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**Committee on the Elimination of Discrimination  
against Women**  
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**Responses to the list of issues and questions for  
consideration of the combined second and third  
periodic reports**

**Croatia\***

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\* The present document is being issued without formal editing.

**GOVERNMENT OF THE REPUBLIC OF CROATIA  
OFFICE FOR GENDER EQUALITY**

**Reply to the list of issues and questions in relation to the combined second and third periodic report of Croatia (CEDAW/C/CRO/2-3)**

**Constitution, legislation and national machinery**

Considering the inquiry about the success and effect of different general and specific anti-discrimination acts, we will only state the basic remarks in this text, while the legislation in different areas will be elaborated in the following questions.

**Question 1**

The Law on Gender Equality ensures different mechanisms of protection for women who are victims of discrimination, and a person considering himself/herself affected may request compensation according to the provision of civil law concerning damage liability. In the cases of violation of gender equality anybody may address the Ombudsperson on gender equality on account of violations of the provisions of the Law on Gender Equality. Women faced with gender discrimination may submit petitions (complaints) to the Ombudsperson's for Gender Equality Office, the Government Office for Gender Equality or the Ministry of the Family which are then forwarded to other bodies of state administration. Legal charges are raised based on discrimination on sex, but we still have no systematic data, due to the fact that the mentioned gender equality institutions have only recently been established.

Discrimination on the basis of sex is also prohibited by the Article 14 of the Constitution and a constitutional complaint mechanism is provided.

For additional information please see answer to question 16.

**Question 2**

Passing the anti-discrimination laws package acted in favor of raising conscience and awareness of the entire society about these issues, and its permanent mission is getting all relevant instances systematically acquainted with those regulations.

Taking into consideration the practice of the European Human Rights Court, and Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 5 of Protocol 7 of the Convention, a new **Family Law** was passed in July 2003, with additional changes and amendments passed in February 2004. The Family Law regulates the institutions of marriage, the relationship between parents and children, adoption, guardianship, the effects of an extramarital community between men and women, and the procedures of bodies in charge of family relations and guardianship. Marriage is defined as a legally regulated community of a man and a woman, and extramarital relationship is defined as a community of an unmarried woman and a man for at least three years or shorter if a child is born into it. Marital partners are equal and decide together on having and raising children and on the division of responsibilities in the family. Marital partners may have

their marital acquisition and own possessions, equally sharing the acquisition, unless stated otherwise in a nuptial or prenuptial agreement.

The extramarital community of a man and a woman has legal effects pertaining to property, which regulations of the family law on property relations between marital partners apply accordingly. Family matters are in the jurisdiction of courts, as provided in this Law, to ensure the protection of personal, status rights in a judicial process.

The amendments to the **Labor Law** from July 2003 regulate in a new manner the matters of prohibition of discrimination of persons seeking employment, and of employees. Regarding the performance analysis of the implementation of anti-discrimination regulations of the Labor Law, the Ministry of the Economy, Labor and Entrepreneurship reports that the time period has been too short to assess the effects of the mentioned amendments to labor legislation. This is also due to the fact, as the Ministry interprets, that the protection from discrimination on any basis, including gender, is ensured through general jurisdiction courts according to general regulations of law, and that there is no systematic judicial practice related to the implementation of anti-discrimination regulations of the Law.

The **Criminal Code** was amended through the Law on Amendments to the Criminal Code that came into force on October 1st 2004 (*Official Gazette* 105/04).

The effect of legal regulations in the laws mentioned is reflected in the fact that along with pronouncing a penal sentence in almost all the cases the expert service of the social care centers is included since the discrimination of women affects the relationship with other household members, especially children. The legal solution, considering that the crime of committing domestic violence is to be punished by three months to three years of imprisonment according to article 215 of the Criminal Code, points to the fact that the legislator, by the length of punishment, intended to warn potential perpetrators that bringing family members into a humiliating position is to be sanctioned only by imprisonment, and not, for example, by a money fine. The procedural provisions about the very process of the penal proceedings determined by the Criminal Procedure Law, enables the court to establish evidence by hearing individual parties to the case without the presence of the defendant, making such statements more credible, that is, authentic.

The adoption of the Law on Protection from Family Violence has greatly contributed to the demystification of violence as a problem of members of certain families and its treatment as an undesirable social phenomenon. Since the new Law has come into force, the number of reported offences and crimes related to domestic violence, and the public had through a number of campaigns been educated about the mentioned law. It is important to stress the efforts of nongovernmental organizations in this field, as well as actions of the Ministry of Family and the Ombudsperson for Children. Currently, the Croatian Government is preparing some amendments on the Law on Protection from Family Violence, in order to make it more efficient in fighting violence in the family.

### **Question 3**

The most important activities undertaken by the Government of the Republic of Croatia in order to remove obstacles for the implementation of the Law on gender equality and the National Policy are connected with the recent establishment of the key new institutions. It is important to note

that the Office for Gender Equality was set up for this purpose (in March 2004) as the expert service of the Government of the Republic of Croatia for implementing and coordinating all the activities related to the realization of the gender equality policy. The Office is still being set up, but considering its multiple missions and jurisdiction foreseen by legislative provisions, currently insufficient staffing and financial resources of the Office will necessarily need strengthening.

The role of the Office is to recommend to the Government of the Republic of Croatia and to other state institutions, the adoption or changes of legislation or other regulations, as well as the adoption of other measures; to draft the national policy for gender equality and monitor its implementation; to conduct research, to produce analysis and reports about the implementation of the national policy to the Government of the Republic of Croatia; to follow the harmonization and implementation of laws and other regulations concerning gender equality with the international documents; to prepare national reports on the fulfillment of international obligations in the area of gender equality, to cooperate with nongovernmental organizations active in the field of gender equality and to provide partial financing for their projects or activities; to promote knowledge and awareness about gender equality and to receive complaints on breaches of provisions of the Law on Gender Equality or other regulations.

All the ministries and other state administrative bodies have to cooperate with the Office for Gender Equality regarding the implementation of the Law on Gender Equality and to appoint an official who will work as the gender equality coordinator. At the Office's initiative, all the ministries have appointed the gender equality coordinators and have begun the process of defining the manner of concrete cooperation with the Office, regarding the implementation of the Law on Gender Equality and the introduction of the gender equality principle into different segments of national policy. The coordinator function is new, and it is necessary to educate these officials in order to successfully introduce the gender equality principle within each ministry. The Office has established close cooperation with other state institutions such as the State Inspectorate, the Central Bureau of Statistics, the State Employment Office and others.

Also, based on the Law on Gender Equality, Croatian Parliament has in October 2003 appointed the Ombudsperson for Gender Equality who acts independently and autonomously, monitors the implementation of the Law on Gender Equality and other regulations regarding gender equality, considers cases of violation against gender equality, or discrimination of individuals or groups, submits proposals for initiating the procedure of constitutional review of laws and the constitutional and legal review of other regulations if he/she assesses that the gender equality principle has been breached.

