



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

NEWS REPORT

Country:	Poland
Title:	Reinstating different (and lower) retirement age for women and men.
Date:	6 January 2017
Expert:	Eleonora Zielińska
<u>Context</u>	
Issue at stake:	The Law reinstating the prior retirement age scheme of 65 for men and 60 for women, adopted by the lower chamber of the Parliament.
Grounds of discrimination:	Sex
Source:	Legislation
Field:	Social security
Applicable law:	The Law of 15 November on amendment of the Law of 17 December 1998 on retirement and disabilities benefits from the Social Security Fund (JoL of 2016, pos. 887) and certain other laws.

Content

Law development: The above law includes regulations aiming to return to the former retirement age scheme in the public social security system - 60 years for women and 65 years for men (Article 24 item 1). It also introduces an analogical change of retirement age for farmers, as well as a change of retirement age of state prosecutors and judges (it is currently 67 years, both for women and men, and is now to be reduced by the draft law to 65 years). The draft law also introduces other changes, which are inseparably linked to the implementation of this regulation, among others regarding contribution periods (contribution and non-contribution periods amounting to 20 years for women and 25 years for men) and abolishing of partial retirement. The new law is supposed to come into force in October 2017.

Key points of analysis: In the Polish retirement system, for many decades the retirement age was differentiated with regard to sex, being 60 years for women and 65 years for men. According to the Law of 11 May 2012 on amendment of the Law on retirement and disabilities benefits from the Social Security Fund and certain other laws (JoL of 2012, pos. 637) the higher retirement age, equal for women and men, was supposed to be introduced successively. The final retirement age of 67 years would be introduced as of 1 October 2040 for women and 1 October 2020 for men. The change of the length of retirement age in 2012 raised constitutional concerns. However, Article 67 section 1 of the Constitution does not provide for any directives regarding the height of retirement age, hence it may be specified in a regular law. This was already earlier confirmed by the Constitutional Court in its ruling of 7 May 2014, case no. K 43/12. In another ruling, of 15 July 2010, case no. K 63/07, the Constitutional Tribunal noted that different retirement age for women and men is considered in constitutional jurisprudence as so-called privileging compensation (affirmative action), aiming at reduction of actual inequalities with regard to sex. It has to be noted that the new retirement scheme is

based on the ground rule, that the amount of the future benefit is the direct derivative of the amount of paid contributions. Therefore, the lowering of the retirement age will have significant influence on the amount of the future monthly benefit because it will cause the reduction of the sum of aggravated contributions, additionally increased by the extension of duration of life of retired persons. This was, among others, the reason that the European Commission has recommended to change the retirement age, according to the longer life expectation, equalisation of the retirement age for women and men, and reduction of the possibilities for earlier exiting of the labour market towards the benefits sphere. The introduced amendment does not implement those recommendations.

Internet link sources:

<http://www.sejm.gov.pl/sejm8.nsf/PrzebiegProc.xsp?nr=62>

Opinia prawna sprawie prezydenckiego projektu ustawy o zmianie ustawy o emeryturach i rentach z Funduszu Ubezpieczeń Społecznych oraz niektórych innych ustaw [Legal opinion on the presidential draft law amending the law on retirement and disabilities benefits from the Social Security Fund and certain other laws]. BAS-WAL-184/15

<http://orka.sejm.gov.pl/rexdomk8.nsf/Opdodr?OpenPage&nr=62>, all accessed 16 December 2016.