



NEWS REPORT

Date: 11 December 2014
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Title: Recommendations of NCHR on amendment of the anti-discrimination legislation concerning aged persons
Country: Greece
Context
Issue at stake: Enforcement of the principle of equal treatment on the ground of age in the field of employment
Ground of discrimination: Age
Source: Consultative opinion of National Commission of Human Rights
Field: Employment
Legislative provisions: Anti-discrimination Law 3304/2005, art. 8

Content

Law/political development: In Recommendations adopted by the plenary session of 20th November 2014 on the protection of aged persons from discrimination, the National Commission for Human Rights (NCHR) noted that the existence of a coherent legal framework for protection against discrimination on the ground of age is of fundamental importance, especially now that age has become in Europe the most common reason for discrimination.¹ The NCHR pointed out that prohibition of discrimination on the ground of age is not provided *expressis verbis* in most of the international Conventions for the protection of human rights. It was also highlighted that both Article 19 of the Treaty on the Functioning of the European Union and Article 21 of the Charter of Fundamental Rights do however explicitly prohibit discrimination on the ground of age.

According to the NCHR opinion, in Greece, under the Law 3304/2005 a general framework for combating discrimination in employment and workplaces is established, according to Directives 2000/43/EC of 29 June 2000 and 2000/78/EC of 27 November 2000, to ensure the application of the principle of equal treatment. Age discrimination is explicitly mentioned in the Law 3304/2005. However, the NCHR notes that the above legislative framework is not considered as adequate for combating age discrimination. The NCHR also noted that Law 3304/2005 concerns exclusively the sector of employment. Moreover, the fact that the legislative framework is not adequate is already highlighted by the Council of Europe's Committee of Social Rights. The NCHR stressed that it has already identified the need to amend several articles of the law concerning the scope of equal treatment, positive action, occupational requirements and differences of treatment on the

¹ P. Stangkos "Discrimination on the ground of age and the challenge of solidarity between generations in Greek and European Law", *Review of Labour Law*, Vol. No 73, 2014, p. 178

ground of age, in order to make these provisions consistent with the letter of Directive 2000/78.² Moreover, according to NCHR, the amendment of several articles of the law is necessary so as to facilitate the legitimisation of NGOs in judicial proceedings, the recognition of favorable judicial precedent and the legitimisation of NGOs to exercise an appeal to an administrative authority. It is in this broader context that the government should address the issue of discrimination against aged persons.

The NCHR expressed its concern for the application of the principle of equal treatment in Greece especially during the economic crisis, since many of the austerity measures adopted in Greece (mostly of labor and social security content), are age-related (such as extension of employment years so that a specific age limit could be reached) and involve unfavorable treatment based solely on age since they deteriorate the access of young generations to employment, introducing direct non-justifiable discrimination, thus violating Directive 2000/78.³ In some cases indirect gender discrimination and multiple indirect discrimination on the grounds of gender and age are very possible, as for example, most pension beneficiaries under 55 years of age are women who have retired with fewer years of service, under the condition that they had under-aged children, which is also noted by the ILO as being a situation of indirect discrimination.⁴

As pointed out by the NCHR, Law 3304/2005 does not include the prohibition of multiple discrimination, a point which the NCHR has repeatedly highlighted, noting the need to amend it. With regard specifically to the right of aged persons, the NCHR notes that the prohibition of multiple discrimination is particularly important. Aged persons are often victims of discrimination not only because of their age but also because of their gender, ethnic origin, sexual orientation, nationality, religion or disability.

Finally, the NCHR noted that attention should be given to combating stereotypes and prejudice against aged persons which lead to discrimination against them (ageism). This phenomenon is associated with viewing aged persons as “not persons” or not the same persons like before, or as persons of a separate and lower category, only because they have already gone through specific life stages. The negative impact of these stereotypes on the enjoyment of aged persons’ fundamental rights should not be underestimated.

Internet link source and additional information:

http://www.nchr.gr/images/pdf/apofaseis/Hlikiomena_atoma/apofashEEDA_hlikiomenoi.pdf

² In its previous relevant Recommendations (2003 and 2010), the NCHR had stressed that the anti-discrimination Law 3304/2005 in order to incorporate in a technically correct way the Directive 2000/78 should repeat provisions included in the Law 3051/2002 according to which a maximum limit of age for hiring persons in job positions is abolished in both public and private sector (with exceptions).

³ S. Spiliotopoulou “Austerity measures in Greece and human rights: judgments of international bodies, EU Law and examples of Greek jurisprudence”, *Review of Social Security Law*, Vol 2/644, 2014, p. 173,181,182 and 189.

⁴ ILO, Report on the High Level Mission to Greece (Athens, 19-23 September 2011), available in : http://www.ilo.org/global/standards/WCMS_170433/lang--en/index.htm, §§ 1-8.