



## **EQUALITY BETWEEN WOMEN AND MEN IN THE EUROPEAN SOCIAL CHARTER**

Document prepared by the Secretariat of the European Social Charter<sup>1</sup>  
20 September 2005

The European Social Charter supplements the European Convention on Human Rights in the field of economic and social rights. It lays down various fundamental rights and freedoms and establishes supervisory mechanism based on a system of collective complaints and national reports guaranteeing their respect by State Parties. It has recently been amended and the 1996 Revised Social Charter is gradually replacing the initial 1961 treaty. The Charter enshrines a whole body of rights that encompass housing, health, education, employment, social protection, the free movement of individuals and non-discrimination.

In either its original 1961 version or its revised 1996 version, the Charter has been signed by the 46 Council of Europe member states and ratified by 38 of them.

The European Committee of Social Rights (ECSR) ascertains whether countries have honoured the undertakings set out in the Charter. The function of the ECSR is to judge the conformity of national law and practice with the Charter. Its fifteen independent and impartial members are elected by the Council of Europe's Committee of Ministers for a six year term of office, renewable once.

Pursuant to Article E of the revised Charter, enjoyment of the rights set forth in the treaty shall be secured without discrimination based on sex (Article E). Apart from this transversal provision, the ECSR has indicated how rights related to equality between men and women set forth in the Charter should be implemented. This case-law is based on the provisions of the Charter granting women and men equal rights in the field of employment (I) and civil law matters (II). As a general principle, the ECSR has affirmed the need for a precise body of law prohibiting discrimination as well as a need for legal and political measures to realise equality in practice and make the prohibition of discrimination fully effective.

---

<sup>1</sup> This document does not commit the ECSR.

# I – Equal treatment and opportunities in the fields of work and employment

## A. *Workplace equality and social security (Article 20<sup>2</sup>)*

### *Definitions and scope*

Article 20 establishes the right to equal treatment in employment:

- equality in all stages of working life – access to employment, remuneration<sup>3</sup> and other working conditions, including dismissal and other forms of detriment, vocational training and guidance and promotion<sup>4</sup>;
- social security. The Appendix authorises States, when they ratify the Revised Charter or accept Article 20, to make a declaration excluding some or all of the aspects relating to social security.

All discrimination based on sex, whether direct or indirect, must be prohibited.

The principle of equality applies to all employees, in both the private and public sectors. It is also applicable as between full-time and part-time employees<sup>5</sup>.

Occupational activities (and any associated training) that by their nature or the context in which they are carried out can only be entrusted to persons of one sex may be excluded from the scope of Article 20. Such exceptions are subject to strict interpretation. In the case of the police, armed forces and so on, the nature of the activities and the context in which they are carried out are considered in the light of Article G<sup>6 7</sup>.

---

<sup>2</sup> This provision was introduced in 1988 by the Additional Protocol to the Charter (Article 1). It was incorporated into the 1996 Revised Charter and forms one of its "core" provisions, that is one that states have to accept when ratifying it.

<sup>3</sup> The case-law on the right to equal pay, the specific concern of Article 4§3, is considered below under a separate heading.

<sup>4</sup> The wording of Article 20 makes it a form of *lex specialis* whereby it takes precedence over Article 1§2 of the Charter, which prohibits discrimination in employment on whatever grounds.

<sup>5</sup> Sweden has been found not to be in compliance with its obligations because its unemployment insurance legislation entails indirect discrimination against part-time, mainly female, employees (Conclusions 2004, Volume 2, Sweden, Article 20, p. 594).

<sup>6</sup> Under Article G, restrictions on the rights set out in the Revised Charter are only permissible if they are prescribed by law, pursue a legitimate purpose and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.

## *Means of implementation*

### i. Legal framework

The right of women and men to employment and workplace equality must be enshrined in law. The Charter requires States "not only to provide for equal treatment but also to protect women and men from discrimination in employment and training. This means that they are obliged to enact legislation explicitly imposing equal treatment in all aspects."<sup>8</sup> It is not sufficient merely to state the principle in the Constitution.

