



European
Social
Charter

Charte
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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

DECISION ON THE MERITS

Adoption: 5 December 2020

Notification: 28 February 2020

Publicity: 29 June 2020

University Women of Europe (UWE) v. Greece

Complaint No. 131/2016

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 310th session in the following composition:

Giuseppe PALMISANO, President
Karin LUKAS, Vice-President
François VANDAMME, Vice-President
Eliane CHEMLA, General Rapporteur
Petros STANGOS
József HAJDU
Krassimira SREDKOVA
Raul CANOSA USERA
Barbara KRESAL
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Aoife NOLAN
Karin MØHL LARSEN
Yusuf BALCI
Ekaterina TORKUNOVA
Tatiana PUIU

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary

Having deliberated on 3 July 2019, 12 September 2019, 16 and 17 October 2019, 2, 3 and 5 December 2019,

On the basis of the report presented by Krassimira SREDKOVA,

Delivers the following decision, adopted on the latter date:

PROCEDURE

1. The complaint lodged by University Women of Europe (UWE) was registered on 24 August 2016.
2. UWE alleges that the situation in Greece is in violation of Articles 1, 4§3, 20 and E of the Revised European Social Charter ("the Charter") having regard to the pay gap between men and women and the under-representation of women in decision-making positions within private companies in Greece.
3. On 4 July 2017, referring to Article 6 of the 1995 Protocol providing for a system of collective complaints ("the Protocol") the Committee declared the complaint admissible.
4. In its decision on admissibility, the Committee invited the Government of Greece to make written submissions on the merits of the complaint by 13 October 2017.
5. In application of Article 7§1 of the Protocol, the Committee invited the States Parties to the Protocol and the States that had made a declaration in accordance with Article D§2 of the Charter, to submit any observations they might wish to make on the merits of the complaint by 13 October 2017.
6. In application of Article 7§2 of the Protocol, the Committee invited the international organisations of employers or workers mentioned in Article 27§2 of the Charter to make observations by 13 October 2017.
7. On 14 September 2017, the European Confederation of Trade Unions (ETUC) asked for an extension to the deadline for presenting its observations on the complaint. The President of the Committee extended this deadline until 3 November 2017. ETUC's observations were registered on 3 November 2017.
8. On 5 October 2017, the Government asked for an extension to the deadline for presenting its submissions on the merits. The President of the Committee extended this deadline until 3 November 2017. The Government's submissions on the merits were registered on 3 November 2017.
9. The deadline set for UWE's response to the Government's submissions on the merits was 9 February 2018. UWE's response was registered on 9 February 2018.

10. Pursuant to Rule 31§3 of the Committee's Rules ("the Rules"), the Government was invited to submit a further response by 5 April 2018. On 15 March 2018, the Government asked for an extension to the deadline for presenting its further response. The President of the Committee extended this deadline until 20 April 2018. The Government's further response was registered on 20 April 2018.

11. Pursuant to Rule 32A of the Rules, the President invited the European Network of Equality Bodies (EQUINET) to submit observations by 30 March 2018. EQUINET's observations were registered on 30 March 2018.

12. Pursuant to Rule 32A of the Rules, the President invited the European Union to submit observations by 15 April 2018. On 20 April 2018, the European Union asked for a new deadline for presenting its observations on the complaint. The President of the Committee set 25 May 2018 as a new deadline. The European Union's observations were registered on 28 May 2018.

SUBMISSIONS OF THE PARTIES

A – The complainant organisation

13. UWE alleges that the situation in Greece constitutes a violation of Articles 1, 4§3 and 20 as well as Article E combined with Articles 4§3 and 20 of the Charter on the following grounds:

- Firstly, UWE alleges that the pay gap between women and men still persists. Unequal pay is a reality, despite the international obligations entered into and the domestic legislation enacted.
- Secondly, UWE alleges that only a very small number of women occupy decision-making positions within private companies, since there are no effective legislative measures in order to ensure the sufficient representation of women in decision-making positions within private enterprises.

14. UWE further asks for the payment of €10,000 for costs incurred during the proceedings.

B – The respondent Government

15. The Government considers legislation and practice in Greece to be compatible with the obligations undertaken to implement the provisions of the Charter concerned and asks the Committee to find the allegations of UWE unfounded.

OBSERVATIONS BY WORKERS' ORGANISATIONS

The European Trade Union Confederation (ETUC)

16. The ETUC, making reference to various instruments of International Law and Eurostat statistics, concludes that it appears that the pay gap between men and women lies above 5.5% in all the countries concerned. The ETUC therefore observes that, as the statistics highlight, the principle of equal pay for work of equal value is not guaranteed in practice. It also indicates that this is even more true when the lack of clarity in relation to the calculation is taken into account (for example, to what extent do they reflect other discriminatory elements, such as career differences which can lead to an increase in the pay gap or issues related to the source of data (for instance, in the sectors of undocumented work or the informal economy, where the gender pay gap is probably even higher).

17. The ETUC further refers to data of the European Institute for Gender Equality (EIGE), with regard to the representation of women in decision-making positions in private companies, and concludes that only two countries achieved the European Commission's proposed 40% objective for the representation of women on Boards, namely France and Norway. The ETUC points out in its conclusion, however, that the data in question only refers to the 'largest listed companies', and not to other listed companies and non-listed companies which represent, quantitatively, a much higher share. The ETUC therefore assumes that none of the countries concerned reach the threshold of 40%.

18. The ETUC indicates that the two main elements raised in the complaint differ from a legal point of view. Equal pay is a classic fundamental principle, and despite States traditionally providing for it in legislation, they do not sufficiently enforce it. The second ground, which concerns the under-representation of women on decision-making boards in private companies, is a fairly new element appearing at international and national level as a problem to be seriously dealt with. Nevertheless, both elements are covered by Article 20 of the Charter which guarantees "the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex".

19. With respect to the pay gap between men and women, the ETUC raises the point that, in order to assess the conformity or non-conformity of the situation in each country with regard to the Charter, it is necessary to examine both substantive and procedural dimensions.

20. At the substantive level, there is a quantitative and a qualitative dimension to be considered. According to the ETUC, only a 'zero' pay gap should be permitted. However, on the basis that the interpretation of 'equal' does not apply in the strict sense of the word, a reasonable threshold could be a maximum of 5%. With respect to the qualitative dimension, as the statistics show, the pay gap between men and women continues to exist. The ETUC considers that it is no longer sufficient that States are free to choose the means by which they ensure equal pay, and point to the need to go further by taking into account the evolution of international case law. Accordingly, it would appear important to require a clear and comprehensive legislation, which should at least ensure that:

- the coverage of all workers is guaranteed;

- the general legal concept also includes indirect discrimination;
- the term 'pay' contains all elements of remuneration as well as supplementary pension;
- the comparison comprises as a minimum:
 - transparency
 - the reach of comparison between jobs performed by women and men being construed as wide as possible
 - a wide definition of 'equal value', also encompassing work that is of an entirely different nature, which is nevertheless of equal value;
 - the necessity to evaluate the respective jobs with criteria excluding any kind of discrimination, even indirect;
 - the assessment concerned is followed by effective consequences in cases where the results show that there is discrimination.

21. With respect to the under-representation of women in decision-making positions in companies, as a consequence of the decision of admissibility of the Committee, it follows that this aspect falls within the scope of Article 20.

22. At the substantive level, the ETUC considers that it is necessary to provide for a minimum threshold for representation of both sexes in decision-making positions. Although perfect equality, that is to say 50% of representation of both sexes, would not be a requirement, the ETUC considers that a percentage close to this, for example 40%, would be appropriate, as proposed by the European Commission.

23. As regards the specific situation of Greece, the ETUC considers that despite the existing regulatory framework concerning equal pay, there still exists a gender pay gap. Moreover, there exists no regulatory framework on representation of women in decision-making positions in private enterprises.

24. According to the ETUC, the fact that a phenomenon is prohibited does not, however, automatically mean that it ceases or disappears. Pay discrimination between women and men still exists despite the fact that it is prohibited and that there are a number of tools both in legislation and collective agreements that are intended to even out pay differences. From a substantive perspective, the ETUC believes that there are elements which should (at least in combination) lead to a violation of Article 20, such as the existence of the pay gap (statistical evidence) and the fact that the official statistics are still excluding small (micro) sized enterprises, which makes it most probable that the gender pay gap is even higher in these enterprises.

25. As regards a procedural perspective (i.e. a general framework to ensure a satisfactory application and enforcement/supervision of the principle of equal pay), the result of eliminating the gender pay gap is not yet fully achieved. From the point of view of the ETUC this illustrates that there still is a violation of Article 20 of the Charter also from the procedural perspective.

26. Concerning the under-representation of women in decision-making positions within private companies this problem has only been addressed in more recent years. As regards substance, statistical evidence shows that there is still an underrepresentation of women in decision-making bodies within private companies. Even if there might be relevant legislation and even if the degree of representation of women would have increased it is not to be disputed that women are not sufficiently represented within these bodies. From the point of view of the ETUC this illustrates that there is a violation of Article 20 of the Charter from the substantive perspective.

27. As regards procedure, it would appear that there are no effective legislative measures in order to ensure the sufficient representation of women in decision-making bodies within private enterprises. In practice, there is even less supervision and enforcement. From the point of view of the ETUC this illustrates that there is a violation of Article 20 of the Charter also from the procedural perspective.

OTHER OBSERVATIONS

A – The European Union

28. In its observations regarding University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden (Complaints Nos. 124-138/2016), the European Union, through the European Commission, highlights the European Union's legal framework and policy action of relevance to the matters raised in the complaints.

29. As regards the legal framework, the European Commission recalls that the principle of equal pay between women and men has been enshrined in the Treaties since 1957. The principle of equal pay for men and women for equal work and work of equal value was laid down in the original European Economic Community Treaty of 1957, more precisely in its Article 119, which later became Article 141 of the European Community Treaty. Since the entry into force of the Treaty of Lisbon (2009)³, the principle is embodied in Article 157 of the Treaty on the Functioning of the European Union (TFEU).

30. As regards non-legislative policy initiatives, according to the European Commission, closing the gender pay gap remains a major objective to achieve gender equality and it is a political priority. The gender pay gap in the EU still averages around 16%. This is socially unfair as well economically inefficient, equal pay being an obvious prerequisite for equal participation in the labour market. Across the EU, women have better educational outcomes than men (44% of women aged 30-34 in the EU attained tertiary education, compared with 34% of men). This factor does not prevent, however, women in the EU from being overrepresented in industries with low pay levels. Sectoral segregation continues to be one of the most important contributing factors to the gender pay gap in the EU.

31. In November 2017, the Commission adopted a Communication: EU Action Plan 2017-2019¹⁰, tackling the gender pay gap. The Action Plan presents ongoing and

upcoming measures taken by the Commission to combat the gender pay gap in 2018-2019. It identifies eight areas for action:

- Improving the application of the equal pay principle
- Combating segregation in occupations and sectors
- Breaking the ceiling: initiatives to combat vertical segregation
- Tackling the care penalty
- Better valorising women's skills, efforts and responsibilities
- Fighting the fog: unveiling inequalities and stereotypes
- Alerting and informing about the gender pay gap
- Enhancing partnerships to tackle the gender pay gap

32. Moreover, several other Commission actions relate directly to some of the elements of the complaints, such as combating segregation in occupation and sectors, by supporting transnational projects to tackle stereotypes and segregation in education, and patriarchal attitudes. Besides, the European Commission monitors the national legislation and policies of Member States regarding the gender pay gap and raises awareness about it. The Commission reports regularly about the evolution of the gender pay gap, the earnings and pensions gap in Europe. The Commission aims at combating vertical segregation, by working towards the adoption of a proposal for a Directive in this field.

33. The Commission considers that one way of determining work of equal value is by using gender-neutral job evaluation and classification systems. However, Directive 2006/54/EC does not oblige Member States to put such systems in place and their availability at national level varies significantly. To attain its purpose, Directive 2006/54/EC requires that Member States ensure that any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished.

34. The European Commission concludes by indicating that the complexity of the issues in question and the numerous elements that, in the end, lead to the gender pay gap can be seen from many different angles, from the sociological to economic and legal. Therefore, according to the European Commission, it is necessary to take all of these into account.

