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8 January 1997

A4-0005/97

REPORT

on the situation of assisting spouses of the self-employed

Rapporteur: Mrs Astrid Lulling

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By letter of 8 December 1994 the Committee on Women's Rights requested authorization to draw up a report on the situation of assisting spouses of the self-employed.

At the sitting of 13 June 1995 the President of Parliament announced that the Conference of Presidents had authorized the committee to report on this subject.

The committee had appointed Mrs Lulling rapporteur at its meeting of 25 April 1995.

It considered the draft report at its meetings of 30 October, 26 November and 18 December 1996.

At the last meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Van Dijk, chairman; Van Lancker, first vice-chairman; Bennasar Tous, second vice-chairman; Lulling, rapporteur; Ahlqvist, d'Ancona, Eriksson, Glase, González (for Elmalan), Kokkola, Larive, McKenna, Thomas Mann (for Menrad), Mohamed Ali, Mouskouri, Napoletano (for Ghilardotti), Pollack, Sornosa Martínez and Waddington.

The report was tabled on 8 January 1997.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

A

MOTION FOR A RESOLUTION

Resolution on the situation of the assisting spouses of the self-employed

The European Parliament,

- having regard to Rule 148 of its Rules of Procedure,
 - having regard to the Council Directive of 11 December 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 (86/613/EEC)⁽¹⁾,
 - having regard to its resolution of 25 June 1993 on the assessment of women's unwaged work,⁽²⁾
 - having regard to its resolution of 21 January 1994 on the situation of women in agriculture,⁽³⁾
 - having regard to the report from the Commission on the implementation of Directive 86/613/EEC (COM(94)0163),
 - having regard to the report of the Committee on Women's Rights (A4-0005/97),
- A. whereas the number of women and men in the role of assisting spouse is hard to determine given the lack of registration of such a status, but whereas it is certainly many million across the European Union,
- B. whereas the role of assisting spouses is often perceived both in law and in general attitudes as a conjugal duty given free of charge,
- C. whereas assisting spouses in most Member States are not formally recognized, are therefore invisible, and in practice often worse off than atypical workers,
- D. whereas Directive 86/613 has been ineffective in achieving its aim of giving assisting spouses a clearly defined professional status and establishing their social security entitlements,

(1) OJ L 359, 19.12.1986, p. 56.

(2) OJ C 194, 19.7.1993, p. 389.

(3) OJ C 44, 14.2.1994, p. 210.

- E. whereas this is in part due to the complexity surrounding the legal status of assisting spouses which involves Member States' fiscal law, matrimonial law, social security law, labour law and company law,
- F. whereas there is a need for more binding EU legislation laying down a framework providing minimum guarantees for assisting spouses within which Member States should choose the most appropriate way to adapt their systems,
- G. whereas assisting spouses who are only eligible for derived rights to social protection through their husband's contributions are very vulnerable, especially in the event of divorce or death of the self-employed worker,
- H. whereas the status of assisting spouses differs from sector to sector even in the same Member State and whereas women and men assisting their spouses in the liberal professions are frequently not covered by provisions protecting spouses in other sectors,
- I. whereas take-up has been low for voluntary contributory social security schemes even where this has been made possible,
- J. whereas the low take-up of voluntary schemes is as much due to traditional attitudes as to legal and regulatory barriers,
1. Regrets that the weak wording of Directive 86/613 on equal treatment between self-employed men and women has led to little progress for assisting spouses of self-employed workers in terms of recognition of their work and adequate social protection;
2. Welcomes the Commission's intention to hold round tables with interested organizations to discuss the needs of assisting spouses and to make a proposal for an amended directive in 1997, but notes that this should have happened some years ago if the requirements of Directive 86/613 were to be met;
3. Calls for the amended directive to be more binding on Member States than was the case with 86/613 as this is the only way to ensure such legislation achieves its aims;
4. Takes the view that the amended directive could apply not only to assisting spouses but also to assisting live-in partners in other long-term forms of cohabitation in Member States that recognize contracts of this kind;
5. Calls on the amended directive to include:
- compulsory registration of assisting spouses so that they are no longer invisible workers;
 - the obligation on Member States to take the necessary measures to ensure that assisting spouses are able to take out insurance cover for health care, retirement pensions, maternity benefit and replacement services and invalidity benefit;
 - the same conditions for access to vocational training for assisting spouses as exist for self-employed workers;