Any legislation, regulation, administrative or other measure that fails to comply with the equality principle must be repealed or revoked.

Similarly, the relevant authorities must be empowered to set aside, withdraw, repeal or amend any provision in collective agreements, employment contracts or firms' internal regulations that is incompatible with the principle of equal treatment.

The non-application of a discriminatory text is not sufficient for a situation to be considered in conformity with the Charter<sup>9</sup>.

### ii. Right of appeal

National legislation must provide for appropriate and effective remedies in the event of alleged discrimination. Employees who consider that they have suffered employment discrimination must be able to take their case to an independent body.

The burden of proof must be alleviated: while applicants may be required to establish before the relevant body that discrimination might have taken place, respondents must demonstrate that this apparent discrimination was the result of objective factors unrelated to sex.

---

<sup>7</sup> The situation in Greece was found not to be in conformity with the Charter because "the restrictions on the admission of women to the police college and the corresponding exclusion of women from 85% of police duties constitute direct discrimination based on sex that has not been shown to be necessary in a democratic society to protect the public interest or national security or to be justified by the nature of the activities in question" (Conclusions XVI-1, Volume 1, Greece Article 1§2, pp. 277-286 and Conclusions XVI-2, Volume 1, Greece, Article 1 of the Additional Protocol, pp. 361-362). The violation was ended by Act No. 3103/2003, which abolished the quota on women entering police college (Conclusions XVII-2, Volume 1, Greece, Article 1 of the Additional Protocol, [www.coe.int](http://www.coe.int)).

<sup>8</sup> Conclusions XVII-2, Netherlands (Aruba), Article 1 of the Additional Protocol ([www.coe.int](http://www.coe.int)).

<sup>9</sup> The situation in the Netherlands (Aruba) has been found not to be in conformity with the Charter because women are forbidden by law from working at night, even though the Government states that the ban is not applied in practice (Conclusions XVII-2, Netherlands, Article 1 of the Additional Protocol, [www.coe.int](http://www.coe.int)).

A number of other legal steps should be taken to make the right of appeal fully effective, such as setting up an independent body to promote equal treatment and provide legal assistance to victims, or authorising trade unions and other bodies to take action in employment discrimination cases, including action on behalf of individuals.

iii. Adequate compensation

Adequate compensation means a compensation which is sufficiently compensatory for the victim and deterrent for the author of the breach.

Employees who suffer discrimination must be eligible for compensation proportionate to the damage suffered , which means:

- in cases of unlawful or unfair dismissal, reinstatement or retention of employment and compensation for any pecuniary damage suffered<sup>10</sup>;
- where the dismissed employee does not wish to be reinstated or continuation of the employment relationship is impossible, compensation proportionate to the damage suffered, that is to cover pecuniary and non-pecuniary damage<sup>11</sup>;
- in all other cases, an end to the discrimination and compensation proportionate to the damage suffered.

When assessing the level of compensation, the ECSR takes into account its adequacy, i.e. whether it is high enough to prevent employers from reoffending. To this end, it considers any additional administrative, civil or criminal penalties to which employers might be liable.

In accordance with these principles, the Committee considers that compensation should not be subject to an upper limit since this might prevent it from being a sufficient deterrent or from offering adequate reparation<sup>12</sup>.

---

<sup>10</sup> The situation in Finland has been found not to be in conformity with the Charter because there is no statutory right of reinstatement in the event of unlawful dismissal involving discrimination based on sex (Conclusions XVII-2, Finland, Article 1 of the Additional Protocol, [www.coe.int](http://www.coe.int)). Similarly, Belgium has been found not to be in compliance with the Charter because in cases of reprisal dismissals following claims for equal pay, employees' reinstatement is left to the employer's discretion (Conclusions XVI-2, Volume 1, Belgium, Article 4§3, p. 71).

<sup>11</sup> The situation in the Czech Republic has been found not to be in conformity with the Charter because victims of discrimination who do not wish to be reinstated are not guaranteed compensation proportionate to the detriment suffered (Conclusions XVII-2, Czech Republic, Article 1 of the Additional Protocol, [www.coe.int](http://www.coe.int)).

