



# University of Oslo

University of Oslo Faculty of Law Legal Studies  
Research Paper Series  
No. 2017-06

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entrepreneurship in Greece**

Daughters of Themis: International Network of Female Business  
Scholars

International and Comparative  
Corporate Law Journal

Volume 12 • 2017 • Issue 2

*Special Issue: Daughters of Themis:  
International Network of Female  
Business Scholars*

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and Beate Sjøfjell*



CAMERON  
 MAY  
INTERNATIONAL LAW & POLICY

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Published 2017 by CMP Publishing

UK Email: [orders@cmppublishing.com](mailto:orders@cmppublishing.com)  
Website: [www.cmppublishing.com](http://www.cmppublishing.com)

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ISSN: 1388-7084

PRINTED BY GROSVENOR GROUP

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Annual subscription price (paper) £185.00 or (Multi User PDF) £350

# GENDER EQUALITY IN EMPLOYMENT UTILIZING FEMALE SOCIAL ENTREPRENEURSHIP IN GREECE

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## 1. INTRODUCTION

### 1.1. The right to work in an international and European setting

The right to work is a human right with a fundamental and universal significance to the very existence of human life, both at an individual and collective level. At an individual level, every person should be entitled to work and gain a living or an income that will allow a life with dignity. The very basis of dignity rests on the opportunity of any human being, for personal survival and improvement of his/her life. From this perspective, the right to work is not only essential to be realised *per se*, but it has also an important enabling role for the realisation of other significant and fundamental human rights, which are necessary to human survival and existence, such as the right to an adequate standard of living, the right to food, and the right to housing.<sup>1</sup> Irrespective of whether it is treated instrumentally as a means to earn a living and generate income, the right to work is also an incubator of personal-fulfilment and identity. Every person through work has the potential to develop his/her skills, self-creativity, self-motivation, and finally innovation for society.

In the international legal order, international legal instruments which protect universal human rights introduce and recognise the right to work. The Universal Declaration of Human Rights (UDHR), in Article 23(1) recognises the fundamental right to work according to which 'Everyone has the right to work, to free choice of employment, to just and

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, General Comment 18, 'Article 6: the equal right of men and women to the enjoyment of all economic, social and cultural rights' (Thirty-fifth session, 2006) UN Doc E/C.12/GC/18, para 1; V Mantouvalou (ed) *The Right to Work: Legal and Philosophical Perspectives* (Bloomsbury Publishing 2015); J Sarkin and M A. Koenig, 'Developing the Right to Work: Intersecting and Dialoguing Human Rights and Economic Policy' (2011) *Human Rights Quarterly* 33:1-42 at 3-4; R O'Connell, 'The right to work in the ECHR' (2012) *European Human Rights Law Review* 2: 176-190 at 176-177.



favourable conditions of work and to protection against unemployment.<sup>2</sup> Additionally, the International Covenant of Economic, Social and Cultural Rights 1966 (the ICESCR 1966), in Article 6(1) recognises the right to work, which contains the right of everyone to the opportunity to gain his/her living by work which he/she freely chooses or accepts.<sup>3</sup>

The right to work is a fundamental human right both for men and woman. Employment for women is as important as it is for men. It is a means for making a living as individuals, by providing to their family and a way to develop their personal identity. Through work, men and women can develop their skills and respectively their self-esteem, personal recognition, an independent status, and finally a distinguished role in society. Gender equality in the enjoyment of human rights and fundamental freedoms without discrimination of any kind, is proclaimed in international legal instruments protecting universal human rights.<sup>4</sup> It also applies to the ICESCR 1966 regarding the right to work. Article 2(2) and 3 of the ICESCR 1966, safeguards the equal right of men and women to the enjoyment of all economic, social and cultural rights.<sup>5</sup>

In the European legal order, the European Convention on Human Rights (ECHR) does not recognise the social and economic right to work. The right rests in the body of the text of the European Social Charter in Article 1(1)-(4).<sup>6</sup> Additionally, the right can be found in a European Union (EU) level within the European Charter of Fundamental Rights in Article 15(1) which states: 'Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation'.<sup>7</sup>

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<sup>2</sup> UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), art 23(1).

<sup>3</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights [ICESCR], 16 December 1966, art 6(1), United Nations, Treaty Series, vol 993.

<sup>4</sup> Indicatively in: UN General Assembly, International Bill of Human Rights, 10 December 1948, A/RES/217(III)A-E; UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol 999, 171; UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol 993, 3.

<sup>5</sup> ICESCR 1966, arts 2(2) and (3).

<sup>6</sup> O'Connell 2012 (n 1) 176-177; Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14 (4 November 1950) ETS 5; Council of Europe, European Social Charter, 18 October 1961, ETS 35, art 1(1)-(4).

<sup>7</sup> European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02, art 15(1). The Charter became legally binding when the Treaty of Lisbon entered into force on 1 December 2009. The application of the Charter is subject to limitations outlined in the ECJ cases, among others: Case C-617/10, Åklagaren v Hans Åkerberg Fransson and C-399/11, Stefano Melloni v Ministerio Fiscal. These limitations require from the EU institutions and bodies to apply the Charter with due regard of the principle of subsidiarity and from national authorities, to apply the

## 1.2. An alternative towards the realisation of the right to work for women

Despite the importance of the substance of gender equality between men and women in employment proclaimed in international and European legal instruments, historical evidence and every-day life events manifest the existence of *de facto* inequality against women. The vulnerability of women in society is profound, as well as the inability of various legal instruments to protect women from discrimination in all aspects of life for a very long time.

Women, internationally, still face difficulties in accessing employment and there is labour market segregation. Additionally, even though the gender gap in labour force participation seems to close, women still encounter low market participation rates comparing to men.<sup>8</sup> Fredman notes that although the participation of women in paid-work has been increased, it cannot be considered as improvement of women's economic status.<sup>9</sup> Women, predominantly, participate in sectors which are characterised by informal and unconventional labour settings.<sup>10</sup> Household engagement, the responsibility of care, and the combination of part-time working activities which result in lower pay, restrict women's access to employment benefits and diminish their career opportunities.<sup>11</sup> Women's poverty has been linked to the woman's role in caring family.<sup>12</sup> Prevailing customs and strong traditions regarding the role of women as the carer of the house and the children have shaped deep-rooted perceptions of inequality, which have resulted in gender division of labour with labour that only men can do. Other existing stereotypes, such as the perception that women do not work as hard as men and the belief that women have a lesser moral worth than men have resulted, eventually, in phenomena of occupational sex segregation.<sup>13</sup> This is also the case in Greece.

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Charter only when they are implementing EU Law. For instance, the Charter will apply when EU countries adopt or apply legislation implementing an EU Directive or when the national authorities of the Member States directly apply an EU Regulation. In art 15(3) the right is extended to third-country nationals as long as they are authorised to pursue an employment in the territories of the Member States.

<sup>8</sup> S Fredman, 'Engendering socio-economic rights' in A Hellum, H Sinding Aasen, *Women's Human Rights: CEDAW in International, Regional and National Law* (Cambridge: Studies on Human Rights Conventions, Cambridge University Press 2013) 218–219.

<sup>9</sup> Fredman 2013 (n 8) 219.

<sup>10</sup> *Ibid* at 219–220.

<sup>11</sup> Other factors, such as divorce, widowhood, and teenage maternity have also a negative effect. *Ibid* (n 8) 218–220 at 219.

