

European Communities

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EUROPEAN PARLIAMENT

# Working Documents

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12 March 1984

DOCUMENT 1-1506/83

REPORT

drawn up on behalf of the Committee on Social Affairs  
and Employment

on the equal treatment of widows and widowers as  
regards social security.

Rapporteur: Mrs J. MAIJ-WEGGEN



At its sitting of 17 September 1982 the European Parliament referred the motion for a resolution tabled by Mrs Maij-Weggen and others (Doc. 1-626/82), pursuant to Rule 47 of the Rules of Procedure, to the Committee on Social Affairs and Employment.

At its meeting of 18 January 1983 the committee decided to draw up a report and appointed Mrs Maij-Weggen rapporteur.

The committee considered the draft report at its meeting of 2 November 1983, 1 February 1984 and 23/24 February 1984. At the last meeting it unanimously adopted the motion for a resolution.

The following took part in the vote: Mr Papaefstratiou, chairman; Mr Peters, first vice-chairman; Mrs Maij-Weggen, rapporteur; Mr Abens (deputizing for Mrs Duport), Mr Brok, Mr Chanterie, Mr Eisma, Mr Patterson, Mr Prag, Mr Simpson and Mr Vernimmen (deputizing for Mr Motchane).

The report was tabled in final form on 28 February 1984.

The deadline for the tabling of amendments to this report appears in the draft agenda for the part-session at which it will be debated.



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A.

The Committee on Social Affairs and Employment hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

on the equal treatment of widows and widowers as regards social security.

The European Parliament,

- having regard to the motion for a resolution tabled by Mrs MAIJ-WEGGEN and others pursuant to Rule 47 of the Rules of Procedure on the equal treatment of widows and widowers as regards social security (Doc. 1-626/82)
- having regard to the report of the Committee on Social Affairs and Employment (Doc. 1-1506/83),
  - A. whereas in 1978 the Council of Ministers adopted Directive 79/7 on the progressive implementation of the principle of equal treatment for men and women in matters of social security,<sup>1</sup>
  - B. whereas Article 3 of this Directive provides for equal treatment for men and women in statutory schemes relating to sickness, invalidity, old age, accidents at work, occupational diseases and unemployment, and social assistance, insofar as this is intended to supplement or replace the schemes referred to above,
  - C. whereas this Directive does not provide for equal treatment for men and women as regards survivors' pensions, in this case equal treatment for widows and widowers,
  - D. whereas in the majority of Member States statutory social schemes exist for surviving wives (widows' pensions), but whereas statutory provisions for surviving husbands (widowers' pensions) are virtually unknown in the Member States,

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<sup>1</sup>OJ No. L 6/79, p.24

- E. whereas, as a result, the financial and social position of widowers, particularly when they are responsible for young children, is often worse than that of widows in similar circumstances,
- F. whereas European legislation on equal treatment for men and women should not relate exclusively to discrimination against women but should also apply to discrimination against men where this occurs,
- G. whereas the Commission has recently submitted a new directive on the implementation of the principle of equal treatment for men and women in occupational social security schemes,<sup>1</sup>
- H. whereas this draft directive makes provision for equal treatment with regard to 'survivors' benefits' (Article 4), but only when equal treatment as regards survivors' pensions is already enshrined in existing national statutory schemes (Article 9),
- I. whereas this formulation not only leads to discrimination against widowers in statutory social security schemes but also, in similar cases, in non-statutory occupational schemes,
1. Calls on the Commission to submit as quickly as possible a proposal for an amendment to Directive 79/7 on the progressive implementation of the principle of equal treatment for men and women in matters of social security, to ensure that all discrimination in the field of survivors' pensions for widows and widowers is eliminated;
  2. Calls on the Commission, to this end, to supplement Article 3(a) of the above-mentioned Directive and to amend Article 2 of this Directive in line with the explanatory statement to this resolution;
  3. Calls on the Commission to submit, in conjunction with this amendment, a resolution laying down a number of principles with regard to survivors' pensions, for example:
    - widowers with dependent children should receive the same benefit as widows with dependent children;

