

COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT OF THE COMMISSION TO THE COUNCIL
ON THE APPLICATION OF THE PRINCIPLE OF EQUAL PAY
FOR MEN AND WOMEN IN GREECE

(Article 119 of the EEC Treaty and Council Directive 75/117/EEC
of 10 February 1975)

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INTRODUCTION

1. The Commission has, within the general context of the duties conferred on it by Article 155 of the Treaty establishing the EEC, presented periodic reports to the Council regarding the application of the principle of equal pay for men and women enshrined in Article 119 of the Treaty. The last such report (COM(78) 711, final) was put before the Council on 18 January 1979 pursuant to Article 9 of Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women⁽¹⁾. This report described the situation with regard to the application of the Directive as at 12 February 1978.

From 1 January 1981, Article 119 of the Treaty and Council Directive 75/117/EEC are also applicable to Greece. It is therefore necessary to review the legal and de facto situation in that country as regards implementation of the principle of equal pay and to analyse the measures taken in this connection by government and the two sides of industry.

In line with previous practice, the Commission sent a detailed questionnaire to the government and employers' and workers' organizations with a view to their collaboration in the task of gathering relevant legal and statistical information. A preliminary draft report was drawn up on the basis of the reply formulated jointly by the government and the two sides of industry and transmitted to the Commission officially in February 1982. This preliminary draft was submitted to the parties referred to above and the Greek Government communicated its observations to the Commission on 25 July 1983; these were incorporated into the draft report. However, following the adoption on 30 January 1984 of Law N° 1414/84 "on the application of the principle of equality between the sexes in industrial relations and other provisions", it came necessary to redraft the report.

(1) OJ N° L 45, 19.2.1975, p. 19

Part One of this report compares the legal and administrative provisions in force in Greece with the requirements imposed by Directive 75/117. Part Two reviews the position as regards court decisions on the rights of individuals in this field. Part Three analyses the development of collective agreements in relation to the principle of equal pay and Part Four gives some statistical information on the earnings of men and women in Greece. In the final part, the Commission puts forward its overall conclusions.

I. THE LEGAL SITUATION

2. The principle of equal pay for men and women was essentially enshrined, up to 2 February 1984, when Law N° 1414/84 entered into force, in the following provisions of Greek law :

- the second subparagraph of Article 22(1) of the 1975 constitution : "All workers shall be entitled, irrespective of sex or any other distinction, to equal pay for work of equal value". Any provisions of statutory ministerial decrees, collective agreements or arbitration awards on pay contrary to the second subparagraph of Article 22(1) were, by virtue of transitional arrangements, to remain in force until replaced. In the event, however, of such provisions not being replaced within three years following the entry into force of the new constitution, i.e. by 11 June 1978 (Article 116(3)), they would automatically be regarded as having lapsed. The constitution also includes a general rule whereby men and women are deemed to have the same rights and obligations (Article 4(2)). Existing provisions contrary to Article 4(2) remain in force, however, until specifically repealed by law or, failing that, until 31 December 1982 (Article 116(1)). Exceptions to the principle of equal rights are thus only permitted where there are adequate grounds in those cases expressly provided by law (Article 116(2)).
- Law N° 46/1975 ratifying International Labour Convention N° 100 concerning equal remuneration for men and women workers for work of equal value.
- Laws N°s 754/1978 and 1041/1980 regulating/increasing the remuneration of civil and military officials and the employees of bodies governed by public law.
- The National Collective Agreement of 26 February 1975 concerning the application of the principle of equal pay for men and women, increases in the number of days' annual leave and the introduction of a 45-hour week for manual workers, which was ratified by Law N° 133/1975.

3. The government formed following the October 1981 elections has prepared a draft law on the incorporation into national law of both Directive 75/117/EEC of 10 February 1975 on equal pay and Directive 76/207/EEC of 9 February 1976 on equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions⁽¹⁾. This text would replace a draft presidential decree drawn up by the previous government which was also intended to bring Greek law into line with the two Directives but did not, according to the present government, meet all the requirements of the Community instruments.

This work resulted in the adoption on 30 January 1984 of Law N° 1414/84 "on the application of the principle of equality between the sexes in industrial relations and other provisions"⁽²⁾, which entered into force on 2 February 1984.

CONCORDANCE BETWEEN NATIONAL LAW AND COUNCIL DIRECTIVE 75/117/EEC OF 10 FEBRUARY 1975

Content and scope of the principle of equal pay

4. Article 1 of the Directive

" The principle of equal pay for men and women outlined in Article 119 of
" the Treaty, hereinafter called principle of equal pay, means, for the same work
" or for work to which equal value is attributed, the elimination of all
" discrimination on grounds of sex with regard to all aspects and conditions of
" remuneration.

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

5. The second subparagraph of Article 22(1) of the Constitution stipulates that all workers are entitled, irrespective of sex or any other distinction, to equal pay for work of equal value. In accordance with Article 1 of the National Collective Agreement of 26 February 1975, the principle of equal pay was implemented progressively over the period up to 1 March 1978 with respect to

(1) OJ N° L 39, 14.2.1976, p. 40

(2) Published in the Greek Official Journal of 2.2.1984 - A - N° 10 - p. 59

minimum daily wages, minimum monthly salaries for salaried employees had already been harmonized.

By virtue of Law N° 754/1978 (as amended by Law N° 1041/1980) regulating/ increasing the remuneration of civil and military officials and employees of bodies governed by public law, the monthly remuneration (basic rates plus ordinary allowances) of such workers must be determined in a uniform fashion for both sexes.