<sup>12</sup> *Ibid* at 218 citing the study of G Rosenblatt and K Rake, 'Gender and Poverty' (the Fawcett Society 2013) at 1.

<sup>13</sup> PS Shin, 'Is There a Unitary Concept of Discrimination?' in D Hellman and S Moreau (eds) *Philosophical Foundations of Discrimination Law* (Oxford: Oxford University Press 2013) 174.



In this article, we aim to discuss the right to work of women in Greece, from the perspective of gender equality, in the field of employment, both in law and in practice. The right to equal employment opportunities for Greek women stipulated in national, European and international legislation, is discussed in Section 2, and it is understood to protect women from any type of *de jure* and/or *de facto* discrimination in employment. More than that, in Section 3, the authors aim to discuss and provide evidence regarding the most predominant barriers in the Greek labour market for women, such as unemployment and the economic crisis, stereotypes and issues related to maternity and pregnancy. The evidence reveals that *de facto* discrimination and inequality cannot be eliminated through the adoption of equal treatment measures, thus, positive measures are needed to boost the participation of Greek women in the labour market as Section 4 shows. These measures do not have to be implemented only by the Greek State. The Greek social cooperative enterprises, i.e. the Koinsep, can contribute to the participation and work integration of women in Greece, as well as, to the increase of awareness regarding the barriers that women face in Greece through educational and other programmes as Sections 5 and 6, show.

## **2. WOMEN AND THE CASE OF GREECE**

### **2.1. Legislative framework: the right to work for women in Greece**

Greece has an extensive and multi-layered legal framework to guarantee gender equality. First, the Greek Constitution contains a general provision ensuring equality before the law for Greek people in Article 4(1).<sup>14</sup> In the second paragraph of the same article the constitution makes a reference to gender equality.<sup>15</sup> The article reads: 'Greek men and women have equal rights and obligations'.<sup>16</sup> This provision implies that men and women should be treated the same way and that there should not be discrimination on the ground of sex. The Greek Constitution does not only ensure equality in law, but it also intends to guarantee equality in fact. Article 116(2) states that 'positive measures aiming at promoting equality between men and women do not constitute discrimination on grounds of sex' and that 'the State shall take measures to eliminate inequalities which exist in practice, in particular those detrimental to women'.<sup>17</sup> In other words, women are not only protected against discrimination on the ground of sex, according to the Greek Constitution, they should be protected also in cases where the law does not discriminate against them but the effects of the law affect them, *de facto*, in a negative way. In

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<sup>14</sup> Greek Constitution 1975/1986/2001/2008, art 4(1).

<sup>15</sup> *Ibid*, art 4(2).

<sup>16</sup> *Ibid*.

<sup>17</sup> *Ibid*, art 116(2).

addition, positive measures that provide advantages to women against men should not be considered as discriminatory against men according to the Greek Constitution. Lastly, the Greek State has a pro-active duty to take action to eliminate discrimination against women in practice.

As a Member State of the EU, Greece is bound by the obligations of the EU treaties and its secondary legislation. Article 157 of the Treaty on the Functioning of the European Union (TFEU), guarantees the right of equal pay for equal work irrespective of the gender of the workers.<sup>18</sup> It also empowers the EU to take action to ensure equal treatment and equality of opportunity for men and women.<sup>19</sup> This article in its last paragraph allows the Member States of the EU to maintain or adopt 'measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers' in order to guarantee equality in practice between men and women.<sup>20</sup>

The last paragraph of Article 157(4) TFEU is similar to the provision of the Greek Constitution that allows the provision of certain advantages to the underrepresented sex with a view to guarantee *de facto* equality. However, the Court of Justice of the EU (CJEU) has taken a more restrictive approach to this type of measures. In the *Kalanke* case,<sup>21</sup> the Court rejected a measure that provided women with an advantage (priority against men in recruitment) in the field of employment because the measure provided 'absolute and unconditional priority' to women applicants for the job in question.<sup>22</sup> Since then, the Court became more receptive to the idea of *de facto* equality.<sup>23</sup> The established case-law of the CJEU with regard to this type of measures in the field of employment<sup>24</sup> has placed several criteria in order for that measure to be compatible with EU law. First, the measure

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<sup>18</sup> Treaty on the Functioning of the European Union OJ C 326, 26.10.2012 [TFEU], art 157(1).

<sup>19</sup> Ibid, art 157(3).

<sup>20</sup> Ibid, art 157(4).

<sup>21</sup> C-450/93 Eckhard Kalanke v Freie Hansestadt Bremen [1995] ECR I-03051; Case 312/86 Commission v France [1988] ECR 6315.

<sup>22</sup> Eckhard Kalanke v Freie Hansestadt Bremen (n 21) para 22.

<sup>23</sup> C-407/98 Katarina Abrahamsson and Leif Anderson v Elisabet Fogelqvist [2000] ECR I-05539, para 48.

<sup>24</sup> Commission v France (n 21); Eckhard Kalanke v Freie Hansestadt Bremen (n 21); C-409/95 Hellmut Marschall v Land Nordrhein-Westfalen [1997] ECR I-06363; C-158/97 Georg Badeck and Others [2000] ECR I-01875; C-79/99 Julia Schnorbus v Land Hessen [2000] ECR I-10997; Katarina Abrahamsson and Leif Anderson v Elisabet Fogelqvist (n 23); C-366/99 Joseph Griesmar v Ministre de l'Economie, des Finances et de l'Industrie et Ministre de la Fonction publique, de la Réforme de l'Etat et de la Décentralisation [2001] ECR I-09383; C-476/99 H. Lommers v Minister van Landbouw, Natuurbeheer en Visserij [2002] ECR I-02891; C-319/03 Serge Briheche v Ministre de l'Intérieur, Ministre de l'Éducation nationale and Ministre de la Justice [2004] ECR I-08807.



should not unconditionally and automatically provide preferential treatment between equally qualified men and women in the recruitment process for an employment vacancy.<sup>25</sup> Second, the measure should be proportionate.<sup>26</sup> This means that the measure should be appropriate and necessary to the aim pursued by that measure and that the principle of equal treatment should be reconciled as much as possible with such aim.<sup>27</sup> Thus, it is evident from the analysis above that the CJEU has a restrictive view on the permissibility of measures that provide advantage to women with a view to ensure *de facto* equality.<sup>28</sup>

The EU has adopted several directives that aim to ensure equal treatment between men and women. Those that are relevant to the field of employment are, the Recast Equal Treatment Directive,<sup>29</sup> the Social Security Directive,<sup>30</sup> Directive on the self-employed,<sup>31</sup> the Directive on Parental leave<sup>32</sup> and the Pregnancy Directive.<sup>33</sup> These Directives have been transposed and implemented in the Greek legislative system.

In addition, Greece has ratified the Convention on the Elimination of All Forms of Discrimination against Women 1979 (the CEDAW Convention

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<sup>25</sup> Katarina Abrahamsson and Leif Anderson v Elisabet Fogelqvist (n 23) para 52; Hellmut Marschall v Land Nordrhein-Westfalen (n 24) para 32.

<sup>26</sup> H. Lommers v Minister van Landbouw, Natuurbeheer en Visserij (n 24) para 39.

<sup>27</sup> Ibid.