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<sup>1</sup>Doc. 1-384/83 of 28.4.1983



- widowers who have no dependent children (any longer) should receive the same allowance or pension as widows in a comparable situation;
  - Member States should not use the proposed amendments to the Directive as a pretext for scaling down existing schemes for widows with dependent children or for widows who were financially dependent on their deceased husbands;
  - no specific legal provisions need to be made for widows and widowers without family responsibilities and with independent incomes;
  - private schemes and occupational schemes for widows and widowers should supplement statutory basic schemes and not replace them,
4. Calls on the Commission to submit the proposed amendments to Directive 79/7 and the accompanying resolution to the Council together with the 1983 draft directive on equal treatment for men and women in occupational social security schemes;
  5. Calls on the Commission to lay down the same deadline for implementation of the amendments to Directive 79/7 as will apply for the new Directive on equal treatment for men and women in occupational schemes;
  6. Instructs its President to forward this motion for a resolution to the Council and the Commission.

B.

EXPLANATORY STATEMENT

I. Introduction

1.1 In September 1982 a number of members of the EPP Group tabled a motion for a resolution<sup>1</sup> which requested a parliamentary report on the differences in the treatment of men and women with regard to survivors' pensions (pensions for widowers and widows) in the different Member States of the Community.

The motion for a resolution requested that this report should examine the possibility of extending the directive of 19 December 1978 on equal treatment for men and women in matters of social security<sup>2</sup> in such a way that widows and widowers could benefit from the same financial and social support measures.

1.2 In this report the rapporteur, who was also the author of the motion for a resolution, will first seek to describe the national legislation on survivors' pensions for widows and widowers and will then examine how the problem of discrimination could be solved by supplementing existing European legislation (or legislation that is in preparation).

The rapporteur's basic position is that European legislation on equal treatment for men and women should not relate solely to discrimination against women but that, when such cases arise, it should also apply to discrimination against men.

II. Social security schemes for widows and widowers of employed persons in the Member States<sup>3</sup>

II.1.1. Belgium

Widows: In Belgium a widow receives benefits if she was married for at least one year to the deceased person who had old-age pension insurance and:

- is aged at least 45, is bringing up a child or is an invalid or
- has ceased all work.

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<sup>1</sup> Doc. 1-626/82 - See annex III

<sup>2</sup> OJ No. L 6/79, page 24

<sup>3</sup> Based on the Comparative tables of the social security schemes in the Member States of the European Communities, 12th edition, 1982

The one-year period does not apply if there is a dependent child or if the death of the spouse is due to an accident after the date of the marriage. The benefit is 80% of the actual or hypothetical retirement pension of the insured man calculated at household rate. If the widow remarries the pension is discontinued after payment of a further two years' pension.

Widowers: Belgium provides no specific pensions for widowers.

#### II.1.2 Denmark

Widows: In Denmark a widow receives benefits under the Law of 13 March 1959 if she is aged at least 55 and if she was widowed after the age of 45. She is entitled to a pension at the age of 45 if at the death of her husband she has at least two dependent children under 18. The benefit continues when one of the children reaches 18 years of age. Widows suffering from ill health and widows in other special circumstances also receive a pension. In all cases the person concerned must have been married for at least five years and have been resident in Denmark for at least one year after the age of 15. The basic pension as at 1 July 1982 was Dkr. 29,568 per annum. The widow can claim supplementary family allowances.

Widowers: Denmark provides no specific pensions for widowers.

N.B.: The Danish Government has submitted a proposal to the Danish Parliament for amendment of the laws on old-age pensions, invalidity pensions and widows' pensions. These laws should enter into force in the middle of January 1984. According to the proposed new provisions only persons aged over 55 who have not been employed or who have only worked for a very short period outside the home will be entitled to an early pension. Other forms of assistance are to be provided for younger persons, for example aid for retraining and for re-establishment in an occupation.