Former Commission for Gender Equality ended its activity in January 2004, due to the fact that it was a consultative governmental body with no executive powers and that the newly founded Office for Gender Equality is directly in charge of the implementation of the Law on Gender Equality and policy of gender mainstreaming.

#### **Question 4**

The Office for Gender Equality and other bodies of state administration including the ministries are in charge of implementing the National Policy for Promotion of Gender Equality at the

level of the Government, and the Gender Equality Committee at the parliamentary level. Apart from the stated institutions there are a certain number of other structures active in the field of human rights, including the Human and Minority Rights Committee of Croatian Parliament, the Governmental Coordination for Social Activities and Human Rights, and the Office for Human Rights of the Government of the Republic of Croatia. In September 2004, the new Coordination of Government Agencies for the Promotion of Gender Equality in the Republic of Croatia was set up.

The process of setting up and the full functioning of regional and city commissions for gender equality is still ongoing. These mechanisms have been foreseen by the National plan for the promotion of gender equality. The mentioned commissions are active in less than half (from the total of 21) counties and only a portion of them are extremely active. One of the important missions of the Office for Gender Equality in 2004 and 2005 is to stimulate and insist that all Croatian counties set up commissions, stimulate a more efficient activity of the existing commissions as well as to set up a network and coordination of activities between the national and local/regional levels. Concrete measures have been taken in this direction, including the organization of seminars at the local level, several new county commissions have been founded based on the actions undertaken by the Office for Gender Equality, and the appointment of coordinators to the offices of state administration at the local level is taking place at the moment. It is important to popularize and educate the local officials about the basic documents, legal provisions and other regulations dealing with the issues of gender equality, considering the fact that sufficient progress in this area has not yet been achieved.

#### **Question 5**

One of the basic difficulties in dealing with and interpreting statistical data is the differing methodology of institutions in charge of their gathering and analysis, which often disables their comparative portrayal and analysis. The existing statistical data are without exception used in the fields of planning the policy for increasing the political participation of women, of labor and employment and education, as well as in other areas.

The goal is to forward the statistical data management through ensuring a systematic statistical monitoring in the areas of social welfare and the labor market, and the publication of statistical data disaggregated by sex. Since the Law on Gender Equality foresees that all the statistical data and information being gathered, evidenced and analyzed in state bodies at all levels, the public services and institutions must be sorted by gender, the Office for Gender Equality revised the existing methods of statistical data monitoring, and will, in cooperation with the National Bureau of Statistics and other institutions in charge, recommend changes in existing methods in order to harmonize them with the provisions of the Law on Gender Equality.

The Office for Gender Equality plans to, during 2005, ensure the availability of compiled data disaggregated by sex to the public through planned publishing activities.

#### **Question 6**

According to the Chapter "Human Rights of Women" of the National Policy for the Promotion of Gender Equality, a working group for gathering data on female minority members is to be founded. The Office for Gender Equality initiated the realization of this task and, in cooperation with the Office for National Minorities, founded a working group, whose members were recommended from several

nongovernmental organizations (B.a.B.e., Žar, Roma women organization «Better future»), experts in the mentioned field, representatives of the Human and Minority Rights Committee of Croatian Parliament, the National Bureau of Statistics and the Ombudsperson for Gender Equality. The goal of the Working group is to draft a report about the improvement of the position of female minority members, which will include the results of the science research project «The Role and Position of Women in the Preservation of National Minorities' Identity».

The demographic analysis of the gender structure of national minorities' members – according to the 2001 census – has shown that women are in the majority: from a total of 331.383 members of national minorities in the Republic of Croatia, 172.393 of them are women, and 158.990 men.

The Office for Gender Equality has analyzed the political participation of this category of women at the additional elections for national minorities' councils in the Republic of Croatia (in February 2004), the results of which show that female minority members (as well as the total female population) are underrepresented in the political decision-making process. Out of the 102 national minority councils formed with a total of 1.270 representatives, there are 331 women, or 24.49% (see table in the Appendix). Of the eight minority representatives in Croatian Parliament, there is only one woman. The Director of the Office has introduced all the relevant representatives of official bodies dealing with national minority rights with the mentioned data and the strategic objective of the Office in this area, at the seminar «National Minorities and European Integration» held this summer, and organized by the Governmental Office for National Minorities, the National Minority Council and the Center for International Studies.

Based on its jurisdiction, the Office for Gender Equality requested the counties to enlist concrete measures for the promotion of the position of female minority members in their compulsory action plans, with special emphasis on Roma minority female members in the counties where this population is most present.

### **Question 7**

The Government of the Republic of Croatia adopted, in October 2003, the National Program for the Roma (hereinafter: Program), with the goal of realizing the rights ensured by the Constitution and the legal system of the Republic of Croatia and eliminating all forms of discrimination.

The Program is based on the provisions of international documents on human and national minority rights the Republic of Croatia is party to. The experience of other countries, which systematically deal with the problems of the Roma, were also considered. The Roma themselves participated in the creation of the Program, and without their acceptance and responsibility, undertaking these changes would not have been possible.

This Program aims at systematically helping the Roma in improving their living conditions, their inclusion in the social life and decision-making processes in the local and wider community without losing their own identity, culture and tradition in the process. The state administration bodies, local and regional self-government, other governmental and nongovernmental institutions, domestic and foreign organizations, international organizations, the Roma and Roma organizations and other interested citizens of Croatia are supposed to participate in the implementation of the

Program. The funding for the implementation of the Program will be ensured from the State budget, the budgets of the local and regional self-government units, and from donations and other sources.

Roma women are often marginalized; there is a high fertility rate as well as a traditional division of family roles. The attitude toward women is not emancipated; women are exposed to discrimination which is reflected in the raising of children and the functioning within the family. Children aged 10 to 12, and even younger, participate in the activities of their parents and families, which prevents their regular schooling to a great extent. The main decision-making in Roma families is mostly done by the man, that is, the husband, but the traditional «female» activities (preparation of food, cleaning the house, getting household necessities) and childcare, is done by the women in most families (90% of women take care of the household, and 74.1% of women take care of the children on their own).

The aim of this Program is to achieve inclusion of Roma in the decision-making process at all levels (local, regional, state) according to the regulations in force, and raise awareness of the Roma, especially the Roma women, about the possibilities and modes of realization of their rights.

One of the priority activity areas is to enable the Roma representatives, especially the women and the young, for participation in the decision-making process, the realization of rights and the greater inclusion into the social life. This is to be done by: organizing courses for Roma representatives in order to achieve necessary knowledge about leading, founding and managing organizations, on the systematic linking of Roma organizations and representatives of areas inhabited by the Roma, and enable women and youth to advance the position of women, to be introduced about the rights protected by the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of Children and other international standards.

