

ALERT

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EUROPEAN COURT OF JUSTICE RULES THAT DIFFERENTIAL RATES BASED ON GENDER ARE DISCRIMINATORY

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The European Court of Justice recently rendered a decision holding that insurers are no longer permitted to apply different insurance rates according to the gender of their insured.

The court held that “[t]he consideration of the gender of the insured as a risk factor in insurance contracts constitutes discrimination.” The court’s decision is not subject to further appeal and the decision will be applicable beginning on December 21, 2012.

The French Insurance Federation reports that insurers do not dispute calculating rates based on the gender of the proposed insured, particularly in the life and automobile liability areas, primarily because young women are less involved in serious accidents than young men and women generally tend to live longer than men.

The European Insurance Committee (Comite europeen des Assurances) has written that this decision will have a negative impact on those in the insurance market who

pose a lower risk, resulting in higher premium for young women, particularly in the auto and life areas. It is the view of the French insurance market that it is unjust to require individuals who pose a lower risk to pay a higher premium than would otherwise be required. However, it would appear that the European Court of Justice decision will result in just such a circumstance.

Clients with European operations should be prepared for significant rate adjustment requirements, which will take effect when the Court of Justice’s decision becomes applicable on December 21, 2012. What impact this decision may have on U.S. rating operations and practices is not currently known.

To discuss any questions you may have regarding the opinion discussed in this Alert, or how it may apply to your particular circumstances, please contact Christopher B. Kende, a member in our New York office, at ckende@cozen.com or 212.908.1242.

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