- the right for assisting spouses to represent their company and/or to vote and be elected to the appropriate professional organizations, except in instances where membership of these bodies requires a diploma or professional qualification which the assisting spouse does not possess;
6. Calls on Member States to establish a legal status for assisting spouses, enabling them to choose between the status of employed spouse, partner spouse or collaborating spouse, on the assumption that in the latter two cases the person concerned must, even if unpaid, be registered and therefore eligible for social protection;
 7. Believes that contributions for assisting spouses to social security schemes should be compulsory where these are required for self-employed workers, unless there is provision for exemption;
 8. Recognizes the fears of small, family enterprises faced with additional costs if contributions are made compulsory for assisting spouses;
 9. Stresses therefore the need for flexibility and believes there should be options for the calculation of contributions on the basis either of personal or company income, or as a proportion of the social security ceiling;
 10. Recommends that Member States make provision in their fiscal systems for tax incentives should family businesses opt to take out social security cover for the assisting spouse, and considers that all contributions for assisting spouses, whether voluntary or compulsory, should be tax deductible against the income of the company or business;
 11. Recognizes the need for more information concerning the impact of tax systems on persons assisting in the business, in particular with regard to the consequences of declaring as business expenditure the remuneration actually paid to the spouse, on the two conditions that this is the normal remuneration for necessary services actually rendered and that all the legally required deductions and contributions have been made;
 12. Calls on Member States which have not already done so to take the necessary measures to ensure that assisting spouses who have worked for many years in the family enterprise are not disadvantaged in terms of inheritance or succession rights or in the event of divorce;
 13. Considers that Member States which have not already done so should take steps to include in qualifying periods for social security benefits time taken off for the care of children and other relatives in order to prevent any discrimination against those that bear the responsibility for looking after family members;
 14. Calls on professional bodies in the sectors concerned with self-employed workers to take up the cause of assisting spouses and to liaise with the organizations of assisting spouses at Member State and European level;
 15. Considers that greater coordination is needed between on the one hand government departments concerned with equal opportunities, SMEs and the self-employed and on the

other hand assisting spouses' organizations and other NGOs promoting equal treatment and opportunity for men and women in order to further the protection of assisting spouses;

16. Urges government departments and professional bodies in particular to raise awareness of both the risks of not taking out insurance cover for assisting spouses and the options open to them;
17. Calls on Member States to isolate assisting spouses in statistical data on the self-employed in order to show the value of their work to family enterprises and to make it clear how many assisting spouses are working in each sector;
18. Calls on the Commission, in preparing the next report on social protection in Europe, to devote a separate chapter to assisting spouses;
19. Instructs its President to forward this resolution to the Commission, the Council and the governments and parliaments of the Member States.

B

EXPLANATORY STATEMENT

1. Who are the assisting spouses and why should we be concerned?

Assisting spouses of independent workers are not a homogeneous group. The vast majority of them are women working with their husbands in agriculture, crafts and commerce, particularly the retail trade, and the liberal professions. Some have a formal working relationship, for example as doctor's aid in a medical practice, others are partners in a small company. Most, however, assist their husbands without formal recognition, in spite of the fact that many of them will play an equal role in running the farm or business.

Estimates of how many assisting spouses there are across the European Union vary considerably. The Commission's 1995 report on Social Protection in Europe⁽¹⁾ estimates that there are 3.3 million unpaid family workers, down from 4.4 million in 1986, and that 70% of these are women. The true figure is almost certainly much higher, however. In Greece alone it is estimated that 25% of the active female population are unpaid assisting relatives, and overall the highest proportion is working in agriculture. The French association representing assisting spouses (ACTIF) has put the total figure at nearer 8.2 million.

The problem in determining how many assisting spouses there are is linked to their status, and to the very reason why action on their behalf is so necessary. There is a lack of basic information on assisting spouses and one expert in the field has said of them: "They are more atypical than the atypical worker...they are in fact invisible and are only recognized insofar as they are married to their husband".

In some Member States women assisting their husbands in a small business are considered to be engaged in their conjugal duties, their work taken for granted and seen as a free contribution by a member of the family to the family concern. Even where changes have taken place in Member States' law to allow for their recognition, attitudes across the EU are slow to evolve and many assisting spouses have little or no social protection beyond derived rights obtained through their husband. This leaves these women in an extremely precarious position, with no status, few rights, and often nothing in the event of death or divorce - in the worst cases, although they may not be entitled to any benefits, they are even liable for the debts left behind if the company or family enterprise is in difficulty.

2. The 1986 Directive

(1) COM(95)0457.

