



# HUGO SINZHEIMER MOOT COURT CASE 2018

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## THE CASE

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Aiutare.it is a platform created by Eloisa Sforza. The platform connects cleaners with people who are looking for a cleaner. By the use of a special app developed for Aiutare.it exclusively, customers can find a local cleaner. All a customer needs to do is enter the postal code and some specifics about the house that needs to be cleaned, and a list of available cleaners pops up. When the customer clicks on a particular cleaner, a photo, name and rating of the cleaner is shown. Aiutare.it has started its business in 2009 and has become very successful. Early in 2011 the company was bought by a Dutch private limited company, i.e. SchoonInHuis.com. Although the tradename 'Aiutare.it' is kept, the company is a fully Dutch entity, and the place of business under the articles of association of the Dutch Civil Code is Amsterdam. Aiutare.it uses two sets of general terms and conditions: one that covers its relation with the customer (**Annex 1**); and one that shapes the relation between the customer and the cleaners (**Annex 2**).

Luigi (born in 1985) is a professional Italian musician, who is very passionate about his guitar playing and songwriting, unfortunately though, for the moment, he is not very successful. Together with the love of his life, the French singer Beatrice La Rouge, he lives in a nice little house in Menton, France, just across the border with Italy. Both have only occasional gigs in music, therefore Luigi started to clean houses in November 2013. To access the market of domestic workers, Luigi registered with the platform Aiutare.it and not without success, because approximately 80% of his work is via Aiutare.it and most of it is in Italy, just across the border from where they live. In this way he is able to make a nice living for the both of them. He is paid EUR 9,75 per hour and is free to arrange his working hours with the customers. When he signed up, Luigi received a short introduction regarding the four principles that form the business philosophy of Aiutare.it: quality, responsibility, efficiency and freedom. At this introduction, he and the other cleaners, received a smartphone with the pre-installed Aiutare-app and some practical apps with cleaning instructions and an app to scan certain cleaning products and find information on what they are best used for. The introduction afternoon was formalized with a contract, signed by Luigi and Aiutare.it (**Annex 3**). Especially in the beginning Luigi used these apps intensively, but after a while it is clear what to use for what and how much, etc. Still, Luigi is very happy with the smartphone, because it has a much better speaker than his own



smartphone which makes it much nicer to listen to music whilst cleaning. He listens to his own music, but he has also downloaded various playlists for inspiration.

After the summer of 2017 Luigi notes that he has less and less cleaning jobs via Aiutare.it. His regular customers are in principle still with him, but he has less and less one-day jobs. The on-off cleaning jobs (e.g. house cleaning after a party or incidental office cleaning) typically generate 40 to 50% of his income and these are the jobs that have dropped off significantly. Early in 2018, they are merely 10% of what they used to be. When he mentions this to one of his customers she is surprised, because she always recommends him to others. She remembers though that one of her neighbors she recommended him to found him as the last listed cleaner ranked with 5 stars on the app of Aiutare.it. She also recalled that all cleaners presented above him were female.

Luigi is surprised and tests it himself: when he looks for a cleaner, a list is shown with 25 cleaners, amongst which only three men. Luigi knows that in the area where he lives far more male cleaners work via Aiutare.it.

Luigi contacted Aiutare.it to ask for an explanation why he is ranked last below females only and why less men are presented while many more offer their services. He received the following e-mail in response:

*"Dear Luigi,  
Unfortunately it has come to our attention that you have downloaded music on the Aiutare smartphone, which is a clear violation of the rules on what to use the device for. The contract you signed is very clear about this, including the consequences when such violations are detected. This is a violation of the contract you signed. Consequently, we deemed it necessary to take disciplinary measures, meaning that your profile is automatically presented as last among other cleaners with the same client rating. This measure is effective for a period of one year, and was effectuated per 1 July 2017.*

*We would like to further stress that since you are an independent contractor, it is your responsibility to gather enough clients. With respect to the ranking between female cleaners, we like to remark that it is a generally known fact that women are better cleaners. Besides that, most of the male cleaners did not follow our advice to create an extended profile. This explains why many of them do not make the top 25. We are absolutely not violating any equal treatment rules, on the contrary, we are proud that almost half of the cleaners that are affiliated with our platform are male cleaners."*

Luigi is upset by this response. He wonders how they know about the music he downloaded on the Aiutare.it smartphone and he feels spied upon. On top of that, he feels that he is treated unfairly since women seem to be ranked above him and his male colleagues by default.



