



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

FLASH REPORT

Country:	Serbia
Title:	J.L.S. v A.D.
Date:	05 July 2019
Expert:	Ivana Krstic
Update of flash report:	Serbia - M.J v U insurance, no. 07-00-93/2016/02 (PDF 144 kB)
<u>Context</u>	
Issue at stake:	Different premiums for men and women for the voluntary health insurance
Grounds of discrimination:	
Field of application:	Sex
Source:	Goods and services
Applicable law:	National equality body
	Law on the Prohibition of Discrimination ¹

Content

This case concerns the use of sex as a factor in the calculation of premiums for the purposes of insurance. The complaint was submitted by J.L.S. in the name and with the consent of her daughter L.S. against the company A.D. claiming the use of sex as a factor in the calculation of premiums for the non-life insurance.² She claimed that the premium for non-life insurance according to the package 'Z. & B.' - voluntary health insurance, was EUR 100 higher for women. She discovered this difference in pricing when she compared the premium she paid within that of her nephews, S. and S.S, who paid a lower premium for the same insurance.

The J.L.S. stated that this difference in the amount of premium for men and women was explained by the agent of the company in a correspondence email sent to her as a 'company house policy', confirming that the premium is more expensive for women. However, company A.D. pointed out that this is a misunderstanding in communication, and that the agent can not use any tariff other than unisex tariffs, and that the premium calculation for L.S. was made exclusively based on the application of unisex tariffs. It was underlined that when S. and S.S. concluded their contracts, special tariffs for women and men were in force (February 2016). Afterwards, the insurer amended internal acts, *inter alia*, in accordance with the position and recommendations of the Commissioner for the Protection of Equality (CPE).³

In the procedure conducted before the CPE, it was established that the premium for voluntary health insurance for L.S. was calculated on 1 January 2019, while the premiums of voluntary health insurance for S. and S. S. were calculated on 26 and 29 February 2016.

¹ Law on the Prohibition of Discrimination, Official Gazette of the Republic of Serbia, No. 22/2009, 26 March 2009.

² Non-life insurance is a type of coverage that is more concretely individual health insurance and covers the whole or a part of the risk of a person incurring medical expenses.

³ M.J v U insurance, complaint no. 07-00-93/2016/02, opinion from 21 September 2016.

The Commissioner found that on 14 September 2016, the Executive Board for non-life insurance made a decision to apply a single insurance premium for men and women for private voluntary health insurance and for combined voluntary health insurance.

The CPE delivered its opinion in May 2019, and published it on 21 June 2019.⁴ The Commissioner is of the opinion that company A.D. did not violate the provisions of the Law on the Prohibition of Discrimination (LPD) as it was determined that the insurance premium for L.S. was calculated according to the single premium for women and men. The Commissioner noted that the fact that some previously concluded contracts have lower established premiums is a consequence of the fact that the contracts were concluded for a different period of time and that different premiums were in force at the time of their conclusion. However, it was established that the tariffs premium for private voluntary health insurance and tariffs premium for combined voluntary health insurance in addition to the amount of unisex premiums, contain also columns with specific amounts for men and women, which serve the purpose of certain internal reporting and financial analysis. Therefore, the Commissioner recommended to company A.D. to inform employees in writing of the purpose of the data in the tables relating to men and women or to delete them, in order to avoid misunderstandings in the communication of employees with clients in the future.

It is evident that after the CPE's opinion delivered in 2016, the single premium for women and men was introduced. However, what is not clear from this opinion is what specific columns with different amounts for men and women were included in the tariffs and what more concretely were their purpose. It shows that this is the area in which more careful observance is needed in order to avoid discrimination based on sex in calculation of premiums.

Internet link source: <http://ravnopravnost.gov.rs/50-19-misljenje-po-pritužbi-j-l-s-protiv-a-d-za-osiguranje-nezivotno-osiguranje-b-zbog-diskriminacije-na-osnovu-pola-u-oblasti-pruzanja-usluga-cir/>.

⁴ J.L.S. v A.D., complaint no. 07-00-54/2019-02, opinion from 28 May 2019.