Transposition and application of Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services

2010/2043(INI) - 16/04/2013 - Text adopted by Parliament, single reading

The European Parliament adopted by 488 votes to 152, with 35 abstentions a resolution on the transposition and application of Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

Parliament regrets the fact that the Commission has not presented its report on the application of Council Directive 2004/113/EC or published up-to-date data on ongoing national implementation processes.

Although it acknowledges that **the Test-Achats ruling** may have had an impact on Member States' implementation processes, it notes that this alone **cannot justify the failure** to publish the report required by the Directive in time. It therefore calls on the Commission to publish its report and all available data without delay. It also expects the development of unisex criteria to result in pricing based on multiple risk factors which fairly reflect individuals' level of risk regardless of gender, and to detect any potential gender-based discrimination.

The resolution calls on the Commission and the Member States to take **concrete measures** to explain the Directive and its impact, with concrete examples, in order to ensure that both women and men can take full ownership of the directive and use it appropriately as an effective tool for safeguarding their rights with regard to equal treatment in access to **all goods and services**.

While welcoming the Test-Achats ruling, Parliament considers that it has created **ongoing uncertainty on the insurance market** and that the subsequent guidelines published by the Commission - in the absence of a binding or legislative effect - have not fully dispelled this uncertainty. It calls, therefore, on the Commission to take practical steps to address the problem by proposing a new legislative text that is fully in line with the guidelines.

Parliament calls on the Commission to:

- monitor the application of the provision in the Directive relating to the **shift in the burden of proof** in all Member States;
- open **informal dialogue** with the insurance industry on risk assessment;
- present the methodology it will use to measure the effects of the Test-Achats ruling on **insurance pricing** and analyse the issue with a focus on **consumer protection policy** as well;
- take into consideration cases of **discrimination** in relation to **pregnancy, planning of motherhood, and maternity** as regards, for instance, the housing sector (renting) or difficulties in obtaining loans, as well as **access to medical goods and services**, in particular access to legally available reproductive healthcare and gender reassignment treatment;
- monitor the implementation and application of the Directive with regard to **pregnant asylum-seeking women** awaiting the outcome of their asylum claims, as well as to any discrimination related to **breastfeeding**;

- gather **best practices** and make them available to Member States in order to provide the necessary resources for supporting positive action and ensuring better implementation of the respective provisions at national level;
- establish a **public database of legislation and case law** relating to discrimination on gender.

The resolution notes with disappointment that, in some Member States, **women entrepreneurs** are frequently discriminated against when trying to secure loans or credit for their businesses and still often face barriers based on gender stereotypes.

Parliament points out the need for the Directive to be transposed in a timely manner in all the Member States and also underlines the need for data and more transparency from the Commission on ongoing infringement procedures and actions.

Lastly, Parliament highlights the need for **financial support for, and EU coordination of, further training for legal practitioners** active in the field of gender-based discrimination, taking into account the role played by national courts.