#### II.1.3 Federal Republic of Germany

Widows: In the Federal Republic of Germany a widow who was married to the deceased at the time of his death or who was divorced from the deceased before 1.7.1977 but still financially dependent upon him receives:

- 6/10ths of the occupational invalidity pension (with reference to the actual period of membership) if she is under 45;
- 6/10ths of the general invalidity pension (with reference in some cases to a

nominal period of membership longer than the actual period) if she is over 45 or disabled or with dependent children.

If the widow remarries the pension is discontinued after a lump sum equivalent to two years' pension has been paid.

Widowers: A widower can receive 6/10ths of the general invalidity pension if he was a dependent of the deceased spouse, disabled or with dependent children and aged over 45.

Payment of benefits to widows and widowers is conditional upon at least 60 months of old-age and invalidity insurance.

#### II.1.4 Greece

Widows: A widow in Greece receives benefits under the Greek legislation on old-age and invalidity if she was married to the deceased person for at least 6 months. If the deceased spouse was already a pensioner, the marriage must have lasted at least 2 years. The benefit is 70% of the old-age pension. If the widow remarries the pension is discontinued.

Widowers: In Greece a widower can receive the same benefits as a widow if he was married to the deceased spouse for at least 6 months, if he is disabled and if he was financially dependent on the deceased spouse.

#### II.1.5 France

Widows: A widow in France receives benefits under the French legislation on invalidity and old age if the deceased spouse had worked at least 600 hours in the 6 calendar months or at least 200 hours in the quarter preceding death. The widow must have been married to the deceased person for at least 2 years and be at least 55 years of age. A widow aged under 55 who is disabled also receives benefits amounting to 52% of the pension paid to the spouse if the spouse died before the age of 60. If the widow remarries part of the pension is discontinued.

Widowers: A widower in France who was a dependent of the deceased spouse has the same rights as a widow.

#### II.1.6. Ireland

Widows: A widow in Ireland receives benefits under the relevant laws of 1935 and under the Social Welfare Consolidation Act of 1981 with the regulations and amendments, if the deceased spouse

- has paid at least 156 weekly contributions, in accordance with the appropriate legislation, or
- has paid an average of 39 weekly contributions for 3 or 5 years preceding the date of death or before the age of 66 or
- has paid an average of 48 weekly contributions since entry into insurance.

These conditions may be fulfilled either on the husband's or the wife's insurance. As at 30 June 1983 the payment was a maximum of IR £41.40 a week for widows aged 66 or over and a maximum of IR £44.20 for widows aged over 80. If a widow aged over 66 requires full-time care she can receive a supplement of IR £21.60 a week. If the widow remarries the pension is discontinued.

Widowers: Widowers aged over 66 with disabled dependents receive a normal pension if the wife was in receipt of a pension.

#### II.1.7. Italy

Widows: In Italy a widow receives benefits under the legislation on invalidity and old age if there have been 5 years of insurance and at least 200 weekly or 60 monthly contributions or 15 years of insurance and contributions. The benefit amounts to 60% of the insured person's invalidity or old-age pension in accordance with the minimum and maximum levels laid down for that pension. If the widow remarries the pension is discontinued after payment of two further years of pension.

Widowers: In Italy widowers basically have the same rights as widows. This applies also if the 'widow/widower' was divorced but dependent on the deceased spouse in the form of alimony payments.

#### II.1.8. Luxembourg

Widows: In Luxembourg a widow receives benefits under the legislation on old-age and invalidity provided that at least 270 days of insurance have been paid (for industrial staff) or 12 months (for non-industrial staff). The benefit is paid if the widow was married for at least 1 year to the deceased unless there is a child of the marriage or death was caused by an accident. Under certain conditions

the following may be assimilated to the widow: mother, mother-in-law, sister or daughter, daughter-in-law or adopted daughter of the deceased. The benefit consists of a fixed pension and an additional sum amounting to 66.66% of the special increase paid under the pension scheme. If the member of the scheme dies before the age of 55, the widow is entitled, not only to the fixed pension but also to this additional sum amounting to 66% of the special increase paid under the pension scheme, provided that she :

- is older than 45 or
- has at least 50% work incapacity or
- is bringing up or has brought up a child.

