



File No.: 898/2015/VOP/JMK

Age discrimination at work

The Defender inquired into a complaint where the complainant alleged that his employer was discriminating against employees because of their age. Allegedly, employees over 65 years of age were being offered less favourable contracts as concerned their term, number of working hours and sources of funding. The complainant filed a complaint against unequal treatment at the District Labour Inspectorate. Shortly after the employer learnt about this fact, it informed the complainant that his contract would not be extended. The Inspectorate carried out an inspection and found a violation of the prohibition of discrimination, but did not initiate administrative proceedings. After one year had passed, the employer's liability for an administrative offence expired.

Defender's inquiry into the case confirmed that the employer had committed discrimination on grounds of age. The employer applied rules according to which employees over 65 years of age were mainly offered fixed-term contracts and their salaries were paid from an institutional (i.e. certainly available) budget only up to 50% of their working hours; the remuneration for the remaining working hours depended on limited grant money. These rules meant that the numbers of hours worked by employees over 65 were often reduced. Younger employees were offered indefinite-term full-time contracts and their salaries were largely paid from the institutional budget. This conduct was not justified by objective reasons based on the nature of their work (they were research workers).

As concerns the Inspectorate's activities, Ombudswoman concluded that it had made an error as it had disclosed the identity of the complainant to the employer, which potentially infringed on the complainant's legitimate interests beyond the scope necessary to conduct an inspection; it had also failed to deal with the complainant's complaint without delay, and despite having identified a justified suspicion that an offence had been committed, it had failed to initiate administrative proceedings.

Ombudswoman did not consider the authority's subsequent measures sufficient and so she issued a final statement where she suggested additional remedial measures, inter alia that the Inspectorate ensured that inspectors in future inspections would not disclose the complainant's identity unless the statutory conditions were met (i.e. that the complainant consents to the disclosure of his or her identity and such procedure is necessary to ensure proper finding of facts).

The inspectorate adopted the proposed remedial measures and promised that all inspectors would comply with my recommendations and observe the described lawful procedure. The Defender subsequently closed the case.