

Equal Treatment of Women and Men in Employment: An Analysis of the Cypriot and the Greek Legal Frameworks

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Abstract

The principle of equal treatment between women and men holds a major importance in Labour Law and aims to ensure equal opportunities and conditions of employment regardless of gender. The main part of the study focuses on the protective measures and the legal protection in the Cypriot and Greek legal order. Statistical data reveals that gender equality at work has not actually been achieved in the two countries. A deeper analysis suggests that there is a pathogenesis in the labour markets that needs to be overcome. Balancing family and professional life are crucial in combating social stereotypes, occupational segregation, as well as the glass ceiling effect, in order to achieve substantial gender equality in employment life.

Keywords: equal treatment, equal pay, gender equality, labour market, discrimination, stereotypes, pay gap, glass ceiling effect, occupational segregation, work-life balance, maternity

Introduction

The principle of equal treatment holds a particular importance in Labour Law and constitutes a key factor in regulating labour relations. According to the principle, every employee is entitled to equal treatment under the same working conditions, whereas differential treatment between employees is prohibited, unless it can be justified by objective criteria.³ It is a triennial principle,⁴ in the sense that it is addressed to employers, who are obliged to comply with it when they regulate labour relations.

The principle of equal treatment of women and men in employment is based on

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3 I. Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek] (7th edition, Sakkoulas, 2014), 53-54; D. Zerdelis, *Labour Law - Individual Labour Relationships*, 3rd ed. [in Greek] (Athens: Sakkoulas, 2015), 170 ff.; I. Lixouriotis, *Individual Labour Relationships*, 4th ed. [in Greek] (Athens: Nomiki Vivliothiki Publications, 2013), 52 ff.; G. Vlastos, *Equality and equal treatment in labour relationships* [in Greek] (Athens: Sakkoulas, 1988), 155 ff.

4 I. Lixouriotis, *Individual Labour Relationships*, 56; G. Vlastos, *Equality and equal treatment in labour relationships*, 96.

the need to respect the human dignity of the employee, to protect the employee from the risk of being treated less favourably on the grounds of gender,⁵ and to prevent any unjustified and unfair act of discrimination against that employee on the basis of gender.⁶ Towards this end, the state takes the initiative to take positive measures to achieve gender equality at work.⁷

Although equal treatment of women and men in employment should, at least in modern times, be considered as self-evident, this is not (yet) the case, even in countries where a sufficient legislative framework that safeguards gender equality is in place. The ‘glass ceiling effect’ is certainly not something new, as women often find it harder than men to move up the professional ladder.⁸ This vertical occupational segregation phenomenon reflects women’s comparatively limited career opportunities in positions of senior professional hierarchy, which are statistically dominated by men.⁹

Gender equality is one of the fundamental values of the European Union (EU), enshrined also in Article 21 of the Charter of Fundamental Rights.¹⁰ The EU is dedicated to promoting gender equality within its member states, a principle contained in its very founding Treaties.¹¹ Over the decades this principle came to be statutorily enhanced through Primary, Secondary and Supplementary Law;¹² with changes to the EU Treaties, adoption of legislation (mainly in the form of Directives), as well as Case Law,¹³ the implementation of the principle of gender equality in practice was given a

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- 5 Zerdelis, *Labour Law - Individual Labour Relationships*, 3rd ed. [in Greek], 171, 215 and 223; see also Koukiadis, *Labour Law - Individual Labour Relationships*, 54 and 57ff., where it is argued that equality between men and women at work is linked to the anthropocentric nature of law, since gender discrimination leads to devaluation of the person.
 - 6 Koukiadis, *Labour Law - Individual Labour Relationships*, 57ff.; Zerdelis, *Labour Law - Individual Labour Relationships*, 172; Lixouriotis, *Individual Labour Relationships*, 53; G. Theodosis, *Gender equality in collective bargaining* [in Greek] (Athens: Nomiki Vivliothiki Publications, 2008), 13ff.; T. Doukeri, *Gender equality in labour relationships*, 3rd ed. [in Greek] (Thessaloniki: Papazisis Publications, 1994), 45.
 - 7 Zerdelis, *Labour Law - Individual Labour Relationships*, 225.
 - 8 The term ‘glass ceiling effect’ was first introduced by Hymowitz and Schellhardt in their 1986 *Wall Street Journal* article. Five years later, in 1991, the term also entered U.S. Law. The Civil Rights Act of 1991 established the U.S. Federal Glass Ceiling Commission, responsible for issues of gender discrimination.
 - 9 Theodosis, *Gender equality in collective bargaining* [in Greek], 62ff.; A. Papadopoulou, *Equality of men and women in collective bargaining agreements* [in Greek] (2008), 16ff.
 - 10 Official Journal of the European Union, Charter of Fundamental Rights of the European Union (2012/C 326/02).
 - 11 The principle that men and women should receive equal pay for equal work has been enshrined in the European Treaties since 1957, with the Treaty establishing the European Economic Community (EEC). This is current Article 157 of the Treaty on the Functioning of the European Union (TFEU).
 - 12 Zerdelis, *Labour Law - Individual Labour Relationships*, 215ff. and 244ff.; Theodosis, *Gender equality in collective bargaining*, 1, 5-6, G. Vlastos, *Equality and equal treatment in labour relationships*, 72-73; S. Burri and S. Prechal, *EU Gender equality law* (European Commission, 2008).
 - 13 The Court of Justice of the European Union (CJEU) has over the years ruled on multiple cases of

solid foundation. In most recent years, the EU has gone a step further to integrate a gender equality perspective into all EU policies and EU funding programmes (Gender Mainstreaming), with a view to promoting equality between women and men, and combating discrimination. This strategic goal is most recently manifested in the European Commission's Strategic engagement for gender equality 2016-2019.¹⁴

This article seeks to explore the extensive legislative framework in the field of equal treatment of women and men in employment, which has been adopted by two EU member states – namely Cyprus and Greece. Looking at recent statistics, as well as realities on the ground in the two societies, it is then assessed whether legislation on its own can bring about *per se* equality, or whether deeper social norms, as well as stakeholders across the state and non-state structure play an effective role.

