergency Governmental Ordinance on maternity	Work Inspection Authority, Court divisions for litigation and labour conflicts

	protection at workplace	
Slovakia	Labour Code (311/2001), Health Safety and Protection Act (330/1996), Healthcare Act (277/1994), Collective Bargaining Act (2/1991), Anti-Discrimination Act (365/2004)	Slovak National Centre for Human Rights; National Labour Inspection and its regional offices; Ministry of Labour, Social Affairs and Family; Ministry of Health; Health Insurance Companies; courts
Slovenia	Employment Relationship Act (1977, amended 2002), Occupational Health and Safety Act (1999), Health Services Act (1992), General practitioners' services act (1999), Rules on the preparation of safety statement with risk assessment (1999), Rules concerning preventive medical examinations of workers (1971, 1996)	Labour Inspectorate, Ministry of Labour, Family and Social Affairs, Ministry of Health, Office for Health and Safety at Work

Bulgaria is still relying on pre-89 legislation, which fulfils the legal requirements though discrimination still occurs. None of the CEE countries have **constitutional provisions** regarding the organisation of working time, although some – like the Czech Republic – establish that everyone has the right to rest after performed work. Half the CEE countries (Czech Republic, Latvia, Poland, Romania, Slovakia) have new or existing **labour laws** to implement the provisions of the directive on the organisation of working time. For example, in Hungary the directive has generally been implemented but has been widely criticised for not being sufficiently comprehensive and specific (Gyulavári 1997). It follows European guidelines by establishing maximum working time at 40 regular hours per week with an upper limit of 48 hours including overtime.¹⁵ The labour code includes additional workplace conditions – including minimum periods of daily and weekly rest, annual leave, and certain aspects of night work and shift work – that are regulated by collective agreements or, in their absence, by the employer.

Other countries introduced new or **supplementary legislation**. In addition to labour code provisions in Slovakia that defined new terms and established their conditions of operation, the Act on Security and Health Protection at Work (330/1996 Coll.) obliges the employer to replace difficult and monotonous work with new work procedures. The Act on Collective Bargaining (1991) and Anti-Discrimination Act (2004) also cover certain aspects of the organisation of working time (i.e., night shift arrangements, equal treatment at the workplace). In Slovenia, the Employment Relationship Act (2002) incorporates the terms as defined in the directive and in some

¹⁵ This limitation of working time is an achievement on the part of the trade unions, which introduced the 1992 modification of the Labour Code. The 2001 amendment of the Labour Code introduced the possibility for employers to create 'flexible working time frames'. According to a survey sponsored by the National Public Foundation of Employment in 2001, a third of employers were using this aspect of the legislation for budget reduction (see Eberhardt 2004).

cases introduces more favourable conditions. For example, the working time for night workers is identical to the directive but it further requires employers to provide night workers with longer leave than other workers, appropriate food during work, and professional management of the working or production process (Articles 150 and 151). In the industry and construction sectors, employers may only employ women on night work under special conditions (Article 153). The prescribed minimum daily rest for the majority of workers is 12 unbroken hours, while the lower threshold of 11 unbroken hours in the Directive applies only to workers that have unevenly allocated working hours (Article 155). There is also a more favourable provision covering breaks during work: the Directive requires breaks for employees that work at least six hours a day, while the Slovenian Act reduces this threshold to four hours a day (Article 154).

The provisions of this directive generally create a more favourable working situation across CEE than did the pre-89 legislation. For example, Romanian workers are enjoying a shorter working week, clearly defined employees' rights and employers' obligations, the supervision provided by the Work Inspection Agency, and a new Labour Code (which makes night work for women optional rather than prohibited). In the Czech Republic, pre-89 laws gave a shorter minimum length of holiday time, included the possibility to provide pay compensation for unused holiday time, yet lacked sufficient regulation of night work. Indeed, some argue that the organisation of working time is the most crucial subject from the perspective of gender equality as it enables flexible and atypical forms of employment (e.g., part-time work, distance employment) that help reconcile work and family duties. However, the promotion of flexible work can also be problematic due to the general belief that it is a measure 'for women' (Eberhardt 2004).

8) Parental leave (96/34/EC)

Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC *Official Journal L 145, 19/06/1996 p. 0004 - 0009, CONSLEG - 96L0034 - 16/01/1998 - 11 p., Amended by OJ L 010 16.01.98 p.24*

The directive establishes minimum requirements in respect of parental leave and unforeseeable absence from work, seeking to reconcile professional and family responsibilities and promote equal opportunities and treatment for women and men. The framework agreement on parental leave concluded on 14 December 1995 between the general cross-industry organisations (UNICE, CEEP and the ETUC), annexed to the Directive, is made obligatory. The agreement provides for: male and female workers to have individual entitlement to parental leave following the birth or adoption of a child, enabling them to take care of the child for at least three months; the conditions of access

to and procedures for applying for leave; parental leave to be defined by law and/or collective agreement in the Member States; the Member States and/or social partners to take the necessary measures to protect workers against dismissal on the grounds of an application for, or the taking of, parental leave; workers to have the right to return to the same job at the end of parental leave or, if that is not possible, to an equivalent or similar job consistent with their employment contract; the maintenance of rights acquired or in the process of being acquired by the worker on the date on which parental leave starts; and the Member States and/or the social partners to take the necessary measures to allow workers to take time off from work for unforeseeable reasons arising from a family emergency in the event of sickness or accident making the immediate presence of the worker indispensable.

Table 10: Parental Leave – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	Pre-89 legislation	Labour Inspectorate
Czech Rep.	Charter of Fundamental Rights and Freedoms (2/1993, Article 32.5), Government regulation 108/1994 that executes the Labour code; Law 117/1995 regarding state social support; Labour Code (65/1965); Laws regarding specific groups of employees (361/2003, 218/2002, 6/2002, 221/1999, 95/2004, 96/2004)	Social Security Administration, Ministry of Labour and Social Affairs, Government Council for Equal Opportunities, Public Defender of Rights
Estonia	Parental Benefit Act (2004), State Family Benefits Act (1997; 2001 repealed and replaced; 2003 repealed and replaced by Parental Benefit Act), Act on Family Allowances (1992), Child Benefit Act (1994), Health Insurance Act (1998, amended 2002), Holidays Act (1992-2002, new version in 2001), Employment Contracts Act (1992)	Labour Inspectorate
Hungary	Labour Code (1992, Sections 5 (1), 42, 90(1), 125, 138(5)); Act LXXXIV (1998) on Family Provisions	Authority of Equal Opportunities, Ombudsman, Labour Inspectorate
Latvia	Labour Law (2001)	Labour Inspectorate
Lithuania	Act on Labour Protection (2000, Article 19), Act on Holidays (1991), Act on Sickness and Maternity Social Insurance (2001), Act on State Benefits for Families raising Children (1995, Article 4).	Equal Opportunities Ombudsman and the Department of Labour and Equal Opportunities at the Ministry of Social Affairs and Labour
Poland	Labour code (1974 as amended in 2003, Art. 186, 186 ¹ , 186 ² , 186 ⁴ , 186 ⁵ , 186 ⁷ , 188-189, 189 ¹)	No specific monitoring body.
Romania	Governmental Decision no. 1273/2000 regarding the approval of the National Action Plan for equal opportunities between women and men; Law no. 19/2000 on the Public System of Pensions and Other Social Security Schemes; Law no. 210/1999 on Paternity Leave; Law no. 25/2004 for the approval of the Emergency Governmental Ordinance on maternity protection at the workplace; Labour Code (Law no. 53/2003)	Ministry of Labour, Social Solidarity and Family; Inter-Ministerial Commission on Equal Opportunity between women and men (CODES); National House of Pensions and Other Social Security Benefits; Labour Inspection Authority

Slovakia	Labour code (311/2001), Civil Service Act (312/2001), Public Service Act (313/2001 replaced by 552/2003 and 553/2003 from 1.1.2004)	Ministry of Labour, Social Affairs and Family, Civil Service Office, courts
Slovenia	Employment Relationship Act (2002), Parental Protection and Family Benefit Act (2001), Health Care and Health Insurance Act (1992)	Labour Inspectorate, Ministry of Labour, Family and Social Affairs, Ministry of Health

Bulgaria is relying on pre-89 legislation, which meets the formal legal obligations of the directive. There are no constitutional provisions for parental leave in the countries studied, although many constitutions support parents in exercising their family duties. Half the CEE countries (Czech Republic, Hungary, Latvia, Poland, Romania, Slovakia) have new or existing **labour laws** to implement the provisions of the directive on the organisation of working time as related to parental leave. In Slovakia, the Labour Code ensures a mother or father 28 weeks of parental leave after the child's birth. The employer is obliged to give additional parental leave of up to three years if the parents requests it, as well as six years if the child has a long-term sickness or disability. An employee cannot be fired while on parental leave and is entitled to the same work as before taking leave. The employee is also protected in case of his/her sickness, motherhood or parental leave, sick leave of a family member, and during the care of a child younger than ten years that cannot be in school for a serious reason. The Polish labour code generally meets the requirements of the directive. Concerning the length of parental leave, Polish law allows for three years as opposed to at least three months in the EU legislation. In contrast, leave can only be until the end of the child's fourth year – unlike the end of the eighth year provided by the directive. Additionally, Polish regulations do not define the status of an employment contract during the leave.

Estonia was one of the few countries that passed **new legislation** to implement the directive. Since the early 1990s, the Act on Family Allowances offered a childcare allowance to mother, fathers, or grandparents. It ensured that if a parent is on parental leave, then s/he has the right to receive childcare allowance.¹⁶ The equal treatment of both parents in this Act became a normal rule without any public discussions. The Child Benefit Law of 1994 introduced some changes to

¹⁶ The experience from other countries has shown that policies designed to reconcile work and family life may have a greater impact on births than policies intended to increase births, while research has also indicated that labour market policies have a great impact on families' (Pall 2004). Accordingly, Estonia's parental benefit policy compensates the loss of income for a year after childbirth and aims to balance work and family life by retaining a family's living standard after childbirth.

the system; for example, child benefits are no longer pegged to the minimum wage but are instead set by Parliament each year within the state budget law. In 1997 the State Family Benefits Act was adopted; in 2001, it was repealed and replaced by a new version; in 2003 it was repealed and replaced by the Parental Benefit Act. The purpose of this Act is to compensate for the loss of income that is the result of raising a child and to support the combination of work and family life. The family benefit scheme has been restructured to favour large families with pre-school age children, providing childbirth and adoption allowances. The Employment Contracts Act (1992) guarantees some benefits for women (extending to guardians) raising children who are disabled children or under three years of age. This act is discriminatory towards men in many subsections, assuming that only women raise children and giving men benefits only in certain cases. For example, a woman raising a disabled child or child under three years of age may only be sent on a business trip with her consent; this legislation requires the consent only of female and not male employees.