5a. The wording of Article 4 of Law N° 1414/84 is fairly similar to that of Article 119 of the EEC Treaty and Directive 75/117. Headed "Remuneration of workers", it stipulates that :

- " - Men and women shall be entitled to equal pay for work of an equal value.
- " - Pay means the wage and any other consideration, whether in cash or in
" kind, which the worker receives, directly or indirectly, in return for
" services provided.
- " - The classification of jobs in order to determine pay must be based on
" the same criteria for both sexes and so applied as to exclude any
" discrimination on grounds of sex".

In regard to the supplementary consideration paid in cash by employers, Greece was faced with a major problem (see below : II. LEGAL REMEDIES, § 18) concerning the "marriage and dependent child allowances", the payment of which was associated with the concept of "head of household".

Therefore, in order to achieve equal treatment for male and female employees in this area, Article 4 of the new Law N° 1414/84 specifies that :

- " - The beneficiary of the marriage allowance shall be the family and the
" beneficiaries of the allowances for dependent children shall be the
" children.
- " - The marriage allowance and the allowance for dependent children paid by
" virtue of a scheme recently established or reformed shall henceforward
" be awarded to each spouse or parent in employment without discrimination
" on grounds of sex" (applicable to schemes existing before the entry

into force of the law, see § 20 below, transitional provisions).

Possibility of taking legal action

6. Article 2

" Member States shall introduce into their national legal systems such
" measures as are necessary to enable all employees who consider themselves
" wronged by failure to apply the principle of equal pay to pursue their claims
" by judicial process after possible recourse to other competent authorities".

7. Workers in the private sector and public sector workers employed on contracts governed by private law enjoy the following means of recourse in the event of failure to apply the principle of equal pay in their favour :

- they may institute proceeding before the civil courts in accordance with Article 663 of the Civil Procedure Code;
- they may apply to the arbitration tribunals in accordance with Article 9 onwards of Law N° 3239/55 concerning the settlement of industrial disputes. It should be noted that, in exercising its control over collective agreements or arbitration awards by means of Ministerial orders approving the former or ratifying the latter, the Council of State may declare null and void any provision of those instruments which is incompatible with the principle of equal pay.

Under Articles 663, 668 and 669 of the Civil Procedure Code, proceedings may be brought either by the individual concerned or by the organization to which he/she belongs.

The remuneration of officials is fixed by law in a uniform fashion for both sexes. Although there is no provision in the Civil Procedure Code for a special means of recourse for State employees or legal persons governed by public law enabling them, where necessary, to have equal pay restored, such persons may, under the general rules applicable, bring an action before the civil courts or proceedings for annulment before the Council of State against the administrative act fixing their pay.

Elimination of discrimination which may still exist in certain legislation and nullity of any provision appearing in an agreement or contract which is contrary to the principle of equal pay.

8. Article 3

" Member States shall abolish all discrimination between men and women
" arising from laws, regulations or administrative provisions which is
" contrary to the principle of equal pay".

9. Article 4

" Member States shall take the necessary measures to ensure that provisions
" appearing in collective agreements, wage scales, wage agreements or individual
" contracts of employment which are contrary to the principle of equal pay
" shall be, or may be declared, null and void or may be amended".

10. Provisions contrary to Article 22(1), second subparagraph, of the Constitution were either replaced by 11 June 1978 or, failing that, have automatically lapsed. Similarly, as provided in Article 116(1) of the Constitution, any remaining provisions contrary to Article 4(2) of the Constitution (which provides that men and women have the same rights and obligations) must be repealed by 31 December 1982, subject only to exceptions expressly authorized by law.

The provisions of Article 20(1) of Law N° 3239/55 (as since amended and supplemented) concerning procedures for the settlement of industrial disputes, together with those of Article 2(1) of Decree Law 73/74 concerning the restoration of the system of national collective agreements and the abolition of the Government's right to intervene in the collective bargaining process, empower the Minister of Labour to refuse to ratify or publish collective agreements or to publish arbitration awards which infringe the principle of equal pay. The Minister has the right to check the legality and to refer any collective agreements containing discriminatory provisions to the contracting parties for the purpose of removing such provisions, which he did on two occasions in 1982.

Furthermore, any individual contracts of employment or other agreements which infringe the principle of equal pay are null and void under the constitutional provisions on equal treatment and the courts are empowered to declare such agreements null and void.

10a. In order to clarify the problems of interpreting the laws in force in this field, Article 15 of Law N° 1414/84 provides that :

" The laws, decrees, collective agreements, arbitration awards or
" Ministerial decisions, internal regulations of undertakings, individual
" employment contracts (and the rules governing the professions) that run
" counter to the provisions of this law are hereby repealed".

Protection of employees against dismissal in connection with the
application of the principle of equal pay

11. Article 5

" Member States shall take the necessary measures to protect employees
" against dismissal by the employer as a reaction to a complaint within the
" undertaking or to any legal proceedings aimed at enforcing compliance
" with the principle of equal pay".

12. If it emerges from an employee's complaint to a tribunal that he was dismissed for having attempted to enforce his rights by judicial or extra-judicial means, such dismissal is null and void because Article 281 of the Civil Code prohibits the misuse of law and hence the misuse by an employer of his right to dismiss an employee.

12a. These very general rules on the protection of workers against unfair dismissal were supplemented by Article 6 of Law N° 1414/84 which "prohibits the dismissal of a worker on grounds of sex or as a reaction to legal proceedings or to any other action by the worker aimed at enforcing compliance with the principle of equal treatment for men and women in industrial relations".

Measures and means available to ensure that the principle of equal pay is observed

13. Article 6

" Member States shall, in accordance with their national circumstances and legal systems, take the measures necessary to ensure that the principle of equal pay is applied. They shall see that effective means are available to take care that this principle is observed".