Assisting spouses were covered in the 1986 Council Directive on equal treatment between men and women in self-employed activities⁽¹⁾ which, according to the Commission's report on its implementation⁽²⁾, "sought to give assisting spouses a clearly defined professional status and, by extension, to establish their social security entitlements".

The Commission's own report acknowledges that the Directive has by no means achieved its objective and puts this down in part to a lack of direction and vague terminology in the wording of the Directive. The Fourth Action Programme for equal opportunities agrees that 86/613 'does not appear to have had the impact originally hoped for, which is due to the modest nature of the obligations imposed by it'. Indeed Articles 7 and 8 of the Directive carry no obligation for action since they say simply: 'Member States shall undertake to examine' recognition of the work of spouses and protection during pregnancy or motherhood.

The Commission report also recognizes that even where the Directive did oblige Member States to take action, for example on enabling spouses to join a contributory social security scheme voluntarily (Article 6), or on ensuring information be sent to relevant bodies on measures taken to implement the Directive (Article 10), this has either not had the desired effect or has not been done with the necessary vigour.

The rapporteur is, moreover, extremely concerned at the delays in meeting the timing on follow-up to the Directive. According to Articles 12 and 13, by 30 June 1991 Member States were to have brought in the measures necessary to implement the Directive and informed the Commission of what action had been taken. Following the report on the Directive's implementation, the Council were to review the Directive by 1 July 1993 (Article 11).

We are now at the end of 1996 and little progress has been made. The report on implementation of the Directive was published in September 1994 but based on information from 1993 or earlier in the 12 Member States. It is out of date, both in its content and given the accession of the three new Member States. What is more, the report does little to analyse why the Directive has not achieved its objectives and so does not serve as a useful basis for a new proposal amending 86/613.

Since the Committee on Women's Rights took the decision to draw up this own-initiative report and so move the process forward with concrete proposals, the Commission has announced its intention to hold a round table with interested organizations in the autumn of 1996 before presenting a proposal for a redrafted directive in 1997. While the rapporteur welcomes this initiative by the Commission, it should have happened three years ago.

3. The complexity of the subject

(1) OJ L 359, 19.12.1986, p. 56.

(2) COM(94)0163.

Part of the Commission's justification for the ineffectiveness of the Directive is the fact that any attempt at regulation in this area would involve Member States' fiscal law, matrimonial law, social security law, labour law and company law. That in itself is complex enough, but added to that is the fact that regulations in each Member State will differ according to the sector of the economy, and as we have already seen assisting spouses are to be found in a wide range of sectors. Finally, the possibility for assisting spouses to gain some legal status varies between Member States and even across sectors in the same Member State.

In the light of the above, the rapporteur does not propose to analyse each Member State's system and situation for assisting spouses, particularly given the limits on the length of such parliamentary reports. In any case this job has already been started by the Commission's report on implementation of the Directive, and taken further by the June 1995 report by the network of legal experts on the position of assisting spouses⁽¹⁾ and the study on social protection of assisting spouses carried out by the EIM small business and research consultancy in September 1995⁽²⁾. In drawing up this report and the draft resolution, the rapporteur has drawn heavily on these two reports and on the submissions made by the four experts at the Committee on Women's Rights public hearing in May 1996⁽³⁾, as well as information subsequently received from organizations of assisting spouses.

4. Recognition of assisting spouses' work

In Article 7 of the 1986 Directive, Member States undertook to examine how recognition of assisting spouses' work could be encouraged. With such tame wording, it is not surprising that few initiatives have been taken in this respect. The rapporteur believes that compulsory registration of assisting spouses is a necessary step towards their work being recognized. This would allow for proper assessment of how many assisting spouses there are and what work they do. However, it would not necessarily involve the assisting spouse taking up employee status; in fact this is still not possible in a number of Member States except in specific circumstances.

The rapporteur would suggest that a good starting point might be the French system, where since 1982 assisting spouses have no longer been considered to be without a job. There is the choice of three possible statuses for the assisting spouse in France: employee on a contract; associated spouse, which can involve no activity in the company, or a purely management position, or an unpaid employment status; and collaborating spouse, who is on the company books, but unpaid and, since 1994, able to take part-time work elsewhere.

(1) Equal treatment of the self-employed and the position of assisting spouses: an inventory of some problems, Ref. V/6457/95.

(2) Removing the remaining barriers: the social protection of assisting spouses.

(3) Mrs Monique Lettré, ACTIf, UEAPME
Mrs Hara Georgiadou, COPA
Mrs Marjolein Peters, ETM
Mrs Mirella Valentini, Comitato Impresa Donna.