In Slovenia, the new feature introduced by European legislation is the non-transferable right to paternity leave, which is provided by the Parental Protection and Family Benefit Act (2001). Paternity leave will be gradually extended to the duration envisaged in the Directive: from 1 January 2003 the right to 15 days of leave was introduced, from 1/1/2004 paternity leave amounted to 30 days, and from 1/1/2005 it will be extended to the prescribed 90 days. The father must take at least 15 days of this leave during the maternity leave taken by the mother, during which time he receives paternity benefit; for the remaining 75 days the state pays contributions for social security based on the minimum wage. The introduction of Article 115 in the Employment Relationship Act (2002) protecting workers on parental leave from dismissal has also contributed towards improving equal opportunities.

As these cases show, the framing of the legislation can either encourage or hinder equal opportunities between men and women. Although childcare leave and allowances are made available for both parents, fathers rarely apply: in 2001 the Hungarian Central Statistical Office found that 187,500 women and only 4000 men took advantage of childcare assistance. While this is understandable given women's generally lower wages, the right to take parental leave requires women to choose between professional and family duties rather than seeking to reconcile the two. In Czechoslovakia during the 1980s, the same right to care for children (i.e., excusing absences from work and providing material assistance) was provided to men only in special circumstances. Thus, the unequal standing of men and women was at least partially attributable to CSSR

legislation. Under current Czech law, both parents may stay at home with a child from the first day of their child’s birth – a man on parental leave and a woman on maternity and then parental leave. But as it is not possible to receive both parental allowance¹⁷ and monetary assistance¹⁸ at the same time if they relate to the same child, one of the parents must in practice stay home unpaid. Because the parental allowance (a different provision from but connected to parental leave) is very low; because men have overall higher wages than women and because gender stereotypes exist within families and places of employment, few men take parental leave.

9) Burden of proof in sex discrimination cases (97/80/EC)

Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex *Official Journal L 014 20.01.98 p.6, Amended by OJ L 205 22.07.98 p.66*

The directive requires member states to take such measures in accordance with their national judicial systems to ensure that, where the plaintiff establishes, before a court or other competent authority, facts from which discrimination may be presumed to exist, it is for the defendant to prove that there has been no contravention of the principle of equality.

Table 11: Burden of Proof in Sex Discrimination – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	Anti-discrimination bill (2003), Law of Ombudsman (2004)	National commission, Ombudsman
Czech Rep.	Charter of Fundamental Rights and Freedoms 2/1993 (Article 36), Labour code (65/1965), Civil Procedure Act (99/1963); Law no. 154/1994 regarding Security Information Services, Law no. 150/2002 administrative judicial regulations, Employment Act (435/2004), Law no. 309/1999 regarding Law Collection and Collection of International Contracts, Laws regarding specific groups of employees (218/2002, 221/1999, 186/1992)	Ministry of Justice, Ministry of Labour and Social Affairs, Government Council for Equal Opportunities, Public Defender of Rights
Estonia	Gender Equality Act (2004), Chancellor of Justice Act (1999), Legal Chancellor Activities Organisation Act (1999)	Chancellor of Justice

¹⁷ A parental allowance can be provided to individuals who take full-time care of an infant up to four years of age. It is a state social support benefit, and therefore is not dependent on the previous income and economic status of the individual.

¹⁸ Monetary assistance during maternity is a sickness insurance benefit. As such, it depends on the previous income of the worker and amounts to 69% of the daily base for assessment. Monetary assistance during maternity is not only provided to previously economically active women but also at a low financial level to – for example – students or women who have cared full-time for another child; because the claim to the benefit is dependent on the long-term participation of a woman in the sickness insurance system, the system covers such people as students or people on parental leave. Monetary assistance during maternity can be claimed by men in special cases only.

Hungary	Labour Code (2001, 5(8)), Equal Treatment legislation (2004, Section 18(1) and (3))	Authority of Equal Opportunities, Ombudsman, Labour Inspectorate
Latvia	Labour Law (2004 corrections)	Labour Inspectorate
Lithuania	Act on Equal Opportunities (1999), Act on Labour Disputes (2000), Act on Administrative Proceedings (1999).	Office of the Equal Opportunities Ombudsperson, Commission on Labour Disputes, courts
Poland	Labour Code (1974 as amended in 2001, Art. 18 ^{3b})	No specific monitoring body.
Romania	Labour Code (Law no. 53/2003), Equal Opportunities for Women and Men (Law no. 202/2002), Governmental Ordinance no. 137/2000 on Preventing and Punishing All Forms of Discrimination, Governmental Ordinance 77/2003, Law no. 48/2002 for the approval of the Governmental Ordinance no. 137/2000 on Preventing and Punishing All Forms of Discrimination, Law no. 25/2004 for the approval of the Emergency Governmental Ordinance on maternity protection at the workplace	Court sections for litigation and labour conflicts, courts established according to the Code for Civil Proceedings, Labour Inspection Authority
Slovakia	Labour Code (311/2001), Anti-Discrimination Act (365/2004), Civil Service Act (312/2001), Civil Procedure Code (99/1963)	Slovak National Centre for Human Rights, Ministry of Labour, Social Affairs and Family, Civil Service Office, courts
Slovenia	Employment Relationship Act (2002), Equal Opportunities for Women and Men Act (2002)	Labour Inspectorate, Bureau for Equal Opportunities

The concept of requiring an employer to prove that s/he did not act in a discriminatory way is a novelty for most CEE countries, as the law did not exist and the concept was not discussed during state socialism. Half the CEE countries (Czech Republic, Hungary, Latvia, Poland, Romania, Slovakia) have new or amended **labour laws** to implement the provisions of the directive. In the Czech Republic, for example, the directive was transposed mainly through the Civil Code, Labour Code, and civil judicial regulations. This transposition could improve and facilitate the legal standing of victims of discrimination on the basis of sex by defining direct and indirect discrimination and by requiring the burden of proof to be borne by the one who carried out the discriminatory conduct. This so-called ‘converse burden of proof’ – which applies to discrimination on the basis of sex, racial or ethnic origins, religion, creed, worldview, disabilities, age or sexual orientation – is laid down in the Czech Civil Judiciary Code. It currently refers to work-related disputes only, though the current anti-discrimination draft law contains a proposal on widening the application of converse burden of proof.

Several countries utilised **alternative legislative measures**. Bulgaria used the over-arching Anti-Discrimination Act (2003) that implemented about half of the directives within the equality *acquis*. In Slovenia, Article 6 of the Employment Relationship Act (2002) provided a general definition of

indirect discrimination relating to gender, race, age, religious belief, nationality and other personal circumstances. The Act places the burden of proof on the employer in cases where different treatment must be justified by the type and nature of the work (Article 6) and in the event of an accusation of sexual harassment (Article 45). Article 5 of the Equal Opportunities Act (2002) focuses precisely on indirect and direct sex discrimination, and provides a method for dealing with cases of suspected unequal treatment of the sexes through the equal opportunities advocate at the Equal Opportunities Office.

The main **weakness** with this piece of legislation in several countries is its narrow focus on employment-related discrimination. This is clearly the case in Poland, where the labour code reverses the burden of proof in discrimination cases before labour courts when it orders

the employer to prove that it was guided by considerations other than sex in the refusal to initiate or terminate an employment relationship with a given person or detrimental formation of his/her remuneration for work or other employment conditions or upon overlooking such person during promotions or awarding other benefits associated with the employment, or overlooking such person when designating participation in instruction courses to raise job qualifications (in Fuszara 2004).

The formulation of the principle meets and even exceeds the requirements of the directive, yet its work-based application excludes the possibility of its extension to sex discrimination in other contexts, such as the provision of goods and services.

The Hungarian labour code was modified in July 2001, defining ‘indirect discrimination’ as a new element that specifies the legislative intent and enhances compliance with the Directive. Previously, indirect discrimination could only be inferred by a general clause of the Civic Code, which considers discrimination as a form of violating a person’s rights. The provisions of the Equal Treatment Legislation also prohibit both direct and indirect discrimination, forbidding those cases of discrimination where a person or a group suffers significant disadvantage. However, it is not clear what the Hungarian legislators meant by ‘significant disadvantage’; as this aspect is not in line with the directive, it is likely to restrict the law’s effectiveness. Section 5(8) of the modified Labour Code provides that in an employment-related dispute, the employer has to prove that his actions did not violate provisions prohibiting discrimination. Section 18 (1)(3) of the equal treatment legislation also mentions the reversal of the burden of proof, though the burden is not reversed completely: as the discriminated individual also has to prove her/his claim, the burden of proof is only divided between the accused and the plaintiff. This can put employees, especially sexually harassed women, in unfavourable situations, as in some cases it can mean that the burden

is on the complainant to prove that s/he was discriminated against. This aspect contravenes the specifications of Article 4(1) of the 1997 EU Directive.

10) Framework Agreement on part-time work (97/81/EC)

Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex : Framework agreement on part-time work *Official Journal L 014 , 20/01/1998 p. 9 - 14*

The directive implements the framework agreement on part-time work concluded on 6 June 1997 by the general cross-industry organisations (UNICE, CEEP, ETUC). It seeks to eliminate discrimination against part-time workers, improve the quality of part-time work, facilitate the development of part-time work on a voluntary basis, and contribute to the flexible organisation of working time in a manner that takes into account the needs of employers and workers. It states that part-time workers shall not be treated in a less favourable manner than comparable full-time workers solely because they work part-time, nor should a worker's refusal to transfer from full-time to part-time work or vice versa constitute in itself a valid reason for dismissal. It encourages member states to make access to particular conditions of employment subject to a period of service, time worked or earnings qualifications; they should also identify and review obstacles that may limit the opportunities for part-time work and, where appropriate, eliminate them. Wherever possible, employers should consider requests by workers to transfer from full-time to part-time work or vice-versa as such opportunities arise; provide timely information on the availability of part-time and full-time jobs in the establishment to workers and their representatives; and facilitate access to part-time work at all levels of the enterprise.

Table 11: Framework Agreement on Part-Time Work – Laws and Monitoring Bodies

Country	Laws enacted	Monitoring body
Bulgaria	Pre-89 legislation	Trade unions, Labour Inspectorate
Czech Rep.	Charter of Fundamental Rights and Freedoms (2/1993, Article 36), Civil Procedure Act (99/1963), Law regarding minimum wage (303/1995), Labour Code (65/1965)	Ministry of Labour and Social Affairs, Social Security Administration, Public Defender of Rights, Government Council for Equal Opportunities
Estonia	Employment Contracts Act (1992), Collective Agreements Act (1993, amended in 2002), Individual Labour Dispute Resolution Act (1996)	Labour Inspectorate
Hungary	Labour Code (1992, Section 144(6)), Governmental Decree No. 1040/2000 on the Employment Policy Guidelines for 2000	Authority of Equal Opportunities, Ombudsman, National Health Insurance Fund, National Pension Insurance Directorate General
Latvia	Labour Law (2001)	Labour Inspectorate

Lithuania	Act on Labour Protection (1993; revised 2000, Article 40), Act on Holidays (1991), Act on Wages (1991, Article 10), Act on Employment Contracts (1991), Code of Civil Procedure (2001)	Office of the Equal Opportunities Ombudsperson; Labour Inspectorate; courts
Poland	Labour Code (1974 as amended in 2001 and 2003, Art. 11 ³ prohibition of discrimination, Art. 29 ² , 151(5), 94 ²)	No specific monitoring body.
Romania	Labour Code (Law no. 53/2003)	Work Inspection Authority
Slovakia	Labour Code (311/2001), Anti-Discrimination Act (365/2004)	Slovak National Centre for Human Rights; Ministry of Labour, Social Affairs and Family; courts
Slovenia	Employment Relationship Act (1977, amended 2002), Worker Participation in Management Act (1993)	Labour Inspectorate, Ministry of Labour, Family and Social Affairs

Bulgaria is relying on pre-89 legislation, which provides *de jure* protection though there still remains *de facto* discrimination. As before half the CEE countries (Latvia, Poland, Romania, Slovakia) have new or revised **labour laws** to implement the provisions of the directive. In Slovakia, for example, the Labour Code enables the employer to agree on exactly defined and regulated part-time work with the employee. While the rights of part-time and full-time workers are equal, someone employed as a temporary worker and working less than 20 hours a week can be dismissed for any reason or without a reason (requiring only 15 days notice).