14. There is no official body with exclusive responsibility for ensuring compliance with the principle of equal pay. Where employment relationships governed by private law are concerned, responsibility lies with the local offices of the labour inspectorate whose task it is, according to the legislation currently in force, to monitor employers' compliance with the provisions of labour law (Articles 22 to 27 of Presidential Decree 1156/1977 concerning the organization of the Ministry of Labour; Decree-Law 2954/54 concerning the establishment of a labour inspectorate under the auspices of the Ministry of Labour and Law N° 3299/55 concerning the settlement of industrial disputes). In the event of an employer refusing to apply labour legislation, the inspectorate endeavours to settle the matter out of court (Article 27(2)(c) and Article 28(2)(a)(b) and (c) of presidential decree 1156/1977 or Article 9 of Decree-Law 186/1969 amending Law N° 3239/55) by means of tripartite negotiations between the inspectorate and representatives of the employers and workers. In the event of failure to reach an agreement, proceedings are instituted before the courts. Article 12 of Law N° 1414/84 stipulates that an employer is liable to a fine of 20 000 to 300 000 drachmas, subject to a reasoned opinion by the labour inspector, without prejudice to other penalties laid down by laws.

Salaried employees, whether of the State or of the various public law bodies, do not have the right to bring an action before the labour inspectorate, whose powers are restricted to private sector wage-earners.

Extra-judicial disputes which arise between officials and their departments are in practice resolved by internal administrative action.

As regards judicial proceedings, administrative acts affecting officials may be challenged either before the Council of State directly or before the lower administrative courts, depending on the case. Pecuniary actions are heard in ordinary proceedings in civil courts.

14a. It should also be noted that, apart from the "Committee on Equality for both sexes" set up by Article 6 of Law N° 1288/82, an entire administrative structure has been set up by Law N° 1414/84 :

- a bureau for equal treatment for men and women within each labour inspectorate;
- a department for equal treatment for men and women within the "working conditions" directorate of the central administration of the Ministry of Labour;
- and another department for equal treatment for men and women within the Labour Council of the Labour Ministry's central administration⁽¹⁾.

Notification to employees (particularly at their place of employment)

15. Article 7

" Member States shall take care that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of employees by all appropriate means, for example at their place of employment".

16. Rules concerning remuneration established by collective agreements, arbitration awards, ministerial decisions or laws are published in the Official Gazette and notified, where appropriate, to the relevant union bodies and state departments (Law N° 3239/55 concerning the settlement of industrial disputes, as since modified).

The present government, however, found that notification of employees, particularly at their place of employment, was highly inadequate.

For this reason, Article 16 of a recent Law (N° 1264 of 1982) "on the democratization of the trade union movement and the consolidation of trade union rights of employees" lays down that trade unions have the right to use notice-boards at places of employment to carry out their task.

(1) cf. "Report from the Commission to the Council on the situation with regard to the application of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions" (Council Directive 76/207/EEC of 9 February 1976).

16a. Apart from this general provision, Law N° 1414/84 lays down firstly that trade unions are entitled to notify employees of any provisions aimed at guaranteeing and implementing the principles of equal pay and equal treatment for men and women and secondly that employers are obliged to assist the trade unions as regards the posting of notices in the firm, distribution of circulars, etc.

II. IMPLEMENTATION OF LEGAL REMEDIES UNDER GREEK LAW IN RESPECT OF
EQUAL PAY FOR MEN AND WOMEN

17. According to the Greek Government, no information is yet available as to the number of occasions on which proceedings have been brought by the workers concerned or their representative organizations with a view to application of the principle of equal pay. It is known, however, that, as in a number of other countries, the number is very small. Moreover, the local offices of the labour inspectorate have yet to bring any cases of this kind before the courts.

18. Mention should, however, be made of three highly judgments by Supreme Courts (two by the Council of State and one by the Supreme Court of Appeal) since they give some indication as to the areas in which problems have arisen with regard to the interpretation of the present legal rules, namely marriage allowances and dependent children allowances :

- 1) - An appeal to the Council of State for annulment of Decision 60/1978 of the Administrative Arbitration Appeals Tribunal of Athens (concerning accountants' remuneration) rejecting the applicant union organization's petition concerning the granting of marriage allowances and dependent children allowances to married women. These allowances were paid by employers only to married men. In Judgment N° 4256/1979 the Council of State ruled that the obligation to pay equal wages to men and women did not extend to marriage allowances and dependent children allowances, taking the view that such benefits were paid with a specific aim in mind, namely to compensate workers for the additional expenditure arising from marriage, and that they should therefore be granted to one member of the household only - as a rule the husband since the expenditure in question was borne by him (Article 1398 of the Civil Code).
- 2) - A judgment of the Court of Appeal regarding the application of the collectively agreed provisions applicable to staff of the Bank of Greece. Amongst these provisions is one whereby female staff receive a marriage bonus lower than that of their male colleagues. In Judgment 7254/1979 the Court of Appeal agreed that the rules concerning marriage bonuses for the staff of the Bank of Greece had lapsed on 11 June 1978. The Court took the view that the marriage bonus was paid in return for services rendered and therefore formed an integral part of the worker's remuneration, with the consequence that, from 12 June 1978, female

employees were entitled to the same marriage bonus as their male colleagues. However, in its Judgment 1465/B/1980, the Supreme Court of Appeal took a different view, and overturned the decision of the Court of Appeal, endorsing the Council of State's argument that marriage bonuses should as a rule be granted only to husbands insofar as the provisions of the Civil Code remain in force.

- 3) - A recent and highly important judgment of the Council of State (520/1983) in connection with an action for the annulment of a provision of an arbitration award which fixed the remuneration of employees of the State electricity company (SEC).

The Council of State ruled that granting a marriage allowance to men and women under the same conditions, but excepting of women whose husbands also work in the same company (SEC) or for the State, was incompatible with the principle of equal pay as laid down by Article 22(1), second subparagraph, of the Constitution.

Referring to the wording of this text ("All workers shall be entitled, irrespective of sex or any other distinction, to equal pay for work of equal value"), the Council of State states that "this provision lays down the principle of equal pay between persons of the same sex, or of opposite sexes".

