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REPORT

drawn up on behalf of the Committee on Women's Rights

on the memorandum presented by the Commission to the Council
(COM(84) 695 final - Doc. 2-1759/84) on income taxation and
equal treatment for men and women

Rapporteur : Dame Shelagh ROBERTS

PE 95.817/fin.
Or.En.

By letter of 9 January 1985, the Commission of the European Communities requested the European Parliament to deliver an opinion on the memorandum from the Commission of the European Communities to the Council on income taxation and equal treatment for men and women.

On 11 March 1985, the President of the European Parliament referred this memorandum to the Committee on Womens Rights as the committee responsible and to the Committee on Economic and Monetary Affairs and Industrial Policy, and the Committee on Social Affairs and Employment for an opinion

At its meeting on 26 February 1985, the Committee on Womens Rights appointed Dame Shelagh ROBERTS rapporteur.

The Committee considered the Commission's memorandum and the draft report at its meetings of 23/24 April 1985 and 21/22 May 1985.

At the latter meeting the committee adopted the motion for a resolution as a whole by 9 votes to 0 with 2 abstentions.

The following took part in the vote:

Mmes LENZ (Chairman), CINCIARI RODANO and GIANNAKOU-KOUTSIKOU (Vice-Chairmen), Dame Shelagh ROBERTS (rapporteur), d'ANCONA (deputising for Mrs van den HEUVEL), BRAUN-MOSER, BROOKES (deputising for Mr PEARCE), Mr de CAMARET (deputising for Mrs LEHIDEUX), Mmes DALY, HEINRICH and MAIJ-WEGGEN.

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The opinions of the Committee on Economic and Monetary Affairs and Industrial Policy, and the Committee on Social Affairs and Employment are attached.

The report was tabled on 28 May 1985

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

C O N T E N T S

	<u>Page</u>
A. MOTION FOR A RESOLUTION	5
B. EXPLANATORY STATEMENT	9
Opinion of the Committee on Economic and Monetary Affairs and Industrial Policy	18
Opinion of the Committee on Social Affairs and Employment ..	21

The Committee on Women's Rights hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the memorandum presented by the Commission to the Council on income taxation and equal treatment for men and women

The European Parliament,

- having regard to the Commission memorandum (COM(84) 695 final),
 - having been asked for its opinion by the Commission, (Doc. 2-1759/84)
 - having regard to its resolution of 11 February 1981 on the position of women in the European Community¹, notably the second indent of paragraph 2(a) thereof,
 - having regard to its resolution of 17 January 1984 on the situation of women in Europe,² notably paragraph 20 thereof,
 - having regard to its opinion³ on the Council directive on the principle of equal treatment for men and women in self-employed occupations, including agriculture, and on protection during pregnancy and maternity, and most notably its proposed amendment to Article 6 thereof,
 - having regard to the report of the Committee on Women's Rights and the opinions of the Committee on Economic and Monetary Affairs and Industrial Policy, and the Committee on Social Affairs and Employment (Doc. A 2-55/85),
- (a) whereas, in Action 6 of the "Action Programme of the promotion of equal opportunities for Women", the Commission proposed to undertake a comparative analysis of taxation systems, with a view to taking appropriate measures should this analysis show that the systems in effect in certain Member States have any negative effect, even indirectly, on equal opportunities for women,
- (b) bearing in mind the Council resolution of 12 July 1982 on the promotion of equal opportunities for women⁴ which approved the general objectives of the Commission's Action Programme,
- (c) noting that Community action with a view to ensuring the implementation of the principle of equal treatment between men and women in fiscal legislation can only result from measures to be proposed by the Commission, no such measures being contained in the memorandum under consideration,