Equality of Women and Men in Employment in the Cypriot Legal Order

Protective Measures

Article 28 §1 of the Constitution of Cyprus safeguards the principle of equality, stating that all persons are equal before the law, the administration and justice, and are entitled to equal protection thereof and treatment thereby.¹⁵ Article 28 §2 of the Constitution ordains that every person shall enjoy all the rights and liberties provided for in the Constitution without any direct or indirect discrimination against any person on the grounds of his/her community, race, religion, language, sex, political

unequal treatment between women and men in the employment sector. Some of these landmark cases include: (a) non-recruitment or non-renewal of a pregnant employee's contract: Case C-177/88 *Elisabeth Johanna Pacifica Dekker v. Stichting Vormingscentrum voor Jonge Volwassenen (VJV-Centrum) Plus* (The Netherlands), Case C-207/98 *Silke-Karin Mahlburg v. Land Mecklenburg-Vorpommern* (Germany), Case C-438/99 *Maria Luisa Jiménez Melgar v. Ayuntamiento de Los Barrios* (Spain); (b) dismissal because of pregnancy or during post-pregnancy protection or at the stage of artificial insemination: Case C-32/93 *Carole Louise Webb v. EMO Air Cargo (UK) Ltd* (United Kingdom), Case C-394/96 *Mary Brown v. Rentokil Ltd* (United Kingdom), Case C-109/00 *Tele Danmark A/S v. Handels- og Kontorfunktionærernes Forbund i Danmark (HK)* (Denmark), Case C-460/06 *Nadine Paquay v. Société d'architectes Hoet + Minne SPRL* (Belgium), Case C-506/06 *Sabine Mayr v. Bäckerei und Konditorei Gerhard Flöckner OHG* (Austria); (c) direct discrimination on the grounds of pregnancy: Case C-294/04 *Carmen Sarkatzis Herrero v. Instituto Madrileño de la Salud (Imosalud)* (Spain), Case C-232/09 *Dita Danosa v. LKB Līzings SLA* (Letonia); (d) indirect discrimination against woman employee: Case C-100/95 *Brigitte Kording v. Senator für Finanzen* (Germany), Case C-196/02 *Vassiliki Nikolondi v. Hellenic Telecommunications Organisation SA (OTE)* (Greece), Case C-104/09 *Pedro Manuel Roca Álvarez v. Sesa Start España ETT SA* (Spain); (e) professional ascertainment of pregnant employee: Case C-136/95 *Caisse nationale d'assurance vieillesse des travailleurs salariés (CNAVTS) v. Evelyne Thibault* (France); (f) less favourable treatment of pregnant employee: Case C-284/02 *Land Brandenburg v. Ursula Sass* (Germany).

14 Strategic engagement for gender equality 2016-2019, available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/strategic_engagement_for_gender_equality_en.pdf

15 A. Emilianides and C. Ioannou, *Labour Law in Cyprus* (The Hague: Wolters Kluwer, 2016), 159.

or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in the Constitution.¹⁶

Law 205(I)/2002^{17, 18} on 'Equal Treatment of Men and Women in Employment and Vocational Training' partly harmonizes Cypriot Law with Directive 2006/54/EC. Law 205(I)/2002, providing for the application of the principle of equal treatment of women and men in the field of employment and, in particular, as regards access to vocational guidance, vocational education and training, as well as the terms and conditions in which they are carried out, access to employment, the terms and conditions of employment, including career development and the terms and conditions of dismissal (Section 3 of Law 205(I)/2002).¹⁹ Law 205(I)/2002 applies in principle to all employers and with regard to all activities related to employment, with certain exceptions.²⁰

By virtue of Section 5 of Law 205(I)/2002, women and men must enjoy equal treatment in the fields of employment, whereas lack of intention on the part of the employer does not preclude the illegal character of the discriminatory act. Moreover, the state and the social partners are encouraged to establish positive measures on gender equality through laws, collective agreements, or any other employer-employee agreements (Section 6 of Law 205(I)/2002).

16 Ibid., 158-159.

17 As amended by Laws 191(I)/2004, 40(I)/2006, 176(I)/2007, 39(I)/2009 and 150(I)/2014.

18 See the analysis of the context of Law 205(I)/2002 in Emilianides and Ioannou, *Labour Law in Cyprus*, 151-153; S. Giannakourou, *Cyprus Labour Law* [in Greek], (Athens: Nomiki Vivliothiki Publications, 2016) 115-120.

19 Actions that amount to direct or indirect discrimination on the grounds of gender mainly refer to: i) access to employment or work position, temporary, full-time or part-time employment and at all levels of an occupational hierarchy; ii) the terms and conditions of employment, including qualifications and other terms, conditions and placement, permanency, accession, transfer, removal, detachment or promotion criteria; iii) the terms and conditions of dismissal from any job or post; iv) membership and participation in employees' or employers' representatives organisations or any organisation whose members practice a specific profession, including any benefits granted by such organisations (Sections 8, 9 and 9A).