The remaining countries relied on **other legislative measures**, with Lithuania utilising four acts. Article 40 of the Labour Protection Act (2000) regards the standard duration of working hours, requiring employers to provide a shorter working day or week schedule to pregnant or breastfeeding women, women who recently gave birth, as well as female workers raising a child under 14 years of age or a handicapped child under 16 years of age. The Act states that only fathers raising a child alone can demand that their employers give them the opportunity to work part-time.¹⁹ The Holidays Act (1991) states that the duration of annual leave is not limited for part-time workers, ensuring that employees receive an average pay during this leave regardless of whether they are employed full- or part-time. The proportion of pay to the time of work or result is further consolidated in Article 10 of the Wages Act (1991). The comparatively less favourable treatment of part-time workers is deemed to be a violation, and an employee who feels wronged

¹⁹ This provision was considered discriminatory in 2002 by Lithuania's Office of the Equal Opportunities Ombudsperson; upon recommendations submitted to the Ministry of Labour and Social Security, amendments to the draft Labour Code were made that provided both mothers and fathers with an equal opportunity to work part-time.

because of this has the right to complain according to the general procedures in the Act on Labour Contract (1991) and the Code of Civil Procedure (2001).

In some countries – such as the Czech Republic and Hungary – there are **no specific regulations** dealing with part-time work as it is managed like full-time employment. In the Czech Republic, neither the Labour Code nor other legal regulations give any exceptions or special work conditions for employees who work full-time or part-time; thus, part-time employees can claim identical treatment, rights, duties, and working conditions as full-time workers. The still existing Labour Code requires earnings to be provided in proportion to hours worked (except in cases where shorter working hours were agreed collectively or in favour of employees with health problems), and enables the employer to arrange shorter than established weekly hours for operational reasons at the employee's request or due to health or other serious reasons if it would not harm organizational operation. If a woman caring for children younger than 15 years of age or a pregnant woman sought reduced work hours, the employer was required to fulfil her request as long as it was/is not obstructed by serious reasons relating to operation. Pre-1989 an organisation was only required to fulfil the requests for reduced working hours made by a woman caring for children younger than 15 or a pregnant woman; the introduction of EU legislation has given all employees caring for children up to the age of 15 this right.

Similarly, in Hungary, part-time workers are subject to the same rules of treatment (e.g., insurance, welfare provisions, anti-discrimination measures). However, their earnings may be lower than the minimum wage as part-time employees (i.e., students, pensioners) constitute an exception to the mandatory minimum wage rule. The conditions under which a part-time worker may request a transfer to full-time employment, or vice versa, are not specified in Hungarian law; parties are free to modify the work contract with mutual agreement, but there are no special means to encourage this form of employment. Although Governmental Decree No. 1040/2000 on the Employment Policy Guidelines for 2000 as the basis of the National Action Plan addresses the increased promotion of part-time employment as a means of reconciling family and workplace obligations, it focuses primarily on women employees. In terms of legal harmonization, this policy is the least developed.

There are indications that an increasing number of people (particularly women) would be interested in part-time work if the conditions were more favourable. Although the proportion of part-time workers in the Czech Republic is very low in comparison with other EU states (8.5% of

female employees and 2% of male employees), the number of part-time positions is slowly growing (Hašková, Kolářová and Pomahačová 2004). Czech women seek part-time work for family reasons more often than men (1% of men and 17.9% of women), while more men work part-time for health reasons (27.8% of men and 14.9%) (*Zaměstnanost* 2002). The situation is not only advantageous for employees: the Trade Union of Shopworkers systematically cites retail chains that are staffed primarily by women, suggesting that part-time work is applied more often for the benefit of employers. Present indicators in Hungary also show that women are particularly interested in part-time work as a means of devoting more time to their domestic duties (Eberhardt 2004). Thus, the necessity of reconciling workplace and family obligations often conflicts with the principle of equal opportunities and gender equality as the promotion of part-time employment can reinforce the disadvantaged situation of women given the unfair distribution of labour within the family.

4. Awareness and Enforcement of the EU Equality *Acquis*

Having equal opportunities laws on the statute books is the first step towards achieving gender equality. The next step is ensuring that these laws provide a meaningful framework for the delivery of equal opportunities between women and men. Although the gender equality laws are more or less in place in Hungary,

the twin factors of the unsophisticated legal culture and the dominant traditional perceptions of gender relations are militating against making those policies a reality. The accession process was accompanied by mostly hollow disputes, reflecting the predictable conflicts of national politics instead of calling attention to the significance of becoming a member state. The fact that the government's actions were determined by the exterior requirements of the EU, rather than demands and expectations at home, resulted in empty rhetoric echoing certain fashionable Euro-centric phrases without meaning to attribute any significance to them (Eberhardt 2004).

The fourth section of this paper reinforces the truth of this claim for many CEECs by considering firstly the awareness of the equality directives among women, employers and judges and secondly their enforcement as determined by case law and reports produced by the labour inspectorates and ombudspersons.

4a. Awareness of directives

Public CEE citizens are most familiar with equality legislation that existed prior to the 1989 transition. These include the directives concerning equal pay, equal treatment in statutory social

security schemes, and maternity leave. For example, women are particularly knowledgeable about maternity leave laws given the generous pre-89 provisions in all state socialist countries. As this law has not been abolished, citizens are aware of its existence and do not identify its enforcement as a central concern of the accession process.²⁰ Yet one of the major changes introduced by democratisation and EU accession concerns enforcement. Such laws needed little monitoring pre-89 as the political and socio-economic systems were state-controlled; after the transition many of these laws were less carefully monitored in the private sector as high unemployment rates led individuals to accept unfavourable conditions for the sake of a job (Videva 2004). Awareness of certain directives also results from the extent to which the legislation was discussed in the public domain. For example, equal pay and equal treatment received the most public attention in Slovakia due to media coverage of the legislative wrangling over the Anti-Discrimination Act.²¹

Fieldwork across CEE reveals little public familiarity with (and dissemination of information about) new concepts such as the burden of proof in sex discrimination cases, part-time work regulations, and equal treatment for the self-employed and their spouses. This can be explained by the novelty of legislation, the complexity of the legal system, and the failure of governments to educate the public about gender regulations. For example, in Bulgaria the comparatively slow harmonization with the equality *acquis* despite strong overall support for the measures required for European integration reflects a prevailing attitude within the political establishment that discrimination on the basis of sex should not be prioritized. The largest ever participation of women in the present parliament (26%) and the positioning of women in charge of important ministries in the last two governments have not created the expected change. The reasons for these attitudes lie in the convictions that: 1) the legislation inherited from the communist regime has been sufficiently effective to produce a situation for women that is comparable to the EU countries; 2) the difficulties created by the transition to democracy have not been gender specific and incur other priorities; 3) other areas of discrimination (e.g. Roma, disabled) have suffered

²⁰ Perceptions of gender equality and the importance of equal treatment legislation are in part affected by the legacy of communist ideology, leading many citizens to believe in the inherent correctness of the state and to fail to demand their rights. Slovakian opinion polls revealed that 74% of women and 51% of men agree that women do not try to improve their situation or fight for their rights (Institute of Public Affairs 2002 in Butorova et al. 2003, 733).

²¹ Slovakian opinion polls show that women consider unequal pay the most dissatisfying inequality issue, while equal pay, equal treatment and improvement of working conditions (mainly part-time and flexible time) are seen by a majority of women as factors that could improve their lives (Gyarfasova and Pafkova 2002, 16; Butorova et al. in SME 28.3.2004). However, most women still claim not to feel discriminated against and accept unequal pay as normal and natural (Galikova in SME 23.3.2004).

greater neglect in the past in terms of both legislation and social awareness and hence need greater emphasis today (Videva 2004).

Officials Civil servants in many CEE countries also lack awareness of gender issues. A 2003 report by the Bulgarian Ministry of Foreign Affairs on the fulfilment of the communication strategy for joining the EU gives a clear indication of current political attitudes: among the many activities reported, there is not a single mention of women, gender, or equality. The Programme for Gender Equality, which was adopted by the Ministry of Labour and Social Policy at the beginning of 2002, has as its first objective raising awareness of the equality *acquis*; however, its activities so far have been mostly concerned with participation in international fora (Videva 2004). An Estonian study (Klefeld 2004) examined gender mainstreaming and the awareness of gender equality issues among state servants dealing with gender issues in different ministries in spring 2004. The researcher found that the ‘equality expert’ is very isolated in her/his work. Two ministries (out of 14) officially declared that gender inequality is not a problem in Estonia, concluding that improvement of gender equality is not needed. Five ministries formally appointed people to the inter-ministerial gender equality working group, but made little effort to promote gender equality in their field. Interviewed state officials were aware of the essence of gender mainstreaming, but they had no cooperation partners in their own ministry and limited information about and cooperation between different ministries; they agreed that the *Riigikogu* adopted the Gender Equality Act only due to EU requirements. In the Czech Republic, the main programme to educate state officials in charge of gender mainstreaming implementation was initiated, financed and organized by a NGO (the Friedrich Ebert Foundation) in cooperation with the Ministry of Labour and Social Affairs. The training of such officials, who are mostly in advisory positions with no executive power, is complicated by a high turnover rate (Hašková et al 2004, Hašková 2004). Research has found that inspectors of employment services – key personnel in enforcing equality provisions – have never been trained in equality issues (Pavlík 2004).