B –European Network of Equality Bodies (EQUINET)

35. According to EQUINET, very few cases of unequal pay between male and female workers have been investigated by the Greek Ombudsman. The financial crisis and high unemployment rates are factors that discourage women from claiming their labour rights. As a result, during pregnancy or the maternity protection period, women are pressured to consent to limitations of their rights or compromises in order to secure their job. This phenomenon appears mostly in the private sector.

36. In the public sector, at first sight unequal pay between men and women is almost non-existent. However, there are cases of indirect discrimination that entail unequal pay between men and women. For example, maternity leave is not recognised as a working period and women do not receive, during maternity leave, the additional allowance due to the nature of their (high-duties) position.

37. The Greek Ombudsman believes that it is necessary to inform citizens about their rights according to labour law and sensitize them, in order to claim their right of equal pay and other benefits. Furthermore, coordination and cooperation between the services involved are essential, so that the protection framework is more effectively applied.

RELEVANT DOMESTIC LAW

A – The Constitution

Article 4

1. All Greeks are equal before the law.
2. Greek men and women have equal rights and equal obligations.

Article 22

1. Work constitutes a right and shall enjoy the protection of the State, which shall seek to create conditions of employment for all citizens and shall pursue the moral and material advancement of the rural and urban working population. All workers, irrespective of sex or other distinctions, shall be entitled to equal pay for work of equal value.

2. General working conditions shall be determined by law, supplemented by collective labour agreements contracted through free negotiations and, in case of the failure of such, by rules determined by arbitration.

B – Law No. 3896/2010

38. By virtue of Law No. 3896/2010 on the “Implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation” a special framework was created to implement the principle of equal opportunities and equal treatment of men and women in employment and occupation, by means of which the Greek legislator seeks to improve, simplify and codify the current legislation in a new, single and coherent legislative text. .

39. The principle of equal pay is further defined by virtue of other provisions. They stipulate that where an occupational classification system is used to determine wages, the system should be based on common criteria for male and female workers and should exclude discrimination on the grounds of sex. When designing and

implementing staff appraisal systems related to their pay progression, the principle of equal treatment should be respected and discrimination on the grounds of sex or marital status should not be permitted.

Article 2

Definitions

For the purposes of this Law, the following definitions shall apply:

a. "Direct discrimination" shall mean any act or omission which excludes or places at a disadvantage persons on the grounds of sex, sexual orientation and gender identity and any instruction, encouragement or systematic encouragement of persons to engage in unfavorable or unequal treatment on grounds of sex.

b. "Indirect discrimination" shall mean any act or omission which places persons on the grounds of sex, sexual orientation or gender identity at a particular disadvantage by virtue of a provision, criterion or practice which is neutral at first sight, unless that provision, criterion or practice is justified objectively by a legitimate purpose and the means to achieve this purpose are appropriate and necessary,

...

e. "remuneration" means any kind of wages and salaries and all other benefits provided, directly or indirectly, from any source, in cash or in kind, by the employer to the employee, by reason of or in connection with the employment of the latter,

Article 3

Principle of equal treatment - Prohibition of discrimination (Article 2 (2) of the Directive)

1. All forms of direct or indirect discrimination on grounds of sex, particularly in relation to marital status, shall be prohibited in all areas within the scope of this Law, as specified in the following provisions.

2. (a) Harassment, sexual harassment and any less favorable treatment due to tolerance or rejection of such behavior shall constitute discrimination on grounds of sex and shall be prohibited.

(b) Discrimination on grounds of sex also constitutes any less favorable treatment of a person linked to gender reassignment.

3. The instruction involving discrimination against a person on grounds of sex constitutes discrimination within the meaning of this law.

4. It also constitutes discrimination within the meaning of the present law for the less favorable treatment of women due to pregnancy or maternity in the cases of Presidential Decrees 176/1997 (Government Gazette 150 A), 41/2003 (Government Gazette 44 A) and 142 Law 3655/2008 (Government Gazette 58 A).

Article 4

Prohibition of Discrimination in Remuneration

1. Men and women are entitled to equal pay for equal work or work of equal value.

2. (a) Where an occupational classification system is used for the determination of pay, this system must be based on common criteria for male and female workers and be enforced in such a way as to preclude discrimination on the grounds of sex.

(b) When designing and implementing staff assessment systems related to its wage developments, the principle of equal treatment must be respected and gender discrimination or family status should not be allowed.

Article 11

Access to employment - Recruitment conditions

1. Any form of direct or indirect discrimination on grounds of sex or family status shall be prohibited in respect of the conditions of access to employment or non-employment or to working life, including selection criteria and conditions of recruitment, irrespective of the branch of activity and at all levels of the professional hierarchy.

2. Any reference to sex or marital status or the use of criteria and elements which result in direct or indirect discrimination on grounds of sex, as defined in Article 2, as regards publications, advertisements, advertisements, notices, circulars and regulations concerning the selection of persons to fill vacancies, the provision of education or vocational training or the granting of professional leave.

Article 16

Return to work after maternity leave (Article 15 of the Directive)

A worker who has been granted the maternity leave or the special permit of Article 142 of Law 3655/2008 (Government Gazette 58 A) is entitled to return to her / her place of work or to an equivalent post at the end of her / no less favorable business terms and conditions and to benefit from any improvement in the working conditions that would be granted in the absence.

«The defendant» or the other party or the administrative authority bears the burden of proof before a court or other competent authority, that there was no violation of the principle of equal treatment. This tool, i.e., the reversal of the burden of proof is systematically used by the Ombudsman and has contributed to a great extent to the familiarization of inspected employers, (undertakings, bodies, services) with its application with positive results.

40. Under Article 14 of Law No. 3896/2010 and Article 10 of Law No. 4443/2016, termination of the employment relationship is prohibited, and the unfavorable treatment of a person in general when it occurs as a counter measure to the termination or to a worker's request for legal protection in order to ensure compliance with the principle of equal treatment. Moreover, any unfavorable treatment of a worker who protested or made a complaint about discriminatory treatment is prohibited.

41. Article 26 of Law No. 3896/2010 provides for a) the obligation of trade union organisations to inform their members about the regulations of this law, b) the obligation of employers to facilitate such information, take all necessary measures to prevent discrimination and to regularly provide data and information about the current situation of workers and the measures that they intend to undertake to further the principle of equal treatment and c) the obligation of the Ministry's services to provide information to trade union organisations and workers individually on the application of the law on equal treatment of men and women.

C – Law No. 4443/2016

42. Law No. 4443/2016 aims to promote the principle of equal treatment and to combat acts of discrimination in employment due to personal characteristics such as race, colour, national or ethnic origin, religious or other beliefs, and family or social status, among numerous other factors. The new law also facilitates the exercise of workers' rights in the context of the free movement of workers.

43. Under Law No. 4443/2016, the principle of equal treatment applies to all persons, in both public and private sectors, with respect to the conditions for access to employment and employment in general. This includes equal treatment as regards selection criteria and conditions of recruitment, access to all types and levels of vocational training and working conditions (e.g. remuneration, dismissal, health and safety at work and, in the event of unemployment, reintegration and re-employment). Furthermore, the new law creates the role of an Ombudsman to monitor and promote the implementation of the principle of equal treatment in the public and private sectors.

44. Laws No. 3896/2010 and No. 4443/2016 provide for important institutional tools to combat discriminatory treatment at the workplace, such as the reversal of the burden of proof, the protection against victimisation and the obligation to provide information and data. Moreover, it should be noted that no terms of discriminatory or unequal treatment of persons on the grounds of sex have been found in the texts of collective regulations that are in force today and have been signed under Law 1876/1990 "*Free collective bargaining and other provisions*" as amended and in force today.

45. Furthermore, a new bill on Substantive Gender Equality and on combating gender-based violence has been drafted under the initiative of the General Secretariat for Gender Equality (GSGE) and having been put to public consultation from 6 to 20 March 2018, it is now ready to be submitted to the Hellenic Parliament and become national law. It is the first attempt in Greece of drafting a horizontal bill aiming at identifying the circumstances needed to achieve substantive gender equality and eliminate gender inequalities in all sectors of public, social and economic life. The notions of gender mainstreaming and gender budgeting are introduced for the first time into a legislative text. A chapter is dedicated to "gender mainstreaming in private life and labour" with articles concerning provisions on behalf of the employer for the substantive gender equality in labour, social dialogue, and establishment of Equality Signs and Gender Award for enterprises adopting gender equality corporate policies.

D – Law No. 2893/2000

46. Article 6 Law No. 2893/2000 (O.G. 196 A') provides:

Article 6 - Issues of the General Secretariat of Equality

1.a) In every board of public services, of legal persons governed by public law or of local authorities, the number of members appointed by the Administration of every sex shall be equal to at least one third of those determined in accordance with the provisions in force, provided that, in the service in question there is a sufficient number of employees who meet the legal conditions for appointment and that the members appointed are more than one.

47. Law No. 2893/2000 of 12 September 2000, “imposes a one third quota requirement for the state-appointed portion of a board of all executive bodies consisting of members appointed by the state or local authorities, including companies fully or partially state-controlled”.

48. The Hellenic Code of Corporate Governance (2013), applicable to the private sector, recommends pursuing an optimum level of diversity, including gender balance, in the composition of boards and senior executive teams. It should be noted that this Code was drafted at the initiative of the Hellenic Federation of Enterprises.

49. In the case of appointment or indication by the State of members of the board of directors or of other collective management bodies of legal persons governed by public law or of local authorities, the number of persons appointed or indicated for each sex is equal to at least one third of the appointed persons or indicated according to the provisions in force, if the members appointed or indicated are more than one.

50. The provisions of subparagraphs (a) and (b) shall apply to the service boards, the boards of directors and the collective bodies established after the entry into force of this law.

RELEVANT INTERNATIONAL MATERIALS

A – Council of Europe

1. Committee of Ministers

51. The Committee of Ministers adopted several recommendations, such as Recommendation Rec(1985)2 on legal protection against sex discrimination, in which it exhorts member states to take or reinforce measures for the promotion of equality between women and men, including through legislation in the field of employment, social security and pensions, taxation, civil law, the acquisition and loss of nationality and political rights. In its Recommendation Rec(1996)51 on reconciling work and family life the Committee of Ministers further calls on member states to take action to enable women and men to better reconcile their working and family lives. In its Recommendation Rec(1998)14 on gender mainstreaming, the Committee sets out the conceptual framework for gender mainstreaming and a methodology for its implementation, accompanied by examples of good practices.

52. More recently, in its Recommendation Rec(2017)9 on gender equality in the audiovisual sector the Committee of Ministers invites the Member States to collect, monitor and publish data on gender equality. In particular, it asks the member States to adopt monitoring methods and performance indicators, highlight causal relationships using qualitative analysis of the data.

2. Parliamentary Assembly of the Council of Europe (PACE)

53. In its Resolution 1715 (2010) the PACE observed that discrimination against women in the labour market has a long history – as well as efforts to fight this discrimination. Several factors are put forward to explain the pay gap between women and men: horizontal and vertical segregation in the labour market (commonly referred to as “glass walls” and “glass ceilings”), women’s supposedly lower qualifications and lesser experience, and their atypical working hours and career structures due to childbirth and care responsibilities.

54. The PACE recommends that member states:

- ensure that the right to equal pay for work of equal value is enshrined in their domestic legislation, if this is not already the case; that employers are obliged to respect this right (and incur penalties if they do not) and that employees can have recourse to the judicial process to pursue their claims with regard to this right, without incurring risks to their employment;
- collect reliable and standardised statistics on women’s and men’s wages, not only on the basis of gross hourly earnings, but also over the lifecycle;
- promote fair job classification and remuneration systems, including in the private sector,
- aim to increase women’s labour market participation rate and work against the pitfall of part-time work by encouraging all measures seeking to improve the care of children and the elderly outside the home, and a more equal sharing of care and household responsibilities between women and men;
- follow the Norwegian and Icelandic models, and a recent French initiative, which require that a minimum of 40% of members of certain companies’ boards be female, as an enabling factor.

