



NEWS REPORT

Date:	22 December 2010
Expert:	Romanița Iordache
Title:	Romanian Constitutional Court rules that the Law on Unitary Pensions does not infringe the equality clause
Country:	Romania
<u>Context</u>	
Issue at stake:	The recently adopted Law on unitary pensions was challenged by a group of MPs before the Constitutional Court for infringing the equality clause
Ground of discrimination:	Age and gender
Source:	Jurisprudence of the Constitutional Court
Field:	Employment, retirement
Legislation	Constitution, Article 4 on unity and equality among citizens and Article 16 on equality of rights Law on the unitary system of pensions Law 263/2010

Content

Development: In February 2010, the Government adopted a draft for the *Lege privind sistemul unitar de pensii* [Law on the unitary system of pensions] as a part of the package negotiated with the international financial institutions in response to the ongoing economic crisis. The Law was adopted by the Parliament but its provision introducing an equal retirement age for men and women of 65 (Article 53(1)) was challenged before the Constitutional Court by the opposition parties. The Constitutional Court upheld the Law in question on 6 October 2010 by stating that equalizing the retirement age of men and women does not infringe the constitutional provisions on equality and that opposing such equalization would be tantamount to an opposition against an international trend. However, the Romanian President later refused to sign the Law and, on 7 October, sent it back to the Parliament stating that he could not agree with the equal retirement age of 65 for both men and women. The President requested the Parliament to consider introducing a differentiated retirement age of 63 for women and 65 for men due to the socio-economic

realities entailing a more difficult situation for women.¹ Consequently, the Chamber of Deputies as decisional chamber adopted the Law on pensions on 7 December, including an amendment regarding the differential retirement age for men and women.

The amendment however did not introduce a differential period of contribution as requested by the opposition. The bill was adopted as Law 263.2010 on 16 December 2010.

A group of 53 Members of the Parliament belonging to the Liberal Party filed a new case with the Constitutional Court on December 8th alleging a potential discrimination between men and women due to the differentiated system of contributing to the retirement scheme, leading to lower net pensions for women. Similarly, on December 10th, the Members of the Parliament belonging to the Social Democrat Party filed a complaint both on grounds of alleged irregularities in the adoption procedure alleging that the required majority was not actually present and on substantive grounds due to the potential infringement of the equality clause embedded in the Romanian Constitution.

On 15 December, the Constitutional Court analysed the constitutional complaints and decided to uphold the Law on pensions in its current form including the differentiated treatment of women and men as proposed by the President.

The decision of the Constitutional Court is final and binding and the Law was published as Law 263/2010 on 16 December 2010.. The law entered into force on 1 January 2011, with the exception of several provisions which will enter into force on 1 January 2012.

Internet link source and additional information: Decisions of the Romanian Constitutional Court are available at www.ccr.ro (22.12.2010). Articles regarding the positions of different parties regarding the law are available at:

¹ Law 19/2000 on the public pension system and other social security rights establishes the general age for retirement. Article 41(2) of the Law 19/2000 establishes that ‘the standard retirement age is of 60 for women and 65 for men, and the standard retirement age will be reached in 13 years from the adoption of the law[by January 1st 2014], by gradually increasing the pensionable age, starting with 57 for women and 62 for men.’ Besides the standard retirement age, potential pensioners are required to fulfil a number of years of contribution to the pension schemes (at least 30 years of participation for women and 35 for men).

<http://www.hotnews.ro/stiri-esential-8130249-ccr-legea-pensiilor-este-constitutionalala.htm> (18.12.2010) or <http://www.mediafax.ro/social/comisia-de-munca-a-camerei-varsta-de-pensionare-63-de-ani-la-femei-65-de-ani-la-barbati-7764217> (17.12.2010). The legislative history of the draft is available in Romanian at: http://www.cdep.ro/pls/proiecte/upl_pck.proiect?idp=11088 (21.01.2011). The text of the Law 263/2010 in Romanian is available at: http://www.cdep.ro/proiecte/2010/300/20/3/leg_pl323_10;1.pdf (21.01.2011).