Consequently, the Council of State goes on, this marriage allowance has lost its original nature of a genuine allowance for family expenditure intended for the "family" and has become a payment which is added to the individual salaries of married men and women working for the SEC. Under these circumstances, the fact that only women whose husbands also work for the SEC or for the State are refused this allowance constitutes discrimination (prohibited by Article 22(1), second subparagraph, of the Constitution) compared with all other married men or women working for the SEC or a public department.

19. As regards the first two actions (Judgments N^os 4256/1979 of the Council of State and 1465/B/1980 of the Supreme Court of Appeal) the Government stressed that the arguments put forward were based on the Greek Civil Code which at the time laid down that the husband, as head of household (Article 1387 of the Civil Code), bore the expenditure arising from the marriage (Article 1398 of the Civil Code).

However, family law was changed by the Law N° 1329 of 1983, adopted under Article 116(1) of the Constitution ("Law on the constitutional principle of equal treatment for men and women in the Civil Code, its introductory law, commercial legislation and the Code of Civil Procedure, and on the partial finalization of the provisions of the Civil Code on family law").

This law repealed the abovementioned provisions of the Civil Code (Articles 1387 and 1398) and replaced them with the following :

" Article 1387 : Husband and wife shall take jointly decisions concerning
" problems of married life. If one partner is physically or legally incapable
" of doing so, the other shall decide alone.

" The way in which a husband and wife organize their life together should
" not prevent either of them from carrying on an activity, particularly
" employment, nor affect the personality of either of them".

" Article 1389 : Husband and wife are obliged to meet the needs of the
" family jointly, each in accordance with his or her ability. The contribution
" to family expenditure shall come from individual work, income and the estate
" of the husband and wife".

20. In view of this change, the Greek Government took the view that the legal basis underlying the two abovementioned judgments of 1979 and 1980 had ceased to exist and that as a result the distinction was no longer justified.

This is why Law N° 1414/84 provides, in a first stage (Article 13 : transitional provisions), that marriage allowances and dependent children allowances existing at the time of the entry into force of the law will be paid to the spouse or parent referred to in a joint declaration given to the employer. Failing this, the latter pays half the allowance to the spouse or parent he employs; however, he pays the full allowance if the other parent is not working or does not receive such an allowance.

The definitive system, however, is laid down by Article 4 of Law N° 1414/84 (see § 5a above) : in the case of schemes recently established or recently reformed, marriage allowances and dependent child allowances must now be paid to each spouse or parent in employment, regardless of their sex.

III. DEVELOPMENTS IN THE FIELD OF COLLECTIVE AGREEMENTS

21. It should be stated at the outset that collective agreements and arbitration awards of comparable effect generally make provision, either directly or indirectly, for an equal pay clause. Such clauses relate only to minimum wages however. The provisions of national collective agreements are binding on agreements concluded at a lower level. We find in Greece the same problem as in some other countries, namely that wage rates for women actually applied at company level are nearer to the agreed minimum wages than those for men (wage-gap).

A - Scope of collective agreements

22. Collective agreements and arbitration awards do not apply to workers employed directly in arable or stock farming. The exclusion of agricultural workers from the coverage of collective agreements can largely be explained by the fact that the majority of those working in this sector are members of farmers' families. The number of dependent employees in agriculture has, however, been on the increase in recent years.

Also excluded from collective agreements are state officials and employees of bodies governed by public law (except those working under private law contracts of employment).

No information is available as to the number of wage-earners employed in agriculture; with regard to the other categories mentioned, there are some 180 000 officials and 40 000 employees of bodies governed by public law.

B - The content of collective agreements

23. As a general rule, neither collective agreements nor arbitration awards lay down different scales of time rates for men and women where minimum wages are concerned. The only exceptions mentioned were as follows :

- The collective agreement of 18 December 1980 for textile workers, which lays down minimum daily wage rates for skilled and semi-skilled workers employed on spinning, weaving, dyeing, printing, finishing, washing, bleaching and pressing work either within or outside the textile industry.

- Arbitration award 31/81 regulating the remuneration and working conditions of skilled and semi-skilled workers employed in dying and printing shops, etc., throughout the country.
- The collective agreement of 23 June 1981 for skilled and semi-skilled workers in the packaging industry which lays down minimum daily wage rates for the whole country.

In these three cases, there were separate classifications by activity group for men and women, and minimum wage rates were fixed separately for each group. These agreements did, however, include a provision to the effect that, where men and women were employed on the same work, they had to receive equal pay. The two collective agreements referred to above (textile and packaging industries) have since been terminated and the Government states that the new agreements no longer have different classifications according to sex. Although a move in this direction can actually be seen in some cases, it may be asked whether, in others, concealed discrimination has not taken the place of direct, formal discrimination (cf § 24 below).

According to the information supplied by the Greek Government, there are no differences between the sexes as regards standards applied for the calculation of the various types of piecework rate. Nor would collective agreements include any provision for additional wage benefits differentiated by sex (with the exception, of course, of marriage and dependent children allowances - cf § 18 above).

Similarly, the fact that a worker may be employed part time in no way affects the application of the principle of equal pay since the same hourly remuneration is paid irrespective of sex (judgments 745/69 and 692/69 of the Court of Appeal).

C - Collective agreements and job classification systems

24. Job classification systems are a major factor in the practical implementation of the principle of equal pay. It is perfectly possible for job and wage category systems to be operated in such a way that, in the absence of direct comparability, typically "feminine" jobs are relatively under-valued and hence that women are more or less systematically under-classified, thus preventing the proper application of the principle of equal pay, even though there may, in formal terms, be no direct wage discrimination.

