

NATIONAL REPORT ON INSTITUTIONAL MECHANISMS FOR THE ADVANCEMENT OF WOMEN IN POLAND DURING THE PERIOD 1995 - 1998

(English summary)

INTRODUCTION

This Report is prepared for 43rd session of Commission on the Status of Women by a Polish NGO; part of the regional project of the Karat Coalition - a Central and Eastern European network of women's NGOs. The Report consists of three sections, each of them covering three strategic goals related to the areas of concern (H) listed in the Platform for Action. The first part relates to the national machinery for the advancement of women or equal gender status; the second, to legislative changes as well as national programs and women-oriented projects; and the third, covers research and information activities as well as gender-disaggregated data. The Report also includes a fourth part, which evaluates the functioning of the national machinery for the advancement of women. The data, opinions, evaluations, statements and conclusions that can be found in the Report have been collected and edited by the members of the Women's Association for Gender Equal Status - Beijing 1995. In part, the Report is also based on data received through questionnaires, developed by the Association for the purpose of writing the Report. The questionnaires were sent to both central administration bodies (39, including 15 ministries) and voivodship (49) organs responsible between 1997-1998 for the implementation of the tasks covered by the National Action Plan. The evaluation of the national machinery for the advancement of women has been also extended with the findings received based on the questionnaire addressed to over 200 Polish non-governmental organizations that work for women. Thirty-three NGOs responded to the questionnaire.

I. INSTITUTIONAL MECHANISMS FOR THE ADVANCEMENT OF WOMEN (Platform for Action, H-1)

1. National machinery

At present, there is no national machinery for the advancement of women or equal gender status. There is, however, the Plenipotentiary for Family within the administrative structure of the Prime Minister's Chancellery. In the result of the last parliamentary elections in October 1997, Solidarity Election Action (AWS) - a coalition of political parties ideologically close to the Catholic Church - came to power. Since then, a general backlash in relation to the advancement of women's issues as well as their rights can be observed. By the Government's regulation of Nov. 7, 1997, the office for women's affairs was closed down. The office, with a 12-year history was the first institutional machinery for the advancement of women in Central and Eastern Europe. It was replaced by the office of the Plenipotentiary for Family, and the advancement of women was not included in its scope of work.

Historical Time-line:

1. September 1986 - September 1989: Plenipotentiary for Women
2. October 1989 - March 1991: vacant
3. April 1991 - February 1992: Plenipotentiary for Women and Family
4. March 1992 - December 1994: vacant
5. December 1994 - May 1995: Plenipotentiary for Women and Family

6. May 1995 - November 1997: Plenipotentiary for Family and Women
7. Since November 1997: Plenipotentiary for Family

As we can see, each reestablishment of the office was followed by a change in its name, together with significant changes in its scope of activities, each time further neglecting the issues for the advancement of women. The head of the office has been appointed by the regulation or Government resolution (as opposed to by law or Constitution), thus bestowing upon the position a low rank as compared to others at the legislative organs' disposal. None of the Plenipotentiaries have been considered as members of the Government, although the former one was present in the Government's administrative structure as an undersecretary of state; - not as an independent institution, but as the plenipotentiary to implement short-term tasks delegated by the government. Historically, the first Plenipotentiary's competencies and tools to execute them via supreme and local state administrative bodies were at the highest levels. None of the Plenipotentiaries had legislative initiative and thus were unable to directly influence the governments' social policy. The Plenipotentiary's functions were to express opinions, initiate certain actions and sometimes coordinate these actions.

The present situation. Today, the advancement of women's issues are not included in the Plenipotentiary for Family's scope of activities. The only women-related task is to continue the National Action Plan as well as some other major women-oriented programs.

