



Reports of Cases

Case C-416/13

Mario Vital Pérez

v

Ayuntamiento de Oviedo

(Request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 4 de Oviedo)

(Reference for a preliminary ruling — Social policy — Equal treatment in employment and occupation — Charter of Fundamental Rights of the European Union — Article 21 — Directive 2000/78/EC — Articles 2(2), 4(1) and 6(1) — Discrimination on grounds of age — National provision — Condition of recruitment of local police officers — Fixing of a maximum age of 30 — Justification)

Summary — Judgment of the Court (Second Chamber), 13 November 2014

1. *Questions referred for a preliminary ruling — Jurisdiction of the Court — Identification of relevant EU law — Question concerning the interpretation of Article 21 of the Charter of Fundamental Rights of the European Union and of Directive 2000/78 — Dispute between an individual and the national administrative body — Examination of the question solely in the light of the directive*

(Charter of Fundamental Rights of the European Union, Art. 21; Council Directive 2000/78)

2. *Social policy — Equal treatment in employment and occupation — Directive 2000/78 — Prohibition of discrimination on grounds of age — National legislation fixing a maximum age of 30 for recruitment of local police officers — Not permissible — No Justifications*

(Council Directive 2000/78, Arts 2(2), 4(1) and 6(1), second para., (c))

1. When it is ruling on a request for a preliminary ruling concerning the interpretation of the general principle of non-discrimination on grounds of age, as enshrined in Article 21 of the Charter of Fundamental Rights of the European Union and the provisions of Directive 2000/78 establishing a general framework for equal treatment in employment and occupation, in proceedings involving an individual and a public administrative body, the Court examines the question solely in the light of that directive.

(see para. 25)

2. Article 2(2), Article 4(1) and point (c) of the second subparagraph of Article 6(1)(c) of Directive 2000/78 establishing a general framework for equal treatment in employment and occupation must be interpreted as precluding national legislation which sets the maximum age for recruitment of local police officers at 30 years.

The possession of particular physical capacities may admittedly be regarded as a ‘genuine and determining occupational requirement’ within the meaning of Article 4(1) of Directive 2000/78 for the purposes of employment as a local police officer. Moreover, the concern to ensure the operational capacity and proper functioning of the police service constitutes a legitimate objective within the meaning of that provision.

However, such national legislation imposes a disproportionate requirement since it has not been demonstrated that the particular physical capacities required for the exercise of the function of local police officer are necessarily linked to a particular age group and are not found in persons over a certain age, or that the objective of safeguarding the operational capacity and proper functioning of the local police service makes it necessary to maintain a particular age structure, which in turn requires the recruitment exclusively of officials under 30 years of age.

Nor is such legislation appropriate or necessary for the objective of ensuring training of the officers concerned for the purposes of point (c) of the second subparagraph of Article 6(1) of Directive 2000/78. Lastly, such legislation cannot be considered necessary in order to ensure that those officers have a reasonable period of employment before retirement for the purposes of that provision.

(see paras 41, 44, 48, 56, 57, 70, 72, 74, operative part)