

European Commission Experts Group on Gender and Employment

**THE COSTS OF NON GENDER EQUALITY LEGISLATION:
THE GREEK REPORT**

Maria Karamessini

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Introduction

The development of equality legislation in Greece since the mid 1970a has been strongly influenced by EU law in the broad sense of the word – EEC and EC Treaties – legislation based on this law i.e. Directives and ECJ case law. It has been even argued that Greece would still have no equality legislation if it were not for Community law (Spiliotopoulos 2003). Although the influence of Community law first appeared well before Greece's accession to the EEC, compliance with it has not always been immediate and full. In many cases full compliance has been brought about through the intervention of the Commission and in others it has been imposed by the ECJ through the infringement procedure. On the other hand, national legislation improves over and above the EU law in some respects.

The impact assessment of a particular kind of legislation is primarily an assessment of its contribution to the achievement of its principal goal. In the case of gender equality legislation, this means that we assess its capacity to promote substantive gender equality. The aim of the exercise in this report is somewhat different. We assess the broad socio-economic impact of sex equality legislation, taking for granted that gender equality generates benefits and incurs costs not only for the individual actors immediately involved in gender relations i.e. women and men, but also for other actors and entities: society and states, firms and households. The 'costs of non-equality legislation' are equivalent to the 'benefits of equality legislation' and it is on the latter that we are going to focus in this report.

However, the assessment of the costs of equality legislation remain also part of the exercise, according to the well known methodology of cost-benefit analysis. This is far from a purely technical task. Before applying such a methodology on equality legislation it is useful to remind an important political prerequisite. Gender equality is a fundamental principle of the EC Treaty and a fundamental right, which is binding on both the Union and Member States. According to the EC Treaty, the Community has a positive obligation to eliminate gender discrimination and promote gender equality in all its activities. Moreover, the ECJ is constantly ruling that social objectives prevail over economic objectives and the fundamental rights prevail over any other consideration. The ECJ is also constantly ruling that difficulties in implementing Community obligations arising from a Member State's own internal legal system, or difficulties arising in practice or administrative difficulties, or even financial difficulties, are not an excuse for non-compliance. It is up to the Member States to solve these problems without neglecting their Community obligations.

The 'costs of non-equality legislation' exercise is part of a broader approach to social policy which stresses the contribution of the latter not only to the achievement of equity but also to the improvement of economic efficiency. According to this approach, the losses in economic and social efficiency from not having a social policy is the central argument in favour of having it (Fouarge 2003). In the domain of equal opportunities, the economic case for policy action has been developed in literature by Humphries and Rubery (1995) and recently by Rubery et al. (2002). The main arguments advanced by the authors are the following. First, calculations of economic costs and benefits of equal opportunities policy need to go beyond the short-term costs to firms; second, conceptualisation and measurement of the costs and benefits

will change if the perspective and analysis are shifted from the private to the social, from the micro to the macro and from the static to the dynamic levels.

Although this approach has the uncontested merit of making appear the wider and long term benefits of social policies that may seem costly and contrary to the immediate interests of social actors and governments in the short term, it can also detract from the ‘fundamental rights’ principle mentioned above. Gender inequalities are perpetuated because they reproduce male dominance and are economically profitable to firms. Whatever the costs incurred on men and firms and whatever its long term benefits for these actors and society, gender equality should be fought first and foremost for ethical reasons. Equality policy in this case is justified on grounds of social justice and is conceptualised as a means to guarantee the fundamental right of women to be treated as independent individuals and not to be constrained by reasons related to their gender in the exercise of their preferences and capacities.

The structure of the report is as follows. In the first section we assess the impact of the EU legislation on the development of national legislation and the costs and benefits of equality legislation at the societal, firm and individual/household level. In the following section we assess the contribution of equality legislation to the progress towards achieving the objectives of equality. Finally we evaluate the expected impact at the national level of proposed changes to equality legislation at the EU level.

I. An assessment of the impact of the EU legislation to date and the consequences of not having this legislation in place

Unfortunately, evaluations of the impact of Greek equality legislation on the several dimensions of gender equality are almost non-existent in literature. The only existing study has been carried out by Tzannatos (1989) who attempted to measure the impact of equal pay legislation on the female-male earnings ratio during the first year of its implementation. However, having wrongly considered the year 1982 as such – instead of 1975 – his findings are unreliable.¹ Evaluation studies are also missing regarding the broader socio-economic impact of equality legislation. This means that the exercise we are undertaking in this report cannot be based on previous research.

1.1 EU law and national gender equality legislation

Before assessing the impact of EU and national equality legislation at the level of society, employer organisations, individuals and households, it is necessary to present the development of equality legislation against the passing of EU equality Directives and to comment on implementation costs of EU legislation as well as on the legal effectiveness of national legislation.

1.1a Community law and the development of national legislation

Gender equality was expressly introduced in the Greek Constitution in 1975, after the fall of the 1967-1974 dictatorial regime. The new Constitution provided for equality of rights and obligations between women and men as well as for the entitlement of all

¹ In addition, the author wrongly attributes to the hypothetical effect of equal pay legislation the impact on the female/male earnings ratio of the rise by 32% of the minimum wage in 1982, which he ignores.

workers, irrespective of sex or other distinction, to equal pay for work of equal value. As can be illustrated by the minutes of the Assembly, it was the Equal Pay Directive of that same year and the future accession of Greece to the EEC that determined the integration of the principle of equal pay for work of equal value in the Constitution and the ratification of ILO Convention No 100 in the same year.

However, it was only in 1984 – three years after Greece’s entry to the EEC – that the Directive on Equal Pay, together with that on Equal Treatment as regards access to employment, vocational training, promotion and working conditions, was fully implemented by national law i.e. Act 1414 on Equality in Employment Relationships. It is worth mentioning that all over the post-war period equal pay for the same work was applied in public administration and utilities and the banking sector, while in the private sector collective agreements provided for different rates between men and women for the same job and qualifications. Moreover, the Code of Civil Servants precluded all forms of discrimination either in pay or in employment and working conditions. The public sector therefore provided better conditions for women workers.

Table 1 maps the development of equality legislation in Greece against the passing of EU equality directives and articles of the EU Treaty and outlines the cases where national legislation either not complies with or improves over and above EU law. *Improvements* mainly refer to derogations from equal treatment, the scope of positive action measures, maternity leave, reduced working time after maternity leave, protection of women from dismissal during pregnancy and after confinement. *Non compliance* mainly concerns discrimination in working conditions against fathers with small children and part-timers as well as discrimination in retirement pensions against women with a dependent spouse. It should be also stated that Greece has not as yet legislation on sexual harassment and on the transferral of the burden of proof to the employer in cases of alleged sex discrimination and existing equality legislation lacks definition of indirect discrimination and of occupational social security schemes. As regards work of equal value or indirect discrimination there is no litigation at all.

I.1b Implementation costs of EU law and effectiveness of judicial protection

The costs of implementing the EU equality law relate to the legal and administrative costs of compliance. As regards administrative costs, these are associated with the preparation of legislation by different ministries as well as with the activity of the General Secretariat for Equality (GSE) on legislation matters. The GSE was founded in 1985 and is the main government agency responsible for gender equality issues. It is supervised by the Ministry of the Interior, Public Administration and Decentralisation. As far as legislation is concerned, the GSE sets up experts groups, reports on the present situation and proposes to the competent ministries general guidelines, measures and areas in need of legal change. It also suggests regulations and comments on bills before they are introduced in parliament by the competent ministry. The suggestions and comments may not be taken into consideration.

Table 1. European Community Law and the development of gender equality legislation in Greece

Directives/Treaty provisions	National legislation	Improvements over/non-compliance with EU law/ Improvements in national law
<p>Art. 141 (ex 119) TEC, Directive 75/117/EEC on equal pay</p>	<p><u>Art. 22(1)(b) 1975 Constitution</u>, a) Employment relationships governed by private law, liberal professions, independent services: Arts. 4 and 13 Act 1414/1984 implementing Directive 75/117. <u>National general collective agreement 1989</u> (family allowances paid by employer) <u>Art. 7 Act 1835/1989</u> added independent services to Art. 1 Act 1414 (scope of Act), following infringement proceedings.</p> <p>b) Employment relationships governed by public law: Art. 4(2) Constitution. No direct discrimination in the Code for Civil Servants since the 50s.</p>	<p>Improvements over and above EU law: <u>Art. 22(1)(b) Const.</u> was introduced in the Constitution in 1975, in view of the accession of Greece to the EEC. Since it prohibits any discrimination for work of equal value, on any ground and not only on grounds of sex, it is broader in scope than Art. 119/141 TEC. It is interpreted and applied by Greek case law in the light of Art. 119/141 TEC, even in cases of discrimination in pay on grounds other than sex.</p> <p>Improvements in national law: i) <u>Art. 22(1)(b) Const.</u> gave constitutional value to a long-standing general principle of Greek labour law (principle of equal treatment) which prohibited discrimination in pay on any ground (not only sex); Art. 22(1)(b) also complemented this principle by introducing the concept of “work of equal value”. ii) <u>Art. 22(1)(b) Const.</u>, in conjunction with <u>ILO Convention 100</u>, ratified by Greece in 1975, brought about the equalization upwards of minimum salaries of men and women in most collective agreements, before accession of Greece to EEC. iii) <u>Act 1414/1984</u>: Introduction of new concepts (such as those of <i>indirect discrimination</i> and <i>pay</i>) and sensitization to the issues. While indirect discrimination has not yet been addressed in either collective agreements or pay legislation, Act 1414/1984, in conjunction with Art. 22(1)(b) Const. and Art. 119/141 TEC, led to the elimination of direct discrimination from all collective agreements, in particular as regards the concept of “pay”, and in particular family allowances paid by the employer. While Act</p>

		<p>1414 repeats the EC principle of equal pay for work of equal value, it does not provide for any criteria of job evaluation and this seems to be a serious reason of the total lack of litigation regarding equal value. Another reason of the lack of litigation seems to be that the claimant bears the burden of proof of the equal value; therefore, the implementation of the burden of proof Directive will help in this respect. Moreover, as job evaluation criteria are not provided for, traditional job classification is maintained, in particular in collective agreements, without job evaluation. This leads to indirect discrimination which can not be realised and therefore not abolished.</p> <p>Non-compliance: <u>Non-retroactivity</u> of Act 1414 and n.g.c.a. 1989 since accession of Greece to EEC (1.1.1981): condemnation of Greece by the ECJ (Case C-187/98, [1999] ECR I-7713). This ECJ judgment has not been as yet wholly complied with.</p>
<p>Directive 76/207/EEC on equal treatment as regards access to employment, vocational training and promotion, and working conditions</p>	<p>a) Employment relationships governed by private law, liberal professions, independent services: <u>Act 1414/1984</u>, in conjunction with Art. 4(2) of the 1975 Constitution. <u>Art. 7 Act 1835/1989</u> added independent services to Art. 1 Act 1414 (scope of Act), following infringement proceedings.</p> <p>b) Employment relationships governed by public law: Art. 4(2) Constitution. No direct discrimination in the Code of Civil Servants.</p>	<p>Improvements over and above EU law:</p> <p>i) <u>Art. 4(2) Const.</u> Covers all fields. Its scope is thus broader than that of the gender equality directives.</p> <p>ii) <u>Art. 116(2) Const.</u> allowed derogations from Art. 4(2). Following Council of the State (Supreme Administrative Court) case law on positive action and in the light of EC law and ECJ case law, the provision on derogations was abolished and was replaced in 2001 by a provision which guarantees substantive gender equality by providing that positive measures do not constitute gender discrimination and requires measures for abolishing inequalities existing in practice, in particular those detrimental to women. Although Directive 2002/73 allows derogation under much stricter conditions than Directive 76/207, the Greek Constitution goes even further, since it does not allow any derogations anymore.</p>