<sup>12</sup> The situation in Germany has been found not to be in conformity with the Charter because the compensation paid to employees in cases of dismissal in retaliation following a claim for equal pay is neither sufficiently dissuasive nor compensatory (Conclusions XVI-2, Volume 1, Germany, Article 4§3, p. 299).

iv. Protection against reprisals

Employees who try to enforce their right to equality must be legally protected against any form of reprisals from their employers, including not only dismissal, but also downgrading, changes to working conditions and so on. National legislation must provide for the same penalties and compensation for reprisal measures as is laid down in section ii above.

**B. Equal pay (Articles 4§3 and 20)**

The right to equal pay is accompanied by certain specific safeguards in addition to those applicable to the general right to equal treatment (see above, A).

*Definitions and scope*

The Charter grants women and men the right to "equal pay for work of equal value". The equal pay principle applies to the same work and to "mixed jobs", that is ones performed by both women and men, but also to work of the same value. This requires States to develop classification methods that enable them to compare the respective values of different jobs and carry out objective job appraisals in the various sectors of the economy, including those with a predominantly female labour force.

The principle of equality should cover all the elements of remuneration, that is basic or minimum wages or salary plus all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment<sup>13</sup>.

The principle of equal pay, including the calculation of the hourly wage, pay increases and the components of pay, must also apply between full-time and part-time workers.

---

<sup>13</sup> The situation in the Netherlands has been found not to be in conformity with the Charter because the notion of remuneration used to apply the principle of equal pay is not sufficiently broad (Conclusions XVI-2, Volume 2, Netherlands, Article 4§3, p. 523).

## *Means of implementation*

### i. Legal framework

The right of women and men to "equal pay for work of equal value" must be enshrined in legislation<sup>14</sup>.

### ii. Right of appeal, penalties and compensation

In order to enable job and wage comparisons, national law must permit comparisons to be done outside an enterprise where this is necessary for an appropriate comparison. This possibility has been considered by the ECSR to be fundamental to ensure an objective job evaluation system in certain circumstances, in particular in enterprises where the workforce is largely, or even exclusively, female<sup>15</sup>. The ECSR does not exclude statistical evidence of wage discrimination.

In cases of unequal pay, any compensation must, as a minimum, cover the difference in pay<sup>16</sup>.

## **C. Women's right to protection (Articles 8, 11 and 20)**

According to the Appendix to Article 20, provisions concerning the protection of women shall not be deemed to be discrimination. Under the revised Charter, such provisions must be justified objectively by needs that apply exclusively to women. They must therefore be restricted to the "biological" protection of women during pregnancy, childbirth and the post-natal period.

---

<sup>14</sup> The situation in Slovakia has been found not to be in conformity with the Charter because there is no express statutory guarantee of the right of men and women to equal pay for work of equal value (Addendum to Conclusions XV-2, Slovak Republic, Article 4§3, pp. 153-154). The same applies to Turkey where the principle of equal remuneration for work of equal value is not established sufficiently explicitly in the legislation (Conclusions XVI-2, Volume 2, Turkey, article 4§3, pp 888-890).

<sup>15</sup> In the Czech Republic, the situation has been found not to be in conformity with the Charter because Czech legislation does not permit pay comparisons to determine equal work or work of equal value beyond a single employer (Conclusions XVII-2, Czech Republic, Article 4§3, www.coe.int.). See also the situation in Iceland (Conclusions XVI-2, Volume 1, Iceland, Article 4§3, pp. 465-466) and Portugal (Conclusions XVI-2, Volume 2, Portugal, Article 4§3, pp. 681 ff).

<sup>16</sup> The situation in the Czech Republic has been found not to be in conformity with the Charter because Czech law does not award sufficient compensation in cases where an individual is dismissed as a reprisal for claiming equal pay (Conclusions XVII-2, Czech Republic, Article 4§3, www.coe.int.).

## *Employees' maternity protection*

### i. Right to maternity leave and benefits

Article 8 – right to maternity protection – grants female employees entitlement to paid maternity leave. This must last at least fourteen weeks under the revised Charter, six of which must be taken after birth<sup>17</sup>.