55. The PACE calls on the social partners, employers’ associations and trade unions, to respect and defend the right to equal pay for work of equal value, *inter alia* by promoting and adopting fair and transparent job classification systems and wage scales.

56. In its Resolution 1921 (2013) Gender equality, reconciliation of private and working life and co-responsibility the PACE observed that although progress has been made along the path towards gender equality, a traditional division of roles between women and men remains widespread in Europe.

3. European Court of Human Rights (ECtHR)

57. Article 14 (prohibition of discrimination) of the European Convention on Human Rights of 4 November 1950 provides:

Article 14

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

58. In *Konstantin Markin v. Russia* - Application No. 30078/06, Grand Chamber, judgment of 22 March 2012, the Court has pointed out that:

“127... [T]he advancement of gender equality is today a major goal in the member States of the Council of Europe and very weighty reasons would have to be put forward before such a difference of treatment could be regarded as compatible with the Convention ... In particular, references to traditions, general assumptions or prevailing social attitudes in a particular country are insufficient justification for a difference in treatment on grounds of sex.”

4. Commissioner for Human Rights

59. In his end-of-the-year statement (December 2017) the Commissioner for Human Rights, Nils Muižnieks, noted that:

“Gender equality in employment is still a distant promise in Europe.” (...)

Women in Europe effectively worked without pay during the last two months in comparison to men. In addition, they continued to face underrepresentation in decision-making bodies and positions. This is a gross injustice and a human rights violation. European states must tackle it much more forcefully than has been the case so far.

Although the situation varies from country to country, it is clear that women suffer everywhere on our continent from unequal treatment and opportunities in the workplace. It would be wrong to believe that this situation is the result of employment dynamics only. In reality, discrimination against women, be it direct or indirect, in this sphere of life results from deep-rooted societal attitudes that keep women in a subordinate role. Tackling this problem therefore requires a comprehensive approach from Council of Europe member states, from laws to be changed to political, cultural and economic measures to be implemented.”

60. In his position on women’s rights (2011), the Commissioner underlined that there are widespread and serious violations of the rights of women across Europe. With respect to women’s equality in the employment sector, there is a strong need to take steps to ensure that women have equal opportunities in the labour market at all levels, including senior and managerial-level positions, and that the principle of “equal pay for equal work” becomes a reality.

61. Wages in the private sector are often governed by collective agreements between social partners, without much room for state intervention. However, governments should step in and define the frameworks within which negotiations are possible. In order to ensure gender neutral job evaluation and grading systems, they can, for instance, specify the rules for applying the principle of equal pay for equal work between different sectors of employment. Authorities could also make use of awareness raising measures in the private sector, such as providing information to employers, employees and the public about their rights and duties.

B – United Nations

1. UN Convention on the Elimination of all forms of Discrimination (CEDAW) and its Committee

Gender pay gap

62. In its General Recommendation No. 13/12 1989, the CEDAW defined in more detail the content of 'Equal remuneration for work of equal value' by recommending to the States Parties that:

“2. They should consider the study, development and adoption of job evaluation systems based on gender-neutral criteria that would facilitate the comparison of the value of those jobs of a different nature, in which women presently predominate, with those jobs in which men presently predominate, and they should include the results achieved in their reports to the Committee on the Elimination of Discrimination against Women;

3. They should support, as far as practicable, the creation of implementation machinery and encourage the efforts of the parties to collective agreements, where they apply, to ensure the application of the principle of equal remuneration for work of equal value.”

Women on decision making boards in enterprises

63. The CEDAW has also criticised the (under-)representation of women in decision-making bodies in enterprises. Although it has not (yet) provided a 'General Recommendation' on this issue, it has assessed the issue in these 'Concluding Observations': Estonia (2016)²⁹; Slovakia (2015); Spain (2015); Denmark (2015)¹⁶

2. International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Committee on Economic, Social and Cultural Rights

64. In its General Comment No. 23 concerning Article 7, ICESCR defined in more detail the content of para. (a)(i) as follows:

“11. Not only should workers receive equal remuneration when they perform the same or similar jobs, but their remuneration should also be equal even when their work is completely different but nonetheless of equal value when assessed by objective criteria. This requirement goes beyond only wages or pay to include other payments or benefits paid directly or indirectly to workers. [...]

12. The extent to which equality is being achieved requires an ongoing objective evaluation of whether the work is of equal value and whether the remuneration received is equal

13. Objective job evaluation is important to avoid indirect discrimination when determining rates of remuneration and comparing the relative value of different jobs.”

3. Principles relating to the Status of National Institutions (The Paris principles)

65. Adopted by the General Assembly resolution 48/134 of 20 December 1983, the Paris principles set out six main criteria that National Human Rights Institutions should meet: a) Mandate and competence: a broad mandate, based on universal human rights norms and standards; b) Autonomy from Government; c) Independence guaranteed by statute or Constitution; d) Pluralism; e) Adequate resources; and f) Adequate powers of investigation.

C – International Labour Organisation

ILO Equal Remuneration Convention 100

66. In its General Survey 2012, the ILO Committee on the Application of Conventions and Recommendations (CEACR) described the requirements which derive from Convention No. 100 in relation to the gender pay gap as follows:

Pay differentials

“668. Pay differentials remain one of the most persistent forms of inequality between women and men. Although explicit policies of providing lower pay for women have for the most part been relegated to the past, the gender pay gap remains one of the most obvious examples of structural gender discrimination

669. The continued persistence of significant gender pay gaps requires that governments, along with employers’ and workers’ organizations, take more proactive measures to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value. Collecting, analysing and disseminating this information is important in identifying and addressing inequality in remuneration. [...]“

Equal value

“673. The concept of “work of equal value” is fundamental to tackling occupational sex segregation in the labour market, which exists in almost every country, as it permits a broad scope of comparison, including, but going beyond equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value.

Comparing jobs, determining value

“695. The concept of “equal value” requires some method of measuring and comparing the relative value of different jobs. There needs to be an examination of the respective tasks involved,

undertaken on the basis of entirely objective and non-discriminatory criteria to avoid the assessment being tainted by gender bias. While the Convention does not prescribe any specific method for such an examination, Article 3 presupposes the use of appropriate techniques for objective job evaluation, comparing factors such as skill, effort, responsibilities and working conditions.”

D – European Union

1. Primary Law

67. After the entry into force of the Treaty of Lisbon in 2009 several sources are relevant.

68. The Treaty itself:

Article 2

“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”

69. The Treaty on the Functioning of the European Union (TFEU):

Article 8

“In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.”

Article 157

“1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, ‘pay’ means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job. [...]”

70. The Charter of Fundamental Rights of the European Union (CFR), legally binding on all EU Member States by virtue of Article 6(1)(3) of the Treaty on the European Union (TEU), provides:

Article 21 - Non-discrimination

1. Any discrimination based on any ground such as **sex**, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. [...]

Article 23 - Equality between women and men

Equality between women and men must be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

2. Secondary law

71. Directive 2006/54/EC (the Equal Pay directive) of 5 July 2006, Chapter 1 ('Equal pay') of Title II, Article 4 provides:

Article 4 - Prohibition of discrimination

For the same work or for work to which equal value is attributed, direct and indirect "discrimination on grounds of sex with regard to all aspects and conditions of remuneration shall be eliminated.

In particular, where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex."

72. Also, the Directive requires that the Member States shall ensure that all employment-related arrangements, including provisions in individual or collective agreements and contracts, internal company rules, rules governing independent professions and rules governing employees' and employers' organisations contradicting the principle of equal pay shall be or may be declared null and void or may be amended (Article 23).

73. Directive 2008/104/EC on temporary agency work requires that the basic working and employment conditions, including pay, of temporary agency workers shall be, for the duration of their assignment at a user undertaking, at least those that would apply if they had been recruited directly by that undertaking to occupy the same job. In addition, the rules on equal treatment between men and women in force at a user undertaking must be applicable to temporary agency workers.

74. The Capital Requirements Directive (2013/36/EU) addresses directly the issue of female under-representation:

"[*Recital*] 60. [...] To facilitate independent opinions and critical challenge, management bodies of institutions should therefore be sufficiently diverse as regards age, gender, geographical provenance and educational and professional background to present a variety of views and experiences. Gender balance is of particular importance to ensure adequate representation of population. In particular, institutions not meeting a threshold for representation of the underrepresented gender should take appropriate action as a matter of priority. [...] Therefore, diversity should be one of the criteria for the composition of management bodies [...]"

Article 88

"[...] 2.(a) [...] Furthermore, the nomination committee shall decide on a target for the representation of the underrepresented gender in the management body and prepare a policy on how to increase the number of the underrepresented gender in the management body in order to meet that target. [...]"

Article 91 [...]

“10. Member States or competent authorities shall require institutions and their respective nomination committees to engage a broad set of qualities and competences when recruiting members to the management body and for that purpose to put in place a policy promoting diversity on the management body.”

3 European Pillar of Social Rights

75. The European Pillar of Social Rights was proclaimed and signed in November 2017 by the Council of the European Union, the European Parliament and the European Commission during the Göteborg Social Summit for fair jobs and growth.

76. Principle No. 2 of the Pillar refers to:

Gender equality

“a. Equality of treatment and opportunities between women and men must be ensured and fostered in all areas, including regarding participation in the labour market, terms and conditions of employment and career progression.

b. Women and men have the right to equal pay for work of equal value”.

77. The gender pay gap is one of the three indicators for gender equality included in the social scoreboard that the Commission uses to monitor the implementation of the Pillar.

4. Other institutions

a) European Commission

78. Recommendation of the European Commission on strengthening the principle of equal pay between men and women through transparency (2014/124/EU). Also, in its report to the European Parliament and the Council (COM/2013/0861) on the application of Directive 2006/54/EC the Commission concluded:

“Although estimates vary as to how much of the total gender pay gap arises from pay discrimination as prohibited by Article 157 TFEU and Article 4 of the Directive, it appears to be consensual that a considerable part of it can be traced back to discriminatory practices.

Proposed 40% objective for the representation of women on Boards – under Gender balance in decision-making positions.”

a) Court of Justice of the European Union

79. The issue of equal pay raises complex legal questions, as demonstrated by the case law before the CJEU. The main findings of the CJEU in this regard are set out below.

80. Article 157(1) of the TFEU and Article 4 of Directive 2006/54/EC provide for the elimination of all discrimination on grounds of sex with regard to all aspects and conditions of remuneration for the same work or for work to which equal value is attributed (see cases C-96/80, EU:C:1981:80, Jenkins, paragraph 22); C-237/85, EU:C:1986:277, Rummler, paragraph 11; C-17/05, EU:C:2006:633, Cadman, paragraphs 27-29).

81. The scope of Article 157(1) TFEU and Directive 2006/54/EC covers not only direct but also indirect discrimination (see to that effect, cases Jenkins, *op. cit.* paragraphs 14 and 15; C-285/02, EU:C:2004:320, Elsner-Lakeberg, paragraph 12; Cadman, *op. cit.*, paragraph 30).

82. The fundamental principle laid down in Article 157(1) of the Treaty and elaborated by the Directive precludes unequal pay between men and women for the same job or work of equal value, whatever the mechanism which produces such inequality (see, for example, C-381/99, EU:C:2001:358, Brunnhofer, paragraph 30). The source of discriminatory pay may be: a contract of employment, the legislative provisions, collective agreement (C-400/93, EU:C:1995:155, Royal Copenhagen paragraph 45) or pay provided on a voluntary basis (4557/93, EU:C:1996:33, Lewark paragraph 21.). The source of unequal pay must be unique or single, because if the differences identified in the pay conditions of workers performing the same work or work of equal value cannot be attributed to a single source, there is nobody which is responsible for the inequality and which could restore equal treatment. Such a situation does not come within the scope of Article 157(1) TFEU (Lawrence, C-320/00, EU:C:2002:498, paragraph 18 ; Allonby, C-256/01, EU:C:2004:18, paragraph 46).