Employers The EU directive requires employers to make available to employees the text of regulations concerning equal treatment in employment in the form of written information disseminated in the workplace. This practice is not followed in all countries, such as Hungary where employers remain averse to all matters relating to equal treatment – particularly the establishment of workplace committees for equal opportunities (Eberhardt 2004). Thus, trade unions in some countries are working to disseminate equality information to their members. In

Hungary, trade unions have organised several conferences on gender-related issues. The Women's Section of the Hungarian Association of Trade Unions appears to be one of the best-briefed agents concerning the changes related to gender equality laws. The Latvian Confederation of Employers prepared a small handbook on the promotion of gender equality in a company; however, the Confederation is mainly comprised of large companies that have their own lawyers and trade union groups that work in accordance with the regulations. It is much harder to inform people in small businesses; given the high unemployment rate (in 2004 it was above 11%), people are ready to work even in poor conditions. In Slovakia, the National Labour Inspection published 'Working Conditions of Women' (2001), which provides all employers and human resources departments with information on gender equality laws in the workplace and reports the results of women's working conditions. In Romania trade unions have special departments for equal opportunities, which organise seminars and training sessions about awareness and enforcement of women's rights; course participants are expected to further encourage attitude changes among their colleagues. However, trade union membership is in decline - particularly in the private sector and in the sectors (services, small commerce) where women are most prominent.

Judges In theory, judges should be the best informed about new and amended laws. However, research on the region produced a mixed assessment of judges' knowledge. Latvia's programme of action for the promotion of gender equality was satisfied with judicial awareness, recommending only that the police should become more aware of violence against women. However, the picture is less positive in other countries. A report by the Open Society Institute (2002) on Romania found that 'according to the established judicial practice, it does not appear that discrimination or equal opportunities treatment are topics of interest for legal theorists or practitioners'. In the Czech Republic, the professional legal community lacks extensive professional experience in gender equality issues – making it difficult for them to enforce anti-discrimination regulations. This is illustrated by the lack of a legal tradition in applying equal treatment of men and women and sex-related anti-discrimination legislation. Slovakian government ministries organise training on human rights and combating discrimination of any kind; courses for judges and prosecutors were arranged by the American Bar Association – Central and Eastern Europe Initiative. The National Female Judges Association also contributes to spreading legal awareness and to fighting gender prejudice among judges.

Media For most citizens the mass media is the main source of information about gender equality issues and new legislative initiatives. Again the results are mixed across CEE. In Slovakia the

media regularly provides information about various aspects of equality; while ethnic discrimination, particularly against the Roma, dominates most equality articles, gender issues are appearing more frequently in the newspapers. A media analysis survey carried out at Matej bel University (Bitusikova 2004) found that from 2002-04 the liberal daily SME published 68 articles about general discrimination and gender discrimination (mostly in relation to the Anti-discrimination Act plus 5 articles about pay inequality); it also found 60 articles about gender equality (mostly focused on quotas, women's participation in politics and equality institutions, and 7 articles on labour market equality) and 10 articles on women and pension reform. The situation is similar in Slovenia, as the media covers the equality *acquis* measures but the visibility of women and the promotion of gender awareness remains low. The coverage appears to be the worst in Romania, where an OSI report (2002) found that the media 'are not sufficiently trained to articulate, at the level of public consciousness, the general problems faced by women in contemporary Romanian society, much less to be charged with the formulation of an agenda of social-political and cultural action in this field'.

Government action Given the limited awareness of key political actors and the general public about equality issues, the key question becomes: 'what are CEE governments doing – if anything – to promote awareness of new equality legislation?' Aside from the publication of basic information on legislative reforms, the answer across CEE seems to be 'relatively little'. Several governments have utilised the internet to spread information, though such technology is not readily accessible in the poorer and more rural parts of CEE countries. Governments appear to be focusing on discrimination generally, including the Roma and the disabled, rather than specifically on gender equality issues. There have also been a limited number of staff training sessions to increase civil service awareness of gender mainstreaming. In most countries, as section five will demonstrate, women's NGOs have been conducting the most active awareness campaigns though they remain fairly powerless to affect policy outcomes.

- *Bulgaria*: The political establishment largely believes that discrimination on the basis of sex should not be prioritized, as illustrated by the failure of the Foreign Affairs Ministry to mention women, gender or equality in its 2003 report on the fulfilment of its communication strategy for joining the EU. Although the Ministry of Labour and Social Policy adopted the Programme for Gender Equality in the Framework of the Equality *Acquis* at early 2002, which lists raising awareness of the equality *acquis* as its first objective, its activities have primarily involved participation in international fora. The government has yet to begin

actively educating women, employers, or judges; EU directives that are new with respect to the existing labour code remain largely unfamiliar.

- *Czech Republic*: The Ministry of Labour and Social Affairs produces an information portal, which provides details of projects and anticipated legislative changes regarding gender equality. The ministry produces an annual ‘Report on the Government Priorities and Procedures in Enforcement of the Equality of Men and Women’, and publishes brochures for the public and professionals. Within the ministry the Department for Equal Opportunities of Men and Women was established to co-ordinate domestic policies enforcing the equality of men and women. The government also established a permanent advisory body for the issue of gender equality, the Government Council for Equal Opportunities, which establishes government priorities in this area and evaluates their implementation and enforcement. Another important source of information on equal opportunities is the reports of the Government Council for Human Rights, which monitors the observation of human rights in the international agreements agreed to by the government.
- *Estonia*: Millions of kroons have been spent on the promotion of gender equality, with the added support of international organisations (i.e., Nordic Council of Ministries, UNDP, ILO, EU’s PHARE programme). Unfortunately, there has been little impact due to the lack of public interest, political will and mobilisation of stakeholders. The government has produced handbooks on equality terminology and statistical brochures with topics such as sex-aggregated data, employment opportunities for elderly women and female entrepreneurs, and the ‘ABCs of the rights and equality of female employees.’ However, public awareness – particularly among men – remains limited. The government has organised 50 courses and seminars for civil servants and officials from the Labour Inspectorate have passed training courses, but there are not gender specialists in every ministry. In January 2000 an inter-ministerial working group on gender equality was established to develop different strategies for eliminating discrimination and working out a governmental programme. Yet four years later it is difficult to find policy documents where gender aspects are integrated; gender is often taken into account only in gender equality sections and sometimes it is omitted completely.
- *Hungary*: The Equal Opportunities Governmental Office has been charged with distributing information about gender discrimination, related EU norms, and government obligations. Although it was specifically created to implement the Equal Treatment Directive, gender issues are only part of its profile as it also monitors the situation of other disadvantaged social

groups such as the Roma and the disabled. Consequently, it could only accomplish a small part of its mandate regarding gender issues due to the lack of political and financial support. While the institution is supposed to monitor the gender mainstreaming work of the ministries and liaise between the government and the public, the minister in charge of the office focused on a largely unsuccessful media campaign to raise the issue of equality and eventually accepted a nomination for the European Parliament election list.

- *Latvia*: The Ministry of Welfare houses the Gender Equality department, which includes two staff and a council of the same name with representatives of women's NGO among its members. These bodies prepared the 'Conception of the Promotion of Gender Equality' (accepted by the Government in 2002) and the corresponding plan of action in effect until 2006. In co-operation with trade unions the department has held seminars for civil servants, trade union officials, employers, representatives of women's NGO, and the mass media.
- *Lithuania*: The Equality Commission, which is managed by the Ministry of Labour and Social Affairs, is the government's lead agency for promoting and implementing gender equality policies. The public administration of such programmes – including the National Program for Equal Opportunities for Women and Men (2003-04) – involves inter-departmental agreements, with each ministry responsible for its particular component. In 1994 the government established a State Counsellor on Women's Issues, taking over gender responsibilities from the State Counsellor on Foreign Relations and Relations with NGOs. The Ministry of Labour and Social Affairs formed an inter-ministerial commission to monitor the implementation of the Action Plan for the Advancement of Women. It produces an information portal that provides details of projects and anticipated legislative changes regarding gender equality, an annual social report, and brochures for the public and professionals. Within the ministry the Department for Labour Market and Equal Opportunities is the main implementing agent of gender equality.
- *Poland*: Beyond the government press information accompanying the introduction of new equality legislation, the government as a whole has not conducted any specific informational campaigns. Conferences and publications have been organised in cooperation with women's NGOs, the Government Plenipotentiary for Equal Status of Women and Men, the Parliamentary Caucus of Women; they were of questionable effectiveness. The principles of equal treatment were considered (in a narrow scope) in the framework of training legal clerks, associate judges and judges. NGOs have made the largest contribution in promoting knowledge about equal treatment in employment and the fight against discrimination, being

among the first to attempt to translate equality directives for specialists, comment on them, and promote them in wider social circles.

- *Romania*: New legislation is published in the official legal bulletin, *Monitorul Oficial al României*, which can be found for consultation at the Public Relations Bureau (a publicly-owned publishing house that publishes legislation and other official documents). As this office only exists in Bucharest, access is limited for citizens in the rest of the country while expensive subscriptions are only available to legal persons. Legislation is accessible on-line on various sites, but computers are not wide-spread and many citizens lack computing skills. In co-operation with the Direction for Equal Opportunities in the Ministry of Labour, the Inter-ministerial Consultative Commission (CODES) in the field of equal opportunities between women and men produces booklets for ministries that include legal provisions on the observance of the principle of equal opportunities in order to raise awareness of legal rights. In 2003, the Guide for Good Practice on Equal Opportunities for Labour Inspectors was published, which serves as an information and training tool for inspectors.
- *Slovakia*: The situation has been slowly improving in recent years, with the main focus being discrimination and human rights. Some ministries and other bodies (police and prosecution) have organised educational activities for policemen, judges and other state officials (Hrubala 2003). However, these activities are focused on discrimination generally while gender equality remains peripheral and is rarely targeted separately. In 2003 the government merged existing research centres to form the Centre for Work and Family Research; it conducts socio-economic research, including a focus on gender equality policies, which helps ministries identify labour market problems.
- *Slovenia*: Gender mainstreaming is being used in all policy developments though the government's 'Strategy of the Integration of Gender Equality'. Government bodies – primarily the Bureau for Equal Opportunities in co-operation with various ministries – are educating citizens about their legal rights by distributing information leaflets that highlight human rights issues, organizing conferences on equal treatment in employment, and holding press conferences and related activities. A free phone line has been established for those who have been discriminated against in the labour market and require basic legal advice. The internet site of the Bureau for Equal Opportunities is another valuable source of information; recent publications have focused on the 'Law of Equal Opportunities', 'Equal treatment of women and men in employment legislation', the 'Ombudsperson of Equal Opportunities of Women and Men', and the 'Integration of Equal Opportunities into Politics'. The National

Programme of Equal Opportunities of women and men is being established to cover: violence against women; representation and participation in decision-making; gender and health; education, science, and gender; changing social roles and stereotypes; gender and minorities; family relations; and men and gender equality (Office for Equal Opportunities, www.uem-rs.si).

4b. Enforcement of directives

The EU requires Member States to make necessary provisions for the designation of equality bodies charged with promoting, monitoring, and supporting equal treatment. These equality bodies may provide independent assistance to victims of discrimination in pursuing their complaints about discrimination, conduct independent surveys concerning discrimination, publish independent reports, and make recommendations on any issue relating to such discrimination. The charts in section three identified the monitoring bodies established in CEE countries to monitor the ten EU equality directives. The two main mechanisms introduced to monitor compliance and to handle grievances are the Labour Inspectorate and the Ombudsperson. This section examines the effectiveness of these bodies across CEE. In addition, it provides an overview of the limited case law – demonstrating that few charges are being filed to challenge the enforcement of equality directives and harassment statutes.