Without a legal status assisting spouses are in most cases dependent on derived rights through their husband. Although in many cases women consider that derived rights are sufficient, there have been tragic cases of spouses having worked for years in the family business only to be left with nothing, particularly in the event of their spouse's death or invalidity, or if there should be separation or divorce. This is because without registration of assisting spouses it is difficult to evaluate their input to the enterprise, and this can have serious consequences for their rights. The rapporteur is particularly disturbed at the Member States where the moral question of who is in the wrong in a separation or divorce can have an impact on the assisting spouse's entitlements, regardless of their contribution to the firm.

5. Continuing gaps in social protection for assisting spouses

Under Article 6 of the 1986 Directive, Member States were to ensure that assisting spouses could join a contributory social security scheme voluntarily. Ten years on this is still not universally the case. In most Member States, for example, assisting spouses in the liberal professions are particularly disadvantaged. In France, the status of collaborating spouse does not apply to the liberal professions, and even where there is compulsory contributory insurance the obligation often does not apply to the liberal professions.

Also in most Member States the range of benefits for which spouses can take out individual cover is incomplete: maternity, invalidity and unemployment benefits are rarely an option. In the UK retirement pensions are only available to assisting spouses as derived rights in the form of a survivor's pension. In Spain in the agricultural sector there is no provision for voluntary contributions to social security, and in Ireland, in spite of the Directive, there are only derived rights, and spouses are unable to join voluntary contribution schemes in their own right.

6. The problem of low take-up even where voluntary schemes are possible

The legal experts' report pointed out that although most Member States fulfilled Article 6 of the Directive, assisting spouses with insurance cover are still the exception rather than the rule, although the experts acknowledge that most take out health cover. There are few reliable figures available on this, except in France where there is the formal legal status of assisting spouse. Even there, though, fewer than 10% of collaborating spouses take up cover for social security.

Why the low take-up? The most obvious reason is costs, since additional outlay for such contributions could tip the balance against survival of many small businesses. The EIM report argues, however, that costs can be an excuse for the low priority given to protecting the assisting spouse; the man's contributions would never be seen as an additional cost, it is said. Moreover, costs cannot be the only factor, especially since in France the fact that two partners can now pay half the contributions and receive half the pension has not increased take-up among assisting spouses.

Mrs Marjolein Peters, an expert from EIM at the Committee on Women's Rights public hearing, argued that spouses are often unaware of the risks in not taking out insurance cover

until the moment of divorce or the day of retirement and by then it is too late. Sometimes it is lack of knowledge of what options are open to them: the legal experts give a disturbing example from Luxembourg, where an assisting spouse was rejected by a medical insurance fund on the grounds that she would not receive anything in the event of illness, which was not the case. A further factor mentioned by Mrs Peters was traditional attitudes: many women hesitate to discuss their own insurance needs with their husbands and some perceive individual social security cover as a threat to family life.

7. Voluntary or compulsory cover

The overwhelming consensus of opinion expressed at the public hearing on assisting spouses was that compulsory insurance cover, with the possibility for waivers, is the only way to ensure adequate social protection for assisting spouses. Voluntary systems have not had the desired effect, and some striking examples were given of compulsory schemes which have not had a disastrous effects on businesses.

Luxembourg has since 1974 had a compulsory system of coverage for assisting spouses and assisting relatives in agriculture and the same now exists for the craft sector, commerce and liberal professions with the right of waiver in certain conditions. In Germany since 1995 it has been compulsory for farmers' wives to take out old age insurance, whether or not they work on the farm. Similarly in Greece since 1987 farmers have been forced to make contributions for assisting spouses. The farming community resisted these changes but Mrs Hara Georgiadou from COPA (Committee of Agricultural Organizations in the EU) said farmers have adapted and are starting to see the costs balanced against the benefits in terms of cover for their spouses. Mrs Georgiadou therefore cautioned small businesses against fears for their future under compulsory schemes.

A number of contributors at the hearing argued that costs can remain similar if the head of the enterprise is willing to reduce his own rights in order to build up independent rights for the assisting spouse. Moreover, flexible systems with tax incentives can further reduce the cost burden, as will be seen below.

However flexible the system, it is clearly not practicable to require compulsory cover for all benefits; neither the rapporteur nor any of the experts consulted would recommend this. As the Belgian association of doctors' assisting spouses (ASCAM) has put it, if compulsory unemployment insurance were imposed, the costs would be such that all doctors' assisting spouses would declare themselves as housewives, while obviously continuing to provide their husbands with the same professional assistance. Many contributors at the public hearing considered that insurance for assisting spouses should be compulsory where it is for the self-employed. This of course will vary between Member States, but would generally mean that assisting spouses would be covered for retirement pensions, health care and maternity, with child benefit in most cases.