		<p>iii) According to <u>Article 10(2) Act 1414/1984</u>, positive measures which are taken in favour of persons of one sex do not constitute discrimination, but a means to combat inequality and establish equality of opportunity.</p> <p>iv) <u>Greek courts</u> apply traditionally very effective sanctions (in cases of discriminatory non hiring or non promotion: automatic hiring or promotion; in cases of discriminatory dismissal: absolute nullity of dismissal: claimant is deemed never to have been dismissed). ECJ case law has helped Greek courts apply these sanctions in gender equality cases.</p> <p>Improvements in national law:</p> <p>i) Art. 116(2) Const. and the starting of infringement proceedings led to the abolishment of directly discriminatory legislative provisions, such as those providing for non transparent maximum quotas (15%-20%) for access to Military and Police Academies. <u>Art. 6 Act 2913/2001</u> abolished the quotas for Military Academies and <u>Art. 20 Act 3103/ 003</u> abolished those for the Police Academy.</p> <p>ii) Act 1414/1984 introduced the principle of equal treatment of men and women and the protection of peggant women against the refusal to hire them in the private sector.</p> <p>iii) Greek case law applies Art. 4(2) and Act 1414/1984 in the light of and in conjunction with Directive 76/207.</p> <p>Non-compliance:</p> <p>Maximum quotas for access of women to the Fire Brigade Academy (Art. 12(2) Act 2713/1999, 10%) and Customs Guards (Decree 158/1983, 5%) persist.</p>
<p>Directive 2002/73/EC (amending Directive 76/207/EEC)</p>	<p>No implementing legislation as yet. Examples of issues that have to be addressed by Greek legislation: definition of</p>	

	<p>direct/indirect discrimination, harassment, sexual harassment (litigation on such issues is very limited, lack of evidence being an important reason; hence the necessity of adequate implementation of Directive 97/80), <i>locus standi</i> of organisations to take individual cases to the courts, establishment of an independent body for the promotion of gender equality.</p>	
<p>Directive 92/85/EEC on safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding</p>	<p><u>Decree 176/1997</u>, which aims at implementing Directive 92/85 applies to all undertakings and activities of the public and civil sector. <u>Decree 41/2003</u> abolished the exceptions provided by Decree 176/1997 and guaranteed employment rights.</p> <p><i>Maternity Leave</i></p> <p>a) Employment relationships governed by private law: <u>National general collective agreement 2000-2001</u>: Increase by 1 week (total 17).</p> <p>b) Code of Civil Servants and permanent employees of legal persons governed by public law: <u>Art. 52</u> (applying also to all the personnel of the State, legal persons governed by public law and local authorities, employed under a contract of</p>	<p>Non-compliance: <u>Decree 176/1997</u> provided for certain exceptions (women in the police and the army, women employed in private households) and did not guarantee sufficiently the employment rights of pregnant women and women on maternity leave. Following infringement proceedings, it was amended by <u>Decree 41/2003</u>.</p> <p>Improvement in national legislation The amendments introduced by Decree 41/2003.</p> <p>Improvements over and above EU law: Greek law goes further than EC law by providing for longer maternity leave than Directive 92/85 as well as for full pay, mostly through social security benefits.</p>

	<p>indefinite duration): 5 months.</p> <p>Working time</p> <p>a) Employment relationships governed by private law: <u>National general collective agreement 2002-2003: Mothers after maternity leave:</u> 1 hour less, for 30 months or (if employer agrees) 2 h. less, for 12 months, and 1 h. less for the following 6 months (in all cases without pay reduction). Entitlement of father, if mother does not make use. <u>Banks and public corporations (special collective agreements). In most cases mothers only:</u> 2 hours less for children up to 2 y. old, 1 h. less for children 2- 4 y. old..</p> <p>b) Code of Civil Servants and permanent employees of legal persons governed by public law: <u>Art. 53:</u> applying also to all the personnel of the State, legal persons governed by public law and local authorities: <u>Mothers only,</u> after maternity leave: 2 hours less for children up to 2 y. old, 1 h. less for children 2-4 y. old. <u>Mother's option:</u> instead of reduced working time, 9 months paid leave.</p> <p>Night work Following ECJ case law by which the</p>	<p>Improvements over and above EU law: Greek law goes further than EC law by providing for reduced working time without pay reduction.</p> <p>Non-compliance: By providing for reduced working time for women only, Greek law is not in conformity with EC law (Directive 76/207, discrimination in working conditions)</p> <p>Non-compliance By providing for reduced working time and possibility of 9 months paid leave for mothers only, Greek law is not in conformity with EC law (Directive 76/207, discrimination in working conditions)</p>
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	<p>prohibition of night work for women only was held to be contrary to EC law, Greece denounced the night work ILO Convention and abolished its own legislation prohibiting night work. <u>Art. 7 of Decree 176/1997</u> implements Art. 7 of Directive 92/85.</p> <p><i>Protection from dismissal</i> Art. 15 Act 1483/1984 prohibits and provides for the absolute nullity of the dismissal of women during pregnancy and for one year after confinement or during her absence for a longer time due to illness that had its source in pregnancy or confinement, except if there is a serious ground. Eventual decrease of output due to pregnancy can in no case be considered a serious ground for dismissal. This applies to employment relationships governed by private law. In employment relationships governed by public law, there is a general constitutional guarantee of permanence/non dismissal (Art. 103 Const.)</p>	<p>Improvements over and above EU law: Greek law protects women from dismissal for a longer time than Directive 92/85.</p> <p>Improvements in national legislation: Requirement of written reasoned dismissal; express guarantee of employment rights</p>
<p>Directive 96/34/EC on parental leave</p>	<p>a) Employment relationships governed by private law: i) <u>Act 1483/1984</u>, as amended by <u>Act 2639/1998</u>: <i>Unpaid parental leave</i> of 3,5 months, following maternity leave, for natural or adoptive parents who have been employed for one year by the same</p>	<p>Improvements in national law: Act 1483/1984 preceded Directive 96/34. However, it was improved, in conformity with the Directive, by Act 2639/1998, which abolished restrictive conditions, such as those making the entitlement to the leave subject to the number of employees of the undertaking.</p> <p>Non-compliance: Express exception of maritime work.</p>

	<p>employer, until child is 3,5 y. old. Individual and non-transferable right of each parent. Right to return to the same or equivalent post. Prohibition and nullity of dismissal during this leave.</p> <p>Leave due to illness of a dependent child or other dependent family member (<u>Art. 7 Act 1483/1984</u>, as amended by the <u>national general collective agreement for 2000-2001</u>): 6 days a year for workers with one child and/or any other dependent family member, 8 days for workers with two children, 12 days for workers with at least three children. Full-timers only.</p> <p>Time-off for school visit: <u>Art. 9 Act 1483/1984</u>: some hours of a whole day, up to 4 days a year. Full-timers only.</p> <p>ii) Person employed under a private law contract of indefinite duration by the State, legal persons governed by public law and local authorities: <u>Code of Civil Servants: Art. 53(1)</u>, in conjunction with <u>Art. 51(2)</u>: unpaid parental leave for a maximum of 2 years, after maternity leave, until child is 6 years old.</p> <p><u>Art. 53(5)</u>: parents of schoolchildren must be facilitated in order to visit the school;</p> <p><u>Art. 53(6)</u>: the maximum number of days of absence allowed shall be fixed by ministerial decision. The latter has not been issued as</p>	<p>Non-compliance: Non-entitlement of part-timers to leave for illness of dependents constitutes indirect discrimination against women who are the majority of part-timers, which is contrary to Directive 96/34 (indirect discrimination in granting time-off for urgent family reasons) and to Directive 76/207 (indirect discrimination in conditions of work).</p> <p>Improvements over and above EU law: By granting time-off for school visit, Greek law goes further than Directive 96/34, which requires time-off only for urgent family reasons in case of sickness or accident for a family member making the presence of a worker indispensable.</p> <p>Non-compliance: Non-entitlement of part-timers to time-off for school visit constitutes indirect discrimination against women who are the majority of part-timers, which is contrary to Directive 76/207 (discrimination in conditions of work).</p>
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	<p>yet. Art. 50(2): paid leave up to 22 days a year for parents of children suffering from an ailment that necessitates regular blood transfusion or periodical hospitalization.</p> <p>b)Employment relationships governed by public law: Civil servants and permanent employees of legal persons governed by public law: <u>Code of Civil Servants</u>, Art. 53(1), in conjunction with Art. 51(2), applying also to all the personnel of the State, legal persons governed by public law and local authorities (<i>supra</i>). Individual and non-transferable right of each parent.</p>	<p>Non-compliance: The Code of Civil Servants provides a leave for urgent family reasons only in the cases mentioned in its Art. 50(2), and not in case of any sickness or accident of a family member that necessitates the presence of the employee, as required by Directive 96/34.</p> <p>Non-compliance: No parental leave for judges, as they are not covered by the Code of Civil Servants.</p>
Directive 97/80/EC on the burden of proof in cases of sex discrimination	No implementing legislation as yet. A draft decree which purported to implement the directive was considered inadequate by the Council of State which controlled its legality, as it is doing for all draft decrees (the draft decree simply repeated the provisions of the Directive, without introducing the necessary amendments to the Codes of Civil and Administrative Procedure)	Non-compliance: The decree, with some minor amendments, has been published without any amendment to the Codes of Civil or Administrative Procedure (Decree 105/2003).
Art. 141 of the EC Treaty (only as regards provision	Art. 116(2) Constitution. Statutory provisions introducing positive measures:	Improvements over and above EU law: As Art. 116(2) Const. is broader in scope than Art. 141(4) TEC (it applies to all fields,

for positive action)	Article 75 Act 2910/ 2001 (candidates for local government elections, at least 1/3 of each sex). Art. 6 Act 2839/ 2000 (appointed members of service councils of public service, local authorities and legal persons governed by public law, at least 1/3 of each sex)	including the political one) and has brought about positive measures in fields other than employment and occupation. Moreover, Art. 116(2) goes further than Art. 141(4) TEC in that it obligates the State to take positive measures for eliminating inequalities existing in practice, in particular to the detriment of women.
Directive 86/613/EEC on equal treatment of the self-employed and protection of self-employed women during pregnancy and motherhood	There is no single piece of Greek legislation for the implementation of this Directive. There are scattered provisions in the legislation governing the self employed which are difficult to find and evaluate.	
Directive 79/7/EEC on equal treatment in social security (statutory schemes)	<p>The Greek government considers that most schemes are statutory, which, in the light of ECJ case law (in particular the <i>Evrenopoulos</i> case, C-147/1995), is not true. <u>Different pension ages</u> (lower for women) are retained in most schemes, whether statutory or occupational.</p> <p>An example of other exceptions, allowed by Directive 79/7, which are retained in Greek law, is the exception in Art. 7(1)(d) of the Directive (increases of old age benefits for a dependent wife): Article 29 Act 1846/1951 relating to the main statutory social security scheme (IKA) grants an increase of old age and disability pensions for a dependent wife, but not for a dependent husband.</p>	<p>Non-compliance: i) By the ECJ judgement in Case C-187/98, supra under equal pay, Greece was also condemned for non-compliance with Directive 79/7 (discrimination in family allowances was perpetuated as discrimination in pensions, because family allowances were added to the basic salary for calculating the amount of the pension). This judgment has not been as yet fully complied with.</p> <p>ii) The Council of State (judgment 1961/1994), by invoking the change of social conditions, considered that the pension increase under Act 1846/1951 was unconstitutional and the claimant woman was entitled to the increase for her dependent husband. Therefore, there is no longer any justification under Directive 79/7 either for maintaining this exception, the more so as Art. 7(2) of the Directive requires periodical examination of the matters excluded.</p> <p>Improvements over and above EU law: Greek supreme courts</p>

		consider that discrimination as to survivors' benefits is unconstitutional, without examining whether the scheme in question is statutory or occupational, thus going further than Directive 79/7, which excludes from its scope survivors' benefits.
Directive 86/378/EEC on equal treatment in occupational social security schemes		
Directive 96/97/EC (amending Directive 86/378/EEC)	Decree 87/2002 aiming at implementing both Directives. <u>Art. 81 Act 2676/1999</u> added a 3 rd para. to Art. 5 Act 1414 (following infringement proceedings) which provides that clauses of collective agreements or internal regulations containing gender discrimination in occupational social security schemes are null and void.	Non-compliance: The ECJ condemned Greece for failing to transpose Directive 96/97 (Case C-457/98). In order to comply with this judgement and to transpose the aforementioned Directive, the competent Ministers adopted Decree 87/2002, which merely repeats the provisions of Directive 96/97/EC without specifying which Greek social security schemes are occupational. This is obviously inadequate implementation of the directive. Following this decree, Act 3029/2002 on the reform of the social security system maintained differences in pension ages in occupational schemes, such as the scheme for civil servants, and even introduced further gender discrimination in pension ages. This is the result of the inadequate implementation of Directive 96/97 and of the refusal of the Greek government to admit that there are many occupational schemes in Greece, including the scheme for civil servants.