Labour Inspectorate Country reports on the effectiveness of Labour Inspectorates describe the generally weak monitoring and enforcement of equality legislation.

- *Bulgaria*: The National Labour Inspectorate monitors employers' compliance with the labour code regulations.
- *Czech Republic*: Authoritative bodies in the area of employment and labour affairs, mainly the Labour Bureaus and Czech Business Inspection, were established to enforce sanctions and monitor compliance. While their monitoring activities do not differentiate among the reasons for discrimination, in practice they claim to encounter more discriminatory practices based on sex than correspond to the number of administrative sanctions given for such discrimination. They also say that they have direct knowledge of discrimination on the basis of sex regarding job advertising, job acceptance interviews and hiring competitions. The establishment of the Czech Statistical Office to create gender sensitive statistics is helpful for monitoring and studying sex-based discrimination.

- *Estonia*: The Labour Inspectorate is responsible for overseeing the enforcement of about half the equality directives. However, the weakness of the Gender Equality Act (2004) is the lack of implementation mechanisms and supervisory institutions that can collect data for investigation. It also fails to provide effective articles about the recovery of losses or harm caused to victims.
- *Hungary*: The government's legislative efforts are often criticized because at best they only comply with the minimal requirements of the directives. The shortcomings of enforcement are caused by the absence of effective sanctions, as legal redress is generally available only for persons who believe they were discriminated against while institutional remedies are inadequate or lacking. Labour inspections operate within narrow limits since they may only start investigations on request and have no competence to impose penalties.
- *Latvia*: The labour inspectorate is obliged to mention breaches of equality norms in their annual reports, and the state's bureau on human rights is ready to offer legal help in such cases.
- *Lithuania*: The National Labour Inspectorate constantly monitors employers' compliance with the labour code and relevant equality legislation.
- *Poland*: In the past ten years both the intensity of inspections by the Labour Inspectorate and the number of workplaces violating women's employment rights have been growing. In 1991 irregularities related to the special protection of women's work were found at 26% of inspected workplaces and applied to 10% of total number of women employed there; in 1992 this figure grew to 32% of inspected workplaces (Fuszara and Tarnowska 1995), increasing to 66.7% in 1998 and 63% in 1999 (Polish Labour Inspectorate 2000). In 1992 the Labour Inspectorate found that the most frequently committed violation was the failure to draft a list of tasks prohibited to women; the most serious offence was assigning hazardous tasks to women that were dangerous to their health, and failing to follow guidelines regarding the treatment of pregnant women and new mothers (Fuszara 2002). During 2000-2002, the most frequent irregularities still concerned the failure to prepare a list of tasks prohibited to women and to comply with the specific nature of the workplace (in 2002 this irregularity was found at 25.7% of inspected employers; in 2001 – 32.5%; in 2000 – 40%). The report stresses that the lack of a properly drafted list does not affect the number of women being assigned prohibited tasks, which for many years has been small (in 2002 the aforementioned violation was found at 2 employers) (Polish Labour Inspectorate 2002).

- *Romania*: The main task of the Work Inspection Authority is monitoring the fulfilment of the employers' legal obligations in the fields of labour relations, social insurance and labour conditions. The 2003 annual report (www.inspectmun.ro) identified many cases where employers subjected employees to unsafe conditions and hired illegal labour and women under the minimum legal age – with women comprising 25% of employees adversely affected. Only 15 employers (out of 80,000) were inspected following reports about the infringement of Law no. 202/2002 on Equal Opportunities for Women and Men. In late 2004, the Authority plans a full-scale campaign to check compliance with this law and measures for the protection of motherhood at the workplace.
- *Slovakia*: The National Labour Inspection, the organisation that most closely monitors the implementation of equality legislation, has been conducting inspections of women's health and safety working conditions since 1996. The most frequent cases of discrimination concern unequal pay, working overtime with no extra pay, and working without a contract or on short-term contract that is prolonged many times. Employees on short-term contracts can be fired any time without a reason, and they cannot ask for a bank loan. Employees are also intimidated if they join trade unions. In 2003, the National Labour Inspection focused for the first time directly on equal treatment at the workplace in 42 companies with more than 11,000 employees, finding three companies and five cases in which the equal pay law was violated. The general results proved that women earn about 30% less than men, but such discrimination is difficult to prove as the legislation is not clear, the principles of equal work and equal complexity of work are difficult to define, and most women interviewed unwilling to speak openly to inspectors for fear of losing their jobs (*Pracovne podmienky zien* 2001). In addition, the National Labour Inspection actively disseminates information on gender equality among employers.
- *Slovenia*: In 2003 the Labour Inspectorate of the Ministry of Labour, Family, and Social Affairs reported the following violations of the equality directives: one transgression of Article 6 of the Employment Relationship Act (the case of discrimination against someone seeking employment), seven of Article 26 (requirement of personal data not directly related to job; competency tests not prescribed by legislation; preventive health examinations), two of Article 115 in which employees lost their jobs (one in relation to the prohibition of work during pregnancy and the lactation period), eight of Article 190 (protection during pregnancy and parenthood related to night work), one related to the lactation break during working hours, and 22 cases related to the termination of employment contracts. In terms of sexual

harassment, ten acts (8 against women) were reported in 1996. In 1997 the figures increased to 15, including 12 women. In 1998, 21 cases of sexual harassment in the working place were reported against women victims; this figure dropped to 14 (11 women) in 1999 and increased to 20 cases against women in 2000.

Ombudsperson

- *Bulgaria:* In May 2003 parliament passed the Ombudsperson Act, but thus far no one has been appointed to the position. The proposal made by some NGOs to have a woman fill this position was not accepted. The recently established anti-discrimination commission, which will have a gender equality sub-commission, provides another channel for seeking protection against discrimination.
- *Czech Republic:* The government originally assumed that the right to equal treatment would be regulated through various anti-discrimination regulations, using a ‘diffusion approach’ that made many ministries responsible for implementing equality directives (see Blahož 2000, Boučková 2004). In that approach, a large number of ministries were responsible for implementing the EU equality directives. In 2002 the government’s ‘Report on the Possibilities of Discrimination’ evaluated the legal state of protection against discrimination as insufficient; it recommended adopting a unifying anti-discrimination law that would contain procedural regulations and cover a wide range of topics included in the EU equality *acquis*. This law, which is currently being negotiated, contains regulations on the establishment of a new monitoring body for cases of discrimination. It contains two possible solutions: creating a freestanding Centre for Equal Treatment or transferring such activities to the Public Defender - Ombudsman. In both cases, 20 experts would be employed to study discrimination, publicise research results, mediate conflicts based on discrimination, and provide legal assistance.
- *Estonia:* The obligation of the ombudsman has been assigned to the Chancellor of Justice since 1999, which means that an independent legal advisory body has been established. The Chancellor of Justice is the independent supervisor of the basic principles of the Constitution and the protector of individual’s main rights. S/he commences proceedings in cases in which a petitioner personally or through her/his representative refers to a state agency whose activities have violated his fundamental rights in the opinion of the petitioner. Low awareness about gender equality rights avoids complaints, as not a single complaint has been made on the basis of gender discrimination. In addition, the Gender Equality Act (2004) established an

independent gender equality Commissioner who is elected for a five-year period to supervise equality issues and provide impartial expertise. The Gender Equality Department is not mentioned in the Act, but there should be an Advisor from the structural unit of the Ministry of Social Affairs to help petitioners with legal and procedural questions.

- *Hungary*: The Human Rights Ombudsman has the right to investigate discrimination cases and advise the government about possible courses for legal action. In addition, the Equal Opportunities Governmental Office in the Ministry of Labour is charged with helping ministries to handle issues related to the equal opportunities of minority groups. The Council for Women's Issues, established by a government decree in 1999, was meant to accelerate legislation, create programmes to ensure equal opportunities, and act as a liaison institution between the government and civil organizations.
- *Lithuania*: In accordance with the Law on Equal Opportunities, the government established an Equal Opportunities Ombudsman. The Ombudsman investigates complaints about discrimination, reports on the implementation of laws, and makes recommendations to the government about the need to revise legal acts and establish priorities in the implementation of equal rights.
- *Poland*: In 1987 the Ombudsperson for Civil Rights was established to provide legal channels for the litigation of civil rights offences. Many of the complaints heard by the Ombudsperson have led to corrections of rules or of their application; examples include discriminatory practices that barred women from driving long-distance trains and regulations that deprived an unemployed person, who was living in one household with an employed spouse earning an income over a certain amount, from receiving benefit. In addition, the Ombudsperson called the attention of the Minister of Labour and Wages to the fact that unequal treatment of men and women concerning access to employment leads, among other things, to situations in which employers facing group dismissals try to fire women, as their childcare duties means they tend to be on leave more often. The Ombudsperson's interventions led to the abolition of regulations obliging employers and employment agencies to divide job vacancies by sex; changed the interpretation of regulations on compensatory premiums for pregnant women; initiated the possibility of joint income taxation by mothers and fathers even if one them is a single parent; led to a change of rules regarding the exercise of the right to child benefit and paid leave to care for a child under 14, both of which previously applied only to working women or men who could prove that they were raising their child alone; and contributed to

the decision to give benefit payments to pregnant women raising a child in a situation whereby the province's budgets were unable to cope with this burden.

- *Romania*: In its 2001 report the Office of the Ombudsperson stated that around 30% of the complaints received (4556 complaints filed in 2000) are filed by women. The infringement of women's rights with regard to social protection is the third most frequent breach of human rights after the right to property and the right to petition. In 2001, most of the 133 complaints filed by women fell in the following categories: single mothers requesting their maternity leave and/or parental leave until the child's second birthday and elderly women suffering from chronic diseases complaining about authorities' indifference towards their medical-social problems. Of 5400 petitions received in 2003, only 30 related to equal rights (see www.avp.ro). In addition, the Ministry of Labour through the Direction for Equal Opportunities launched a Phare project in December 2003 under the guise of an inter-institutional sisterhood between Romania and Spain. This initiative included the establishment of a National Agency for Equal Opportunities between Women and Men, which seeks to raise the capacity of the administration in order to integrate the principle of equal opportunities into national policies, train civil servants, and disseminate information.
- *Slovakia*: The 2004 annual report of the Office of the Slovak Ombudsman (*Verejny ochranca prav* - Public Protector of Rights) shows that out of 3741 complaints, only 34% were submitted by women and no case was related to gender equality problems.
- *Slovenia*: The transitional amendments of the Equal Opportunities of Women and Men Act state that the Ombudsperson at the Bureau for Equal Opportunities should become active within a year after the Act's implementation (June 2003), having responsibility for the treatment of presumed discrimination on the basis of gender in all areas of life. However, no one has been hired to date (mid-2004) and Bureau employees are resolving problems in accordance with the legislation. The integration of equal opportunities and gender mainstreaming has already been initiated via seminars for government employees, pilot studies of gender mainstreaming in several ministries, and surveillance of the effects of gender-policies, gender-proofing, and gender-auditing in the ministries.

Case law Victims of sex discrimination rarely use laws that protect against discriminatory behaviour. Evidence of the failure of gender equality provisions to be enforced comes from the limited amount of case law on the subject.

