



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

### NEWS REPORT

<b>Country:</b>	FYR of Macedonia
<b>Title:</b>	Constitutional Court decision on discrimination due to different retirement age of women and men
<b>Date:</b>	20 September 2016
<b>Expert:</b>	Mirjana Najchevska
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Equalizing years of retirement for men and women
<b>Ground of discrimination:</b>	Sex
<b>Source:</b>	National Court decision
<b>Field:</b>	Employment
<b>Applicable law:</b>	Law on Labour Relations of the FYR of Macedonia

### **Content**

**Case development:** In 2014, the introduction of the possibility of prolongation of the working age made discriminatory amendments to the Law on Labour Relations according to which women could prolong working until 65 years of age, while man could prolong working until 67 years of age, by way of a written statement to the employer up to August 31 of the current calendar year.

In 2015, a number of university professors and NGOs lodged a complaint in the Constitutional Court. Notably, a group of administrative executives, later the same year, also lodged a complaint regarding a similar provision concerning retirement age in the Law on Administrative Servants (Article 98).

**Decision of the Court:** On June 29, 2016 the Constitutional Court of the Republic of Macedonia adopted a decision for derogation of parts of the relevant articles of the Law on Labour Relations stipulating different gender living age as condition for obligatory retirement. Thus, the Court equalized both the age for retirement as well as the possibility of prolongation of the working contract by will only of the worker up to 67 years of age for men and women.

**Key points of analysis:** Although the complaint was lodged in April 2015, the Constitutional Court delayed the adoption of the decision for quite some time. The verdict was adopted without any public hearing of the Court. Having said that, it should be noted that this is a very important decision, which opens opportunities for introducing a gender perspective in law making on a general level. Furthermore, it is also very important that the Constitutional Court in this decision clearly distinguishes the law stipulations related to gender in the social laws (on health, retirement insurance etc.), which it found as positive discrimination. For example, if a woman reaches the maximum retirement percentage of remuneration at the age of 62 while a man reaches it at the age of 64, that is not considered as discrimination against the man but rather a kind of compensation for the woman for periods of pregnancy and motherhood. Hence, it must

not affect the right of women to work as long as men, according to the Constitutional Court.

**Internet link source:**

Changes of the Law on Labour relations, Official Gazette 113/2014:

<http://www.slvesnik.com.mk/Issues/0629a50e329c47c788319ddd98387a1d.pdf>,  
accessed 15 August 2016.

The Law on administrative servants, Official Gazette 27/2014,

<http://www.slvesnik.com.mk/Issues/6ed04b3db86643b297d84aa94513d055.pdf>,  
accessed 15 August 2016.

Decision of the Constitutional Court: <http://www.ustavensud.mk/domino/WEBSUD.nsf>,  
accessed 15 August 2016.