1 - OJ C 50, 9.3.1981

2 - OJ C 46, 20.2.1984

3 - OJ C 172, 2.7.1984

4 - OJ C 186, 21.7.1982

- (d) whereas the failure by governments of varying political philosophies to eradicate discrimination against married women in fiscal legislation has a profound psychological effect on many women who thereby have a distorted appreciation of their earning capacity and a resulting deep sense of injustice,
- (e) whereas, in the majority of cases, married couples who are assessed jointly (simple aggregation of both incomes, the splitting system and the family quotient system) have to pay more than if they were assessed separately,
1. Takes note of the Commission's memorandum on income taxation and equal treatment for men and women, and fervently echoes the wish therein expressed that it may stimulate debate at Community level on the impact of income taxation systems on equal treatment of men and women in the labour market;
 2. Notes that national income taxation systems have been shown in many instances to have an adverse effect, albeit sometimes indirect, on women's employment in that the impact of fiscal legislation can cause married women to hesitate to take up salaried employment, and may result in active discouragement by husbands of spouses desirous of entering the labour market;
 3. Notes that not only are women restricted in their activity by arrangements under the national systems of taxation, but that married women are at a disadvantage compared with unmarried women when paying tax and that this may deter women from getting married;
 4. Considers that such a state of affairs can be seen as an obstacle to the implementation of the principle of equal pay between men and women doing the same work or work of equal value (since, while references are made to equal gross pay, there are no references to equal net pay for equal work, thus violating Article 1(1) of Directive 75/117/EEC¹), and could thereby be considered as direct or indirect salary discrimination;
 5. Considers also that such a state of affairs can only be seen as an obstacle to equal access to employment and promotion for married women, and a such does not allow them full enjoyment of equal treatment as defined by Directive 76/207/EEC²;

1 - OJ L 45, 19.2.1975

2 - OJ L 39, 14.2.1976

6. Considers that the provisions of the existing directives have proved inadequate to ensure equal treatment in fiscal matters, in that discrimination is seen to subsist in certain cases; calls on the Commission to clearly define the concept of indirect discrimination and in the light of that definition to examine fiscal legislation with particular reference to possible violation of the equal treatment directives with a view to instituting proceedings against those countries whose fiscal legislation deters women from pursuing their right to equal access to employment or promotion;
7. Recalls its twice stated¹ request for a directive on equal treatment for men and women in fiscal legislation, with a view to complementing directives 75/117/EEC and 76/207/EEC and strongly reiterates this request;
8. Considers it desirable that such a directive should establish the following principles:
- the Member States should organize their income taxation systems to avoid any form of direct or indirect discrimination against women by reference to their sex, marital status or family situation;
 - the Member States should organize their income taxation systems to avoid any direct or indirect fiscal pressures (via the husband) which deter women from working;
 - in their income taxation systems the Member States should opt for individual assessment of each tax-payer,
 - allowances and reductions should relate to the income of the person who has actually incurred the expenditure;
If expenditure eligible for tax allowances or reductions is borne by both partners, the allowances should be distributed proportionally between the two partners;
 - the costs of child care and domestic help incurred to enable a job to be held, must be tax-deductible,
 - flat-rate allowances relating to household expenditure should be shared on a proportional basis between the two partners,
 - special taxation concessions for men whose wives work exclusively in the home should be replaced by a parental or care allowance paid directly to the parent responsible.
This allowance should be linked to the rules applicable to 'parental or family leave'.
 - Spouses working in family businesses should be entitled to a fair share of the income and equal and separate treatment with regard to taxation.

1 - Resolution of 11.2.1981: OJ C 50, 9.3.1981, and
Resolution of 17.1.1984: OJ C 46, 20.2.1984

9. Consequently, regrets that the Commission has seen fit to content itself with a memorandum, rather than proposing action by the Community, and urges that current discussions should be conducted with a view to the preparation of a draft directive on which work should start immediately;
10. Notes that it is clear from
 - (a) the Commission's study of the income taxation systems in force in the Member States (V/2798/1/82), and
 - (b) the inquiry carried out by the Committee of Inquiry into the Situation of Women in Europe (Topic 15, Doc. 1-1229/83/C) that equal treatment of men and women requires separate taxation of men and women, and that the tax system "be neutral as between the married couple where only one partner is in paid employment and the married couple where both partners are in paid employment with a mandatory system of independent taxation for husband and wife as the long-term objective of fiscal reform" (Para. 20(b) (ii) of resolution of 17 January 1984);
11. Strongly urges the governments of the Member States to take account of these recommendations in reforming their fiscal legislation, and welcomes, in this connection, the recent British government promise to produce later this year a Green Paper to propose, inter alia, the separate taxation of husbands and wives;
12. Instructs its President to forward this resolution to the Council and Commission, and to the governments of the Member States.

B.

EXPLANATORY STATEMENT

Background

1. In its resolution of 11 February 1981¹, the European Parliament called for "a directive on equal treatment for male and female workers in the Members States' fiscal legislation, taking into account the relationship between family income and the number of dependants". This was seen to be a necessary adjunct to the directive on equal pay².
2. In December 1981, the Commission presented its "Action Programme on the promotion of equal opportunities for Women"³, and, in Action 6, proposed to undertake a comparative analysis of taxation systems, with a view to taking appropriate measures should this analysis show that the systems in effect in certain Member States have any negative effect, even indirectly, on equal opportunities for women.

