



Equal Treatment of Men and Women in Employment and Labour relations Special Report 2012

Executive summary

A. GENERAL REMARKS

The cases handled by the Ombudsman in the field of equal treatment between men and women during 2012 largely reflect the intensity of the problems brought about by the economic crisis in labour relations and the general employment situation of women. A testimonial of this state in 2012 is the fact that, whereas complaints from the private sector constituted 37% of the overall complaints of the Department in 2010, they rose to 53% in 2011 and reached 61% in 2012, reflecting the intense pressure on female employment in conditions of rapidly rising unemployment.

Labour rights of women have been affected in many fields: precarious forms of employment, unilateral adverse changes in contracts, wrongful imposition of job rotation, contract terminations in maternity protection period, moral or sexual harassment, violation of national and European legislation on equal treatment and elimination of discrimination against women, adverse effects of motherhood in the professional and financial development of working women. At the same time, the problems of dealing with stereotypical gender roles on reconciliation between work and private life still prevail, thus affecting the equal treatment of men to their rights as fathers.

As a general conclusion, the fact remains that, instead of leading to better valorisation of the full workforce of the country, the crisis reinforces gender stereotypes, which in turn tend to produce gender-based exclusions.

B. SPECIFIC ISSUES

Employment contract termination during the maternity protected period

Exclusively linked to gender, pregnancy and maternity continue to have a detrimental effect on the working lives of women. An extreme form of this distinction is the termination of employment of women who are on maternity protection (which extends from the first day of gestation up to 18 months after the date of birth). Several such cases triggered the mediation of the Ombudsman, who, in its course of investigation, explored the legal nature of the employment contract:

A lawyer working in a private enterprise under an informal contract was fired while pregnant. After studying the documentary evidence and taking testimonies, the

Ombudsman concluded that while the contract had not vested the form of a regular employment contract, in substance it was similar to this. In its findings the Ombudsman declared the dismissal invalid.

An employee in a private law municipal enterprise was informed, while on maternity leave, that her contract was for fixed period and had expired. The Ombudsman found the explanations of the employer inadequate and ruled that the employment relationship had always been open-ended; it declared the dismissal invalid, recommended a fine to the Labour Inspectorate and ultimately the fine was imposed.

Unilateral adverse changes in terms of employment

In 2012, the Ombudsman highlighted the prejudicial unilateral imposition of job rotation on employees returning from maternity and parental leave, while a significant number of them were within the period of maternity protection and therefore could not be fired. The law imposes substantive requirements for the imposition of job rotation, which must be met cumulatively, to prevent misuse of the measure, whereas the Ministry of Labour has expressed the view that working women during the maternity protection period should be the last option [*ultima ratio*] of the employer for job rotation. The Ombudsman noted however that the provisions were violated by the employers, including frequent application of the measure on employees returning from maternity and parental leave. A full account of its findings and recommendations are made in the relevant Special Report.

Professional development and gender discrimination

The Ombudsman has received a significant number of complaints from women reporting gender discrimination in their career advancement. These complaints highlight the Authority's finding that, due to the transposition of the relevant EU legislative *acquis*, the country has adequate and effective legislation on equal treatment between women and men and on combating gender discrimination. In practice, however, both in the private and public sectors, there are still stereotypical perceptions of the professional role of gender.

Among the cases examined by the Ombudsman are: a female member of the Hellenic Telecommunications Organisation (OTE) , who was surpassed by a man with far fewer qualifications; a female surgeon who suffered gender discrimination in accessing professional training during pregnancy; female executives of the Hellenic Police (EL.AS) who were discharged *en masse* before reaching the highest level in the hierarchy; female officers of the Air Force whose professional progress was terminated at a lower rank than their male colleagues; a senior Ministry executive whose development to the rank of DG was prevented by a sick leave period taken twenty years ago due to high risk pregnancy; teachers who failed to develop to the rank of Director and School Consultant for non inclusion of the maternity leave period in their teaching experience. In all these cases, the Ombudsman established gender discrimination.

Salaries and allowances

Despite the fact that the principle of equal pay between men and women exists in the treaties of the European Union since 1957, unfortunately the wage gap persists. The Ombudsman examined one of the forms of the wage gap: various allowance cuts during periods of maternity and parental leave. The cuts include off-site working expenses for military personnel of the Ministry of National Defense, performance incentive and off-site working expenses for Treasury employees, performance incentive bonuses and hospital staff benefits for hospital employees. Although the Ombudsman found the cuts lawful, when related to benefits for services not rendered (e.g. if there were no mileage or days away from the office), it considered that all

these cuts resulted in indirect sexual discrimination, primarily affecting the income of women of childbearing age, who are mostly exclusive users of these leaves.

Sexual Harassment

Legislation on protection from sexual and moral harassment in the workplace is relatively recent and for this reason neither workers nor employers, nor control or judicial mechanisms, are familiar with it. The greatest difficulty in handling these cases lies in finding material evidence because these matters are inherently difficult to establish. The issues of sexual harassment in the workplace have additional inherent difficulties, as the victims are reluctant to report it to an independent authority. So it is important to gradually achieve social awareness that sexual harassment constitutes a violation of an individual's personality who is thus victimised. On this issue, the Ombudsman considers increasing awareness about existing legal framework essential in all workplaces, with the aid and support of social and professional organizations.

C. PROMOTIONAL ACTIVITIES

The Ombudsman as an Equality Body promoting the principle of equal treatment between women and men and combating gender-based discrimination, has a wide range of collaborations. It collaborates with the General Secretariat for Gender Equality, the Equality Legislation Unit of the European Commission, the European Network of Gender Equality Bodies, the Civil Servants Training Institute of the National Centre for Public Administration for training civil servants on gender issues, the Labour Inspectorate on complaints relating to gender discrimination, as well as associations and NGOs active in the field of gender equality.

This year it contributed to the edition of a Guide for Sexual Harassment in the Workplace, adopted by the GSGE, offering its experience. It also partnered with the GSGE and the European Funds Managing Authority of the Hellenic Parliament, in order to use resources from the National Strategic Reference Framework (NSRF) for promotional purposes of the Department. In addition, it participated in the merger of the European Network of Equality Bodies in the European Network of Equality Bodies Equinet. Finally, it participated as a speaker at an event for the global day of remembrance of transgender people on 21/11/2012.