The office operates within the Prime Minister Chancellery's structure and has limited legislative initiative (i.e. only with the Prime Minister's approval, after discussion by the Council of Ministers) to serve on issues mainly related to the family, not dealing directly with women - due to the office profile. The Plenipotentiary is not entitled to direct international cooperation. His main task is to express opinions (The Plenipotentiary uses its opinionating rights to block initiatives aimed at the women's advancement issues. Examples include negative opinion on the draft law on equal status or an initiative to stop subsidizing contraceptives.) on certain governmental and self-governmental solutions. Formally, the office does not support a network of local counterparts, but in some voivodship offices there are local plenipotentiaries responsible for family issues. The Plenipotentiary has a separate budget to independently implement specific programs. As a summary of the office's annual activities, the Plenipotentiary submits only information to the Council of Ministers; no report is required, as was the case for former plenipotentiaries.

The Plenipotentiary has not started any institutional cooperation with NGOs on gender equal status, advancement of women, or any other women's issues. Formally, the Plenipotentiary is obliged to coordinate the implementation of the Platform for Action, but in practice no such activity takes place.

Central and local state administrative bodies are only indirectly responsible to take measures aimed at the advancement of women, i.e. by obligations due to tasks allocated to the bodies implementing the National Action Plan.

II. LEGISLATIVE CHANGES, THE NATIONAL ACTION PLAN, PUBLIC PROJECTS (Platform for Action, H-2)

1. Legislative changes related to the status of women

- The Constitution

The following provisions of the new Constitution, active as of Autumn 1997, represent the legal bases for equal gender status:

Article 32

1. All people are equal before the law. All people have a right to equal treatment by public bodies.
2. No one can be discriminated against in political, social or economic life regardless of reason.

Article 33

1. In the Republic of Poland women and men both enjoy equal rights in family, political, social and economic life.
2. Women and men have an equal right to education, employment and promotion, equal salary for a job of equal value, social insurance, and public positions and functions.

However, the Constitution is absent of information regarding the institution responsible for legal and practical implementation of the equal gender status principle and of a course of action in case of discriminatory practices against women.

- Labor Code

Legal basis for equal status can also be found in the new Labor Code (but only in the basic labor law rules), amended in February 1996:

Article 11

1. Employees have equal rights resulting from equal responsibilities; this relates especially to equal treatment of men and women at work.
2. Any discrimination at work, especially due to gender, age, disability, race, nationality, political or religious beliefs and union membership - is intolerable.

However, these provisions are only declaratory because they cannot be a basis for claims. The Code lacks procedures on how to demand the implementation of these rights and sanctions in case of their violation.

The Labor Code does not contain any provisions that would prevent discrimination regarding equal access to work.

- Social insurance reform

In November 1998, Parliament adopted a law on social insurance reform introducing a pension allowance system that is unfavorable for women. The pension is disproportionately lower for women as compared to men due to an unequal, lower retirement age.

- Amendment to anti-abortion law

A restrictive Act on Family Planning, Protection of the Human Embryo, and Protection Conditions of Legal Pregnancy Termination in force since 1993 was liberalized in January 1997, however, for a short period. For almost a year women could enjoy a right to abortion if they are in a socially or personally disadvantaged position. In December 1997, based on a verdict by the Constitutional Tribunal, women lost this right, again. At present, abortion is allowed only if:

1. the pregnancy imperils the life or health of the pregnant woman,

2. pre-natal examination or other medical conditions indicate that there is a high likelihood of a severe and irreparable handicap of the fetus or an incurable illness threatens its life,
3. there are reasons to suspect that the pregnancy is a result of an unlawful act.

The law of January 1997, has obliged the Education Ministry to introduce into school curricula a new subject: sexual life of humans. So far, the classes have not been introduced and after several attempts by the authorities (the Government and the Parliament), in December 1998, the Sejm (lower chamber) amended the law, conclusively eliminating the provision.

In April 1998, the Health and Welfare Ministry made a decision to stop subsidizing five of eight contraceptives.

Apart from the above mentioned:

~ The office of the Government's Plenipotentiary for Family and Women was closed down (by decision of the Council of Ministers, Nov. 7, 1997) and replaced by the Plenipotentiary for Family.