Source: Information was provided by Sophia Spiliotopoulos, member of the European Commission's Gender Equality Network of legal experts, with the collaboration of Maria Karamessini.

It is impossible to estimate the costs for the preparation of equality legislation by public administration in the past 28 years and very difficult to share out the operation costs of GSE according to its different activities since 1985. We only know that the GSE employs today 42 persons out of which 2 are in charge of providing legal advice, making comments on bills and preparing proposals for change of legislation from a gender equality perspective together with ad hoc experts groups. The total budget of GSE for 2003 rises to 2,197,000 euros.

Legal advice to women with respect to equality legislation is mainly provided by the 5 Information and Counseling Units for Women's Employment and Social Integration of KETHI (Research Centre for Gender Equality), which was founded in 1994 and is supervised and funded by the GSE. Today, 9 persons provide legal advice through these Units. However, they are not among the permanent staff of KETHI and are paid through programmes financed by the European Social Fund. The total monthly cost for the employment of all these persons rises to about 9,000 euros.

As regards legal costs, most equality cases are taken to civil and administrative courts. In Greece there is no Equal Opportunities Commission or Equality Ombudsperson entitled to defend workers rights under gender equality law. The control of the application of labour legislation lies with the Labour Inspectorate who is competent to provide information and advice on labour legislation and to supervise and control the application of legislation, imposing administrative fines provided by equality law and lodging complaints with civil courts for infringement of labour law. It is mostly to Labour Inspectorates that workers and unions immediately turn in case of problems and in an important number of cases Labour Inspectors intervene effectively between employers and workers, achieving a peaceful solution of their disputes. Yet, Labour Inspectors do not have *locus standi* to bring cases before civil or administrative courts.

On the other hand, 'trade unions have *locus standi* to bring cases of their members who were wronged by a breach of a collective agreement (not in cases of breach of legislation) and to intervene in labour litigation involving their members... They often provide their members with witnesses, as Greek law provides strong protection for unionists against victimisation' (Spilitopoulos 2003)

It is impossible to estimate the costs of tribunals and Labour Inspectorates attributed to equality related cases, since we ignore the share of the latter in total cases and it is difficult to calculate total operation costs of tribunals and Labour Inspectorate during the past 28 years.

Anyway, it is widely known that the number of equality related cases taken to courts is very small. According to an unpublished study by Koukoulis-Spiliotopoulos et al. (1995), equality cases heard by the Athens First Instance Civil Court from 1990 to 1993 were 344 and constituted 2.28% of all labour cases; the respective figures for the Patras First Instance Court during the same period were 4 and 0.55%. In 1992-1993 the equality cases heard by the Thessaloniki First Instance Court were only 10 and represented 1.7% of total labour cases.² The equality related cases brought before Labour Inspectors are also relatively few. Moreover, according to the findings of an

² The number and rates of equality cases may now be lower, because direct discrimination in pay, which existed during that period due to discriminatory collective agreement provisions regarding the family allowances, has been eliminated.

investigation carried out in the Athens area in 1993 (referred to in Ntermanakis et al. 2002), Labour Inspectors lack information and expertise on sex equality national and Community law and case law developments. They are most aware of pregnancy and maternity protection regulations, issues most usually brought before them.

The remarks made above raise the issue of effective judicial protection. In this regard, we should underline that the equality related cases that reach national courts or the Labour Inspectorate are just the tip of the iceberg; the levels of gender equality litigation and complaints being very low in relation to existing gender discrimination and inequalities. This is because women, owing to lack of information and support and to the socio-cultural context, which still promotes the image of women as dispensable workers, are reluctant to claim their rights.

To these reasons should be added the great insecurity experienced by female workers due to unemployment, which is higher and longer term for women than for men. Moreover, women are often unable to prove their case, since crucial evidence either does not exist or is possessed by their employer. Non transparent methods of evaluation and indirect discrimination hamper women's access to employment and their advancement. The threat of deterioration of working conditions and the spectre of unemployment haunt the victims of discrimination and deprive them of witnesses. The burden of proof EU Directive could encourage more women to claim their rights.

1.2 Societal level costs/benefits of equality legislation

Equality legislation produces three main types of benefits at the societal level. First, it contributes to the *development of a productive labour force*, second it helps in *maintaining fertility rates* and curbing the trend towards population ageing and, finally, it constitutes an effective means of combating social exclusion and enhancing *social cohesion*. These types of societal benefits correspond exactly to the three main objectives that are central to the project of creating a competitive and socially cohesive Europe that enjoys sustainable development and full employment.

1.2a. Investing in a productive labour force

Role of legislation

Legislation on *equal pay* and *equal treatment* in employment, on the *protection of maternity* and on *parental leave*, and against *sexual harassment* at the workplace creates positive incentives for women to join the labour force, follow uninterrupted career patterns and accumulate human capital through training, invest in education for traditionally male occupations and seek employment in male-dominated workplaces. Society can benefit from the increase in the size of the labour force and the full use of women's human capital and productive potential. *Positive action* legislation encourages the development of positive measures in favour of women by individual firms or the government, which aim at the de-segregation of employment

Greek legislation compared to EU legislation

The Greek legislation improves over and above EU legislation in the following cases:

- (a) derogations from the principle of equal treatment in employment are not allowed by the Constitution in any case;
- (b) positive measures for eliminating gender inequalities in all fields, including employment, is an obligation of the State, according to the Constitution;
- (c) maternity leave 17 weeks in the private sector and 4-5 months in the public sector compared to 14 weeks in Directive 92/85;
- (d) full pay during maternity leave, which exceeds the minimal requirement of Directive 92/85 i.e. pay equivalent to the sickness benefit.
- (e) reduced working time without pay reduction for mothers after maternity leave goes further than Directive 92/85;
- (f) protection from dismissal during pregnancy and after confinement lasts for a longer time than in Directive 92/85;
- (g) time-off without pay reduction granted to parents for school visit, a reason not included in Directive 96/34.

The main weaknesses of Greek compared to EU legislation are the following:

- (a) gender discrimination in family allowances until 1989 in the private and until recently in the public sector has been perpetuated in pensions.
- (b) indirect discrimination has not yet been addressed in either pay legislation or collective agreements;
- (c) no national legislation for sexual harassment.

Non legislative initiatives associated with the implementation of equality legislation and the promotion of equality in employment:

- Legal information and advice on women's rights and equality legislation offered by the Information and Counseling Units of KETHI.
- Pilot legal aid schemes for gender equality cases set up within the Lawyers' Bars of Athens, Thessaloniki, Patras, Volos and Heraklion; project including (a) free legal advice and representation of women victims of discrimination and with no sufficient financial means before the Greek courts and the ECJ (b) the funding of 'pilot test cases' of general importance (duration: 1/10/2001 and 31/3/2003).
- Women's Rights Watch; programme funded by the 4th Community Medium Action Programme for Equal Opportunities (duration: 1/6/1996-31/5/1999).
- Information campaign on equal pay.
- Equality agency provided for by National General Collective Agreement of 1996-1997; its tasks were the monitoring of the implementation of equality legislation and the proposal of specific measures to promote equality in employment through collective bargaining. It has never been created.
- Bipartite equal opportunities committees in the banking and insurance sectors, established through collective bargaining.³

³ In the banking sector, an equal opportunities committee at the sector level was provided for by the sector collective agreement (CA) of 1990, while separate committees at the company level by the sector CA of 1994-1995. Company level equal opportunities committees were actually set up in four banks but only two of them remained active in 1999. All committees have the task to regularly study gender inequalities in employment and provide justified opinion in cases of infringement of the equal treatment and equal opportunities principle and in cases of offense against the personal dignity of workers on the grounds of their gender. In the insurance sector, to be exact in public insurance, equal opportunities committees at company level were provided for by the sector CA of 1994-1995. As for the sector CA of 1996, it provided for the creation of an equal opportunities committee at the sector level. The tasks of these committees are the same as in banking. For more details see Kylakou (1999).

- Implementation of a number of programmes for women only under Community Initiative NOW and the 1st and 2nd Community Support Frameworks (CSF).
- Guide for the implementation of equality plans by firms (under preparation by KETHI and a number of pilot firms – Community Initiative EQUAL).
- Equality champions (action planned by KETHI – Community Initiative EQUAL).
- Voluntary equality plans by firms; programme funded by the 3rd CSF (Operational Programme ‘Employment and Vocational Training’) to start from September 2003 and to include 500 to 1000 firms until the end of 2006.

Impact of legislation (share affected)

As we have already mentioned, the introduction of the principle of equal pay for work of equal value by the 1975 Constitution was influenced by the Directive on equal pay. The constitutional provision outlawed existing direct discrimination in wages and has brought about the equalisation upwards of minimum wages of men and women in most collective agreements before the accession of Greece to the EEC in 1981.

However, the above-mentioned impact is more limited in scope than would appear at first sight. This is because already since the 1950s the Code for Civil Servants provided for the same monthly wages for female and male employees in the same job. This principle also applied to employees of public utilities and undertakings as well as of other sectors of the economy, such as banking. Moreover, in 1973 (one year before the fall of the 1967-1974 dictatorship) took place the equalisation of male and female minimum monthly wages for employees of the private sector aged 21 years or more.⁴

It follows that EU law on equal pay has affected mostly workers in the private sector of the Greek economy and, in particular, those receiving hourly and weekly wages. In addition, its impact has been restricted to the application of the principle of equal pay for equal work. The principle of equal work for work of equal value was formally incorporated into the 1975 Constitution and into subsequent legislation (Act 1414/1984) but has not produced as yet any real impact for several reasons.

As far as equal treatment in employment is concerned, national legislation has been the direct outcome of compliance with EU law. Three years after the accession of Greece to the EEC, Act 1414/1984 implemented both Directives 75/117 and 76/207. and introduced *for the first time* in the private sector of the economy the principle of equal treatment of men and women as regards access to employment, vocational training and promotion, and working conditions. It also prohibited refusal to hire a woman due to pregnancy, thus improving the existing at that time national law on maternity protection. Act 1414/1984 is the fundamental piece of Greek legislation on gender equality, together with the Constitution.

The Directive 92/85 on the protection of maternity had a more limited impact on national legislation. A maternity leave of 14 weeks had already been obtained in 1985 in the private sector and even earlier in the public sector. The duration of the leave in Greece at the time when the Directive came to application was longer. Moreover, full

⁴ Minimum monthly wages of employees less than 21 years old were the same for both sexes since the early 1960s. The same applied to minimum monthly wages of employees aged 22-24 before 1970 (see KEPE 1976).

pay of maternity leave had been provided for by national legislation since 1977 (Act 549), ban of dismissal of women during pregnancy since 1980 (Act 1082),⁵ the prohibition of refusal to hire a woman due to pregnancy and of dismissal of women for one year after confinement since 1984 (Acts 1414 and 1483 respectively). Yet, the Directive on the protection of maternity has engendered several improvements in national law concerning the requirement of written and reasoned dismissal and the express guarantee of the employment rights of pregnant women and women on maternity leave i.e. right to return to the same or equivalent post after the leave and to promotion to which she would be entitled if she was not on leave. Decrees 176/1997 and 41/2003, implementing Directive 92/85, apply to the whole economy.

