

# Equal treatment between men and women: self-employed workers and their spouses

2008/0192(COD) - 31/03/2009

The Committee on Women's Rights and Gender Equality adopted the report drawn up by Astrid LULLING (EPP-ED, LU) amending, under the first reading of codecision procedure, the proposal for a directive of the European Parliament and of the Council on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Directive 86/613/EEC.

The main amendments are as follows:

**Definitions:** the committee states that for the purposes of this Directive, the terms 'marital status' and 'family business' should be interpreted in the light of the recognition accorded to life partnerships in the relevant judgments of the European Court of Justice. This amendment implements the ECJ judgment of 1 April 2008 in case C-267/06 (Tadao Maruko).

**Social protection for assisting spouses:** these measures shall ensure that assisting spouses become members in their own right of the social insurance schemes in place for self-employed workers and covering sickness, invalidity and old age, provided they contribute to those schemes on the same basis as self-employed workers and even if their contributions have to be calculated on a flat-rate basis. The insurance contributions of assisting spouses shall be tax-deductible as operating expenditure, on terms similar to those applying to the remuneration actually paid to the spouse, subject to the double condition that the services have been correctly provided and that the remuneration is that normally practised for such services.

The committee notes that membership of social insurance schemes should be made mandatory for assisting spouses. The experience of certain Member States has shown that where assisting spouses are offered the choice of being members or not of a social insurance scheme, they often choose not to join. Few assisting spouses are aware that, notably after divorce, they will lose all welfare benefits, especially pension rights.

**Recognition of the work of assisting spouses:** a new article states that Member States shall undertake to examine under what conditions recognition of the work of assisting spouses may be encouraged and, in the light of such examination, consider any appropriate steps for encouraging such recognition.

The committee notes that the aim is to allow the possibility of compensation in case of divorce or separation, in cases where the assisting spouse is in a highly precarious situation after years of work for the farm or business.

**Equality body:** this body, which may be chosen from among those already existing for the promotion, analysis, monitoring and support of equal treatment of women and men, must also exchange, at the appropriate level, the information available with similar European bodies, such as the European Institute for Gender Equality.

In addition, a new clause on **gender mainstreaming** states that Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in this Directive.

**Review:** no later than four years after the date of transposition, the Commission shall review the operation of this Directive and if appropriate, propose any amendments it deems necessary.

**Application:** if particular difficulties justify it, Member States may, if necessary, have an additional period of 1 year to comply with this directive.

**Minimum requirements:** a new clause stipulates that Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive.