

# CONSIDERATIONS REGARDING THE EQUALIZATION OF THE RETIREMENT AGE FOR MEN AND WOMEN AT 65 YEARS

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## *Abstract*

In Romania the standard retirement age for women will increase from 63 years, as it is now, at the age of 65, *according to the* intention of amending Law no. 263/2010 on the unitary pension system. Such an extent, *consequence of* the recommendation of the European Commission is considered to be able to provide adequate and sustainable pensions in the long term through active participation in the labor market of women and men throughout life.

The entry into force of these provisions will gradually equalize the retirement age for women and men at 65, beginning with 2033, *these* provisions will be applicable to women born in the years 1969 and 1979, who will retire at the age 64, and since 2035 *for* women born in 1971, who will retire at age 65.

Such a perspective naturally raises the question whether it is right for women to retire at the same age as men. Arguments in favor of or against such a solution should be analyzed not only in terms of economic or legal but *also* socially, *which is what* this study aims.

*Keywords: standard retirement age for women; equalization of retirement ages for men and women; unitary pensions system.*

The equalization of the retirement age to 65 for both women and men will be realized in stages, until January 2035. Therefore, during the interval January 2011 - January 2015, the retirement age of women increases from 59 to 60 years and the complete stage from 28 to 30 years, and the retirement age of men increases from 64 years to 65 years and the complete contribution stage increases from 33 years to 35 years.

In this range the minimum contribution stage for both women and men, will increase from 13 to 15<sup>1</sup> years<sup>1</sup>.

The gradual increase of the retirement age and gradual restriction of the access circumscribes to the recommendations of the European Commission transmitted for

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<sup>1</sup> Alexandru Ticlea, Laura Georgescu, *Dreptul securitatii sociale*, Universul Juridic, Bucharest, 2014, p. 162.

Romania, in the context of a society with an aging population, affecting the financial sustainability of the public pension system.

In the recommendations designed to improve the economic performance of Romania, the European Commission found that although "budgetary position improved in Romania, the low level of tax compliance is a major challenge and the sustainability and adequacy of the pension system represent medium risks in the long term."<sup>2</sup>

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Arguments in favor of or against such a solution should be analyzed not only in terms of economic or legal but also socially.

Among the arguments that can be made in favor of the solution adopted by the Government can be summarized as follows:

Law no. 202/2002<sup>3</sup> enshrined in Article 6, paragraph 1, point g, the equality between men and women<sup>4</sup> and their treatment in the field of protection and social security, which in Community law was achieved by Directive no. 79/7/EEC of 19 December 1978 on the gradual establishment of the principle of equal treatment between men and women in matters of social security<sup>5</sup>.

The right to equal treatment between men and women is recognized as a fundamental right in community law<sup>66</sup>.

According to Article 3 of Council Directive 2000/43/EC of 29 June 2000<sup>7</sup> on implementing the principle of equal treatment between persons, is provided that they apply to all persons in both the public and private sectors, including public institutions by providing equal opportunities and treatment in the analyzed field under this Directive on the conditions governing access to employment, self-employment and occupation, including conditions regarding recruitment or selection criteria, regardless of industry, and the professional level at which is that person, including promotion; access to all types and levels of guidance, including in terms of practical work experience; employment and working conditions, including remuneration and terms of termination of employment.

In implementing the principle of equal treatment is obvious the tendency of the European Community relating to eliminate inequalities and promote equality between men and women, so including about retirement.

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<sup>2</sup> Exposition of reasons to the law project for the modification of Law no. 263/2010, [www.manager.ro](http://www.manager.ro)

<sup>3</sup> Published in "Monitorul Oficial al Romaniei", part I, no. 301 of 8 may 2002, with ulterior modifications and completions.

<sup>4</sup> I. T. Stefanescu, *Consideratii referitoare la Legea nr. 202/2002 privind egalitatea de sanse intre femei si barbati, cu privire speciala asupra domeniului muncii*, in "Revista romana de dreptul muncii", no. 2/2002, pp. 9-11.

