COURT OF JUSTICE
OF THE EUROPEAN UNION

Opinion of the Advocate General at the Court
Tamara Ćapeta
in Case C-320/25 | [Lertimene] [1]

Press release No 118/26

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Advocate General Tamara Ćapeta: The combined application of the rule prohibiting visible tattoos and the requirement to wear gender-specific uniform is discriminatory

This recruitment policy for entry into the Italian police force discriminates against women and cannot be justified on the ground that it is a genuine and determining occupational requirement

Ms HG applied to become a police officer in the Italian police force. However, she was excluded from the selection procedure because she had a small flower tattoo on her left calf.

In Italy, police officers are prohibited from having tattoos that are visible while wearing the uniform. The rules governing the selection procedure therefore automatically exclude persons who have such visible tattoos. When examined, HG's tattoo was revealed. Given that the ceremonial uniform consists of a skirt and court shoes, her tattoo would be visible during ceremonies. She was thus excluded from the selection procedure.

She challenged her exclusion before the Italian administrative courts, one of which turned to the Court of Justice for the interpretation of the EU law that prohibits discrimination on grounds of sex.

In today's opinion, Advocate General Tamara Ćapeta considers that the recruitment policy at issue represents direct discrimination on grounds of sex, which is prohibited by EU law.

In her view, the combined application of two rules, one which prohibits visible tattoos and the other which requires women to wear skirts at official ceremonies, treats female candidates adversely on grounds of sex. If Ms HG were a man, she would not have been excluded from the selection procedure on the sole ground that she has a tattoo on her lower leg.

Furthermore, the Advocate General considers that the discrimination at issue **cannot be justified by the reasons offered by the Italian Government.**

The opinion observes that EU law permits distinction on the basis of sex, provided that it is appropriate and necessary to fulfil a genuine occupational requirement that pursues legitimate objectives. [2]

However, the Italian authorities' arguments that the **rule in question serves the purpose of enabling participation in ceremonial events**, thereby **conveying traditional values** and **strengthening** the **identity** of the police force, cannot be accepted as justification in the present case.

Advocate General Ćapeta considers that it is both inappropriate and unnecessary to exclude women with tattoos from the police force on the grounds that they cannot participate in ceremonial events, since **such events constitute only a small part of police work**, **female officers already wear trousers** as part of their operational uniform, and **higher-ranking police officers may, in any case, allow a female police officer to wear trousers at any given ceremony**.

Furthermore, the combined application of two rules is not necessary to maintain tradition, as the **ceremonial customs would not be lost if some women were exempt** from wearing skirts during ceremonies. Likewise, in so far as uniforms serve as a demonstration of identity and of belonging to the police force, **allowing women to wear trousers would**

achieve the same representation and uniformity.

Finally, in terms of proportionality, **the disadvantage that women face by being unable to join the police force outweighs the symbolic benefit of their occasional participation in ceremonies** while wearing a dress uniform.

All things considered, Advocate General Ćapeta finds that **the recruitment policy at issue cannot withstand the genuine occupational requirement test** and **is thus prohibited by EU anti-discrimination legislation on grounds of sex**.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

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 of the European Union about the interpretation of EU law or the validity of an EU act.

The General Court has jurisdiction to deal with requests for a preliminary ruling coming exclusively within the following areas (1) the common system of value added tax (VAT), (2) excise duties, (3) the Customs Code, (4) the tariff classification of goods under the Combined Nomenclature, (5) compensation and assistance to passengers in the event of denied boarding or delay or cancellation of transport services, or (6) the system for greenhouse gas emission allowance trading. The Court of Justice has jurisdiction to deal with all other requests for a preliminary ruling.

Neither the Court of Justice nor the General Court decides the national dispute itself. It is for the national court or tribunal to resolve the case in accordance with the ruling by the Court of Justice or by the General Court, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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[1] The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

[2] Article 14, paragraph 2, of the Directive 2006/54/EC.