

## DISCRIMINATORY MANIFESTATIONS AGAINST WOMEN IN THE FIELD OF EMPLOYMENT – RISKS, PROFILES AND PROTECTION

*The study examines especially the current problems related to the establishment and protection of women against discrimination in the field of employment.*

*The main objective of the study is to synthesize the following: based on an assessment of the degree of transposition of the European legislation into the Bulgarian legislation and its actual implementation, as well as of the positions of women in employment, to identify the threatened to discriminatory risk women in different profiles and mainstreaming the main policies/measures to protect them.*

*The study points out that the Bulgarian legislation is highly harmonized with the European legislation, which allows the efforts to be directed towards its observance and application, incl. through monitoring control. It has been pointed out that the highest legal weight in the country's legislation is the Protection against Discrimination Act and the Law on Equality between Women and Men.*

*As a result of relevant analyzes and evaluations it is summarized that in the sphere of employment, the qualitative characteristics of the female workforce are clearly outlined as the main factor for its positioning in horizontal and vertical terms. The prerequisites for the occurrence of horizontal and vertical segregation of women, often at the limit of discrimination, result from this.*

*The main communities of women at higher discriminatory risk in the employment field are defined. Multi-profile analysis and employment assessments of women have been conducted revealing the differences between women and men in terms of employment, the employment status and the payment.*

*The study recommends that the gender policies and measures be directed primarily towards limiting/overcoming the differences in the level of quality assessment of human resources by gender. The need to combine them with policies and measures for prevention and protection against discrimination is highlighted. In this context, it underlines that substantial importance have the actions of the Commission for Protection against Discrimination which applying the Law achieves real protection against discrimination, incl. also for women in the field of employment.*

*JEL: J21; J31; J64; J71*

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## **Introduction**

The positive tendencies in the development of the Bulgarian economy in recent years, the achievement of a relatively high economic growth and financial stability create conditions and prerequisites for solving the important problems in the sphere of work and the sphere of employment in particular, including the limiting of inequalities, as well as acts of discrimination against women.

In the ten years after the accession of Bulgaria as a full-fledged member of the European Union, not only have there been many improvements of the existing national legislation, but also specific laws have been accepted for the promotion and validation of the equality between men and women and for the protection against discrimination, which is predominant among women. The harmonizing between the national and European legislation has been accomplished through the implementation of the European legislative regulations and standards, which are contained in the many conventions in the sphere of gender equality and the provision of equal opportunities to women in the work sphere. This process has contributed to the greatest extent to the providing of guarantees for the attainment of real equality and maximum “narrowing” of the field of discrimination practices. On the other hand, the topic of effective use and application of the regulatory framework has received a great importance when solving the complicated discrimination case studies.

These findings create a need and uncover the possibilities for performing a scientifically applied research of the position of women in the sphere of employment regarding their inequality, differences and degree of discrimination in comparison with men. Based on this statement, is formulated the main goal as well as the sub-goals ensuing of this research.

The main goal is synthesized in the following way: based on the evaluation of the degree of implementation of the European legislation into the Bulgarian legislation and its real application, as well as based on the position of women in the sphere of employment, the women threatened by a risk of discrimination should be identified and appropriate measures and policies for their protection should be taken.

The implementation of the main goal requires a consecutive realization of the following sub-goals:

- Analysis and evaluation of the corresponding European and national regulatory framework as a guarantee for the reliable disclosure of acts of discrimination against women in the sphere of employment
- Establishment of the position of women in the sphere of employment, the risk situations and behavior of women, the responsibilities of employers for limiting the acts of discrimination
- The allocation of factors and prerequisites for the occurrence of inequality/discrimination against women in the sphere of employment and of the workplace, specifically the differences in payment for equal work to men, uncovering the possibilities for acts of discrimination based on different women profiles,

systematization of conclusions and recommendations with the goal of maximum reduction of acts of discrimination against women in the sphere of employment

For the aims of the current research, the following sources of information have been used:

1. *Employment and Unemployment*, NSI, 2016.
2. *Conducting a nationally representative sociological survey of a territorial feature to identify and elaborate profiles of the groups and communities most affected by the risk of discrimination, Consolidated analytical report in implementation of activity 1 under the project "Prevention of discrimination and equal opportunities BG05M90P001 - 3.003-0001-C001, implemented by the Commission for Protection against Discrimination*, 2017.
3. *Methodology and Tools for Prevention, Detection and Prevention of Discrimination*, Sofia, 2017 (under the same project).
4. *Handbook, Non-discrimination and Equality for Everyone*, Commission for Protection against Discrimination, Sofia, 2016.
5. *Monitoring the Practices for the Application of Anti-Discrimination Legislation*, Commission for Protection against Discrimination, Sofia, 2016.

### **Evaluation of the Legislation for Protection of Women against Discrimination in the Sphere of Employment**

The aggregation of international legal acts, as well as the European legislative regulations and standards, which have been reflected in the Bulgarian legal framework, represent a solid regulatory framework for the establishment of inequality between men and women, as well as acts of discrimination against women. It redefines forms and methods for counteraction with the aim of achieving a higher degree of gender equality and insurance of guarantees for prevention and protection against discrimination related to women in the sphere of employment.

The initial construction of the legislation, which proclaims the equality between men and women as a main principle of social relationships was established 70 years ago (1948) with the adoption of The Universal Declaration of Human Rights of the United Nations. For the first time, the equality between all people was guaranteed with this historical document, including on the ground of gender, with it being noted that they "have the right to equal protection against any discrimination".

The UN Universal Declaration of Human Rights is the starting point for the creation and adoption of a series of international UN and ILO documents that develop and specify gender equality and gender discrimination objectives.

The following ILO and UN conventions are of great importance for the legal settlement of the protection of women's rights in the field of employment<sup>2</sup>:

- ILO Convention No 89 on the Prohibition of Night Work for Women in Industry, 1948;
- ILO Convention No. 3 on Maternity Protection, Revised as Convention No. 103, 1952;
- ILO Convention No. 100 on Equal Remuneration, 1951 ratified by Bulgaria in 1955;
- ILO Convention No 111 on Discrimination in the Field of Work and Occupations, 1958, ratified by Bulgaria in 1960;
- United Nations Convention on the Elimination of Discrimination in Education, 1960, ratified by Bulgaria in 1962;
- United Nations Declaration on the Elimination of Discrimination against Women, 1967;
- United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979, ratified by Bulgaria in 1981;
- ILO Convention No. 156 on Workers with Family Responsibilities, 1981;
- ILO Convention No. 175 on part-time work, 1994;
- ILO Convention No 177 on Home Work, 1996.