<sup>5</sup> Published in J.O.C.E., L 6 from 10 January 1979.

<sup>6</sup> Ovidiu Tinca, *Principiul egalitatii de tratament intre barbati si femei in legislatia romana a muncii si in dreptul comunitar*, in "Dreptul" no. 11/2004, pp. 126-136.

<sup>7</sup> Jurnalul Oficial L. 180-19/7/2000.

Article 14 of the Directive relates<sup>8</sup> to the obligation of Member States to ensure: abrogation any laws or regulations, and the cancellation of administrative acts contrary to the principle of equal treatment.

In terms of actual equality in rights, equalization of the retirement age with that of men appears fully justified.

Equalizing the retirement age should take into account the life expectancy. According to statistics<sup>9</sup>, men in Romania have a life expectancy of 71 years, smaller than that of women of 78 years.

Thus, while men work for more years, yet they receive a pension for a shorter period of time compared to women who live after retirement for about 10 years.

Given the fact that because pension fund has troubles dealing with the increasing number retirements at age limit, it appears necessary that women participate more actively in the labor market, and extending their working life to be equal to that of men.

In countries like Italy, Germany, UK, Belgium and Finland, their retirement age is 65.

Article 141 of the EC Treaty prohibits any discrimination in terms of payment between male workers and females, whatever the mechanism that causes this inequality. Court of Justice of the European Communities in Case C-559/07 established<sup>10</sup> that by maintaining in force the provisions of the Greek Code of Civil and Military Pensions regarding retirement age and different conditions of minimum employment for men and women, Greece has not fulfilled its obligations under Article 141 EC.

Another argument can be that women, who work less than men, and who receive lower incomes, are prone to risk of poverty more intensely than men who contribute more to the public pension system, and for those who are widowed, the lack of financial support from the former husband aggravates their financial situation.

We mention that the latter do not receive any aid granted for the surviving spouse<sup>11</sup> if the pension is slightly larger than the social pension.

There are of course arguments against such regulation, which aims to equalize the retirement age, such as:

Social protection systems should respond to citizens' needs in the critical moments of their lives so that women, who are more physically fragile, should not be obliged to work for the same period of active life as men.

Since there is no real equality for men and women, both professionally, even if Article 6, paragraph 3 of the Labor Code provides that "for equal work or equal value is prohibited any discrimination on grounds of sex with regard to all aspects and conditions of remuneration", in fact there are found significant<sup>12</sup> differences, and the family plan, the day's work for women is prolonged due to housework and childcare.

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<sup>8</sup> Pelmuş Pandelea, *Liberul acces la angajare si egalitatea de sanse si tratament in dreptul international si comunitar*, in "Revista romana de dreptul muncii", no. 3/2002, pp. 30-41.

<sup>9</sup> [www.manager.ro](http://www.manager.ro)

<sup>10</sup> Different retirement age according to gender, on the role of CJCE, [avocatnet.ro](http://avocatnet.ro)

<sup>11</sup> Law no. 255 of 19 July 2007, published in the Official Montor, Part I, no. 498 of 25 July.

<sup>12</sup> Dan Top, *Dreptul muncii – Dreptul securitatii sociale*, edition II, Bibliotheca, Târgoviște, 2013, p. 30.

Economic conditions in Romania do not allow for any family in which both spouses are employed to engage the services of a nanny or a housekeeper.

The entry into force of these provisions will gradually equalize the retirement age for women and men at 65, so since 2033, these provisions will be applicable to women born in the years 1969 and 1979, who will retire at the age 64 years, and since 2035 women born in 1971, who will retire at age 65.

The Member States of the European Union, among which Romania, have developed regulations for the reduction of the generosity of the public pension systems, in order to avoid their bankruptcy.

The retirement age will continue to increase gradually on the long term, to 70 years in order to insure the sustainability of the pensions system, from the fiscal point of view.

In addition to this important consequence, it is also aimed: reduction by 59% of the average benefits in the public pension system and reduction of the average rate of replacement at 48,9% (in 2010) to 23% (in 2050).