20 Section 4 of Law 205(I)/2002 provides that there are certain exceptions in occupational activities where, by reason of the context in which they are carried out, gender constitutes a determining factor. Such exempted occupational activities are listed in the Schedule of Law 205(I)/2002 and refer to: i) artistic activities where the filling of a post with a persons of the other gender would cause a significant difference in the nature of the post; ii) employment in a particular post when the duties of the post include the provisions of services outside Cyprus, in a state where legislation and culture are such that the particular services may not be logically rendered by a persons of the other gender; iii) personal services when it is imperative that these services employ persons from both genders, or referring to the domestic care of elders or persons with disability; iv) employment in the post of warden in women's or men's prisons; v) employment in the security forces or private security bodies when the employment of either gender is necessary to respect the personality of a person, or in special forces; and, vi) employment of women in underground mining works.

According to Sections 8, 9 and 9A of Law 205(I)/2002, any action amounting to direct or indirect discrimination on the grounds of sex shall be prohibited, inter alia, in the following fields: (i) access to employment or work position, temporary, full-time or part-time employment and at all levels of an occupational hierarchy; (ii) the terms and conditions of employment, including qualifications and other terms, conditions and placement, permanency, accession, transfer, removal, detachment or promotion criteria; (iii) the terms and conditions of dismissal from any job or post; (iv) membership and participation in employees' or employers' representative organizations, or any organization whose members practise a specific profession, including any benefits granted by such organizations.

An employer who violates any provision of Law 205(I)/2002 is guilty of an offence punishable with imprisonment of up to six months and/or a fine not exceeding €6,834 (Section 30), while any acts of retaliation by the employer against the employee are strictly prohibited (Section 17).

Law 177(I)/2002²¹ aims to ensure the application of the principle of equal pay between women and men for the same work or for work of equal value (Section 3). Equal pay refers to the monthly salary and any other additional benefit paid directly or indirectly, in cash or in kind, by the employer to the employee (Section 2). A system of professional classification that is used for the determination of pay must be based on common criteria for male and female employees and must be designed in such a manner that discrimination based on gender is excluded (Section 5). Any contradictory arrangements which contain direct or indirect gender discrimination should be abolished (Section 7). It is explicitly forbidden to dismiss or discriminate against any employee who would complain about unequal treatment (Section 9).

Maternity protection is mainly regulated by Law 100(I)/1997. The employee is entitled to 18 weeks maternity leave. The period of maternity leave is considered as working time (Section 7). The employee has the right to return to her post after the expiry of the maternity leave under the same working conditions and is also entitled to a reduced working time for a period of 9 months. The employee should not be dismissed for the period since she has informed the employer of her pregnancy until 3 months after the expiry of the maternity leave (Section 4(1)), unless the employee commits a serious misconduct that justifies her dismissal, works under a fixed-term contract which expires or the company ceases to operate.

An employee's unfavourable treatment due to pregnancy or maternity leave is prohibited under Section 4(5) of Law 205(I)/2002. The Court of the EU has judged that gender discrimination also refers to non-recruitment²² or dismissal²³ owing to

21 As amended by Laws 193(I)/2004, 38(I)/2009 and 151(I)/2014.

22 Case C-177/88 *Dekker v. Stichting Vormingscentrum voor Jong Volwassenen*.

23 Case C-179/88 *Handels- og Kontorfunktionærernes Forbund v. Dansk Arbejdsgiverforening*; Case

pregnancy. The rule of partial reversal of the burden of proof also applies in the case of maternity protection, since the unfavourable treatment against the employee is presumed to be due to her pregnancy or maternity, unless the employer proves the contrary (Section 11).

Finally, Law 47(I)/2012 regulates the right to parental leave. Every parent who has been working for six months for his/her employer has the right to take parental leave without pay for a period of 18 weeks for each child, or 23 weeks if the parent is a widower. The period of leave counts as working time and the employer cannot terminate the employment contract on the grounds that the employee has been granted parental leave. Parental leave favours the participation of women in working life and encourages men to undertake family responsibilities.²⁴

Legal Protection

Any dismissal is null and void if the employer dismissed the employee after having complained of a breach in the Equality Law, unless the employer can prove that the dismissal is due to other reasons (Section 17(1) of Law 205(I)/2002). Partial reversal of the burden of proof applies, which means that the employee who suffers infringement of his/her rights should invoke facts which may lead to breach of the Equality Law, whereas the employer must prove that there has been no breach of the provisions of the law and no damage has been caused to the employee (Section 14 of Law 205(I)/2002).²⁵ The Court of Labour Disputes awards a just and equitable compensation to the employee which covers the moral or physical damage he/she suffered plus legal interest (Section 15 (3) of Law 205(I)/2002).²⁶ Especially in case of dismissal, re-employment may be ordered by the Court if it is requested by the employee, so the employer is compelled to accept the employee's services (Section 15(4) of Law 205(I)/2002).

As far as the extrajudicial protection against gender segregation at work is concerned, this is developed in three axes. Firstly, the Gender Equality Commission for Employment and Vocational Training (Sections 22-23 of Law 205(I)/2002) constitutes an independent advisory body with responsibility for defining or revising

C-421/92 *Gabriele Habermann-Beltermann v. Arbeiterwohlfahrt*.

24 Case C-222/14 *Konstantinos Maistrellis v. Minister of Justice, Transparency and Human Rights; Giannakourou*, *Cyprus Labour Law* [in Greek], 206.