The consecutive ratification by Bulgaria of the indicated conventions assures legal protection of women in the area of work and profession as to specific problems have been dedicated particular conventions. For example, the convention for equal pay, for protection of motherhood, i.e. for protection of women who are also mothers in relation to their participation in the sphere of employment, for the prohibition of nighttime work for women in the industry and others.

A central place in the aggregation of specific conventions for the protection of women is reserved for the UN Convention for the Elimination of All Forms of Discrimination against Women. However, it must be noted that this Convention was ratified by Bulgaria in 1981, but was published in the State Gazette no. 17 only in 2010 when it became an integral part of the domestic law. This fact means that Bulgaria is required to take action in order to eliminate discrimination against women so that gender equality is achieved in the economy, including labor, social, civic and other public spheres.

Moreover, The UN World Conference on Women's Rights has more noticeably followed issues related to the respect of women's rights worldwide (Beijing, 1995). The Declaration and Platform for action accepted during this conference synthesize strategic priorities for the protection of women's rights, while priority goals and problems in the area of employment are reserved a special place: compliance with the work rights of women; assurance of equal access to the decision making; lowering the level of unemployment; increasing the employment rate among women. The Beijing conference requires its

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<sup>2</sup> The conventions are showed in a chronological order.

participants, including Bulgaria, to provide a plan for action. In order to evaluate the implementation of the decisions, a special UN session, known as "Beijing + 5", was held in 2000 on "Women 2000: Gender Equality, Development and Peace in the 21st Century". The following finding validates the importance of the holding of this session by the United Nations: the goals chosen by the Beijing Conference have not been met. This placed serious requirements upon Bulgaria, more importantly: perfecting the legislation with the aim of removing discrimination in the sphere of work; assuring guarantees for equal access to the enhancing of professional qualifications to both men and women, respectively to the acquiring of better job positions by women; overcoming the gender pay gap.

An important role in the execution of these requirements was completed by the process of the implementation of European legislative regulations into the Bulgarian legislation. It began long before Bulgaria joined the EU and continued during the membership of the country into the European community. Currently, there are also improvements and additions being executed to the legislation in force, according to the innovative changes in the protection of women's work rights.

**Which are the main European regulations that have been implemented into the Bulgarian legislation in the sphere of employment, as well as the protection against acts regarding discrimination against women?**

Before we consider a specific answer to this question, it is appropriate to emphasize the incredible importance of periodically reporting the execution of the requirements in place, according to the recommendations given to Bulgaria resulting from the provisions in the European Social Charter in the field of work.<sup>3</sup> The degree of detail when defining the progress, of the need to clarify the legal and practical case studies respectively, is too high. This is proven by the contents of the Sixteenth National Report, for the period of January 1 2014 and December 31 2016, i.e. for the period of three years, submitted by the Government of the Republic of Bulgaria to the Council of Europe in accordance with Article C and Article D of the European Social Charter (revised) on the measures for implementation of the adopted provisions.

The European Social Charter, as the main international document, places obligations on the countries with a readiness to ratify individual articles and paragraphs of the Charter, with the emphasis being placed on the issues of equality between women and the implementation of the principle of equal opportunities for women and men. A special place is reserved for the requirement for the elimination of discrimination based on gender.

Bulgaria's integration into the European Community implies not only the implementation of European legal norms and standards into the national legislation but also the establishment of institutional mechanisms for their implementation as well as monitoring control.

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<sup>3</sup> European Social Charter, Conclusions of the European Committee of Social Rights of 2016, Bulgaria, January 2017.

It is well known that European law is distinguished by a large and diverse set of so-called European Council directives that regulate the legal frameworks of the main aspects of the problem of achieving equality between women and men, with a focus on women's rights in the various spheres of work relationships, including employment. The founding ones are:

- Directive 75/117 / EEC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women;
- Directive 76/207 / EEC on the implementation of the principle of equal treatment for men and women in regards to the access to employment, vocational training and promotion, and working conditions;
- Directive 86/378 / EEC on the application of the principle of equal treatment between men and women in occupational social security schemes;
- Directives 92/85 / EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers, workers who have recently given birth or are breastfeeding;
- Directive 97/80 / EC on the burden of proof in cases of discrimination based on sex;
- Directive 2000/78 / EC establishing a general framework for equal treatment in employment and occupation;
- Directive 2006/54 / EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation;
- Directive 2010/41 / EC on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity.

The specific purposefulness of the European Directives provides an opportunity for an adequate adaptation of their requirements in the Bulgarian legislation and an application in the different fields of work legal relationships respectively.

It definitely can be said that, as a result of many years of efforts by the competent authorities, the national regulatory framework meets the requirements and the legal provisions of the European legal framework to a high degree about the guarantees of equality between women and men in the field of employment and, in this context, with regards to the prohibition and protection against discrimination based on gender.

The main law of the Republic of Bulgaria – The Constitution (1991) proclaims the principle of equality of all people before the law. The right to work is guaranteed by the law and the relevant state authorities carry out its implementation with the necessary competence for this purpose.

It should be noted that, in view of the requirement that the legal framework of Bulgaria be harmonized with the international and European legislation, an addition has been introduced to the Constitution (article 5, paragraph 4) according to which, the international contracts ratified by constitutional order and enacted for Bulgaria become a part of domestic law and take precedence in cases where national law conflicts with them. This

ensures the timely incorporation of current EU law achievements into the relevant area of Bulgarian law.

A founding document that protects the rights of women who work is the Labor Code, which is periodically updated. It includes many important additions regarding the special protection of working women, connected to pregnancy and child-rearing. A great importance is given to the right of women to receive equal pay to men for equal work. The code also defines the responsibilities of employers in regards to pregnant women and mothers.

