



Press and Information

Court of Justice of the European Union
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Judgment in Case C-190/16
Werner Fries v Lufthansa CityLine GmbH

The age limit of 65 years laid down in EU law for pilots of commercial aircraft transporting passengers, cargo or mail is valid

It is justified by the aim of ensuring civil aviation safety in Europe

Mr Werner Fries was employed as a captain and an instructor by Lufthansa. From the end of October 2013, Lufthansa no longer employed him on the ground that he had reached the mandatory age limit of 65 years laid down in EU law¹ for pilots of commercial aircraft. Mr Fries requests that Lufthansa pay him his salary for the months of November and December 2013 on the basis that it was only at the end of December 2013 that his employment contract expired. Furthermore, he still possessed, during those two months, his airline transport pilot licence and his authorisations as an instructor and examiner. Mr Fries claims that the age limit at issue constitutes discrimination on grounds of age and infringes the freedom to choose an occupation, with the result that it is contrary to the Charter of Fundamental Rights of the EU.

The case was brought before the Bundesarbeitsgericht (Federal Labour Court, Germany), which has referred questions to the Court of Justice on the validity and scope of the age limit at issue.

In its judgment delivered today, the Court of Justice answers that the age limit is valid.

According to the Court, it is true that the age limit at issue establishes a difference in treatment based on age. However, that difference in treatment is justified by the aim of ensuring civil aviation safety in Europe.

It is undeniable that the physical capabilities essential to the profession of an airline pilot diminish with age. The age limit at issue makes it possible to rule out that a reduction of those physical capabilities after the age of 65 causes accidents, without infringing the principle of proportionality.

The Court states, in that regard, that the age limit at issue applies only to commercial air transport, which is characterised by a greater technical complexity of the aircraft used and a higher number of persons concerned than non-commercial air transport.

In addition, the age limit of 65 may be regarded as sufficiently high to serve as the endpoint of admission to practise as a pilot in the field of commercial air transport.

Furthermore, it reflects the international rules which, based on extensive professional debate and expertise, set the same age limit.

In the Court's view, the EU legislature was not required to provide for an individual examination of the physical and mental capacity of every holder of a pilot licence over the age of 65, rather than an age limit.

As regards the freedom to choose an occupation, the Court finds that the age limit at issue restricts it, but does not infringe the principle of proportionality.

¹ Point FCL.065(b) in Annex I to Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ 2011 L 311, p. 1).

As to the scope of the age limit at issue, the Court states that it does not prohibit the holder of a pilot licence who has attained the age of 65 from acting as a pilot in ferry flights, operated by an air carrier transporting no passengers and no cargo or mail, or from working as an instructor and/or examiner on board an aircraft (provided that he is not part of the flight crew).

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 EU 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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