As regards Directive 96/34 on parental leave, it has also had a positive impact on national legislation. Although parental leave had already been introduced since 1984 by Act 1483 that provided for sufficient guarantee of employment rights of workers on leave, the right to the leave applied to only a limited fraction of employees of the Greek economy i.e. to civil servants in services with at least 100 persons employed and to employees of public and private enterprises with at least 50 persons employed. Act 2639/1998, implementing Directive 96/34, abolished restrictive conditions. It follows that the Directive has induced the extension of the right to parental leave from a small minority of workers to all employees of the Greek economy.

Societal benefits from an increase in the size of a skilled/educated workforce

The contribution of equality legislation to the increase in the size of a skilled/educated workforce by stimulating women's full participation to the latter has a number of further societal benefits.

- Women's increased and lifelong labour market participation copes with the future quantitative needs of the European economy for a highly skilled and educated workforce. Moreover, the full use of women's human capital and productive potential is central for the European project of a knowledge intensive competitive European economy. Endogenous growth theory underlines the impact of an improvement in human capital on growth rates, while the transformation of European economies into knowledge intensive economies depends upon the rise of the educational and skills level of the whole workforce, both male and female.
- Women's increased supply of labour mainly fuels the service economy and has become crucial for the availability of high quality social services (health, education). These sectors have displayed very high growth rates during the past decades, while their anticipated growth potential and needs for an educated and skilled labour force in the near future are also very high.
- Higher investments in education by women are not only beneficial to them, but also to their children. It is common knowledge among all those involved in education either as scientists or teachers, that the more educated the parents the higher the likely cognitive development of children.

⁵ Act 1082/1980 improved pre-existing legislation dating from 1920, which prohibited dismissal of women during the maternity leave rising to 12 weeks, since that early date.

- More educated women have higher participation rates, uninterrupted career patterns and higher income from paid work, which constitutes an effective means of protection against the risk of social exclusion, in case of unemployment of the male breadwinner or of marital/partnership breakdown.

Given that risks of poverty and social exclusion are concentrated among lone mother households or workless households with children, ‘women’s employment levels are no doubt the sine qua non if we wish to minimize household polarization around the work-intensity axis. The key issue is how to mobilize labour supply among the less educated women’ (Esping-Andersen 2002, p. 44). Equality legislation is a precondition for the implementation of any active policy aiming at the achievement of this goal (see below I.2c).

Societal costs/negative side effects of an increase in the size of a skilled/educated workforce

Alleged displacement effect of girls’ increasing entry into higher education on working class boys. Yet, since the last reform of 1997, there is free access to higher education of all graduates of upper secondary education. Choice of university and school depends on individual preferences but is constrained by marks in the school system. Any displacement effect from higher class universities and schools by girls’ success should be tackled through increased effort to develop disadvantaged boys’ performance in the school system.

Evidence for impact of equality legislation on the development of a productive workforce

Women’s employment and labour market participation

Statistical evidence on female activity and employment rates supports the view that equality legislation has contributed to the increase in size of the Greek labour force, even though it should not be considered as the primary determinant.

The data in Table 2 illustrate an increase of the female activity rate by 14.5 percentage points between 1977 and 2001. Across the same period, the female employment rate rose by 7.3 percentage points from 33.6% in 1977 to 40.9% in 2001.

Table 2. Female activity and employment rates*
% percentages

	1977	1985	1990	1995	2001
Activity rate	34.2	41.5	42.2	44.6	48.7
Employment rate	33.6	35.8	37.1	38.1	40.9

* population aged 15-64.

Source: *Employment in Europe 2000, 2002.*

The growth of public sector employment after the mid 70s has favoured women more than men, especially in areas such as public education, health and social services. Sustained growth of these sectors even during the 1990s, despite freezing of hires and

downsizing in other areas, has proved beneficial not only for the growth of women's employment but also for the closing of the gender pay gap (Karamessini 2002b).

Women's investment in education/training

Equal pay and equal pay legislation contributes to an increase of women's investment in education. Statistical evidence on participation of each gender in different levels of education supports this view. Women's investment in post-compulsory education has been increasing during the last decades in Greece and is today higher than men's.

As regards upper secondary education, Eurostat data for Greece show that in the academic year 1999-2000 enrolment rates in upper secondary education of teenagers aged 16-18 rose to 56% for females and 50% for males. In the same year gender differences in enrolment rates were very much in favour of girls in general/prevocational upper secondary education and slightly in favour of boys in vocational upper secondary education. Moreover, according to ELFS data for the year 2000, the drop-out rate – measured by the percentage of young people aged 16-18 with less than upper secondary education and not in education – rose in Greece to 13% for males and to 9% for females (European Commission/Eurostat 2002).

As regards tertiary education, gender differences in enrolment rates are also in favour of women. According to Eurostat data for the academic year 1999/2000 show that, in Greece, the proportion of young women aged 18-21 enrolled in tertiary education was 63% while the proportion of young men of the same age group enrolled in tertiary education was 57% (European Commission/Eurostat 2002).

Data on progression of enrolment rates of men and women over the past decades from the same source are unfortunately unavailable for Greece. Time series exist only for the female share of students in tertiary education. According to the OECD database, this share in Greece varied from year to year during the 1990s, taking values between 48% and 52%. National statistics, on the other hand, show that in the academic year 2000/2001 the female share of students in tertiary education – higher technological and university – rose to 56.8% against 48.3% in 1986/1987.⁶

Women have also increased their share among those who complete successfully their post-graduate studies over the past twenty years. The female share of those who obtained Master and Phd degrees was 25% and 22% in the academic year 1981/1982. The respective shares were 54 and 33.5% in the academic year 1998/1999.⁷

From the figures we have presented so far it follows that young women today in Greece outscore men in human capital investments at all levels of post-compulsory education, with the exception of doctoral studies.

There is also evidence that women are also rapidly closing the gender gap in lifelong investments in training. Using Labour Force Survey data for the second quarter of 1999, Kanellopoulos (2003) found that only 7.1% of the female population aged 19-54 had ever completed – up to the moment of the survey – a vocational training

⁶ Own calculations from *Education Statistics*, National Statistical Service of Greece (NSSG).

⁷ Own calculations from *Education Statistics*, National Statistical Service of Greece (NSSG).

course of at least 6 months, against 9.6% of the respective male population. But, at the same time, 1.9% of the female population aged 19-54 against 1.2% of the respective male population had participated to formal training courses during the four weeks preceding the survey.

According to another study (Karamessini 2003a), using data referring to the Operational Programme ‘Continuing Training and Employment Promotion’ of the 2nd CSF, the female share of beneficiaries in almost all training programmes for the unemployed funded by this Programme in 1994-2000, exceeded the average female share of the unemployed in the same period. In addition, women’s participation rate to continuing training programmes for employees and self-employed was higher than average female shares of waged labour and self-employment in the period 1994-2000.

This evidence has been corroborated by the results of an unpublished report to the European Commission (Ward et al. 2000) showing for Greece that, in 1996, 4.6% of employed women against 3.3% of employed men had access to continuing training. Participation rates were considerably higher for both sexes among employees only. The gender gap in favour of women employees was of similar size in both the public and public sector (5.0 and 5.6 percentage points respectively). However, the gender gap was in favour of men among part-time employees (4.1 percentage points).

Diversification of higher education choices

The sustained rise in women’s investment in higher education during the last decades has been accompanied by a stronger preference for social, economic, business and political sciences, and fine arts and architecture.

A more detailed classification would provide more precise information on diversification of education choices of women. However, we can deduce from table 3 that the diversification of women’s choices has not seriously challenged male dominance in engineering and technology sciences.

Table 3. Female university students by scientific orientation
% shares, rates

	1986/1987		1997/1998	
	<i>Share</i>	<i>Rate</i>	<i>Share</i>	<i>Rate</i>
Humanities, languages and education sciences	76.7	35.2	80.3	35.9
Fine arts and architecture	53.9	2.2	62.1	5.2
Law	55.9	8.8	64.9	8.1
Social, economic, business and political sciences	47.5	19.8	58.8	21.5
Mathematics, physics, chemistry, biology etc.	39.6	10.3	42.6	9.9
Engineering and technology	21.2	5.8	24.4	5.3
Medicine	43.8	9.7	46.6	7.8
Agronomy, vet and and forestry sciences	34.6	2.8	41.3	2.8
Physical education and sports	37.2	5.4	50.1	3.6
	48.7	100	56.3	100

Source: Own calculations from *Education Statistics*, NSSG.

Changes in female share of higher level jobs

Changes in female share of higher level jobs is an approximate indicator of the returns of women's increased investments in higher education. According to ELFS data for Greece, the female share of ISCO 1-3 occupational categories, namely managerial, professional and technical occupations, has climbed from 35.2% in 1992 to 39.9% in 2001 i.e. by 4.7 percentage points.⁸ This increase is relatively large compared to a smaller average increase in the EU-15 across the same period.

Impact of maternity and parental leave on continuity of female careers

There are no evaluation studies of the impact of maternity and parental leave on the continuity of women's careers after the legislative changes brought about by the Directives 92/85 and 96/34. It should be though kept in mind that national legislation implementing the Directive 92/85 as regards the right of the woman to return to the same or equivalent post after the maternity leave and to the promotion to which she would be entitled if she was not on maternity leave is very recent (Decree 41/2003). Moreover, it should be also noted that parental leave is unpaid in Greece and that this is the reason for the very low take-up rate (Karamessini et al. 1998).

Table 4. **Employment rates of mothers**
percentages

	1989	1999
All mothers in couple families	41.4	48.4
<i>High education level</i>	<i>59.1</i>	<i>69.4</i>
<i>Medium education level</i>	<i>34.2</i>	<i>41.0</i>
<i>Low education level</i>	<i>32.0</i>	<i>33.4</i>
All mothers	41.5	48.6

Source: OECD (2001), Table 4.1, p. 134.

On the other hand, a recent study by OECD (2001) has provided data demonstrating an upward shift of the employment rate of mothers with children aged under six between 1989 and 1999. Another study by OECD (2002), having elaborated the data from the first five waves of the European Household Panel, shows for Greece that only 37% of women with children under 15 years who had been employed at least one year during the period 1994-1998 had also been continuously employed over this same period. The respective rate corresponding to the EU average was 44%.

I.2b Sustainable fertility rate

Role of legislation

A second important societal benefit from equality legislation is its positive impact on fertility rates. Data for OECD countries during the last decade show that the inverse relationship between female participation rates and fertility rates has broken down and that countries with high female participation rates can also display high fertility rates. Equality legislation must have played an important role in this development, since it

⁸ Data for the years before 1992 are not strictly comparable with those from 1992 onwards, because of changes in ISCO classification.

creates a more favourable environment for women to reconcile work and family life. Equal pay and equal treatment legislation have undermined the traditional domestic division of labour by raising women's pay and by extending women's employment opportunities, thus corroding male 'comparative advantage' for paid work. Increased male participation to domestic work and capacity to purchase domestic/care services through higher family income can encourage women to have children. At the same time, legislation on the protection of maternity and parental leave – including the right to return to work at the same or equivalent post and entitlement to promotion despite absence – relaxes the tension between career and motherhood in women's choices.

Greek legislation compared to EU legislation

The Greek legislation improves over and above EU legislation in the following cases:

- (a) maternity leave 17 weeks in the private sector and 4-5 months in the public sector compared to 14 weeks in Directive 92/85;
- (b) full pay during maternity leave, which exceeds the minimal requirement of Directive 92/85 i.e. pay equivalent to the sickness benefit.
- (c) reduced working time without pay reduction for mothers after maternity leave goes further than Directive 92/85;
- (d) protection from dismissal during pregnancy and after confinement lasts for a longer time than in Directive 92/85;
- (e) time-off without pay reduction granted to parents for school visit, a reason not included in Directive 96/34.

Non legislative initiatives:

Tax allowances for childrearing costs (fixed amount for each child).