A series of normative documents regulating different aspects of the participation and protection of women in the workplace, such as the Employment Promotion Act, the Family Code and others act in the legal space. The most important laws regarding the coverage and protection of women against discrimination, as well as the achievement of equality and equal opportunities in the field of work, are the following specific laws:

- Protection against Discrimination Act (promulgated in September 2003);
- Equality Law for Men and Women (promulgated, April 2016).

With the adoption of the Protection against Discrimination Act, the needs for legal regulation of the prohibition and protection against discrimination in different spheres of public life were met. The new provisions provide legal safeguards to protect women against discrimination and equal treatment of women and men, respectively. The law synchronizes the provisions of international law with regard to the prevention and counteraction of discrimination. It is at the center of the legislative framework of the Bulgarian anti-discrimination legislation for all spheres of public life. The Protection against Discrimination Act transposes the provisions of a number of UN and ILO conventions as well as European Union directives, especially those relating to the field of work, employment in particular. Evidence of the high quality of this law is the fact that the European Commission gives a positive assessment of the purposefulness and content of its clauses and identifies it as significant progress in the area of anti-discrimination law.<sup>4</sup>

The Act on Equality between Women and Men is in fact a legal basis for policies to achieve equality and equal opportunities. In this sense, it is a guarantor, but also a regulator of policies and measures for equality in the workplace. This law governs the implementation of state employment policy. Its purpose is to promote the achievement of equality between women and men, creating the conditions for the establishment of an institutional environment and defining the bodies and mechanisms for the implementation of policies for the equality of women and men.

The Act sets out the principles governing the state policy on equal treatment of women and men:

- Equal opportunities for women and men in all spheres of public, economic and political life;

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<sup>4</sup> Regular progress report on Bulgaria, European Commission, 2003

- Equal access for women and men to all resources in society;
- Equal treatment of women and men and non-discrimination and gender-based violence;
- Balanced representation of women and men in all decision-making bodies;
- Overcoming gender stereotypes.

In order to achieve a real equality between women and men, the functions and responsibilities of the respective institutional bodies and the mechanisms at central and regional level are detailed in the Act. These executive structures conduct and coordinate policies in line with the National Strategy for Gender Equality.

As the main programming document, The Strategy contains: the objectives of achieving equality in all areas; the authorities responsible for their achievement; priority areas of action, as well as a set of relevant indicators providing monitoring of the implementation of the objectives and policies.

In conclusion, it is reasonable to determine that the Bulgarian legal framework for identification, prevention and protection against discrimination is largely harmonized with European norms and standards. This fact proves that the national legislation provides the necessary safeguards to achieve equality for women and men, which in turn is a basic prerequisite for limiting the discrimination against women in public life and the field of employment in particular.

### **Identifying the risk communities of women threatened by discrimination in the field of employment**

The participation of women and their behavior on the labor market in the context of a unique supply and demand situation, including the female labor force, the identification of the main factors and profiles of gender inequality as well as the opportunities for discrimination against women predetermine the structure and status of their employment. In this field, the qualitative characteristics of the female workforce are more clearly defined as a decisive factor for the effective positioning in the horizontal and vertical cuts of employment. In this process, employers put into practice their needs and preferences for the women's labor force on the labor market, according to their education, professional profile and qualification degree, optimize their distribution by classes of professions and positions.

The identification of female employment makes it possible to reveal the existence of sectoral, professional and occupational segregation of employed women. The different types of segregation are based on differences depending on the existence of risks of inequality and discrimination against certain social communities by women. Such communities at risk of discrimination are women with the following demographic, social, professional and family characteristics:

- **Women from the peripheral age ranges** – young women without professional experience, as well as those who raise small children; there is a paradox where young



women without the necessary length of service are not preferred by employers; in these cases, a vicious circle is created, since young female employees cannot have gained work experience; this case is further complicated when these women are mothers and are raising young children, which is a cause for multiple discrimination. The situation is similar in the case of high age brackets above 50 years of age, where age discrimination is likely to manifest at a higher degree, especially when it comes to women at retirement age;

- **Single mothers** – this community of young and middle-aged women rely mainly on social assistance and childcare by the state through placement in childcare facilities; these state policies provide an opportunity for single mothers to engage in employment, which puts appropriate requirements on employers and, where appropriate, the application of incentive and sanctioning measures on them; incentives to employ single mothers should provide them with part-time employment, training with the goal of raising the professional and qualification status of these mothers, increasing their wages, and reducing the scope for discriminatory practices as an expected target result;
- **Mothers with many children** – a risk segment that intertwines demographic and social factors. Again, it is the responsibility of the state and the economic subjects, but it is necessary to refer to the respective responsibilities of the mothers with many children, mainly related to the ratio between material and financial possibilities and the number of the raised and schooled children, i.e. in this case, the principle of prohibition of discrimination must be applied;
- **Mothers of children with disabilities** – in relation to this community of women-mothers, the state has established appropriate legislation to ensure the specific needs of children are met; the combination of policies and measures not only implies but also excludes the possibility of discriminatory actions, but this should be accompanied by the implementation of specific actions defined in specific legislation;
- **Women with disabilities** – with regard to this group of women, in order to prevent discrimination, it is necessary to strictly observe the specialized legislation;
- **Pregnant women and women during maternity leave** – this group of women enjoys the necessary "privileges" that have been legally settled. Compliance with relevant legal rights, regulations and standards ensures both prevention and subsequent protection of these women from attempts to be discriminated;
- **Women with low levels of education and qualifications** – it is clear that this group of women brings with them the preconditions for discriminatory actions as well as self-isolation; they have a very low degree of readiness for employment, often because of income inefficiency they accept discriminatory working conditions and pay for their labor; employers do not invest in their training and retraining which forces them to be subjected to occupational discrimination; the latter manifests itself as horizontal and vertical segregation;
- **Unemployed women** – in this women's risk contingent, the problem lies in the situation of the labor market and the behavior of unemployed women in view of the demand and

supply of women's workforce; in this area, the opportunities for discrimination are relatively minor;

