



NEWS REPORT

Date: 27 October 2014
Expert: Matthias Mahlmann
Title: Holidays and age discrimination
Country: Germany
Context
Issue at stake: Additional holidays for older employees
Ground of discrimination: Age
Source: Federal Labour Court (Bundesarbeitsgericht), 21 October 2014 – 9 AZR 956/12
Field: Employment
Legislative provisions: Art. 10 General Equal Treatment Law (Allgemeines Gleichbehandlungsgesetz)

Content

Case: The plaintiffs challenges the regulation of an employment contract that provided for additional holidays for employees older than 58 (36 working days instead of 34). They argued that this formed discrimination on the ground of age of younger employees.

Decision of the Court: The Federal Labour Court (Bundesarbeitsgericht), 21 October 2014 – 9 AZR 956/12 argued that the unequal treatment of employees younger and older than 58 was justified according to Art. 10 sentence 2 and Art 10 sentence 3 no. 1 General Equal Treatment Law (Allgemeines Gleichbehandlungsgesetz) because it was based on increased needs of rest of employees in this particular area of work (shoe production). The regulation satisfied thus the proportionality test of Art. 10 General Equal Treatment Law.

Internet link source and additional information:

http://juris.bundesarbeitsgericht.de/cgi-bin/rechtsprechung/document.py?Gericht=bag&Art=pm&Datum=2014&nr=17674&pos=1&anz=57&titel=Zus%E4tzliche_Urlobstage_nach_Vollendung_des_58._Lebensjahres