Impact of legislation (share affected)

The legislation on the protection of maternity preceded equality legislation in Greece. It dates from 1920 when Greece ratified the ILO Convention No 3 and has constantly been improved since the mid 1970s. As we have already mentioned, full pay of maternity leave had been provided for by national law since 1977, ban of dismissal of women during pregnancy since 1980, the prohibition of refusal to hire a woman due to pregnancy and of dismissal of a woman for one year after confinement since 1984. As regards parental leave, the first legislation was introduced in 1984, also as a result of ILO influence. Act 1483 on the protection and enabling of workers with family responsibilities was passed in 1984, in view of the ratification of ILO Convention 156.

Both types of national legislation had thus not been influenced by Community law before the 1990s. The implementation of Directives 92/85 and 96/34 has brought about the following improvements in national law: the requirement for a written and reasoned dismissal and the express guarantee of the employment rights of pregnant women and women on maternity leave, which apply to all employees of the economy. Moreover, the right to parental leave was extended to civil servants and to employees of the private sector working in undertakings employing less than 100 persons.

Finally, Directive 92/85 and Decree 176/1997 that implements it protect pregnant women from nightwork, after the abolishment of national legislation prohibiting night work for all women. In fact, Greece denounced ILO night work Convention in the early 1990s in view of the adoption of Directive 92/85 and following ECJ case law by

which the prohibition of night work for women only was held to be contrary to EC law as regards equal treatment. The denouncement was confronted by strong opposition from certain factions within the trade union movement and a number of political parties and has affected all women employees of the Greek economy.

Societal benefits

The societal benefits from bringing back or/and maintaining fertility rates at the level that prevents population ageing are first, the ability to cope with the future needs of the economy in labour and second, the financial sustainability of pensions systems.

Societal costs/negative side effects

It is sometimes argued by conservatives that equality legislation and policy lead to the neglect of children's needs because women are absent from home for long hours. However, such negative impacts should rather be associated with the lack of public child care infrastructure, of family-friendly working-time arrangements and of sharing of parental responsibilities between parents than with equality legislation. In addition, higher family income can cope with other needs of children.

Evidence for impact of equality legislation on the fertility rate

There is no evidence that equality and maternity legislation has had a positive impact on fertility in Greece. According to Eurostat data, the fertility rate passed from 2.3 in 1960 to 2.2 in 1980 and then fell to 1.3 in 2000. On the other hand, the ratio of actual against desired number of children in Greece and Spain is the lowest in the EU (Esping-Andersen et al. 2002) pointing to a largely involuntary decline in fertility. Lack of publicly funded childcare services, limited involvement of husbands/partners in domestic work and care, long working hours and rigid working time schedules, large family expenses for children's education and their maintenance during long unemployment spells are the main reasons behind the decline of fertility rates.

I.2c. Reduction in poverty/social exclusion

Role of legislation

Equality legislation can be an important means of combating poverty and social exclusion at both the individual and household level. Equal treatment legislation provides for equal access to vocational training, which improves women's skills and employability. Moreover, together with protection from sexual harassment, it boosts women's employment opportunities, thus providing protection against poverty to vulnerable groups of women (lone mothers, divorced or single women, widows). Legislation on maternity and parental leave – especially the right to return to work at the same or equivalent post and entitlement to promotion despite absence – can prevent women's downgrading and financial dependence from husbands/partners, thus reducing the risk of poverty in case of marital or partnership breakdown. Equal pay legislation provides positive incentives for women to join the labour market and pursue uninterrupted careers. Continuous employment is crucial for the accumulation of full pension rights, which is a prerequisite for decent pensions and individual income in old age. Last but not least, women's involvement in paid work can be a

protection against family poverty in households where the male breadwinner faces a high risk of unemployment.

Greek legislation compared to EU

As in section I.2a.

Societal benefits

Enhancing women's financial independence and labour market participation is a way to reduce both the risk of poverty and dependancy of poor families on assistance from the welfare state. It also contributes to the reduction of crime and to the improvement of living conditions of children and families.

Evidence for impact of equality legislation on reduction of poverty/social exclusion

According to the results of a recent comparative study of social exclusion in twelve EU countries based on ECHP data, the older household without children is the type of household with the greatest probability of social exclusion. Moreover, this type of household is most at risk in Greece than in any other of the countries studied (Tsakoglou & Papadopoulos 2002). ECHP data also show that, in 1997, 35% of Greek men and 37% of Greek women aged 65 and over were poor (equivalised income below 60% of the median) (European Commission/Eurostat 2002).

It is well known from literature that lower female average wages over the life cycle and interruptions of work histories are the main determinants of the gender gap in old age pensions (Ginn & Arber 1996). In Greece, an additional determinant has been women's higher participation to informal work, which is associated with non/under-payment of employer and employee contributions to social security by firms. This has been demonstrated by a recent paper using data for cumulated actual insurance time and pension rates of employees (Karamessini 2003b). The average insurance time of women who retired between 1960 and 1995 was 18.9 years, whereas that of men 23.8. The female/male pensions ratio for those who retired in 1995 was 69.4% (as above). A great gender gap in old-age pensions means that women are more vulnerable to poverty in old age, especially when they live alone. It is therefore noteworthy that, according to ECHP data for 1997, 42% of poor women in Greece lived in single-person households, against 25% of poor men (European Commission/Eurostat 2002).

Women's involvement in paid employment does not only protect women against the risk of poverty in old age but also households with dependent children against current risks of poverty. In Greece, the proportion of couple families with a child under six years and with the man working full time and the woman working either full or part-time has increased from 30.7% in 1984 to 44.6% in 1999. Across the same period, the proportion of couple families with the man working full time and the woman not working has fallen from 61% in 1984 to 47.3% in 1999. The proportion of couple families with a child under six and neither man or woman working has fallen from 5.4 to 3.4% (OECD 2001). Equality legislation has certainly contributed to this positive development, even if the actual size of its effect is difficult if impossible to measure.

Lone parent households, usually headed by women, run a higher than average risk of poverty in Greece as in most EU countries. Yet a relatively high share of lone mothers is working, and this share has been increasing since the early 1980s. The proportion of lone mothers with a child under 6 working full time has passed in Greece from 43.5% in 1984 to 50.9% in 1999, while the proportion of lone mothers working part time has remained stable across the same period at about 8.0% (OECD 2001). Access of lone mothers to paid employment provides protection against women's and child poverty.

1.3 Employing organisations: costs/benefits of equality legislation

Role of legislation

Women have traditionally been viewed by employers as a cheaper and more flexible labour force than men. Discriminatory practices of employers against women would have disappeared if they did not correspond to their immediate interests. Equality legislation incurs costs on employing organisations by raising wage and training bills and by reducing flexibility in the employment and productive use of female labour. Yet, equality legislation can also be a source of benefits for employers linked to the improvement of economic efficiency. It can be part of efficient management aiming at the full utilisation of human resources; establishing the organization's image as good employer or provider of quality products/services; benefiting from a more versatile staff in the context of changing technology and organisational/work restructuring.

Equal treatment legislation encourages formalisation of procedures for recruitment, training and promotion and thus allows for the selection of a more suitable staff and for a more efficient use of human resources. It can also promote better industrial relations at the workplace through equal treatment of all employees. Measures to address sexual harassment produce a safer work environment for women and better employee relations, thus contributing to a greater commitment of women to the organisation, to a better collaboration between colleagues and to more efficient team work. Maternity and parental leave legislation promotes the retention of women and safeguards the returns of employers' investment in their training. Equal pay legislation can be seen as an incentive to develop a more transparent and integrated pay structure, thus contributing to better industrial relations and higher productivity.

Greek legislation compared to EU legislation

Improvements over and above the EU legislation include the more proactive national legislation on positive action. Since the amendment of the Greek Constitution in 2001, positive action in favour of women is an obligation of the State.

National legislation has non-complied with the Directive 97/80 on the burden of proof since the Code of Civil and Administrative Procedure have not been amended as yet.

Non legislative initiatives:

- Equality committees established through collective agreements, composed of an equal number of representatives of employers and workers and aiming at the monitoring of the implementation of equality legislation and the proposal of specific measures to promote equality in employment. In many cases these bodies have either not been created or become inactive (see above I.2).

Pending non legislative initiatives:

- Guide for the implementation of equality plans by firms (under preparation by KETHI and a number of pilot firms – Community Initiative EQUAL).
- Equality champions (action planned by KETHI – Community Initiative EQUAL).
- Voluntary equality plans by firms; programme funded by the 3rd CSF (Operational Programme ‘Employment and Vocational Training’) to start from September 2003 and to include 500 to 1000 firms until the end of 2006.

Impact of legislation (share of enterprises affected)

Equality legislation has mainly affected the private sector of the Greek economy either directly or through collective bargaining.⁹ Equal pay, equal treatment and maternity legislation apply to all enterprises with no exception. Only the coverage of parental leave was until recently restricted to large size organisations i.e. civil services with at least 100 persons and public and private firms with at least 50. All these restrictions were abolished by Act 2639/1998, which implemented Directive 96/34.

Positive measures in favour of women is not an obligation of firms under national and EU law. Act 1414/1984 – by implementing Directive 76/207 and Recommendation of 1984 on positive action – allowed for positive measures in favour of women aiming at tackling gender inequalities and reinstating equal opportunities, but did not actively promote them. Art. 116 of the Constitution, after the amendment of 2001, obligates the State to take positive measures, but does not provide for any obligation of firms.

The impact of positive action legislation on the development of equal opportunities policies within firms has been very limited. Two research projects based on case-studies in Greek companies (Alberdi et al. 1997, Liapi 1998) have illustrated that almost everywhere positive action measures adopted by companies are single actions and not part of a global equality policy. The measures mainly fall into two large categories: those to promote women’s participation in training programmes and those enabling reconciliation of work and family life: paid parental leave, loans to parents, crèche allowances, flexible working hours for mothers. Innovative instruments, such as team work building, mentoring, talent inventory etc. to improve women’s skills and facilitate promotion are implemented by very few companies (Alitzoglou et al. 2002).

Employer benefits

Equal pay and equal opportunities in training and promotion are an incentive for increased productivity, while family friendly policies induce greater worker loyalty, produce a less distracted labour force and reduce turnover and absenteeism.

⁹ With the exception of its contribution to the eradication of direct discrimination in pay – which was a constitutional requirement – collective bargaining has not played a central role in the promotion of gender equality in employment. All studies of collective agreements from a gender equality perspective (Kravaritou et. al 1996 and 1997, Giannakourou and Soumeli 2002) have underlined their very poor content in provisions related to the promotion of gender equality and the predominance of maternity/leave provisions among those referring to women. Karamessini (1997) has even argued that traditional ‘demands for women’ of the Greek trade union movement, consisting of measures assisting women workers as mothers, differ from ‘demands for equality’, which appeared for the first time after the Women’s Secretariat of the Greek Confederation of Labour was created in 1989.

Costs/ negative side effects

Leave arrangements have a negative impact on employment costs (hiring, training, operating costs). Re-evaluation of women's work, extension of training to more persons and provision of training facilities to women have a similar effect.

Evidence of change

Unfortunately there is no evidence for or national evaluations of the impact of

- equal treatment legislation on formalisation of procedures for recruitment, training and promotion and organisational outcomes;
- changes to pay practices on recruitment/retention of women and efficiency;
- maternity leave on job tenure, experience and productivity;
- positive action on industrial relations/collective bargaining, employee involvement, participation and voice and thus retention and performance.

I. 4 Individual/household costs/benefits of equality legislation

Role of legislation

Equal treatment legislation supports the right of individuals to exercise preferences for type of work, underpins individual investment decision in education and supports the right to self-development through access to training. Most importantly it supports the right to be treated as individual, not to be stereotyped or treated as a dependant or subordinate. Maternity and parental leave legislation supports individual choice of having children without losing one's job. Protection against sexual harassment ensures respect of human dignity, facilitates women's choice of non traditional occupations and male-dominated workplaces and provides equal opportunities to men and women to demonstrate their productive capacities at work. Equal pay legislation contributes to the removal of economic incentives for the continuity of the traditional domestic division of labour by gender and opens up the division of labour in the household to a negotiation between men and women based on individual preferences. It also allows women to exercise their right to live independently.