<sup>28</sup> For a more extensive analysis on the case-law of the CJEU on the subject of positive action see: M Bell, L Waddington, 'Exploring the boundaries of positive action under EU law: A search for conceptual clarity' (2011) *Common Market Law Review* 48(5):1503–1526; C Costello, G Davies, 'The case law of the Court of Justice in the field of sex equality since 2000' (2006) *Common Market Law Review* 43(6): 567–1616; D Caruso, 'Limits of the classic method: positive action in the European Union after the new equality directives' (2003) *Harvard International Law Journal* 44(2): 331–386.

<sup>29</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) [2006] OJ L 204 23–36 (Recast Equal Treatment Directive).

<sup>30</sup> Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security [1979] OJ L 6 24–25 (Social Security Directive).

<sup>31</sup> Directive 2010/41 of the European Parliament and of the Council of 5 July 2006 of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC [2010] OJ L 180 1–6 (Directive on the self-employed).

<sup>32</sup> Council Directive 2010/18 of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC [2010] OJ L 68 13–20 (Directive on Parental leave).

<sup>33</sup> Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) OJ L 348 1–7.

1979) in 1982. This convention shapes the legal norm of prohibition of all forms of discrimination against women as distinctive from the gender neutral norm that requires equality between women and men.<sup>34</sup> Article 11 of the CEDAW Convention 1979 recognises the right to work for women as an obligation of the States-Parties to eliminate discrimination against women in employment, in accessing the labour markets and safeguarding equality in the exercise of the right to work.<sup>35</sup> This article, as well as the convention as a whole, is applicable to the private, the public and the non-profit sector.<sup>36</sup> It is also applicable to formal employment settings, both permanent and less steady (part-time) employment as well as to informal employment settings including 'family unpaid work' in family enterprises.<sup>37</sup>

In addition, the CEDAW Convention 1979 does not maintain a purely formal approach to achieve women's *de facto* equality with men.<sup>38</sup> It is not sufficient to ensure treatment of females that is identical to that of men.<sup>39</sup> On the contrary, the biological as well as socially and culturally constructed differences between women and men should be taken into account.<sup>40</sup> In that regard, under certain criteria, preferential treatment of women against men will be required with a view to addressing such differences and achieve *de facto* equality.<sup>41</sup> Article 4(1) CEDAW addresses this issue.<sup>42</sup> Article 4(1) CEDAW is similar but not identical to Article 116(2) of the Greek Constitution and Article 157(4) of TFEU. The nature of these measures according to Article 4(1) CEDAW should be temporal

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<sup>34</sup> UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW Convention], 18 December 1979, United Nations, Treaty Series, vol 1249; M Shivdas and S Coleman, Without Prejudice: CEDAW and the Determination of Women's Rights in a Legal and Cultural Context (Commonwealth Secretariat, 2010) 52.

<sup>35</sup> CEDAW Convention 1979 (n 34), art 11(1)-(3); F Raday, 'Article 11' in MA Freeman, C Chinkin, B Rudolf (eds) The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary: Oxford Commentaries on International Law (Oxford: Oxford University Press, 2012) 281–282.

<sup>36</sup> CEDAW Convention 1979 (n 34), art 2(e); UN Committee on the Elimination of Discrimination Against Women [CEDAW Committee], 'General recommendation No 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures [General Recommendation No 25]' (2004) para 7; Raday 2012 (n 35) 284.

<sup>37</sup> CEDAW Committee, 'General recommendation No. 16: Unpaid women workers in rural and urban family enterprises [General Recommendation No 16]' (1991) in which the Committee notes 'the problem of unpaid women workers of family enterprises [...] Affirming that unpaid work constitutes a form of women's exploitation that is contrary to the Convention'; Raday 2012 (n 35) 287; Fredman 2013 (n 8) 219, 240.

<sup>38</sup> General Recommendation No 25 2004 (n 36) para 8.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> CEDAW Convention 1979 (n 34) art 4(1).



and special. This means that they should be removed when the objective of the measure has been achieved and that they provide an advantage to women in order to facilitate *de facto* equality between women and men.<sup>43</sup> These measures can take the form of legislative, executive, administrative and other types of regulatory instruments, as well as any type of policies and practices.<sup>44</sup> Before adopting these measures, the States-Parties of the convention should evaluate their potential impact in relation to their particular purpose and adopt those measures that are the most suitable to effectively achieve *de facto* equality.<sup>45</sup> Indeed, Greece has adopted several special measures following the provision of Article 4(1) CEDAW.

In conclusion, the Greek legal framework on gender equality aims to ensure equal treatment between men and women in the field of employment both in law and *de facto*. In addition, it provides certain advantages to women in the field of employment to compensate for past discrimination and ensure equality in practice.

### **3. MAIN BARRIERS OF ACCESS TO EMPLOYMENT FOR WOMEN**

Women in Greece face several barriers to the enjoyment of their rights and fundamental freedoms on equal basis with men in the field of employment. This is evident in the Global Gender Gap Index report of 2015 conducted by the World Economic Forum.<sup>46</sup> Greece was ranked 87th among 145 states worldwide with regard to the level of equality it guarantees for women in the fields of economic participation and opportunity.<sup>47</sup> Indeed, Greece scored higher than only two other EU Member States (Cyprus and Malta).<sup>48</sup>

The labour participation of women in the workforce is 76 per cent of the participation of men.<sup>49</sup> A slightly lower number is applicable to the wage equality for equal work between men and women.<sup>50</sup> This fact has affected also the estimated income of women, which is only 54 per cent compared to the income of men.<sup>51</sup> Moreover, while women in Greece have managed to achieve the same number of professional workers as men in the

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<sup>43</sup> General Recommendation No 25 2004 (n 36) paras 20–21.

<sup>44</sup> *Ibid*, para 22.

<sup>45</sup> *Ibid*, para 27.

<sup>46</sup> World Economic Forum, 'The Global Gender Gap Report 2015' (19 November 2015) 184 <<http://www.weforum.org/reports/global-gender-gap-report-2015>> accessed 12 September 2016.

<sup>47</sup> *Ibid* at 9, 21.

<sup>48</sup> *Ibid* at 9.

<sup>49</sup> *Ibid*.

<sup>50</sup> *Ibid*.

<sup>51</sup> *Ibid*.



Greek labour market, they lag significantly behind the number of men in legislative, senior and managerial positions.<sup>52</sup> Lastly, it is important to note that Greece has not made significant improvements in ensuring equality between men and women since the beginning of the crisis in 2008.<sup>53</sup>

In this part of the article we will provide and analyse the three most prevalent challenges to the right of women to have access to the Greek labour market.

### **3.1. The Crisis**

As the CEDAW Committee has noted, the current financial and economic crisis and the measures taken by Greece to address it as part of the framework of the policies designed in cooperation with the EU institutions and the International Monetary Fund (IMF) are having detrimental effects on women's rights in all areas of life.<sup>54</sup> The Committee stated also that high unemployment rates for women compared to men, and the existence of high hidden unemployment among women indicate that women gradually becoming highly marginalised from the labour market.<sup>55</sup> Eurostat data show that the implementation of austerity measures in Greece had a detrimental effect upon both men and women.<sup>56</sup> However, experience from previous crises shows that female job losers are slower to return to work and more likely to accept part-time work.<sup>57</sup> This fact bears the danger of an increasing marginalisation of female labour.<sup>58</sup> For example, many women have faced arbitrary changes to their working conditions and working hours without any previous consultation with or justification by their employer.<sup>59</sup> Thus, it is evident that these economic

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<sup>52</sup> Ibid.