## THE CLAIMS

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Luigi submits the following claims:

Therefore, may it please the Court to enter judgment provisionally enforceable as far as possible, that the defendant:

1. within two days of service of the Court's judgment lifts the sanction of being placed last at the ranking, subject to a penalty of EUR 10,000 (ten thousand euros) for each day the judgment is not observed;
2. within two days of service of the Court's judgment amend the algorithm that presents female cleaners with priority over male cleaners in a way that there is no discrimination based on sex in the ranking of cleaners, subject to a penalty of EUR 10,000 (ten thousand euros) for each day the judgment is not observed;
3. pays to the claimant an amount of EUR 175, 50 per week as of 1 September 2017 up to the date the claims under 1 and 2 are effectuated, increased with statutory interest;
4. pays to the claimant an amount of EUR 50,000 as compensation of immaterial damages suffered by the defendant because of the breach of his privacy.



## INSTRUCTIONS FOR PARTIES AND JUDGES

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Parties have no debate about the choice of law, i.e. Dutch. There are no provisions of other jurisdictions applicable to the case.

## SELECTED PROVISIONS OF DUTCH LAW

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### 1. SELECTED PROVISIONS OF THE DUTCH CIVIL CODE<sup>1</sup>

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#### **Article 7:400 - Definition of service contract**

- 1. A service provision agreement is the agreement under which one of the parties ('the service provider') has engaged himself towards the other party ('the client') to perform work on another basis than an employment agreement, which work consists of something else than the making of a tangible construction, the safekeeping of property, the publication of a work or the transportation of persons or goods.
  
- 2. The provisions of Articles 7:401 up to and including 7:412 apply to each type of service provision agreement, unless something else results from law, the content or nature of the agreement, another juridical act or usage (common practice) and without prejudice to Article 7:413.

#### **Article 7:610 - Definition of 'employment contract'**

- 1. An employment agreement is an agreement under which one of the parties ('the employee') engages himself towards the opposite party ('the employer') to perform work for a period of time in service of this opposite party in exchange for payment.
  
- 2. When an agreement has the characteristics of both, an agreement as meant in paragraph 1 and of another statutory regulated particular agreement, then the statutory provisions of the present Title (Title 7.10) and the statutory provisions set by law for this other particular agreement shall apply simultaneously (side by side) to that agreement. In the event of a conflict between these statutory provisions, the statutory provisions of the present Title (Title 7.10) prevail.

#### **Article 7:646 - No discrimination on grounds of gender**

- 1. Employers may not discriminate between men and women when entering into an employment agreement, nor when providing training for employees, determining the terms

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<sup>1</sup> Source: <http://www.dutchcivillaw.com/legislation/dcctitle771010.htm>



and conditions of employment, deciding on promotion, or terminating an employment agreement.

- 2. As far as it concerns the subjects of entering into an employment agreement or the provision of training, it is possible to derogate from paragraph 1 if the discrimination is based on gender related characteristics which, in view of the nature of the specific work to be performed or of the context in which this work has to be performed, forms an essential and decisive professional requirement, provided that the objective is legitimate and that the requirement is in proportion to this objective. Section 5, Subsection 3 of the Equal Treatment (Men and Women) Act applies accordingly.

- 3. It is permitted to derogate from paragraph 1 if it concerns conditions or stipulations related to the protection of women, particularly in connection with pregnancy or motherhood.

- 4. It is permitted to derogate from paragraph 1 if it concerns conditions or stipulations which intend to place female employees in a privileged position in order to eliminate or reduce existing disadvantages, and the discrimination is in reasonable proportion to this objective.

- 5. In the present Article by:

a. 'discrimination' is understood a direct or indirect discrimination as well as an instruction to apply such discrimination.

b. 'direct discrimination' is understood the situation in which a person is or would be treated differently on the basis of his gender than another person in a similar situation, on the understanding that indirect discrimination includes also a discrimination on the basis of pregnancy, childbirth or motherhood.

c. 'indirect discrimination' is understood the situation in which an apparently neutral provision, standard or method affects, in comparison to other persons, in particular persons of a certain gender.

