



Malta-EU Steering & Action Committee

Proposal for a Council 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 [COM (2008) 636]

SUMMARY

The proposal seeks to repeal Directive 86/613/EEC so as to implement more effectively the principle of equal treatment on gender lines among the self-employed. The Directive covers self-employed workers and assisting spouses. It also introduces the notion of “life-partners” to make clear that it covers persons recognized as “life partners” of the self-employed worker by national law irrespective of marital status.

Many of the definitions in this Directive are taken from Directive 86/613/EEC on the application of the principle of equal treatment between men and women engaged in any activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood. The Directive covers only those aspects not already covered by Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation and Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security. The Directive does not cover the matters covered by Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

The Directive essentially seeks to ensure that assisting spouses and life partners benefit from at least the same treatment as self-employed workers and that self-employed women and assisting spouses/life partners are entitled to the same rights as employed mothers, in line with the proposals contained in COM (2008) 600. In these cases however, the matter remains voluntary – that is upon request.

The proposal does not stipulate that assisting spouses must be covered by any specific social security system. However, Member States must take necessary measures to ensure that at their request, assisting spouses may benefit from at least an equal level of protection as self-employed workers.

The proposal also suggests that self-employed women may ask, as far as is possible, for temporary replacement instead of financial compensation.

It also goes into protection against harassment affecting self-employed women, and strengthens the possibility for legal protection.

Member States are not precluded from affording a higher level of protection.

The proposal indicates a period of 2 years to transpose the Directive, from its coming into force, with the possibility of an additional year to comply with the provision on social protection for assisting spouses.