83. The concept of equal pay includes any consideration paid immediately or in the future (see, for example, Barber, C-262/88, EU:C:1990:209, point 12 ; Bilka-Kaufhaus, 170/84, EU:C:1986:204, paragraph 15 ; Seymour-Smith, C-167/97, EU:C:1999:60, paragraph 23 ; Garland, 12/81, EU:C:1982:44, paragraph 5 ; Brunnhofer, *op. cit.*, paragraph 34). The concept of pay also includes payments which a worker receives from an employer even not performing any work provided in their contracts of employment (Gillespie, C-324/93, EU:C:1996:46, paragraph 13 ; Bötzel, C-360/90, EU:C:1992:246, paragraph 15 ; Rinner-Kühn, 171/88, EU:C:1989:328, paragraph 7). The concept of pay does not include statutory social security benefits (Defrenne, 80/70, EU:C:1971:55, paragraph 7).

84. The terms 'the same work', 'the same job' and 'work of equal value' are entirely qualitative in character in that they are exclusively concerned with the nature of the work actually performed (see Macarthys, 129/79, EU:C:1980:103, paragraph 11 ; Rummler, *op. cit.* , paragraphs 13 et 23 ; Brunnhofer, *op. cit.*, paragraph 42). In order to determine whether the work being done by different persons is the same, it is necessary to ascertain whether, taking account of a number of factors such as the nature of the work, the training requirements and the working conditions, those persons can be considered to be in a comparable situation (see to that effect C-400/93 Royal Copenhagen, *op.cit.*, paragraphs 32 and 33).

85. As regards the method to be used for comparing the pay of the workers concerned in order to determine whether the principle of equal pay is being complied

with genuine transparency permitting an effective review is assured only if that principle applies to each aspect of remuneration granted to men and women, excluding any general overall assessment of all the consideration paid to workers (C-285/02 Elsner-Lakenberg, *op. cit.*, paragraph 13).

86. Pay systems must be based on criteria which are of importance for the performance of specific tasks entrusted to the employee' (C-109/88 Danfoss, paragraph 22).

87. The EU Member States are obliged to take the necessary measures to enable all persons who consider themselves wronged by discrimination, to pursue their claims by judicial process. Such an obligation implies that the measures in question should be sufficiently effective to achieve the objective pursued by the directive and should be capable of being effectively relied upon by the persons concerned before national courts (see judgments in C-271/91 Marshall, C-271/91, UE:C:1993:335, paragraph 22 et Paquay, C-460/06, EU:C:2007:601, paragraph 43). EU law does not prescribe a specific measure to be taken by Member States, however, the measures appropriate to restore genuine equality of opportunity must guarantee real and effective judicial protection and have a genuine deterrent effect on the employer (see judgments in, von Colson et Kamann, 14/83, UE:C:1984:153, paragraphs 23 et 24 ; Draehmpaehl, C-180/95, EU:C:1997:208, paragraph 25 ; Paquay, C-460/06, EU:C:2007:601, paragraph 45).

88. Whenever there is evidence *prima facie* of discrimination, it is for the employer to prove that the practice at issue is justified by objective factors unrelated to any discrimination based on sex (C-17/05 Cadman, paragraph 31). However, it is clear from the case law of the CJEU that the burden of proof must shift when this is necessary to avoid depriving workers who appear to be the victims of discrimination of any effective means of enforcing the principle of equal pay (C-381/99 Brunnhofer, *op. cit.*, paragraph 53).

89. According to CJEU case law, where financial compensation is the measure adopted in order to achieve the objective of restoring genuine equality of opportunity, it must be adequate in that it must enable the loss and damage actually sustained as a result of the discriminatory dismissal to be made good in full in accordance with the applicable national rules (see judgments in C-271/91 Marshall, *op. cit.*, paragraph 26 ; Paquay, *op. cit.*, paragraph 46 ; Camacho, C-407/14, EU:C:2015:831, paragraph 33).

90. National law may not limit the time-period for a claim on arrears of pay, if an employee did not have access to the information the level of pay for a colleague of an opposite sex performing the same work (Levez, C-326/96, EU:C:1998:577, paragraph 34). An employer who has not provided the information on the level of pay for work performed by a colleague of opposite sex cannot reasonably rely on the principle of legal certainty (C-326/97 Levez, *op. cit.*, paragraphs 31-33).

THE LAW

PRELIMINARY CONSIDERATIONS

91. The right of workers to a fair remuneration is at the heart of the Charter's guarantee of conditions of work that are reasonable and ensure a fair reward for labour performed. Inadequate pay creates poverty traps, which may affect not just individuals and their families, but whole communities. Inadequate pay is also an obstacle to full participation in society and thus a marker for social exclusion. More broadly, pay which lags significantly behind average earnings in the labour market are incompatible with social justice.

92. One of the constituent elements of fair remuneration is the right of women and men to equal pay for equal work or work of equal value. The right of women and men workers to equal pay has a long history in the Charter. Already in the 1961 Charter, under Article 4§3, the States Parties undertook to recognise the right to equal pay, thus going beyond mere promotion of the principle and conferring an absolute character on this provision (Conclusions II (1971)).

93. Article 20 of the Charter (and Article 1 of the 1988 Additional Protocol) guarantees the right to equal opportunities and equal treatment in matters of employment and occupation, without discrimination on the grounds of gender. It embodies the same guarantee of equal pay as Article 4§3, and further encompasses other aspects of the right to equal opportunities and equal treatment in matters of employment, such as access to employment, vocational guidance and career development.

94. All the States Parties to the Charter having accepted Articles 4§3 and/or 20 are aware that this right has to be practical and effective, and not merely theoretical or illusory (International Commission of Jurists (ICJ) against Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32).

95. The Committee notes that UWE also invokes Article 1 of the Charter concerning the right to work. However, it considers that in accordance with its well-established case law the assessment in substance more appropriately belongs under Articles 4§3 and 20 of the Charter. As regards Article E, which is also invoked by UWE, it is clear from the very wording of Articles 4§3 and 20 of the Charter that their scope includes the prohibition of discrimination. The Committee therefore considers that it is not necessary to examine whether there has been a violation of Article E in conjunction with Articles 4§3 and 20 of the Charter.

96. Despite the obligations deriving from the Charter and other international and European instruments to recognise and ensure the right to equal opportunities and equal pay for women and men for equal work or work of equal value, the gender pay gap still persists today. The available statistics reveal both downward and upward trends in gender pay gap indicators in European States as well as insufficient results of States' efforts to promote a balanced representation of women in decision-making positions.

97. In this respect, the Committee draws attention to the main statistical indicators which it will take into account in the examination of the instant complaint. Firstly, the unadjusted gender pay gap, which is defined as the difference between the average gross hourly earnings of men and women expressed as a percentage of the average gross hourly earnings of men (indicator published by Eurostat). Secondly the gender overall earnings gap measures the impact of three combined factors - the average hourly earnings, the monthly average of the number of hours paid before adjustment for part-time work and the employment rate - on the average earnings of all women of working age, whether employed or not, compared to men (also published by Eurostat). Finally, with respect to the representation of women in decision-making positions, the Committee will rely mainly on statistics on the share of women on supervisory boards of the largest publicly listed companies in a country (indicator published by the European Institute for Gender Equality).

98. The Committee wishes to emphasise that gender pay gap indicators do not measure discrimination as such, rather they reflect a combination of differences in the average pay of women and men. The unadjusted gender pay gap, for example, covers both possible discrimination between men and women (one component of the “unexplained” pay gap) and the differences in the average characteristics of male and female workers (the “explained” pay gap). Differences in the average characteristics result from many factors, such as the concentration of one sex in certain economic activities (sectoral gender segregation) or the concentration of one sex in certain occupations (occupational gender segregation), including the fact that too few women occupy the better paid decision-making positions (vertical segregation).

99. The situation concerning the gender pay gap as well as the diversity of the solutions that the States have proposed to promote women’s right to equal pay, together with a varying degree of success in achieving the ultimate goal – guaranteeing gender equality in practice - have prompted the Committee to take a fresh look at the provisions of the Charter with a view to analysing and clarifying the obligations arising from in Articles 4§3 and 20 in the light of the current state of international and European law and practice in the area.

100. In this respect, the Committee wishes to recall its approach to the interpretation of the Charter. Thus, in interpreting the provisions of the Charter, it has to take into account not only current conditions and relevant international instruments, but also emerging new issues and situations. In other words, the Charter is a living instrument and therefore the Committee interprets the rights of the Charter in a dynamic manner having regard to present day requirements

101. In the light of the above considerations and taking into account the allegations presented and the information submitted by the parties as well as the information received from other sources, the Committee will consider the issues at stake in the following order:

(a) First, the Committee will assess UWE's allegations concerning the respect for the right of equal pay for equal work or work of equal value from two angles:

- The obligations of the State as regards the recognition and the enforcement of the right to equal pay under Articles 4§3 and 20.c of the Charter. These obligations include the following:
 - recognition in legislation of the right to equal pay for equal work or work of equal value;
 - ensuring access to effective remedies when the right to equal pay for equal work or work of equal value has not been guaranteed;
 - ensuring pay transparency and enabling job comparisons;
 - maintaining effective equality bodies and other relevant institutions;
- The obligations of the State to adopt measures to promote the right to equal pay for equal work or work of equal value, under Article 20.c of the Charter. These obligations include the following:
 - collection of reliable and standardised data with a view to measuring the gender pay gap;
 - adoption of measures to promote equal opportunities through gender mainstreaming.

(b) Secondly, the Committee will assess the issues arising in relation to the representation of women in decision-making positions within private companies under Article 20.d of the Charter, according to which States Parties have undertaken to ensure and promote the right to equal opportunities and equal treatment in the field of career development, including promotion.

I. ALLEGED VIOLATION OF ARTICLE 4§3 AND 20.C OF THE CHARTER AS REGARDS RECOGNITION AND ENFORCEMENT OF THE RIGHT TO EQUAL PAY

102. Articles 4§3 and 20.c of the Charter read as follows:

Article 4 – Right to a fair remuneration

Part I: "All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families."

Part II: "With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

...

3. to recognise the right of men and women workers to equal pay for work of equal value;

...

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.”

Article 20 – Right to equal opportunities and equal treatment in employment and occupation without sex discrimination

Part I: “All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.”

Part II: “With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields: (...)

...

- c. terms of employment and working conditions, including remuneration;”

A – Arguments of the parties

1. The complainant organisation

Recognition of the right to equal pay in legislation

103. UWE refers to Law No. 3896/2010 on the application of the principle of equal opportunity and treatment of men and women in terms of employment. UWE states that this legislation strengthens the equal pay for work of equal value rule and improves protection against dismissal and reprisals.

104. However, according to UWE, the fact that a set of legal documents (constitution, laws, etc.) prohibit all gender discrimination and provide that equal treatment must be ensured in practice, does not mean that the relevant provisions are actually implemented and that equal pay is thus ensured.

Effective remedies

105. According to UWE, in Greece, the rule relating to shifting the burden of proof has been incorporated into the legislation transposing Directives 97/80 and 2002/73, but it has not been provided for in the procedural codes, as recommended by the Council of State (Opinion No. 348/2003 of the Council of State on the lawfulness of the draft decree transposing Directive 97/80). The rule is not, therefore, applied in Greece.

106. UWE considers that if a female employee dares to demand equal pay for equal, similar or comparable work, she runs a considerable risk of being dismissed quite rapidly, albeit of course on another pretext. There are so many difficulties that a

reasonable lawyer would not drag a woman employee into such proceedings unless her contract has already been, or is in the process of being, terminated.

107. UWE also considers that it should not be up to female employees to cover the cost of such proceedings out of their personal finances when they have been discriminated against throughout their careers.

Pay transparency and job comparisons

108. According to UWE, with regard to classifications, Article 4 of Law No. 3896/2010 provides that where an occupational classification system is used to determine wages, the system should be based on common criteria for male and female workers and should exclude discrimination on the grounds of sex. When designing and implementing staff appraisal systems related to their pay progression, the principle of equal treatment should be respected and discrimination on the grounds of sex or marital status should not be permitted.

109. However, UWE quotes the Government which states in its submissions that the use of occupational classification and staff appraisal systems is not enforced on companies to determine wages. Companies are not required to introduce classification systems and hence to start considering ways to address these equality issues in order to resolve them. Thus, according to UWE, there is no indication of how many companies have taken action and whether there are classification systems and pay gap calculation methods for firms, including outside company comparisons.