A standard classification of occupations has been in existence in Greece since 1978. This classification is, in essence, the ILO's Standard Classification of Occupations adapted to Greek circumstances. Occupations are classified on the basis of a number of criteria, the most important being : work performed, qualifications required and branch of economic activity. At the first level of classification there are ten major groups of occupations, a brief description of the nature of the work involved being given for each group. These ten major groups are then subdivided into 83 minor groups, themselves in turn subdivided into 284 unit groups. Each unit group covers a group of occupations related to each other by similarity of the characteristics of the work they entail. Within the unit group a total of 1 500 individual "occupations" are identified, a description of the general functions and principal tasks involved being given for each occupation. In addition to this total, a further 53 occupations are listed which have formed the subject of special study in relation to the Greek Labour market.

For each occupation, the classification gives :

- a) a five-digit code number;
- b) a title relating to the nature of the work performed;
- c) a definition which describes the general functions of the occupation and analyses the principal elements of the work involved.

Aside from the abovementioned classification, there is also a guide to occupations describing 300 of the occupations most typical of the Greek labour market.

The distinction between skilled and unskilled categories is based on a worker's qualification for a particular job by reason of training and/or experience. In the Greek standard classification all occupations are classified uniformly for the two sexes irrespective of "typically feminine/masculine" criteria (however, cf p. 16 above).

Though no systematic study has been made of this question, it is a matter of common knowledge that certain occupations (primarily in the services sector, but also some in industry) are almost exclusively a female preserve. Notable examples of jobs effectively confined to women are : nurse, nursery nurse, housekeeper, domestic science teacher, primary school teacher, social worker, home help, personal secretary, shorthand typist, etc. In industry,

the majority of typically female jobs are to be found in the textile and clothing industries and the tobacco industry. According to the Greek Government, this can be explained by the fact that the jobs in question are specially suited to the feminine qualities of patience, dexterity, sensitivity and precision.

D - Supervision and control

25. As noted above, collective agreements and arbitration awards are published in the Official Gazette (Law N° 3239/55 concerning the settlement of industrial disputes, as since amended) and notified to the competent authorities and the interested parties. In the event of the texts of agreements/awards not being published in the Official Gazette within the required period, they may be notified to the competent court of first instance by the employers'/workers' organizations involved.

Such notification stands in place of publication and similarly involves the communication of information to the Ministry of Labour and other interested parties.

26. As has already been indicated, the local offices of the labour inspectorate are responsible for monitoring compliance with the provisions of labour law. Members of the inspectorate may carry out inspection visits to firms' premises at any time of the day or night with a view to ascertaining whether employers are applying these provisions. To date, the Ministry of Labour has not brought before the courts any cases of infringement of the principle of equal pay as enshrined in Greek labour law (see § 14 above).

IV. STATISTICAL INFORMATION ON THE EARNINGS OF MEN AND WOMEN IN GREECE

27. Statistical surveys of employees' pay are carried out every quarter by the Greek Statistical Office in the major sectors of economic activity. The wide overall differences between the average hourly/monthly earnings of male and female manual workers/salaried employees, in industrial and craft undertakings employing more than 10 people revealed by the published results set out in the tables below do not, according to the Greek Government, result from direct wage discrimination but rather from the fact that women are employed on different jobs to men. Thus, it is suggested by way of example, male and female manual workers receive comparable wages in the tobacco industry because they perform similar work. Such an interpretation is in the Commission's view clearly inadequate, though account must obviously be taken of a variety of structural factors which contribute to the overall differences in earnings, notably : a lower level of training/experience in the case of women, more frequent breaks in working life, less seniority, the lesser role played by night work and overtime, separate job classifications, a tendency to undervalue typically "feminine" qualifications, etc. Though there has been no specific attempt to produce statistics on the number of women in the upper reaches of the occupational hierarchy, the statistics available show clearly that the "other" jobs performed by women are less well paid than those performed by men.

TABLE 1

Average earnings of men and women in industrial and craft undertakings
employing more than ten people

(in DR)

(a) Hourly earnings of manual workers

Year	Men	Women	Difference in %
1976	50.46	35.45	29.10
1977	61.67	42.42	31.22
1978	76.45	52.79	30.95
1979	93.15	63.32	32.03
1980	118.3	80.23	32.18
(1st quarter)1981	138.74	96.33	30.57

(b) Monthly earnings of salaried employees

Year	Men	Women	Difference in %
1976	15.525	8.622	44.47
1977	18.567	10.489	43.51
1978	22.119	12.518	43.41
1979	26.246	14.942	43.07
1980	31.957	18.290	42.77
(1st quarter)1981	36.456	21.247	41.65

Source : ESYE (Greek Statistical Office), Athens

TABLE 2

Average hourly earnings in industrial and craft undertakings
employing more than ten people, broken down by branch of economic activity and sex

First quarter 1981
(in DR)

Code	Branch of activity	Both sexes	Men	Women	Female earnings as % of male earnings
2-3	Total	121.7	138.7	96.3	69.4
20	Foodstuffs, except drinks	109.7	120.3	95.9	79.9
21	Drinks	122.5	130.6	105.7	80.9
22	Tobacco	137.3	133.2	141.4	106.2
23	Textiles	114.6	135.2	103.0	76.2
24	Clothing and footwear	90.2	121.2	84.1	69.4
25	Timber and cork	116.5	122.9	97.3	79.2
26	Furnishing	105.3	106.3	90.6	85.2
27	Paper	122.9	134.8	97.1	72.0
28	Printing and publishing	172.3	195.7	100.6	51.4
29	Leather and furs	116.0	126.8	96.4	76.0
30	Rubber and plastics	113.7	136.8	88.8	64.9
31	Chemicals	130.7	155.4	102.1	65.7
32	Oil and coal	163.7	173.9	94.1	54.1
33	Non-metallic mineral products	134.4	140.5	102.2	72.7
34	Basic metal industries	190.4	191.6	134.8	70.4
35	Metal articles	124.7	133.3	96.6	72.5
36	Non-electrical machinery and equipment ...	117.9	117.5	138.5	117.9
37	Electrical equipment	118.7	128.7	100.3	77.9
38	Transport equipment	151.4	152.1	101.8	66.9
39	Other industries	93.7	101.1	85.4	84.5

