



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

### NEWS REPORT

<b>Country:</b>	France
<b>Title:</b>	Court of cassation 17/03/2015 Age barriers for ski instructors
<b>Date:</b>	08 April 2015
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<b>Context</b>	
<b>Issue at stake:</b>	Whether age limitations adopted by in-house regulations of a profession qualify as a derogation authorised by law as a measure meant to promote vocational integration or protection
<b>Ground of discrimination:</b>	Age
<b>Source:</b>	National court decision
<b>Field:</b>	Employment
<b>Applicable law:</b>	Article 6 par 1 (a) of Directive 2000/78; Law no 2008-496 of 27 May 2008 and article L1133-2 of the Labour Code

### Content

**Case:** In 2012 the National Ski instructors' union adopted a regulation limiting ski instructors' activity after 62 years of age and favouring young recruits in the distribution of teaching classes in order to favour the activity of young instructors.

Directive 2000/78 has been transposed in the Law no 2008-496 of 27 May 2008 and Articles L1132-1 and seq. of the Labour Code, which prohibits discrimination on the ground of age.

Article L1133-2 of the Labour Code provides that maximum age limitations do not constitute discrimination when they are objectively and reasonably justified by a legitimate aim, in order to favour employment policies, the employment market and professional training.

**Decision of the Court:** The *Cour de cassation* (Supreme Court) decided that this in house rule violates the Law no 2008-496 of 28 May 2008 and Directive 2000/78 and does not meet the requirements of Article 6 par 1(A) because it favours the purely individual private interests that are specific to ski schools and their preoccupation to satisfy the requests of their clients, which therefore do not qualify as legitimate aims as provided by article L1133-2 of the Labour Code.

**Key points of analysis:** This case raises questions as to who can define maximum age requirements and the requirement to meet in order to pursue a legitimate and reasonable interest. In this case the court clearly underlines that these interests cannot be private and defined to the benefit of a single economic activity.

**Internet link source:**

<http://www.legifrance.gouv.fr/affichJuriJudi.do?>

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