The prevention of discrimination against Roma women is included in the National Program for the Roma, which foresees measures for elimination of discrimination of Roma in certain areas.

Related to this, we can mention that the responsible bodies in charge of monitoring the discrimination against Roma and undertaking measures for its elimination, and tracking the implementation of the legal solutions aimed at eliminating discrimination, are the Ministry of Justice, the Ministry of the Interior, and the Office for Human Rights, and nongovernmental organizations.

Analyzing the Roma employment patterns, it is obvious that the basic reason for their difficult employment is the low level of their education. Within the foreseen measures, and through the Ministry of Science, Education and Sports, and the Croatian Employment Office, there is a measure regarding the training and employment in all economic sectors. In order to improve the employability of this population, it is important to implement the programs of training and literacy, gaining knowledge and working skills, and finally, gaining a vocation, along with the employment programs, especially for youth and women.

The National Program for the Roma foresees the continual implementation of measures stimulating nongovernmental organizations' programs aimed at the affirmation and awareness raising in women about human rights and gender equality, the affirmation of the Convention on the Elimination of All Forms of Discrimination of Women among Roma women through organizing meetings, seminars and other forms of education.

The Republic of Croatia joined the Decade for Roma Inclusion initiated by the Open Society Institute and the World Bank, which represents the action plan for Roma for the following ten years, from 2005 to 2015. Within the Action Plan of the Decade of Roma, the areas of education, health, employment and accommodation will be analyzed. For each of these areas statistical research will be conducted based on which the living conditions of the Roma population will be determined, including Roma girls and women.

The Office for Gender Equality replied to the invitation for inclusion into the implementation of the project Roma Women Can Do It (RWCDI II) by the Gender Task Force Regional Center for Gender Equality, thus joining the support policy for Roma women.

### **Question 8**

The mandate of The Parliamentary Committee for Gender Equality includes establishment and monitoring the implementation of the policy on gender equality, procedures to enact legislation and other regulations in this field, as well as rights and duties of the competent working body in matters pertaining to the promotion and monitoring of the application of the principles of gender equality in the legislation of the Republic of Croatia, and in particular to:

- promote the signing of international documents on gender equality and monitor the application of these documents,
- participate in drafting, implementation and analysis of the implementation of the National Gender Equality Policy in the Republic of Croatia,
- co-operate and establish measures and activities to improve gender equality,
- propose packages of measures to eliminate discrimination between the sexes,
- promote equal gender representation in the composition of parliamentary working bodies and delegations,
- participate in drafting the documents on the integration activities of the Republic of Croatia through the amendment and adaptation of legislation and executive measures to achieve gender equality according to the standards applied in the legislation and programs of the European Union,
- prepare draft legislation and other regulations on gender quality,
- undertake efforts to introduce the principles of gender equality in education, health-care, public information, social policy, employment, free enterprise, decision-making processes, family relations, etc.,
- encourage co-operation between the Government Gender Equality Office and associations and other institutions.

After the founding of the Ombudsperson's Office and the Government's Office for Gender Equality, a close cooperation was set up between the mentioned institutions, on a number of common interest issues, especially when it comes to the modes of implementation of the Law on Gender Equality. Joint public ventures are common when it comes to awareness and knowledge raising about

gender equality. When the Office for Gender Equality receives individual complaints of citizens about the violation of human rights of women and sends them to the Office of the Ombudsperson on gender equality for further procedure and analysis, as well as informs the Ombudsperson on the propositions of laws and/or changes and amendments of laws which in any way might deal with gender equality. The Director of the Office for Gender Equality participates on a regular basis in the activity of the Parliamentary Gender Equality Committee. By the end of September, and through the agreement of these three institutions, the Coordination of State Bodies for the Promotion of Gender Equality was set up, and the Female Network of Croatia is included in it as an umbrella organization of female nongovernmental associations. The systematic work on the implementation of the Convention on the Elimination of Discrimination against Women is one of the most important goals, and the preparations for the celebration of its 25 th anniversary are in progress.

### **Participation of women in public life and decision-making**

#### **Question 9**

Political participation of women is not satisfactory even though there is a tendency of continuous gradual increase. From the first multiparty elections in 1990 until today, the number of women MP's has increased considerably, leveling at approximately 25% after the 2003 elections. The cause for this is the political recognition of the significance of this problem, that is, the development of political tactics and strategies by state authorities, political parties, and the nongovernmental sector. Public opinion surveys also find the awareness of the under representation of women in politics and quite a high degree of preparedness to vote for female candidates. At the moment, two women are vice-presidents of Parliament, out of a total of five vice-presidents. The representation of women on parliamentary working bodies/committees is from 12% chair committees, and 28% deputy chairs to 22.73% members of parliamentary committees. There has been an increase in the total participation of women in executive power. Four out of 14 ministers are women, and a woman holds the function of one of two Deputy Prime Ministers. There are approximately 32.29% of women appointed to positions in the Government – including six state secretaries, 29 assistant ministers and 6 secretaries of the ministries.

The percentage of women in representative and executive bodies of local authorities is quite behind their representation in the bodies of central state administration. Following the general local elections in 2001, 13.38% of women entered county councils, 14.27% entered city councils and only 6.94% entered municipal councils. There are 14 female city mayors in the Republic of Croatia, or 11% of the total number of officials in this position. In the Law on Election of Members to Local and Regional Authorities that is still in effect, there is a provision stating that political parties are obliged to take into account gender equality when drawing up their candidates lists. This provision is a principle in character and does not pertain to legal sanctions regarding the whole electoral process. A similar provision has been included into the Law on Gender Equality.

The Office for Gender Equality shall, aiming at further increase of the number of women both on the candidate lists and on the executive bodies of local authorities, initiate a campaign with a view to local elections in May 2005. With this in mind, a Council of Europe publication «Genderware – the Council of Europe and the participation of women in political life» was translated into Croatian, promotional T-shirts, posters, badges, pencils and other promotional materials were published, and

during the year 2005, the staff of the Office shall promote the need for inclusion of as many women in politics as possible throughout the Republic of Croatia. There is an ongoing discussion on the proposals for changes to be made in the Law on Election of Officials to Local and Regional Authorities, as well as a consideration of other legislative initiatives to be taken, aimed at including female candidates in party candidate lists.

The nongovernmental organizations in the Republic of Croatia dealing in human rights of women, led by the Female Network (an umbrella association of female nongovernmental organization consisting of 46 member-organizations) and a number of gender equality commissions of the County of Istra (the county and six city commissions) have, in September 2004, initiated a campaign «No longer without women» and «52% women seek at least 40% of power». The goal of the campaign is to perform the necessary legislative changes in order to force the political parties to enlist more female candidates on their candidate lists.