- *Bulgaria*: Officially there is no relevant case law on the implementation of the equal treatment principle.
- *Czech Republic*: Since 1999 there were no recorded disputes in labour-management relations with the motive of discrimination on the basis of sex. Between 1999 and 2003 none were recorded regarding the termination of labour-management relations in connection with discrimination on the basis of sex had been recorded, and only one dispute regarding wage discrimination was recorded during this time. In 2004a district court in Prague resolved a highly publicized case of sexual harassment of a woman in the workplace, adjudicated negatively according to the harmonizing regulation of the labour code from 2000.
- *Estonia*: Since 2000, seven cases were brought to Supreme Court where the word 'discrimination' was mentioned; none was connected with gender discrimination.
- *Hungary*: There is no case law tradition in gender equality and only a few cases have been brought to court. A woman won her case regarding a discriminatory job advertisement, which called for a male aged 25-35. A woman won a case concerning unpaid leave for a longer period of time to nurse her child, while a single father raising his child alone was guaranteed his right to the same protection concerning the termination of his employment relationship as a single female worker. There have also been four sexual harassment cases, despite the current lack of a law against sexual harassment: a female personal assistant in a military prosecution office fought her dismissal after reporting being sexually harassed (the court did not verify the sexual harassment but ruled that the dismissal was illegal); female military employees brought a case of sexual harassment against their boss, who was found guilty but only charged 500 euros; three nurses brought a suit against a doctor who sexually harassed them, which failed to punish the doctor; a case is currently being heard that involves a director accused of harassing an employee in the Equal Opportunities Governmental Office.
- *Latvia*: Since the beginning of the 1990s, women have initiated and won two legal actions: one on equal pay and another on a refusal to hire a woman for a job at a men's prison.
- *Lithuania*: There is no case law tradition and only a few cases have been brought to court.
- *Poland*: Provisions of articles 11² and 11³ of the Labour Code have become the subject of numerous court verdicts: most applied to a general understanding of the principles of equality and non-discrimination in employment, while some applied directly to the equal treatment of women and men or gender discrimination only. In recent years there have been more sexual harassment lawsuits, though most were drastic incidents (e.g., forcing a woman into sexual

intercourse by abusing the superiority relationship) and were consequently brought first to the criminal courts. There were also situations when harassed persons brought civil lawsuits to 'normal' civil courts for violation of dignity or other personal rights; before 2003 (i.e. until sexual harassment at work was recognised as a form of discrimination) this was the only way to pursue claims due to protracted, arduous and expensive lawsuits (see Zielińska 2002a).

- *Romania*: Few cases related to the equality *acquis* reach the courts. Most cases involve the infringement of the rights of employees, where the plaintiff's sex is not relevant. According to trade unions (which provide free legal counsel to their members), the most frequent types of court cases concern employers' failure to grant wage benefits and provide additional earnings for extra work, sex-based dismissals, employers forcing pregnant women to work in a toxic environment or under difficult conditions, and the restructuring of work positions for the length of the parental leave. The Partnership for Equality Centre (2003) conducted research on violence at the workplace. Around 15% of the women interviewees were victims of 'soft violence' (i.e., unwanted looks and gestures, sexually-marked language). Of these, 6% complained to their superior, 1% filed a complaint to their trade union, 3% resigned, 1% filed a complaint with the police, and the rest did nothing. Among all the women interviewed 5% were victims of sexual harassment. 9% complained to their superiors, 3% filed a complaint with their trade union, 11% resigned, and the rest took no action.
- *Slovakia*: Slovak women are very cautious about taking legal action against employers who discriminate against them, reluctant to discuss the discrimination with trade union leaders and labour inspectors let alone sue their employers given their fear of losing their jobs. In 2004 the first court cases were initiated and more will follow soon (Filipko, SME 26.3.2004). The first story covered in the media concerned two female employees of Volkswagen - Electrical Systems in Nitra who were fired after being employed only on short-term contracts for more than two years (9 contracts in 2 years). They took the employer to court and won the case, which led to similar court cases revealing unacceptable working conditions and discrimination.
- *Slovenia*: There is no case law tradition. The Labour Inspectorate, as explained above, is the main source for data on violations.

Several explanations have been given for the small number of discrimination lawsuits that have been brought in CEE courts. One of the main problems in Hungary is that legal proceedings cannot provide sufficient compensation, be used as a preventive power, or protect against

unlawful dismissal (Eberhardt 2004). The instruments currently available for imposing sanctions on the person(s) guilty of discrimination include civil action, proceedings by the Labour Court, and out of court procedures. Personal litigation in the first two scenarios involved prolonged procedures and ineffective penalties; there is limited information on the latter, which cannot be seen as an effective instrument given the lack of public reporting. In the Czech Republic, explanations include the lack of legal awareness regarding discrimination on the basis of sex, the pressure of unemployment, and the lengthy adjudication process (Hašková, Kolářová and Pomahačová 2004). As persons involved in gainful activities are almost always dependent on earnings from those activities, lengthy adjudications of disputes are a burden for them. For example, labour-management disputes in the Czech Republic last on average 693 days from the day they are submitted to the day they are adjudicated. In addition, Slovakian women are reluctant to take legal action in cases of gender discrimination primarily because they do not know about their rights and have not been used to fighting for them. During socialism women did not experience any women's movement or awareness-raising process like women in Western Europe, which has resulted in little or no knowledge of women's rights. Slovak women – unlike men – are not used to negotiating with employers when they are interviewed and accept any conditions offered (Bitusikova 2004). Furthermore, many Romanian women remain unaware that legal recourse exists. A study by the Partnership for Equality Centre (2003) on violence at the workplace found that 45% of the population was unaware that juridical instruments exist against sexual harassment.

5. Relations between Government and NGOs/trade unions

5a. NGOs

Women's NGOs across CEE have variable knowledge about EU-related gender equality issues. While some organisations seek to raise awareness, others engage in policy debates – which tend to focus on general discrimination rather than specific issues. Although governments are increasingly asking women's NGOs to participate in policy-making through consultation on draft documents or direct involvement in committee deliberations, most women's NGOs feel their participation is limited to gender-related issues and is not necessarily taken into account during decision-making.

Focus and Activities Women's NGOs focus predominantly on issues of general discrimination and violence. The most visible Hungarian groups are concerned with human rights and the abuse of women, with very few active in employment and labour market-related issues. The majority are most active in the cultural sphere, and do not seek or know how to influence the state in a progressive way. Romanian NGOs focus on a myriad of issues, with human rights being a constant objective. Key policy concerns include violence against women, equal opportunities, and social security rights.

In other countries women's groups have taken a more activist approach to the promotion of equality issues. Women's NGOs in Poland have conducted numerous activities to spread awareness and knowledge of EU equality regulations, including conferences, training courses, study visits, and publications ranging from basic information to specialist reports. Such actions have also been undertaken by other NGOs that are not perceived as 'women's' and that do not focus exclusively on women's rights. This is also the case in Lithuania, where women's NGOs are actively raising social awareness about gender equality. One approach involves expanding the choices available to women, while another places more emphasis on the relations between men and women but does not pay too much attention to women (www.lygus.lt/gm/). Slovakian women's NGOs were very active in lobbying for the Anti-Discrimination Act, though specific issues (i.e., workplace equality, equal pay, maternity leave) remain less of a priority. Some groups (mainly Aspekt, Professional Women, and Association Forum 2000) published documents on EU equality legislation to help improve awareness, but they only reached a small number of readers. In Latvia the Coalition on Gender Equality has been raising awareness of equality issues in public and decision-making bodies, and is seeking additional legislative reforms (e.g., no more than 70% of one sex as candidates in party election lists, entitlement of non-employed spouses of socially insured persons to maternity benefit, elimination of gender stereotypes in textbooks). In addition, the crisis centre 'Skalbes' supported additional norms in the Criminal Code regarding violence against women and the introduction of additional benefits for lone mothers.

Relations with Government The nature and extent of cooperation between women's NGOs and national governments is variable. First, it can depend on the subject matter as governments often seek assistance on identifiably gender-related topics but not necessarily on issues that are not of 'obvious' interest to women or that are controversial. For example, in Slovenia representatives of government and women's NGOs report good cooperation on the topic of violence against women; however, cooperation is more difficult on the issue of sexual orientation as major equal

opportunities aspects have yet to be institutionalised. Women's NGOs themselves are often unable to agree a common position amongst themselves on certain subjects. In Estonia in 2003, many women's NGOs campaigned for paid mother's/parent's wages for a year after childbirth; however, NGOs were not able to negotiate a common position on this subject. In Latvia the resource centre for women, 'Marta', started a discussion on the necessity of having an umbrella law on gender equality (as in Sweden); however, not all women's NGOs agreed that it was necessary as most of the needed laws have already been implemented.

Second, cooperation can be affected by party politics. This was aptly demonstrated in Poland by the metamorphosis of an agency (the Government's Plenipotentiary for Women) created as part of the national machinery to promote gender equality (see Fuszara 2004). Forced to change their tactics due to partisan reforms of the institution, women's organisations began preparing shadow reports in response to those prepared by the Polish government on international pacts and conventions. Women's NGOs in the Czech Republic also began to publish a 'Shadow Report on Equal Treatment and Equal Opportunities for Men and Women' following their disagreement with the government's evaluation of its activities in the annual 'Report on the Fulfilment of Government Priorities and Procedures in Enforcement of the Equality of Men and Women'. Their reports cite the inadequate fulfilment of priorities that the governments claims to have met, criticize the vagueness of some formulations in the governmental report, and criticise the government for mixing its own activities with NGO initiatives and repeating activities that were completed in previous years. In addition, some women's NGOs have developed their own legislative proposals on issues such as domestic violence, trafficking in women, and changes in voting laws.

Debates on the implementation of equality legislation illustrate the difficulty that women's NGOs are having in influencing government policy-making. In Bulgaria, for example, women's NGOs worked in collaboration with European experts on the Bill for Equal Rights and Opportunities; unfortunately, this bill – which singled out gender equality – was rejected by Parliament in 2002 and was replaced by the weaker Anti-Discrimination Bill. NGOs are not satisfied with the anti-discrimination law in its present form, and will continue to push for the new version of the Equal Rights and Opportunities bill that was placed on the parliamentary agenda in April 2003. In Hungary, MANÉSZ (the Hungarian Women's Alliance for Interest Promotion, an umbrella organisation) and Habeas Corpus (an NGO dealing with violations of human rights, including women's rights) issued a report criticizing the draft equal treatment bill. Their critical submission

was essentially a theoretical exercise, failing to shape the present act and at best influencing future legislation. The government's consultation with women's NGOs was window-dressing: none of the proposals submitted by women's NGOs and women's sections of trade unions were taken into consideration; the division dealing with women's rights within the Equal Opportunities Governmental Office was excluded; and comments dealing with sexual harassment made by the Women's Division, which was formally commissioned to review the legislation from the point of view of legal harmonization, were not taken into consideration.

