



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Greece
<b>Title:</b>	National court declared unconstitutional the reduction of the minimum wage for employees under the age of 25
<b>Date:</b>	15 April 2015
<b>Expert:</b>	Athanasios Theodoridis
<b>Context</b>	
<b>Issue at stake:</b>	Elimination of discrimination of young persons in the field of employment
<b>Ground of discrimination:</b>	Age
<b>Source:</b>	National court decision
<b>Field:</b>	Employment
<b>Applicable law:</b>	Articles 4(1), 21(3) and 22(1) of the Greek Constitution and Article 8(c) of the anti-discrimination Law 3304/2005

### Content

**Case development:** The 6<sup>th</sup> Act of the Council of Ministers of 2012, which had been issued in application of the Article 4 of Law 4046/2012<sup>1</sup>, imposes an automatic reduction by 32% of the minimum wage only for young employees below the age of 25, irrespectively of the fact that they may fall under a special industry-wide agreement. This means that according to Law 4046/2012, the new minimum wage for young employees is imposed even when it contradicts existing collective agreements. (This Law also reduced, to a lesser degree, the minimum wage for older employees.)

On 6 April 2015 the Justice of the Peace of Thessaloniki<sup>2</sup>, which as any other court in Greece, according to its legal system, is competent to examine the constitutionality of any law (including also Acts of the Council of Ministers) that regulates cases that fall within its jurisdiction, with its decision 34/2015 in a case where a young employee brought an action against his employer who had lowered his salary based on the relevant Act and Law found the reduction by 32% of the minimum wage for employees below the age of 25 to be unconstitutional. The Greek Confederation of Greek Workers (GSEE, which is the umbrella confederation including all private sector trade unions of Greece) published the decision (there being no official source on the court decision) and characterised it as 'crucial'. The GSEE reports that this is the first time that the unconstitutional character of this measure has been recognised.

**Decision of the Court:** According to the reasoning of the Court:

1. The provision of the 6<sup>th</sup> Act of the Council of Ministers of 2012 that introduces a discrimination against young persons below the age of 25 violates the

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<sup>1</sup> Law 4046/2012 (OJ 28 A /14.02.2012).

<sup>2</sup> The Justice of Peace constitutes the lowest grade of civil courts in Greece. Its competence concerns civil cases that arise from conflicts between private parties if their estimated financial value does not exceed 20.000 Euros.

- constitutionally protected rights of equality before the law (Art.4 para.1), equal pay and collective autonomy (Art.22 para. 1) and youth protection (Art.21 para. 3).
2. The protection of youth and young employees from discrimination is a binding obligation of the state that derives from EU and international law.
  3. The discrimination against young employees violates the principle of non discrimination as it is stipulated in Article 8(c) of the anti-discrimination Law 3304/2005, since it was based on random and unfounded evidence regarding the treatment of employees, which are discerned on the basis of the typical and coincidental element of age, discriminating against not only young employees but also against those with work experience, since young employees with work experience are treated in the same way as young employees without work experience. In Greek law the list of grounds is not open-ended but the Court can interpret broadly all legal terms such as “conditions of access to employment” etc. Moreover, the Court does not explain in detail its reasoning on this issue.
  4. There was no public interest justification for imposing measures of salary and social insurance inequality, since there was no evidence of causation or logical relevance of the protection of national economy with the dramatic reduction of minimum wages.
  5. The entire 6<sup>th</sup> Act of the Council of Ministers is inapplicable also for procedural reasons, as it contains primary law, adopted in violation of the Constitution (Art. 26, Art. 43 para. 2) by an incompetent institution (the Council of Ministers).

The GSEE stated that after the issue of the above decision it expects the restoration of Constitutional legality in this matter.

**Key points of analysis:** The fact that a Greek national court (Justice of the Peace) declared unlawful the salary reduction of employees under the age of 25 for violating both the Constitution and the anti-discrimination legislation obliges the State to take immediate measures to safeguard the protection of employees and enforce the principle of equal treatment by combating discrimination on the ground of age.

**Internet link source:**

<http://www.kepea.gr/article.php?id=1366>