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

2008/0192(COD) - 06/05/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 550 votes to 14 with 57 abstentions a legislative resolution 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:

Companies - marital or family status: a new article provides that Member States shall ensure that there is no discrimination based on marital or family status as regards the conditions for setting up a company between spouses or between life partners when recognised by national law. All companies which are jointly established by spouses or life partners when recognised by national law shall be recognised as a 'family business'. The recognition of life partnership shall be based on the relevant judgments of the Court of Justice of the European Communities.

Social protection for assisting spouses and life partners: Parliament wants to make it compulsory for assisting spouses to have social security cover. Member States must enact measures to ensure that assisting spouses and life partners can benefit from at least an equal level of protection as self-employed workers under the same conditions applicable to self-employed workers. If this extension of benefits is not mandatory under the legislation of a particular Member State, it shall be granted upon a request made by an assisting spouse or life partner. Those 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 which is normal for such services.

Maternity leave: female self-employed workers and assisting spouses should be entitled to a period of maternity leave adapted to their specific needs. The maternity leave should be of duration of their choice provided that the total length does not exceed that specified in Directive 92/85/EEC.

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.

Gender mainstreaming: a new clause provides 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 4 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.