- 6. The prohibition of direct discrimination, laid down in the present Article, includes also a prohibition of harassment and a prohibition of sexual harassment.

- 7. By 'intimidation' as meant in paragraph 6 is understood: behaviour related to the gender of a person and of which the purpose or effect is the violation of a person's dignity and the creation of an intimidating, hostile, degrading, humiliating or offending environment.

- 8. By 'sexual intimidation' as meant in paragraph 6 is understood: any form of verbal, non-verbal or physical behaviour of a sexual nature of which the purpose or effect is the violation of a person's dignity, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

- 9. An employee who rejects or passively submits to the behaviour meant in paragraph 7 and 8, may not be treated adversely by the employer.



- 10. The prohibition of discrimination, laid down in paragraph 1, does not apply to indirect discrimination that is objectively justified by a legitimate objective and the means for reaching this objective are appropriate and necessary.
- 11. A contractual provision in conflict with paragraph 1 is null and void.
- 12. If a person thinks that he is or has been discriminated to his disadvantage as meant in the present Article and he adduces, in court, facts that give rise to the presumption that such a discrimination indeed has occurred, then the opposite party must prove that he has not acted in conflict with the provisions the present Article.
- 13. Paragraph 2 and 3 do not apply to a prohibition of harassment and sexual harassment meant in paragraph 6.
- 14. The employer may not treat the employee adversely on account of the circumstance that the employee made an appeal on paragraph 1 or provided assistance in the matter of paragraph 1.

#### **Article 7:650 - Contractual penalty clause**

- 1. The employer may only set a penalty on the violation of a contractual provision of the employment agreement if in the employment agreement itself is specified that a violation of this particular contractual provision will be fined with a penalty and to what amount.
- 2. The agreement in which a penalty clause has been stipulated, must be concluded in writing.
- 3. The agreement in which a penalty clause has been stipulated, mentions precisely how the received penalty will be used. A penalty may not have the result that the employer or the person to whom he has granted the right to impose a penalty on the employee, obtains a personal advantage because of it.
- 4. Every penalty, stipulated in an employment agreement, must be set to a specific amount, expressed in the same currency as in which the wages are determined.
- 5. Over a period of one week, the employer may not charge the employee with penalties for a higher total sum than the employee's wages for half a day. No separate penalty may be set to a higher amount than the employee's wages for half a day.
- 6. Each contractual provision in conflict with a provision of the present Article is null and void. However, it is permitted to derogate by written agreement from the provisions of paragraph 3, 4 and 5, as far as it concerns employees whose wages fixed in money amounts more than the minimum wages set by law for employees of the same age. If such a derogation has been made, then the court may at all times set the penalty at a smaller sum if it thinks the imposed penalty is excessive.
- 7. If afterwards the amount of wages, mentioned in paragraph 6, are modified, then the effect of contractual provisions derogating from paragraph 3, 4 and 5, is suspended towards



the employee whose wages fixed in money do not exceed the modified amount of the minimum wages.

- 8. For the purpose of the present Article, the setting and stipulation of a penalty includes the situation where the employer has stipulated a penalty as meant in Article 6:91 up to and including Article 6:94.

**Art. 7:660 - Instruction right of the employer)**

The employee must observe the work instructions and the instructions intending to maintain good order in the enterprise or organisation of the employer, given by or on behalf of the employer within the limits of the employment agreement and law to the employee, either individually or as a part of a group of employees.

## 2. SELECTED PROVISIONS OF THE LAW ON THE PROTECTION OF PERSONAL DATA (WHICH IMPLEMENTS EU DIRECTIVE 95/46/EC)<sup>2</sup>

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### **Section 1 - Definitions**

In this Act and the provisions based upon it:

- a. personal data means: any information relating to an identified or identifiable natural person;
- b. processing of personal data means: any operation or set of operations which is/are performed upon personal data, including in any case the collection, recording, organisation, storage, adaptation, alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of data;
- c. filing system means: any structured set of personal data, whether centralized or dispersed on a functional or geographical basis, which is accessible according to specific criteria and relates to different persons;
- d. controller means: the natural or legal person or any other party who or the administrative body which, alone or jointly with others, determines the purposes and means of the processing of personal data;
- e. processor means: the person who processes personal data on behalf of the controller without being subject to his direct authority;

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<sup>2</sup> Source: [https://www.akd.nl/t/Documents/17-03-2016\\_ENG\\_Wet-bescherming-persoonsgegevens.pdf](https://www.akd.nl/t/Documents/17-03-2016_ENG_Wet-bescherming-persoonsgegevens.pdf)



- f. data subject means: the person to whom the personal data relate;
- g. third party means: any person other than the data subject, the controller, the processor or any person who, under the direct authority of the controller or the processor, is authorised to process the personal data;
- h. recipient means: the party to whom personal data are disclosed;
- i. the data subject's consent means: any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed;
- j. the Minister means: the Minister of Security and Justice;
- k. Data Protection Authority or the Authority means: the Authority referred to in Section 51;
- l. official means: the data protection official referred to in Section 62;
- m. prior checking means: a check as referred to in Section 31;
- n. disclosure of personal data means: the publication or making available of personal data;
- o. collection of personal data means: obtaining personal data;
- p. Framework Act means: the Non-Departmental Administrative Bodies Framework Act;
- q. binding order: an independent order imposed for a violation;
- r. independent order: an order to perform specific acts, referred to in Section 5:2 (2) of the General Administrative Law Act to promote compliance with legal rules.

## **Section 2 - Scope**

1. This Act applies to the processing of personal data wholly or partly by automatic means, and to the processing other than by automatic means of personal data which form part of a filing system or are intended to form part of a filing system.
2. This Act does not apply to the processing of personal data:
  - a. in the course of a purely personal or household activity;
  - b. by or on behalf of the intelligence and security services referred to in the Intelligence and Security Services Act 2002;
  - c. for the purpose of performing the police responsibilities referred to in Sections 3 and 4 (1) of the Police Act 2012;
  - d. which is governed by or pursuant to the Persons Database Act;
  - e. for the implementation of the Judicial Information and Criminal Records Act, and





f. for the implementation of the Elections Act.

3. This Act does not apply to the processing of personal data by the armed forces if the Minister of Defence decides on this for purposes of deploying or making available the armed forces to maintain or promote the international legal order. The Authority will be notified of such decision as soon as possible.

#### **Section 4 – Territorial scope**

1. This Act applies to the processing of personal data in the context of the activities of an establishment of a controller in the Netherlands.

2. This Act applies to the processing of personal data by or on behalf of a controller who is not established in the European Union and who makes use of equipment, automated or otherwise, situated in the Netherlands, unless such equipment is used only for purposes of the transit of personal data.

3. A controller as referred to in subsection 2 is prohibited from processing personal data unless he designates a person or body in the Netherlands that acts on his behalf in accordance with the provisions of this Act. For the purposes of this Act and the provisions based upon it, he will be regarded as the controller.

#### **Section 6 – Fair processing**

Personal data are processed in accordance with the law and in a proper and careful manner.

#### **Section 7 – Purpose limitation**

Personal data are collected for specified, explicit and legitimate purposes.

#### **Section 8 – Legal grounds for data processing**

Personal data may be processed only if:

- a. the data subject has unambiguously given his consent to the processing;
- b. the data processing is necessary for the performance of a contract to which the data subject is party, or in order to take steps at the request of the data subject prior to entering into a contract and which are necessary for the conclusion of a contract;
- c. the data processing is necessary for compliance with a legal obligation to which the controller is subject;
- d. the data processing is necessary in order to protect a vital interest of the data subject;
- e. the data processing is necessary for the proper performance of a public law task by the relevant administrative body or the administrative body to which the data are disclosed, or
- f. the data processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party to whom the data are disclosed, unless such interests are overridden by the interests or the fundamental rights and freedoms of the data subject, notably the right to privacy, which require protection.

