Equality men-women, discrimination based on sex: burden of proof

1996/0196(SYN) - 05/11/1997

The rapporteur was delighted that the United Kingdom had decided to participate in the directive on the reversal of the burden of proof in cases of sexual discrimination. Regretting that the Council had not taken over Parliament’s amendments, Mrs Ghigliardotti had decided to re-table at second reading those amendments which she regarded as fundamental. Commissioner Flynn criticised the Council’s position with regard to defining the concept of discrimination. The four elements cited by the Court of Justice and included in the base proposal had not been fully taken over in the common position. As regards the scope of the directive, he considered that shifting the burden of proof was a general principle which should be applied to all social legislation. The Commissioner said that the Commission could accept the amendments which strengthened the central provisions of the common position, namely Amendments Nos 1, 2, 5, 6 and 8. However, he rejected Amendments Nos 3, 4, 7, 9 and 10 and also Amendments Nos 11 and 12, which contradicted Amendments Nos 1 and 6.