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

2016/2012(INI) - 14/03/2017 - Text adopted by Parliament, single reading

The European Parliament adopted by 499 votes to 104, with 81 abstentions, a resolution 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.

Concerned that the **application of the Directive is not uniform**, Members called for the elimination of any remaining gaps in the implementation of the Directive in some sectors in certain Member States. In this regard, they suggested **raising awareness** about the provisions of the Directive to enhance the perceived importance of equal treatment in the field of goods and services.

Insurance, banking and financial sectors: in the *Test-Achats* ruling, the Court of Justice concluded that Article 5(2) of the Directive works against the achievement of the objective of equal treatment between men and women. This provision was considered to be invalid with effect from 21 December 2012 and as a result unisex premiums and benefits are mandatory in all Member States.

Parliament welcomed the implementation of the 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 called on the Commission to monitor the **proper and full implementation of the ruling** in the Member States in order to safeguard women against unqualified pregnancy-related costs, as pregnant women should not experience higher costs on the sole grounds of their pregnancy.

Transport sector and public spaces: Parliament stressed the need to enhance preventive measures against **harassment** experienced by women in transport. It 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.

The Commission is called upon 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: the Commission is asked to 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. The "zero-tolerance" policy towards harassment should be further strengthened in the sector and there is a need to create clear procedures for users to report cases of abuse.

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 called for the promotion of forms of **positive action** in this area.

Enhancing the application of the Directive: the Commission recommended, *inter alia*:

- addressing, as a priority, the **transposition issues** with the Member States concerned;
- ensuring sufficient competence and independence as well as sufficient resources for **national equality bodies**;
- improving **access to justice** for victims of discrimination by giving independent equality bodies the competences to provide assistance, including free legal aid, and the right to represent individuals in cases of alleged discrimination;
- improving comprehensive, comparable specific **data collection** on harassment and sexual harassment in the area of equal access to goods and services;
- examining the possibilities to enhance equal treatment of women and men in advertising and to promote best practices in this field.