



ETUC position paper on the first stage consultation of social partners on the review of Directive 86/613/EEC 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood

Introduction

ETUC welcomes the European Commission's launch of the first stage consultation of the social partners on a possible revision of **Directive 86/613/EEC**, despite the short time frame provided and the unusual procedure of consultation followed.

In our opinion, it is high time for such a revision to be carried out, considering that the objectives of the Directive have by no means been achieved. This is partly due to a lack of direction and the vague terminology used in the text. Furthermore, certain articles of the Directive carry no obligation for action. But even where the Directive does oblige Member States to take action, this has either not had the desired effect, or it has not been done with the necessary vigour. Consequently, it does not appear as if the Directive has had the impact originally hoped for.

ETUC recalls and reiterates its full support for the various resolutions adopted by the European Parliament related to this Directive, including the resolution of 8 January 1997 on the situation of assisting spouses of the self-employed, and the resolution of 12 March 2007 on the situation of women in rural areas of the EU. These texts set out a number of observations and concerns which remain valid today.

ETUC recognises the complexity of this Directive, dealing as it does with two groups of persons and 2 types of statutes. However, this can not be a reason for not taking further action. ETUC underlines the need to set more binding minimum legal standards at EU level.

The EC implementation Report of 1994 referred to a number of discrepancies in the implementation of the Directive in the 12 countries covered by the report. While this is problematic in itself, it is likely that the situation is even worse in those countries which have recently joined the EU. However, unfortunately, no data, either quantitative or qualitative, exists, and this poses an additional problem.

Content

General Comments:

Directive 86/613/EEC addresses 2 separate issues - the issue of female self employed workers as well as the issue of the status of the assisting spouses.

With regard of the notion of self employed workers, ETUC recognises the importance of establishing an EU wide definition and calls on the European Commission to carry out a recast of all directives dealing with self employment into a single text in order to provide more clarity and consistency.

Concerning the issue of assisting spouses there are a number of elements which the ETUC would like to be taken into consideration in a revision of Directive 86/613.

- Need to make full use of the significant potential of women in the labour market in both rural and urban areas in order to meet Lisbon targets.
- Reference to demographical change: rural areas are affected by ageing population and in some regions depopulation.
- Reference to changing family patterns and rural areas affected by gender stereotypes.

Specific Comments

ETUC has a number of specific comments which it would like to see taken on board in any revision of the Directive:

- **extend the scope** of the Directive to include assisting life-partners in other long-term forms of cohabitation in those Member States that recognise contracts of this kind, including same-sex marriages.
- Include a definition on the minimum requirements of the **status** of self-employed assisting spouses or life-partners in an economic activity. The situation varies widely among Member States. The definition should tackle the specific situation of female self-employed workers in the agricultural sector and their specificities. Member States will therefore be able to include this specific category of workers into their statistics and make their work more visible;
- Furthermore, Member States should also foresee a system of **compulsory registration** of assisting self-employed spouses/life-partners engaged in an economic activity, including agriculture.

- Member States should take the necessary measures to ensure that assisting spouses are able to take out insurance cover for health care, retirement pension, maternity benefit and replacement services and disability benefits. Therefore, adequate **social protection** for self employed women should be ensured. Assisting spouses in the majority of cases are only eligible for derived rights to social protection which places them in a very vulnerable situation (especially in the event of divorce or the death of the self employed worker). The Directive should set entitlements that are provided as an **individual right** and not derived rights on the basis of the family situation.
- With regard to the specific rights attached to the need to reconcile work, family and private life, the ETUC recalls its position taken during the second stage consultation on work-life balance, July 2007 (copy attached). Regarding the situation of self employed assisting spouses/cohabiting partners; they should be entirely covered by provisions of the Pregnant Workers Directive 92/85/EEC.
- It is essential to provide guarantees for the same access to vocational training as for self employed workers
- The need to increase the availability, affordability and quality of care infrastructures in rural areas must be included.
- Finally the legislative references should be updated to take into account the numerous developments made at International and European level (including art.13 of EC treaty)

ETUC welcomes this consultation to revise Directive 86/613 and is available to provide further information on this position. We hope that the next stage in the consultation process will be launched soon and carried out according to the normal procedures.

15/04/2008