<sup>53</sup> See the index over the years in the Global Gender Gap Index 2015 (n 46) 184.

<sup>54</sup> CEDAW Committee, 'Concluding observations on the seventh periodic report of Greece adopted by the Committee at its fifty fourth session (11 February-1 March 2013) [Concluding Observations to Greece 2013]' CEDAW/C/GRC/CO/72 (26 March 2013) para 6.

<sup>55</sup> Ibid, para 28.

<sup>56</sup> The unemployment for women in November 2015 was 29.3 per cent while for men it was 20.8 per cent; Eurostat, 'Unemployment Statistics' <[http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment\\_statistics#Further\\_Eurostat\\_information](http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment_statistics#Further_Eurostat_information)> accessed 12 September 2016.

<sup>57</sup> International Labour Organization, 'Women in labour markets: Measuring progress and identifying challenges' (2010) 6 <[http://www.ilo.org/empelm/pubs/WCMS\\_123835/lang--en/index.htm](http://www.ilo.org/empelm/pubs/WCMS_123835/lang--en/index.htm)> accessed 12 September 2016; Fredman 2013 (n 8) 219–220.

<sup>58</sup> ILO Report 2010 (n 57) 6; Fredman 2013 (n 8) 219–220.

<sup>59</sup> Greek Ombudsman, 'Gender and Employment Relations' 142 [Special Report 2014] available only in Greek at <<http://www.synigoros.gr/resources/docs/ee2014-13-fylo.pdf>> accessed 12 September 2016.

adjustment programmes have created the conditions to increase informal and precarious employment conditions.<sup>60</sup>

Finally, in an attempt to remove the rigid labour regulations that impede the functioning of the labour market, Greece took action to, among others, harmonise the wage scale of the public sector and reform the unfair dismissal laws.<sup>61</sup> However, as the CEDAW Committee indicated, the particular reforms added to the austerity policies adopted in the period 2010-2012 had a negative impact on women in the field of employment.<sup>62</sup>

### **3.2. Attitudes**

The financial crisis has contributed to the reinforcement of stereotypes against women. The CEDAW Committee has indicated that in Greece patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in all areas of life are predominant.<sup>63</sup> Such stigmatising attitudes towards women perpetuate discrimination against women and girls which is something that is reflected in the disadvantaged and unequal status of women in several aspects of life in Greece, such as education, public life and decision-making, as well as in the persistence of violence against women.<sup>64</sup>

In particular, in the labour market, patriarchal attitudes and deep-rooted stereotypes related to the roles and responsibilities of women and men still persist. Women in Greece today, still bear the most responsibility, if not all, for the burden of care of the household, the children and the elderly, as was traditionally the case in the past.<sup>65</sup>

Statistical data are indicative of the fact that women are expected to take care of children, the elderly and disabled persons and not compete in the labour market. These patriarchal values and attitudes affect society as a whole but also the governmental policies adopted. While Greece seems to have a decent legal framework on equal treatment between men and women, these stereotypes against women seem to keep the Greek governments from changing the societal structures and facilitate

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<sup>60</sup> Fredman 2013 (n 8) 220; ILO Report 2010 (n 57) 6.

<sup>61</sup> M Katsimi, T Moutos, G Pagoulatos and D Sotiropoulos, 'GINI Report: Growing Inequalities and their Impacts in Greece' (2012) 116.

<sup>62</sup> Concluding Observations to Greece 2013 (n 54) para 28.

<sup>63</sup> *Ibid.*, para 18.

<sup>64</sup> *Ibid.*

<sup>65</sup> See, Ministry of Health and Social Solidarity, 'Ageing in Greece and Current Policy Trends' (2010) 9, <[http://www.monitoringris.org/documents/imp\\_nat/Greece\\_RIS\\_website.pdf](http://www.monitoringris.org/documents/imp_nat/Greece_RIS_website.pdf)> accessed 12 September 2016; See the Hellenic Statistical Authority, 'Quality Report: Time Use Survey' (2013) 6, <<http://www.statistics.gr/en/statistics/-/publication/SFA30/->> accessed 12 September 2016.



the access of women to the market by providing care services for the elderly and children and empower women to pursue a career. On the contrary, as we stated above, austerity measures have negatively affected the provision of social services including nursery and child care facilities that contribute to de facto equality for women.

### **3.3. Maternity issues**

The economic crisis has shown that the female presence in the Greek working environment is usually the first to be sacrificed.<sup>66</sup> Female employees are sometimes pushed into retirement, or they are dismissed from work when their pregnancy becomes known or apparent.<sup>67</sup> Other than that, these dismissals sometimes occur not only in the context of one employer organisation but also in the context of successor companies and organisations.<sup>68</sup>

Persistently, evidence shows that maternity is predominantly perceived by employers as a heavy burden.<sup>69</sup> There are many examples of women, reported by the Greek Ombudsman, who have been challenged, in the labour market, by employers due to being pregnant or due to being on maternity leave. In some cases, the employers dismissed female employees, despite the strict protection provided by mandatory provisions in Greek legislation for women in pregnancy or maternity.<sup>70</sup> These dismissals were frequently verbal and without the required paperwork.<sup>71</sup> In other cases, the employers avoided or denied to participate in labour arbitration and in mediating procedures, which attempted to resolve the existing disputes and conflicts between women employees and employers.<sup>72</sup>

Nevertheless, a considerable barrier to women's enjoyment of the right to work is the employers' tendency to offer either different employment positions or different terms and conditions for the same employment position to women employees, who return from maternity leave. The CEDAW Committee notes that in many instances part-time and rotation work was offered followed by reduced level of pay.<sup>73</sup> Other instances have been reported, where the employer refused to accommodate women who had just returned from maternity leave, in terms of their working hours.<sup>74</sup>

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<sup>66</sup> Greek Ombudsman, Special Report 2014 (n 59) 138.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid at 141.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid at 139.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Concluding Observations to Greece 2013 (n 54) para 28.

<sup>74</sup> Greek Ombudsman, Special Report 2014 (n 59) 137–138.

To sum up, the three issues that we discussed in this part of the article concern structural and societal barriers to the enjoyment of their right to work by women. It seems that the equal treatment and non-discrimination policies cannot effectively address and eliminate these types of barriers. As a result, a different type of approach is needed to ensure *de facto* equality between men and women by eliminating these barriers. In the next part of the article, we will discuss the different types of policy approaches that are available to ensure equality between men and women.

#### **4. EQUALITY: POSITIVE ACTION AND TEMPORARY SPECIAL MEASURES**

##### **4.1. Models of Equality**

As we have analysed above, while there is an extensive framework for ensuring gender equality in Greece within the field of employment and occupation, there are, still, significant barriers to women's access to the labour market. In that regard, it is important to reflect on the models of equality and the policies that they are connected with, so that we can understand the perspective on equality that the legal framework in Greece represents and to examine solutions to the existing barriers women face with regard to their access to the labour market.

There are two main models of equality, formal and substantive equality. The formal equality or equal treatment framework focuses exclusively on the idea that everyone should be treated the same way in the same situation, and laws and policies should be formulated in a neutral way. The formal model of equality entails the positive obligation to treat people equally and the negative obligation to not directly<sup>75</sup> discriminate.<sup>76</sup> The formal model of equality is expressed through the adoption of bald non-discrimination legislation.