The Commission proposal resulted in a major study on the "implementation of equal treatment by revising income tax systems which appear to have an indirect adverse effect on womens employment, their right to work and their promotion in employment" (V/2798/1/82).

This study considered, in great detail, the income taxation systems in force in the Member States. Its conclusions with regard to each country were as follows:

Belgium Marriage is always penalised, and it is not always the couples with the highest incomes who experience the greatest increases, especially where there are dependent children (op. cit., p. 20).

Denmark If the income of one spouse is negative, the loss can be set off against the positive income of the other.

The tax exemption of a man or wife whose spouse has no taxable income is twice that of a single taxpayer or of each spouse in a couple with two taxable incomes.

1 - OJ C50, 9.3.1981
2 - Directive 75/117/EEC; OJ L 45, 19.2.1975
3 - Doc. 1-927/81 (COM(81) 758 final)

Denmark (Cont'd.)

If both spouses have incomes, it is possible to transfer the unused part of this exemption to the other spouse (op. cit., p.26, 27).

Germany

The splitting-system favours the married and especially spouses whose incomes are of very different levels. In case of splitting, the losses caused by one of the spouses are deductible from the revenue of the other.

Under the separate taxation system, the married couple is treated less favourably than two single people as far as extraordinary expenses are concerned (op. cit., p. 38, 39).

Greece

Spouses must return their incomes together. If both spouses run a partnership together, their total income is taxed in the man's name. The wife's contribution to her husband's business is not recognised.

Discrimination exists in that the allowances and tax reductions are automatically given in the man's name, whereas the wife has to request this explicitly (op. cit., p. 49, 50).

France

The conjugal quotient reinforces the notion of [the wife's earnings being a] supplementary income. The second income (which is usually the woman's) is taxed at the marginal rate reached by the first and therefore almost wholly supports the effects of the graduated scale.

The tax saving due to the conjugal quotient is highest for a couple with one income. This may be an incentive for keeping the wife in the home and therefore goes against the independence induced by her working outside the home.

The higher the wife's income and the higher her contribution to the couple's total income, the more she is penalised by the tax system (op. cit., p. 60, 61).

Ireland Single persons are at a disadvantage relative to married couples. Like all splitting systems, the system gives a substantial tax advantage to the husband whose wife does not work outside the home. A married woman who does work outside the home is therefore at a disadvantage in relation to wives who stay at home (op. cit., p. 70).

Italy The Italian tax system does not contain any discrimination against women in salaried employment. [The only criticism which can be levelled against the Italian system is, however,] the lack of any allowance or tax-credit for child-care expenses (op. cit., p. 78).

Luxembourg The system is only neutral in the case where the incomes of the couple are equal and where there are children (op. cit., p. 100).

Netherlands The exempted minimum [the tax-free allowance of a married man is spectacularly higher than that available to a married woman] and the separate taxation of only her professional income form the principal sources of distortion (op. cit., p. 114).

United Kingdom Except in the case of separate assessment (an option which is taken up by only 3% of those to whom it is available) the husband is regarded as being the only one capable of handling the couple's tax questions, and the wife becomes "invisible" in the eyes of the tax authorities. She has to advise her spouse of her income, so that he may complete their joint tax return, whereas the husband may keep details of his earnings to himself. The husband enjoys a married man's allowance which is granted solely by reason of the marriage and does not cover any specific needs. Generally speaking, the principle of aggregate taxation may be criticised for the following two reasons:

- the wife's income is taxed at the maximum rate applicable to her husband's income;
- the couple reaches the maximum tax rate sooner (op. cit., p. 128).

A further criticism of the system is that a husband and wife who are both earning receive a higher allowance than a couple where only the husband is earning.

3. The topic of "Taxation: Special Problems encountered by Women" was retained by the Committee of Inquiry into the Situation of Women in Europe among its eighteen topics of inquiry (Topic 15, Doc. 1-1229/83/C).

Your rapporteur had the honour of drafting that report for that Committee. The principal conclusions reached in this report, whose scope was necessarily less exhaustive than the Commission study referred to above, were essentially the same as those reached in that study.