25 The partial reversal of the burden of proof has been applied by the ECJ before its legislative enforcement, see Case C-109/88 *Handels- og Kontorfunktionærernes Forbund I Danmark v. Dansk Arbejdsgiverforening*, Case C-127-92 *Dr. Pamela Mary Enderby v. Frenchay Health Authority and Secretary of State for Health*. See also Case *Elena Aresti v. General Prosecutor of State*, where the Supreme Court of Cyprus retreated to judgments of Irish (*Teresa Mitchell v. Southern Health Board*) and English (*Igen Ltd v. Wong*) courts in order to apply the reversal of the burden of proof, see also Giannakourou, *Cyprus Labour Law* [in Greek], 133-135.

26 See also Case C-407/14 *Camacho v. Securitas Seguridad Espana SA*.

national legislation on gender equality. The Gender Equality Commission may also provide assistance through counseling and giving information on victims' rights, represent victims before the judicial and extrajudicial authorities or even take the initiative to complain to the competent authorities about unequal treatment based on gender. Secondly, the Labour Inspector is equipped with increased powers and guarantees the effective enforcement and application of the Equality Law. The Labour Inspector (Section 24 et seq. of Law 205(I)/2002) is responsible to get complaints for infringement of the Equality Law in order to settle the dispute and drafts a report on the complaint, whereas, if no agreement is reached, introduces the case before the Labour Research and Assessment Committee.²⁷ Moreover, the Labour Inspector provides information, advice and suggestions to employees and employers on how to effectively comply with the law, reports to the Minister of Labour, Welfare and Social Security on issues that arise in the implementation of the law and submits proposals for the purpose of resolving them.²⁸ Finally, complaints can also be submitted to the Commissioner for Administration. The Commissioner, according to Law 42(I)/2004, may make recommendations to the competent authorities to investigate the complaints submitted, make recommendations for preventing the unequal treatment and impose fines in case of impeachment of the law.²⁹

Equality of Women and Men in Employment in the Greek Legal Order

Protective Measures

The Greek Constitution refers to gender equality: All Greek citizens, men and women, have equal rights and obligations (Article 4(2)). Equal pay irrespective of gender is established in Article 22 (1). The state should adopt measures for the promotion of gender equality and the elimination of inequalities on grounds of gender (Article 116 (2)).³⁰

Gender equality in Greece is mainly regulated by Law 3896/2010, which replaced Law 1414/1984³¹ and incorporated into the Greek legal order Directive 2006/54/EC

27 Giannakourou, *Cyprus Labour Law* [in Greek], 168-169.

28 See also *Alkiviadou v. Attorney-General* [2011] 1 CLR 2350.

29 A. Papadopoulou, *Equality of men and women in collective bargaining agreements* [in Greek] (2008), 42ff., where there are references to specific cases where the Commissioner for Administration took the initiative and action on cases of dismissal of a pregnant employee, sexual harassment of an employee by her supervisor, unlawful failure to recruit a prospective employee on grounds of gender etc.

30 Koukiadis, *Labour Law – Individual Labour Relationships* [in Greek], 336ff.; Lixouriotis, *Individual Labour Relationships* [in Greek], 59; Vlastos, *Equality and equal treatment in labour relationships* [in Greek], 74-75.

31 Vlastos, *Equality and equal treatment in labour relationships* [in Greek], 83ff.; Doulkeri, *Gender equality in labour relationships* [in Greek], 49ff.; G. Kravaritou, *Labour and woman's rights* [in Greek]

of the European Parliament and the Council. Law 3896/2010 aims to establish gender equality in the field of employment and labour market by applying the principle of equal opportunities and equal treatment between men and women in employment (Article 11), career development (Article 12), vocational training (Article 13), social security schemes and working conditions, including equal pay (Article 1). The principle of equal treatment sets the prohibition of any direct or indirect discrimination based on gender, especially with regard to the marital status of the employee (Article 3). Direct discrimination occurs when a person is treated less favourably because of his/her gender,³² whereas indirect discrimination takes place when an apparently neutral provision or criterion or practice may lead to a disadvantageous result against a person on grounds of gender, unless such provision meets professional requirements or services a social policy, such as maternity protection. (Article 2 (f) (a) and (b)).³³ On the contrary, the adoption or maintenance of measures that eliminate any discrimination on the grounds of gender does not fall within the notion of prohibited discrimination (Article 19).³⁴ Men and women employees are entitled to equal pay for equal work or work of equal value (Article 4).^{35, 36} Termination of employment based on gender or family status or because of the employer's vengeance due to the employee's incompetence with sexual or other type of harassment is prohibited (Article 14).³⁷

(Athens: Sakkoulas, 1992), 167ff., P. Agalopoulou, *Violations of the principle of equal treatment of men and women in labour relationships* [in Greek] (Athens: Sakkoulas, 1992), 45ff.

