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NEWS REPORT

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| Country: | Slovakia |
| Title: | Decision of the District Court in Zvolen on dismissal based on direct discrimination |
| Date: | 04 July 2017 |
| Expert: | Zuzana Magurová |
| <u>Context</u> | |
| Issue at stake: | Dismissal/Direct discrimination |
| Ground of discrimination: | Sex |
| Source: | National court decision (District Court in Zvolen from 17 march 2017, n. 7C 11/2010-818, Supreme Court from 24 March 2015, n. 5 Cdo 56/2014) |
| Field: | Employment |
| Applicable law | Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination and on Amendment of Certain Acts (Antidiscrimination Act), as amended; Act No. 311/2001 Coll. on the Labour Code (<i>Zákonník práce</i>); |

Content

Case: The District Court of Zvolen issued a long-awaited verdict on 17 march 2017 in the case of a senior researcher V. Petrášová, who sued her previous employer, the National Forestry Centre (NLC). The court decided that the notice she received of the termination of her employment in 2009 is invalid because it is based on discrimination. The verdict however is not yet final as the NLC may appeal it. Once the verdict becomes final, the court will also decide on other claims the applicant made in the proceedings concerning her salary and compensation for non-pecuniary damages.

Case development: The dispute started in 2008 when the complainant prepared two project ideas for projects approved by the 'Agricultural Paying Agency' (APA). She subsequently prepared proposals for both projects, which were worth more than 4 million Slovak crowns (almost EUR 140.000). After she completed the project proposals, NLC failed to submit them to the APA.

This happened shortly after the new head of NLC was appointed. Nobody explained to the complainant why the projects had not been submitted.

Moreover, NLC has repeatedly changed the reasons for not submitting her projects proposals during the court proceedings. Rather than V. Petrášová's project proposals, the NLC submitted a project proposal prepared by her male colleague who seemed less qualified based on his educational background and experience in the field.

Nevertheless, V. Petrášová continued preparing further projects in order to fully cover for the hours she was hired to work for the at the NLC. However, the NLC had no internal rules in place for the submission of project proposals, and did not choose to submit any other project from the applicant.

Following other incidents, NLC proposed V. Petrášová to change her working contract, explaining that she did not have any projects to coordinate. With such a change, her salary would decrease and this would stand in the way of her career growth.

V. Petrášová considered the change to be discriminatory and refused to sign it. She was subsequently dismissed by her employer who claimed that due to organisational changes she was made redundant. This happened despite the fact that the NLC's collective agreement stipulates that in case of organisational changes, employees are considered based on their experience and results. V. Petrášová had excellent results.

Decision of the court: The District Court of Zvolen (court of first instance) issued a verdict in 2012 in which it regarded the dismissal to be invalid,¹ but it did not state discrimination as a reason. The Banská Bystrica Regional Court (appellate court) confirmed the ruling in 2013.²

The ruling was however dismissed by the Supreme Court in 2015,³ which returned the case to the Regional Court stating that the dismissal was indeed discriminatory. The Regional court returned the case to the District Court of Zvolen.

In its verdict of 17 March 2017, the District Court of Zvolen⁴ finally held that the dismissal was invalid for the reasons identified in earlier decisions, but also for being discriminatory in several ways. The court held that the applicant had been subjected to direct sex discrimination based on the fact that her projects were not submitted to the APA whilst a similar project prepared by her aforementioned less-qualified male colleague was submitted. The circumstances under which the applicant's projects had not been submitted to the APA were also described by the court as 'harassment' This also qualifies as a form of discrimination which was demeaning and humiliating to the applicant and restricted her freedom of scientific research.

The court also noted that the discriminatory treatment of the applicant had been initiated by its new director general. This Director General had been replaced by the applicant in a previous position at the forestry section of the Slovak Agricultural Ministry several years before this incident. He alone made the decision regarding her dismissal – despite not being in any direct employment relation with her and despite the fact that, pursuant to the NLC's applicable organisational rules, a written proposal for a redundancy dismissal of a particular employee should have been presented by other senior employees in the NLC management. Their testimonies show that they never proposed to dismiss the applicant.

Key points of analysis: The decision is groundbreaking because, despite antidiscrimination legislation being in place in Slovakia since 2004, there have been very few cases in which a court ruled that a woman was discriminated against on the ground of sex.

Internet link source: The decision of Supreme Court in Slovak language can be found at: http://www.supcourt.gov.sk/data/att/61938_subor.pdf.

¹ Decision n. 7C/11/2010-353 of 3 December 2012.

² Decision n. 16CoPr/2/2013-400 of 20 June 2013.

³ Decision n. n. 5 Cdo 56/2014 of 24 March 2015.

⁴ Decision n. 7C/11/2010-818 of 17 March 2017.