Draft laws:

- Equal status draft law

In December 1996, the draft law (by the initiative of the Parliamentary Women Group, signed by 162 out of 440 MPs) was submitted to the Sejm Speaker, after five years of preparatory work. By the end of the term, the law still had not been discussed. During the period between 1997 - 1998, two other versions of the law were submitted to the Sejm Presidium.

The draft law recommends establishment of an ombudsman for Equal Status of Men and Women, with a responsibility to monitor observation of the law and to initiate actions to eliminate all gender discriminatory practices. The draft law recommends a quota system that would start a period of balanced representation of each gender in decision-making bodies.

The present ruling coalition has an extremely negative attitude toward the very idea of having equal status guaranteed by the law. In December 1998, the Government issued its negative statement on the draft law.

- Draft laws on marital separation

In November 1998, two draft laws (one by the Government, one by the deputies) on marital separation were submitted to the Parliament. Both envisage launching separation into the civil code for the purpose of creating religion-based instruments to maintain marriages, and in practice - to make divorces more difficult.

2. National Action Plan

In 1996, the Plenipotentiary for Family and Women developed the National Programme of Activities for Women - first stage of implementation by 2000 (NAP). The NAP tries to adjust Polish regulations to the guidelines included in the Platform for Action and was approved by the Council of Ministers on April 29, 1997.

In the National Action Plan, 10 areas of concern have been identified, covering different areas of women's lives in society. The NAP consists of 25 strategic objectives; steps necessary to initiate corrective actions (53), and a detailed list of specific tasks addressed to particular addressees.

The following areas of concern have been identified in the NAP: poverty of women, education of women, women and health, violence against women, women and economy, women in power and decision making, institutional mechanisms for the advancement of women, human rights of women, women and the media, women and the environment, and girls. All of them fall into the scope of competencies of governmental bodies.

It is necessary to stress that the NAP includes:

1. Mechanisms for cooperation between state administration and NGOs;
2. Research strategy and gender disaggregated data collection systems.

The NAP sets up a schedule, declares those responsible for the implementation of the tasks, and envisages monitoring and evaluation activities.

Although the Government had not allocated separate funds to implement the NAP, those responsible for its implementation (i.e. central and local state administration organs) are obliged to find the means within their annual budgets.

- Implementation of the National Action Plan before and after 1997

The implementation of the NAP started in April 1997. The following bodies are responsible for the NAP implementation:

1. Almost all Ministries (15), within the scope of their competencies;
2. All levels of local state administration (49 voivodships until January 1999, after that - 16 voivodships and all powiats);
3. Various central agencies and other state institutions.

The Plenipotentiary for Family and Women has been appointed as responsible for implementation of the NAP. In practice, however, the Plenipotentiary was able to do so only until the end of October 1997, (until the office was closed by the new ruling coalition).

As of November 1997, the coordination of activities was taken over by the newly established Plenipotentiary for Family, by decision of the Council of Ministers. The present Plenipotentiary does not fulfill its coordinating functions.

The Report on implementation of the NAP by the government was prepared (but not released) by the Plenipotentiary for Family in June 1998. It's surprising that the Report does not include any information from the Education Ministry and health-care sector which are responsible for various tasks of fundamental importance for gender equal status. In the part of the Report related to the implementation of tasks by central administrative organs, only the National Labor Office and the Central Statistical Office were mentioned.

The Report does not include any information on how the Plenipotentiary is implementing its own tasks nor confirms any involvement of the office in coordinating actions to implement the NAP. The Report does mention the fact that the NAP's implementation was abandoned by the local state administration bodies.

- Implementation of the National Action Plan during the period 1997 - 1998 based on the questionnaires completed by central and local state administration organs

The Women's Association for Equal Gender Status - Beijing 1995 sent 88 questionnaires to 39 central offices and institutions and 49 voivodship offices in Poland, asking for information on the implementation of tasks specified in the National Action Plan. The questionnaires contained sets of questions related to results, the level of advancement, possible barriers to the implementation of tasks by particular responsible offices, as well as questions on the financial means allocated for implementation, monitoring and cooperation with Plenipotentiary for Family as well as with other NGOs.

