


# Procedure file

Basic information		
CNS - Consultation procedure Directive	<a href="#">2003/0265(CNS)</a>	Procedure completed
Equal treatment between women and men: access to and supply of goods and services See also <a href="#">2010/2043(INI)</a> See also <a href="#">2016/2012(INI)</a>		
Subject 2.50.05 Insurance, pension funds 2.70 Taxation 4.10.04 Gender equality		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>FEMM</b> Women's Rights and Equal Opportunities		10/09/2003
		PSE <a href="#">PRETS Christa</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>LIBE</b> Citizens' Freedoms and Rights, Justice and Home Affairs		25/11/2003
		PSE <a href="#">SWIEBEL Joke</a>	
	<b>ECON</b> Economic and Monetary Affairs		02/12/2003
		PPE-DE <a href="#">LULLING Astrid</a>	
	<b>JURI</b> Legal Affairs and Internal Market (Associated committee)		01/12/2003
		PPE-DE <a href="#">NIEBLER Angelika</a>	
<b>ITRE</b> Industry, External Trade, Research, Energy		21/01/2004	
	PSE <a href="#">BERENQUER FUSTER Luis</a>		
<b>EMPL</b> Employment and Social Affairs		14/01/2004	
	ELDR <a href="#">ATTWOOLL Elspeth</a>		
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">General Affairs</a>	<a href="#">2630</a>	13/12/2004
	<a href="#">Employment, Social Policy, Health and Consumer Affairs</a>	<a href="#">2586</a>	01/06/2004
European Commission	Commission DG	Commissioner	
	<a href="#">Employment, Social Affairs and Inclusion</a>		

Key events			
05/11/2003	Legislative proposal published	<a href="#">COM(2003)0657</a>	Summary

12/01/2004	Committee referral announced in Parliament		
16/03/2004	Vote in committee		Summary
16/03/2004	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0155/2004</a>	
29/03/2004	Debate in Parliament		
30/03/2004	Decision by Parliament	<a href="#">T5-0221/2004</a>	Summary
01/06/2004	Debate in Council	<a href="#">2586</a>	
13/12/2004	Act adopted by Council after consultation of Parliament		
13/12/2004	End of procedure in Parliament		
21/12/2004	Final act published in Official Journal		

### Technical information

Procedure reference	2003/0265(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
	See also <a href="#">2010/2043(INI)</a> See also <a href="#">2016/2012(INI)</a>
Legal basis	EC Treaty (after Amsterdam) EC 013-p1; Rules of Procedure EP 57
Stage reached in procedure	Procedure completed
Committee dossier	FEMM/5/20307

### Documentation gateway

Legislative proposal	<a href="#">COM(2003)0657</a>	05/11/2003	EC	Summary
Document attached to the procedure	SEC(2003)1213	05/11/2003	EC	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0155/2004</a>	16/03/2004	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T5-0221/2004</a> <a href="#">OJ C 103 29.04.2004, p. 0036-0221 E</a>	30/03/2004	EP	Summary
Committee of the Regions: opinion	<a href="#">CDR0016/2003</a> <a href="#">OJ C 121 30.04.2004, p. 0025-0027</a>	21/04/2004	CofR	
Economic and Social Committee: opinion, report	<a href="#">CES0853/2004</a> <a href="#">OJ C 241 28.09.2004, p. 0041-0044</a>	02/06/2004	ESC	
Follow-up document	C(2011)9497	22/12/2011	EC	
Non-legislative basic document	<a href="#">COM(2015)0190</a>	05/05/2015	EC	Summary

### Additional information

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## Final act

[Directive 2004/113](#)  
[OJ L 373 21.12.2004, p. 0037-0043](#) Summary

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

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**PURPOSE** : to lay down a framework for combating discrimination based on sex in the access to and the supply of goods and services.  
**PROPOSED ACT** : Council Directive. **CONTENT** : this proposal prohibits both direct and indirect discrimination based on sex in the access to and supply of goods and services. Services should be taken to be those which are normally provided for remuneration. The main points to note are as follows: - the prohibition of discrimination applies to access to and supply of goods and services which 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 which 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. This proposal 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 the date of transposition of this Directive. 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.?

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

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The committee adopted the report by Christa PRETS (PES, A) broadly approving the proposal under the consultation procedure, subject to a number of mainly technical and drafting amendments, some of which were intended to align the proposal with existing "equal treatment" directives and the case-law of the Court of Justice. The report also dealt with a number of other issues. Although the directive does not apply to the content of media and advertising, the committee specified that it should apply to advertising of the terms and conditions on which access to goods is granted and services are supplied. MEPs argued that it would be illogical to prohibit discrimination in relation to access to goods and the supply of services but to allow advertising implying that such discrimination is permitted. For the sake of greater clarity, the committee said that it should be explicitly stated in the body of the text that the directive would not prejudice the application of Community law in the field of employment, including provisions relating to occupational pension schemes and social security matters. Lastly, MEPs wanted to tighten up reporting requirements, saying that the Member States should report to the Commission three years after the directive's entry into force and every three years thereafter, rather than every five years as originally proposed. They also wanted the Commission to report back to Parliament and the Council every four years.?

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

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The European Parliament adopted the report by Christa PRETS (PES, A) by 313 votes for, 141 against and 47 abstentions. (Please refer to the summary dated 15 March 2004). The new directive which attacks discrimination in particular regarding private pension schemes and the insurance sector, but also more broadly regarding the provision of goods and services caused great debate in Plenary. All goods and services available to the public are included, providing they have an economic value and are supplied for payment, whether in the public or private sectors. This includes medical and health care services, insurance and financial services - essentially all good and services outside the workplace, which is covered by an existing directive. There is no impact on the content of the media or on advertising except for advertising relating to the conditions of access to goods and services. The new Directive is based on Article 13 of the EC Treaty, which gives the Council the power to take measures to combat all forms of discrimination, notably those based on sex. This legal base allows only for the consultation of Parliament. The European Parliament is of the opinion that sex is a factor which may not be influenced, so the differences in premiums or benefits of insurance products based on this (including the risk of pregnancy) are discriminatory. Different pricing should be linked to individual behaviour and choices (such as eating habits, smoking, use of alcohol, job etc.). Concerning the implementation of the Directive, Member States have 2 years to transpose the directive into national law, except for the insurance and financial services sector, where Parliament proposes an additional period of 4 years, bringing the total to 6 years. This is in anticipation of possible difficulties for this sector, on which the Parliament wants Member States to report to the Council, Commission and Parliament. Given the differences between the Member States and the risk of competition being distorted during the transition period, the Member States must also report to the Commission on the progress made in eliminating the use of sex as a factor in calculation premiums, insurance and contributions. These reports, which would also be sent to Parliament and the Council, have the aim of ensuring objectivity and transparency. Lastly, the European Parliament is also calling for a change to the name of the directive, which originally referred to the principle of equal treatment - it should now refer simply to equality, reflecting the inclusion of equality between men and women as one of the fundamental rights of the proposed European Constitution.?

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

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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.