Equal treatment between women and men: access to and supply of goods and services

2003/0265(CNS) - 13/12/2004 - Final act

PURPOSE: to lay down a framework for combating discrimination based on sex in the access to and the supply of goods and services.

LEGISLATIVE ACT: Council Directive 2004/113/EC.

CONTENT: The Directive prohibits both direct and indirect discrimination based on sex in the access to and supply of goods and services. The main points to note are as follows:

- the prohibition of discrimination applies to access to and supply of goods and services that are available to the public. It does not apply to the content of media or advertising;
- the principle of equal treatment does not preclude differences which are related to goods or services for which men and women are not in a comparable situation because the goods or services are intended exclusively or primarily for the members of one sex. This applies to private membership clubs, or to skills that are practised differently for each sex;
- the use of actuarial factors related to sex is widespread in the provision of insurance services, even when such differences do not necessarily reflect objective differences.
  The Directive eliminates the use of actuarial factors related to sex. To avoid a sudden readjustment of the market, the prohibition of the use of such factors applies only to new contracts concluded after 21 December 2007. The phase-in period proposed is a long one;
- during the transitional period, the use of actuarial factors related to sex when calculating premiums and benefits accruing from insurance and other financial services must be transparent for the consumer. Member States have to compile actuarial data for the guidance of insurance companies;
- associations and organisations are empowered to engage in proceedings either on behalf or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts;
- the rules on the burden of proof are adapted when there is a prima facie case of discrimination. For the principle of equal treatment to be applied effectively, the burden of proof shifts back to the defendant when evidence of such discrimination is brought;
- Member States must establish a body or bodies, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims.

ENTRY INTO FORCE: 21/12/2004.

DATE OF TRANSPOSITION: 21/12/2007.