- **Unemployed women in long-term unemployment** – this women's social group is characterized by very negative dimensions, which reflect the attitude of the employers towards them; other factors such as education, qualifications, marital status, which aggravate / relieve employers' decisions for their recruitment, also influence this. Employers are reluctant to invest in training and updating their qualifications or they compromise but at the expense of their wages; obviously, there are relatively more prerequisites for direct, indirect and multiple discrimination in this group of women;
- **Women from ethnic communities** – as a result of specialized studies<sup>5</sup> on the influence of the "ethnicity" factor, it has been found that there are discriminatory practices among the Roma ethnic group and in particular among Roma women at a comparatively higher level; however, the fact that the discriminatory actions identified are due not so much to the ethnic profile as to a low degree of education or illiteracy, long-term unemployment, complete lack of readiness for employment, multiple-family status, etc . which are inherent to the Roma ethnic minority women; there are discriminatory practices on the labor market and in the field of employment;
- **Women with aggravated family status** – women in this community face the following difficult dilemma: family responsibilities or full-time employment; women dedicated to family care and, above all, to children, ignore their personal desires for professional development, thus creating the conditions for indirect/hidden discrimination; the second group of women have strong interests in professional and public leadership; they are generally not subject to discriminatory attacks; increasingly, there is the formation of a contemporary position of this community of women who prefer to combine their family and professional responsibilities; to achieve this goal which is difficult to achieve, it is necessary for women to "fight" on two fronts: on one hand, in the family, the composition of which is dependent on the number and age of the children, as well as the presence of other dependent members (elderly parents) which predetermines their position on the labor market, and, on the other hand, in the very field of employment where workers and employees with family responsibilities and other workers and employees are opposed to one another. In this respect, the implementation of ILO Convention No 156 on Equality of Opportunities and Equal Treatment for Women and Men with Family Responsibilities is particularly effective. The Convention proclaims that they must exercise their right to work without being discriminated against.

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<sup>5</sup> Husseinov, B. "Education and Employment" - Basic Prerequisites for Real Integration of Roma, Collection "Problems of Roma Integration", 2017

### **Women's positions in employment based on general profiles – a prerequisite for discriminatory events**

The classification of women, depending on the type and nature of the possible risks of discrimination should be supplemented by assessments of employment positions by general profiles, revealing those which are most often a premise for discriminatory conditions.

Multi-profile employment assessments of women are indicative of the extent to which they are employed compared to men, as well as the employment structure profiles, employment status, and age structure of employed women.

Table 1  
Dynamics and changes in employment based on gender for the period of 2010-2016

Time period	Coefficient of employment			Differences between women and men
	total	women	men	
2010	47.9	43.2	53.0	9.8
2011	46.6	42.4	51.1	8.7
2012	46.6	42.6	50.8	8.2
2013	46.9	42.8	51.4	8.6
2014	48.0	43.6	52.7	9.1
2015	49.1	44.5	54.1	10.4
2016	49.3	44.3	54.6	10.3

Source: based on data taken from *Employment and Unemployment, NSI, Sofia, 2016*.

The analysis and assessment of changes in employment rates have shown a higher employment rate for men over the whole 7-year period surveyed, with an average of 50-55% for men, compared with 42-45% for women. Employment rates by gender vary between 8-11 percentage points. They reflect the impact of labor market factors on unemployed women as well as the employment rate dependency on typical women's groups at risk of discrimination. To illustrate the real ratios between women and men employed, data is also available in absolute terms for 2016: the number of employed men is 1607.6 thousand, and for employed women – 1409.2 thousand. The difference of nearly 200 thousand shows the existence of unfavorable conditions giving rise to discriminatory actions against women who appear on the labor market and in employment.

Negative results from analyzes and estimates of women's employment rates compared to men are compounded when they are compared with the gender-based employment rates on average for the EU Member States<sup>6</sup>. In 2016, the male employment rate in the EU is 72% and for women it is 61%, i.e. the difference in employment rates by gender is 11%. For the same year, the employment rates for men and women in Bulgaria are 55% and 44%, respectively. It is noteworthy that the difference in the values of the employment coefficients is 11%, i.e. the differences between men and women for Bulgaria and the EU are the same. This coincidence points to the conclusion that the magnitude of the difference between the employment rates of men and women in Bulgaria does not deviate from that

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<sup>6</sup> The life of women and men in Europe (statistical portrait) Eurostat, NSI, 2017, p.11.

for the European Union, which reveals that the incidence of discriminatory practices in Bulgaria towards women is not higher than the average for the EU member states. Comparing, however, the differences between the employment rates for men and women for Bulgaria and the European Union, one should not overlook the fact that the average EU employment rate is 17% higher for both men and women than the one in Bulgaria. Obviously, it is necessary to update policies and measures to promote employment in Bulgaria, especially with regard to women.

In order to reveal the possibilities for age discrimination of women, the study also includes the influence of age.

Table 2

Changes in employment based on gender and age for 2010 and 2016 (%)

Distribution by gender	Coefficients of employment			
	15 – 24	25 – 34	55 – 64	65 +
<b>Total</b>				
2010	24.3	70.5	44.9	2.9
2016	19.8	69.9	54.5	4.3
<b>Women</b>				
2010	21.2	64.6	39.2	1.5
2016	16.3	63.6	51.0	2.8
<b>Men</b>				
2010	27.3	76.1	51.3	4.8
2016	23.1	75.9	58.3	6.1
<b>Differences between women and men</b>				
2010	6.1	11.5	12.1	3.3
2016	6.8	12.3	7.3	3.3

*Note:* the differences between men and women are in favor of men.

*Source:* based on data taken from *Employment and Unemployment*, NSI, Sofia, 2016.

The defined differences between the employment rates of women and men in the peripheral age groups at the beginning and at the end of the survey period are minimal, with the exception of differences for the age group 55-64. These differences show a marked decrease from 12.1% to 7.3% i.e. with nearly 5%, which shows an increase in the employment rate of women in this age group for a seven-year study period. Women's employment rates for 2010 and 2016 amounted to 39.2% and 51.0%, respectively, registering a 12% increase in female employment. Naturally, this positive fact applies to women in general, which does not exclude discrimination related to the influence of other factors/attributes such as education and qualification level, employment status and family status.