If the widow remarries the pension is discontinued. If the widow remarries before the age of 50 she still receives a further 60 months of pension. After the age of 50 she will receive 36 months of pension payments.

Widowers: In Luxembourg a widower who was a dependent of his deceased spouse has the same rights as a widow.

#### II.1.9. The Netherlands

Widows: In the Netherlands a widow receives benefits under the General Insurance Scheme for Widows and Orphans if she

- has one or more dependent unmarried children or
- is disabled or
- is at least 40 years of age.

The benefit amounts to Fl. 13,068 per annum if there are no dependent children (any longer) and Fl. 18,766 per annum if the widow is caring for one or more children under 18. If the widow remarries the pension is discontinued after payment of one further year of pension. Widows aged under 40 who have no dependent children (any longer) may, under certain circumstances, receive benefits of Fl. 13,068 per annum for 6 to 19 months.

Widowers: The Netherlands General Insurance Scheme for Widows and Orphans does not apply to widowers.

#### II.1.10. United Kingdom

Widows: The United Kingdom has a widows' pension, a widowed mother's allowance and widows' allowances. Widows are eligible for a widows' pension or a widowed mothers' allowance if at least 50 weekly contributions were paid before 6 April 1975 or if since this date contributions have been paid in any tax year amounting

to at least 52 times (50 times for tax years between 6.4.1975 and 5.4.1978) the minimum weekly contribution for that year. Widows are eligible for a widows' allowance if at least 25 contributions were paid before 6 April 1975. A widows' pension is paid if the widow is aged 50 or over at the death of her insured spouse. The payment amounted to £34.05 per week as at 1 December 1983. Widows aged between 40 and 50 can receive a reduced widows' pension. The pension is reduced by 7% for each year under 50. The widows' pension is also paid to widows who are covered by the widows' allowance system when this allowance has ceased.

A widows' allowance is paid to widows who are under 60 at the death of their spouse. Benefits are paid for 26 weeks following the death of the spouse and amounted to £47.65 per week as at 1 December 1983. A widowed mother's allowance is paid to pregnant widows or those with one or more dependent children aged under 19. The benefit amounted to £34.05 per week as at 1 December 1983. If the widow remarries the pension or allowance is discontinued.

Widowers: The United Kingdom has no specific pensions for widowers.

II.2 In addition to the benefits for widows and widowers there are also benefits for half-orphans and orphans. These allowances sometimes supplement widows' and widowers' pensions and are sometimes independent benefits, special child benefits or special family allowances. Allowances for half-orphans, which vary considerably depending on the Member State, can improve the financial position of the widow or widower. However, they do not rectify the differences already referred to in the treatment of widows and widowers.

II.3 As well as the allowances for widows, widowers, orphans and half-orphans, some Member States have tax allowances for one-parent families. These tax allowances can slightly improve the position of the widower, for example by means of an increased tax-free allowance or specific allowances for help at home for dependent children. However, these tax provisions do not match the social security provisions for widows. There is still a difference in the treatment of widows and widowers with regard to social security.

II.4 Private insurers are also active in providing widowers' insurance schemes.

In almost all Member States it is possible to conclude a private insurance policy to cover problems of income and care after the death of a wife and mother. Limited use is made of such insurance policies in particular by higher income groups

who are well able to afford the necessary premiums. The occupational pension schemes and collective labour agreements also have some pensions for widowers. Supplementary pensions for widows occur far more frequently in occupational pension schemes and collective labour agreements.