Greek legislation compared to EU legislation

- Right of women workers under public law to choose between reduced daily hours of work with full pay until the child completes 4 years and a paid leave of 9 months after the end of maternity leave.
- Priority of access of part-timers to full-time jobs created by the firm, when these jobs are similar to those done by the part-timers.

There is no special national legislation on sexual harassment. The latter is considered by Greek law as an offence to the personality. The definition of sexual harassment adopted by the Greek courts in several litigation cases that appeared for the first time some years ago was inspired by Commission Recommendation 92/131/EEC on the protection of the dignity of women and men at work (Spiliotopoulos 2003).

Non legislative initiatives

- Sexual harassment addressed through collective bargaining provisions and equal opportunities committees set up in some sectors (banking and public insurance).
- Participation of women to initial and continuous training courses in line with the female share of the unemployed.

Impact of legislation (share of individuals/households affected)

Equal pay and equal treatment legislation has mainly affected workers employed under private law, while maternity and parental leave legislation has affected workers employed under both private and public law. Yet, the development of national maternity and parental leave legislation was not affected by EU law. Only during the 1990s national legislation was improved as a result of Directives 92/85 and 96/34. One of the improvements was the extension of the right to parental leave to large categories of employees previously deprived from it:

- i) Civil servants in undertakings and services with at least 100 persons;
- ii) Employees in public enterprises, banks and the private sector working in undertakings or services with at least 50 persons.

Benefits for individuals/households

Equality legislation widens the range of women's choices with respect to education level and subject, labour market participation, occupation and job and allows them to develop their capacities and talents, live as independent persons and fully participate into social and political life. It also ensures their right not to be discriminated against and protects their human dignity at the workplace and their sexual preferences.

By fostering women's financial independence through equal participation into paid work, legislation on equality in employment brings about a redistribution of power between men and women in favour of the latter. Yet, it can also be positive for men. By undermining stereotypes it facilitates non traditional choices/behaviour according to male individual preferences and, by fostering women's financial independence, it promotes equal sharing of financial costs of children between spouses/partners and relieves men from financial burdens for dependent spouses.

Costs/negative side effects for individuals/households

Full participation of women to paid work, if combined with long working hours, rigid working time arrangements and lack of childcare facilities creates psychological stress and fatigue to women and can be disruptive of the family life of couples.

Evidence of change

In section I.2a we have provided data showing progress in female participation and employment rates as well as in female shares of students in higher education, post-university studies graduates and the employed in higher status occupations.

In section 1.2c we have also shown that, in Greece, couple households with children under six years and with the man working full time and the woman not working at all

have been constantly on the decline since 1984. What we have not noted there is that the proportion of couple household with children under six years where both parents work full time has increased from 26.3% in 1984 to 41.4% in 1999, while the proportion where the man works full-time and the woman part-time has remained stable at about 4% of total couple families with children under six years (OECD 2001). This means that Greek women are increasingly joining the labour market as breadwinners of equal contribution to family income and not as secondary earners.

Changes have also taken place during the last decades as regards household formation and decisions related to reproduction. The marriage rate (per 1000 population) has fallen from 7.7 in 1970 to 5.4 in 1998, while the divorce rate (per 1000 population) has risen from 0.4 to 0.9 across the same period. Besides, the average age of women at first marriage has climbed from 24.7 years in 1980 to 26.5 in 1999, that of mothers at birth of the first child from 24.1 years in 1980 to 27.3 in 2000, while the percentage of live births outside marriage has risen from 1% to 4% across the same period.

It should be also noted that the percentage of young women aged 20-29 living alone is very low in Greece and considerably lower than the male percentage in the 20-24 age group; 4% of all women against 10% of all men aged 20-24 lived alone in 1998, according to ECHP data. Moreover, in 1996, only 15.4% of young people aged 16-29 and living in couples were doing so under consensual union, against 34.2% in the EU. Such demographic figures though are very loosely related to 'equality in employment' legislation, since they are mainly affected by youth unemployment, cultural attitudes on marriage and the earlier average age of marriage of women as compared to men.

According to the ECHP data, 35% of Greek fathers and 94% of Greek mothers aged 20-49 spent time on childcare in 1998. Average weekly time spent on caring by men of this age group rose to 18 hours, while the respective figure for women is 33 hours (European Commission/Eurostate 2002). Unfortunately, we have no time series data on the household division of labour to track down changes in male and female participation to domestic and caring tasks. In the few existing studies (Greek Fertility Survey 1983, Maratou- Alipranti 1995, Symeonidou et al., 2001) different samples and methodologies have been used, making it impossible to compare data over time. However, the general impression we get from the 1997 follow-up of the Greek Fertility Study of 1983 (Symeonidou et al. 2000) and the two Eurobarometre Surveys of 1991 and 1996 (Kempeneers & Lelièvre 1991, European Commission 1998) is that there is some progress in men's participation to household tasks and caring over the past decades, but this is very limited. Moreover, men avoid the cores traditionally considered as female duties eg. clothing, bathing and feeding the children.

Data on women's participation in politics are even more scarce, since there is not any agency keeping a database and regularly publishing data. On the table below we have brought together data from several sources. From the data we can realise that there is progress in the female share of MPs between 1974 and 2000 elections. However, women's participation in the national parliament remains extremely low. The same is true for local government, municipal authorities in particular. The higher female share is found among General Secretaries of Regions, who are not elected by the people but appointed by government.

Table 5. **Women in government, parliament, local government**
female shares

Elected bodies				
Members of Greek Parliament	1974 Elections:	2%	1977 Elections:	4%
	1985 Elections:	4.3%	1989 (5.11):	6.7%
	1990: Elections:	5.3%	1993 Elections:	5.6%
	1996 Elections:	6.3%	2000 Elections:	9%
Members of European Parliament	1999 Elections: 16%			
Prefects/vice-prefects	1998 Elections:	9 %	2002 Elections:	2%
Mayors/vice mayors	1998 Elections:	1.6%	2002 Elections:	1.7%
Members of prefectoral councils	1998 Elections:	10.8%	2002 Elections:	17.3%
Government				
Ministers/vice-ministers	January 2003: 8.2%			
General/special Secretaries	January 2003: 16.1%			
General Secretaries of Regions	January 2003: 23.1%			

Sources: General Secretariat for Equality, *National Reports to the UN*, 1995, 1999 and 2000; KETHI (www.kethi.gr); and Z. Chronaki, in the special issue on “Women and Politics” of the weekly newspaper *KATHIMERINI* (15th December 2002).

II. An assessment of progress towards achieving equality objectives

In this part of the report we assess the progress towards and identify the barriers to achieving equality objectives. Failure to meet these objectives imply costs for society, employing organisations and individuals/households.

II.1 Progress towards and costs of not achieving equality objectives

We provide hereafter an overview of progress towards and costs of not achieving equality objectives at all levels: society, firms, individuals/households.

II.1a Societal level

Objective: Productive labour force

As revealed by evidence provided in part I.2a of the report, equality legislation has had a positive impact on female employment rates and gender equality in participation in all levels of post-compulsory education. It has thus contributed to the expansion of a skilled and educated workforce. However, gender equality in employment has not been fully achieved in either quantitative or qualitative terms and gender equality in educational attainment has not reached the very top end of the education system. Consequently, women’s productive potential remains underutilized to a large extent.

Women’s employment and labour market participation

- Although employment opportunities have seriously improved for women between 1977 and 2001, they have been unable to cope with the increase in female labour

supply. As a result, the female activity rate has grown much faster than the female employment rate and the female unemployment rate has passed from 2.5% in 1977 to 15.4% in 2001. A large part of the female labour force is thus not used productively.

- The female employment rate is extremely low – 40.9% in 2001 – and very far from the Lisbon target of 60%. Constraints for the achievement of this target come both from the demand side than from the supply side of the labour market.
- Supply of labour is very restricted among certain categories of women. Education level and not the presence of children is the main determinant of female participation into the labour market. In 2000, the employment rate of women aged 25 to 54 years was 53.1% for women with no children, 53.9% for women with one child and 50.3% for those with two or more children (OECD 2002, Table 2.4, p. 77). In the same year, the employment rate of women aged 25 to 54 years and less than upper secondary education was 42.1% against 78.4% among those with university/tertiary education (OECD 2002, Table 2.2, p. 74).
- Underutilisation of women's productive potential is also linked with interruptions in their work history. According to data from the first five waves of ECHP, 24% of the Greek women having worked and had a child during the year preceding the annual interview had withdrawn from employment at the time of the next annual interview. This rate was the second higher after those for Germany and the UK (OECD 2002, table 2.9, p. 85).

Women's investment in education/training

- We have shown in part I.2a that young women outscore men in human capital investments at all levels of post-compulsory education, with the exception of doctoral studies. Women are not less interested than men in obtaining Phd degrees but doctoral studies are mostly undertaken by graduates in their late twenties or early thirties. They thus conflict with women's decision to have children and their anticipated higher involvement in childcare than their male partners.
- Although the sustained rise in women's investment in higher education during the last decades has been accompanied by a deversification of their subject choices, the female share remains low among students in engineering and technology and has not yet reached parity in positive sciences i.e maths, physics etc (see table 3).
- Female participation rates to continuing training have been higher than male rates since the mid 1990s. However, the share of employed women who have received training during their working life is still lower than that of men. Moreover, among part-timers, a much higher rate of men than women participate to training.
- High unemployment among higher educated women is indicative of the under-utilisation of their productive potential. According to Labour Force Survey data, in the second quarter of 2002 the unemployment rate of women having completed higher education rose to 13.6%. It was 8.5% among university graduates and 19.7% among graduates from higher technological education (polytechnics).
- Underutilisation of higher educated women's productive potential also depends on the degree of continuity of their employment patterns. According to data from the first five waves of the ECHP, the proportion of Greek women aged 20 to 50 years with university/tertiary education and having been continuously employed during 1994-1998 was 67% among those without children and 69% among those with children. The respective rates for Greek men with the same characteristics and for the same period were 77 and 91% (OECD 2002, table 2.8, p. 84).

- High investments of women in education have not been associated with high returns on education. Even though 89.5% of the net increase in female jobs between 1993 and 2000 has absorbed women employees with higher education, high and medium paid occupations fueled just 64.9% of the increase (Karamessini 2002a). This means that a large share of high educated women were obliged to find a job in low paid occupations and thus accept low returns on their education.
- According to 1995 data for Greece from the European Structure of Earnings Survey, the size of the gender pay gap is uncorrelated with the education attainment level (Karamessini & Ioakimoglou 2003). High educated women thus experience wage discrimination and lower returns on education than high educated men. Although lower returns have not prevented women from increasing their investment in education during the past decades, they may have negatively affected women's penetration to male-dominated occupations and workplaces.
- In spite of high and increasing investments in higher education during the 1980s and 1990s, women employees are largely discriminated against as regards promotion and assignment to supervisory positions. The third European Survey on Working Conditions has revealed that, in 2000, only 8% of Greek workers had a woman as their immediate superior; this was the lowest rate in the EU-15 for which the average rate rose to 19% (Paoli & Merillié 2001). This evidence is corroborated by ECHP data showing that, in 1998, only 7% of women in employment were employed in positions involving supervisory responsibilities against 16% of men (European Commission/Eurostat 2002). Women's exclusion from higher positions in hierarchy is an indicator of waste of human resources, with consequences on the productive potential of the economy.

Objective: Population balance- sustainable fertility rate

As we have already stated in part I.2a and I.2b, equality and maternity legislation have had a positive impact on female employment rates since the mid 1970s but have not prevented fertility rates from declining. Since the early 1980s the total fertility rate is below the replacement of generations rate launching the process of population ageing. Eurostat projections for EU Member States (baseline scenario) demonstrate that the share of the population over 60 years in total Greek population is expected to climb from 22.5% in 2000 to 33% in 2050.¹⁰ If demographical trends persist, financial sustainability of social security systems will be at risk in the following decades.

