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THE SELF-EMPLOYED: EQUAL TREATMENT DIRECTIVE PROPOSED¹

A directive designed to promote the principle of equal treatment for self-employed women and the wives of the self-employed has just been proposed by the Commission. The draft directive constitutes the latest piece in the mosaic of European sex equality legislation which the Community first began to enact in the mid-1970s (2).

The proposal, made under the authority of Mr. Ivor Richard in association with Mr. Poul Dalsager, is particularly important for women who, as the spouses of own-account operators in areas like farming, have no professional status despite the fact they are often participating actively in the family business. The measure would oblige Member States to remove any real obstacles (e.g. legal and fiscal) which prevent such women - should they so wish - from attaining full professional status (e.g. the right to professional partnership with the husband, or to employee status).

In addition, the Commission's proposal would require Member States to ensure that both categories of women - wives of the self-employed and self-employed women themselves - should suffer the minimum professional disruption in the event of pregnancy and maternity. Such rights, says the Commission, should include the right to use replacement services or to appropriate social security coverage during pregnancy and maternity leave.

The measure seeks to resolve the range of these different problems by setting a series of broad objectives to be achieved by Member States, leaving them to choose the means, thereby taking into account their different legal systems and provisions governing specific factors of activity.

Background to latest proposal

This latest proposal is set firmly in the context of the Community's developing body of equal treatment law. In particular, in the Community Action Programme on the promotion of equal opportunities for women 1982-1985(3), the general objectives of which were approved by the Council in its Resolution of July 1982, the Commission undertook to propose certain new legal instruments to achieve equal treatment by reinforcing individual rights.

(1) Proposal for a Directive on the application of the principle of equal treatment for men and women in self-employed occupations, including agriculture, and on protection during pregnancy and maternity : COM(84)57.

(2) Council Directive (75/117) of 10.2.1975 on equal pay; Council Directive (76/207) on equal treatment in access to employment; and Council Directive (79/7) of 19.2.78 on equal treatment in statutory social security schemes.

(3) COM(81)758

Action 5 of the Programme highlighted the particular inequalities affecting women in self-employed occupations, especially women in agriculture. Whilst some of their problems arise because of their lack of occupational status, others derive from the fact that they may be the spouse of an own account operator and yet others are specific to working mothers or mothers-to-be.

Moreover, the principle of equal treatment for the various categories of self employed women cannot be implemented without changes in existing legislation and practices in certain Member States, or without additional measures as foreseen by Directives 76/207/EEC on equal treatment in access to employment and Directive 79/7 relating to statutory social security schemes. While these directives do apply to the self-employed, as well as employees, they do not fully take account of some of the problems specific to the self-employed. It is to meet these specific problems that the Commission has proposed this latest measure.