

Pursuant to Article 50, paragraph 4 of the Law on Gender Equality (RS Official Gazette, No 52/2021) and Article 15, paragraph 1 of the Law on the National Bank of Serbia (RS Official Gazette, Nos 72/2003, 55/2004, 85/2005 – other law, 44/2010, 76/2012, 106/2012, 14/2015, 40/2015 – CC decision and 44/2018), the Executive Board of the National Bank of Serbia hereby adopts

DECISION ON APPLICATION OF THE SEX FACTOR IN INSURANCE

Introductory provision

1. This Decision regulates the manner of ensuring uniform application of the rule that an insurance undertaking shall not use the sex factor in pricing insurance premiums and benefits which entails differences in individual premiums and benefits, with a view to promoting gender equality in access to insurance services, in accordance with the Law on Gender Equality.

Equal treatment of both sexes

2. An insurance undertaking shall ensure equal treatment of women and men in pricing insurance premiums and benefits when concluding a new insurance contract.

The equal treatment of women and men within the meaning of this Decision means that the sex factor cannot entail different amounts of individual insurance premiums and benefits between women and men.

Costs related to pregnancy and maternity leave

3. The costs associated with the risks related to pregnancy and maternity during maternity leave shall not entail differences in premiums and benefits between women and men in new insurance contracts.

New insurance contract

4. Within the meaning of this Decision, a new insurance contract shall be:

- 1) an insurance contract concluded for the first time, starting from 31

December 2022;

2) an annex or other appropriate changes/additions to the insurance contract which, starting from 31 December 2022, extend the term of the insurance contract concluded before 30 December 2022 whose new term expires after that date.

Application of the sex factor in previously concluded insurance contracts

5. An insurance undertaking may continue to apply the sex factor, i.e. differences in amounts of individual premiums and benefits between women and men, in case of insurance contracts concluded before 30 December 2022 where the sex factor was used in pricing insurance premiums and benefits.

The contracts referred to in paragraph 1 hereof where continued application of the sex factor in pricing insurance premiums and benefits is permitted, shall include:

1) insurance contracts which have been automatically extended according to contract provisions, because up to a certain date after 30 December 2022 no notification has been submitted based on which the contract would be cancelled or otherwise terminated;

2) insurance contracts where without the consent of the policyholder and/or insured person and pursuant to the provisions agreed prior to 30 December 2022 and entitling an undertaking to propose changes to the contract, the insurance undertaking may amend certain elements of the contract, provided that the contract term is not extended and only if contract elements are amended in order to comply with insurance regulations;

3) insurance contracts where the policyholder and/or insured person has the right to request unilateral use of the rights specified in the insurance contract, in accordance with the provisions agreed prior to 30 December 2022 based on which the policyholder and/or insured person may contract additional insurance, change in insurance contract term, change in the amount of insurance premium or insured sum, and/or payment of additional insurance premium, capitalisation etc.;

4) insurance contracts which are the subject of the transfer of insurance portfolio from one insurance undertaking to another, provided that contract elements are not changed in the portfolio transfer;

5) other insurance contracts which are not considered new insurance contracts referred to in Section 4 hereof.

Application of the sex factor in insurance that remains permitted

6. An insurance undertaking may take into account the sex factor, i.e.

use the data related to sex when:

- 1) determining insurance premiums and benefits on a group basis (e.g. group insurance of employees with the employer), provided this does not entail differences on an individual basis in these premiums and benefits between women and men;
- 2) calculating technical provisions, and/or obligations under insurance contracts according to regulatory and accounting rules, as well as when monitoring data on insurance portfolio movements in the assessment of tariff adequacy, and when making internal calculations with a view to managing solvency and liquidity and other internal risk assessments, provided this does not entail differences in amounts of insurance premiums and benefits between women and men;
- 3) pricing reinsurance, provided this does not entail differences in insurance premiums and benefits between women and men;
- 4) conducting marketing activities and advertising with a view to impacting the planned structure of the insurance portfolio, whereas an insurance undertaking shall not bar access to an insurance service based on sex;
- 5) making an insurance offer targeting only one sex, if insurance covers the risk exclusively or primarily present in one sex (e.g. coverage of the risk of cancers of prostate, cervix, breast etc.), except in case of costs associated with risks related to pregnancy and maternity during maternity leave.

Taking into account sex in risk assumption

7. An insurance undertaking may take into account characteristic features of a certain sex, i.e. use data on sex in the assumption of risk in life insurance and voluntary health insurance in accordance with regulations and, in that case, such data, based on physical and physiological differences between women and men may be taken into account in considering the appertaining risk factors (e.g. health condition, family medical history, body constitution etc.), which may entail differences in insurance premiums and benefits on an individual basis, in accordance with this Decision.

An insurance undertaking may, in accordance with paragraph 1 hereof:

- 1) take into account information about sex and family medical history, including diseases specific for a certain sex (e.g. breast cancer etc.), whereas health questions may include different data related to each sex, except questions about pregnancy;
- 2) request different medical examinations and tests for women and men, when necessary (e.g. mammography, prostate examinations etc.);

3) take into account differences in physiological characteristics between men and women that are expressed in the results of health examinations, and/or reference values of medical analyses which may differ for men and women (e.g. biochemical analyses of blood and urine etc.), based on which the undertaking may make different decisions in risk assumption in accordance with the medically established reference values for both sexes, whereas the conditions or risk factors which affect both sexes, but with a different degree of severity or outcome, may serve as a basis for differentiation in risk assumption;

4) take into account differences in body constitution between men and women which are expressed in different reference values in accordance with which the undertaking may set different criteria for increased risk of exclusion from insurance coverage (e.g. in assessment of risk arising from obesity the insured person's sex may be taken into account, given that the average excessive body weight differs in women and men);

5) contract different insurance rights for a man or woman when the medical treatment of a certain disease or condition depends on sex in a specific case (e.g. treatments of certain cancers depend on reference values of hormones, which differ in women and men).

In the process of risk assumption in life insurance and voluntary health insurance, in cases referred to in paragraph 2 hereof, an insurance undertaking may make different decisions for male and female sex both in terms of admittance to insurance (access to conclusion of an insurance contract) and level of the insurance premium and benefit (e.g. if it is established that a user poses higher risk than the standard risk used in premium pricing, the undertaking may contract a higher premium or reduce the insurance benefit).

In the case referred in paragraph 3 hereof, at the request of a policyholder and/or insured person, the undertaking shall provide a written explanation for its actions in accordance with this Section.

Factors not related to sex

8. In risk assumption and insurance premium and benefit pricing, an insurance undertaking may use objective risk factors related to the insured case which are not directly related to the sex factor, such as: age, health condition, disability, profession and other personal characteristics of a potential insured person.

Reporting of insurance undertakings

9. The National Bank of Serbia may regulate in more detail the manner of reporting of insurance undertakings in relation to the implementation of this

Decision.

Transitional and final provision

10. An insurance undertaking shall bring its internal regulations in compliance with this Decision and inform the National Bank of Serbia thereof by 30 November 2022.

11. This Decision shall enter into force on the eighth day following its publication in the RS Official Gazette and shall apply as of 31 December 2022.

NBS Executive Board No 55
12 May 2022
B e l g r a d e

Chairperson
of the Executive Board
G o v e r n o r
of the National Bank of Serbia

Dr Jorgovanka Tabaković