[BE] New act addresses sexism in the public space

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A highly controversial act has been adopted in Belgium to address sexist gestures and acts in the public space. A prison sentence of up to one year and/or a fine of up to EUR 1000 can be imposed for 'any public gesture or act, which is obviously intended to express contempt vis-à-vis a person because of his or her sex or, for the same reason, considers a person as inferior or reduces the person to his or her sexual dimension and which results in a serious infringement on the dignity of that person'. The act also amends the Law of 10 May 2007 to combat discrimination between women and men by incorporating two articles in relation to discrimination on the basis of gender. The rationale for the adoption of the act, according to the Explanatory Memorandum, is that sexism is a widespread phenomenon, which cannot be tolerated in a democratic society.

There are two views on the new act. On the one hand, some commentators consider that the restriction that the act imposes on freedom of expression may be too broad. They claim that the definition of the acts that are punishable may be too vague and question the fact that it may transfer the task of the legislator to the judiciary. On the other hand, the act does require special intent and clearly adds that the acts and gestures that are being considered as criminal acts should result 'in a serious infringement on the dignity of that person'. This additional criterion should ensure that only grave abuses will be punished. Another observation is that prison sentences may have a potential chilling effect on freedom of expression and this may be incompatible with the European Convention of Human Rights.

Wet ter bestrijding van seksisme in de openbare ruimte en tot aanpassing van de wet van 10 mei 2007 ter bestrijding van discriminatie teneinde de daad van discriminatie te bestraffen

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2014052240&table_name=wet

Act to combat sexism in the public space, amending the act of 10 May 2007 to combat discrimination in order to punish the act of discrimination, 22 May 2014, Official Gazette 24 July 2014

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Note explicative, DOC 53 3297/001

http://www.dekamer.be/FLWB/PDF/53/3297/53K3297001.pdf

Explanatory Memorandum, DOC 53 3297/001

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