A further problem is the seemingly token nature of some government consultations. Romanian NGOs, who are increasingly being asked to comment on draft legislation, believe they have no chance to shape policies as decisions have been taken before the consultation begins. Most women's NGOs believe the government is not sufficiently open to the women's movement, nor does it offer the necessary funding. Although the Czech government created the Government Council for NGOs in 1998, some ministries hardly cooperate with the non-profit sector while others cooperate with select non-profit organisations but not with women's NGOs. According to representatives of women's NGOs, their organizations generally do not have enough people at their disposal to monitor and comment on government proposals. Women's NGOs also feel they are the weakest participant in the decision-making process in this area, dependent upon the goodwill of individual ministers to inform them of current government thinking on equality issues. A positive development is the recent decision by the Department of Equality of Women and Men to send materials to women's NGOs for commentary. However, NGOs only receive information on topics directly related to the equality of women and men, the allotted time for responding is at most around 10 days, and the comments of women's NGOs are not always included. Furthermore, the state often uses the expertise of women's NGOs without recognising their work (Marksová-Tominová 2004).

Women's NGOs in Slovakia and Slovenia seem to have been more successful in their contacts with government. Interviews and media reports suggest that many governmental bodies have developed good working relations with Slovakian NGOs and seek their expertise, ensuring slow but stable progress (Bitusikova 2004). The representatives of women's NGOs that communicate with equality state bodies are satisfied with their collaboration, receiving written responses to their letters and viewing their interaction with MPs as open and constructive. The best example of positive collaboration is the parliamentary committee for equal opportunities and the status of women at the Committee for Human Rights, Minorities and Status of Women, which is an

advisory body that includes representatives of women's NGOs and equality bodies, equality experts and MPs. Women's NGOs in Slovenia also report good communication, though co-operation possibilities differ considerably among the ministries. Co-operation with the Ministry of the Environment is reasonably fruitful, links to the Ministry of Internal Affairs and to the Ministry of Justice have yet to be established, and NGOs are most concerned about relations with the Bureau for Equal Opportunities (Bahovec 2004). The low point of cooperation occurred when the previous Bureau for Women's Politics was changed into the Bureau for Equal Opportunities. One of the biggest problems seems to be the inability of diverse NGOs to co-ordinate themselves and the lack of assistance with this process.

Umbrella Organisations Given such co-ordination problems, some countries have chosen – or are considering – the use of umbrella organisations to manage relationships between NGOs and government. In the Czech Republic women's NGOs are represented in various governmental institutions (e.g., Government Council for the Equal Opportunities of Women and Men, Committee for Removing All Forms of Discrimination against Women within the Government Council for Human Rights). They have also participated in the coordination of the government campaign against domestic violence and the training of ministry officials in the area of enforcing gender equality (Marksová-Tominová 2004). In Poland women's NGOs closely cooperate with the Government Plenipotentiary for Equal Status of Women and Men, helping the government implement its programme for women and giving their opinions on draft laws. These government bodies disseminate information to NGOs and also organise seminars, workshops and training courses for women. Although there is close cooperation with the Plenipotentiary for Equal Status, there is rarely regular cooperation with other ministries. In Latvia women's organisations are represented in the consultative Council on Gender Equality at the Ministry of Welfare, which enables an exchange of information about the subjects discussed in different government bodies involved in promoting gender equality. The Department on Gender Equality in the Ministry of Welfare is the most receptive, particularly in raising awareness among state and municipal civil servants. However, these combined activities have had limited success as the state's equality bodies are receptive to listening but not to implementing their proposals. The Romanian government submits draft laws to parliament only after the approval of the Economic and Social Council, where trade unions and NGOs are well-represented along with the employers and the ministries; however, their influence on legislation remains weak.

The Lithuanian government is considering the revival of the Permanent NGO Commission with the Prime Minister's Office, given the increasing number and activities of women's organisations. In June 2004 regulations for this non-judicial NGO Commission were proposed, seeking to improve the environment for NGO activities (e.g., legislative basis, funding), enable an exchange of information, and facilitate collaboration between public institutions. The Lithuanian National Women's Forum was re-established at the end of April 2003 as a consultative parliamentary board to coordinate and initiate various actions among NGOs, parliament and government. In February 2004 it adopted the 'Vision of the Development of an Egalitarian Society in Lithuania until 2014', which focuses on the improvement of women's status in the society, collects statistics from employers' annual reports about women's progress, calls for the establishment of the Ministry of Equal Opportunities for Women and Men, and wants the work of the Ombudsmen for Women and Men to be separated from that of the Ombudsmen for Equal Opportunities.

5b. Trade Unions

The Soviet-style trade union movement completely disappeared post-89, while free trade unions are still in the process of finding their new niche. They could serve a useful purpose in monitoring equal opportunities legislation by giving opinions on draft laws, representing workers in meetings with employers, disseminating information in the workplace, and bringing cases of discriminatory behaviour before the relevant authorities. Unfortunately, trade unions across CEE are generally not dedicated to improving gender equality in the labour market and are thus far unable to exert significant pressure on employers. Furthermore, many workers remain apathetic about their own labour market interests.

The extent to which trade unions seek to shape government policy varies by country. In Bulgaria, trade unions have little influence in the area of small and average-sized businesses. In Lithuania, only two units of trade unions (Lithuanian Trade Unions and Lithuanian Trade Union Women's Centre) work on women's issues. These units – which undertake work similar to that of Latvia's trade unions and their mutual Council of Gender Equality – seek to involve more women in representing their rights in labour relations and the wider society, make collective agreements that reflect equal rights policy, strive for equal rights, fight against discrimination, encourage women to seek further education, and give consultations for women on economic and social questions. In Romania, labour unions are most active in the areas of working conditions (including supervision of labour protection), pension reform, the increase of wage benefits, and to the social security

system. The great trade union confederations (*CNSRL – Frăția, Cartel Alfa, Blocul Național Sindical*) have their own equal opportunity departments that conduct independent checks of working conditions and offer legal representation for women whose rights were infringed. However, trade union leaders report tense relations with government institutions, often perceiving the ministries as adversaries and their relations as combative.

Although trade organizations excel in the Czech environment given their experience with bargaining and although their contacts throughout Europe make them one of the most suitable government partners for enforcing equal treatment policies, the issue of equality is perceived to be a rather marginal affair of a narrow interest group without a more extensive relationship to other trade union work. The largest trade union, the Czechomoravian Confederation of Trade Unions (CMCTU), founded a Women's Committee (later transformed into the Committee for Equality and then the Committee for Equal Opportunities of Women and Men) on the basis of foreign initiative in 1992. Its existence was wholly formal until it elected a new leader in 2000 and formulated its main area of activity as the enforcement of the principle of equality of men and women. The Committee has faced a series of obstacles, including voluntary membership and no budget, and its first provisions aimed at enforcing gender equality regulations occurred only in 2002.

Slovakia has one of the most well-developed and effective relationships between trade unions and government. While equality issues are not the objective of tripartite negotiations, as they are considered to be well-defined in the legislation, they are part of the action plans of trade unions and employer's associations. The Confederation of Trade Unions in Slovakia (KOZ) has a broad gender equality agenda, while the Commission for Equal Opportunities for Women and Men organises activities aimed at improving awareness of equality issues both within trade unions and in society. Its main objectives are: to remedy the unequal composition of trade unions leadership; to strengthen equality bodies' monitoring and evaluation abilities; to support gender mainstreaming policy; to fight gender discrimination in existing legislation; to fight for better conditions for women in new social security schemes; to combat discrimination and poverty; and to assist women with special social needs (i.e., age, disabled, lesbian). In 2004 it launched a new campaign for equal opportunities in trade unions, publishing action plans and activity reports and organising meetings. It closely cooperates with the Ministry of Labour and Social Affairs, and agreed with the Federation of Employers' Associations and the National Labour Inspection a common approach supporting gender equality at the workplace by collective bargaining.

The strength of trade unions vis-à-vis women's NGOs as regards their impact on government decision-making varies between CEE countries. The Women's Section within the Hungarian Association of Trade was in a better position than women's NGOs to influence the outcome of the draft Equal Treatment Legislation. As a recognized organisation active since 1990, it has established good connections with woman MPs and the Women's Section of the currently governing Socialist Party. It has long acted as a critical force, contributing to a series of decisions made in the recent past (i.e., retirement age, the interests of young mothers, initiating the specification for *actio popularis*). The Women's Section also developed recommendations on specific methods to incorporate the principles of equal pay and equal treatment in collective agreements; unfortunately, the current law only allows for negotiations about collective agreements but does not oblige employers to adopt them. In contrast, Polish trade unions are much less able to influence government policy than women's NGOs – due in part to the weak nature of unions and the façade of their women's sections. Trade unions mostly focus on enabling women to reconcile their professional and family duties: *Solidarność* often does not see any other way to reconcile these duties than those advocated by the state administration (i.e., they argue that the extension of maternity leaves and lower retirement age may facilitate women's reconciliation of these roles), while other trade unions (e.g. OPZZ) primarily stress the development of infrastructure or flexible working time to enable women of small children to work.²² Likewise, the Confederation of Estonian Trade Unions (responsible for the private sector) does not cooperate with state authorities; for example, it failed to respond to the National Employment Action Plan for 2003 that was sent to different institutions for approval and comments.

²² In Poland documents and interviews suggest regular cooperation between the All-Poland Alliance of Trade Unions OPZZ (one of 3 national trade union federations) and the Government Plenipotentiary for Equal Status of Women and Men only. The Commission for Women cooperates with the Government Plenipotentiary for Equal Status and with the Women Parliamentary Caucus, organises training courses in the scope of labour and anti-discrimination law, monitors compliance with these regulations, and intervenes in case of their violation. The Commission for Women was also involved in the preparation of anti-discrimination and anti-mobbing provisions in the Labour Code, and works on equal status acts and actions against the liquidation of the Alimony Fund. "Solidarność" (an independent and self-governing trade union) has a National Section of Women and a coordinator for women's issues in the National Commission office. According to interviews with leaders of a regional section, the National Section of Women does not cooperate with the government or the Plenipotentiary for Equal Status and sees no possibility or need for such cooperation (Fuszara 2004).

6. Conclusion

6a. Has adoption of the EU equality *acquis* changed attitudes?

Public Perceptions of gender equality in Central and Eastern Europe remain heavily influenced by the legacy of communism. Pre-89 gender equality was part of the official ideology, but the methods of its implementation were neither satisfactory nor popular: deputies elected by quotas were not real politicians; there were insufficient places for children in often poor quality daycare centres; and the requirement of full employment of the working age population, which occurred amidst the scarce availability of everyday goods and services, caused a double burden for women who retained primary responsibility for domestic chores. The economic uncertainty of the transition period provided fertile ground for the revival of stereotypes that ‘a woman’s place is at home’, as nurseries were closing and unemployment was increasing. Furthermore, many people began to value job security as one of the key aspects of a good job. A recent study in Lithuania found that the relative importance of a well-paying job is still more important for men than women (*Europa ir mes* 2001, 150). However, the proposal to expand working rights for men instead of for women – suggesting then men need better working conditions so women can stay home with children – was not popular, supported by only 23% of respondents and rejected outright by 65% (154). This illustrates the point made by Eberhart (2004) when she generalises about the pre- and post-89 gender equality culture:

both are ruled by a patriarchal structure of ideas and values that were supported and legitimated by the state itself. This legitimacy primarily springs from legislation that, while asserting equal rights for all citizens, also includes provisions putting women at a relative disadvantage as compared to men. Many of the measures, originating under the previous state socialist political regime, survived almost unchanged because of the underlying norms remained the same to date.