8. Inheritance rights

Assisting spouses are in many Member States disadvantaged when it comes to inheritance rights on the death of the head of the family business. In spite of the advances made in

France in terms of recognition of assisting spouses' status, they are one of the worst provided for under French law concerning inheritance, as precedence is given to blood ties, regardless of the contribution made by the spouse to the enterprise. Legislative proposals in 1995 would improve the situation for spouses in France; similarly in 1995 in Spain a spouse is now zero-rated for inheritance tax, having previously been subject to 25% tax compared to only 10% for father-son inheritance. The rapporteur would like to see measures taken in all Member States to overcome discrimination against spouses who have contributed to an enterprise for many years.

9. Qualifying periods

As women continue to be mainly responsible for care of children and the elderly in our society, they are most likely to have career breaks, which can affect the level of contributions required to qualify for the benefits they need. There is scant information in the reports the rapporteur has received on qualifying periods in the Member States, but clearly the longer the period of unemployment, the more problematic it becomes for women and this can affect their entitlements as assisting spouses. In France qualifying periods have been abandoned, while in Luxembourg years spent in education and vocational training and 'baby years' count towards the qualifying period for the retirement pension. In Germany and Luxembourg time taken off for care of children ('baby years') and other relatives can also be counted when calculating qualifying periods on entitlements. The rapporteur would like to see further information on this area in other Member States and would wish to see measures such as those above adopted across the EU.

10. Training

Several submissions to the rapporteur have addressed the needs of assisting spouses as regards training. In too many cases the assisting spouse is unable to carry on the business on the death or invalidity of her husband because of lack of training and qualifications. In some sectors training in business management, commerce and languages would enable the assisting spouse to develop skills which would give her the opportunity to continue the business in the absence of the husband, or to diversify and change sectors, particularly in cases from the liberal professions, where the assisting spouse would almost always be unable to carry on the practice.

The original Commission proposal for a Directive in 1984⁽¹⁾ included a reference to Member States ensuring that spouses obtain access to training and retraining under the same conditions as the self-employed worker, and the rapporteur shares the view of the organizations of assisting spouses that this should be in the new proposal amending the 1986 Directive.

11. Representation in professional bodies

(1) OJ C 113, 27.4.1984, p. 4.

The 1984 proposal for a Directive also included entitlement for spouses to the same rights as self-employed workers with regard to voting and standing for office on the professional bodies of the sector within which they work (with the exception of the liberal professions, given the special qualifications needed there). In spite of its omission from the final text of the Directive, this has been introduced in some Member States, notably France in conjunction with the recognition of assisting spouses' status, but again take-up is reportedly low. ACTIF puts this down to spouses not knowing their rights, to difficulties in meeting the practical conditions for elections, but also the age-old problem of reconciling running the household and the business, which falls to many assisting spouses. As Mrs Peters argued at the public hearing, however, it is vital that assisting spouses be entitled to vote or be elected to their professional associations or the professional bodies for their sector as this is a useful platform from which to work on improving recognition of their work and pushing for their minimum rights.

12. Flexibility and tax incentives

The rapporteur is proposing compulsory registration of assisting spouses and compulsory cover for social security where this is the case for self-employed workers, and is looking at a possible legal status for assisting spouses which would include entitlements to training and representation on professional bodies. All of this cannot be rigidly fixed at EU level and there must be flexibility within the overall objectives for Member States to introduce measures appropriate to their national systems.

There is potential for flexibility in the basis for contributions to social security schemes, particularly as this may help to overcome fears at the prospect of small businesses having to double their contributions if compulsory individualized insurance was brought in for assisting spouses. A flexible system could be introduced whereby contributions are based on either a percentage of the company income or of personal income, or as a proportion of the social security ceiling; in the most flexible cases it could be up to the individual to decide the level of their protection and their contributions. The greater the flexibility, the more likely an assisting spouse is to take up contributions in a voluntary scheme with the agreement of her husband, was the conclusion drawn by Mrs Peters of EIM.

The other means by which companies can be encouraged to recognize assisting spouses and take up contributions for their social protection is through a flexible fiscal regime. In some Member States contributions towards the assisting spouse's social security are tax deductible from the company's income. Moreover, in France since 1994 up to 35% of the costs of vocational training for the assisting spouse can be tax deductible. This is by no means universally the case, however, and the rapporteur believes that all social security contributions for the assisting spouse, as for the self-employed worker, should be tax deductible whether they are compulsory or not.