Questionnaires were returned by only five central institutions (Central Statistical Office, Culture Ministry, Health and Welfare Ministry, Economy Ministry and State Treasury Ministry). The Association did not receive any questionnaires filled in by voivodship offices. It seems that such a reaction was caused by a written order by minister Kazimierz Kapera (The present Plenipotentiary for the Family), dated Dec. 2, 1998, not to

reveal any information to the Association ("... it's not sensible to answer the Association's questions included in the questionnaire").

Instead of the completed questionnaires, the Association received 15 letters, in which the following two arguments prevailed:

1. The Plenipotentiary has complete information so there is no need to answer the questions included in the questionnaire.
2. The respective body is not competent to answer the questions and there is no person in the office to answer such a questionnaire.

Central offices

Seven letters were sent back by the following central offices and institutions: State Labor Inspection, Housing and City Development Office, Education Ministry, Defense Ministry, Science Research Committee, Police Headquarters, Farmers Social Insurance Office (KRUS). The letters prove that either the NAP is totally unknown or its implementation is considered unimportant. For example, it was written: "If and when the Education Ministry received the copy of the National Action Plan with the tasks allocated to the Ministry is unknown" (Education Ministry). "In reference to your letter of Nov. 20, 1998 asking for the completion of a questionnaire regarding the National Action Plan for Women, we hereby inform you that it's not clear why we should answer such a questionnaire. At the same time, we would like to mention that the President of KRUS informed the Plenipotentiary on implementation activities in July 1997". (Farmers Social Insurance Office - headquarters).

Five questionnaires provided proof that only the Central Statistical Office, Health and Welfare Ministry and Economy Ministry implement, although in a limited scope, their respective tasks set up by the NAP.

The analysis of results are not optimistic. Considering the small number of filled-in questionnaires, one can assume that under the present pro-family policy of the government, the NAP is not being implemented at all by the vast majority of central bodies; the implementation is carried out only by few of them and in a very limited scope.

The questionnaires show clearly that in the central offices and institutions:

1. There are no persons responsible for the coordination and monitoring of the National Action Plan, with the Central Statistical Office being the only exception. Here, the person responsible for coordination of the Plan is highly located within the ranks of the Office;
2. They do not submit information about the implementation of the NAP's joint tasks. Usually these joint-tasks (to be implemented by all central administration organs) are of fundamental importance for the advancement of women.
3. There is very poor financial involvement or none whatsoever. For instance, the State Treasury Ministry mentions the lack of adequate financial means as a reason why the implementation has been suspended.

Voivodship offices

The Association has received six letters from voivodship offices: Opole, Legnica, Gdańsk, Gorzów Wielkopolski, Krosno and Nowy Sącz. According to the responses, in the voivodship offices there are no appointed persons to implement the National Action Plan. "Since Kazimierz Kapera has taken over the family issues, there has been no contact person to implement the National Action Plan for Women developed by Jolanta Banach - the Government's Plenipotentiary on Family and Women" (Voivodship Office in Gdańsk). "In respect to your letter of Nov. 20, 1998, we hereby inform you that after replacing the

Plenipotentiary for Family and Women with the Plenipotentiary for Family, the position of the voivodship plenipotentiary for family was established. At the same time, we would like to inform you that we can't answer your questions since they don't fall into our scope of competencies" (Voivodship Office in Krosno).

The fact that at the voivodship level there are no persons responsible for the implementation of the National Action Plan means that the NAP is not being implemented at the voivodship level. The letter sent by Minister Kapera to voivodship offices asking them not to reveal any information confirms this. "In regard to your letter of Nov. 20, 1998 on revealing the data on the implementation of the National Action Plan for Women, we have received a letter from the Plenipotentiary for Family. The letter states that the Plenipotentiary is the only institution entitled to prepare the report for the 43rd UN session of the Commission on the Status of Women. Because of this, the information you have asked for is available from the Plenipotentiary" (deputy director of the Voivodship Health Care Unit from Gorzów Wielkopolski).