- 32 Koukiadis, *Labour Law – Individual Labour Relationships* [in Greek], 34ff.; Zerdelis, *Labour Law - Individual Labour Relationships* [in Greek], 226ff.
- 33 Koukiadis, *Labour Law – Individual Labour Relationships* [in Greek], 57ff. and 346, where it is stated that indirect discriminations are legitimate, when they are justified by the need to achieve a legitimate aim and the means for its achievement are appropriate and necessary; Zerdelis, *Labour Law - Individual Labour Relationships* [in Greek], 235ff. and 254ff.; Lixouriotis, *Individual Labour Relationships* [in Greek], p. 54; Theodosis, *Gender equality in collective bargaining* [in Greek], 67ff. About exceptions to equal treatment, provided that they are appropriate for a certain profession, see also T. Doulkeri, *Gender equality in labour relationships* [in Greek], 28, 39, 119-120.
- 34 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 339; Doulkeri, *Gender equality in labour relationships* [in Greek], 51.
- 35 About the principle of equal pay, see Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 340ff.; I. Lixouriotis, *Individual Labour Relationships* [in Greek], 55ff.; Zerdelis, *Labour Law - Individual Labour Relationships* [in Greek], 244ff., where it is pointed out that the court should disregard any provision conflicting with the claim for equal pay or prevents its implementation; Doulkeri, *Gender equality in labour relationships* [in Greek], 39ff.
- 36 Remuneration is broadly defined, in accordance with the jurisprudence of the ECJ, since remuneration is considered to be all wages, salaries and benefits provided, directly or indirectly, in cash or in kind by the employer to the employee for his work, see also Case C-262/88 *Douglas Harvey Barber v. Guardian Royal Exchange Assurance Group*; Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 340 ff.; Zerdelis, *Labour Law - Individual Labour Relationships* [in Greek], 247-249; Theodosis, *Gender equality in collective bargaining* [in Greek], 38ff.; Vlastos, *Equality and equal treatment in labour relationships* [in Greek], 78 and 112ff..
- 37 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 350-351.

There are also provisions on equality regarding family obligations of the employee. Maternity, paternity and family life are explicitly protected under the provisions of the law (Article 20). An employer cannot refuse to hire a woman because of the fact that she is pregnant or a mother (Article 20 (2)). Any discrimination against working parents, which arise as a result of parental leave, is prohibited (Article 18). According to Article 36 of Law 3996/2011, a woman should not be dismissed during pregnancy and 18 months after confinement. An employee has the right to return to her job after the termination of the maternity leave, while she also benefits from any improvement in the working conditions during her absence (Article 17).

Legal Protection

An employee who considers that (s)he has suffered unequal treatment because of his/her gender has the right to seek legal protection, even after the termination of employment (Article 22 (1)). An employee may bring an action to the civil courts requesting full compensation, which covers the positive and negative loss suffered as well as reparation of moral damage (Article 23 (1)).³⁸ Partial reversal of the burden of proof also applies.³⁹ The employee provides evidence that may result in direct or indirect discrimination, whereas the employer should prove that there has been no breach of the principle of equal treatment irrespective of gender (Article 24).⁴⁰

The extrajudicial protection is preventive rather than repressive, in the sense that it is intended to create a framework which will prevent unequal treatment on grounds of gender. The Ombudsman acts as the authority to monitor and promote the implementation of the principle of equal opportunities and equal treatment of men and women (Article 25). In particular, the Ombudsman is competent to provide assistance to victims of gender discrimination, to carry out the relevant research in case of complaints about impeachment of gender equality, to publish reports on the implementation of equal opportunities and equal treatment, to propose measures to eliminate gender discrimination, to exchange information with counterparts from the member states of the EU and to cooperate with the competent authorities about the implementation of gender equality (Ministry of Labour and Social Security, General Secretariat for Gender Equality, social partners etc.) (Article 3 (6) of Law 3094/2003). In addition, the Ombudsman may request, from a person named in a petition before him/her, documents or other evidence to establish the truth of complaints about violation of gender equality (Article 4 (5) of Law 3094/2003). Moreover, the Inspection

38 Giannakourou, *The equal treatment of men and women under EU and Greek Labour Law* [in Greek], 291; Zerdelis, *Labour Law - Individual Labour Relationships* [in Greek] (Third edition, Sakkoulas, 2015), 291.

39 Case C-127/92 *Dr. Pamela Mary Enderby v. Frenchay Health Authority and Secretary of State for Health*.

40 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 354, Zerdelis, *Labour Law - Individual Labour Relationships* [in Greek], 294ff.

Body of Labour Relations deals with complaints about violations of gender equality and informs the Ombudsman about them, submitting the results of the actions undertaken and carried out in relation to them (Article 25 (10)).

Trade unions inform their members about their rights deriving from the legislation on equal pay and equal treatment at work (Article 26 (1)). Legal entities and associations of persons who justify a legitimate interest may exercise the rights of the employee who suffers gender inequality, provided that the employee consents to the actions before the competent authorities (Article 22 (2)).⁴¹ Employers are obliged to provide information that makes it possible to ascertain compliance with the relevant provisions (information on the proportion of men and women in a company, cooperation with employees' representatives etc.) and promote equality at the workplace (Article 26 (2-3)). Finally, the Department of Gender Equality of the Ministry of Labour and Social Security is responsible, inter alia, to take legislative initiatives relating to the implementation of the principle of gender equality, maternity protection and the reconciliation of professional, private and professional life, to monitor collective labour agreements in order to verify compliance with the equality legislation and to monitor the measures taken to promote gender equality (Articles 27-28).

The Pathogenesis of the Cypriot and Greek Labour Markets

The Special Eurobarometer survey on gender equality of November 2017⁴² emphasised the need for achieving more convergence in the field of gender equality across the EU member states. One of the many interesting findings of the Survey was that more than one-third of Europeans (35%) believe that men are more ambitious than women, and almost seven in ten respondents (69%) think women are more likely than men to make decisions based on their emotions. Mentalities seem to be a main parameter underlying these findings, as still women are stereotypically linked to the domestic sphere much more than men and, as a result, there is still a rather unequal division of labour and responsibilities within the household that hinders women in their professional lives.

