

**AMENDMENT 35**

by Astrid Lulling, Timothy Kirkhope, Angelika Niebler and Othmar Karas, on behalf of the PPE-DE Group

**Report****A5-0155/2004****Christa Prets**

Equality of access to and supply of goods and services

Proposal for a directive (COM(2003) 657 - C5-0654/2003 - 2003/0265(CNS))

Text proposed by the Commission

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Amendment by Parliament

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## Amendment 35

## Recital 13

(13) 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. Consequently, in order to ensure equal treatment between men and women, the use of actuarial factors related to sex should be eliminated. ***To avoid a sudden readjustment of the market, the prohibition of the use of such factors should apply only to new contracts concluded after the date of transposition of this Directive and should be phased in over a sufficiently long period. The Directive should not therefore apply to the use of such factors in contracts concluded for the first time before that date.***

(13) 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. Consequently, in order to ensure equal treatment between men and women, the use of actuarial factors related to sex should be eliminated ***unless the use of sex as a criterion in the differentiation of prices does not constitute discrimination on the grounds of sex, that is to say, the differentiation is legitimate and justified on objective grounds and is proportionate, reflecting differences in the underlying costs or expenses.***

Or. en

**AMENDMENT 36**

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Text proposed by the Commission

Amendment by Parliament

Amendment 36  
Article 4

1. Member States shall ensure that the use of sex as a factor in the calculation of premiums and benefits for the purpose of insurance and related financial services is prohibited *in all new contracts concluded after [date referred to in Article 16(1)] at the latest.*

1. Member States shall ensure that the use of sex as a factor in the calculation of premiums and benefits for the purpose of insurance and related financial services is prohibited. *However Member States shall ensure that the use of sex as a factor in the calculation of premiums and benefits for the purpose of insurance and in relation to financial services is allowed and does not constitute discrimination:*

*- where a difference of treatment is based on an objective characteristic related to sex;*

*- where, by reason of the nature of the particular goods or service concerned or of the context in which they are priced or provided, such a characteristic derives from statistical data which reflect differences in the underlying risks.*

*1a. Member States shall ensure that, by no later than [the date referred to in Article 16(1)] the costs of pregnancy or maternity are calculated irrespective of gender in the case of premiums and benefits for the purpose of insurance and related financial services.*

2. Member States *may defer implementation of the measures necessary to comply with paragraph 1 until [six years after date referred to in paragraph 1] at the latest.*

*In that case, the Member States concerned shall immediately inform the Commission. They shall compile, publish and regularly update comprehensive tables on the mortality and life expectancy of women and men.*

2. Member States *shall ensure that factual, transparent and objectively determined differentiation is required in accordance with the provisions of paragraph 1.*

Or. en

#### *Justification*

*Insurance underwriting taking sex into account does not represent gender discrimination if the underwriting process is objective and verifiable and takes into account a wide range of factors - including gender which is an important factor in risk assessment. Nevertheless the costs of pregnancy or maternity in the case of premiums and benefits should be equally distributed on both genders.*