The formal model of equality has been criticised on various grounds among others:<sup>77</sup> first, the application of the principle of direct discrimination relies on a comparator. The comparator is the person against whom the person that invokes the principle of non-discrimination will compare to, in order to determine whether he/she was treated unequally.<sup>78</sup> The comparator does not necessarily have to exist in each particular case. In reality, it can be theoretically constructed according

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<sup>75</sup> See the UK Race Relations Act 1976, s 1(1)(a) and the UK Sex Discrimination Act 1975, s 1(2)(a).

<sup>76</sup> E Howard, *The EU Race Directive: Developing the Protection against Racial Discrimination within the EU* (London: Routledge, 2009) 110.

<sup>77</sup> *Ibid*; Fredman 2013 (n 8) 223–224.

<sup>78</sup> Howard 2009 (n 76) 110.



to the facts of the case.<sup>79</sup> This is problematic because the choice of a comparator is prone to bias towards the social and group attributes of the dominant social class.<sup>80</sup> This fact shows that formal equality is a relative concept.

Second, this model of equality creates potential assimilationist and conformist pressures, as it is primarily focussed on same treatment of people regardless of their differences.<sup>81</sup> This model of equality forces women to conform to male-oriented social structures, without challenging the structures themselves.<sup>82</sup>

The substantive or material equality model is a response to the realisation that formal equality will often not effectively ensure the enjoyment of rights of women on an equal basis with men.<sup>83</sup> The substantive equality model is primarily focused on the effects of the past and ongoing discrimination in the material lives of people and the measures that should be adopted address the social inequalities and disadvantages faced by social groups.<sup>84</sup> In that regard, it encompasses the notion of indirect discrimination, which concerns the discriminatory effects against social groups that neutral rules have in real life.

The substantive model of equality entails the concepts of equality of opportunity and equality of results. The emphasis of equality of opportunity is on equalising the starting point of all, by removing the structural and systemic barriers that prohibit people from having equal opportunities.<sup>85</sup> It recognises that the effects of past discrimination and unequal treatment that social groups have faced can potentially create barriers to the enjoyment of opportunities in every aspect of their lives on an equal basis with others.<sup>86</sup>

However, equality of opportunity does not guarantee that women will actually enjoy equal outcomes with men. It merely ensures that they will have the same opportunity as men. On the other hand, equality of results addresses this gap by introducing the notion of *de facto* equality

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<sup>79</sup> H Sheinman, 'Two Faces of Discrimination' in D Hellman and S Moreau (eds) *Philosophical Foundations of Discrimination Law* (Oxford: Oxford University Press, 2013) 43.

<sup>80</sup> *Ibid* at Howard 2009 (n 76) 111.

<sup>81</sup> *Ibid* at 112.

<sup>82</sup> Fredman 2013 (n 8) 223–224.

<sup>83</sup> *Ibid* at 225.

<sup>84</sup> Howard 2009 (n 76) 115.

<sup>85</sup> *Ibid*. R Arneson, 'Discrimination, Disparate Impact, and Theories of Justice' in D Hellman and S Moreau (eds) *Philosophical Foundations of Discrimination Law* (Oxford: Oxford University Press, 2013) 108–109.

<sup>86</sup> *Ibid*.

(equality in practice). Equality of results recognises the effects of past and present discrimination and aims to correct maldistribution and to guarantee a more representative participation of all social groups in public life.<sup>87</sup> Thus, the focus of this type of equality is to ensure equal outcomes, regardless of the individual merits of the people.<sup>88</sup> This model of equality is implemented through the adoption and application of positive (affirmative) action. Such action can take the form of measures, such as quotas which specify the percentage of women that must occupy a position in proportion to men. Positive action measures are necessary, because, even when the structural barriers to, in the case of this article, employment of women have been reduced or even removed, the stigma or negative attitudes towards women could still create obstacles for them to participate in labour on equal basis with men. This stigma, which is a result of past discrimination and inequality, cannot be eliminated at a speed that a fair a just society should accept. Thus, positive measures that will boost the participation of women in the labour market are essential to overcome this stigma. However, the focus on results might itself be problematic. This is because ensuring certain outcomes does not necessitate any fundamental re-examination of the structures that perpetuate discrimination.<sup>89</sup> In other words, as Fredman notes quantifiable change might only partially lead to qualitative change.<sup>90</sup>

## **5. THE GREEK LEGAL FRAMEWORK ON SOCIAL ECONOMY AND SOCIAL ENTREPRENEURSHIP**

### **5.1. Introduction: The main objectives of the Social Entrepreneurship Law 2011**

Having examined the societal barriers facing female labour participation in Greece and some of the techniques that may be adopted to address this problem, in this section, the role that Greek legislation regarding social entrepreneurship might play in this context, will be examined.

In 2011, the Social Entrepreneurship Law is introduced into the Greek legal system. It comprises legal provisions and public policies regarding the social economy and social entrepreneurship which aim primarily to alleviate the high rates of unemployment in Greece through the

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<sup>87</sup> Ibid at 117.

<sup>88</sup> Ibid at 120–122.

<sup>89</sup> S Fredman, 'Beyond the Dichotomy of Formal and Substantive Equality: Towards a New Definition of Equal Rights' in I Boerefijn, F Coomans, JE Goldschmidt, R Holtmaat, R Wolleswinkel (eds) *Temporary Special Measures Accelerating De Facto Equality of Women Under Article 4(1) UN Convention on the Elimination of All Forms of Discrimination Against Women*, Vol. 1 of Maastricht Series in Human Rights (Antwerpen: Intersentia NV, 2003) 113–114.

<sup>90</sup> Ibid.



generation of new opportunities concerning entrepreneurship and employment in social enterprises for the most vulnerable parts of the Greek population.<sup>91</sup> In particular, these policies aim to provide new opportunities for entrepreneurship and labour to the disadvantaged parts of the Greek society, by setting the institutional foundation for the establishment and development of social enterprises as part of a new economic sector, i.e. the social economy sector. In the protective scope of the legislation, a big part of the Greek population is addressed. This part of the Greek population is highly exposed to the detrimental effects of the on-going financial crisis and comprises categories of individuals and societal groups, e.g. among others the unemployed, people with disabilities, young people, disadvantaged women, the immigrants, and the refugees.<sup>92</sup> Those groups are significantly affected by the on-going financial crisis which has resulted in phenomena of social exclusion, poverty, discrimination and stigmatization in society and in a limited access to employment opportunities.<sup>93</sup>

The explanatory documents of the Social Entrepreneurship Law 2011 emphasise the necessity for the Greek State to acknowledge the existence of emergent social changes for the weakest parts of society during the on-going financial crisis, which require the introduction of new policies towards the strengthening of social cohesion and solidarity.<sup>94</sup> Those emergent social changes require an alternative economic model which combines the development of entrepreneurial activities, innovation and progress that embrace simultaneously the weakest and most affected social groups, in a framework characterised by sustainable development, social solidarity, social responsibility, democracy, limited interest for the maximisation of profits but limitless interest for the generation of employment and social capital.

## 5.2. Social economy and social entrepreneurship defined

The Social Entrepreneurship Law 2011 contains legal provisions which primarily *institutionalise the concept of social economy*. According to

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<sup>91</sup> Law 4019/2011 on the Social Economy and Social Entrepreneurship, Off. Gov. Gaz. No. 216/30.09.2011 [Social Entrepreneurship Law 2011].