Source : ESYE (Greek Statistical Office), Athens

TABLE 3

Average monthly earnings of salaried employees in industrial and craft undertakings employing more than ten people, broken down by branch of economic activity and sex

First quarter 1981

(in DR)

Code	Branch of activity	Total earnings	Basic salary	Overtime	Other elements of remuneration	Days worked
				<u>BOTH SEXES</u>		
2-3	Total	33.383	30.045	1.574	1.764	24.6
20	Foodstuffs, except drinks	27.122	24.663	1.503	956	24.7
21	Drinks	30.310	26.561	2.101	1.648	24.5
22	Tobacco	32.366	30.401	1.508	457	24.7
23	Textiles	30.123	28.067	1.251	805	24.4
24	Clothing and footwear	21.132	20.202	529	401	23.5
25	Timber and cork	30.251	28.706	965	580	24.3
26	Furnishing	20.624	19.012	565	1.047	23.2
27	Paper	32.595	28.833	1.377	2.384	24.2
28	Printing and publishing	38.600	35.588	1.162	1.850	24.8
29	Leather and furs	32.735	29.459	1.509	1.767	25.2
30	Rubber and plastics	29.000	25.155	708	3.137	24.4
31	Chemicals	34.882	32.053	1.315	1.514	24.7
32	Oil and coal	41.201	34.605	3.722	2.874	25.4
33	Non-metallic mineral products	34.935	30.919	1.831	2.185	24.7
34	Basic metal industries	48.958	43.804	2.587	2.566	25.9
35	Metal articles	35.011	31.988	1.862	1.182	24.7
36	Non-electrical machinery and equipment ..	25.089	24.688	676	344	24.0
37	Electrical equipment	32.442	29.778	2.078	586	24.3
38	Transport equipment	36.855	31.962	1.630	3.063	24.6
39	Other industries	27.467	26.121	602	144	24.5

Source : ESYE (Greek Statistical Office), Athens

TABLE 3 (contd.)

Average monthly earnings of salaried employees in industrial and craft undertakings
employing more than ten people, broken down by branch of economic activity and sex

First quarter 1981

(in DR)

Code	Branch of activity	Total earnings	Basic salary	Overtime	Other elements of remuneration	Days worked
				<u>MEN</u>		
2-3	Total	36.486	32.507	1.871	2.108	24.6
20	Foodstuffs, except drinks	29.834	26.827	1.857	1.150	24.8
21	Drinks	31.677	27.597	2.292	1.788	24.6
22	Tobacco	35.061	32.693	1.869	499	24.8
23	Textiles	33.869	31.261	1.577	1.031	24.6
24	Clothing and footwear	24.584	23.097	831	656	23.2
25	Timber and cork	32.837	30.979	1.154	704	24.2
26	Furnishing	21.957	19.781	742	1.434	22.9
27	Paper	34.670	30.349	1.575	2.746	24.2
28	Printing and publishing	43.181	39.485	1.334	2.362	24.8
29	Leather and furs	37.836	33.181	1.954	2.388	25.2
30	Rubber and plastics	32.992	28.516	895	3.580	24.4
31	Chemicals	38.505	34.943	1.594	1.968	24.7
32	Oil and coal	44.190	36.616	4.260	3.314	25.4
33	Non-metallic mineral products	36.625	32.177	2.027	2.421	24.8
34	Basic metal industries	50.962	45.421	2.789	2.751	26.0
35	Metal articles	39.056	35.372	2.301	1.384	24.7
36	Non-electrical machinery and equipment	27.576	26.378	830	368	24.0
37	Electrical equipment	35.824	32.617	2.527	680	24.3
38	Transport equipment	38.511	33.401	1.778	3.332	24.6
39	Other industries	32.304	30.510	801	993	24.6

Source : ESYE (Greek Statistical Office), Athens

TABLE 3 (contd.)

Average monthly earnings of salaried employees in industrial and craft undertakings employing more than ten people, broken down by branch of economic activity and sex

First quarter 1981

(in DR)

Code	Branch of activity	Total earnings	Basic salary	Overtime	Other elements of remuneration	Days worked	
				<u>WOMEN</u>			
				as % of basic salary for men			
2-3	Total	21.247	20.415	62.8	412	420	24.4
20	Foodstuffs, except drinks	18.897	18.100	67.5	432	365	24.5
21	Drinks	21.735	20.663	74.9	902	770	24.2
22	Tobacco	22.586	22.084	67.5	197	305	24.5
23	Textiles	20.135	19.550	62.5	381	204	23.8
24	Clothing and footwear	17.202	16.905	73.2	185	111	23.8
25	Timber and cork	18.641	18.504	59.7	116	21	24.6
26	Furnishing	17.035	16.943	85.7	88	4	24.0
27	Paper	20.298	19.855	65.4	203	240	24.1
28	Printing and publishing	25.861	24.753	62.7	684	424	25.0
29	Leather and furs	18.214	18.002	53.8	212	-	25.3
30	Rubber and plastics	18.398	16.229	56.9	210	1.959	24.6
31	Chemicals	25.017	24.185	69.2	555	277	24.6
32	Oil and coal	23.451	22.658	61.9	528	265	24.7
33	Non-metallic mineral products	21.413	20.860	64.8	257	296	21.2
34	Basic metal industries	31.439	29.667	65.3	825	947	25.7
35	Metal articles	22.109	21.195	59.9	460	454	24.7
36	Non-electrical machinery and equipment	18.660	18.299	69.4	103	258	24.3
37	Electrical equipment	20.787	19.994	61.3	532	261	24.5
38	Transport equipment	20.160	19.173	57.4	310	677	24.4
39	Other industries	19.212	18.631	61.1	261	319	24.2

Source : ESYE (Greek Statistical Office), Athens

28. Table 1 shows that, taking manual workers as a whole, the gap between the average hourly earnings of men and those of women have changed little in relative terms over the last years, whereas the same period has seen some narrowing of the gap in relative terms where the monthly earnings of salaried employees are concerned.