The main features of taxation systems in the Member States were seen to be as follows:

Country	Assessment unit	Assessment based on	Remarks
Belgium	Family	Cumulation	Joint assessment general rule
Denmark	Individual		Tax is calculated on aggregate income — total tax levied is <i>not</i> influenced by capital distribution between spouses
Germany	Family	Splitting	'Splitting' can discourage married women from entering employment as higher tax would be levied on couple's aggregate income
Greece	Individual		Joint declaration of incomes in husband's name
France	Family	Family quotient	Joint management by couples of family income — both spouses must sign tax declaration return
Ireland	Family	Splitting	Separate treatment generally less favourable to married couples than joint or separate assessment
Italy	Individual		System of equal and independent treatment of women as taxable persons
Luxembourg	Family	Family quotient	Couple jointly taxed as single unit
Netherlands	Individual		Joint assessment; married men have higher tax-free allowance, married women lower
United Kingdom	Family	Cumulation	Joint assessment general rule. A two-earner couple receive a higher total of allowances than either a one-earner couple or two single people

It was seen that the areas where discrimination may be discerned were the following:

- (i) The woman's income is often treated as belonging to her husband. Thus the woman often has no separate existence as a "taxable person". It is quite possible that, in many cases, a married woman is completely ignorant of household income and declaration for tax purposes;
- (ii) The married woman has no privacy in respect of her own income;
- (iii) The woman is not entrusted with the handling of her own tax affairs;

3. Cont'd.

- (iv) Tax deductions are often set against the husband's income and not the wife's which means that, where income tax is withheld at source by the employer, the wife will have vis à vis her husband, a proportionally greater amount of tax withheld.

Whereas the notion of the husband as "head of household", being the provider and thus responsible for the financial support of the family, may have reflected social reality in the past, it no longer corresponds to the modern woman's conception of her role in society.

A woman in salaried employment is entitled to the responsibility of managing her own income.

Equally, there is no reason why a woman who chooses to devote herself full-time to the management of her home and the rearing of her children should thereby become a second-class citizen from an economic viewpoint. Consideration of the aggregate incomes of the child nurse, housekeeper and cook whom she replaces would rapidly establish the value of her contribution to society!

Consequent to these conclusions, the following recommendations were made:

- (a) The tax system should be neutral as between the married couple where only one partner is in paid employment and the married couple where both partners are in paid employment.
- (b) The long-term objective of fiscal reform should be a mandatory system of independent taxation for husband and wife.
- (c) In the case of harmonisation of national legislation in regard to taxation, the choice of the individual as the tax unit, with appropriate allocation of allowances, is preferable to that of the family or household.
- (d) If the tax authorities persist in treating the family as the tax unit, married couples where only one partner is in salaried employment should be able to make the tax deductions of two single taxable persons.

4. In its resolution of 17 January 1984¹, the European Parliament welcomed "the Commission's proposal to undertake a comparative analysis on taxation systems", and called on the Commission, "in its analysis and in the measures to be proposed, to take into account:

- (i) the conclusions and recommendations set out in the report of the Committee of Inquiry into the Situation of Women in Europe concerning the special problems encountered by women with regard to taxation, and,
- (ii) in particular, that the tax system should be neutral as between the married couple where only one partner is in paid employment and the married couple where both partners are in paid employment, with a mandatory system of independent taxation for husband and wife as the long-term objective of fiscal reform". [paragraph 20]

It also reiterated the call for "directive on equal treatment for men and women in fiscal legislation".

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1 - OJ C46, 20.2.1984

Commission Memorandum

1. The European Parliament's resolution of 17 January 1984¹ also called on the Council "to adopt the appropriate measures [to implement the principle of equal treatment by revising income tax systems which appear to have an indirect adverse effect on women's employment, their right to work and their promotion in employment] . . . on the basis of the proposals to be submitted to it by the Commission".

2. In its resolution of 12 July 1982² on the promotion of equal opportunities for women, the Council had approved the general objectives of the 'Action Programme on the promotion of equal opportunities for women' which included the implementation of the principle of equal treatment in income taxation.

The Council thereby may be understood to have expressed its intention to take the necessary measures to achieve equal treatment between men and women in the area of fiscal legislation. The Council will only take such action if appropriate proposals are submitted to it by the Commission.

It is therefore disappointing to see that the Commission memorandum under consideration contains no proposals.

3. According to the Commission press release when the memorandum was drafted: "The aim of the Memorandum is essentially to provide the elements for a discussion of this problem at Community level, in describing the existing systems and in drawing out the problems relating to equal treatment in the different elements that make up the systems of income taxation". Given the scope and detail of the report into the different national taxation systems drawn up for the Commission, it must be the subject of some regret that the Commission is now merely presenting to the Council a memorandum with a view to the "discussion of this problem at Community level".

