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NEWS REPORT

Country:	Slovakia
Title:	The Equality Body finds age discrimination in a selection process of a private train company
Date:	18 July 2018
Expert:	Vanda Durbakova
<u>Context</u>	
Issue at stake:	Expert opinion of the Equality Body on age discrimination
Ground of discrimination:	Age
Source:	Expert opinion of the Equality Body
Field:	Employment
Applicable law:	Act no. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights; § 1 para 2f, Act no. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws (Antidiscrimination Act); § 2a para 2, § 3 para 1; § 6 para 1 and para 2a Act no. 5/2004 Coll. on Employment Services, § 14 para 2

Content

Case: Expert opinion of the Slovak National Centre for Human Rights (no specifications on date and file number are available).

Facts of the case: The equality body – the Slovak National Centre for Human Rights (the centre) - issued an expert opinion in response to the received complaint of a woman, who claimed to be discriminated by a private train company in a selection process for a working position of train steward, due to her age. Even though she met all the required criteria for the given position, the employer informed her that she was not selected while directly stating that one of the criteria for the selection was also age and candidates born after 1986 have been preferred. The employer deduced higher age of the claimant from the information in her CV about when she attended a secondary school which was in 1989-1993, which means she must have been 11 years older, 42 years old or older.

Expert opinion of the Equality Body: While assessing the complaint, the centre asked the train company to provide details on the given selection process. The company stated that various criteria have been considered when selecting the candidates for the given working position, in particular a sufficient level of English language, time flexibility and previous experience with similar working positions (providing customer services).

However, the last and decisive criterion was also an assessment of how the interested candidates fit in the current team of train stewards. In this regard the company explained that the whole team of train stewards on the given train route consists of

young people who spend time together not only at work, but they also share joint company accommodation when they have to stay outside their home during their work trips. The company generally concluded that in order to secure the effective functioning of the working team and satisfaction of its members, it limited the selection of the candidates by taking into consideration the fact that the age of its oldest currently employed steward was 31 years.

The centre also asked the train company to provide anonymized CVs of all 12 candidates selected to the interview for the given position, which proved that all of them have been 31 years old or younger. The complainant met all the criteria as the candidates invited for the interview did and differed from them only by age. In addition, the centre compared her CV with the CVs of the candidates invited for the interview and stated that her previous working experiences were among the most relevant with regard to the description of the working position of train steward.

The centre concluded that the exclusion of the candidate on the ground of her age for the given working position cannot be objectively justified. In this regard it pointed at the fact that only in specific cases different treatment on the ground of age can be lawfully considered, when it falls within exceptions specified in antidiscrimination laws. It came to the opinion that the treatment of the company with the complainant in the given case amounts to direct discrimination on the ground of age.

In its reasoning the centre stressed the importance to support age diversity in the workplace by employers in today's society.

Key points of analysis: The Slovak equality body issued the expert opinion that recognised discrimination in a selection process of private train company preferring young people for a position of train steward. The reasoning as well as conclusions of the opinion can be considered in line with domestic and the EU antidiscrimination laws. The expert opinion is not an administrative decision imposing any duties to the employer, as Slovak equality body lacks this competence. However, the potential court case can be supported by this opinion. To the knowledge of the expert it is arguably one of the first well-reasoned expert opinions of the centre addressing age discrimination.

Internet link source: The report is available in Slovak language at:
<http://www.snslp.sk/#menu=2432>.