### **Question 10**

According to the opinion of the Ministry of Justice, first and foremost reason of the high representation of women in judiciary is due to the fact that men apply for jobs in the judiciary less, and even when appointed judges they, as a rule, leave in favor of better paid occupations – to become lawyers or notaries public. According to the information obtained from the Ministry of Justice, it is obvious that, speaking of candidates for court clerks and advisors, men change jobs more often in their younger years, and that they are not sufficiently motivated to work in the judiciary due to lower income in courts, as compared with being an attorney at law or a public notary. Also, due to their more frequent absence from work (for example, in case of pregnancy or childcare, or in case of sick leave), compared with the work as attorneys at law and public notaries, women more often choose to work in the judiciary, than in other occupations they are qualified for.

### **Question 11**

The Ministry of Agriculture, Forestry and Water-Management has reported that women are represented in rural areas in the decision-making process for adopting the Program for allocating state-owned agricultural land by local authorities, with the concurrence of the mentioned Ministry, and in public tenders for the rent and sale of state-owned agricultural and during the implementation of those tenders, according to the Law on Agricultural Land.

Considering the ever greater importance of the rural areas, women have founded the Exemplary Country Women Association, working in rural areas, the goal of the association being higher representation of women in decision-making and program-adoption processes related to the activity of women in rural areas. The Ministry reports a significant increase of the number of women taking interest in this type of association of interests, and the Ministry of Agriculture, Forestry and Water-Management supports the work and activity of the mentioned association.

## **Violence against women**

### **Question 12**

The Law on Protection from Violence in the Family defines the concept of violence in the family, the persons considered to be family members, prescribes the manner of protection of family members, and the types and purpose of legal sanctions. It also regulates that all procedures initiated according to this Law are urgent in nature.

According to Article 4 of the Law on Protection From Violence in the Family, violence in the family is: «any use of physical force or psychological coercion on the integrity of a person; any other act taken by a family member that might cause or bring forth danger of causing physical and psychological pain; the cause of a feeling of fear or personal endangerment or violation of dignity; the physical attack regardless of possible physical injuries; verbal attacks, insults, cursing, name-calling or other ways of crude harassment; sexual harassment; spying and all other ways of harassment; unlawful isolation or limitation of the freedom of movement or communication with third parties; damaging or destroying property or the intention of doing so.»

Legal sanctions used for protection from domestic violence are fines, imprisonment and protective measures. The courts can pronounce the following protective measures to the perpetrator of domestic violence: obligatory psychosocial treatment, a restraining order from the victim of violence; the prohibition of harassment or spying on the person who is subject to violence; the obligatory treatment of addiction and the removal of objects meant for or used in perpetrating an offence.

According to the data from the Ministry of Interior, in 1995, 9.33% of cases per day were reported, in 2003, 28.76% cases were reported, and in the period between January 1st and March 31st 2004, 27.8% cases of domestic violence were reported (in the first three months of this year, 53% more crimes were recorded than in 2003).

In the period between January 1st and March 31st of 2004, 3.426 persons were injured by the «violent behavior in the family» crime (representing an increase of 52.3% compared with the same period of 2003), 749 of which are under age (an increase of 36.4% compared with the same period last year). Regarding the gender of the victims of violence, 66.4% of the total of victims were women. Perpetrators in 44.04% of the cases were husbands of victims, in 18.15% fathers, in 13.54% sons, and in 7.87% of the cases extramarital partners of victims, and in 2.55% of the cases the crime was done by former husbands of victims. The daily average of under age persons witnessing «violent behavior in the family» was 9.97% or 907 under age persons in total during the same time span.

According to the available data, 188 penal procedures have been initiated at the county court level for the criminal act described in Article 215.a of the Criminal Code (violent behavior in the family), 99 of which have been concluded, and 11 have not yet been finalized.

Regarding the conclusion of the Coordination for Social Affairs of the Government of the Republic of Croatia from July 2004., the Ministry of Family, Veterans' Affairs and Intergenerational Solidarity is in charge of setting up the Working Group for drafting the Draft Law on Amendments to the Law on Protection from Violence in the Family, as well as for recommending the National Strategy for the protection from domestic violence, whose drafting is in progress.

The planned amendments to the Law on Protection from Violence in the Family will bring additions to the conceptual definitions of the terms «removal» and «psychosocial treatment», and will change the due dates for pronouncing the protective measure described in Article 17 of this law.

Article 9 of the Law on Protection from Violence in the Family determines that the Minister in charge of health and social welfare should issue an implementing act prescribing the manner and place for psychosocial treatments. Following the mentioned provision, the Ministry of Health and Social Welfare prepared Draft Regulation on the Manner and Place of Implementing Psychosocial Treatment.

Along with the existing network of health institutions where a part of these protective measures is taking place, this Regulation determines the possibility of setting up a network of legal and physical persons that can undertake this protective measure.

In the current activity of protecting victims of domestic violence, a need has arisen for ensuring their accommodation in urgent situation, and their treatment. The Social Welfare Law foresees the provision of this type of services, that is, the set-up of institutions of this type. The Republic of Croatia owns no shelter for victims of domestic violence that might accommodate mothers and children together, but legal entities and natural persons were given permission by the law to set up public institutions for social welfare – homes for children and adults who are victims of violence in the family.

A contract has been signed with institutions in Rijeka (founded by the Caritas of the Rijeka Archdiocese) and Rovinj (founded by the Civil Community of Women), according to which the mentioned institutions accommodate victims of domestic violence by the solution of the social care center in charge, and according to the agreed capacity. Furthermore, the Center for Professional Rehabilitation Osijek, The Association of Disabled Persons Bjelovar, Caritas of the Šibenik Diocese, and the «MiRTa» association from Split, are all registered for providing this type of service (according to Article 105 of the Law – without founding an institution). The Solidarity Fund of the City of Varaždin and the Caritas of the Varaždin Diocese are the cofounders of the Home for victims of domestic violence «St. Nicholas' Shelter», and the users are placed without participation in funding by means from the state budget.

Several associations have shown interest in providing this kind of service, and at the moment, a few associations are also implementing shelter programs for women and children who are victims of violence in the family, without having founded an institution (for example, in Zagreb, Karlovac). The Government of the Republic of Croatia sets aside certain state budget funds for programs of women's associations (shelters and providing counseling services). We must emphasize that the financial support for these programs for the 2002-2004 period has been granted.