4. While we may understand the reason for the Commission's caution, and while we may be aware of the difficulties of drafting proposals in this area which will be acceptable to all parties, the Commission's sense of political reality cannot but seem a feeble excuse for this lack of boldness of approach.

1 - OJ C46, 20.2.1984

2 - OJ C 186, 21.7.1982

4. (Cont'd.)

The Commission's recent survey into "European Women in Paid Employment 1984" (V/1240(84)) reveals the following finding with regard to income taxation: "one married working woman out of five thinks that the tax system is such that it could discourage women from working because the extra tax on the household would take up nearly all their earnings" (p. 18). The prevalence of the feeling that the wife's earnings are responsible for pushing a couple's income into a higher bracket and that it is her income which goes to pay the higher tax bill must be seen as a positive disincentive to married women to take up employment, at least in some countries.

Indeed, cases have been noted of pressure being brought to bear by husbands in order to dissuade their wives from taking up salaried employment, for this very reason.

This is surely enough to show that the taxation systems in effect in certain Member States have a negative effect, albeit indirectly, on equal opportunities for these women.

Legal Context

1. National sensitivities are sure to run very high faced with talk of "harmonisation of legislation" in this area which is certainly of national competence.
2. The first two Council Directives aim at equal treatment of men and women in the field of employment: that they should receive equal pay for equal work, and that they should enjoy equal access to employment. It is obvious that a married woman will hesitate to take up salaried employment if this will result in a disproportionate additional tax burden for the family. Where such constraint exists, she cannot be said to have equal access to employment and promotion. There is no doubt that the underlying philosophy behind the directives on equal pay¹ and equal treatment in working conditions² would require full implementation of the principle of equal treatment in this touchy area of fiscal legislation. The amount of a woman's earnings which "go to the taxman" certainly affect her take-home pay and, more insidiously and perhaps ultimately more importantly, her perception and her husband's of her earning capacity.

1 - Directive 75/117/EEC; OJ L 45, 19.2.1975

2 - Directive 76/207/EEC; OJ L 39, 14.2.1976

3. The Council adopted on 13 December 1984 , a recommendation¹ on the promotion of positive action for women. Such an instrument has no binding force.

The rationale that was used to justify a recommendation as opposed to any other Community instrument in this area, was the absence of legislation in many Member States for the promotion of positive action.

Fiscal legislation most definitely exists in all Member States. The indirect effect of many of the systems in force tends in some cases to discourage women from taking up salaried employment. The laws are there; therefore this is undoubtedly an area where "harmonisation of legislation" can be called for.

Conclusion

Basic logic imposes the reiteration of the European Parliament's twice stated call² for "a directive on equal treatment for men and women in fiscal legislation", such a directive to be based on the neutrality of the tax system as between the married couple where only one partner is in paid employment and the married couple where both partners are in paid employment, with a mandatory system of independent taxation for husband and wife as the long-term objective of fiscal reform (see paragraph 20 of resolution of 17.1.1984).

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1 - OJ L 331, 19.12.1984

2 - Resolutions of 11.02.1981 and 17.01.1984

OPINION

(Rule 101 of the Rules of Procedure)

of the Committee on Economic and Monetary Affairs and Industrial Policy
Draftsman: Mrs Marijke Van Hemeldonck

On 26 March 1985, the Committee on Economic and Monetary Affairs and Industrial Policy appointed Mrs Marijke Van Hemeldonck draftsman.

It discussed the draft opinion at its meeting of 23 April 1985 and at the same meeting adopted the conclusions thereof by 17 votes with 1 abstention.

The following took part in the vote: Mr Seal, chairman; Mr Beazley, vice-chairman; Mrs Van Hemeldonck, draftsman; Mr Besse, Mr Beumer, Mr Bonaccini, Mr Cassidy, Mr Christodoulou (deputizing for Mr Ercini), Mrs De March, Mr de Vries, Mr Falconer, Mr Filinis, Mr Gautier, Mr Metten, Mrs Oppenheim, Mrs Van Rooy (deputizing for Mr Herman), Mr Wedekind and Mr von Wogau.

1. INTRODUCTION

This memorandum forms part of the further implementation of the social policy of the European Community¹, more specifically, equal treatment for men and women. Progress has been made on incorporating this principle into Community law, particularly since the 1970s, as a result of three Directives² and significant case law established by the Court of Justice³.