110. According to UWE, domestic case law on equal pay issues is very scarce. Explanations for such scarcity are multiple, including the problematic scope of comparison, the lack of personal resources of the claimant, problems regarding time limits, limited compensation and sanction possibilities as well as lack of trust in the judiciary. There have been no legal proceedings and no reported complaints. However, UWE believes that rather than being proof that there is no inequality or discrimination, the lack of proceedings and reporting of wage irregularities is more likely proof that the inequalities are not coming to light. This is probably on account of a kind of implicit or explicit dissuasion in respect of female victims.

Equality bodies and other institutions

111. According to UWE, the Ombudsperson is an independent authority anchored in the Constitution. The legislative framework for its operation is governed by Law No. 3094/03. The Ombudsperson's services are free of charge. The Ombudsperson examines individual administrative acts or cases of failure to act or action by public service bodies in violation of the rights or legitimate interests of natural or legal persons.

112. The Ombudsperson is responsible for upholding the principle of equality where this principle has been violated by public administrative authorities. Article 13, paragraph 8 of Law No. 3488/2006 establishes the official machinery for co-operation between the Ombudsperson and the Labour Inspectorate.

113. As regards the Labour Inspectorate, in matters relating to employment and labour, the Labour Inspection Corps (SEPE) is responsible for upholding the principle of equality where this principle has been violated by natural or legal persons. However, UWE claims that a considerable number of experts have reported that only very few claims on gender pay discrimination make their way up to the competent (regular or administrative) courts.

114. The SEPE monitors implementation of the legislation and ensures that the principle of equal opportunities for and treatment of women and men in the fields of employment and labour is properly applied and that the provisions on reconciling work and family/private life are respected. The SEPE must be informed of any violations of Law No. 3488/2006, as amended by Law No. 3869/2010, or in other words any breach of its provisions relating to the principle of equal treatment of women and men in the fields of employment, vocational training, career advancement and working conditions.

115. The local offices of the SEPE are required to inform the Ombudsperson of any complaints they have received concerning gender-based workplace discrimination and present him or her with the conclusions of their inquiries. The SEPE retains the power to impose administrative penalties or to bring the case to the courts to secure a criminal conviction and sentence.

116. According to UWE, the new provisions of the Equal Treatment Law 4443/2016 combine separate jurisdictions – private and public – under one equality body, the Ombudsman, who appears to have limited powers. The Ombudsman cannot bring legal proceedings, which, according to UWE, the respondent state failed to mention in its submissions.

117. UWE maintains that the SEPE lacks sufficient human and material resources to perform its functions. UWE claims that due to insufficient monitoring, although citizens may file complaints with the SEPE of violation of the principle of equal treatment in employment and occupation, they are reluctant to do so. As a result, the SEPE has limited information about the extent of the problem. UWE refers to the Government's submissions according to which, until 2016, no complaints had been recorded on violations relating to issues of gender pay gap. This lack of complaints regarding unequal pay attests to the fact that the issue is taboo in Greece and that women do not dare to raise it or take legal action seeking redress.

2. The respondent Government

Recognition of the right to equal pay in legislation

118. The Government states that the general principle of equality is constitutionally established together with the right to equal pay for work of equal value. The law also seeks synergy among all competent institutional mechanisms of the State and their cooperation with social partners, NGOs and undertakings, in order to tackle in practice the lack of equality. The law aims at encouraging changes by establishing a network of provisions that ensure the effective implementation of the principle, by defining the competent body that will examine complaints related to its violation and by means of a system of extended legal protection together with adequate and preventive sanctions.

119. According to the Government, Laws No. 3896/2010 and No. 4443/2016 provide for important institutional tools to combat discriminatory treatment at the workplace, taking into account the vulnerable position of the worker who has suffered discrimination and the difficulties in proving discrimination.

120. By virtue of Law No. 3896/2010 on the Implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, a special framework was created for the implementation of this principle. According to Article 4 of this Law, women and men are entitled to equal pay for equal work or work of equal value.

121. The Government states that the legislation also provides a definition of pay as follows: the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his/her employment from his/ her employer.

Effective remedies

122. The Government provides the following information concerning the legal framework as regards remedies in equal pay cases:

123. *The shift in the burden of proof:* according to Article 24 of Law No. 3896/2010 and Article 9 of Law No. 4443/2016, the defendant or the other party or the administrative authority bears the burden of proof before a court or other competent authority, that there was no violation of the principle of equal treatment of men and women. According to the Government, this tool, i.e. the reversal of the burden of proof, is systematically used by the Ombudsman.

124. *Protection against victimisation:* under Article 14 of Law No. 3896/2010 and Article 10 of Law No. 4443/2016, termination of the employment relationship is prohibited, and the unfavorable treatment of a person in general when it occurs as a counter measure to a worker's request for the provision of legal protection in order to ensure compliance with the principle of equal treatment. It is prohibited to terminate a worker's contract of employment who has protested or made a complaint for discriminatory treatment and it is considered null and void as vindictive action. Moreover, any unfavorable treatment of a worker who has protested or made a complaint about discriminatory treatment is prohibited.

125. In case of violations of the above law, civil sanctions are imposed for the victim's full compensation which cover material and moral damages as well as administrative and penal sanctions, under the provisions of Article 23 of Law No. 3896/2010.

Pay transparency and job comparisons

126. According to the Government, the principle of equal pay is further defined by virtue of Article 4, paragraph 2 of Law No. 3896/2010. It provides that where an occupational classification system is used to determine wages, such a system should be based on common criteria for male and female workers and should exclude discrimination on the grounds of sex. When designing and implementing staff appraisal systems related to their pay progression, the principle of equal treatment should be respected and discrimination on the grounds of sex or marital status should not be permitted.

127. The Government also indicates that the use of occupational classification and staff appraisal systems to determine wages is not enforced on enterprises. However, in cases where enterprises apply such systems, they should respect the principle of equal treatment of women and men and not allow pay discrimination on the grounds of gender.

128. The Government further refers to Article 26 of Law No. 3896/2010, which provides for the obligation of trade union organisations to inform their members about the regulations of this law. It also provides for the obligation of employers to facilitate such information and take all necessary measures to prevent discrimination as well as to regularly provide data and information about the current situation of workers.

129. Moreover, according to the Government, no terms of discriminatory or unequal treatment of persons on the grounds of gender have been found in the texts of collective regulations that are currently in force and have been signed under Law No. 1876/1990 on Free collective bargaining and other provisions, as amended.

Equality bodies and other institutions

Ombudsman

130. According to the Government, the Ombudsman is the body in charge of monitoring and promoting the application of the principle of equal treatment of men and women in employment and occupation (Article 25 of Law No. 3896/2010). Moreover, according to Law No. 4443/2016 (Article 14§1), the Ombudsman is the body in charge of monitoring and promoting the application of the principle of equal treatment irrespective of race, colour, national or ethnic origin, descent, religious or other belief, disability or chronic disease, age, marital or social status, sexual orientation, gender identity or characteristics in employment and occupation in the public and private sector.

131. Law No. 3896/2010, defines the regulatory framework for the application of the principle of equal treatment of both sexes in employment and occupation through a system of extended legal protection and innovative legal instruments.

132. The Ombudsman is recognised as the monitoring body for the implementation of the principle of equal treatment of men and women in employment and occupation and the mediation body between the complainant and the party practicing discriminatory treatment on the grounds of sex, both in the public as well as in the private sector. In the private sector, the Ombudsman, in cooperation with the SEPE, which is legally responsible for the application of administrative penalties, is the body monitoring the implementation of the principle. The new legislative framework gives the Ombudsman the authority to formulate the final decision about the complaint based on the outcome of investigations conducted by the SEPE. Assigning authority to the Ombudsman to formulate the final decision ensures the autonomy of the body in charge of the application and promotion of the principle of equal treatment.

133. The Ombudsman and the SEPE are working closely together to effectively detect violations regarding gender issues. The cooperation of the two bodies is based on Article 25 of Law No. 3896/10.

134. Moreover, as provided for in Law No. 4443/2016, SEPE may impose administrative penalties of €1,000 to €5,000, when it is decided that there is a case of unequal treatment based on gender.

135. According to the Government, when the SEPE receives complaints - inter alia - regarding the implementation of Law No. 3896/2010, it is obliged to conduct an investigation into them and to inform the Ombudsman both on receipt of each complaint as well as at the end of investigations, and when it imposes penalties. Moreover, the SEPE also has to address such complaints following a demand of the Ombudsman, where it submits the outcomes of its actions, without prejudice to the Ombudsman's power to conduct an investigation by itself and formulate the final decision about the complaint.

136. The Ombudsman, when acting as an equality body, has broader responsibilities. Natural and legal entities of private law, including banks, fall also within its competence.

137. When the Ombudsman acts as a body to monitor and promote the application of the principle of equal treatment, the Ombudsman deals with cases pending before courts, tribunals or prosecutors, until the first hearing in the audience or the prosecution is taking place, or until the competent court or the competent judicial authority has ruled on an application for interim judicial protection (Article 19, paragraph 4 of Law No. 4443/2016).

138. Within the framework of its mission to monitor and promote the implementation of the principle of equal treatment, the Ombudsman provides assistance to victims of

discrimination, conducts investigations into discrimination and publishes special reports on the application of the principle of equal treatment.

The Labour Inspectorate (SEPE)

139. According to the Government, Article 2 of Law No. 3996/2011 stipulates that the SEPE shall monitor the application of the principle of equal opportunities and equal treatment of men and women in employment and occupation, especially under the Law No.3896/2010.

140. As regards the responsibilities of the SEPE, Law No. 3896/2010 places emphasis on the better implementation of the law on equal opportunities and equal treatment of men and women. According to Article 28 the heads of Directorates of the SEPE are required to appoint persons in charge of Gender Equality Bureaus, in order to better serve the complainants in the context of this law and also to facilitate communication and cooperation with the Ombudsman when it operates as the body that monitors and promotes the principle of equal opportunities and equal treatment of men and women.

141. The labour inspectors, in examining a case of violation of the principle of equal treatment, take action at their discretion (invitation for written explanations, on-site inspection, etc.) and inform the Ombudsman at the end of their investigations and in case they impose penalties. It has to be noted that in a special chapter of the SEPE Annual Activity Report, reference is made to the implementation and promotion of equal treatment in employment and occupation.

142. The Directorate for Planning and Coordination of the Labour Relations Inspectorate of the SEPE has prepared a table presenting detailed statistics on the application of the principle of equal treatment in employment and occupation which is supplemented by the Regional Directorates of Labour Relations Inspectorate providing thus immediate and continuous information on any violation.

B – Assessment of the Committee

Recognition of the right to equal pay in legislation

143. The Committee recalls that under Articles 4§3 and 20.c of the Charter (and Article 1.c of the 1988 Additional Protocol), the right of women and men to equal pay for work of equal value must be expressly provided for in legislation. The equal pay principle applies both to equal work and work of equal or comparable value. The concept of remuneration must cover all elements of pay, that is basic pay and all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment.

144. The States Parties are obliged to enact legislation explicitly imposing equal pay. It is not sufficient to merely state the principle in the Constitution. States must ensure that there is no direct or indirect discrimination between men and women with regard to remuneration.

145. The principle of equal pay precludes unequal pay irrespective of the mechanism that produces such inequality. The source of discriminatory pay may be the law, collective agreements, individual employment contracts, internal acts of an employer.

146. Any legislation, regulation or other administrative measure that fails to comply with the principle of equal pay must be repealed or revoked. The non-application of discriminatory legislation is not sufficient for a situation to be considered in conformity with the Charter. It must be possible to set aside, withdraw, repeal or amend any provision in collective agreements, individual employment contracts or internal company regulations that is incompatible with the principle of equal pay (Conclusions XIII-5, Statement of Interpretation on Article 1 of the 1988 Additional Protocol).

147. As regards Greece, the Committee notes that the principle of equal pay for equal work or work of equal value is recognised in legislation through Article 22(1)(b) of the Constitution and Article 4(1) of Law No. 3896/2010. The concept of pay is defined in Article 2(e) of that Law. Moreover, according to Article 4(2) of the Law, where a job classification system is used for the determination of pay, this system must be based on common criteria for female and male workers and be enforced in such a way as to preclude discrimination on the grounds of gender.