The legal experts also point to examples such as that of the UK, where pension contributions could be claimed against tax if assisting spouses were able to make individual contributions, but while assisting spouses in the UK are only able to obtain derived pension rights, companies do not gain from this tax incentive.

On the question of tax deductibility against the salaries of assisting spouses, the arguments are far more complicated and, as proposed by Mrs Peters at the public hearing, further study is needed on the consequences. At the moment the situation varies tremendously between Member States: in Luxembourg, for example, the salaries of assisting relatives but not assisting spouses of self-employed workers are tax deductible; in Italy up to 49% of the business income can go to the spouse and both will be taxed proportionately, so encouraging recognition of assisting spouses, although this regime does not apply in either the liberal professions or the agricultural sector; in France and Belgium there is a ceiling beyond which remuneration of family members is not tax deductible.

The associations representing assisting spouses in France are calling for total tax deductibility regardless of the status of the enterprise or the spouse. The rapporteur would like to see this developed in other Member States, but if it is not possible at EU level, she still believes Member States should look into the question of tax incentives such as these as a means of encouraging recognition and protection for assisting spouses.

13. Information and awareness-raising

According to the Commission's report on implementation of the 1986 Directive, only France and the UK have had a targeted information policy in accordance with Article 10 of the Directive. Luxembourg in the same report was criticized for the absence of any policy to inform spouses on their entitlements, and the information campaign in Belgium has been labelled ineffective. Judging by the low take-up of legal status, however, the French Government's campaign does not appear to have been very effective either, although at the time it was welcomed by the association of assisting spouses for publicizing the three possible statuses, their relative advantages and costs, and the risks in having no formal status.

Providing information is fine but it is not enough. Follow-up should, in the rapporteur's view, take the form of actively in itself promoting the advantages of having a legal status and raising awareness of the dangers of having no social protection. To be effective, this will require far broader cooperation than has been the case to date. The rapporteur would like to see government departments responsible for both SMEs and equal opportunities coordinating information campaigns involving also women's NGOs as well as the professional bodies for the relevant sectors. All the evidence suggests that few women's NGOs take up the cause of assisting spouses, and regrettably the professional organizations in some Member States show little interest for these concerns either.

Fortunately COPA and the UEAPME have been active in this area, and the FEM has been established specifically at European level to campaign on behalf of women in SMEs. FEM has a five year plan of action involving a data bank on the situation of assisting spouses in the EU, assistance with training for assisting spouses, and seminars to raise awareness of assisting spouses' rights. This deserves the support of EU governments and NGOs alike.

14. Conclusions

The 1986 Directive failed dismally in its objective of providing protection for assisting spouses of independent workers. There are many gaps even in the availability of voluntary

social security schemes, and where these are an option, take-up is low. Only in those countries where there is compulsory old-age and sickness insurance for assisting spouses and maternity provision for the self-employed and their assistants, such as, for example, the maternity allowances in the Grand Duchy of Luxembourg, is there evidence of adequate progress. Member States on the whole have not amended their legislation to take account of the Directive, and where they have made changes in assisting spouses' rights, this is not necessarily due to the Directive.

Assisting spouses are often still extremely vulnerable, especially after divorce or the death of the husband, and they must be able to obtain individual benefits without dependence on their marital relationship. This is a complex question as to achieve the objective of adequate social protection for assisting spouses will involve Member States in adapting their fiscal, social security and matrimonial law. Clearly we run into questions of subsidiarity here, but the rapporteur firmly believes that we need a framework at EU level within which Member States can provide the protection necessary to assisting spouses.

The rapporteur has referred in this report to the 1984 proposal for a Directive which preceded the 1986 Council Directive. This was far more binding, particularly compared to Articles 7 and 8 of the 1986 text, as it obliged Member States to ensure basic rights for assisting spouses to remuneration, independent social security including pregnancy and maternity rights, recognition through their trade body, entitlement to vote and be elected in the professional body and access to training as well as replacement services necessary due to maternity. The rapporteur would like to see the new proposal for a directive move towards the 1984 proposal, and include compulsory registration of assisting spouses, the setting up of a legal status allowing for minimum rights to social security including maternity benefit, sickness and retirement pension (this to be compulsory where it is already for self-employed workers), vocational training and the right to representation on professional bodies in the relevant sector.