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NEWS REPORT

Country:	Hungary
Title:	Equal Treatment Authority establishes age-discrimination by the national tax authority
Date:	8 January 2016
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<u>Context</u>	
Issue at stake:	Whether age limits are discriminatory in job advertisements even if the some of the applicants are older than the maximum age set in the ad
Ground of discrimination:	Age
Source:	National equality body, case no. EBH/449/2015
Field:	Employment
Applicable law:	Act CXXV of 2003 on Equal treatment and the Promotion of Equal Opportunities (ETA), Articles 7, 8 and 21

Content

Case development: The National Tax and Customs Administration published a job advertisement recruiting office administrators. The advertisement indicated that the applicant had to be younger than 40 years of age. The advertisement was submitted to the Equal Treatment Authority as a public interest complaint by a 44-year-old person on the basis that he/she did not have any chance to be employed due to the age limit. The Authority launched an ex officio investigation into the case.

In its defence, the respondent claimed that the age-requirement was included in the advertisement due to an administrative mistake, and no applicant was refused on the basis of age. Out of the 87 persons applying, 18 were older than 40, all the applicants meeting the requirements were interviewed. Out of the four applicants who were finally employed, one is in fact 44 years of age.

Decision: On the basis that the advertisement was capable of discouraging and likely to have discouraged potential applicants older than 40 from applying (which is exactly what happened to the person calling the Authority's attention to the advertisement), the Authority concluded in its decision of 16 October 2015 that there had been a violation of the requirement of equal treatment irrespective of the fact that one of the recruited applicants was actually older than 40. Article 21 of the ETA lists public job advertisements among the areas in which particular attention must be paid to the requirement of non-discrimination, which – in the Authority's view – implies that a discriminatory job ad in itself constitutes a violation, no further disadvantage is required (e.g. in the actual recruitment procedure) for discrimination to be established.

The Authority ordered that its decision be published for 30 days and banned the

respondent from future violations.

Key points of analysis: The decision is important in making it clear that the very obvious defence of an administrative mistake is not acceptable in the case of discriminative job advertisements. It is also important that the Authority stated that the potential discouraging effect of such ads is in itself a disadvantage that can substantiate the establishing of a violation.

Internet link source:

http://www.egyenlobanasmod.hu/app/webroot/files/img/articles/9ccc7998480e6d0382a5102a2af48f14/449_2015_z.pdf

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