Maternity leave must be accompanied by the continued payment of the individual's wage or salary, or payment of benefit equal or close to the value of that wage or salary. Periods of unemployment must be included in the calculation of work time needed to qualify for maternity leave<sup>18</sup>.

### ii. Prohibition of dismissal during pregnancy

Article 8 makes it unlawful to dismiss female employees from the time they notify their employer of their pregnancy to the end of their maternity leave. Unlawfully dismissed employees must be offered the same protection as those suffering discriminatory dismissal (see A.ii above)<sup>19</sup>.

### iii. Right to time off for nursing mothers

Under Article 8 employed mothers who breastfeed their babies must be granted time off for that purpose – to be treated as normal working time and remunerated as such – or offered part-time work with compensation for loss of earnings. Such time off must be granted at least until the child reaches the age of nine months.

---

<sup>17</sup> The situation in Latvia has been found not to be in conformity with the Charter because there is no compulsory post-natal leave and mothers can waive part or all of their right to maternity leave (Conclusions XVII-2, Latvia, Article 8§1, [www.coe.int](http://www.coe.int)). See also Denmark (Conclusions XVII-2, Article 8§1, [www.coe.int](http://www.coe.int)) and Bulgaria (Conclusions 2005, Article 8§1, [www.coe.int](http://www.coe.int)).

<sup>18</sup> The situation in Greece has been found not to be in conformity with the Charter because periods of unemployment are not taken into account when calculating periods of employment needed to qualify for maternity leave (Conclusions XVII-2, Greece, Article 8§1, [www.coe.int](http://www.coe.int)). See also France (Conclusions 2005, Article 8§1, [www.coe.int](http://www.coe.int)).

<sup>19</sup> The situation in Finland has been found not to be in conformity with the Charter because the legislation does not require the reinstatement of women dismissed unlawfully for reasons linked to pregnancy or maternity leave and because a ceiling is placed on the compensation payable in the event of unlawful dismissal (Conclusions XVII-2, Finland, Article 8§2, [www.coe.int](http://www.coe.int)). The situation in Belgium has also been found not to be in conformity with the Charter because Belgian law makes no provision for the reinstatement of women unlawfully dismissed and the compensation payable in these cases is subject to a ceiling (Conclusions XVII-2, Belgium, Article 8§2, [www.coe.int](http://www.coe.int)). Finally, in Cyprus the situation has been found not to be in conformity with the Charter because the courts can only order reinstatement of an unlawfully dismissed employee if the enterprise concerned has more than twenty employees (Conclusions 2005, Cyprus, Article 8§2, [www.coe.int](http://www.coe.int)).

iv. Regulation of night work and prohibition of employment in dangerous work

Women may not be prohibited from performing night work. According to the ECSR, "exceptions to the equality principle on behalf of women must be objectively justified by their particular needs. The underlying principle is that if night work is harmful, it is just as detrimental to men as to women"<sup>20</sup>.

However, Article 8 does require states to regulate night work in industrial occupations for pregnant women, women who have recently given birth and women nursing their infants, in other words states must:

- only authorise night work when special production needs make it necessary, having due regard to working conditions and the organisation of work in the firm concerned;
- lay down conditions for such night work.

Article 8 also prohibits the women concerned from working underground in mines. Work involving exposure to lead, benzene, ionising radiation, high temperatures, vibration or viral agents<sup>21</sup> must be prohibited or tightly regulated.

The obligation to regulate night work in industrial occupations and prohibit dangerous activities does not apply to women who do not normally work at nights and who have managerial posts or technical posts carrying responsibilities, or who work in health and welfare services. Nor does it apply to women undergoing brief periods of training in the underground parts of mines.

---

<sup>20</sup> Conclusions XVII-2, Netherlands (Aruba), Article 1 of the Protocol ([www.coe.int](http://www.coe.int)).