The interesting findings of the Gender Equality Index 2017⁴³ highlight that progress is very slow; 'The EU's score is just four points higher than ten years ago, now 66.2 out of 100. The top performing country is Sweden with a score of 82.6, while

41 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 355.

42 Special Eurobarometer 465 (2017), Gender Equality 2017, [EBS 465], available at: <http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2154>.

43 European Institute for Gender Equality (2018), Gender Equality Index 2017: Measuring gender quality in the European Union 2005-2015 Report, available at <http://eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-measuring-gender-equality-european-union-2005-2015-report>.

Greece moved to the bottom with 50 points.⁴⁴ According to the findings, progress has even slipped backwards in 12 countries when it comes to the time use of women and men. “Only every third man engages daily in cooking and housework, compared to almost every woman (79%). Men also have more time for sporting, cultural and leisure activities.”⁴⁵ Greece and Cyprus were among the countries where, according to the Index’s findings, a great deal of work still needs to be done in order to achieve a gender-equal society.

In the case of Cyprus, the employment rate is 64% for women versus 72% for men for the age groups 20-64. The total employment rate is 68% and the country has not yet reached the national target of the Europe 2020 Strategy (EU2020), which is in the margin of 75-77%. The full-time equivalent employment rate of women is about 45%, compared to 53% for men. The gender gap in the full-time equivalent employment rate is 6% to the detriment of women in the age group 25-49 and 19% to the detriment of women in the age group 50-64. The full-time equivalent gender gap is much greater among single women and men (35% versus 58%, respectively), in couples with children (64% versus 80%, respectively) and among people with disabilities (18% versus 30%, respectively), always to the detriment of women. Moreover, 17% of women work part-time, compared to 11% of men. On average, women work 37 hours per week, compared to 41 hours for men. Five percent of working-age women versus 0.1% of working-age men are economically inactive or work part-time due to care responsibilities.⁴⁶

In the case of Greece, the employment rate in 2015 was 46% for women versus 64% for men in the age group 20-64, with the total employment rate at 55%. Greece has not reached its national target within the Europe 2020 strategy (EU2020), which is set at 70%. The gender gap in the employment rate is similar when the number of hours worked is taken into account. The full-time equivalent employment rate is around 30% for women compared to 46% for men. Among women and men in a couple with children, the full-time equivalent employment rate for women is 50% compared to 79% for men, indicating a gender gap of 29%. This gender gap is bigger than that of couples without children, a group for which there is a gender gap of 6%. The full-time equivalent employment rate increases as education levels rise. Moreover, among people with low and medium levels of education, the gender gap is much higher, to the detriment of women, than among highly educated people. Thirteen

44 European Institute for Gender Equality (2018), Gender Equality Index 2017: Progress at a snail’s pace, available at <https://eige.europa.eu/news-and-events/news/gender-equality-index-2017-progress-snails-pace>.

45 Ibid.

46 European Institute for Gender Equality (2018), Gender Equality Index 2017: Cyprus, available at: <https://eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-cyprus>.

percent of women work part-time compared to 7% of men. On average, women work 39 hours per week, compared to 44 hours for men. Three percent of working-age women versus virtually no working-age men are either inactive or work part-time due to care responsibilities.⁴⁷

It is evident from the statistical data above that legislation in itself is not enough to prevent gender discrimination, including wage inequality.⁴⁸ Gender equality cannot be achieved unless all stakeholders join forces to deliver. The reality of the labour market in both Cyprus and Greece shows that employment equality between men and women still has significant gaps.

An important pathogenesis of the Cypriot and Greek labour markets is the occupational gender segregation, according to which the jobs and professions are divided into ‘male’ and ‘female’, and women mainly work in low-skilled and low-paid jobs and professions.⁴⁹ Occupational segregation may either get the form of (i) vertical separation, which concerns the hierarchical position of women, who are limited to employment in the hierarchically lower jobs and professions, resulting in even more intense wage differentials, otherwise also known as the ‘glass-ceiling effect’, or (ii) horizontal segregation, where women work in specific sectors and professions, mainly in education, human health and social work activities. According to the 2017 Gender Equality Index, gender segregation in the labour market is a reality for both women and men in both Cyprus and Greece. In the case of Cyprus, nearly 20% of women compared to 7% of men work in education, human health and social work activities,⁵⁰ whereas in the case of Greece, 22% of women work in education, human health and social work activities, compared to 8% of men.⁵¹

The main reason for the perpetuation of occupational segregation in the labour market, especially in Cyprus, is the prejudices against women at work. Few cases are pending before the Court of Labour Disputes on the implementation of the Equality Law. Most of the cases relate to recruitment and promotion issues in the wider public sector and the Court does not examine the real facts of the case, but mainly examines

47 European Institute for Gender Equality (2018), Gender Equality Index 2017: Greece, available at: <https://eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-greece>.

48 The Cypriot Law on equal pay was established only in 1989 (Law 158/1989). Prior to its establishment, in the case *Melpo Gregoriou v. Municipality of Nicosia*, the defendant woman employee was subject to a pay gap due solely to her gender and she claimed equal pay with her men colleagues and her request was upheld by the Supreme Court of Cyprus.

49 P. Agalopoulou, *Violations of the principle of equal treatment of men and women in labour relationships* [in Greek], 29-30.