Despite some progress in a number of areas towards implementing the principle of equal treatment, both *de jure* and *de facto* discrimination is still rife. In a resolution of 11 February 1981⁴, the European Parliament drew attention to the discrimination arising under several Member States' fiscal legislations from the aggregation of the incomes of a married couple in a system of progressive tax rates. It has subsequently called several times for a directive on harmonization to be drawn up⁵. The memorandum under consideration, which analyses the situation in the various Member States, is the Commission's response.

2. POSITION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS AND INDUSTRIAL POLICY

The analysis clearly shows that the effect of aggregate taxation of the incomes of a married couple, even where modified by a splitting system, is to create discrimination against working married women. The memorandum thus confirms the critical views previously expressed by the European Parliament's Committee of Inquiry into the Situation of Women in Europe.

This committee would, however, also draw attention to two further matters falling within its terms of reference which make harmonization desirable:

1. free movement of persons and services. Taxation systems in the EEC range from full aggregation through splitting to the separate taxation of the incomes of married couples. Married persons, whether employees or self-employed, will thus receive a greater or lesser net income depending on the Member State in which they work. This may affect the free movement of persons and services;
2. harmonization of taxation as part of the common market. In order to pay the same net earnings to employees in different Member States, undertakings have to provide much higher gross pay in a Member State where aggregation is in force than in a Member State where married couples are subject to separate taxation. It is obvious that this may influence undertakings in their choice of locations and thus adversely affect the functioning of the common market (cf. Article 100 of the EEC Treaty).

¹Part 3, Title III of the EEC Treaty

²76/207/EEC of 9 February 1976, 79/7/EEC of 19 December 1978 and 75/117/EEC of 10 February 1975

³In particular, the three judgments in the Defrenne v Sabena case, the 'stewardess cases'

⁴OJ No. C 50, 9.3.1981

⁵Cf. the memorandum, pp. 1-2

The analysis also shows that there is already a high degree of standardization between Member States with regard to the tax allowances and reductions payable which are closely connected with the aggregate system. A number of major divergences remain, however, (see p.17 of the memorandum) such as the possibility of deducting the costs of child-care. It therefore seems appropriate to combine in a single directive measures to harmonize the system of both separate taxation and tax allowances.

3. CONCLUSIONS

The Committee on Economic and Monetary Affairs and Industrial Policy:

- agrees with the conclusion of the Commission's analysis that the present situation denies women equal opportunity;
- believes that Community measures are necessary from the point of view of both tax harmonization and of the free movement of persons and services;
- believes that aggregation or separate taxation should be a matter of choice for the individual;
- urges the Commission to submit a proposal for a directive laying down rules for the introduction of separate taxation and the further harmonization of tax allowances and reductions.

O P I N I O N

(Rule 101 of the Rules of Procedure)

of the Committee on Social Affairs and Employment

Draftsman: Mrs MAIJ-WEGGEN

On 18 December 1984, the Committee on Social Affairs and Employment appointed Mrs MAIJ-WEGGEN draftsman of its opinion.

The committee considered the draft opinion at its meeting of 22/23 April 1985 and, at the latter meeting, adopted its conclusions by 19 votes in favour with 2 abstentions.

The following took part in the vote : Mr WELSH, chairman; Mrs SALISCH, vice-chairman; Mr ALAVANOS, vice-chairman; Mrs MAIJ-WEGGEN, draftsman; Mr AVGERINOS (deputizing for Mrs d'ANCONA), Mr BACHY, Mr CHRISTIANSEN, Mrs DURY, Mrs GADIOUX (deputizing for Mr DIDO'), Mrs GIANNAKOU-KOUTSIKOU, Mrs LARIVE-GROENDENDAAL, Mrs MARINARO (deputizing for Mr RAGGIO), Mr MEGAHY, Mr PININFARINA, Mr PORDEA (deputizing for Mr LE CHEVALLIER), Mr SAKELLARIOU (deputizing for Mr STEWART), Mrs SQUARCIALUPI (deputizing for Mrs HOFFMANN), Sir Jack STEWART-CLARK, Mr TUCKMAN, Mr VGENOPOULOS and Mr WAWRZIK (deputizing for Mr BROK).

1. Background to the memorandum

On 11 February 1981 the European Parliament adopted a report and resolution drawn up by what was then the Ad Hoc Committee on Women's Rights on the position of women in the European Community (Doc. 1-829/80, 29.1.1981). This report contained a large number of recommendations calling on the Community to promote the equal treatment of men and women. One of these recommendations referred to the equal treatment of women in tax legislation. The report by the Ad Hoc Committee on Women's Rights had found that the tax legislation in the Member States often discriminated directly or indirectly against women.