#### **Section 9 – Processing for incompatible purposes**



1. Personal data may not be further processed in a way incompatible with the purposes for which they were collected.
2. When assessing whether processing is incompatible as referred to in subsection 1, the controller will in any event give consideration to:
  - a. the relationship between the purposes of the envisaged processing and the purposes for which the data were collected;
  - b. the nature of the data concerned;
  - c. the consequences of the envisaged processing for the data subject;
  - d. the way in which the data were collected, and
  - e. the extent to which appropriate safeguards have been put in place with respect to the data subject.
3. Further processing of the data for historical, statistical or scientific purposes is not considered incompatible if the controller has taken the measures necessary to ensure that the further processing is carried out solely for those specific purposes.
4. Personal data are not processed in so far as this is precluded by an obligation of secrecy resulting from an office, profession or legal rule.

### Section 33

1. If personal data are to be collected from the data subject, the controller will, before the time of collection, provide the data subject with the information referred to in subsections 2 and 3, except where he already has it.
2. The controller will disclose his identity and the purposes of the processing for which the data are intended to the data subject.
3. The controller will provide further information in so far as such information is necessary, having regard to the nature of the data, the circumstances in which they are collected or the use that is made of them, to guarantee proper and careful processing in respect of the data subject.

### **Section 34 - Information obligation to data subject regarding different collecting**

1. If personal data are collected differently from the manner referred to in Section 33, the controller will provide the data subject with the information referred to in the subsections 2 and 3, except where he already has it:
  - a. at the time of recording the data relating to him, or
  - b. if disclosure of the data to a third party is envisaged, no later than when the data are first disclosed.
2. The controller will disclose his identity and the purposes of the processing to the data subject.



3. The controller will provide further information in so far as such information is necessary, having regard to the nature of the data, the circumstances in which they are collected or the use that is made of them, to guarantee proper and careful processing in respect of the data subject.
4. Subsection 1 does not apply if it proves impossible or would involve a disproportionate effort to disclose the information to the data subject. In that case the controller will record the source of the data.
5. Nor does subsection 1 apply if the recording or the disclosure is prescribed by or pursuant to the law. In that case the controller must inform the data subject, at his request, about the legal rule that resulted in the recording or disclosure of the data relating to him.

### **Section 35 – Right of access**

1. The data subject may request the controller without constraint and at reasonable intervals to notify him about whether personal data relating to him are being processed. The controller will notify the data subject about whether or not his personal data are being processed in writing within four weeks.
2. Where such data are being processed, the notification will contain a full summary thereof in an intelligible form, a description of the purpose(s) of the processing, the categories of data concerned and the recipients or categories of recipients, as well as the available information on the source of the data.
3. Before a controller provides the notification referred to in subsection 1, against which a third party is likely to object, he will give that third party the opportunity to express his views where the notification contains data relating to him, unless this proves impossible or involves a disproportionate effort.
4. Upon request, the controller will provide knowledge of the logic involved in any automatic processing of data concerning him.

### **Section 36 – Right to correct, supplement and remove**

1. A person who has been notified of personal data relating to him in accordance with Section 35 may request the controller to correct, supplement, remove or block those data if they are factually incorrect, incomplete or irrelevant in relation to the purpose(s) of the processing or are otherwise being processed in breach of legal rules. The request will contain the changes to be made.
2. The controller will notify the applicant within four weeks of receiving the request in writing whether or to what extent he is complying with the request. A refusal will be reasoned.
3. The controller will ensure that a decision to correct, supplement, remove or block data is implemented as soon as possible.
4. Where personal data have been recorded on a data carrier to which changes cannot be made, he will take the measures necessary to inform the user of the data of the impossibility



of correcting, supplementing, removing or blocking data despite the fact that there are grounds to amend the data on the basis of this section.

5. The provisions of subsections 1 and 4 do not apply to public registers which have been established by law, where such law provides for a special procedure to correct, supplement, remove or block data.

#### **Section 40 – Right to object**

1. The data subject may at any time object to the controller where data are being processed pursuant to Section 8 (e) and (f) on grounds relating to his particular circumstances.

2. The controller will assess whether the objection is justified within four weeks of receiving the objection. If the objection is justified, he will immediately cease processing the data concerned.