<sup>21</sup> The situation in Lithuania has been found not to be in conformity with the Charter because pregnant women, women who have recently given birth and breastfeeding women who are obliged to take leave owing to health and safety risks at work are not remunerated or compensated during this period (Conclusions 2005, Lithuania, Article 8§5, [www.coe.int](http://www.coe.int)). Under the 1961 Charter this ban extends to all women, so the situation in Portugal has been found not to be in conformity with the Charter because there is no ban on the employment of women underground (Conclusions XVII-2, Portugal, Article 8§4, [www.coe.int](http://www.coe.int)).

### *Protecting maternal health*

Although Article 11 (right to protection of health) is not confined to the work place, it should be noted that it requires states to take all necessary steps to reduce the risk of maternal mortality to zero<sup>22</sup>. Pregnant women, women who have recently given birth and nursing mothers must also have access to specialist advice and education services.

#### **D. Specific rights of workers with family responsibilities (Article 27)**

Under Article 27, national legislation must take account of the specific employment and social security needs of workers with family responsibilities. As regards employment conditions, these workers must be entitled to work part-time and then be able to resume full-time working. In the case of social security, periods of unemployment due to family responsibilities should be taken into account in the calculation of pension entitlements.

Workers with family responsibilities must also be entitled to parental leave and be authorised to reduce or interrupt their work because of the serious illness of a child.

Finally, family responsibilities cannot be valid grounds for dismissal<sup>23</sup>. Employees dismissed for this reason must be offered the same protection as those suffering other forms of discriminatory dismissal (see A.ii above).

#### **E. Positive measures to encourage equal opportunities (Articles 4§3, 20 and 27)**

Since "the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact " (ICJ v Portugal, Collective Complaint No. 1/1998, decision on the merits of 9 September 1999, §32), states must take practical steps to promote equal opportunities by correcting *de facto* inequalities between men and women that affect women's opportunities<sup>24</sup>. Moreover, the Appendix to Article 20 makes it clear that positive measures on behalf of women are permitted.

---

<sup>22</sup> The situation in Turkey has been found not to be in conformity with the Charter because the maternal mortality rate is manifestly too high (Conclusions XVII-2, Turkey, Article 11§1, [www.coe.int](http://www.coe.int)).

<sup>23</sup> The situation in Estonia has been found not to be in conformity with the Charter because the amount of compensation that may be awarded to an employee with family responsibilities, illegally dismissed, is subject to a ceiling (Conclusions 2005, Estonia, Article 27§3, [www.coe.int](http://www.coe.int)).

<sup>24</sup> The situation in the Netherlands concerning the Antilles and Aruba has been found not to be in conformity with the Charter because no particular steps are taken to promote women's access to employment (Conclusions XVII-2, Netherlands (Antilles and Aruba), Article 1 of the Additional Protocol, [www.coe.int](http://www.coe.int)).

Appropriate measures include:

- adopting and implementing national equal opportunities action plans;
- requiring individual undertakings to draw up enterprise or company plans to secure greater equality between women and men;
- encouraging the social partners to deal with equality issues in collective agreements;
- offering women specific training and guidance;
- improving job classifications and job evaluation as means of reducing inequalities in pay;
- improving the quality and coverage of wage statistics;
- paying more attention to equal pay for women and men in national action plans for employment.

Action taken must be based on a comprehensive strategy for incorporating the gender perspective into all labour market policies, in accordance with Committee of Ministers Recommendation No. R (98) 14 on gender mainstreaming, addressed to Member States of the Council of Europe on 7 October 1998<sup>25</sup>.

Finally, Article 27 contributes to the goal of equal opportunities by requiring states to take positive action to ensure that workers with family responsibilities do not suffer discrimination as a result of these responsibilities, and to help them to remain in, enter or return to the labour market, particularly through occupational guidance, training and retraining.

Compliance with this provision and with Article 16 entails the establishment of children's day care services. These must be affordable, of a good standard and sufficient in number.

---

<sup>25</sup> See in particular the Committee's comments on the Greek national action plan for 2003 (Conclusions XVII-2, Greece, Article 1 of the Additional Protocol, [www.coe.int](http://www.coe.int)).