When the figures for differences in earnings are broken down by branch of economic activity (Table 2), the differences can be seen to vary widely. Thus in the first quarter of 1981, the average hourly earnings of women in the printing and publishing industry represented only 51.4 % of the corresponding figure for men, whereas women's average hourly earnings in the machinery sector were, somewhat surprisingly, around 18 % higher than those of men.

Table 3 gives details of the average monthly earnings of salaried employees in industry and the craft sector, broken down by branch of economic activity. The figures for women's basic monthly salaries as a percentage of men's range from 53.8 % in the leather and furs industry to 85.7 % in the furnishing sector. Taking industry as a whole, women's basic monthly salaries represent 62.8 % of the corresponding figure for men, whereas the percentage for total monthly earnings (including overtime pay and other elements of remuneration) is only 58.2 %.

29. In order that the situation as regards the hourly earnings of female manual workers in Greek industry may be compared with that pertaining in the other Member States, Table 4 gives, in national currencies, the average gross hourly earnings of male and female manual workers in industry (excluding electricity, gas, steam and water) from October 1975 to October 1981 based on the EUROSTAT (Statistical Office of the European Communities) twice-yearly harmonized statistics on earnings. Table 5 shows the hourly earnings of female manual workers as a percentage of the corresponding figures for men. These relative hourly earnings levels should of course be interpreted only with extreme caution since, as has already been stated, this type of statistic gives no indication of the relative influence of the structural factors at work ⁽¹⁾.

(1) cf Doc. COM(78) 711 final of 16 January 1979 "Report of the Commission to the Council on the application as at 12 February 1978 of the principle of equal pay for men and women (Statistical aspects)", pp 96 to 126).

TABLE 4

Average gross hourly earnings of male manual workers in industry
(excluding electricity, gas, steam and water)

in national currencies

Year (1)	Germany	France	Italy	Netherlands	Belgium	Luxembourg	United Kingdom	Ireland	Denmark	Greece (2)
	DM	FF	LIT	HFL	BFR	LFR	UKL	IRL	DKR	DR
<u>Women</u>										
1975	7.61	9.84	1300	7.61	113	103	0.91	0.78	27.52	30.6
1977	8.73	12.80	2116	9.17	137	132	1.16	1.05	33.90	44.5
1978	9.23	14.19	2422	9.73	145	136	1.30	1.25	38.10	55.9
1979	9.69	16.26	2871	10.15	156	138	1.53	1.52	41.60	68.2
1980	10.40	18.78	3440	10.83	170	154	1.79	1.80	45.02	84.7
1981	10.99	21.88	4297	11.31	189	159	1.98	2.11	49.50	106.9
<u>Men</u>										
1975	10.49	12.54	1631	10.51	158	163	1.34	1.28	32.64	43.8
1977	11.99	16.53	2500	12.48	193	203	1.62	1.69	39.19	65.1
1978	12.64	18.50	2916	13.24	205	214	1.86	1.95	44.23	82.2
1979	13.33	20.77	3413	14.04	222	223	2.16	2.27	48.17	100.3
1980	14.32	23.99	4089	14.78	242	238	2.57	2.62	52.32	125.7
1981	15.10	27.53	5063	15.57	264	251	2.83	3.14	57.72	160.4

Source : Hourly earnings - Hours of work, EUROSTAT, 2-1982

(1) October of each year

(2) Manufacturing industries only

TABLE 5

Average gross hourly earnings of female manual workers in industry
(excluding electricity, gas, steam and water)

Men's earnings = 100

Year	Germany	France	Italy	Netherlands	Belgium	Luxembourg	United Kingdom	Ireland	Denmark	Greece
1975	72.55	78.47	79.71	72.41	71.52	63.19	67.91	60.94	84.31	69.86
1977	72.81	77.43	84.64	73.48	70.98	65.02	71.60	62.13	86.50	68.36
1978	73.02	78.32	83.06	73.49	70.73	63.55	69.89	64.10	86.14	68.00
1979	72.69	78.29	84.12	72.29	70.27	61.88	70.83	66.96	86.36	68.00
1980	72.63	78.28	84.13	73.27	70.25	64.71	69.65	68.70	86.05	67.38
1981	72.78	79.48	84.87	72.64	71.59	63.35	69.96	67.20	85.76	66.65

Source : Table 4

SUMMARY AND CONCLUSIONS

30. The primary objective of this report has been to show the extent to which the principle of equal pay for men and women has been enshrined in Greek law pursuant to Article 119 of the EEC Treaty and Directive 75/117/EEC of 10 February 1975.

At the purely legal level, the equal pay principle had already been incorporated in various legal instruments before Greece joined the Community. The most important was the second subparagraph of Article 22(1) of the 1975 Constitution, still in force, which stipulates that all workers are entitled to equal pay for work of equal value no matter the sex to which those people, whose work is being compared, belong. In accordance with the National Collective Agreement of 26 February 1975 the principle of equal pay was implemented with respect to the average daily wages of manual workers over the period up to 1 March 1978. Similarly, Article 116(3) of the Constitution stipulates that from 11 June 1978 any binding ministerial orders or clauses in collective agreements or arbitration awards relating to pay which are at variance with Article 22(1), second subparagraph, of the Constitution and have not been replaced directly or indirectly by provisions in conformity with the equal pay principle shall be automatically repealed. The principle of equal pay for officials of public services and bodies governed by public law is guaranteed by Laws N° 754/1978 and 1041/1980 regulating the pay of such workers. Mention should also be made of the ratification by Law 46/1975 of International Labour Convention N° 100 on the principle of equal pay.

