

# 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

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The Committee on Women's Rights and Gender Equality adopted an own-initiative report by Agnieszka KOZOWSKA-RAJEWICZ (EPP, PL) on the 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.

As a reminder, [Directive 2004/113/EC](#) extends the principle of equal treatment of men and women beyond the realm of employment and the labour market and into the field of access to and supply of goods and services. It prohibits both direct and indirect discrimination based on sex in the access to and supply of goods and services which are available to the public, in both the public and private sectors.

Members regretted that the application of the Directive is not uniform and varies across the Member States. They called for the remaining **gaps in its implementation to be addressed** in some Member States and across certain sectors.

They suggested in particular increasing **awareness** about the provisions of the Directive to enhance the perceived importance of equal treatment in the field of goods and services.

**The insurance sectors:** the report welcomed the implementation of the *Test-Achats* ruling in national legislation by the Member States and the fact that national legislation has been amended in a legally binding manner. However, it pointed out that there are still challenges related to the conformity of national legislation with the ruling, for example in **medical insurance schemes** and in relation to the full **elimination of discrimination on the grounds of pregnancy and maternity**.

Members considered that ensuring **proper and full implementation** of the ruling in all Member States and areas is crucial. The conformity with the ruling across Member States should be monitored in periodic reports by the Commission and any gaps should be addressed as a priority.

Member States are called upon to make a greater effort and enhance clarity in protecting the rights and welfare of **pregnant women**. They should not experience higher costs on the sole grounds of their pregnancy. Awareness should be raised among service providers as to the special protection afforded to pregnant women.

**Transport sector and public spaces:** Members stressed the need to enhance preventive measures against **harassment** experienced by women in transport. They called on the Commission and the Member States to facilitate the exchange of best practices in this area and called for progress to be made regarding the EU's accession to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

Furthermore, Members regretted the fact that **parents and carers of small children** still face physical access barriers and other obstacles such as insufficient access to baby changing facilities on the premises of service providers. Members emphasised the need to safeguard the rights of both mothers and fathers to enjoy equal opportunities in the company of their children on the premises of service providers.

The Commission therefore to consider all **obstacles and constraints** to accessibility encountered by women as the main users of public transportation services and by carers of small children and carers in general.

**The collaborative economy:** Members highlighted the new possible areas of application of the Directive, in particular as a result of digitalisation of certain services and sectors as well as the proliferation of collaborative forms of service provision. They pointed out that the recently published Commission communication entitled "[European agenda for the collaborative economy](#)" should serve as a first step for promoting and regulating this sector effectively.

The Commission should integrate the principles of gender mainstreaming and reflect the regulations of the Directive to safeguard equal treatment of women and men and effectively prevent harassment in the services offered within the collaborative economy and ensure adequate safety.

**Differential treatment:** the largest share of issues addressed and complaints received by the equality bodies in the Member States concern differential treatment predominantly within the **leisure and entertainment sector**. They concern justification of unequal treatment based on the derogation provided in Article 4(5) that leads, for example, to differential pricing, refusals to provide services and differing conditions of access for women and men.

Members considered that the relative lack of **positive action** based on Article 4(5) across Member States constitutes a gap in the implementation of the Directive. They called for the promotion of forms of positive action.

**Enhancing the application of the Directive:** the Commission is urged to prioritise addressing the transposition issues with the Member States concerned by means of concrete measures, and to support them in implementing the Directive in a more consistent manner;.

Given the varying degree of effectiveness with which national equality bodies carry out their tasks, Member States are called on to guarantee sufficient competence and independence in accordance with the provisions of the Directive and national law as well as sufficient resources for national equality bodies.

The Commission, the Member States and equality bodies are called on to raise awareness about the provisions of the Directive among both service providers and users in order to implement the principle of equal treatment in this field and reduce the number of breaches of the Directive left unreported.