148. In view of the above, the Committee considers that the obligation to recognise the right to equal pay for work of equal value in the legislation has been satisfied.

Effective remedies

149. The Committee recalls that domestic law must provide for appropriate and effective remedies in the event of alleged pay discrimination. Workers who claim that they have suffered discrimination must be able to take their case to court. Effective access to courts must be guaranteed for victims of pay discrimination. Therefore, proceedings should be affordable and timely.

150. Anyone who suffers pay discrimination on grounds of sex must be entitled to adequate compensation, i.e. compensation that is sufficient to make good the damage suffered by the victim and to act as a deterrent. Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and from being sufficiently dissuasive is contrary to the Charter.

151. The burden of proof must be shifted. The shift in the burden of proof consists in ensuring that where a person believes she or he has suffered discrimination on grounds of sex and establishes facts which make it reasonable to suppose that discrimination has occurred, the onus is on the defendant to prove that there has been no infringement of the principle of non-discrimination (Conclusions XIII-5, Statement of interpretation on Article 1 of the 1988 Additional Protocol).

152. Retaliatory dismissal in cases of pay discrimination must be forbidden. Where a worker is dismissed on grounds of having made a claim for equal pay, the worker should be able to file a complaint for dismissal without valid reason. In this case, the employer must reinstate her/him in the same or a similar post. If reinstatement is not possible, the employer must pay compensation, which must be sufficient to compensate the worker (i.e. cover pecuniary and non-pecuniary damage) and to deter the employer.

153. The Committee notes from the European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report on gender equality: Greece 2018 that the barriers to access to courts are growing as litigation costs are sharply rising, proceedings are too long and legal aid is inadequate and difficult to obtain. For example, in addition to paying costs for the admissibility of a claim, there are further costs that must be paid on appeal and on final appeal as conditions of their admissibility. These amounts were abruptly increased to € 300-400 (40-68% of the minimum monthly salary of a worker over 25 years old and 45-78% of the minimum monthly salary of a young worker). According to the above-mentioned Country Report, the aim of such increases is to discourage litigation and diminish the heavy caseload of the courts and hence extensive procedural delays – a systemic problem in Greece.

154. The Greek National Commission for Human Rights has deplored this situation and warned that the increases restrict access to the courts, thus violating Article 6(1) of the European Convention on Human Rights. According to the Commission, legal aid is in principle only available to paupers and totally resourceless entities. This restricts access to the courts by both victims and entities working in their interest.

155. As regards domestic case law concerning equal pay, the Committee notes from the Observation (2017) of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) that even if the Government recognises that wage differentials based on gender might exist where wages paid by employers exceed those stipulated in collective agreements, no complaints have been lodged for violation of the equal pay provisions of Law No. 3896/2010. According to the above-mentioned Country Report, most pay discrimination judgments concern grounds of discrimination other than gender.

156. The Committee also notes from the information provided by UWE that equal pay cases are rare and usually do not concern gender discrimination. In this respect, the Committee also notes that according to the Government, the number of complaints relating to issues of equal pay has been very limited over time, although the Ombudsman on a yearly basis investigates almost 500 complaints falling within the scope of Law No. 3896/2010. Moreover, although citizens may file complaints with the Labour Inspectorate (SEPE) concerning violation of the principle of equal treatment in employment and occupation, they are reluctant to do so. As a result, the SEPE has limited information about the extent of the problem. The Government states that by 2016, there were no complaints that had been recorded on violations relating to gender pay issues.

157. The Committee notes that the legislation provides for a shift in the burden of proof as well as protection against retaliatory dismissal following an equal pay claim. The Committee recalls that in its conclusion on Article 1§2 (Conclusions 2012, Greece), it noted that the legislation does not establish any ceiling to the amount of compensation that may be awarded should the court find a violation.

158. The Committee notes that the existing legal framework allows victims of gender pay discrimination to claim their right to equal pay. However, the Committee considers that in view of the limited number of equal pay cases and in the absence of indications of efforts deployed to address the remaining obstacles in practice (such as costs of proceedings, inadequate legal aid and length of proceedings), the obligation to ensure access to effective remedies has not been satisfied.

Pay transparency and job comparisons

159. The Committee considers that pay transparency is instrumental in the effective application of the principle of equal pay for work of equal value. Transparency contributes to identifying gender bias and discrimination and it facilitates the taking of corrective action by workers and employers and their organisations as well as by the relevant authorities.

160. States should take measures in accordance with national conditions and traditions with a view to ensuring adequate pay transparency in practice, including measures such as those highlighted in the European Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, notably an obligation for employers to regularly report on wages and produce disaggregated data by gender. The Committee regards such measures as indicators of compliance with the Charter in this respect.

161. In order to establish whether work performed is equal or of equal value, factors such as the nature of tasks, skills, educational and training requirements must be taken into account. The Committee further observes that the notion of equal work or work of equal value has a qualitative dimension and may not always be satisfactorily defined, thus undermining legal certainty. States should therefore seek to clarify this notion in domestic law as necessary, either through legislation or case law. In this respect, job classification and evaluation systems should be promoted and where they are used, they must rely on criteria that are gender-neutral and do not result in indirect discrimination. Moreover, such systems must consider the features of the posts in question rather than the personal characteristics of the workers (Conclusions XV-2, Article 4§3, Poland).

162. The Committee considers that the possibility of making job comparisons is essential to ensuring equal pay. Lack of information on comparable jobs and pay levels could render it extremely difficult for a potential victim of pay discrimination to bring a case to court. Workers should be entitled to request and receive information on pay levels broken down by gender, including on complementary and/or variable components of the pay package. However, general statistical data on pay levels may

not be sufficient to prove discrimination. Therefore, in the context of judicial proceedings it should be possible to request and obtain information on the pay of a fellow worker while duly respecting applicable rules on personal data protection and commercial and industrial secrecy.

163. Moreover, national law should not unduly restrict the scope of job comparisons, e.g. by limiting them strictly to the same company. Domestic law must make provision for comparisons of jobs and pay to extend outside the company concerned where necessary for an appropriate comparison. The Committee views this as an important means of ensuring that the equal pay principle is effective under certain circumstances, particularly in larger companies or specific sectors where the workforce is predominantly, or even exclusively, of one sex (see Statement of interpretation on Article 20, Conclusions 2012). The Committee considers notably that job comparisons should be possible across companies, where they form part of a group of companies owned by the same person or controlled by a holding or a conglomerate.

164. As regards pay transparency, the Committee notes from European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report on gender equality: Greece 2019 that Greece has not yet taken the necessary measures to ensure application of Recommendation of the European Commission of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency. The Committee further notes in this respect that according to Article 4(2)(a) of Law No. 3896/2010, when systems of personnel evaluation related to the evolution of their pay are designed and applied, the equal treatment principle must be respected and no discrimination on grounds of gender or family status is allowed. However, still according to Article 4 of the Law No. 3896/2010, job classification systems are not imposed on enterprises.

165. The Committee further observes that under Article 26 of Law No. 3896/2010, employers are obliged to take all necessary measures to prevent discrimination as well as to regularly provide data and information about the current situation of workers as

a measure of pay transparency. However, the Committee further notes that the Directorate for Remuneration of Work of the Ministry of Labour is not competent to monitor pay exceeding the amounts stipulated by the collective labour agreements. The Government acknowledges that gender pay differentials may exist where pay exceed those stipulated in collective agreements. However, private agreements are not monitored. The Committee also notes from the Concluding observations on Greece of the Committee on the Elimination of Discrimination against Women (CEDAW, 2013) that CEDAW has asked the Government to indicate how it ensures that the principle of equal treatment is effectively applied in those private agreements that establish pay exceeding the pay levels provided in collective labour agreements.

166. Moreover, as regards the definition of equal value, according to the above-mentioned Country Report, there are no value assessment criteria in legislation or case law. Some judgments refer to the “same nature and value” of the jobs without questioning the job classification. The typical main premise is as follows: the equal pay principle applies to workers employed by the same employer, who belong to the same category, have the same formal qualifications and provide the same services aimed at serving the same category of needs, under the same conditions. Some judgments require that the content of the work be specified, but the criteria are unclear.

167. The Committee further notes that the notion of “equal value” is not clearly defined in case law. Although the notion has been included in Article 22(1) of the Constitution since 1975 and in legislation since 1984, it is unclear to litigants and judges, so that in most cases the comparison simply concerns the same work.

168. As regards job comparisons, the Committee notes from the aforementioned report that a comparator is not required in national law as regards equal pay. Neither Article 22(1)(b) of the Constitution nor the pertinent legislation explicitly require a comparator. However, case law relying on the broader constitutional principle of equal pay requires such a comparator in the same undertaking or service or within the framework of the same wage-fixing instrument (e.g. a collective agreement or a statutory or administrative provision).

169. According to domestic case law, the comparator may be a worker employed at the same time, in the same undertaking or service, or had previously been employed there. In the absence of such a worker, the comparator may be a worker covered by the same wage-fixing instrument but employed or having been employed in another undertaking. When there is no such comparator, the claimant can allege that she/he fulfils the conditions for the higher pay provided by an instrument for workers performing the same work or work of the same value, and claim the pay difference, without even naming a comparator. On this basis, the Committee considers that the scope of job comparisons is not unduly restricted.

170. However, the Committee considers that there are important limitations as regards pay transparency. The Committee refers in particular to the fact that the notion

of equal value is not clearly defined, neither in legislation nor in case law. Additionally, job classification systems are not imposed on enterprises and pay exceeding the one stipulated by the collective labour agreements is not monitored. The Committee further observes that there is no evidence as to whether a potential victim of pay discrimination may have access to the essential pay information of a fellow worker in the context of judicial proceedings.

171. In view of the above, the Committee considers that the obligation to ensure pay transparency has not been satisfied.

Equality bodies and other institutions

172. The Committee considers that the satisfactory application of the Charter cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised (ICJ v. Portugal, Complaint No. 1/1998, op.cit., §32). The Committee has considered that measures to foster the full effectiveness of the efforts to combat discrimination include setting up of a specialised body to monitor and promote, independently, equal treatment, especially by providing discrimination victims with the support they need to take proceedings (Conclusions XVI-1, Article 1§2, Iceland). The status of such equality bodies in terms of their mandate, their independence and resources must be clearly defined. In this context, the Committee also has regard to the criteria for national human rights institutions set out in the so-called Paris Principles adopted in 1993 by the United Nations General Assembly.

173. As regards the mandate of equality bodies, the Committee considers that it should include provision for functions such as the following:

- monitoring and promotion: in cooperation with labour inspectorates or other relevant bodies, monitor the situation regarding gender discrimination, including in respect of pay, and produce regular reports; conduct inquiries at their own initiative and make recommendations; raise awareness of the equal pay principle across society;
- decision-making: receive, examine, hear cases of discrimination; issue binding or authoritative decisions on complaints concerning alleged discrimination and ensure the implementation of such decisions;
- assistance to victims: provide personal and legal support to complainants; mediate settlements in cases of discrimination; represent victims in cases of discrimination; and monitor the implementation of decisions in such cases.

174. The Committee further considers that in addition to having a clear and comprehensive mandate, these specialised equality bodies must be equipped with the necessary human and financial resources as well as infrastructure to ensure that they can effectively combat and eliminate pay discrimination.

175. The Committee wishes to emphasise that it is not within the scope of the examination of this complaint to conduct an exhaustive analysis of the conformity of the situation with the above criteria. The Committee will restrict its examination to assessing in light of the information available to it the effectiveness of equality bodies and other relevant institutions in ensuring equal pay for equal work or work of equal value.

176. The Committee notes that an important feature of the new provisions of the Equal Treatment Law No. 4443/2016 is the unification of separate jurisdictions – private and public – under one equality body, the Ombudsperson. This body has competence in the fields of employment, education and access to goods and services. Under Article 12 of the Law, the Ombudspersons are tasked with monitoring and promoting equal treatment not only for the public sector but also for the private sector. The Committee also notes that by virtue of this Law the current legislative framework is improved and enhanced with a view to the implementation of the principle of equal treatment and the prohibition of discrimination in employment and occupation in general. This includes a broader scope of application of the principle of equal treatment by introducing new grounds of discrimination.