The Commission reacted favourably to Parliament's report and resolution and in December 1981 published an 'action programme on the promotion of equal opportunities for women'. This action programme contained 16 points, which followed up the recommendations set out in Parliament's resolution.

The sixth point of this action programme focused on the position of women in tax legislation. The Commission proposed carrying out a study into possible discriminatory aspects of national tax legislation and gave an assurance that, if necessary, it would take measures to remove any discrimination.

The action programme was adopted by the Council on 12 July 1982.

The Commission subsequently completed its promised study into the position of women in tax legislation¹. The Committee of Inquiry into the situation of women in Europe set up by the European Parliament in 1981 also conducted a study into the position of women in tax legislation². Both studies confirm the surmise, already expressed in Parliament's report of February 1981 that discrimination is indeed practised.

In the light of these two studies and of the undertaking contained in the action programme, the Commission has now submitted to the Council and Parliament a memorandum on income taxation and equal treatment for men and women. The Commission's aims with this memorandum is to initiate discussion on this subject in the Council and Parliament with a view to establishing what measures are politically desirable and feasible.

¹ Implementation of equal treatment by revising income tax systems which appear to have an indirect adverse effect on women's employment, their right to work and their promotion in employment.
Doc. V/2798/1/82-EN/FR/ by Meulders/Haustraete/Six/Vanden Abeele

² Topic No. 15 of the report by the Committee of Inquiry into the situation of women in Europe on 'taxation: special problems encountered by women', co-rapporteur: Dame Shelagh Roberts (Doc. 1-1229/83, 5.1.1984)

2. Summary of memorandum

The memorandum once again summarizes briefly the most significant causes of unequal treatment as revealed by the above studies. The following points are covered:

2.1 Tax unit

The Member States apply overall systems based on the tax unit: separate taxation whereby each individual, irrespective of his or her marital status, receives an individual tax assessment and aggregate taxation whereby married couples receive a joint assessment.

The Member States apply three variations of aggregate taxation: simple addition of the two incomes, a system of splitting and a family quotient system. Some Member States allow combinations of separate and aggregate taxation or a choice between the two systems.

The study shows that the systems of aggregate taxation are the primary cause of unequal treatment. This applies above all to the system of simple addition but, to a lesser extent, also to the splitting system and the family quotient system.

In the first case, the wife's income is taxed more heavily than that of the husband by virtue of the progressive tax rates that apply in all Member States. In the other two cases the higher rate of taxation is split between the married couple, sometimes and sometimes not taking account of the number of children, so that the greater burden is distributed proportionately. Taken together, however, the married couple still generally pays more than if separate taxation were levied.

2.2 Tax rates

All Member States apply different rates of tax to different levels of income, with rates increasing in proportion to the level of earnings. This system of tax progression does not have a discriminatory effect in the case of separate taxation but, in the case of simple addition of incomes, is very disadvantageous for the second family income. This disadvantage can be partially offset by the splitting system and the family quotient system.

2.3 Tax allowances and reductions

The Member States apply a wide variety of tax allowances and reductions.

In the case of separate taxation, allowances/reductions are sometimes granted to the person who has actually incurred the costs in question. In most cases, however, allowances/reductions are applied to the highest income (often the husband).

In the case of aggregate taxation, allowances are virtually always applied to the joint income. It is remarkable that obvious costs that have to be met by the wife in order for her to work away from home (child-minding, housekeeping) are often not deductible. Many tax allowances seem to be tailored more to the working life of the man rather than that of the woman.

N.B. A point that is not included in the memorandum but which is worth mentioning is that many Member States grant special allowances and/or reductions for sole breadwinners (mostly the husband). Although such arrangements are entirely acceptable, they can greatly influence the spouse's decision to join the labour market. This is particularly the case when the sole earner loses such allowances as soon as his wife goes out to work. If the loss in question is relatively large and the wife's potential earnings are relatively low, the wife will often decline to seek paid employment, whether or not under pressure from her spouse.

2.4 Tax returns

In the case of separate taxation the married couple receives separate tax forms which must also be signed separately by the husband and wife.

The situation is more complicated in the case of aggregate taxation. Sometimes the married man and wife are each required separately to file the same tax return, sometimes the husband is responsible for completing the tax return but his wife must also sign it, sometimes the tax return must be completed and signed jointly by the married couple and sometimes the husband alone files a joint return, which the wife is not required to sign.

