



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

NEWS REPORT

Date:	February 12, 2015
Expert:	Pia Justesen
Title:	Eastern High Court judgment on age discrimination and dismissal
Country:	Denmark
<u>Context</u>	
Issue at stake:	Use of statistics to document age discrimination in a case of dismissal
Ground of discrimination:	Age
Source:	Eastern High Court judgment of January 23, 2015. Case B-2951-13
Field:	Employment
Legislative provisions:	Section 1, 2 and 7a of the Act on the Prohibition of Discrimination in the Labour Market etc.

Content

Case: In June 2011, with three other colleagues A and B were dismissed from their positions in a government agency because of workforce reduction. The dismissed employees were all above 50 years of age. A and B claimed that they had been discriminated against because of their age.

The Board of Equal Treatment had previously issued a decision in the case stating that the percentage of elderly employees who had been dismissed constituted a disproportionately high percentage of the overall number of employees. The Board concluded that the complainants had established facts of possible discrimination and that the employer could not prove that no discrimination had taken place. Thus the complainants were awarded compensation (Decisions by the Board of Equal Treatment no. 401/ 2012 and no. 402/2012).

The government agency declined to follow the decision. Thus, the Board brought the case against the government agency to the civil courts.

Decision of the Court: The Court emphasised that a number of employees in the government agency who were older than A and B did not get dismissed during the workforce reduction. The court also emphasised that minutes from a manager meeting held just before the dismissals described that it would be unfair to look at the age disparity of the various departments when deciding on whom to dismiss.

Finally, the Court stated that the Board of Equal Treatment had not identified any circumstances beyond the age distribution of the dismissed employees to support the assumption that the government agency in whole or in part had attached importance to the age of the dismissed

employees. Thus the Court concluded that A and B had not established facts of possible discrimination and acquitted the government agency.

Internet link source and additional information:

<http://www.domstol.dk/oestrelandsret/nyheder/domsresumeer/Pages/ALDERSDISKRIMINATION-FORSKELSBEHANDLING.aspx>