177. The Committee notes the Ombudsperson is recognised as the monitoring body for the implementation of equal treatment of women and men in employment and occupation and as a mediation body between the victim and the party responsible for any discriminatory treatment on grounds of gender, both in the public as well as in the private sector. When the Ombudsperson acts as an equality body, natural and legal entities of private law, including banks, fall also within its competence. Moreover, in the private sector, the Ombudsman and the SEPE have a legally established cooperation basis with a view to detecting and reporting cases of pay discrimination as well as providing assistance to victims. The Committee observes that the Ombudsperson cannot bring legal proceedings, but it renders final decisions on the complaints that it receives.

178. The Committee notes from the European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report on gender equality: Greece 2019 that in 2017, the Greek Ombudsperson received 738 complaints regarding equal treatment issues, 77% of which fell within its competence and were thus further investigated. A considerable proportion of these complaints – 52% – was deemed to be well-founded, leading to the Ombudsperson's intervention to remove the violations. As far as the outcome of the well-founded complaints is concerned, in 69% of the cases, the problem encountered by the applicant was successfully resolved.

179. The Committee notes in this respect that as a ground of discrimination, gender appeared in the majority of the complaints received by the Ombudsperson, amounting to 40% of all the cases filed. The Committee observes that no figures are available on complaints relating specifically to gender pay discrimination.

180. The Committee notes from the Concluding observations on Greece of the Committee on the Elimination of Discrimination against Women (CEDAW, 2013) that while the Ombudsperson has a wide mandate as an independent authority, its resources were drastically cut during the financial crisis. In 2009, the budget was set

at €10,085,418. In 2015, the amount was no more than €6,045,000, a cut of 40% which was proportionate to cuts for other parts of the public sector in Greece. However, the Committee notes that for 2017, the budget was set at €6,452,992, which represents a modest increase following the cuts of recent years. At the same time, 10 more staff positions were created in 2017 with a view to recruiting permanent Legal Officers.

181. In light of the above, the Committee considers that the obligation to maintain an effective equality body with a view to guaranteeing the right to equal pay has been satisfied.

Concluding assessment

182. Firstly, the Committee observes that by virtue of Law No. 3896/2010 a special framework was created for the implementation of the principle of equal opportunities and equal treatment of men and women in employment and occupation. The Committee considers in this regard that the obligation to recognise the right to equal pay in legislation has been satisfied.

183. Secondly, as regards access to effective remedies in case of violation of the right to equal pay, the Committee considers that due to the existing barriers, such as high cost of litigations, the obligation to guarantee effective access to remedies has not been satisfied.

184. Thirdly, as regards pay transparency, the Committee considers that pay transparency is not ensured because of the existing important limitations relating to the non-binding nature of job classification systems and the absence of monitoring of pay exceeding those stipulated by collective agreements. In addition, it has not been shown that employers regularly report on pay and that access to information on the pay of a fellow worker in the context of judicial proceedings is ensured.

185. Finally, as regards the equality bodies, the Committee observes that the Ombudsperson is a monitoring body for the implementation of the principle of equal treatment of women and men in employment and the mediation body between the complainant and the party practicing discriminatory treatment on the grounds of gender, both in the public as well as in the private sector. The Committee thus considers that the Government has satisfied the obligation to maintain an effective equality body.

186. Therefore, the Committee considers that there is a violation of Articles 4§3 and 20.c of the Charter, on the grounds of existing barriers as regards access to remedies and limitations as regards pay transparency.

II. ALLEGED VIOLATION OF ARTICLE 20.C OF THE CHARTER AS REGARDS MEASURES TO PROMOTE EQUAL OPPORTUNITIES BETWEEN WOMEN AND MEN IN RESPECT OF EQUAL PAY

Article 20 – Right to equal opportunities and equal treatment in employment and occupation without sex discrimination

Part I: “All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.”

Part II: “With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields: (...)

...

c. terms of employment and working conditions, including remuneration;”

A – Arguments of the parties

1. The complainant organisation

187. According to UWE, the respondent state’s submissions include only very few relevant and reliable figures. Some of the statistics available, in particular the Eurostat indicator, group together three separate phenomena: pay gaps proper; the number of hours worked during a period of employment, and hence part-time work; and the consequences of stopping work for various reasons, including bringing up children.

188. UWE refers to Eurostat figures of February 2017 for the EU-28 on contributions to the gender overall earnings gap, which were as follows: the gender pay gap: 37.4%; the gender hours gap: 30.5%; the gender employment rate gap: 32.1%. UWE notes that these figures do not include Greece. UWE refers to the Gender Pay Gap factsheet of the European Commission of 2016, according to which the gender pay gap in Greece in 2016 stood at 15%.

189. UWE maintains that the official statistics still exclude small (micro) sized enterprises. It is therefore most probable that the gender pay gap is even higher in these enterprises.

190. According to UWE, irrespective of the indicators showing the final outcomes in terms of gender equality of all the strategies implemented, the results achieved by the various mechanisms must lead to reliable statistics concerning the action taken: number of checks performed, cases processed by the courts, offences found, penalties imposed and compensation measures ordered by administrative or judicial bodies such as employment tribunals and civil and criminal courts.

191. According to UWE, the respondent state makes choices to include one or other criterion in its statistics and to exclude others, in an attempt to conceal greater pay inequality than it admits.

192. UWE maintains that the information provided by the Government is of a general nature and merely takes the form of a description of the legal and institutional framework, there being a general lack of clarifications which could serve to determine the conformity of the policies followed with the requirements of the Charter. Therefore, it is, according to UWE, difficult to assess the relevant powers, staffing levels, funding of administrative supervisory bodies, the efficiency of judicial regulation, the relevance and accuracy of the figures and statistics supplied, timetable for the measures introduced and the expected evaluation of the results within given timeframes.

193. According to UWE, the respondent state merely refers to the applicable legislation and the major public policy exercises, such as the various equality plans which are vital in mobilising the various stakeholders. However, there is no sign of gender mainstreaming in the policies concerned, decision-making, access to resources, procedures and practices, methodology, implementation, monitoring or evaluation. There is no monitoring body and, above all, no checks are provided for or carried out. Little or no account is taken of many areas, for instance, the courses of study chosen by women, which are all too often non-scientific and unambitious, the greater number of vocational training courses of a higher standard available for men, the large number of benefits in kind for men compared to the small number for women, horizontal and vertical segregation in employment, the centuries-old division of roles in the family, with no economic value being attached to the time spent on housework, forced part-time working, and failure to ensure proper work-life balance.

194. UWE also states that the employment equality policy is not fully effective. It is disparate in nature and refers to negotiation at company level. It is also inconsistent. The various bodies are not provided with basic training in gender mainstreaming to enable them to implement internal plans or measures. There is no general framework and the respondent state must therefore introduce one, in order to bring about an overall change that is needed to eradicate inequality and discrimination.

2. The respondent Government

195. According to the Government, the Observatory on Gender Equality collects statistics concerning 12 thematic areas of the Beijing Platform for Action (pay gap is included in the *Women and Economy* thematic area while the participation of women in decision-making centers is a separate thematic area) in cooperation with the Hellenic Statistical Authority (ELSTAT).

196. The Government provides statistical data on pay rates of men and women, as well as on the gender pay gap, by age group and educational level. The figures refer to the years 2010 and 2014 and result from the Survey for the Structure and Distribution of Remuneration which is being conducted by ELSTAT every four years. According to this data, the overall rate has been reduced from 15.04% in 2010 to 12.48% in 2014.

197. According to the Government, this indicator is lower than the corresponding average rate at EU-level of the 28 Member States, where it increased slightly from 16.4% in 2010 to 16.7% in 2014, and fell to 16.3% in 2015.

198. According to the Government, the calculation of the gender pay gap is based on the hourly rate and not on the annual earnings (payment in kind). According to the OECD, when taking into consideration full-time employees and the self-employed, the gender pay gap (defined as the difference between median earnings of men and women relative to median earnings of men) for Greece in 2016 is 4.5%, compared to a 14.1% OECD average (data from EU-SILC).

199. According to the Government, the gender pay gap is a complex issue and there is a need to implement simultaneous measures in all relevant areas. The General Secretariat for Gender Equality by means of the National Action Plan for Gender Equality gives priority to the reduction of occupational segregation on the grounds of sex in the labour market.

200. The Government states that the new Action Plan on Gender Equality (NAPGE) has been adopted for the period 2016-2020. Furthermore, the Monitoring Mechanism (Observatory) collects data based on indices derived from the areas of the Beijing Platform for Action. One of these indices is the pay gap. According to the Government, data collection about this important issue will be a first step to adopt adequate policy measures.

201. The objectives include the depiction of gender differences in the labour market, encouraging women to participate in the labour market and improving women's working conditions through actions related to the pay gap, occupational segregation and hence the pension gap. To this end, the General Secretariat for Equality aims to promote the principle of equality in enterprises.

202. The planned measures include the following: commitment of partners to implement the principle of gender equality; establishing Equality Signs and Gender Equality Awards for Enterprises; networking and awareness raising of business benefits of gender equality and equal pay for companies promoting the principle of equal pay among employers; designing a "salaries and wages calculator", which provides timely and easily accessible information on the normal wages in a sector/region; awareness raising in society about the pay gap and more specifically, establishing the Day of Equal Pay and participating in European Equal Pay Day.

203. As regards gender mainstreaming, the General Secretariat for Gender Equality (GSGE) has supported the creation of methodologies and toolkits aiming at gender mainstreaming in public policies, placing emphasis on 13 regions and the 15 most populous municipalities of Greece. One of their priorities is also the promotion of female employment at regional and local level (e.g. measures for the reconciliation of family and professional life, so that more women are able to enter into the labour market).

204. Moreover, the GSGE undertakes a number of networking and publicity actions relating to consultations with various bodies on policymaking and dissemination of information on issues relating to gender equality.

205. The Government provides examples of measures taken to promote equality. These include uploading comprehensive material about statistics on the status of women in Greece, to the «EuroGender» online platform of the European Institute for Gender Equality; public information and awareness raising action together with the Hellenic Parliament related to the call for tender of the EU Fundamental Rights Agency (FRA) concerning research and analysis services about fundamental rights.

206. The Government maintains that the majority of the above-mentioned measures have already been put in place (except those referring to the pay gap and the enterprises, that are very recent and are not yet implemented in practice). However, a period of time is needed to get a response and achieve cooperation between all jointly competent parties in order to have actual results. To this end, the GSGE is trying by all available means to raise awareness among the general public as well as the public and private bodies on gender pay gap and equal representation of women in decision-making centres.

207. The Government also provides information on the activities of the Department of Gender Equality in Employment. This Department is tasked with considering and proposing necessary measures and actively participating in the formulation of international and EU law. It also monitors the implementation of the legislative framework relating to the principle of equal opportunities and equal treatment of men and women in employment.

208. Moreover, the GSGE is the competent state body for planning, implementing and monitoring policies on the equality of men and women in all areas. The Government believes that that even though the National Action Plan for Gender Equality is already in progress, taking action to address gender inequalities in all aspects of public life should be an on-going process. With this aim, the GSGE makes sure to use any available funding tool or mechanism in order to submit specific proposals concerning the debated issues of unequal pay and unequal participation of women in private companies' governance.

209. The Government also refers to the Monitoring Mechanism for the implementation of gender equality policies across the public sector (Observatory on Gender Equality), that strengthens the administrative ability of the main policy making body on gender equality. More specifically, it aims to support governmental organisations in order to strengthen planned and implemented policies on gender equality by integrating them across all policies and actions together with the design of effective monitoring and evaluation systems.

210. The main operations and activities of the Observatory on Gender Equality are to collect and analyse data and indices on the current situation and developments in gender equality; evaluate and monitor planned and implemented policies on gender mainstreaming at all levels; and assist with improving the design and implementation of gender equality policies at all levels.