### **Trafficking and exploitation of prostitution**

#### **Question 13**

Through the changes and amendments of the Criminal Code, adopted by Croatian Parliament in session from July 15th, 2004, which came into power on October 1st, 2004, Article 175 determines the crime of «trafficking of human beings and slavery» as follows:

(1) Anyone who by breaking international law through use of force, or threatening to use force, coercion, abduction, misuse of position of helplessness or jurisdiction or in any other way recruits, buys, sells, gives, transports, transfers, entices or mediates in the buying, selling or transferring, hides or takes in a person in order to set up slavery or a relationship similar to slavery, forced labor or serving, sexual abuse, prostitution or illegal transplantation of human body parts or the person holding someone in slavery or a relationship similar to slavery, will be punished with one to ten years of imprisonment.

(2) Anyone who by breaking the rules of international law recruits, buys, sells, gives, transports, entices or mediates in the buying, selling or giving over, hides or takes a child or an under aged person for the establishment of slavery or a relationship similar to slavery, forced labor or serving, sexual abuse, prostitution or the unlawful transplantation of human body parts, or holds a child or an under aged person in slavery of a relationship similar to slavery, shall be punished with at least five year of imprisonment.

(3) If the criminal offenses described in Article 1 or 2 was done within a group or a criminal organization or was done toward a greater number of persons, or caused the death of one or more persons, the perpetrator shall be punished by at least five years of imprisonment or by long-term imprisonment.

(4) The circumstance of a person accepting forced labor or serving, sexual abuse, slavery or a relationship similar to slavery or the unlawful transplantation of parts of his/her body is without influence on the existence of the criminal act described in Article 1 or 2.

At the end of June 2004, and organized by the Office for Human Rights of the Government of the Republic of Croatia, the body in charge of coordinating all activities in this area, a workshop was held, aimed at adopting a high-quality and comprehensive Operation Plan for Prevention of Trafficking. The participants of the workshop were representatives from state administrative bodies, representatives of nongovernmental and international organizations. The following are the priorities of the mentioned workshop: drafting the Law on Protection of Victims of Trafficking, drafting the Protocol for Procedure Related to Care for Under Aged Victims of Trafficking. Based on the workshop results, the drafting of the Operative Plan for Prevention of Trafficking Between 2004 and 2008 will begin on a workshop which will take place in November 2004.

#### **Question 14**

The Law on Witness Protection came into force on January 1st 2004. This Law specifies the conditions and procedures for giving protection and help to endangered persons or persons close to them, who are submitted to serious danger threatening life, health, physical integrity, freedom or property of a higher degree due to giving statements in legal procedures for crimes against the Republic of Croatia, values protected by international law, organized crime and those crimes that the law stipulates imprisonment for 5 years or more.

The basic condition for entering the witness protection program are: the existence of a crime defined by the Law on Witness Protection, the endangerment of the security of the witness, and the special importance of his/her statement for the legal procedure because the evidence procedure without his/her statement would experience serious difficulties.

## **Employment and reconciliation of work and family responsibilities**

### **Question 15**

The national family policy came into existence as a result of a comprehensive expert and political analysis of all earlier attempts and legislative initiatives in the creation of a quality family policy, in the process of which the noticed faults were removed and new institutions were introduced into the family policy.

The attitude in which the role of the women is defined in terms of mother and caretaker is completely abandoned by the new Family Policy, and the suggestion on the legislative introduction of the institution of mother-educator was definitely rejected. This policy ensures women equal opportunities as men, mostly in employment, as well as the realization of all other rights.

The basic aims of the Family Policy affirm the rights of children as a specific and important segment of human rights, the development of support structures and institutions, the reconciliation of family and work obligations through changing the work structures in the goal of flexible and individualized forms of employment, especially the employment of both parents. The Family Policy affirms gender equality, specifically through the employment of women and the redistribution of family and professional roles in accordance with the demand of times.

The National Family Policy defines measures in the area of labor market regarding the affirmation of employing women through measures of professional orientation, education, stimulating female entrepreneurship, training for occupations in deficit, and programs for groups of women with difficulties in employment as well as taking measures for the fight against gray economy; the legal definition of work-at-home, making work more flexible and the stimulation of development of family entrepreneurship.

The Family Policy is based on the provisions of the Labor Law, the National Program of Demographic Development, the Family Law and the Law on Child Allowance.

All the mentioned legislation and other documents give equal rights and obligations of both parents toward children, as well as marital and extramarital communities.

### **Question 16**

By the amendments to the Labor Law from July 2003, the labor legislation of the Republic of Croatia gained the high standards of protection from discrimination set by the European guidelines 75/117EEC, 76/207EEC, 2002/73EEC, 86/378EEC, 92/85EEC, 96/34EEC, 96/97EEC and 97/80EEC. The matter of prohibition of gender discrimination in seeking employment and employees is regulated in a completely new manner through the changes of Article 2 of the Labor Law and the new Articles 2.a through 2.d, as well as the definition of what is to be considered direct and indirect discrimination, what is not discrimination, the definition of harassment and sexual harassment and the specification of what discrimination consists of. There is also the definition of the right for reparation of damages in case of discrimination, and the provision that in case of litigation related to discrimination the burden of evidence is on the employer. The Law on Gender Equality in one of its chapters also defines the

prohibition of discrimination in the field of employment and labor. The provisions of both of the mentioned laws are completely compatible with Article 11 of the Convention (see Appendix).

### Question 17

The Economic-Social Council of the Republic of Croatia, as a tripartite body, consists of the representatives of the Government and the social partners, that is, labor unions and employer associations, held a meeting in February 2004, on *The Position of Women on the Labor Market of the Republic of Croatia*, where conclusions the Office for Gender Equality of the Government of the Republic of Croatia put in charge of implementing the following project aimed at the promotion of the position of women on labor market.

Drafting the *standards of identification of discrimination of women* in the employment of women and the mechanisms for their removal, including judicial protection, and the drafting of an employer code on employing women is foreseen. The project is realized in cooperation with labor unions, the Ministry of Education, Labor and Entrepreneurship, the Croatian Employment Bureau, the State Inspection Office and the Croatian Employers' Association. The Office for Gender Equality began conducting a research whose goal is to establish the forms and frequency of discrimination of women in employment on a representative sample of unemployed women.

*The systematic statistical monitoring and unification of indicators relevant for gaining insight about the differences between sexes in the social welfare and labor market systems*, the realization of which will require the cooperation of the Office and the State Pensions Office, State Health Insurance Institute, State Employment Office, National Bureau of Statistics and the Ministry of Health and Social Welfare.

Discrimination in the area of employment is also prohibited by the Law on Gender Equality which contains mechanisms of court protection. The Labor Law protects motherhood by prohibiting the cancellation of the permanent employment contract during pregnancy, the use of parental leave, the use of parental right to part-time labor, and fifteen days after the end of pregnancy, or following the exercise of those rights. Unequal treatment of pregnant women is prohibited and the employer may not refuse to employ a woman because of her pregnancy, transfer her to another job nor ask any information about the pregnancy. The right to work half-time is extended until the child is one year old, after the obligatory parental leave is over, that is, until the third year of the child's life in case of twins, the third and every child after that. The parental leave that an employee may use is extended until the child is one year old in case of twins, or the third and every next child until the third year of their lives. If the child's father, after the expiry of the obligatory parental leave, has used the parental leave for at least three months, than the parental leave is extended for two months.