<sup>92</sup> Explanatory Notes to the Social Entrepreneurship Law 2011 (August 2011) 1 <<http://www.hellenicparliament.gr/UserFiles/2f026f42-950c-4efc-b950-340c4fb76a24/k-koinep-eis.pdf>> accessed 12 September 2016; D Kassavetes, 'Social Entrepreneurship in Greece' in KD Geormas (ed) *The social economy in Europe: Definition, experiences and perspectives* (Athens: Enallaktikes Ekdoseis publishing, 2013).

<sup>93</sup> Explanatory Notes (n 92) 1–2.

<sup>94</sup> Ibid at 1; Permanent Commission of Social Affairs of the Greek Parliament: Discussion of the draft Social Entrepreneurship Law 2011 (23 August 2011) <<http://www.hellenicparliament.gr/Vouli-ton-Ellinon/ToKtirio/Fotografiko-Archeio/#480f211f-6b17-41b4-b6b7-28840447511b>> accessed 12 September 2016.



the Social Entrepreneurship Law 2011, in Article 1(1), there are three cumulative elements that comprise the definition of the concept of the 'social economy'. The social economy is defined as 'the sum' of economic and social activities: (i) which can be either commercial, entrepreneurial, and/or productive; (ii) which ought to be undertaken by legal entities or associations prescribed in the Greek legislation; which have (iii) a statutory purpose to pursue collective benefits and/or social objectives.<sup>95</sup>

Additionally, the Social Entrepreneurship Law 2011 *institutionalises the undertaking of social entrepreneurial activities* via social economy operators and social enterprises. In Article 14(1)(β), a conclusive list of criteria is introduced that characterise legal entities and associations which belong to the social economy sector.<sup>96</sup> The operators of social economy are defined as the legal entities and associations which cumulatively fulfil the following criteria: (i) they have a statutory purpose which addresses the generation of collective benefits and the provision of goods and services of a collective and social character; (ii) they focus more on the individual as a human-being and on the creation of employment over capital and profit-making; (iii) they apply a democratic system in decision-making; (iv) are autonomous in terms of administration and management; (v) they use their profits to pursue their statutory purpose by subordinating the distribution of profits to their members.<sup>97</sup>

### **5.3. The legal form of Koinsep and the trichotomy of Koinsep types**

The Social Entrepreneurship Law 2011 in Article 2(1) *introduces a new distinguished legal form for social enterprises in Greece*, i.e. the Social Cooperative Enterprise (Κοινωνική Συνεταιριστική Επιχείρηση; hereinafter 'the Koinsep'), as well as relevant legal provisions with respect to, *inter alia*, its incorporation, governance and governing bodies, the competence of its governing bodies, the accountability of the governing bodies, financial structure and resources, and profit distribution restrictions (in Article 3 *et seq*).<sup>98</sup> Article 2(1) of the Social Entrepreneurship Law 2011 defines a Koinsep as a civil cooperative with a social purpose which enjoys a commercial capacity by law. The social purpose of Koinsep is further demarcated in the Social Entrepreneurship

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<sup>95</sup> Social Entrepreneurship Law 2011 (n 91) art 1(1).

<sup>96</sup> *Ibid*, art 14(1)(β).

<sup>97</sup> *Ibid*, art 14(1)(β)(αα) – (ηη).

<sup>98</sup> *Ibid*, art 2(1). A Argyrou, T Lambooy, 'An introduction to tailor-made legislation for social enterprises in Europe: A comparison of legal regimes in Belgium, Greece and UK' (2017) *International and Comparative Corporate Law Journal*, CMP Publishing (forthcoming).

Law 2011, in the context of three distinct types of Koinsep.<sup>99</sup> Those three types of Koinsep are three distinctive forms of social enterprise with social objectives that vary significantly. The social objectives should be accordingly contained as such in the constitutional documents (Statutes of Association) of the incorporated Koinsep. These are:

- i. The *Koinsep of Integration* whose objectives should pursue the integration of individuals from the 'susceptible groups' of the Greek society, in the economic and social life of the country, by means of offering and promoting their employment and work. 'Integration' is defined in legislation, as the process of social inclusion of persons who belong to those 'susceptible groups', mainly through their promotion in employment and in labour opportunities.<sup>100</sup> Particularly, the term 'susceptible groups' comprises two sub-categories of societal groups in the Social Entrepreneurship Law 2011, i.e. 'vulnerable groups' and 'special groups' and it is broadly defined in Article 1(4) of the Social Entrepreneurship Law 2011, as comprising those social groups the participation of which is hampered, in the social and economic life, either due to social and economic challenges, physical, mental, or any other functional disabilities, or finally, due to unforeseen circumstances which affect the smooth operation of the local and rural economy. Furthermore, Article 2(2)(α) of the Social Entrepreneurship Law 2011 requires a Koinsep of Integration to employ a minimum of 40 per cent of employees who belong to the societal sub-group, namely the 'vulnerable groups' of the Greek population. Those 'vulnerable groups' constitute in the Social Entrepreneurship Law 2011 a sub-part of the so-called 'susceptible groups'. The category 'vulnerable groups' comprises groups of individuals who belong to the weakest and most excluded parts of Greek society. The Social Entrepreneurship Law 2011 defines 'the vulnerable groups' as those groups of individuals whose integration into the social and economic life is hindered, particularly by physical and psychological causes or due to delinquent behaviour. These are specified in legislation as people with disabilities (physical or mental or sensory), people who are or have been dependent on certain substances, people with HIV, prisoners and ex-prisoners, and young offenders. As such, the legislation aims to prioritise individuals belonging to these groups in the process of work integration and provision of employment opportunities by introducing a minimum mandatory employment quota of 40 per cent.
- ii. The *Koinsep of Care* whose purpose should aim exclusively to the production of goods and the provision of services for the beneficiaries

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<sup>99</sup> Social Entrepreneurship Law 2011 (n 91) art 2(2)(α)-(γ).

<sup>100</sup> Ibid, art 1(4)(α).



of social care. Social care is defined in Article 1(5) accordingly, as to include the domains of healthcare and welfare activities, for the benefit of specific groups of Greek society, such as the elderly, infants, children, the disabled and the chronically sick.

- iii. the Koinsep of Collective and Productive Purpose* which should aim to the production of goods and the provision of services that meet the needs of society in terms of culture, the environment, ecology, education, social benefit services, the promotion of local products, traditional activities and arts and crafts; and which at the same time promote: (i) the local and collective interest; (ii) the development of employment; (iii) the enhancement of social cohesion; and (iv) the strengthening of local or regional development.<sup>101</sup>

#### **5.4. A comment on the trichotomy of Koinsep types and the role of women**

The categorisation of the three Koinsep types is not justified in the explanatory documents accompanying the Social Entrepreneurship Law 2011. In the explanatory documents, there are no arguments to justify why these three particular types of Koinsep, i.e. Koinsep of Integration, Koinsep of Care, Koinsep of Collective and Productive Purpose were selected by the legislator to constitute exclusive types of the Greek Koinsep. Reference is only made to the fact that in the past, the social cooperative type of social enterprises has been proved an effective policy for the integration of vulnerable groups into the labour market in many European countries other than Greece.<sup>102</sup>

The careless juxtaposition of the various Koinsep types, however, could have a significant negative effect in the efficacy of legislation to achieve its core objectives. Especially if the legislator juxtaposed the three types of Koinsep without having regarded *a priori* the policies of work integration, social care, and finally, collective and social entrepreneurship, as pertinent to the fulfilment of the legislation's objectives.