Table 3  
Employment of men and women according to employment status for 2010 and 2016 (in %)

Distribution gender	by	Employment status			Unpaid family workers
		Employers	Self-employed persons	Employees	
<b>Women</b>					
2010		28.3	38.0	48.0	66.0
2016		28.0	37.0	48.0	67.0
<b>Men</b>					
2010		71.7	62.0	52.0	34.0
2016		72.0	63.0	52.0	33.0
<b>Difference between women and men</b>					
2010		43.4	24.0	4.0	32.0
2016		44.0	26.0	4.0	34.0

*Source: based on data from Employment and Unemployment, NSI, Sofia, 2016.*

It is interesting to note the results from the research of the correlation relationships and dependencies between the level of employment among women and men, based on employment status.

Professionally analyzed employment status of women in employment reveals broadly-anticipated differences between women and men. With regard to the status of "employers" – the employment rate of men is about 2.5 times higher than that of women; the ratio between men and women by status in employment "employers" amounted to 72:28. Men predominate in the "self-employed" position exceeding women by about 1.5 times. In addition, these ratios persist throughout the surveyed period 2010-2016. It is clear that this status in women's employment creates prerequisites for vertical segregation, often bordering on discrimination. It should be pointed out, however, that in recent years positive trends have developed in the development of innovative technologies, creating new modern niches for the employment status of women. The results of the survey conducted in 2016 among 37 companies in the IT industry and 3172 employees, of which 37% are women, are very encouraging. The positive trend of an increase in the number of women who hold management positions or other higher positions<sup>7</sup> has been reported.

In 2014, women in such positions were 30% and men – 70% in 2015, the ratio is changed to 33 to 67 and in 2016 to 34.5 to 65.5. Obviously, stereotypes in society that ICT is predominantly "male work" are being refuted. In recent years, there has been an increased interest in female employment in this sector, as well as female candidates for such an education. It can definitely be said that opportunities for discrimination against women in terms of employment are excluded. Moreover, the information from the above study reveals that in the outsourcing business where language culture is required (fluency in English and other languages), women employed in this field are predominant.

<sup>7</sup> "Is it easy to be a woman in the IT sphere? ", A Woman's Journal, 2017  
- IT (YT) – Information Technology  
- ICT – information and communication technologies

Interesting and encouraging is the ranking of employed men and women on the "classes-professions" profile, and in particular the position of "managers". Obviously, there is a difference in their scope between the status of "employers" and the "managers" position. It is possible that an employee (male/female) is a manager, but not an employer, more common in women. Another option that is more relevant to men is when an employer but may not hold a managing position. Different options predict the differences in male: female ratios. In employers' employment, the ratio is 72:28 and in the managers position the ratio is - 62:38. This difference of ten percentage points for women means that there is a higher level of employment for "managers" than for employers.

The above-mentioned ranking of employed men and women on the profile of "profession classes" – position "managers" allows for a comparative analysis between Bulgaria and the EU member states.<sup>8</sup> The male: women average rate for the EU is 67:33, ie. one-third of the executives in 2016 are women. It should be noted immediately that for Bulgaria the relative share of women in the position of managers is 5 percentage points higher than its average for the EU member states. Only six of the countries are positioned before Bulgaria: Latvia with 47% representation of women as leaders, Poland and Slovenia with 41%, Lithuania, Hungary and Sweden – 39%, followed by Bulgaria - with 38%. The remaining 21 countries are ranked after Bulgaria, such as France – 33%, Germany – 29%, Austria – 32%, Greece and the Czech Republic – 25%. This rating proves the comparatively high level of education, leadership skills and teamwork skills of Bulgarian women.

Concerning the employment status of employees, the ratio of women and men shows the expected results – employed women are 4.0 percentage points less than the men employed in 2016. These differences are due both to the professional and qualifying qualities of the female labor, as well as family-related reasons. In this context, it is appropriate to study and evaluate the correlation between the employment of women and the number and age of their children. It is clear that family factors related to children largely determine the type and forms of paid employment of mothers. Family status is aggravated when the woman-mother has to be the head of the family, ie. in case her family partner is unemployed or actively looking for a job. In this situation, the most likely outcome is the participation of women mothers in additional employment, accepting the unacceptable conditions offered by the employers for unremunerated working hours, minimum wage, etc. Obviously, these are manifestations of direct and hidden discrimination of mothers.

As a proof of the importance of the number and age of children as factors, information on the employment rate of mothers compared to men is presented and analyzed, depending on the presence of children aged 0-6 years. It is interesting to combine this factor with the "degree of education of mothers compared to males – fathers.

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<sup>8</sup> The life of women and men in Europe (statistical portrait) Eurostat, NSI, 2017, p.15.

Table 4

Coefficients of employment of the population between 20 and 49 years of age, with regards to the presence of children between the ages of 0 and 6, based on gender and level of education (in %)

Gender/ Presence of children	Level of education			
	Total	Higher Education	Secondary Education	Basic Education
<b>Total</b>	70.9	86.6	72.0	41.2
With children between the ages of 0-6	70.0	83.0	74.4	35.5
Without children between the ages of 0-6	71.1	87.7	71.6	42.8
<b>Men</b>	74.8	89.6	76.8	49.1
With children between the ages of 0-6	84.0	95.0	89.6	53.6
Without children between the ages of 0-6	72.9	88.1	74.7	48.0
<b>Women</b>	66.8	84.6	65.7	32.3
With children between the ages of 0-6	58.4	76.2	58.5	19.7
Without children between the ages of 0-6	69.1	87.5	67.3	36.6
<b>Differences between men and women with children</b>				
With children between the ages of 0-6	25.6	18.8	31.1	33.9
Without children between the ages of 0-6	3.8	0.6	7.4	11.4

*Source: based on data taken from Employment and Unemployment, NSI, Sofia, 2016.*

Indicative are the rates of employment coefficients for women-mothers, and those with children up to 6 years of age are lower than those without a young child by 11%. This fact is more pronounced in mothers with basic or lower education – with 17% lower employment for mothers with young children, followed by mothers with higher education – 11.3%. Even more striking are the differences between women and men with children under the age of 6 – 25.6%, whereas these differences for mothers with basic or lower education and secondary education reach values of 33.9% and 31.1%, respectively. Undoubtedly, these values are indicative of a low employment rate for young women with young children, which in turn is associated with a number of negative consequences: limiting the perimeter of women's participation in paid work; regression in their professional experience; devaluation or reduction of the labor cost of mothers; reduction of the income and quality of life of their families, especially if the number of young children in the family is higher. As an evidence for this statement, information is provided on the impact of the number and age of the children in the family as a factor on the employment of parents, on average for the member states of the European Union<sup>9</sup>. The comparative analysis between the respective employment rates for women and men, depending on the number of young children in the family, shows that, in the EU average of 2016, the employment rates of women and men without children amounted to 65 % and 73%. For Bulgaria for the same year, the employment rates for women and men without children are 69% and 73%. These close employment rates for women without children in Bulgaria and in the EU reflect the fact that this marital status allows women to achieve a higher level of

<sup>9</sup> The life of women and men in Europe (statistical portrait) Eurostat, NSI, 2017, p.11.

employment. It is a separate issue that it is lower than male employment, which is related to traditional stereotypes.