## **II – Equality in civil law matters**

By accepting Article 16 (right of the family to social, legal and economic protection), states undertake to promote equality between women and men within the family, in personal and property matters and regarding children. For the purpose of Article 16 family means the community of parents and their children, including single-parent families.

### **A. *Equality between spouses***

There must be full equality of rights and responsibilities between spouses under domestic law. This principle applies to spouses' property relations – ownership, use and administration of assets and inheritance rights<sup>26</sup>.

The right to family reunion (Article 19§6) must also benefit both spouses equally.

### **B. *Parental equality***

National law must provide for equal rights for parents, in terms of establishing maternity and paternity and the exercise of parental authority<sup>27</sup>, including cases of divorce and separation.

---

<sup>26</sup> The situation in Turkey was found not to be in conformity with the Charter because several provisions of the Civil Code continued to give the husband a dominant role, as head of the family and with regard to choice of dwelling place and authority to represent the couple (Conclusions XV-1, Volume 2, Turkey, Article 16, pp. 605-607) The violation was ended by the 2002 reform of the Civil Code (Conclusions XVI-1, Volume 2, Turkey, Article 16, p. 656-657).

<sup>27</sup> The situation in Turkey was found not to be in conformity with the Charter because under the Civil Code the husband had sole parental authority if any dispute arose as to its exercise (Conclusions XV-1, Volume 2, Turkey, Article 16, pp. 605-607) The violation was ended by the 2002 reform of the Civil Code (Conclusions XVI-1, Volume 2, Turkey, Article 16, p. 656-657).



## APPENDIX I

**For more information about the supervisory machinery,  
and the reporting and collective complaints procedures  
see our Web site**

[www.coe.int](http://www.coe.int)

## APPENDIX II

### **Provisions of the Charter and the Revised Charter – Extracts**

#### Article 1

**Everyone shall have the opportunity to earn his living in an occupation freely entered upon.**

“With a view to ensuring the effective exercise of the right to work, the Parties undertake:

- 2 to protect effectively the right of the worker to earn his living in an occupation freely entered upon.”

#### Article 4

**All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.**

“With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

- 3 to recognise the right of men and women workers to equal pay for work of equal value.”

#### Article 8

**Employed women, in case of maternity, have the right to a special protection.**

“With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:

- 1 to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;

- 2 to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;

*Appendix: This provision shall not be interpreted as laying down an absolute prohibition. Exceptions could be made, for instance, in the following cases:*

- a if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship;*
  - b if the undertaking concerned ceases to operate;*
  - c if the period prescribed in the employment contract has expired.*
- 3 to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;
  - 4 to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;
  - 5 to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.”

### **Article 11**

**Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.**

“With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

- 1 to remove as far as possible the causes of ill-health;
- 2 to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
- 3 to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.”

## **Article 16**

**The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.**

“With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

*Appendix: It is understood that the protection afforded in this provision covers single-parent families.”*

## **Article 20**

**All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.**

“With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- a access to employment, protection against dismissal and occupational reintegration;
- b vocational guidance, training, retraining and rehabilitation;
- c terms of employment and working conditions, including remuneration;
- d career development, including promotion.

*Appendix: 1 It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this article.*

*2 Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in this article.*

*3 This article shall not prevent the adoption of specific measures aimed at removing de facto inequalities.*

*4 Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.”*

## **Article 27**

**All persons with family responsibilities and who are engaged or wish to engage in employment have a right to do so without being subject to discrimination and as far as possible without conflict between their employment and family responsibilities.**

“With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

- 1 to take appropriate measures:
  - a to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;
  - b to take account of their needs in terms of conditions of employment and social security;
  - c to develop or promote services, public or private, in particular child daycare services and other childcare arrangements;
- 2 to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;
- 3 to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

*Appendix: It is understood that this article applies to men and women workers with family responsibilities in relation to their dependent children as well as in relation to other members of their immediate family who clearly need their care or support where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. The terms “dependent children” and “other members of their immediate family who clearly need their care and support” mean persons defined as such by the national legislation of the Party concerned.”*

## **Article E – Non-discrimination**

“The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.”

