



EUROPEAN COMMISSION

MEMO

Brussels, 6 November 2012

Court of Justice rules Hungarian forced early retirement of judges incompatible with EU law

On the request of the European Commission, the Court of Justice of the European Union today ruled that the abrupt and radical lowering of the retirement age for judges, prosecutors and notaries in Hungary violates EU equal treatment rules ([Directive 2000/78/EC](#)). According to the Court's judgment (case C-286/12), the forced early retirement of hundreds of judges and prosecutors in the course of 2012 as well the notaries in 2014 under a new Hungarian law constitutes unjustified age discrimination. On the basis of its new Fundamental Law, Hungary had issued implementing legislation lowering the mandatory retirement age for judges, prosecutors and public notaries from 70 to 62 years within a very short transition period. In January 2012, the European Commission therefore decided to launch infringement proceedings and referred the case to the Court (see [IP/12/24](#), [IP/12/222](#) and [IP/12/395](#)). Following a request from the Commission and given the urgency of the matter, the Court dealt with this case in an expedited procedure, issuing its judgment in less than five months.

Vice-President Viviane Reding, the EU's Justice Commissioner said: "*The Court's judgment is crystal clear and confirms the Commission's legal analysis: Hungary's forced early retirement of hundreds of judges prosecutors and notaries was against EU law. Hungary must now take all the necessary measures to comply with the judgement as soon as possible.*"

The Commission will closely monitor the effective implementation of the ruling.

A separate infringement case against Hungary on the independence of the national data protection authority was referred to the Court under the normal procedure and is currently pending (see [IP/12/24](#)).

Background

EU rules on equal treatment in employment ([Directive 2000/78/EC](#)) prohibit discrimination at the workplace on grounds of age. Under the case-law of the Court of Justice of the EU, differences of treatment based on age can be justified by a legitimate aim if the means to reach that aim are proportionate. This means Member States can fix age limits for mandatory retirement only on the basis of an objective and proportionate justification.

In Hungary's case, the Commission has not found any objective justification for the drastic lowering of the age limit for judges, prosecutors and public notaries. In addition, in view of the very short transitional periods for a reform of that extent (reduction of the mandatory retirement age by 8 years within a period of one year) and the contradiction of first drastically lowering the age limit before raising it again as of 2014, the Commission considers the measure to be incoherent and disproportionate, and therefore not in compliance with Directive 2000/78/EC.

On 16 July 2012 the Hungarian Constitutional Court had already declared the implementing provisions lowering the retirement age for judges as unconstitutional. However, that ruling did not reinstate the retired judges into their former positions.

The Opinion of the Venice Commission of the Council of Europe of 15 October 2012 had called upon the Hungarian legislator to adopt provisions re-instating the dismissed judges in their previous position without requiring them to go through a re-appointment procedure.

Further information

Homepage of Vice-President Viviane Reding, EU Justice Commissioner:

<http://ec.europa.eu/reding>