However, the situation changes markedly when women and men raise a small child, in this case it is conventionally meant between the ages of 0-6, as is the standard for Bulgarian statistics. The employment rate for women with a child aged 0-6 years in Bulgaria is 58%, while the average for the EU member states is 71%, i.e. the difference is relatively high and amounts to 13%. This value of the difference in employment rates of women in Bulgaria and in the EU reveals the insufficient degree of development and implementation of policies and measures in order to achieve the reconciliation of family care for children with the professional employment of mothers. It is not important to point out that the employment rates for men with one child in Bulgaria and the EU have almost the same values – 84% and 85%, respectively. This fact proves that the care of a young child is mainly the concern of the woman-mother, which manifests itself more strongly in Bulgaria – the mothers of young children have a lower employment rate than men with 26%, while for the member states of the EU it is lower by 14%.

The analyzes and assessments made are an effective reference point for purposefully developing a strategic antidiscrimination document of specific policies and measures to protect and support women-mothers with a high level of inequality compared to men-fathers.

In the field of employment, there is unequal treatment of women in the workplace, which to a certain extent turns into discrimination. Above all, it is possible for it to manifest itself in non-compliance by economic subjects with labor norms and standards. As already noted, Bulgarian legislation is harmonized with the requirements and provisions of European law. It is appropriate to point out that measures to ensure the full exercise of the right to work without discrimination based on sex are presented in a synthesized form in the European Social Charter (revised):

- Access to employment;
- Professional orientation;
- Professional reintegration;
- Training and retraining;
- Career development;
- Protection from hiring without signing an employment contract;
- Protection against dismissal and dismissal.

One of the most serious violations of women's labor rights on which the employers' behavior towards them in the labor process depends is employment without a contract of employment. It is well known that the actions taken and mainly the requirement for mandatory registration in the NSSI have greatly limited this practice. The ratio between women and men employed without an employment contract is 30:70 and the one for



employees with an employment contract – 48.6: 51.4%.<sup>10</sup> Although the number of women employed without a contract of employment is more than 2 times lower than that of men, the behavior of employers towards women in terms of working time parameters, working conditions, and the pay of their labor tend to lean, to a greater extent, towards the application of discriminatory practices typical of the shadow economy. The negative consequences of women's participation in the informal sector are highly depressing and leading to degradation not only in terms of their professional status but also in a socio-emotional aspect.

Indicative of the assessment and extent of discrimination of women in employment are the results of the sociological survey conducted on the identification of the communities most affected by the risk of discrimination.<sup>11</sup> The survey concludes that in almost all regions of the country more often than not there are multiple discrimination practices, i. on several signs. Apart from gender, mainly against women, discriminatory practices are also found on the grounds of age, ethnicity, right to work, property status. It is of interest to note the approach applied in the study to identify groups / communities at risk of discrimination, namely the self-assessment of the risk of discrimination. Of all the respondents, 14% perceive themselves as discriminated against. Ethnicity is perceived as grounds for discrimination by 35%, which is a very high proportion, followed by respondents who have self-assessed as age-discriminated (17%), physically and mentally disabled (8.4%) and relatively low (7%) rank the respondents who think they are sexually discriminated.

These real results give the basis to summarize the conclusion that the difference in the degree of discrimination is due not so much to gender differences but to other grounds for discrimination. This is confirmed by similar results testifying to the power of action of the individual grounds for discrimination in the search and finding of work: the lowest share is this of the respondents who indicated the gender attribute as a reason for refusal to be employed (1.5%). For comparison, the results of the self-assessment of the respondents for other grounds for discrimination are provided: with the highest share belonging to those who indicated "pay for labor" (38%) as a probable reason for discrimination, followed by "working conditions" (32.5%), low qualification (25%), age (17%). The evaluation of the values / causes of discrimination examined highlights the importance of equal pay for labor, which is the main source of inequality for women in the field of employment, which often turns into its corresponding forms of discrimination.

### **The principle of equal pay for equal work – a guarantor against discriminatory practices in the field of employment**

The principle of "equal pay for equal work" is stated in the founding international document – ILO Convention No 100 on Equal Pay for Men and Women for Equal Work of

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<sup>10</sup> According to data from "Employment and Unemployment", NSI, Sofia, 2016.

<sup>11</sup> Consolidated analytical report on the project "Prevention of Discrimination and Equal Opportunities", Commission for Protection against Discrimination, Sofia, 2017, p.50 and p.54.

1951, ratified by Bulgaria in 1956, but promulgated much later in 1997. Thus, the Convention forms a part of the domestic law of Bulgaria. The following decisions receive a mandatory status: creating an adequate legal environment; the development of an adequate system of valuation and remuneration of labor; settlement of the relationship between workers and employees with collective agreements, including clauses on equal pay by gender. A number of legal acts of worldwide and European significance are devoted to the principle of "equal pay for equal work".

It is well known that the national legislation transposes all norms and standards that require the fulfillment of important obligations to the relevant authorities in order to achieve a real implementation of this principle in the field of pay for women and men. Despite these positive actions, the 'equal pay for equal work' principle has not yet been effectively implemented, as a result of which discriminatory practices persist. In the field of pay, they could qualify as discriminatory pressure, for economic, social and family reasons of aggravating nature, women are forced to accept lower pay than men.

It should be noted that gender pay gaps are formed under the influence of three main groups of factors: economic, personal/family and degree of application of discriminatory practices.

