



Press and Information

Court of Justice of the European Union
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Judgment in Case C-416/13
Vital Pérez v Ayuntamiento de Oviedo

The law of the Principality of Asturias setting the maximum age for recruitment of local police officers at 30 years is contrary to EU law

The age limit gives rise to unjustified discrimination

An EU directive¹ lays down a general framework for equal treatment in employment and working conditions in order to combat discrimination based on various grounds. The directive prohibits, in particular, any form of discrimination in employment based directly or indirectly on age.

Mr Vital Pérez criticises the Ayuntamiento de Oviedo (municipality of Oviedo) for having approved the specific requirements laid down in a notice of competition to fill 15 posts as local police officers. One of the requirements of that notice of competition was that applicants must not be over 30 years of age. In Mr Vital Pérez's submission, that requirement infringes his fundamental right of access on equal terms to public office. The municipality maintains that the notice of competition is consistent with the law in force in the Autonomous Community of the Principality of Asturias and that the Court has already ruled in favour of such an age limit in a similar case concerning access to an intermediate career post in the fire service in Germany.²

The Juzgado Contencioso-Administrativo No 4 de Oviedo (Court for Contentious Administrative Proceedings, No 4, Oviedo (Spain)) asks the Court whether the Directive allows a maximum age of 30 years to be set for access to the post of local police officer in a notice of competition issued by a municipality applying a regional law of a Member State.

By today's judgment, the Court holds that **the Directive precludes national legislation which sets the maximum age for recruitment of local police officers at 30 years.**

The Court states that the **law of the Principality of Asturias clearly introduces a difference of treatment based directly on age**: that law has the consequence that certain persons are treated less favourably than other persons in comparable situations on the sole ground that they have exceeded the age of 30 years.

The Court acknowledges that some of the duties of local police officers (such as protecting persons and property, the arrest and custody of offenders, conducting crime prevention patrols) may require a particular physical capability. Nevertheless, **the Court considers that there is nothing proving that the particular physical capacities required for the post of local police officer are inevitably related to a particular age and are not found in persons over a certain age.** Consequently, **there is nothing to confirm that the legitimate objective of safeguarding the operational capacity and proper functioning of the local police service makes it necessary to maintain a particular age structure within that service, which in turn requires the recruitment exclusively of officials under 30 years of age.** Therefore, **the age limit fixed in the law of the Principality of Asturias constitutes a disproportionate requirement.** The Court observes that the very wording of the notice of competition at issue requires applicants to perform specific physical tests. According to the national court, **those stringent, eliminatory physical tests make it possible to attain the objective of ensuring that local police officers possess**

¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

² Case [C-229/08](#) *Wolf* see also Press Release No [1/10](#).

the particular level of physical fitness required for the performance of their professional duties in a less binding manner than the fixing of a maximum age limit.

The Court adds that **none of the evidence submitted to it shows that the age limit for recruitment is appropriate and necessary in the light of the two stated social policy objectives: (i) ensuring that officers have the necessary training for the post concerned** (the law of the Principality of Asturias not providing any further detail on the features of the training to be undertaken by successful candidates of the competition approved by the municipality) **and (ii) ensuring a reasonable period of employment before retirement** (the retirement age for local police officers being fixed at 65 years).

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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