The Law also protects women by providing that a woman must not perform particularly difficult physical work, work under ground or water, or do other labor that, considering her psychophysical characteristics, especially endanger a woman's life or health, and the night labor of women in industry is prohibited as well as the exceptions from the prohibition of night labor of women in industry.

A woman that after having used parental leave or part-time labor continues to breastfeed has the right to take an hourly break twice a day for this purpose during her full-time employment. After

the completion of parental leave, one of the parents has a right not to work until the child turns three years of age, during which time the rights and obligations of the employment relationship are dormant. A pregnant woman, a mother of a child under three years of age and a single parent with a child under the age of six may work overtime only after making a statement about the voluntary acceptance of such work.

### **Question 18 and Question 19**

One of the most important segments in reaching full equality of men and women is the improvement of the position of women in the labor market regarding their difficult employment and lower incomes, that is, the sector segregation. Women are concentrated in lower-income professions, for example, they make most of the employed in the textile industry, the catering and trade services, education, etc. The level of employment for women is considerably lower than the level of employment for men (37.1% to 50.7%), and women make 59% of the total number of unemployed persons. The number of female entrepreneurs is also low – around 30%, and they are rarely in the leading positions in management and supervision board of the public sector. The share of women in self-employed population is increasing, even though it is still very low – only 20.4% in 2003.

When it comes to equal treatment of women and men the most important laws prohibiting discrimination based on gender regarding employment and labor market position are the Labor Law and Law on Gender Equality.

The strategic goals of the Government in the area of economic empowerment of women consist of indicators such as the reduction of the unemployment rate, the increase of the female entrepreneurship share up to 50% and drafting a program for economic empowerment of single mothers.

The Program of the Government of the Republic of Croatia for stimulating employment that has been implemented from 2002, features a special sub-program D – Profit through Experience, dealing with the employment of female persons older than 45 and men older than 50, who have been unemployed for more than six months. A total of 4.269 persons have been employed in the last two years through the mentioned program. The employer is obliged to keep a person employed until the completion of the subsidized period, and keep the same number of persons employed full-time for 12 months from filing the application. The subsidy is 100% of the monthly net-income based on 2.500,00 HRK for six months, and to the level of contributions from gross-income for the next 12 months.

The adoption of the National Employment Action Plan in 2005 will include a review of existing programs for stimulation of employment, and the drafting of a special program for women is foreseen according to guideline No. 6 of the European Employment Strategy.

The Program for the promotion of SMEs also consists of measures for the faster inclusion of women as special target groups into entrepreneurship. In order to strengthen female entrepreneurship, the Ministry of Economy, Labor and Entrepreneurship, the Directorate for Small and Medium-Sized Enterprises and Ventures started a project called «Female entrepreneurship» in 2004, within which different measure for promotion affect the environment for entrepreneurs in order to give greater support to the development of female entrepreneurship. The women using this project are Croatian citizens – entrepreneurs, whose activity is registered as a craft, company, cooperative or institution.

Even though the differences in incomes of women and men mostly arise from the differences in the average incomes in sectors that mostly employ women and those sectors that mostly employ men, the previously mentioned changes of the labor legislation supplemented the otherwise precise Article 89 of the Labor Law, which regulates the issue of income equality by precisely defining what is to be considered equal labor and labor of equal value, so the article now stipulates: The employer is obliged to pay equal income to women and men for equal work and work of equal value.

Considering the previously described position of women in the labor market, the Economic-Social Council adopted some additional guidelines regarding the improvement of the position of women in the labor market and the decrease of their unemployment level, which include: promoting self-employment and participation of women in entrepreneurship; education on SMEs and the promotion of female entrepreneurship; promotion of development of household services and care for the chronically ill and elders; introducing a subject on entrepreneurship into the entire secondary school system; promoting the founding of agencies for temporary and occasional employment; changes and amendments to measures for promoting employment of the Government of the Republic of Croatia; the systematic planning or building education and training institutions for children of preschool age and services for help in the family; determining real working conditions of women; analysis of regulations in the area of motherhood and parenthood protection with a recommendation of their improvement; the systematic statistical following and unification of indicators relevant for gaining insight into the differences between genders in the social security and labor systems; the regulation of rights of employed mothers after the end of parental leave; the change of Law on Mediation in Employment and Rights During Unemployment; the reconsideration of provisions in the Labor Law; the analysis of the social care system.

### **Question 20**

The Republic of Croatia differentiates between internal and external migrations. 18.455 immigrants have been recorded in 2003, and 9.148 or 50% have been women. That same year, the number of granted working permits was 8.356 in total, and 22% (1.794) of them were issued to women.

Internal migrations in the Republic of Croatia are regular and quite natural, considering its orientation to the development of tourism, which is intensified with the beginning and end of the summer tourist season. So, out of the 84.444 persons that have moved in the year 2003 within Croatia, 46.239 or 55% of them were women. The number of internal migrations in the Republic of Croatia is still insignificant, and the labor market mobility is low. The former labor legislation had a provision which stated that if a person refused to take a job offered within an 80 km radius from the place where he/she lived, than he/she is to be erased from the registry of the Employment Office. Considering the fact that this measure greatly disadvantaged women in practice, especially mothers with under aged children, the latest changes of the labor legislation omitted this provision.

### **Refugees**

### **Question 21**

On June 12th 2003, Croatian Parliament has adopted the Asylum Law prescribing the principles, conditions and procedure for granting asylum and issuing temporary protection, the status

of rights and obligation of asylum seekers, those that granted asylum and foreign citizens who were granted temporary protection, as well as the conditions and procedure for abolishing the asylum status and the end of temporary protection for foreign citizens in the Republic of Croatia.

The Asylum Law came into force on July 1st 2004. According to Article 14, when the person seeking asylum is a women, the state bodies in charge will ensure, if possible, that the procedure be led by a woman and the provision also regulates the issue of ensuring a female translator. There is a Center for Asylum Seeker in the Republic of Croatia (in Šašna Greda), and the construction of a Shelter house in Stubička Slatina is in progress.

### **Education and stereotypes**

#### **Question 22**

The Ministry of Science, Education and Sport has not yet received a single case that specifically states discrimination based on gender in education, in tertiary education as well as in science, when it comes to individual complaints. Educational legislation in the Republic of Croatia regulates completely equal conditions for education for all, regardless of gender, from primary to tertiary education. The Law on Gender Equality foresees a number of instruments that are to eliminate all manifested forms of discrimination in labor and education, which we have reported on in the previous answers.