For instance, it was previously explained that 'integration' in the context of the Social Entrepreneurship Law 2011 has been defined as a process for the social inclusion of all the individuals who belong to a determined broad category of 'susceptible groups' through work and labour. However, as it was already explained, in the Social Entrepreneurship Law 2011 there is only an obligation for the Koinsep of Integration, to employ individuals who belong to the 'vulnerable groups' defined in legislation as a sub-part

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<sup>101</sup> Ibid, art 1(2).

<sup>102</sup> Explanatory Notes (n 92) 2.

of the 'susceptible groups'. The necessity for the integration of other weak components of society via work and labour in the Koinsep of Integration is thereby neglected. These are the so called 'special groups' which are also mentioned and defined in the Social Entrepreneurship Law 2011.<sup>103</sup> Although, these groups also constitute a sub-part of the broader category 'susceptible groups', they have been neglected in the content of legislation regarding integration and regarding the Koinsep activities. The category 'special groups' comprises particularly those disadvantaged social groups of individuals whose inclusion in the labour market is hampered due to economic, social and cultural causes, such as the unemployed, the refugee and the immigrants.<sup>104</sup> Among other 'special groups' referred to in the Social Entrepreneurship Law 2011, the disadvantaged position of women in society and in the labour market is outspoken and profound as a significant subject of this particular sub-group, i.e. 'unemployed women', 'abused women', 'women as immigrants and refugees'.<sup>105</sup>

Certainly, it might be the intention of the legislator to primarily promote and safeguard at a minimum the work integration of 'vulnerable' individuals (either men and/or women) in the Koinsep of Integration, who have been evidently and unjustly excluded from the Greek labour market for many years due to their physical and psychological constraints. It might also, thereby, be the intention of the legislator to generate a legal framework that can accommodate existing policies applicable to social enterprises and the vocational rehabilitation particularly of people with severe psychosocial problems.<sup>106</sup>

However, if the work integration and the provision of employment opportunities to the weakest and to the most important parts of society is indeed a core objective of the Social Entrepreneurship Law 2011, as is stipulated in the Explanatory Notes,<sup>107</sup> it should not be targeted to facilitate the work integration only of those 'vulnerable groups'. On the contrary, it should progressively and proactively facilitate the work integration of all the subjects of 'susceptible groups' in the Koinsep mentioned in the Social Entrepreneurship Law 2011, including also the 'vulnerable groups', but also including, the 'special groups', and thus including also disadvantaged women. This would require the application of work integration obligations and duties vertically, in the Koinsep of Integration for all 'susceptible groups' mentioned in the Social Entrepreneurship

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<sup>103</sup> Social Entrepreneurship Law 2011 (n 91) art 1(4)(α).

<sup>104</sup> *Ibid*, art 1(4)(β).

<sup>105</sup> *Ibid*.

<sup>106</sup> In Law 2716/1999, provided for the modernisation of mental health services and the formation of limited liability social cooperatives for the integration and vocational rehabilitation of people with severe psychosocial problems.

<sup>107</sup> The Explanatory Notes (n 92) 2.

Law 2011, but also horizontally, in all the types of Koinsep, not only in the Koinsep of Integration.

However, there is no obligation for the other types of Koinsep, i.e. Koinsep of Care or Koinsep of Productive and Collective Purpose to promote the integration of any group referred into the legislation via work and labour. On the contrary, work integration is unreasonably fragmented to be served by the Koinsep of Integration. Accordingly, there is no minimum obligation for the Koinsep of Social Care and the Koinsep of Productive and Collective Purpose to provide employment opportunities to individuals either from the 'vulnerable groups' and/or from the 'special groups', such as for instance, the disabled women and/or unemployed women. Neither the Koinsep of Integration, which is the main legal vehicle to promote work integration, is obliged to provide employment of a certain extent to individuals from groups other than the 'vulnerable groups', i.e. 'special groups'.

This is also reflected in the doctoral thesis of a Greek scholar, Adam, who criticised that in the context of the Social Entrepreneurship Law 2011 the successful movement of female cooperative entrepreneurship in Greece, was narrowly related by the legislator to a scope of policies regarding rural development rather than policies of integration through work and labour.<sup>108</sup> This approach, according to Adam, is reflected in the content of the Social Entrepreneurship Law 2011 which implies that existing female cooperative enterprises could fit better with the category of Koinsep of Collective and Productive Purpose rather than the category of Koinsep of Integration which employs vulnerable groups in which the legislator did not include women.<sup>109</sup>

The analysis demonstrates the overarching necessity for the legislator to identify and rectify this inconsistency by introducing vertically in the Koinsep of Integration, the obligation for work integration of multiple groups from the category 'susceptible groups' mentioned in the Social Entrepreneurship Law 2011, including both 'vulnerable' and 'special' groups and most importantly including women. It also shows the opportunity for the legislator to introduce horizontally the obligation for work integration of all the 'susceptible groups' in all the types of Koinsep, i.e. Koinsep of Care and Koinsep of Collective and Productive Purpose to effectively, progressively, and uniformly promote the work integration of multiple groups from the category 'susceptible groups'.

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<sup>108</sup> S Adam, 'Social Economy, Work Integration and Social Exclusion: The experience of Koinsep in Greece' (2012) Doctoral thesis published (Repository of Social Administration Department in University of Thrace) 83–85.

<sup>109</sup> Ibid at 85.



## **6. ELIMINATING THE BARRIERS TO THE RIGHT TO WORK OF GREEK WOMEN WITH THE GREEK KOINSEP**

### **6.1. Eliminating the barriers using social entrepreneurship: The participation of women in the Greek Koinsep**

The Greek State should fulfil its obligations emanating from the national, European and international instruments by fully realising the right to work for women without any *de facto* or *de jure* discrimination. However, the Greek State might not be in a position to devise adequate policies due to the current and on-going financial and economic crisis. Additionally the Greek State might not be willing to carry the financial and economic burden of these policies, considering that the central political agenda has been monopolised mainly by discussions regarding the implementation of the framework policy agreements with the EU institutions and the IMF.

Other than this, in a previous section (see Section 2.1.) it was explained how several special measures and incentives adopted by the Greek State, in the course of time, proved to be ineffective and inadequate to combat the different barriers that Greek women encounter when accessing employment. The ineffectiveness of the existing positive action measures might be correlated with the Greek State's inclination to impose positive action measures predominantly on the public sector, e.g. on state-controlled employers rather than the private sector, e.g. on private employers, due to the reluctance of the private sector to implement mandatory positive action measures.<sup>110</sup>

Social enterprises might be the most efficient alternative route to be followed by the Greek State. Numeric data reveal the dynamic and resilient presence and development of Koinsep in Greece, even during the years of the financial crisis. The following table shows the increasing number of new incorporated Koinsep in the years 2012- as of April 2016 (see Table 1). According to Table 1 a total of 1,211 Koinsep have been incorporated since the Social Entrepreneurship Law 2011 was enacted.

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<sup>110</sup> G Selanec, L Senden, 'Report: Positive Action Measures to Ensure Full Equality in Practice between Men and Women, including on Company Boards, European Network of Legal Experts on Gender Equality' (2012) 17 <[http://ec.europa.eu/justice/gender-equality/files/gender\\_balance\\_decision\\_making/report\\_gender-balance\\_2012\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/gender_balance_decision_making/report_gender-balance_2012_en.pdf)> accessed 12 September 2016.

