

Social Affairs

SOCIAL PROTECTION FOR SELF-EMPLOYED WORKERS AND ASSISTING SPOUSES

Council Directive [86/613/EEC](#) 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

Objective

To implement more effectively the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, or contributing to the pursuit of such an activity.

Relevance for the hospitality industry

As the hotel, restaurant and café sector accounts with self-employed workers and assisting spouses, this Directive is of particular relevance.

State of progress

The Directive was adopted on 11 December 1986. Member States had until 30 June 1989 to comply with this Directive.

A new proposal ([COM \(2008\) 0636 final](#)) is currently being discussed within the European Institutions. This proposal, when adopted, will repeal Directive [86/613/EEC](#).

Content

The Directive covers:

- Self employed workers, i.e. all persons pursuing a gainful activity for their own account, under the conditions laid down by national law, including farmers and members of the liberal professions;
- Their spouses, not being employees or partners, where they habitually, under the conditions laid down by national law, participate in the activities of the self-employed workers and perform the same tasks or ancillary tasks.

The Directive establishes that:

- Member States shall take the necessary measures to enable assisting spouses, who are not protected under the self-employed worker's social security, to join voluntarily a social security scheme;
- Member States are to examine whether, and under what conditions, female self-employed workers and assisting spouses may during interruptions in their activity due to pregnancy or motherhood, have access to services supplying temporary replacements and be entitled to cash benefits under a social security scheme or any other social protection system.

The Commission proposal ([COM \(2008\) 0636 final](#)) introduces the following changes:

- Social protection for assisting spouses: Assisting spouses must, at their request, benefit from social security insurance coverage. The decision to join or not the social security scheme is taken by the assisting spouses, Member States are only required to make the choice possible;

- Maternity leave for self-employed workers and assisting spouses: Member States, shall take all the necessary measures to ensure that both self-employed workers and assisting spouses can, at their request, be entitled to the same period of maternity leave as employees.

For a detailed overview of the state of progress and related documents you can visit [PreLex](#) (European Commission) or [OEIL](#) (European Parliament).

HOTREC position

HOTREC supports measures to improve the social protection of self-employed workers and assisting spouses, but is of the opinion that this issue should be dealt with at national level.

Official references

Council Directive [86/613/EEC](#) 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, O.J. L 32, 3.2.1987.

See also

Proposal ([COM \(2008\) 0636 Final](#)) for a 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](#).

European Parliament legislative resolution ([T6-0364/2009](#)) of 6 May 2009 on the proposal for a 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](#).