Obviously, for the purposes of this study, it is of paramount importance to determine the share of impact the discrimination factor has in identifying gender pay gaps. In order to minimize or eliminate them, it is advisable to carry out a detailed study and rank the specific factors/causes that created a discriminatory element in the pay gap between women and men.

In this respect, the provisions of the Protection against Discrimination Act on Equal Treatment of Women and Men in Employment and Labor Payments are particularly helpful in this respect:

- Any direct and indirect discrimination based on sex is prohibited;
- The employer provides equal remuneration for equal or equivalent work;
- The labor assessment criteria for determining wages are the same for all employees.

In this context, it is appropriate to bring and analyze information on the pay gap between women and men for equal work. This provision assumes that there is a conflict between the principle of equal pay for equal work stated in the legislation of the country and the social and economic practices applied by employers on the determination of the remuneration of women and men.

The most commonly used statistical indicator for measuring and evaluating the gender pay gap between countries is the share of women's pay from that of men, the gender pay gap respectively. Here, however, the question arises about the choice of wage type comparisons in terms of time – monthly, weekly, daily and hourly. In the European Union, the average gross hourly wages of women and men are used to measure the relative share of women's pay from that of men as well as the gender pay gap. It is also acknowledged that these indicators measure these values in a pure form, as they are not affected by the additional remuneration for achieved results usually paid to men's salaries. Moreover, the choice of

this indicator as a criterion for assessing gender pay differences makes it possible to carry out comparative analyzes between Bulgaria, the European Union (average magnitudes) and individual EU Member States.<sup>12</sup>

The analysis and assessments of the three main indicators of the gender pay gap reveal that Bulgaria is at the center of the "golden middle" of the EU member states with a difference of 15.4% and a deviation of the EU average (-0.9%). The negative value of the deviation shows that Bulgaria registers lower gender pay gap compared to the EU average. This positive trend in reducing the pay gap between women and men in Bulgaria is an important signal for Bulgaria's increased economic and financial stability. It is particularly noteworthy that, for 12 of the EU Member States, including Germany, Austria, the United Kingdom, the Czech Republic, Slovakia, the gender pay gap is higher than the average for the EU and Bulgaria. This conclusion testifies to the successive and effective policies and measures to reduce the gender pay gap and, in particular, to raise women's wages and respect for the principle of equal pay for equal work.

Table 5  
Gender Pay Gap for the European Union, member countries, incl. Bulgaria for 2015 (%)

European Union and member countries	Relative share of women's pay from that of men	Gender Pay Gap	Deviations of the pay gap according to country from the average value for the EU
<b>European Union</b>	<b>83.7</b>	<b>16.3</b>	-
<b>Bulgaria</b>	<b>84.6</b>	<b>15.4</b>	- <b>0.9</b>
<b>Countries with a higher pay gap compared to Bulgaria and the EU</b>			
Estonia	73.1	26.9	+ 10.6
Czech Republic	77.5	22.5	+ 6.2
Germany	78.0	22.0	+ 5.7
Austria	78.3	21.7	+ 5.4
United Kingdom	79.2	20.8	+ 4.5
Slovakia	80.4	19.6	+ 3.3
<b>Countries with a lower pay gap compared to Bulgaria and the EU</b>			
Spain	85.1	14.9	- 1.4
Hungary	86.0	14.0	- 2.3
Sweden	86.0	14.0	- 2.3
Poland	92.3	7.7	- 8.6
Romania	94.2	5.8	- 10.5
Italy	94.5	5.5	- 10.8
Luxembourg	94.5	5.5	- 10.8

Source: Compiled and calculated with data gathered from *The Life of Women and Men in Europe (a Statistical Portrait)*, Eurostat, NSI, 2017.

The composition of countries with a lower pay gap compared to the EU and Bulgaria - Spain, Hungary, Poland, Romania (a total of 15 EU Member States) is also interesting. Here, it is worth noting the fact that for Romania the value of the gender pay gap amounts

<sup>12</sup> The life of women and men in Europe (statistical portrait) Eurostat, NSI, 2017, p.16 and p.17.

to only 5.8%; which is 10.5% lower than the EU average and nearly 10% lower than that in Bulgaria. It is obviously necessary to study good practices in these countries, paying due attention to pay differences due to discriminatory actions applied to women.

### **Protecting women from discrimination in the field of employment**

The main tool for protecting women from discrimination, incl. in the sphere of employment is the national anti-discrimination legislation – laws, norms and sub-normative acts. As already noted, the legal framework in this area is fully harmonized with European norms and standards. Its implementation, and especially the laws with the highest weight – the Law on Protection against Discrimination and the Act on Equality between Women and Men – is a guarantee of the implementation of the measures and actions for the protection of women provided for in these laws. The Protection against Discrimination Act regulates the protection against all forms of discrimination and contributes to its prevention, providing "effective protection against discrimination". Important considerations in terms of the present study are the provisions on protection when exercising the right to work, i. in the field of employment. These include concrete measures for employers to take related to employment, the provision of favorable working conditions and equal pay for equal work.

The Law has provided a proper place to protect women, pregnant women and mothers from discrimination. The prohibition of the specific discriminatory criterion – gender identity is a basic feature of anti-discrimination legislation.

The Executive Agency under the Protection against Discrimination Act is the Commission for Protection against Discrimination, which is an "independent specialized state body for preventing discrimination, protection against discrimination and ensuring equality of opportunity". A very important function of the Commission are the "anti-discrimination proceedings" initiated on the basis of a complaint by the people concerned, on the initiative of the Commission and on signals from natural and legal persons, to state and municipal authorities. In cases where discrimination based gender, usually predominant in women, has been proven, Commission practices lay down uncompromising sanctions.

In this regard, it is appropriate to identify specific practices of the Commission related to the established discrimination against women. The most common ones are the complaints of gender discrimination mainly among women about pay inequalities. In another case, the complainant's career development was restricted. Many women are forced to train newly recruited men who then take their jobs: "Two Pazardjik workers (complainants at the Commission) were instructed to train their younger male colleagues, after which they were made redundant and men were hired in their place." In this case, the Commission finds discrimination and imposes appropriate penalties on employers; in another case of discrimination identified by the Commission: "seven mobile worker complainants complain about the withdrawal of their social benefits after returning from maternity leave" and "not being provided equal opportunities by their employer for vocational training and qualification after maternity leave". The Commission imposes sanctions and provides employers with mandatory injunctions for stopping offenses. There are also cases where

age discrimination has been established – termination of the employment relationships of employees aged 30-40 years, as well as violations of the principle of "equal pay for equal work".