Notwithstanding its ineffectiveness, equality legislation is not to blame for these adverse demographic trends. Population ageing and low fertility rates are indicative of continuing acute problems of reconciliation of work and family life and high penalties associated with childbirth as regards hiring and promotion faced by Greek women. They are also indicative of unequal sharing of family responsibilities between women and men. Population ageing and low fertility rates can be therefore considered as the costs of non-equality in the family and of the inadequacy of family friendly policies from the part of both Greek employers and the Greek State.

¹⁰ Eurostat, *Statistics in Focus*, 1997/7, tables 2.5.

Objective: Reduce social exclusion and poverty

Equality legislation has contributed in the closing of the gender pay gap, which is a prerequisite for preventing female poverty in old age and encourages participation in employment of lone mothers and women with medium and low education. However, the gap remains larger than the EU average in the private sector (21 percentage points) and progress in tackling it since the mid 1970s has not yet been reflected in the old age pensions gap. Most elderly women in single households live today in poverty.

According to ECHP data, in 1998, the gender earnings ratio in Greece rose to 83% and was equal to the EU-15 average rate. Despite progress in the closing of the gap during the past decades, there is evidence for a reversal of trend in some high pay sectors such as banking and insurance (Karamessini & Ioakimoglou 2003). The gap grows with age – reflecting gender differences in work histories – and is larger among older cohorts of employees. According to ECHP data, in 1998, the gender earnings ratio was 92% among full-time employees aged 20 to 29 and 79% among those aged aged 50 to 59 (European Commission/Eurostat 2002).

Given that pensions in Greece are calculated as a percentage of earnings of the last 5-10 years in employment, it follows that the gender gap in pensions is much higher than that in average earnings at a given moment in time. For instance, in 1995 the earnings gap between women and men was equal to 28.5 percentage points in industry and 25 in services (ESES data), while the pensions gap for those who retired in the same year was equal to 30.6 percentage points (Karamessini 2003b).

The gender pensions gap is expected to be larger if calculated for all pensioners and if widows' pensions are taken into account (data not available until today). In 1998, widows' pensions constituted 48.3% of total female pensions granted by the social security fund of private sector employees and the minimum widow pension was in 2001 well below the poverty line (Karamessini 2003b).

Equal treatment and maternity legislation have undoubtedly contributed to the increase in the employment rates of lone mothers and women in couple households with dependent children: two types of household with higher than average risk of poverty besides older single households. We have already mentioned in part I.2b that the proportion of couple families with a child under six years and workless parents has fallen from 5.4% in 1984 to 3.4% in 1999. The proportion of lone mothers in employment has also risen across the same period (OECD 2001).

Yet, it is difficult to disentangle the contribution of legislation from that of economic necessity. In addition, there is still much room for progress, since only 54% of women aged 20-49 years with a child under 16 and living with a spouse or partner were employed in 1998 – against 80% in Denmark – according to ECHP data. In the same year, 74% of women in the same age group with a child under 16 and living alone were employed (European Commission/Eurostat 2002).

Further progress towards gender equality in employment is therefore critical for the reduction of poverty and social exclusion, in a country which at present displays the

second largest rates in the EU after Portugal (22.7 and 15% respectively)¹¹. High shares of population living in poverty or facing social exclusion can thus be classified among the costs of not achieving as yet gender equality in employment.

II.1b Employing organisations

Objective: Efficient employing organisations

Field research tracing progress towards equality in organisations is very scarce. The only existing literature refers to positive action measures in a number of big firms. However, this literature, mentioned in part I.3 above, has only detected and described these measures. It has not assessed their impact neither on gender equality at the workplace or on the firms' efficiency. Progress towards gender equality in organisations can be assessed only through aggregate data on the gender pay gap, the share of women in managerial positions and positions with supervisory responsibilities, participation rates of women and men employees in training. Data of this kind have been provided above, pointing to an important gender pay gap in the private sector as compared to the EU average, to considerable discrimination against women regarding promotion to positions of responsibility and command. It is also common knowledge – widely discussed though not yet tested by research – that small and medium enterprises are unwilling to recruit young women, especially newly married and without children, anticipating costs of replacement relative to maternity and breast-feeding leave. On the other hand, statistics on training show that training opportunities have been more favourable to women than to men employees during the last decade.

Special reference should be made here to sexual harassment at the workplace, for which there is no legislation in Greece and for this reason was not analysed in part I. A survey realized in 1988-1991 on a sample of 1.056 women and 462 men living and working in the Greater Athens Area found that 64.5% of female workers in the private and 55.1% in the public sector had experienced sexual harassment at the workplace. The higher rates of victims were found among widows and divorced (82.1 and 73% respectively) and the lowest among married women (56%) (Maganara 1998). Another survey carried out ten years later did not provide quantitative data on the extent of the problem, but attempted - among other things - to gather qualitative information from employers. However, the results are very poor, since the firms' representatives interviewed did not give answers to the main questions. Most importantly, employers and managers did not appear at all familiar and sensitive to the argument of productivity losses in case of sexual harassment (Alemany et al. 1998).

Firms can bear several types of costs from not having achieved gender equality:

- Job segregation by gender, based on unequal treatment or unequal pay, can be a barrier to more flexible and integrated production system;
- Gender biased recruitment, training and promotion procedures are gender limit selection of the best workers and restrict the development of the productive potential of all members of the firm's workforce;

¹¹ The poverty rate refers to ECHP wave 3 (1997) and the social exclusion rate to the proportion of the population that suffered from cumulative disadvantage at least for two years during 1994-1997. Both rates were calculated by Tsakloglou and Papadopoulos (2002). The authors have calculated the same rates for twelve EU countries from ECHP data.

- Problems of retention after maternity leave incur costs of hiring and training of new recruits, while inflexible working time arrangements can increase absenteeism among female workers;
- The continuing harassment of female workers restricts female labour supply for male-dominated qualified/skilled jobs, undermines industrial relations and productivity of female workers and damages the firm's image as good employer.

II.1c Individuals/ households

Objective: extend individual/household choices

The non-achievement of gender equality objectives does not only incur costs on society and firms. It also restricts individual and household choices. Evidence from two studies illustrates two such cases: (a) women cannot have the number of children they desire because of inadequacy of reconciliation policies and limited public care provision (b) households cannot realize their preferred employment pattern.

In spite of fertility rates below 2.1 in Greece since the early 1980s, a nation-wide survey (Symeonidou, 2002) has illustrated that the two-children model is still strong among women. Moreover, the average desired number of children was in 1999 the same as in 1983 (2.3), while the average ideal number of children was even higher (2.7). Both figures were higher than the replacement of generations rate.

As far as employment patterns of couple families with children under 6 are concerned, an OECD study (2001) has demonstrated that:

- (a) the man full-time and woman full-time pattern is realized by 42.2% and preferred by 65.6% of Greek couples;
- (b) the man full-time and woman part-time pattern is realized by 7.9% and preferred by 10.6% of Greek couples;
- (c) the man full-time and woman not employed pattern is realized by 36.1% and preferred by only 9.4% of Greek couples.

These results prove that women's inactivity is mostly involuntary at least among couples with very young children.

Apart from the aforementioned individual/household costs of non-gender equality, which have been proved through existing research, we can guess that women also bear other types of costs that cannot be as yet substantiated and measured:

- Continuing harassment induce restrictions on career and job choices
- Women's lower relative earnings reproduce traditional domestic division of labour
- Persisting gender discrimination in employment limits the access and tenure of women in non traditional sectors.

II. 2 Barriers to achieving equality

The main barriers to achieving equality objectives are the following:

1. Discrimination in hiring against young women in core reproductive ages;
2. Vertical segregation of employment by gender; barriers to women's promotion; unwillingness of firms to adopt positive action measures;

3. Low female participation in undergraduate studies in positive, engineer and technology sciences and in doctoral studies;
4. Lack of awareness regarding indirect discrimination in pay; job reevaluation is not part of the instruments of equality policy;
5. Rights to maternity leave do not exist for concealed dependent female workers working formally as subcontractors or freelance self-employed;
6. Problematic renewal of limited duration contracts in case of pregnancy;
7. Inadequacy of publicly-funded care services for children, the elderly and the disabled; parental leave is unpaid and its take-up rate extremely low;
8. Rigid working time arrangements or employer-friendly working time flexibility;
9. Early retirement schemes for women only encourage early exit from the labour force, enhance the image of women as primary carers and reproduce financial dependancy of women from men in old age.
10. Women's greater involvement in undeclared/uninsured work reduces insurance time over the working life and widens the gender gap in old age pensions;
11. Very weak participation of women in the leadership of unions;
12. Bargaining tradition of unions for issues related to the protection of maternity and to the reconciliation of work and family life by women; lack of bargaining tradition for issues related to the promotion of gender equality in employment;

Recent or proposed changes that may remove/reduce barriers are:

1. Reform of the vocational guidance lesson at high school in order to remove stereotyped attitudes with respect to male and female occupations;
2. Positive action measures in favour of women in programmes of lifelong learning;
3. Improvement of child and elderly care services and extension of the operating hours of nurseries and of school hours schedules;
4. Extension of part-time employment opportunities in the public sector;
5. Reversal of the burden of proof in cases of sex discrimination;
6. Development partnerships to promote measures for equality at the workplace and employment of women in new economic sectors under Community Initiative EQUAL.

Further changes that could be considered are:

- Reevaluation of job classification schemes from a gender equality perspective in order to promote equal pay (Karamessini & Ioakimoglou 2003);
- Legislation on sexual harassment (Papatheodorou et al. 2001);
- Employer costs for maternity leave pay should be pooled (Kanellopoulos and Mavromaras 2000).
- Technical support to firms willing to introduce equality plans.
- Legal aid provided on a permanent basis by formal institutions (equality bodies, Lawyers' Bars, municipalities etc.)
- Improvement of legislation to protect the rights of concealed dependent workers, formally working as subcontractors or freelance self-employed.

III. An evaluation of the expected impact of proposed changes to equality legislation

In this last section of the report we evaluate the expected impact of four hypothetical changes to EU equality law, proposed in view of the “refonte” of the Directives in the area of equal treatment between women and men. These changes refer to equality in pay, equality of treatment in social security and promotion of positive action. We also evaluate the expected socio-economic impact in Greece of the implementation of the innovative provisions of the most recent Directive 2002/73/EEC.

III.1 Removal of the exemption of actuarial calculations of benefits from the occupational pensions directive

In order to evaluate the expected impact of the removal of the exemption of actuarial calculations of benefits from the occupational pensions directive, we need to discuss the coverage of workers by occupational pension schemes in Greece.

As stated by Spiliotopoulos (2003), the *Barber case* had no impact in Greece, while in the *Evrenopoulos case* the ECJ reaffirmed the criteria ascertaining whether a scheme is occupational. According to these criteria, special *main pension schemes* for the personnel of certain banks and public corporations as well as the main pension scheme for civil-servants and employees of local authorities and other legal persons governed by public law are defined as occupational schemes, along with a great number of *supplementary pension schemes* for different categories of employees.

It should be noted that all these schemes are statutory and almost all of them pay-as-you-go.¹² By including them in the first tier schemes, the Greek government refuses to recognize them as occupational pension schemes (second tier-voluntary).

Actuarial calculations of benefits refer to occupational pension schemes financed on a funded and individualistic basis.¹³ Such schemes have not been created in Greece as yet, but are provided for by recent Act 3029/2002. According to the latter, occupational pension schemes are introduced for the first time and should take the form of special institutions governed by private law (pension funds). Previous legislation obliged all social security organisations to operate as legal entities under public law.

Act 3029/2002 does not opt for either defined contribution or defined benefit pension schemes. It allows for both types of pension funds. However, defined benefit schemes have been losing ground during the last decades internationally, while newly created schemes have been increasingly based on defined contributions. Since 2000, the stock

¹² Only few schemes are financed on a funded basis. But, even in these cases, the funding principle is not applied on individuals but on generations e.g. TEAM, which is the most important supplementary pension scheme for employees working under private law contracts.

