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

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In its common position, the Council adopted in full only two of the European Parliament's first-reading amendments and made major changes to the Commission proposal. Mrs Fiorella Ghilardotti (PSE, I), rapporteur on the burden of proof in cases of discrimination based on sex, proposes ten amendments for second reading concerning aspects of the proposal which she regards as fundamental. Bearing in mind the scope of the Directive, she reintroduces the reference to three directives on equal treatment: Directives 79 /7/EEC (social security), 86/378/EEC (occupational social security schemes) and 86/613/EEC (self-employed workers). The rapporteur suggests a new, clearer definition of 'indirect discrimination' which also takes account of the points made by the Court. On the burden of proof, she calls for Article 4(1) to state that the plaintiff should benefit from any doubt that might remain. Finally, concerning procedure, she proposes an Article 4a to ensure that Member States include in their own legal systems procedures to make the legislation effective and to provide a more level playing field between plaintiff and defendant in terms of access to information. The rapporteur also calls for the deletion of Recitals 15 and 16, which she believes leave too much leeway for Member States to do nothing to bring about a shift in the burden of proof.