The aggregated information provided by the Commission on alleged discrimination on the grounds of sex is of interest, which found out that the number of cases filed was relatively small – 23 in 2010 and 27 in 2016, decreasing in 2017 by 20 cases. Comparing this data with discrimination on other grounds – education, age, disability, personal situation, social status, shows that gender discrimination is several times less. Obviously, the preventive action of the Commission for the protection of women from discrimination is effective and has a multiplier effect, i.e. employers change their stereotypical behavior towards women and, largely, observe the requirements of the Act with regard to the exercise of women's labor.

It is advisable to focus on the Commission for Protection Against Discrimination's tasks and activities, not only related to protection against discrimination but also to its prevention. From this point of view, it is predicted to increase the capacity of the Commission and its regional representations, as well as to increase the impact of its activities on prevention, detection and protection against discrimination of risk groups / communities, incl. women based on different grounds for discrimination.

The Act on Protection from Discrimination contains provisions that inherently represent specific policies and measures to counteract discriminatory acts. It introduces prohibitions and obligations for employers as a party in an employment relationship.

The Protection against Discrimination Act provides for special protection of mothers taking maternity leave. It guarantees the right of a woman on maternity leave to return to her place of work after leaving the workplace, under conditions which are no less favorable than those she worked in before her maternity leave.

The Law also regulates the employment relationships of women and men with disabilities, and the employer is required to take the appropriate measures to provide opportunities for their professional realization.

Special attention is paid to the practice carried out by the Commission for Protection against Discrimination on the application of the Act, i.e. the institutional mechanism for protection against discrimination. The analysis of its activity reveals a pattern of increase in its decisions taken. It is noteworthy that the most common forms of discrimination are those in the labor market and at work. In its decisions, the Commission actually implements appropriate measures to protect against discrimination and thus assists those at risk of discrimination.

Obviously, the Anti-Discrimination Act is effectively enforced and is an important tool for the implementation of policies and measures by the relevant competent authorities. Through this Law, applied at the same time as the Law on equality between women and men, an implementation of policies and measures is achieved aimed at protecting women from discrimination. They ensure equality and equal opportunities for women and men as well as their social inclusion.

Multi-profile analysis and assessment of the possible discrimination of women in the field of employment has shown that there is, to a greater or lesser extent, in different forms and on different grounds, inequality, in some cases bordering on discrimination. The implementation of laws and other legal acts, the implementation of appropriate policies and measures to curb/eradicate it are the basic preconditions for ensuring the protection of women at risk of discriminatory actions.

### **Conclusion**

The basis for the actual establishment, prevention and prevention of discrimination against women in the field of employment is the relevant legal framework. The ensemble of laws and secondary legislation within the framework of the national legislation in a sufficiently high degree ensures the protection of women in the field of employment. The implementation of the legal norms and standards of the UN and ILO conventions as well as the European directives is a guarantee for their effective implementation by the Bulgarian institutions. A great importance is attached to the periodic reporting and control of their observance, incl. monitoring control. Only in this way is it possible to achieve equality between women and men in the field of employment and, in this context, with regard to the prohibition and protection against discrimination on the grounds of gender.

The highest authority on the protection of women against discrimination, as well as the achievement of equality and equal opportunities in the field of work fall on the Law on Protection against Discrimination and the Act on Equality between Women and Men. These laws are not contradictory, they complement each other, and there is a logical connection and dependence between them. The Act on Equality between Women and Men is, in fact, the legal basis of policies and measures to achieve equality and equal opportunities. The Anti-Discrimination Act provides legal safeguards to protect women from discrimination through prevention and counteraction.

In order to increase the effectiveness of the detection of discriminatory events and practices, it is appropriate to determine the factors and forms of discrimination in the field of employment.

As a result of relevant analyzes and assessments, it has been established that in the field of employment the qualitative characteristics of the female workforce are clearly outlined as a major factor for its effective positioning in the horizontal and vertical cross-section, i.e. by sectors, economic activities, professions and positions. In practical terms, it is particularly important to identify communities of women who are more at risk of discrimination, namely: women from peripheral age ranges, single mothers, mothers with multiple children, mothers of children with disabilities, women in pregnancy and motherhood, women with low education and qualifications, unemployed women, long-term unemployed women, women from a minority ethnicity, women with an aggravated family status.

This classification of women's risky communities is at the basis of the analysis and assessment of the positions in their employment according to the main typical profiles. In this way, the communities that best represent the occurrence of discrimination are revealed.

The employment rate differences between women and men, as measured by the employment coefficients, show that female employment is about ten percentage points lower. Clearly, this fact proves the existence of unfavorable conditions giving rise to discriminatory actions against unemployed women.

The profile analysis of employed women by their employment status once again reveals differences between women and men – in employers status, employment in men is about 2.5 times higher than that of women. Similar is the situation with the status of "self-employed". Obviously, there are prerequisites for the vertical segregation of women.

Of particular interest is the situation where the presence of young children in the family limits the employment of the mothers. In this case, they are forced to do extra work, accepting unacceptable conditions, mostly related to the amount of the pay. It is clear that this is a manifestation of hidden discrimination of mothers. All these negative consequences lead to a further reduction of the quality of their employability. This, in turn, is a source of emerging prerequisites for discrimination.

Last but not least, the influence of the "pay gap" factor between women and men emerges. Despite positive action in this area, the 'equal pay for equal work' principle has not yet been effectively implemented. With regard to this case, it is important to determine the discriminatory factor as the size of remuneration is formed under the influence of other factors, mainly of economic nature.

The study shows that the simultaneous application of the Laws on Protection from Discrimination and Equality of Women and Men ensure the implementation of appropriate policies, measures, and sanctions, aimed at protecting women from discrimination and the achievement of equality, equal opportunities and social inclusion of women's risky communities.

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