It is surprising that in their letters, the voivodship offices repeated the statement made by minister Kapera, thus depriving non-governmental organizations the ability to prepare the report. It's especially surprising that they follow minister Kapera's requests thus breaking a constitutional right to information.

3. Other governmental programs targeted at gender equal status.

During the period of 1996 - 1997, the Plenipotentiary for Women and Family developed the program "Against Violence - Equal Chances". It was approved by the Council of Ministers to be implemented during the years 1997 - 1999 in cooperation and with financial support from UNDP. The program was an attempt to create an institutional source of help for Polish women who found themselves in especially difficult situations. Unfortunately, the newly established Plenipotentiary for Family (November 1997) stopped the implementation of the program based on ideological assumptions that help for women and children outside of their home loosens family ties. In September 1998, the plan to organize shelters for women and children was abandoned and replaced by the program to set up advisory centers for families with problems. In the centers, the help is limited mainly to mediation and reconciliation for the families as well as "spiritual support" provided by priests instead of physicians, lawyers and psychologists. It's worth noticing that the program, which has nothing in common with its original goals, is carried out under its previous name; thus ensuring a continuous inflow of funds from UNDP.

Other programs: Competition for non-governmental initiatives, a number of workshops for NGOs.

Cooperation forum for NGOs and the Plenipotentiary

By the initiative of the Plenipotentiary for Family and Women in May 1996, the Cooperation Forum for NGOs with the Plenipotentiary for Family and Women was established. The Forum was an institutional form of cooperation and held its meetings monthly. The Forum combined organizations working for women, families and children. It used to be a consultative, advisory and opinionating body that included 38 NGOs. Its work on the National Action Plan for Women until the year 2000 was the most spectacular example of the cooperation within the Forum. When the office of the Plenipotentiary for Family was established the Forum was discontinued. As of November 1997, there has been no institutional form of cooperation between the government and women's organizations working for the advancement of women.

III. GENDER-DISAGGREGATED DATA AND RESEARCH ON WOMEN SITUATION (Platform for Action, H-3)

Out of all the governmental programs, only the National Action Plan for Women includes research strategies to evaluate the situation of women in all areas of social life.

The government supports women-oriented research only in a limited way and within the scope of the guidelines within the NAP. For instance, the National Labor Office ordered the Warsaw School of Economics (SGH) to carry out a large, country-wide survey among unemployed women. The Central Statistical Office regularly carries out women-oriented surveys, including but not limited to social and professional activities of women and social health broken down by gender.

Public opinion centers have carried out polls on women's status and people's attitude toward equal status. Respondents have been asked about their attitude toward the gender equal status law as well as about the issues of the advancement of women and equal chances (in 1997).

The media covers the issue only occasionally.

Gender Studies courses, as a discipline of different academic centers have been set up by the initiative of individual researchers. The government neither encourages nor interferes.

Typically, the government does not use women related data, findings and conclusions from the research, nor statistical information while formulating its goals, tasks and solutions related to specific policies.

At present, the Plenipotentiary for Family plays no role in gender-disaggregated data collection or the carrying out of surveys related to the situation of women.

IV. EVALUATION OF THE NATIONAL MACHINERY FOR THE ADVANCEMENT OF WOMEN IN THE OPINION OF NGOS

A goal of the questionnaire developed by the Women's Association for Equal Gender Status - Beijing 1995 and sent to over 200 women's NGOs was to collect the opinions of these organizations on the national machinery for the advancement of women. Evaluations and opinions are based on 33 questionnaires that were completed and returned.

According to NGOs, there is a visible turning point when evaluating the implementation of guidelines from the Platform for Action. "Until October 1997, the political climate and general attitude toward the advancement of women were positive, in line with the spirit of Beijing conference (in spite of strong opposition from the part of the Parliament)". "Because right-wing parties whose activists are interested in maintaining the traditional family model came to power, the changes that occurred were for the worse". The vast majority of women's organizations claim that the change of the ruling coalition in 1997 did not serve the machinery for the advancement of women well, nor the implementation of women's rights and women-oriented programs. There has been no continuity in the policy for women; the obligations made by the previous government are not being respected by the present one.