Thus, the culture of CEE countries has not yet institutionalised gender equality as a political norm. In Hungary, for example, the concepts of ‘anti-discrimination’ and ‘equal opportunities’ do not have the expected impact, partly because the nature and extent of gender discrimination is not socially recognized. This partly results from a definitional problem, as the nature and extent of gender discrimination is not socially recognized (Eberhardt 2004). Because many Hungarians do not consider ‘gender inequality’ as a problem, ‘equal pay’ and ‘equal treatment’ are not widely recognised social goals since the unequal status of women in the labour market and at home is considered a normal state of affairs. Thus, the public is not pressing politicians to enforce the new EU equality legislation.

Nonetheless, women have made progress during the post-89 period by using their high education levels to compete for senior posts, while the requirement to implement the EU equality *acquis* has raised awareness within government and society generally. In Poland, for example, equality regulations were commonly associated in the early 1990s with the former political system and considered to be a ‘thing of the past’ that was incompatible with a free market economy; EU accession legitimised equality concerns and increased public awareness of European regulations regarding equality between women and men (Fuszara 2004). There has clearly been a shift in people’s attitudes towards understanding and perceiving social equality, though more conservative shifts appear in relation to gender equality – partly because of the time delay in implementing gender reforms since independence (Taljunaite 2004). However, gender equality will never be fully achieved as long as home and family are still seen as women’s domain. For example, a Gender Barometer survey in Romania (OSF 2000, 5) found that 63% of the interviewees believe that it is women’s duty more than men’s to do household chores, 70% believe that it is more men’s duty to bring money to the house, and only 26% believe that men can raise children just as well as women can.

Officials Because of EU regulations awareness of equal opportunities is increasingly present within governmental bodies, though the extent and use of this awareness varies by country. Slovenia appears to have one of the strongest equal opportunities programmes with well-informed civil servants (Bahovec 2004). The governmental bodies are aware that equality of women and men cannot be established solely by legislation and orders, and have been developing action plans and educational activities. The all-inclusive National Programme of Equal Opportunities of women and men is being finalized to provide public officials with the necessary background for conducting gender mainstreaming at all socio-political levels. In Slovakia institutions responsible for gender equality have a positive approach, but they complain about a lack of human resources and experts working in their departments on monitoring and enforcement of the new legislation (Bitusikova 2004). Hungary appears to be at the other extreme, as its senior bureaucrats are largely unable to evaluate the importance of Equal Treatment Legislation (Eberhardt 2004). The historical usage of ‘equal opportunities’ is the source of confusion in addressing the disadvantages suffered by women, as this phrase – developed to conform with ‘EU-speak’ – was originally invented to improve the situation of the disabled rather than of women. It has since become an empty rhetorical phrase, which reflects the good intentions of the administration but fails to produce positive measures encouraging change.

The Czech Republic provides a glimmer of hope, as officials working on gender equality appear to have developed a greater sensitivity toward its importance. Czech officials frequently lack knowledge of the reasons for and steps toward the implementation and enforcement of the EU equality *acquis* and gender mainstreaming; however, there has been a significant change in the attitudes of some officials who have been explicitly appointed to implement equal opportunities policies. A good example is the Department for the Equality of Men and Women, which was established within the Ministry of Labour and Social Affairs to harmonize Czech legislation with the equality. There are currently five state officials in the department, none of whom (including the leader) had dealt with gender equality issues before their appointments; yet their current activities reach beyond the primary function of the department and it seems to be the most active division in this area. A report on the Czech Republic concludes that:

- a) the high fluctuation of state officials appointed to implement and enforce the EU equality *acquis* and gender mainstreaming has had effects on their knowledge and interest in the area;
- b) as a rule, the longer state officials stay in the newly created gender equality focused offices, the more gender sensitive they become;
- c) the authority of these officials is usually limited to advisory functions, which limits the effectiveness of implementation and enforcement of gender mainstreaming and the EU equality *acquis*; and
- d) among state officials, the increase in gender sensitivity is limited to those who were appointed to positions explicitly focused on gender equality issues (Hašková, Kolářová and Pomahačová 2004).

Other Actors The attitudes and stereotypes of employers seem to be changing rather slowly, as the views of some major Romanian employers illustrate. Many believe that equality legislation limits their freedom to decide the best course of economic action, hinders economic development, and was implemented for the sole purpose of European integration. It is likely that these provisions will lead to the spread of black market labour as many women will be increasingly unable to find a position in the workplace. However, trade unions are taking the laws seriously and actively working to ensure their implementation; judges, many of whom are women, are open to women's issues but hear very few cases regarding gender equality issues (Ghebrea 2004).

Section Five of this paper presented a mixed review of the efforts of trade unions and NGOs to ensure the enforcement of equality legislation. The major impact of EU legislation has been providing social actors with a more precise definition of provisions concerning gender equality and worker's rights. Women's NGOs in most CEE countries are aware of gender equality concerns in the workplace, but many tackle it only as a part of equality generally. Equality in the workplace is not considered the most urgent problem, as many NGOs focus instead on issue like family violence and reproductive health. This is partly because workplace equality was covered in pre-89 legislation and because existing stereotypes consider such inequality to be normal or

acceptable. NGO representatives would like to develop more intensive and systematic co-operation with governmental bodies, along with the possibility of having a constant influence on even the most basic governmental decisions. In countries like the Czech Republic and Slovakia, social partners, trade unions, employers' associations and the National Labour Inspection have made the gender equality agenda one of their priorities, but it has not reached the regional level or official tripartite negotiations. While they support the need to protect working mothers and to ensure women the right to employment, there have not been uniform improvements across trade unions in terms of gender sensitivity and the level of understanding of equal treatment issues. Many national Labour Bureaus also seem to lack knowledge on how to investigate and handle discrimination based on sex at the workplace.

6b. Has adoption of the EU equality *acquis* changed practices?

It can be argued that the communist regime hastened the legal codification of women's rights in CEE, implementing many equality measures in advance of Western Europe. Some of the EU equality directives – such as maternity leave and equal pay – existed under communism, making both citizens and officials aware of their provisions. Some CEECs currently have more generous provisions than EU legislation requires; for example, Slovenia allows a longer maternity leave period. However, the communist regimes simultaneously introduced provisions that discriminated against women in their effort to enable women to combine a professional career with a maternal role and to 'protect' women as mothers or future mothers (see Fuszara 2004). Between 1946 and 1964 the Polish government – to take but one country example – annulled many regulations that discriminated against women on the basis of biological difference, introduced safeguards of equality of rights in regard to sex (emphasising similarities between sexes), and granted women the same rights as men in political, economic and social spheres (see Zielińska 2002b). The government also introduced protective regulations (i.e., leave to care for ill child, prohibition on pregnant women working at night) in the labour code (mainly in labour law) that referred to biological differences between the sexes. Most of these women's 'privileges' became a source of discrimination, particularly after economic restructuring in 1989 as employers perceived women as more expensive and less effective employees. Women suffered from greater unemployment, faced difficulties finding work, suffered discrimination in terms of promotion and remuneration, and failed to enforce their rights given the threat of losing their jobs. During the post-89 democratisation period as well as the recent process of harmonising national laws with EU equality legislation, most of these discriminatory provisions were eliminated.

This paper found that most CEE countries have implemented the bulk of the equality legislation implemented, though Romania and Bulgaria – who have yet to accede to the EU – are lagging behind in some areas. While some of the directives existed in various forms pre-89, other equality provisions have been novel additions that – when properly enforced – will improve gender equality in the region. For example, the equality of women and men is explicitly mentioned in law rather than primarily in the constitution, men are allowed to take paternity leave, employers must provide that they did *not* discriminate against a woman employee, and a voluntary pension insurance system has been established.

However, as Jivka Marinova from the Bulgarian Gender Research Foundation points out, ‘Real equality of opportunities increasingly requires not just the elimination of discrimination, but the active promotion of equality through monitoring, planning, training and improving skills, developing wider social networks and encouraging adaptability’ (Videva 2004). Reports from across CEE suggest that legislative harmonisation has made only a marginal change in practice, as in most areas women still hold less favourable positions and remain numerically weaker than men. In Slovenia, the Bureau for Equal Opportunities phone line reports many cases where women have been discriminated against (i.e., after a woman goes on maternity leave her job is suddenly ‘closed’, when a woman gets pregnant her work is suddenly ‘no longer necessary’, women are sexually harassed and because of social perception leave their jobs, incoming male colleagues get promoted over long-serving women) (Bahovec 2004). Other countries cite continued discrimination in employment opportunities and remuneration. The limited number of court cases brought on charges of sex discrimination across CEE illustrates the lack of adequate enforcement by government bodies and the reluctance of women facing scarce employment opportunities to press charges.

Another challenge created during the implementation of EU legislation was the decision to group together different categories of socially disadvantaged individuals (women, ethnic minorities, disabled) to enable an easier legislative process. The European Commission enabled accession countries to ‘consolidate’ EU policies by regrouping them into a single act, issuing a detailed action plan in order to simplify and streamline the body of EU law, to cut red tape, and to make the *acquis* more understandable and user-friendly to EU citizens (Uniting Europe 2003, Eberhardt 2004). In reality, this has meant that less time and money has been spent on gender issues as the others are seen to be a greater priority (i.e., the Roma in Slovakia and Bulgaria). It also fails to recognise adequately and address the nature of discrimination suffered by CEE women.

The lack of public awareness of equality legislation and the often weak enforcement of existing provisions are at least partially to blame; greater education would be beneficial for state bureaucrats at every institutional and political level (i.e., lawyers, judges, teachers, journalists, officials in Labour Bureaus, Work Inspectorates), as well as for the general public. Educational programmes must begin by reshaping the way in which gender equality issues are understood. In Hungary (as elsewhere in CEE), women's issues have traditionally been connected to demographic concerns, namely the management of population decrease (e.g., reproduction). 'Gender politics' in the official sense is still effectively the equivalent of 'strategic family policies' intended to deal with family crisis, housing policies, tax benefits and other provisions for families with children (Eberhardt 2004). Given the dominant conservative values regarding the role of women and sexual politics that are adhered by the majority of the population and backed by some demographic data (*Család és munka* 2000), the proposals for measures helping housewives to stay at home are still considered at the heart of such policy-making. Social norms in most countries still regard the women as bearing primary responsibility for managing domestic life. Limited and expensive childcare, for example, hinders the ability of some women to seek outside employment. Thus, the precondition for gender equality – namely a change in social attitudes regarding the balance of domestic labour – also lags behind awareness and needs to be promoted more actively.

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