The statistical data point to the equal distribution of male and female students at primary and secondary schools, while the girls make up most of those enrolling tertiary education (52% from the total of enrolled students). There are still differences in the selection of secondary schools and university studies which might reflect the existing division of labor into the so-called male and female occupations considering the fact that, for example, the female part of the population is more apt to choose a degree in social or humanistic sciences. Women are the minority in technical sciences, even though the number of female students' enrollment is continually increasing in the last years.

The positive example for the elimination of the gap between the so-called female and male occupations is the campaign of the Ministry of Economy, Labor and Entrepreneurship called «Become an Entrepreneur» where the emphasis is on women and youth, and which is promoted on television and especially through the billboard network.

#### **Question 23**

According to the Adult Literacy Program, the Ministry of Science, Education and Sport and the Government of the Republic of Croatia envisage the literacy education of women older than 65, considering the fact that the 2001 census showed that a large number of women aged over 65 do not have a primary school degree.

The Ministry of Science, Education and Sport will during the preparation of the literacy campaign pay special attention to include this category of women into the project. Special consideration will have to be given to rural and urban areas, considering that the number of illiterate women is higher in the rural areas of the Republic of Croatia.

**Question 24**

The goal of the Law on Gender Equality is to remove the widely spread stereotypes in society, including education. It follows from the statistical indicators that there is no gender gap/discrimination in Croatia when it comes to accessibility of education.

The national priority in the area of education was detected in the need for introducing gender-sensitive education in the curricula, aimed at removal of gender-stereotypes and education of educators directed at promoting gender equality.

One of the most important tasks of the Office for Gender Equality is to initiate the introduction of gender-sensitive education in all school curricula, especially through the elimination of stereotypes from textbooks and curricula on all levels of education and training, to promote the inclusion of female experts into the curricula-drafting commissions, to promote the continual education of preschool and school teachers and staff, as well as to promote and support gender research and gender studies.

The Office for Gender Equality has with this goal in mind undertaken a number of activities. First, it initiated the set-up of cooperation of nongovernmental associations and the representatives of the Ministry of Science, Education and Sport dealing with gender equality and education issues, especially when it comes to elimination of all stereotypes in the education system. The mentioned Ministry is drafting the Catalogue of knowledge, competencies and skills that are to be the basis for new textbooks in all areas of education and training. A Coordination board, coordination secretaries and renowned experts in natural sciences-mathematics-technical sciences, social-humanistic sciences and art with 15 commissions for each subject matter in primary schools are working on the drafting of this Catalogue, including the working groups for defectology, physical culture and socialization factors and content. The Office for Gender Equality insisted that the subject matter commissions in certain areas also be consisted of experts in the gender equality field, in order to adequately address this issue and include it into all the necessary areas.

Implementing Article 14 of the Law on Gender Equality, the Office for Gender Equality has ensured the partial funding of nongovernmental projects aimed at awareness-raising activities in the field of gender equality. Thus, the publication of two documents on gender equality was co-financed.

**Health care****Question 25**

The Family Law proscribes that marital partners decide together on the having and raising children, so our law accepts the right to plan the family in accordance with the Convention on Elimination of All Forms of Discrimination Against Women.

Information related to family planning can be obtained by both men and women with their chosen gynecologist in the primary health care service, in departments of general and county hospitals and in clinics. According to the data of the Croatian Public Health Institute, most of women seeking to terminate pregnancy in 2002 were married (66.1%). A significant decrease in the number of abortions in Croatia has been notable since 1987 and is still falling from one year to another. In 1987 it was

57.000, while in 2002 there were 5.000 abortions, which is a result of a systematic care for women through their chosen gynecologists in primary health care.

### **Question 26**

The role of chosen family doctors and teams for the protection of female health is very important in the early prevention of breast cancer, because they are obliged to conduct preventive measures of promotion of health through individual advice, classes or group discussions and introducing women to risk factors and adequate techniques of self-check-up of breasts along with measures for registering, evidencing, reporting and evaluation of work by introducing name-by-name registries of chronically ill patients according to the Plan and Program of Health Care Measures of the Ministry of Health. The diagnosis, treatment and following procedures of women with breast cancer are part of the National Program for Early Detection of Breast Cancer, which obliges all chosen primary health care doctors to consistent activity and implementation.

The Ministry of Health of the Republic of Croatia has to this end published a brochure labeled Early Detection of Breast Cancer – Prevention and Procedures for Diagnosis, Treatment and Following of Women with Breast Cancer, in 3.000 copies, which has been distributed to all primary health care doctors as well as gynecologists and county public health care centers.

Also, a pilot Project for Early Detection of Breast Cancer is being initiated in the County Primorsko-Goranska. The Ministry of Health and Social Care is giving financial support to the mentioned project in the amount of 150.000,00 HRK for the education of staff, which will be implemented by the Public Health Institute in Rijeka, and also for analysis of the survey and evaluation of the project.

The goal of the project in question is to check-up women aged 50 to 65 at the invitation of the County Public Health Institute.

The coordination for Gender Equality of the City of Zagreb has in 2002 initiated a project called «The Mobile Mammogram» that ensures a free breast check-up for women older than 60. The project is being conducted for the third year and has demonstrated a remarkable interest of women.

### **Question 27**

The Republic of Croatia adopted the Law on Limitation of the Use of Tobacco Products (Official Gazette, 137/04), aiming to protect the health of the citizens by determining measures for decreasing and limiting the use of tobacco products, the toxic ingredients of cigarettes and the compulsory marks on tobacco product packages, the preventive anti-smoking measures and the supervision of the implementation of this Law.

Non-smoking, fitness and healthy food promotion programs are conducted through the cooperation with numerous associations the Ministry gives financial help to, but all the activities are directed toward the entire population, and not just women. However, in cooperation with associations such as the Croatian Osteoporosis Society, whose members are exclusively women, programs promoting fitness and healthy diet of women are being conducted.

## **Marriage and family relations**

### **Question 28**

Entering marriage is regulated by the provisions of Articles 6 through 23 of the Family Law, and the effects of entering marriage in the religious form in Article 8 of the Family Law. The procedure of entering marriage in the religious form is regulated in the provisions of Articles 20 through 23 of the Family Law in order to make its effects equal to those of the civil procedure of entering marriage. Entering marriage in the religious form is regulated by each religious community by its provisions, but before entering marriage the civil-official gives the bride and groom a confirmation on the fulfillment of all conditions for entering marriage (a marriage license), and after the act, the official of the religious community that performed the wedding gives the civil-official a signed document confirming the marriage.

It is a general rule and principle of the Family Law that the marital partners are equal in their rights, giving women equal rights with the men. Due to the specific position of the woman, being a mother in a marriage, there are special provisions on the protection of women during pregnancy etc in the Law. Divorce is regulated by provisions in Articles 42 through 51 of the Family Law, and it is a procedure in which both partners have absolutely equal rights, but the husband has no right to demand divorce during his wife's pregnancy or until a child turns one year of age (Article 42, paragraph 2 of the Family Law).