3. The controller may require payment of the costs incurred in dealing with an objection, which may not exceed an amount to be laid down by or pursuant to an order in council. The costs will be reimbursed where the objection is allowed.

4. This section does not apply to public registers which have been established by law.

#### **Section 42 – Automated decision on the basis of a personal profile**

1. No-one may be subjected to a decision which produces legal effects concerning him or which significantly affects him where such decision is based solely on automated processing of personal data intended to evaluate certain personal aspects relating to him.

2. Subsection 1 does not apply if the decision:

a. is taken in the course of the entering into or performance of a contract and

1°. provided the request lodged by the data subject has been satisfied, or

2°. suitable measures have been taken to safeguard his legitimate interests,

or

b. is authorised by a law which also lays down measures to safeguard the data subject's legitimate interests.

3. A suitable measure referred to in subsection 2 (a) is taken if arrangements are made allowing the data subject to put forward his point of view about the decision referred to in subsection 1.

4. In the case referred to in subsection 2, the controller will notify the data subject of the logic involved in any automated processing of personal data concerning him.



### 3. SELECTED PROVISIONS FROM THE LAW ON EQUAL TREATMENT BETWEEN MAN AND WOMAN (WHICH IMPLEMENTS EU DIRECTIVE 76/207/EEC)

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#### **Section 1**

1. In this Act the following definitions apply:

- a. ‘discrimination’: direct or indirect discrimination, as well as instruction to discriminate;
- b. ‘direct discrimination’: where one person is treated less favourable on grounds of sex than another is, has been or would be treated in a comparable situation;
- c. ‘indirect discrimination’: where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex.

2. Direct discrimination includes any less favourable treatment of a woman related to pregnancy or maternity leave.

#### **Section 1a**

1. The prohibition of direct discrimination also includes prohibition of harassment and sexual harassment.

2. Harassment as referred to in paragraph 1 means: conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment;

3. Sexual harassment as referred to in paragraph 1 means: any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment;

4. A person's rejection of or submission to conduct described in the second and third paragraph, may not be the ground for a decision affecting that person.

5. Section 3, paragraph 2, section 4, paragraph 2, and section 5, paragraph 1 and 2, are not applicable to the prohibition of harassment and sexual harassment as understood in paragraph one.

#### **Section 5**

1. It is possible to deviate from Articles 1b, 2, 3, and 4 if the distinction aims to promote the position of women with a view to ensure full equality or reduce inequality and the distinctive treatment is proportionate to achieve the aim.

2. For as far as access to occupational activities or therefore necessary training is concerned, it is possible to deviate from Articles 1b, 2, 3, and 4, when such difference of treatment is based on a characteristic related to sex by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that its objective is legitimate and the requirement is proportionate.



3. As occupational activities and therefore necessary training which are characterised as understood in paragraph 2, genuine and determining occupational requirement, are only considered those which belong to and respectively train for pastoral positions as well as occupational activities that have been defined as such by general administrative order.

### **Section 6**

The in this Act regulated prohibition of discrimination does not apply with respect to indirect discrimination, if that discrimination is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

### **Section 6a**

When persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish as understood by this Act, present facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of this Act.

### **Section 7**

1. For the application of Article 7:646 Dutch Civil Code wage, as referred to in that provision, is presumed to be all aspects and conditions of remuneration common in the company where the employee whose rights have allegedly been wronged will be compared with the remuneration of an employee with other skills for work of equal value, or in lack of such, for employment of similar value.

2. Wage, as meant in paragraph 1, means the remuneration the employer owes to the employee in exchange for his or her labour.

### **Section 8**

For the application of Section 7, labour is valued by a solid job classification system, which is similar to the system that is used by the company the wronged employee is employed. When such a system is absent, the labour is valued on reasonability based on all available information.

### **Section 9**

1. For the application of Section 7 the remuneration of the allegedly wronged employee is presumed to be equal to the remuneration of another employee with other skills for work of equal value, when its calculation is based on equivalent standards.

2. For the application of Section 7, other elements than monetary parts are taken into account for the economic value generally allocated to it.

3. In the situation that the agreed working time is shorter than those of comparable labour relations which are generally considered as full time employment, the remuneration will be adjusted pro rata.