II.5 In conclusion, considerable differences in social security schemes for widows and widowers exist in the vast majority of Member States, to the disadvantage of widowers.

According to the comparative tables for the Community, Belgium, Denmark, Ireland, the Netherlands and the United Kingdom have no general social security provisions for widowers. In the Federal Republic of Germany, Greece, France and Luxembourg there are social security schemes for a widower if he was a dependent (i.e. financially dependent) of the deceased spouse. However, this is hardly ever a requirement for widows. Only in Italy do the same provisions apply for both widows and widowers.

### III. Starting points for European legislation

III.1 The European Community has already given serious consideration to equal treatment for men and women in matters of social security. One of the results of this was Directive 79/7 on the progressive implementation of the principle of equal treatment for men and women in matters of social security<sup>1</sup>.

III.2 According to Article 3(1), this directive applies to statutory schemes which provide protection against the following risks: sickness, invalidity, old age, accidents at work, occupational diseases and unemployment and social assistance, insofar as it is intended to supplement or replace the schemes referred to above. Under Article 3(2) of this directive, however, survivors' benefits are specifically excluded: 'this directive shall not apply to the provisions concerning survivors' benefits'.

III.3 The Commission has recently again submitted a directive on the implementation of the principle of equal treatment for men and women in occupational social security schemes (Doc. 1-384/83 of 28.4.1983)<sup>2</sup>. This directive also applies to sickness, invalidity, old-age, industrial accidents, occupational diseases and unemployment (Article 4(a)).

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<sup>1</sup> See Annex 1

<sup>2</sup> See Annex II



However, this directive also includes survivors' pensions. Under Article 4(b) 'in particular survivors' benefits' are covered by the proposed provisions on the equal treatment of men and women, however only insofar as they already form part of the relevant national legislation (Article 9).

III.4 There are thus some inconsistencies in the European legislation: widowers are not covered by the directive on equal treatment for men and women in matters of social security except under certain circumstances (in practice: in certain Member States).

Although this report is not concerned with the proposed new directive, it should be pointed out here that in this particular area the proposed directive allows the - temporary - continuation of discrimination against nationals of the various Member States. To solve this problem fully would involve amendments to both texts. However, it would be a step forward if the existing Directive No. 79/7 could be brought into line with the new proposal<sup>1</sup>.

#### IV. Recommendations

IV.1. In accordance with III.4., it would be sufficient to make two amendments to the Directive of 19.12.1978 on the principle of equal treatment for men and women in matters of social security.

##### Article 3(1)(a) - old text

1. This Directive shall apply to:
  - (a) statutory schemes which provide protection against the following risks:
    - sickness
    - invalidity
    - old-age
    - accidents at work and occupational diseases
    - unemployment

##### Article 3(1)(a) - new text

1. This Directive shall apply to:
  - (a) statutory schemes which provide protection against the following risks:
    - sickness
    - invalidity
    - old-age
    - accidents at work and occupational diseases
    - unemployment
    - widowhood/widowerhood

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<sup>1</sup> See also PETERS draft report, PE 87.755, i.a.p.10

Article 3(2) - old text

This Directive shall not apply to the provisions concerning survivors' benefits nor to those concerning family benefits etc.

Article 3(2) - new text

This Directive shall not apply to family benefits etc.

IV.2. It could be asked whether this change in principle in the Directive in favour of widowers will have the desired effect of improving the position of widowers so that it is comparable with that of widows. Amending the Directive would not rule out the possibility of some Member States doing the opposite, i.e. make the position of widows comparable with that of the (adverse) position of widowers. To prevent this happening the proposal for an amendment could be submitted in conjunction with a resolution which set out more detailed provisions.