## **Optional Protocol**

### **Question 29**

In 2002 The Gender Equality Commission published a brochure with the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention in 1000 copies, which was widely distributed.

The Office for Gender Equality of the Government of the Republic of Croatia, in cooperation with the nongovernmental organization CESI – Center for Education and Counseling of Women, organized in September 2004 seminars on «Gender mainstreaming policy» for representatives of county commissions for gender equality and representatives of nongovernmental organizations, where the importance of the Convention and the Optional Protocol to the Convention and its mechanism for the protection of individuals and groups in case of breach of rights protected by the Convention, were highly stressed.

The texts of the Convention and the Provisional Protocol will also be available on the web-site of the Office for Gender Equality.

## **APPENDIX**

The anti-discrimination provisions of the Labor Law according to Article 11 of CEDAW

### «PROHIBITION OF DISCRIMINATION»

#### Article 2

(1) It is forbidden to directly or indirectly discriminate against a person seeking employment and an employed person (worker, appointee, official or other worker) (further in the text: employee) based on race, skin color, sex, sexual orientation, marital status, family obligations, age, language, religion, political or other conviction, national or social origin, property, birth, social position, membership or lack there of in a political party, membership or lack there of in a labor union and physical or psychological difficulties.

(2) Direct discrimination, in the sense of this Law, means every action caused on one of the basis from the paragraph 1 of this Article, by which a person from paragraph 1 of this Article is put or was put or might be put in a less favorable position than another person in a comparable situation.

(3) Indirect discrimination, in the sense of this Law, exists when a certain seemingly neutral attribute, criterion or practice, puts or would put the person from paragraph 1 of this Article, due to his/her specific attribute, status, orientation, conviction or value system which are the basis for the prohibition of discrimination in paragraph 1 of this Article, in a less favorable position regarding other persons.

(4) Discrimination from paragraph 1 of this Article is forbidden in relation to:

(a) Employment conditions, including the criteria and conditions for candidate selection for doing certain work, in any sector of activity and at all levels of professional hierarchy;

(b) Advancement at work;

(c) Access to all types and degrees of professional training, additional training or training for another profession;

(d) Employment and work conditions and all the rights coming out of the work relationship and pertaining to the work relationship, including income equality;

(e) Termination of a labor contract;

(f) Rights of members and activity in employee or employer associations or in any other professional organization, including the privileges pertaining such membership.

(5) The provisions of the collective agreement, the labor regulations and labor contract that determine discrimination based on one of the factors from paragraph one of this Article are void.

(6) The regulation of an employee's obligation to contribute to solidarity through a collective agreement and according to the provisions of Article 187.a of this Law is not considered to be discrimination based on non-membership in a labor union described in paragraph 1 of this Article.

«EXCEPTIONS FROM PROHIBITION OF DISCRIMINATION»

Article 2.a

(1) Differentiating, excluding or prioritizing in regard to a certain job is not considered discrimination when the nature of the job is such that it is done in such conditions that the characteristics related to some of the basis from Article 2 paragraph 1 of this Law represent a real and decisive condition of performing the job, given that the purpose that is being achieved is just and the condition adequate.

(2) All measures foreseen by this or a special law and the provisions of this or special laws, collective agreements, work regulations and labor contracts pertaining to special protection and help to certain categories of employees, especially those dealing with protection of disabled persons, the elder employees, pregnant women and women using some of the rights protecting motherhood, as well as provisions pertaining to the special rights of parents, adoptive parents and guardians are not to be considered discrimination nor are they to be the basis of discrimination.

«HARASSMENT AND SEXUAL HARASSMENT»

Article 2.b

(1) Harassment and sexual harassment represent discrimination as described in Article 2 of this Law.

(2) Harassment is any unwanted behavior caused by one of the basis described in Article 2 paragraph 1 of this Law, aimed at or really representing the injury of the dignity of a person seeking employment and of an employee, and which causes fear or hostile, humiliating or insulting environment.

(3) Sexual harassment is any verbal, nonverbal or physical behavior, sexual in nature, aimed at or really representing the injury of the dignity of a person seeking employment and of an employee, and which causes fear or hostile, humiliating or insulting environment.

«DAMAGE REPARATION FOR DISCRIMINATION»

Article 2.c

In case of discrimination described in Article 2 and 2.b of this Law, a person seeking employment may ask for damage reparation based on general provisions of the law, and an employee may do so based on the provisions of Article 102 of this Law.

«BURDEN OF EVIDENCE IN CASE OF LITIGATION»

Article 2.d

If a person seeking employment or an employee in case of litigation states facts that justify doubt that the employer acted contrary to the provisions of Article 2 of this Law, the employer will bear the burden of proving that discrimination did not take place or that he/she had acted according to the provisions of Article 2.a of this Law.

Article 89 of the Labor Law

(1) The employer is obliged to pay equal wages to women and men for equal labor and for labor of equal value.

(2) Two persons of opposite sex are doing equal labor and labor of equal value in the sense of paragraph 1 of this Article:

– if they are doing the same job in the same or similar conditions that they might replace each other regarding the labor they are doing,

– the labor one of the persons is doing is similar in nature to the labor the other person is doing, and the differences between the labor done by both and the conditions of doing it have no significance when it comes to the nature of the entire job or appear so rarely that they do not affect the nature of the entire job,

– the work one of the persons is doing is equal in value as the work the other person is doing when regarding the criteria such as professional qualifications, skills, the physical nature of the work, responsibilities and conditions the work is being done in.

(3) The pay from paragraph 1 of this Article includes the basic pay and all additional contributions of any kind that the employer directly or indirectly, in money or in kind, based on a labor contract, a collective agreement, a labor regulation or another legal act gives to the employee for the labor done.

(4) The provision of a labor contract, a collective agreement, a labor regulation or another legal act contrary to paragraph 1 of this Article is void.

**Gender Equality Law**

IV. DISCRIMINATION IN THE FIELD OF EMPLOYMENT AND LABOR

Article 13

(1) Discrimination in the field of employment and labor is forbidden in the public and private sectors, including state administration, in regard of:

1. employment, self-employment or labor conditions, including the criteria and conditions for candidate selection for job positions, in any sector of activity and at all levels of professional hierarchy,

2. advancement at work,

3. access to all types and degrees of education, career orientation, vocational education and professional training, additional training or training for another profession,

4. employment and work conditions and all the rights coming out of the work relationship including income equality,

5. membership and activity in employee or employer associations or in any other professional organization, including the privileges pertaining such membership.

(2) When advertising the need for employing a worker, the advertisement must clearly stress that persons of both sexes may apply for the job in question.

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