**Table 1.** Number of newly established Koinsep per annum<sup>111</sup>

Year	Total number of registered new Koinsep
2012	80
2013	290
2014	324
2015	251
2016 (as of January 2017)	266
<b>TOTAL</b>	<b>1,211 Koinsep</b>

In this respect, measures and legislative amendments should be adopted as an alternative means of eliminating the identified barriers that Greek women face in accessing employment and in progressing towards *de facto* gender equality via the Koinsep. Those measures will enable, support and promote women's social entrepreneurship activities, and the work integration of women in social enterprises on the basis of the Social Entrepreneurship Law 2011. The Social Entrepreneurship Law 2011 could constitute the legal basis for the introduction of a continuum of measures, such as legislative and regulatory quotas expressing the mere preference to women, such as preferential treatment measures, facilitative measures seeking to influence women, to increase the prospect of women, transparency/reporting measures to advocate for transparency in state institutions and/or in the private sector with regard to women's employment as well as measures of support and promotion by the allocation of resources.<sup>112</sup> These measures will encourage women to participate in social entrepreneurial activities either as entrepreneurs and/or as employees in the various Koinsep types. Therefore, the various Koinsep types and the promotion of social entrepreneurial activities by women, will contribute to the progressive realisation of the right to work for women and simultaneously to *de facto* equality. However, it is important to note, that the proposed measures should not be limited to the field of social entrepreneurship, but they should cover all types

<sup>111</sup> Data provided by E Karpouzis, officer at the Greek Social Entrepreneurship Registry, on 23 January 2017 <<http://www.ypakp.gr/>> accessed 23 January 2017.

<sup>112</sup> HB Schöpp-Schilling, 'Reflections on a General Recommendation on Article 4(1) of the Convention on the Elimination of all Forms of Discrimination against Women' in I Boerefijn, F Coomans, JE Goldschmidt, R Holtmaat, R Wolleswinkel (eds) *Temporary Special Measures Accelerating De Facto Equality of Women Under Article 4(1) UN Convention on the Elimination of All Forms of Discrimination Against Women*, Vol. 1 of Maastricht Series in Human Rights (Antwerpen: Intersentia NV, 2003) 29–31. Ibid, F Raday, 'Systematizing the Application of Different Types of Temporary Special Measures Under Article 4 of the Cedaw' in I Boerefijn et al. (eds) at 38–43. T Khaitan, *A Theory of Discrimination Law* (Oxford: Oxford University Press, 2015) 80–86.



of business activities. Otherwise, there is a danger that such measures will have a segregationist effect limiting women's employment and entrepreneurship in the social economy. This paper argues that the development of the social economy via the support and promotion of social entrepreneurial activities and of employment will significantly contribute to the realisation of the right to work of women in Greece, while modifying and reshaping established perceptions, customs, traditions, cultural and societal patterns regarding women and labour.

### **6.1. Unemployment**

A continuum of positive measures in the form of targeted policies might be used to help women at risk of social and labour market exclusion due to the economic crisis and the burden of unemployment. This can be done through the promotion of female employment in the Koinsep and via the work integration of women explicitly in the Social Entrepreneurship Law 2011, by means of quotas, preferential treatment and the redefinition of eligibility criteria for women to be employed by any Koinsep. The preferential treatment of female employees in the various types of Koinsep will promote formal and conventional employment settings and access to social benefits. Additionally, we explained above that it is necessary for the work integration of women to be facilitated in all the types of Koinsep (such as Koinsep of Integration, Koinsep of Care, Koinsep of Collective and Productive purpose) not only in the stipulated Koinsep of Integration. This would require the revision and amendment of the content of the Social Entrepreneurship Law 2011, to accommodate new legal provisions regarding work integration and respectively legislative positive measures towards *de facto* gender equality in employment. Women, could be thereby supported in the Greek Koinsep, not only as individuals but also as significant parts of 'vulnerable' and/or 'special' social groups, e.g. unemployed women, immigrant women, disabled women, women as mothers for example.

### **6.2. Attitudes and Stereotypes**

On the basis of the various and multiple social objectives that the different types of Koinsep have been legislated to fulfil, positive measures could be respectively designed to promote simultaneously, the participation and the employment of women in all types of Koinsep and the alterations of the identified attitudes and stereotypes that women encounter when accessing employment opportunities. Subsequently, those measures should be introduced to promote women's employment opportunities, work integration and vocational training in all types of Koinsep combined with efforts towards the elimination of patriarchal attitudes and deep-rooted stereotypes. Respectively, all the types of Koinsep could be promoted and supported by means of resources for the provision

of education, vocational training and awareness-raising to women regarding patriarchal stereotypes, and/or perceptions of inequality. For example, Koinsep can provide consulting services on sexual harassment in the workplace or educational services to schools on equality and gender roles in society.

Additionally, existing or new Koinsep could be financially supported to promote the elimination of stereotypes, e.g. labour that only men can do but undertaken by women.

Complementarily, appropriate measures can be introduced that do not perpetuate but rather reform the attitude that women hold with regard to responsibility for childcare and housekeeping in combination with the promotion of work integration objectives for women in the Koinsep. Such measures will eliminate women's responsibility of care by simultaneously alternating men's perception regarding child-care in Greece, while also alleviating any stigmatisation towards vulnerable and special categories of women through labour and employment.

### **6.3. Maternity and pregnancy issues**

Finally, preferential treatment and measures could be designed to encourage female social cooperative entrepreneurship comprised by working mothers, single mothers, unemployed mothers and/or pregnant women, combined with convenient employment settings for women while being mothers and/or while being pregnant, in all the types of Koinsep. Accordingly, those Koinsep could be promoted and supported by means of allocated resources, which address, raise awareness and educate women regarding women's employment rights during maternity and pregnancy, the advantages and disadvantages of working motherhood/maternity and working pregnancy. Other than this, particularly Koinsep of Care could be promoted to provide care services for children, the elderly and disabled people so as to empower female workers to participate in the labour market and to remove barriers associated with the patriarchal attitudes of Greek society and the existence of weak legislation on maternity leave as discussed above.

## **7. CONCLUSION**

Women in Greece face several barriers with regard to their access to employment. The economic and financial crisis has severely affected the lives of women in Greece. The most significant barriers to their access to the labour market are connected to the crisis, the patriarchal attitudes of the Greek society and to motherhood. The Greek legal framework on the protection of women in employment is extensive and it entails measures related to both formal and substantive equality. However,

the main barriers to equality of women in the field of employment are related to deep-rooted structural inequalities that the Greek governments have continuously failed to address effectively through legislation and policy measures. Social entrepreneurship offers an alternative approach to address gender inequalities in the field of employment and to enhance economic growth and opportunity. The Social Entrepreneurship Law 2011 provides three different types of Koinsep, i.e. the Koinsep of Integration, Koinsep of Care, Koinsep of Collective and Productive Purpose with a broad range of social objectives. The various types of social objectives of Koinsep can be an important tool to eliminate the structural barriers that women face in the field of employment. The Greek State should take action to improve the legislative framework for the regulation of Koinsep by acknowledging the disadvantaged position of women in the labour market through the inclusion of positive action provisions in the Social Entrepreneurship Law 2011. In addition, the Greek State should take action to promote the Koinsep through a general policy framework that will include the allocation of sufficient resources.