50 European Institute for Gender Equality (2018), Gender Equality Index 2017: Cyprus, available at: <https://eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-cyprus>.

51 European Institute for Gender Equality (2018), Gender Equality Index 2017: Greece, available at: <https://eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-greece>.

if a breach of procedural requirements took place.⁵² It is indeed a given that people's perceptions are both shaped, and constrained, primarily by their experiences, and living in a small country like Cyprus, a small island community to be exact, people tend to be relatively cut off from the rest of the world and often follow more conservative, 'island-mentality' lifestyles that make it much harder to transform perceptions.⁵³

Conclusion

Gender equality in labour relations starts from the concern to ensure equal pay for work of equal value, extends to equal treatment in working conditions and equal opportunities in the labour market in general, as well as professional evolution in order to achieve social cohesion.⁵⁴ It would otherwise be meaningless to establish a provision of equal pay if women could not join the labour market, or could not be recruited in part-time jobs with at least partial wages, partial rights and partial stability, or be recruited in under-skilled jobs, and have the opportunity to even develop their professional skills.

Legislation should take into consideration the different social, family and biological implications⁵⁵ that work-life balance has on women and men. The state should adopt measures that facilitate the simultaneous response to professional and family obligations (paid parental leave),⁵⁶ create or develop sufficient family support structures (childcare services),⁵⁷ ensure the flexibility of working time⁵⁸ and the continuity of a woman's professional career during periods of interruption in her career, such as birth and maternity (assimilation of absence time with working time owing to family obligations).⁵⁹

The establishment of measures of judicial and extrajudicial protection, as well as the supervision of their observance, is not enough to prevent occupational gender segregation.⁶⁰ Occupational gender segregation cannot be avoided, unless there is

52 Papadopoulou, *Equality of men and women in collective bargaining agreements* [in Greek], 33ff.

53 This is discussed more extensively in C. Ioannou, 'The Europeanisation of Cypriot Social Policy: An Apolitical Europeanisation Process', *Journal of Modern Hellenism*, Vol. 25-26 (2008-2009), 97-128; C. Ioannou and G. Kentas, 'The Europeanisation of Gender Issues in the Labour Sector: Normative vs. Cognitive Adaptation', in *Proceedings of the 13th International Conference of International Society for the Study of European Ideas* (University of Cyprus, Nicosia, 2-6 July 2012).

54 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 333 and 347ff.; Dimarellis, 'The status of women employees in Greek and Cypriot legal order' [in Greek] *Labour Law Inspection*, Vol. 75, No 5 (2016), 540.

55 Kravaritou, *Labour and woman's rights* [in Greek], 14.

56 Theodosis, *Gender equality in collective bargaining* [in Greek], 107ff.

57 Theodosis, *Gender equality in collective bargaining* [in Greek], 141ff.; Doulkeri, *Gender equality in labour relationships* [in Greek], 36-37; Kravaritou, *Labour and woman's rights* [in Greek], 27, 41.

58 Theodosis, *Gender equality in collective bargaining* [in Greek], 147ff.

59 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 335.

60 See also Kravaritou, *Labour and woman's rights* [in Greek], 27 and 36-37, where it is pointed out

disengagement from prejudices that limit women to having an auxiliary role in the labour market and occupying jobs which demand less skills. Stereotypes are generally restricting employment into 'female' and 'male' occupations, thus depriving women of access to a well-paid, full-time job and preventing their professional development. It is therefore necessary to abolish anachronistic social structures in order to overcome the concepts that reproduce inequality against women employees.⁶¹

Family obligations should be restructured in order to correspond to the modern era and to achieve a balance between work and family life.⁶² The perception of society remains focused on the dipole of the man as the breadwinner, who is primarily responsible for the survival of the family, and the woman as the child-carer, who should face her complex role within the family and the society.⁶³ A woman's work depends on many factors mainly related to family responsibilities, which signify the complex and demanding role that she has to respond to.⁶⁴ Reconciliation of work and family life can be achieved by abandoning the patriarchal notion that only women should bear family obligations.^{65, 66}

The parameter of education is also important. Higher education, vocational training and enrichment of qualifications can help women participate more actively in the labour market, take higher and better-paid jobs, and respond to increasing mobility in the labour market.⁶⁷ In addition, women should be encouraged to receive education in line with the new economic, technological and scientific developments in order to move to modern and developing professions.⁶⁸

that the enforcement of the principle of gender equality in 'brilliant' legislative texts is not enough to ensure the implementation of equality in labour relations, since anachronistic social structures still exist.

61 Kravaritou, *Labour and woman's rights* [in Greek], 39-40; Agallopoulou, *Violations of the principle of equal treatment of men and women in labour relationships* [in Greek], 35; Doulkeri, *Gender equality in labour relationships* [in Greek], 50-51; Dimarellis, 'The status of women employees in Greek and Cypriot legal order' [in Greek], 540.

62 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 333; Theodosios, *Gender equality in collective bargaining* [in Greek], 105ff.; Kravaritou, *Labour and woman's rights* [in Greek], 12; Vlastos, *Equality and equal treatment in labour relationships* [in Greek], 95-96; Dimarellis, 'The status of women employees in Greek and Cypriot legal order' [in Greek], 541.

63 Kravaritou, *Labour and woman's rights* [in Greek], 118-119, who mentions that the family is interwoven with the woman.

64 Kravaritou, *Labour and woman's rights* [in Greek], 11.

65 Zerdelis, *Labour Law - Individual Labour Relationships* [in Greek], 218, Kravaritou, *Labour and woman's rights* [in Greek], 39ff.