IV.3. The following principles could be laid down in these provisions:

- Widowers with dependent children should receive the same benefit as widows with dependent children.
- Widowers who have no dependent children (any longer) should receive the same allowance as widows in a comparable situation if they were financially dependent on their deceased spouse as a result of work incapacity or long-term, full-time care for the deceased spouse and their children.
- Member States should not use the proposed amendments to the Directive as a pretext for scaling down existing schemes for widows with dependent children or for widows who were financially dependent on their deceased husbands.
- No specific legal provisions need to be made for widows and widowers without family responsibilities and with an independent income.
- Private schemes and occupational schemes for widows and widowers should supplement statutory basic schemes and not replace them.

IV.4. Lastly, the Committee on Social Affairs and Employment considers that this amendment to the 1978 Directive should enter into force at the same time as the new proposed directive on equal treatment for men and women in occupational social security schemes i.e. before 1 January 1985

DIRECTIVE No. 79/7 of 19.12.1978

ARTICLE 3

1. This Directive shall apply to:
  - (a) statutory schemes which provide protection against the following risks:
    - sickness,
    - invalidity,
    - old age,
    - accidents at work and occupational diseases,
    - unemployment;
  - (b) social assistance, in so far as it is intended to supplement or replace the schemes referred to in (a).
2. This Directive shall not apply to the provisions concerning survivors' benefits nor to those concerning family benefits, except in the case of family benefits granted by way of increases of benefits due in respect of the risks referred to in paragraph 1 (a).
3. With a view to ensuring implementation of the principle of equal treatment in occupational schemes, the Council, acting on a proposal from the Commission, will adopt provisions defining its substance, its scope and the arrangements for its application.

1983 DRAFT DIRECTIVE

Article 4

This Directive shall apply to :

- (a) occupational schemes which provide protection against the following risks:
- sickness,
  - invalidity,
  - old age,
  - industrial accidents and occupational diseases,
  - unemployment.
- (b) occupational schemes which provide for other social benefits, in cash or in kind, and in particular survivors' benefits, family allowances and benefits in respect of various periods of leave for family reasons, if such benefits are accorded to employed persons and thus constitute a consideration paid by the employer to the worker by reason of the latter's employment.

Article 9

1. This Directive shall be without prejudice to the right of Member States to defer compulsory application of the principle of equal treatment with regard to :
  - (a) determination of pensionable age for the purposes of granting old-age or retirement pensions;
  - (b) pension awarded to the surviving spouse.
2. The right referred to above may be exercised provided that the principle of equal treatment has not yet been implemented in the corresponding provisions of statutory social security schemes.
3. Compulsory implementation of the principle of equal treatment shall not under any circumstances be deferred beyond the date on which such equality is achieved in statutory schemes.

tabled by Mrs MAIJ-WEGGEN, Mr BARBI,  
Mrs CASSANMAGNAGO CERRETTI, Mr PAPAEFSTRATIOU,  
Mr CHANTERIE, Mr BEUMER, Mr McCARTIN, Mr VERGEER,  
Mrs GAIOTTI DE BIASE, Mr VANDEWIELE, Mrs PHLIX,  
Mr GONTIKAS, Mr NARDUCCI, Mr DALSASS and Mr MACARIO

pursuant to Rule 47 of the Rules of Procedure

on the equal treatment of widows and widowers  
as regards social security

The European Parliament,

whereas

- in 1978 the European Community adopted a Directive on equal treatment of men and women in the field of social security, which had to be implemented by 1 January 1985 at the latest,
- this directive does not provide for equal treatment of men and women where survivors' pensions are concerned,
- most Member States have financial arrangements in favour of the surviving spouse in the case of women (widows' pension) but not where the surviving spouse is a man (widowers' pension),
- widowers frequently face considerable financial and social problems, particularly when they have to bring up children alone,
- such problems frequently result in the break-up of a family affected by the early death of the mother, or in the father remarrying with undue haste,

Requests the Commission to:

1. Draw up a report on the differences in the treatment of widows and widowers with regard to survivors' pensions in the different Member States of the Community;
2. Examine the possibility of extending the Directive on equal treatment of men and women in the field of social security in such a way that widows and widowers can benefit from the same financial and social support measures.





