



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

### NEWS REPORT

<b>Country:</b>	Former Yugoslav Republic of Macedonia
<b>Title:</b>	Second decision of the Constitutional Court on discrimination due to different retirement age for men and women
<b>Date:</b>	15 May 2017
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<b>Update of news report published 27 September 2016:</b>	Constitutional Court decision on discrimination due to different retirement age of women and men
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Equalizing retirement age for men and women
<b>Ground of discrimination:</b>	Sex
<b>Source:</b>	Constitutional Court decision
<b>Field:</b>	Employment / retirement
<b>Applicable law:</b>	Law on Administrative Clerks of the R. Of Macedonia

### **Content**

**Case/law/policy development:** With the introduction of the possibility to delay the retirement age in July 2014, discriminatory amendments were made to the Law on Labour Relations, the Law on Administrative Clerks and certain other special laws containing provisions on retirement. The amendments stipulate that women can delay their retirement age from 62 to 65, while men can delay their retirement age from 64 to 67. They can do so by giving a written statement to the employer before 31 August of the year in which they would like to invoke this right.

In 2015, a group of university professors and NGO's lodged a complaint to the Constitutional Court. Additionally, three months later, a group of administrative executives, lodged another complaint regarding the provision on the retirement age in the Law on Administrative Clerks. On 29 June 2016, the Constitutional Court of the Republic of Macedonia adopted a decision by which it nullified the part of the amendment concerning the differentiation in retirement age based on sex, while leaving the part concerning the prolongation of the retirement age as such in force. Thus, the final outcome is the possibility to postpone one's retirement up to the age of 67, regardless of sex.

**Decision of the Court:** On 1 February 2017, the Constitutional Court of the Republic of Macedonia adopted a second decision No. U. 121/2015 regarding the postponement of the retirement age, declaring null and void the relevant provision of the Law on Administrative Clerks stipulating different retirement ages based on gender. The Court put the administrative workers under the Law on Labour Relations, which stipulates the possibility of a postponed retirement age at 67 regardless of the worker's sex.

The Decision does not refer to any other laws with provisions on the retirement age.

On 1 February 2017, the day this decision was adopted, the specialized electronic legal review "[Akademik](#)" published an article summarising the verdict and the Decision was published in the Official Gazette No. 16/2017 on 14 February 2017.

**Key points of analysis:** The fact remains that there were no controversial discussions or debates in the public arena on this issue, whilst academics and NGO's stand unified in favour of the possibility of delayed retirement, however the age at which this is set should be the same for all workers regardless of sex.

Both of these decisions of the Constitutional Court create a rather complicated, yet a well based system of retirement. Women fulfil the retirement requirement at 62 with a minimum of 15 working years. But they may delay their retirement to 67, if they file a specific and formal request to delay their retirement. This constitutes, according to a previous decision of the Constitutional Court, as positive discrimination ([U.No.: 114/2014-0-1](#)). For men the minimum age of retirement is 64, but the age for prolonged retirement is also 67.

Furthermore, both men and woman, with a simple written declaration, lodged before 31 August of the calendar year in which they want the provision to be applied, can prolong their retirement age with one year, but not exceeding 67 years of age. Employers cannot oppose this request.

**Internet link source:**

Constitutional Court decision U.No.: 121/2015-0-1 from 01 February 2017

<http://www.ustavensud.mk/domino/WEBSUD.nsf>

Information on the portal Academic: <http://www.akademik.mk/ustavniot-sud-ukina-odredba-od-zakonot-za-administrativni-sluzhbenitsi-protivustavni-se-razlichnite-uslovi-za-prestanok-na-rabotniot-odnos-za-zheni/>

Constitutional Court decision U.No.: 114/2014-0-1 from 29 June 2016

<http://www.ustavensud.mk/domino/WEBSUD.nsf>