66 Kravaritou, *Labour and woman's rights* [in Greek], 18, 27.

67 Agallopoulou, *Violations of the principle of equal treatment of men and women in labour relationships* [in Greek], 34.

68 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 335; Agallopoulou, *Violations of the principle of equal treatment of men and women in labour relationships* [in Greek], 75.

The role and activity of trade unions and social organisations should be multilateral.⁶⁹ They should examine the pathogenesis of the labour markets and inform the competent authorities about the problems that women face at work, in order to adopt rules that take into account these problems and the multifaceted role that a woman holds as a worker, mother and spouse. Gender mainstreaming has already integrated the gender dimension into existing employment policies. Social organisations may develop actions to reduce gender inequality in labour relations, including increasing society's awareness, upgrading the monitoring mechanisms on equality legislation, and combating occupational segregation on the basis of gender through interventions in education.

Women also hold individual responsibility to take initiatives that will lead to gender equality.⁷⁰ Low participation in trade unions, due to lack of time or fear of a possible dismissal, makes it difficult to promote their demands.⁷¹ In this respect, it is particularly important to take the initiative to participate in trade unions, think tanks and decision-making bodies in order to influence the formulation and content of laws, decisions and measures that concern them.⁷² In fact, it has been estimated that the participation of women should amount to at least 30% of the total number of employees of the organisations in order for them to influence decision-making.⁷³

In conclusion, the crucial concern and aim is to apply substantial equality throughout employment, from recruitment to dismissal or even after that,⁷⁴ and from fixing wages and working hours to the provision of welfare measures and respect for women's personality, taking into account the specificities that characterise women's work. A very important issue in this context is the fight against stereotypes which reproduce occupational segregation into 'female' and 'male' professions. We should, therefore, get to the point where a woman occupying a high position is not considered to be something remarkable, but a normal panacea. Indeed, gender equality in every aspect of economic and social life is a basic obligation for every state which ensures equal treatment for all citizens irrespective of their gender.

69 Theodosis, *Gender equality in collective bargaining* [in Greek], 16ff. and 22ff., Dimarellis, 'The status of women employees in Greek and Cypriot legal order' [in Greek], 542-543.

70 Dimarellis, 'The status of women employees in Greek and Cypriot legal order' [in Greek], 543.

71 Kravaritou, *Labour and woman's rights* [in Greek], 189; Agallopoulou, *Violations of the principle of equal treatment of men and women in labour relationships* [in Greek], 73-74, where there is an analysis of the reasons that deter women from an active participation in trade unions.

72 Theodosis, *Gender equality in collective bargaining* [in Greek], 19ff.; Agallopoulou, *Violations of the principle of equal treatment of men and women in labour relationships* [in Greek], 76.

73 Koukiadis, *Labour Law - Individual Labour Relationships* [in Greek], 333.

74 Case C-185/97 *Belinda Jane Coote v. Granada Hospitality Ltd.*, where it was judged that equality law is infringed when the employer refuses to provide a letter of recommendation to the employee after the termination of employment, if the employee has sued against the employer in order to ensure the application of equality law.

References

- Agallopoulou, P. (1992) *Violations of the principle of equal treatment of men and women in labour relationships* [in Greek], Athens: Sakkoulas.
- Burri, S. and Prechal, S. (2008) *EU Gender equality law*, European Commission.
- Dimarellis, K. (2016) 'The status of women employees in Greek and Cypriot legal order' [in Greek]. *Labour Law Inspection*, Vol. 75, No. 5.
- Doulkeri, T. (1994) *Gender equality in labour relationships* [in Greek], 3rd edition, Thessaloniki: Papazisis Publications.
- Emilianides, A. and Ioannou, C. (2016) *Labour Law in Cyprus*, The Hague: Wolters Kluwer.
- Giannakourou, S. (2016) *Cyprus Labour Law* [in Greek], Athens: Nomiki Vivliothiki Publications.
- Giannakourou, S. (2015) *The equal treatment of men and women under EU and Greek Labour Law* [in Greek], Athens: Sakkoulas.
- Ioannou, C. (2009) 'The Europeanisation of Cypriot Social Policy: An Apolitical Europeanisation Process'. *Journal of Modern Hellenism*, Vol. 25-26 (2008-2009), 97-128.
- Ioannou, C. and Kentas, G. (2012) 'The Europeanisation of gender issues in the labour sector: Normative vs. Cognitive Adaptation'. *Proceedings of the 13th International Conference of International Society for the Study of European Ideas*, University of Cyprus, Nicosia, Cyprus, 2-6 July 2012.
- Koukiadis, I. (2014) *Labour Law - Individual Labour Relationships* [in Greek], 7th edition, Athens: Sakkoulas.
- Kravaritou, G. (1992) *Labour and woman's rights* [in Greek], Athens: Sakkoulas.
- Lixouriotis, I. (2013) *Individual Labour Relationships* [in Greek], 4th edition, Athens: Nomiki Vivliothiki Publications.
- Papadopoulou, A. (2008) *Equality of men and women in collective bargaining agreements* [in Greek].
- Theodosis, G. (2008) *Gender equality in collective bargaining* [in Greek], Athens: Nomiki Vivliothiki Publications.
- Vlastos, G. (1988) *Equality and equal treatment in labour relationships* [in Greek], Athens: Sakkoulas.
- Zerdelis, D. (2015) *Labour Law – Individual Labour Relationships* [in Greek], 3rd edition, Athens: Sakkoulas.