



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	The Netherlands
<b>Title:</b>	Government compensates self-employed women who did not receive a maternity benefit between 2004 and 2008
<b>Date:</b>	7 November 2017
<b>Expert:</b>	Marlies Vegter
<b>Update of news report:</b>	<a href="#">The Netherlands - Administrative High Court rules that self-employed women who did not receive a maternity benefit between 2004 and 2008 are entitled to compensation (PDF 110 kB)</a>
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Arrangement for compensation of self-employed women who did not receive a maternity benefit
<b>Ground of discrimination:</b>	Sex
<b>Source:</b>	Policy development
<b>Field:</b>	Pregnancy and maternity
<b>Applicable law:</b>	Article 3:18(2) Employment and Care Act, article 3:19 Employment and Care Act (old), Article 11 UN Convention on Women's Rights

### **Content**

#### **Policy development:**

The Minister of Social Affairs and Employment informed Parliament on 17 October 2017 that self-employed women who gave birth between 7 May 2005 and 4 June 2008 will as yet receive compensation for the 'missed' maternity benefit during that period. The compensation scheme will be executed by social security agency 'UWV' and will provide for compensation to self-employed women, professionals and co-working spouses if they have given birth during this period. Applications must be filed within three months after publication of the scheme. The compensation will be equal to 90% of the minimum wage of 2017 for 80 days of work. That results in approximately € 5.600,-, which amount corresponds to the average maternity benefit self-employed women received in 2017. It is expected that approximately 20.000 women will be entitled to the compensation.

The Minister announced the regulation shortly after the judgment by the Administrative High Court of 27 July 2017. In its judgement, the Court ruled that the State breached the UN Convention on Women's Rights by abolishing the right to a maternity benefit for self-employed women in 2004 and re-introducing the same right in 2008 without creating an arrangement for the women who gave birth between 2004 and 2008. The Administrative High Court ruled that the social security authorities would have to compensate the applicants of the case by providing a maternity benefit.

The Minister has now decided to offer compensation to all women who were in the same position as the applicants of the case. The scheme is not definite yet, but as soon as this will be the case, UWV will provide information about the period during which the compensation can be claimed.

**Key points of analysis:** It took several proceedings starting from 2005 and involving inter alia the Dutch Supreme Court, the CEDAW-Committee and the Administrative High Court, before the Dutch government finally decided to offer compensation to the self-employed women involved. This result has been reached thanks to the Clara Wichmann fund for test cases, trade union 'FNV self-employed', various lawyers who worked partly unpaid, several volunteers who supported the case and six women – three in the end – who were willing to go through the legal proceedings. The result is good, but it would have been better if the government had taken measures much earlier in the process and if it had been more respectful towards the opinions of the CEDAW-Committee.

**Internet link source:**

<https://www.rijksoverheid.nl/actueel/nieuws/2017/10/17/compensatie-voor-zelfstandigen-met-kind> (information on the website of the government)

<https://www.rijksoverheid.nl/documenten/kamerstukken/2017/10/17/kamerbrief-compensatieregeling-voor-vrouwelijke-zelfstandigen>

(letter by the Minister to Parliament of 17 October 2017)