2.5 Women and self-employed occupations

The position of the assisting spouse in the family firm calls once again for special attention.

In most Member States a system of proportional income allocation applies to this group, which is then subject to the application of the system of separate or aggregate taxation.

Some Member States, however, fix a ceiling on the amount that may be allocated by way of income to the assisting spouse. One Member State even applies a system of separate taxation for ordinary workers but an aggregate system based on simple addition of income for assisting spouses. It is self-evident that both the fixing of a ceiling and inequality of treatment in relation to other married couples is not acceptable and gives rise to unequal treatment.

3. Summary

It is clear from the contents of the memorandum that there are a fairly large number of situations in which women are treated unequally in terms of taxation or in which women otherwise encounter difficulties on account of the taxation system.

To sum up, the points at issue are as follows:

- the system of aggregate taxation results, in the case of simple addition of earnings, in a level of taxation on the income of the married woman which is higher than the level of taxation on a comparable income of a married man or of an unmarried man or woman. This results in a lower net remuneration for the married woman and may result in her withdrawing from the labour market after marriage.
- the same effects can be forthcoming, albeit to a lesser extent, where the splitting or family quotient systems are used.

- as the progression of tax rates becomes more onerous, the adverse affects on women will increase where the system of aggregate taxation is used.
- in some Member States where the system of aggregate taxation is used the woman does not receive her own notice of assessment; sometimes she is required to co-sign the joint tax return and sometimes even this is not required. In most Member States, however, the marriage partner is jointly responsible for any non-payment of taxes by the spouse.
- where tax allowances or reductions are granted within a marriage solely to the husband or the person with the highest income (in other words mostly the husband), this also results in unequal treatment of the married woman vis-à-vis the married man and the unmarried man and woman in the form of an adverse affect on the net earnings of the married woman.
- where the working wife is not entitled to claim tax allowances for child-minding and assistance with housekeeping, this will involve her in considerable extra expenditure and hence represent an additional burden on her net income. If her level of her earnings cannot cope with these extra items, she will often have to choose between the double burden of paid employment and work in the home and partial or total abandonment of paid employment.
- setting a ceiling on the amount of income allocated to an assisting spouse can represent a far-reaching degree of unequal treatment. The same applies to the aggregation of the earnings of the self-employed husband and his assisting wife for the purposes of taxation.
- special tax arrangements for sole breadwinners in the form of higher reductions or allowances are both understandable and dangerous, because the loss of these advantages once the spouse is earning an income of her own may prompt the wife to give up the idea of paid employment and will certainly do so where the potential earnings are small.

Conclusions

1. The conclusions set out in the Commission memorandum tally to a significant extent with the conclusions already drawn in 1981 and 1984 by Parliament in the MAIJ-WEGGEN resolution on the position of women in the European Community (Doc. 1-829/80) and in the ROBERTS report of enquiry on 'taxation: special problems encountered by women' (Doc. 1-1229/83).
2. It is therefore to be regretted that, on this issue, the Commission has confined itself to presenting a memorandum which in fact simply reiterates all the problems in question and has not submitted a directive such as could eliminate the unequal treatment of women in the matter of tax legislation.
3. The Commission should therefore be asked to replace the memorandum with a directive on the equal treatment of men and women in the matter of taxation legislation incorporating the following points:
 - the Member States should design their systems of wage and income taxation in such a way as to avoid any form of direct or indirect discrimination against women with reference to sex, marital status or family situation;

- the Member States should design their systems of wage and income taxation in such a way as to avoid any form of fiscal pressure, whether a direct or indirect (from the spouse), that prompts women to abandon the idea of engaging in paid employment;
- the Member States should, in their wage and income tax systems, opt for an individual approach for each taxable person;
- tax allowances and reductions should be offset against the income of the person who has actually incurred the costs in question. Where certain items of expenditure that are eligible to be offset against tax in the form of a tax allowance or reduction are borne by both partners, the relevant allowances and reductions should be divided proportionally between the two of them;
- it should be possible to deduct from wage and income tax the costs of child-minding and housekeeping assistance that are incurred in order to make it possible to go out to work;
- fixed allowances relating to family responsibilities should be divided proportionally between the two partners;
- special tax arrangements for sole breadwinners should be replaced by a parental allowance or a dependent person's allowance to be paid directly to the parent actually responsible. These allowances should be linked to rules governing parental leave or family leave;
- assisting spouses in family businesses should be entitled to a proportional share of income and proportional and independent treatment in the matter of income taxation.