Law N° 1414/84, drawn up by the present government and adopted on 30 January 1984, concerns the implementation of the principle of equal treatment for men and women in industrial relations; its principal aim was to incorporate into national law Directive 76/207/EEC of 9 February 1976 on equal treatment in employment and working conditions, and also to supplement and bring certain improvements in regard to equal pay, which is covered by Directive 75/117/EEC.

A major problem in this area was the Greek system of "marriage allowances and dependent child allowances" which continued to be paid regularly, in addition to the wages by employers, on the basis of the concept

of "head of household" in spite of the fact that it has disappeared from Greek civil law and despite a judgment by the Council of State. This state of affairs was undoubtedly contrary to Article 119 of the EEC Treaty and to the first subparagraph of Article 1 of Directive 75/117 which states that "any discrimination on grounds of sex with regard to all aspects and conditions of remuneration" must be eliminated.

The new provisions contained in Article 4 of Law N° 1414/84 state that, in the case of schemes recently established or reformed, these allowances must now be paid to each spouse or parent in employment, regardless of their sex. It is to be hoped that this definitive system will become generalized as soon as possible, although the "transitional provisions" state that allowances existing when law enters into force (2 February 1984) are to be paid to the spouse referred to in a joint declaration submitted to the employer. Failing this, the latter is required to pay to the spouse he employs half the amount of the allowance.

Although the new law repeats the definition of the concept of "pay" contained in Article 119 of the EEC Treaty (see § 5a above), it is desirable, as for other countries, to guard against a purely formal compliance, in collective agreements, with the principle of equality for the fixing of minimum or "basic" wage rates which are strictly the same for men and women but are in reality "exceeded" (wage-gap) by various amounts by the wages actually paid to men and women workers.

It would seem again from a factual standpoint that certain collective agreements still provide for a separate classification by group of activity for men and women with different minimum wages applying to each group. Whilst it can be assumed that the Directive does not apply in these cases as they do not concern the same work or work of equal value, there is evidence to suggest that sex was a determining factor in the classification and that it is not therefore based on common criteria for men and women workers (it being possible, moreover, for "concealed" discrimination to take the place of direct, formal discrimination). It is worth noting however, from a purely legal standpoint, the innovation that is the introduction, again in Article 4 of Law N° 1414/84, of a text that is very close to that of the second subparagraph of Article 1 of Directive 75/117, namely : "the classification of jobs in order to determine pay must be based on the same criteria for both sexes and so applied as to exclude any discrimination on grounds of sex".

With regard to the scope for legal remedies in the event of infringement of the principle of equal pay (Article 2 of the Directive), workers may bring their case before the courts themselves or have it brought by their representative organization, although, as in a number of other countries, the number of such actions is in fact very small.

In order to clarify any problems in interpreting the laws in force in the fields covered by Articles 3 and 4 of Directive 75/117, Article 15 of Law N° 1414/84 revokes any provisions contrary to the said law that may be contained in laws, decrees, collective agreements, arbitration awards, ministerial decisions, internal rules of undertakings and individual employment contracts.

As regards the protection of employees against dismissal by the employer as a reaction to a complaint or legal proceedings aimed at enforcing compliance with the principle of equal pay (Article 5 of the Directive), Greek legislation comprised only general provisions on unfair dismissal. A very clear and very specific prohibition on dismissal is now contained in Article 6 of Law N° 1414/84 (see § 12a above).

In addition (Article 6 of the Directive) the local labour inspectorate is responsible for monitoring the application of labour law. In the event of an employer refusing to apply labour legislation, legal proceedings are instituted where the matter cannot be settled out of court. These authorities have not hitherto brought any cases of infringement of the principle of equal pay before the courts. An entirely new administrative structure on "equal treatment for men and women" has been created by Law N° 1414/84 (see § 14a above) with the task of observing and providing impetus.

Finally, as regards Article 7 of the Directive, under which employees must be informed of their rights in the field of equal pay, Law N° 1414/84 provides that trade union organizations have the right to inform workers of any measures designed to guarantee and assure the principle of equal treatment, and that employers are required to facilitate the task of trade union organizations in putting up notices in the undertaking, distributing circulars, etc.

31. It follows from this examination that Law Nr. 1414/84 of 30 January 1984 has effectively completed and improved, on a number of important points, the implementation of Directive 75/117/EEC on equal pay by national law.

The Commission continues, however, to pay attention to the development of the situation, i.e. with regard to the conformity to Community law of the conditions of implementation of all national legal provisions in Greece which are at present applicable in this area.

In this context the Commission sees for example, that the "Special Supreme Court" established by virtue of article 100 of the Constitution and charged to resolve at the highest level and without appeal the litigation "concerning the principal unconstitutionality or the sense of the provisions of a formal law in case of contradictory decisions by the State Council, the Supreme Court of Appeal and the Court of Auditors", has just decided - in connection with a dispute on equal pay concerning article 22, paragraph 1, second subparagraph of the Constitution - that this constitutional provision does not apply to staff submitted to a regulation governed by public law (Decision Nr. 16/1983).

If, on the one hand, the field of application of the above quoted Law Nr. 1414/84 is limited "to employees on a work contract based on private law (as well as to persons in the professions)" one must not forget, on the other hand, that especially by virtue of Law Nr. 754/1978 (as amended by Law Nr. 1041/1980) regulating/increasing the remuneration of civil and military officials and employees of bodies governed by public law the monthly remuneration (basic rates plus ordinary allowances) must be determined in a uniform fashion for both sexes.