¹³ These schemes can be created in one of the three different ways (Luckhaus 1996): by building up assets in a specific institution (e.g. in a pension fund or trust); by using the book reserve method (employers create a special account and reinvest resources accumulated in this account either in their own enterprise or through the financial markets) or by contracting with an insurance company.

market crisis in developed economies has reinforced and generalised this trend. It is thus expected that funded schemes in Greece will be based on defined contributions.¹⁴

In defined contribution schemes, higher female than male life expectancy can lead to lower annuities for women than men for the same contributions, if this is not ruled out by law. Article 7(9) of Act 3029/2002 prohibits any discrimination in the conditions of affiliation to such schemes, but it is – in our opinion – a matter of interpretation if actuarial calculation of benefits constitutes gender discrimination in conditions of affiliation.¹⁵ It follows that removal of the exemption of actuarial calculations of benefits from the Directive on equal treatment in occupational social security schemes can prevent discrimination against women by future pension funds in Greece as regards the amount of pension benefits. The costs of the removal will be born by male insured members in terms of higher contributions to the funds.

III.2 Introduction of the innovative provisions of Directive 2002/73

The new Equal Treatment Directive introduces many important innovations such as:

- (a) definitions of direct and indirect discrimination;
- (b) definitions of harassment and sexual harassment and preventive measures;
- (c) equality bodies and equality plans at company level;
- (d) reinforcement of legal protection against victims of discrimination.

The innovative provisions of Directive 2002/73 are expected to considerably improve the effectiveness of equality legislation and promote litigation,¹⁶ which has been very limited in Greece up to now. Moreover, they are a precondition for making visible and combating sexual harassment, which is not a concern of either unions or employers. Finally, they put a constant pressure on Greek governments to develop and implement positive action measures and to become more active in the promotion of social dialogue on equality issues, in the encouragement of firms to take measures that ensure equal treatment and in the mobilisation of NGOs against gender discrimination. In all these fields the Greek State has manifested serious deficiencies until today.

The expected socio-economic impact of more equality of treatment is the rise of the female employment rate, the greater continuity of female careers, the desegregation of employment, the development and full utilization of women's productive potential.

¹⁴ In the defined benefit schemes the risk of the investment of funds is born by the employer/insurance company, whereas in the defined contribution ones it is born by the insured. The recent crisis of stock markets has put in danger most defined benefit schemes and produced the collapse of many of them.

¹⁵ Spiliotopoulos (2003) deduces from the same article that 'actuarial calculations are excluded in respect of such schemes', which is rather paradoxical for an act introducing pension funds.

¹⁶ As indicated by Spiliotopoulos (2003) the provisions that are expected to improve the effectiveness of equal treatment legislation in Greece are the definitions of indirect discrimination and (sexual) harassment; the extension of protection of victimisation to any adverse treatment and to those supporting the worker; the locus standi of unions and other organisations to bring gender equality cases on behalf or in support of complainants; last but not least, the obligation of Member States to create an independent body that will provide assistance to victims of discrimination and conduct independent surveys on discrimination or entrust these issues to such a body already existing (e.g. the Ombudsman).

III.3 EU legislation and the tackling of the gender pay gap

European Union law on equal pay is among the issues that should be considered in the “refonte” of EU Directives. Improvements comprise a more proactive approach to job evaluation and overcoming the limitation of comparators to someone in the same establishment or service in order to operationalize the concept of *work of equal value*.

Greek law, namely Act 1414/1984 that implemented the equal pay directive, requires that job classification systems should be based on the same criteria for both male and female workers and so applied as to exclude any discrimination on the grounds of sex. This provision does not go further than the Directive, to promote job evaluation as a means of implementing the principle of equal pay for work of equal value. Moreover, there is no “equal value” litigation in Greece (Spiliotopoulos 2003).

Greek trade unions are opposed to job evaluation at the firm level, since pay determination on this basis conflicts with the primacy of national bargaining on occupational and sectoral minima over firm level bargaining. The object of bargaining at the firm level is pay on top of occupational or sector minima and not job grading. It follows that the position of female-dominated occupations and sectors on the pay scale is the historical outcome of collective bargaining and reflects both differences in bargaining power between occupations and sectors as well as societal views on the relative value of male and female jobs.

This does not mean that there is no margin for correcting relative pay at the firm level, but that there is no bargaining tradition on such issues. Any realistic proposal for the re-evaluation of female and male jobs from a gender equality perspective should thus take into account the existing bargaining structure and try to challenge existing job grading within sectoral agreements as well as relative wages in a sector resulting from different occupational agreements applying in it. The fragmentation and occupational origin of Greek trade unions and the resulting limited range of occupations covered by sectoral agreements is a serious obstacle for challenging job grading within sectors.

The need for studying job grading beyond the firm level is also corroborated by research findings illustrating that occupational and sector segregation by gender account for 51% of the gender pay gap in services and 56% in industry (Karamessini & Ioakimoglou 2003). Under these conditions, pay comparisons within the same enterprise – according to the guidelines of ECJ on this issue – would not have much impact on the gender pay gap even if “equal value” litigation was encouraged.

A requirement for an independent analysis of job grading would be consequently very helpful in strengthening equal pay legislation in Greece. Unfortunately such a requirement does not exist. Neither does exist any agreement between social partners to regularly monitor gender equality in pay. The “refonte” should encourage such practices by introducing appropriate changes in the equal pay Directive.

Resistance for such type of innovations is not expected to be important, given that they do not directly affect collective bargaining. Obligation to negotiate on equal pay issues on a regular basis would be a far more proactive measure of equal pay policy, which would be certainly more difficult to integrate in legislation, since it represents a limitation to the autonomy of collective actors.

III.4 Elimination of derogations under Directive 79/7

Derogations under the Directive on equal treatment in statutory social security fall into four main categories (a) pensionable age (b) advantages granted to persons who have brought up children (c) derived entitlements of spouses (d) benefit supplements for a dependent spouse. We discuss below the impact of the elimination of derogations from the Directive separately for each category. However, a preliminary note is necessary in order to explain the rationale of the evaluation.

Most of the derogations of Directive 79/7 represent ‘advantages’ for women which gradually developed as compensation for their caring role and to preclude or defer more radical changes to the male breadwinner/female carer family model.

According to Hoskyns (1996), the dilemma of the negotiators of the Social Security Directive (SSD) in the late 1970s was the following: “To do away with these advantages in the interests of equal treatment, without dealing with the situations that made them necessary, would be seriously to disadvantage many women, in a policy that was supposed to make women more ‘equal’. This was clearly politically unacceptable, and thus the derogations were inserted” (p.112).

“Keeping such ‘advantages’ for a transitional period, while taking other measures to deal with substantive problems women face, in the context of a general commitment to greater individualisation of benefits, would have been a progressive strategy...However, because the SSD states neither an ultimate goal nor a commitment to supplementary actions, these special measures look like, and indeed can easily become, reinforcement for women’s continuing domestic role” (ibid, p. 112).

Pensionable age (old age and retirement pensions)

Elimination of derogations means that lower pensionable age for women in old age and retirement pensions would become illegal. If elimination was applied without provision for a transitory period, this would affect all women employees working in both the private and public sector of the Greek economy insured before 1.1.1993. The pensionable age of men and women insured since this date has been equalised.¹⁷

Elimination of the derogation would also affect early pension provisions by social security legislation for women insured after 31.12.1992 who are mothers with children who are minor or disabled or mothers with three children or more.

Advantages granted to persons who have brought up children

Elimination of derogations means that women’s priority to fictitious insurance time credits for rearing children born after 1.1.2003 (1 year for the first child, 1½ years for the second and 2 years for the third) will be abolished. Under the respective provision of Act 3029/2002, actual periods of parental leave are subtracted from insurance time credits and if mothers do not make use of credits the right is transferred to fathers.

¹⁷ For more details see Matsaganis & Petroglou (2001) and Karamessini (2003b).

Derived entitlements of a spouse to old-age and invalidity benefits

Elimination of derogations means that derived entitlements for survivor and invalidity benefits will have to be granted to men on equal terms as for women. Greek social security legislation provides for benefits to surviving spouses of both sexes only for persons insured since 1.1.1993. For those insured before this date, this right applies only to widows. However, Greek case law considers unconstitutional this provision (Spiliotopoulos 2003). Elimination of the derogation regarding survivor benefits from the Directive will therefore generalize the application of such a ruling.

Increases of benefits for a dependent spouse

According to Greek social security legislation, pension supplements for dependent wives are granted only to persons insured before 1.1.1993. Persons insured since this date have no right to supplements anymore. Greek case law considers unconstitutional pension increases for dependent wives only (Spiliotopoulos 2003). Elimination of the derogation regarding supplements for dependant spouse from the Directive will therefore generalize the application of such a ruling to all insured before 1.1.1993.

Evaluation of expected impact

Elimination of derogations regarding pensionable age entails the following costs and benefits. Expected benefits include the rise of female employment rates, the closing of the gender gap in pensions, the undermining of the male breadwinner/female carer family model. Expected costs include the increase of women's total workload and working time over the lifecycle, comprising both paid and unpaid work, which is due to the following reasons. First, equalisation of pensionable age means under actual circumstances levelling up women's pensionable age and not levelling down men's. Second, elimination of early retirement schemes will not be entirely compensated by availability of care services and higher involvement of men in domestic work, since Greece has still very low coverage rates regarding child and elderly care and traditional division of labour by gender has been challenged only at the margin.

During recent years the majority of female employees have actively opposed accelerated equalisation upwards of female pensionable age for women insured before 1.1.1993 and the attrition of early retirement schemes for mothers, by massively participating to the large movement against the reform of the Greek pension system. Their opposition should be interpreted as the outcome of both individual calculations of costs and benefits and conservatism with respect to gender roles. The equalisation downwards of pensionable age would have certainly produced a different reaction.

Elimination of derogations regarding advantages granted to persons who have brought up children involves either the sharing of credits in fictitious insurance time between parents or the abolition of the measure. The expected benefit from the abolition is that women will no longer have an incentive to interrupt their careers in order to bring up their children, while the expected cost is that women actually interrupting their career for this reason will have more difficulties than men to meet eligibility requirements for full pension, with a negative impact on the gender gap in pensions. The sharing of credits can be used either as an extension of parental leave (which is unpaid in

Greece) or as a compensation to parents for increased workload, with possible moral hazard from the fathers side and under-compensation of women's contribution.

There will be no social/political resistance to the abolishment of fictitious insurance time credits, since this recently adopted measure will bear fruit after some decades.

Finally, the elimination of derogations relative to derived entitlements of surviving spouses and pension supplements for dependent spouses will benefit widowers, women with a dependent spouse and male dependent spouses. On the other hand, it implies a financial cost for the state budget. Even if the number of beneficiaries is relatively small, it is likely that this change will be resisted by the Greek government.

III.5 More active promotion of positive action by EU legislation

The strengthening of legislation on positive action could also be considered in view of the 'refonte' of EU Directives. What is expected from this process is the adoption of a proactive rather than permissive approach to positive action. It should be made clear that the latter does not constitute just a derogation from the principle of non discrimination, but a necessary means for promoting substantive gender equality.

As mentioned in previous parts of this report, during the constitutional revision of 2001 a new provision was introduced into the Greek Constitution, which obligates the State to promote gender equality in practice and in all fields – not only in that of employment – through positive measures. This means that the impact of the "refonte" on national legislation, if a proactive approach to positive action is adopted, will be minimal. Moreover, Directive 2002/73 has already incorporated this approach.

Since 1998, the Greek State has designed and implemented an important number of positive action measures in different policies and fields (employment and education, politics etc.). Member States' obligation under Directive 2002/73 to submit reports on positive measures they take is expected to maintain impetus. What is still terribly lacking in Greece is positive measures at the company level. Part of the resources of Community Initiative Equal will finance assistance and incentives to firms willing to introduce such measures in the coming years. However, implementation of Directive 2002/73 is also expected to play an important role in stimulating political commitment.

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