B – Assessment of the Committee

a) Key figures as regards equal pay in Greece

211. The Committee notes that the female employment rate stood at 51.8% in 2010 and at 48.1% in 2017. The hourly gender pay gap in 2010 stood at 15% and at 12.5% in 2014. The Committee notes that Eurostat does not provide gender pay gap figures for 2015, 2016 and 2017. The overall earnings gap in 2014 was 41.4%. The adjusted or “unexplained” gender pay gap was at 8.5% compared to an EU-28 average of 11.5% (2014 data, see the Eurostat study “A decomposition of the unadjusted gender pay gap using Structure of Earnings Survey data, 2018).

b) Collection of data on equal pay and measures to promote equal opportunities

212. The Committee considers that in order to ensure and promote equal pay, the collection of high-quality pay statistics broken down by gender as well as statistics on the number and type of pay discrimination cases are crucial. The collection of such data increases pay transparency at aggregate levels and ultimately uncovers the cases of unequal pay and therefore the gender pay gap. The gender pay gap is one of the most widely accepted indicators of the differences in pay that persist for men and women doing jobs that are either equal or of equal value. In addition, to the overall pay gap (unadjusted and adjusted, the Committee will also, where appropriate, have regard to more specific data on the gender pay gap by sectors, by occupations, by age, by educational level, etc.

213. The Committee considers that States are under an obligation to analyse the causes of the gender pay gap with a view to designing effective policies aimed at reducing it. The Committee here recalls its previous holding that the collection of data with a view to adopting adequate measures is essential to promote equal opportunities. Indeed, it has held that where it is known that a certain category of persons is, or might

be, discriminated against, it is the duty of the national authorities to collect data to assess the extent of the problem (European Roma Rights Centre v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and to avoid abuse) is indispensable to the formulation of rational policy (European Roma Rights Centre v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §23).

214. The Committee further recalls that the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact (ICJ v. Portugal, Complaint No. 1/1998, op.cit., §32). Conformity with the Charter cannot be ensured solely by legislation and States Parties must take measures to actively promote equal opportunities. Besides the fact that legislation must not prevent the adoption of positive measures or positive action, the States are required to take specific steps aimed at removing *de facto* inequalities that affect women's and men's chances with regard to equal pay.

215. While the Committee acknowledges that the realisation of the obligation to take adequate measures to promote equal opportunities is complex, the States Parties must take measures that enable the achievement of the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources (International Association Autism-Europe (AIAE) v. France, Complaint No. 13/2002, op.cit., §53).

216. Under Article 20.c of the Charter the obligation to take appropriate measures to promote equal opportunities entails gender mainstreaming which is the internationally recognised strategy towards realising gender equality. It involves the integration of a gender perspective into the preparation, design, implementation, monitoring and evaluation of policies, regulatory measures and spending programmes, with a view to promoting equality between women and men, and combating discrimination. The Committee considers that gender mainstreaming, as recommended in particular by the Committee of Ministers of the Council of Europe (Recommendation Rec(1998)14), should cover all aspects of the labour market, including pay, career development and occupational recognition, and extending to the education system (Conclusions XVII-2, Article 1 of the 1988 Additional Protocol, Greece).

217. States should assess the impact of the policy measures adopted in tackling vertical or horizontal occupational gender segregation in employment, improving women's participation in a wider range of jobs and occupations.

218. Among other measures that States could adopt to reduce the gender pay gap and which the Committee regards as relevant indicators for assessing compliance with the obligations laid down by the Charter the following are highlighted:

- adoption and implementation of national action plans for employment which effectively ensure equality between women and men, including pay;
- requiring individual undertakings to draw up enterprise or company plans to secure equal pay;
- encouraging employers and workers to deal with equality issues in collective agreements;
- raising awareness of the equal pay principle among employers, organisations and the public at large, including through the activities of equality bodies.

219. The Committee notes from Direct Request of the CEACR (2017) that once the Integrated Information System of the SEPE is fully operational, it will be able to submit information disaggregated by gender, on the monthly salary, daily wage and hourly pay, as well as on full-time, part-time and rotation work contracts. According to the CEACR, the full implementation of the Integrated Information System will enable the Government to collect and analyse statistical information, disaggregated by gender, on the distribution of men and women in the various categories and branches of the wider public sector and the corresponding levels of remuneration, allowing an assessment of the evolution of the gender pay gap since 2009.

220. The Committee takes note of certain initiatives of the Government to improve collection and analysis of statistics concerning the gender equality and the pay gap in particular. According to the Government, these planned measures, if adopted, will considerably improve the data collection and analysis. However, the Committee notes that the Government has not transmitted complete data to Eurostat that would show the evolution of the gender pay gap in the course of the last decade. Therefore, the Committee considers that the Government has not satisfied its obligation in respect of data collection or the quality of statistics.

221. The Committee further takes note of the activities of GSGE to implement the Action Plan on Gender Equality. However, it notes that many of the measures are underway, including in particular those geared towards the improvement of data collection tools. In this context, the Committee considers that the obligation to adopt appropriate measures with a view to achieving measurable progress in reducing the gender pay gap has not been satisfied.

222. The Committee considers that the obligation to promote the right to equal pay entails that measures and policies are designed in response to shortcomings identified through data analysis, with a view to taking more targeted action. The Committee considers that as long as the significant part of such measures and policies are still underway and in light of the fact that data collection tools are only under development, the obligation to collect reliable, standardised statistics and to adopt measures to promote equal opportunities with respect to equal pay has not been satisfied.

223. In light of the above, the Committee holds that there is a violation of Article 20.c of the Charter.

III. ALLEGED VIOLATION OF ARTICLE 20.D OF THE CHARTER AS REGARDS ENSURING BALANCED REPRESENTATION OF WOMEN IN DECISION-MAKING POSITIONS WITHIN PRIVATE COMPANIES

224. Article 20.d of the Charter reads as follows:

Article 20 – Right to equal opportunities and equal treatment in employment and occupation without sex discrimination

Part I: “All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.”

Part II: “With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields: (...)

(...);

d. career development, including promotion.”

A – Arguments of the parties

1. The complainant organisation

225. According to UWE, Law No. 2839/2000 of 12 September 2000 imposes a one third quota requirement for the state-appointed portion of a board of all executive bodies consisting of members appointed by the state or local authorities, including companies fully or partially state-controlled. Appointment decisions failing to respect the quota requirement are subject to annulment by administrative courts. Moreover, decisions adopted by those boards that were not formed in accordance with the quota rule are subject to annulment by civil courts.

226. UWE maintains that despite this law, according to a study conducted in January 2016 regarding gender balance on corporate boards, women accounted for 9.8% of the membership of large company boards, compared with an EU average of 22.7%. The increase in Greece between 2010 and 2015 was 3%. According to UWE, this is the result of a constraint in the legislation, which confines the gender balance requirement to the public sector.

227. UWE maintains that women are markedly absent from the chairs of boards and executive committees. It is quite apparent that both company managers and political leaders hardly comply with the legislation on gender equality and certainly not with its spirit. Men simply share power among themselves.

2. The respondent Government

228. According to the Government, with a view to promoting women's participation in public life and empowering them to participate in political, social and economic decision-making centers, the GSGE has undertaken several activities. Among these, the Government refers to training programmes and awareness raising workshops for all civil servants to enhance the participation of women in positions of responsibility in Public Administration.

229. The GSGE collects data from competent bodies (public sector and municipalities) to monitor the composition of boards of collective bodies regarding the quota system of one third participation and identifies any failure within the current legislative framework. The Government states that such monitoring will be soon carried out by staff of the GSGE, through a special Application for Quota Monitoring, developed under the Flagship Project Monitoring the Structure of Gender Equality Mechanism and Supporting its Implementation. All competent bodies are obliged by law to comply with the quota system that requires one third participation of women in the composition of their collective boards and this mechanism will identify cases of non-compliance.

B – Assessment of the Committee

230. The Committee considers that Article 20.d of the Charter imposes positive obligations on States to tackle vertical segregation in the labour market, by means of, inter alia, promoting the advancement of women in decision-making positions in private companies. This obligation may entail introduction of binding legislative measures to ensure equal access to management boards of companies. Measures designed to promote equal opportunities for women and men in the labour market must include promoting an effective parity in the representation of women and men in decision-making positions in both the public and private sectors (Conclusions 2016, Article 20, Portugal).

231. The Committee observes that according to the European Commission's 2019 Report on equality between women and men, the proportion of women on management boards of the largest publicly listed companies in countries with binding legislative measures has risen from an average of 9.8% in 2010 to 37.5% in 2018. In countries with non-binding measures, including positive action to promote gender balance, the corresponding percentages were 12.8% in 2010 and 25.6% in 2018, whereas in countries where no particular action (apart from self-regulation by companies) has been taken, the situation remained almost stagnant with 12.8% on average in 2010 and 14.3% in 2018. The overall EU-28 average was 26.7% in 2018. The Committee further observes that PACE Resolution 1715(2010) recommends that the proportion of women on management boards of companies should be at least 40%.

232. Finally, the Committee recalls that in respect of Article 20.d, as for Article 20.c, States must take measures that enable the achievement of the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources.

233. The Committee notes that according to data provided by the European Institute for Gender Equality (EIGE) up to April 2019, the proportion of women on boards of the largest publicly listed companies in Greece stood at 6.2% in 2010; 8.4% in 2015; 9.1% in 2016; 11.3% in 2017; 9.8% in 2018 and 10.2% in 2019. The EU average in 2019 stood at 27.8%.

234. The Committee notes from the European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report on gender equality: Greece 2019 that no measures aimed at improving the gender balance in company boards have been adopted except those stipulated by Article 6(1)(b) of Law No. 2839/2000, according to which at least one-third of the (executive and non-executive) members of boards of legal persons of the public sector who are appointed by the State, legal persons governed by public law or local authorities must belong to each gender. The Committee notes however that this law was adopted in 2000 and due to subsequent privatisations, its scope and input has been significantly reduced.

235. The Committee observes that the proportion of women on boards of private companies has risen slightly in recent years. However, it remains very low. As regards legislative measures in place, the Committee notes that the “one-third quota” only concerns companies fully or partially owned by the State.

236. The Committee notes that the Government has taken certain measures to satisfy the obligation to tackle vertical segregation in the labour market. However, these measures have neither led to a balanced representation of women in decision-making positions in private companies nor to a clear and significant trend for improvement in such representation in recent years.

237. Therefore, the Committee holds that there is a violation of Article 20.d of the Charter.

IV. REQUEST FOR COMPENSATION

238. The Committee decides not to make a recommendation to the Committee of Ministers as regards the complainant’s request for a payment of €10,000 in compensation for legal costs incurred in connection with the proceedings. It refers in this respect to the stance taken by the Committee of Ministers in the past (see Resolution CM/ResChS(2016)4 in *European Roma Rights Centre (ERRC) v. Ireland*, Complaint No. 100/2013) and to the letter of the President of the Committee addressed to the Committee of Ministers dated 3 February 2017 in which the President announced that the Committee would for the time being refrain from inviting the Committee of Ministers to recommend reimbursement of costs.

239. The Committee nevertheless maintains its view that reimbursement of costs is in principle justified and appropriate under certain circumstances and an important factor in enabling the complaints procedure to attain the objectives and the impact that led the member States of the Council of Europe to adopt it in the first place.

CONCLUSION

For these reasons, the Committee concludes:

- as regards recognition and enforcement of the right to equal pay for work of equal value,
 - unanimously, that there is no violation of Articles 4§3 and 20.c of the Charter as regards recognition of the right to equal pay in the legislation;
 - unanimously, that there is a violation of Articles 4§3 and 20.c of the Charter on the ground that access to effective remedies is not ensured;
 - unanimously, that there is a violation of Articles 4§3 and 20.c of the Charter on the ground that pay transparency is not ensured in practice;
 - by 12 votes to 3, that there is no violation of Articles 4§3 and 20.c of the Charter as regards equality bodies;
- unanimously, that there is a violation of Article 20.c of the Charter on the ground that there has been insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay;
- unanimously, that there is a violation of Article 20.d of the Charter on the ground that there has been insufficient progress in ensuring a balanced representation of women in decision-making bodies within private companies.



Krassimira SREDKOVA
Rapporteur



Giuseppe PALMISANO
President



Henrik KRISTENSEN
Deputy Executive Secretary