The majority of respondents said that present state administration officials responsible for the implementation of programs for gender equal status are not competent; they are

not familiar with international documents and the government's obligations resulting from them nor have they received any training in terms of gender issues. All respondents agreed that the equal status issue does not shape the present governmental policy, and a majority sees this as a serious threat to gender equal status in Poland. ("A woman is perceived mainly as a mother and wife. The present policy petrifies gender stereotypes and does not remove barriers to equal chances for women..., deprives women of rights that they had already received, like the right to legal abortion or sexual education. The martial separation draft law and new pension regulations are the new threats". "Only one model of women's status is promoted - as a wife and mother in a family of many children". "Many employers sets unjustified age barrier, when considering employing a woman". It's difficult to collect credible information on how the implementation and effects of the NAP are evaluated, because: "there are no governmental sources (analyses, reports). This fact makes the evaluation of the particular areas totally impossible." "We have a gut feeling that the NAP is not being implemented and that the present Plenipotentiary for Family shows no interest in the NAP, against the decisions made by the Council of Ministers".

In terms of the gender equal status, there had been, but currently there is no form of cooperation between NGOs and the national machinery for the advancement of women. Most of the respondents positively evaluated the cooperation with and work of the Plenipotentiary for Family and Women during the period 1995-1997. However, a vast majority of the respondents answered that the present Plenipotentiary does not cooperate with them. ("When Ms Banach was a plenipotentiary, there was an exchange of information and frequent contacts. Now you wait endlessly for your letter to be answered. In the Plenipotentiary office nobody knows anything. The present Plenipotentiary is interested only in families with many children and seems not to notice any issues related to gender equal status." NGOs do not cooperate with voivodships (or appointed officials) in relation to the National Action Plan or any other women-oriented program. No local programs for women resulting from the National Action Plan are being implemented. "We don't know anything about local programs implemented by the state administration, but we know about many initiatives and activities of NGOs, started independently, without cooperation with local authorities". "Unfortunately, in local self-governments nobody wants to oppose the government, and the government considers women to be B-class citizens. Violence is a manifestation of masculinity and law execution stops on the home threshold". "The basics for the voivodship program (Legnica) have been developed by the former voivod's plenipotentiary for family and women. But after Parliamentary elections in 1997, the present voivod rejected all local projects, especially women-oriented, because they were developed by the previous coalition! After the elections, Legnica Voivod (from AWS) closed down the position of the plenipotentiary".

Half of the respondents mentioned that during the period of 1995-1997, NGOs received donations to implement women-oriented programs. Only one organization mentioned such a donation received from the present Plenipotentiary, and only one had access to documents on implementation of both national and local programs which it received by its own accord.

One question in the questionnaire related to the cooperation with the Parliament. A little more than half of the respondents confirmed their cooperation with the Parliamentary Women's Group: "The Parliamentary Women's Group invites us to participate in all important meetings. However, the Parliamentary Women's Group remains invisible in public life".

RECOMMENDATIONS

Polish authorities should:

- Immediately reestablish an institution responsible for the advancement of women or set up an institution responsible for gender equal status and equip this institution with competencies ensuring effective actions. This institution should have direct impact on the government's policy and legislative initiative, controlling executive functions and instruments, as well as a separate budget allowing the implementation of the strategies and equal status programs;
- Adopt the equal status law;
- Review national law from the point of view of its convergence with the Constitutional provisions on gender equal status and international documents on women's rights as human rights;
- Implement the National Action Plan for Women until the year 2000 and ensure continuance of such program beyond 2000;
- Follow the principle that only a gender-sensitive person is appointed as a coordinator of the National Action Plan;
- Observe reproductive rights and ensure women the right to legal and safe abortion; and
- Create a gender-disaggregated database, to be included in the ongoing surveys on gender perspective and use this data while developing governmental strategies and programs.