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### NEWS REPORT

<b>Country:</b>	Greece
<b>Title:</b>	Abolition of age limit for the position of a specialised doctor in the National Health System
<b>Date:</b>	18 June 2018
<b>Expert:</b>	Athanasios Theodoridis
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Access to the profession of doctor in the National Health System without discriminatory treatment on ground of age
<b>Ground of discrimination:</b>	Age
<b>Source:</b>	Legislation
<b>Field:</b>	Social protection (Health)
<b>Applicable law:</b>	Law 4528/2018, Article 4

### Content

**Legislative development:** Article 4 of Law 4528/2018,<sup>1</sup> which was voted in March 2018, repealed article 2 para. 2 of Law 4368/2016 who provided for a maximum age limit of 50 years old to apply for a position of specialist doctor for the grade of Deputy B' in the Greek National Health System (NHS).

Therefore, the Ministry of Health and subsequently the Parliament took into account a previous advisory opinion of the Ombudsman,<sup>2</sup> which had investigated a prior individual complaint in the context of his duties as an actor responsible for the supervision and the promotion of the equal treatment principle in both the public and private sector (according to anti-discrimination Law 4443/2016). This advisory opinion states that the specific age limit for the access to the position of specialist doctor, constitutes a direct discriminatory treatment on grounds of age, since it does not seem to be justified.

More particularly, as the Ombudsman mentioned, when the age limit is a prerequisite for the access to work, then it must be proved that it is a characteristic of substantial importance linked with the ability to exercise the specific professional activity. Therefore, it must be proved that an age limit requirement in a specific context is proportionate and necessary to attain a legitimate aim. The necessity test requires to demonstrate that there are no less restrictive methods to achieve the legitimate aim in question. Thus, all regulatory provisions setting a maximum age limit for the access to specific sectors or to obtain specialist qualifications, must fulfil all the above-mentioned criteria.

The Ombudsman held that even if the legitimate aim of the use of the age limit is to ensure that patients will not be exposed to risks related to a possible incapacity due to the old age of doctors, this aim cannot justify the strictness of this measure or the fact

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<sup>1</sup> Law 4528/2018, OJ 50 A/16.03.2018.

<sup>2</sup> Greek Ombudsman, case n° 238767/2017

<https://www.synigoros.gr/resources/20180516-dt-katargisi-oriou-ilikias-giatron-esy.pdf>.

that the age limit constitutes a characteristic so substantial for the exercise of the specific position's duties.

**Key points of analysis:** The provision of Law 4368/2016 which prescribed a maximum age limit of 50 years old for the position of specialist doctor for the grade of Deputy B' in the NHS and was further repealed by Law 4258/2018, was problematic, since it had introduced a direct discriminatory treatment on grounds of age without justification. It cannot be concluded that it serves a specific aim and it does not seem to be in line with the proportionality principle.

**Internet link source:** <https://www.forin.gr/laws/law/3647/nomos-4528-2018>.