

JUDGMENT OF THE COURT (Grand Chamber)

12 January 2010*

In Case C-229/08,

REFERENCE for a preliminary ruling under Article 234 EC from the Verwaltungsgericht Frankfurt am Main (Germany), made by decision of 21 April 2008, received at the Court on 28 May 2008, in the proceedings

Colin Wolf

v

Stadt Frankfurt am Main,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President of the Third Chamber, acting for the President, E. Levits, P. Lindh (Rapporteur), Presidents of Chambers, C.W.A. Timmermans, A. Rosas, P. Küris, A. Borg Barthet, A. Ó Caoimh and L. Bay Larsen, Judges,

* Language of the case: German.

Advocate General: Y. Bot,
Registrar: B. Fülöp, Administrator,

having regard to the written procedure and further to the hearing on 7 July 2009,

after considering the observations submitted on behalf of:

- the German Government, by M. Lumma, acting as Agent,

- Ireland, by D. O'Hagan, acting as Agent, assisted by P. McGarry BL,

- the Italian Government, by I. Bruni, acting as Agent, assisted by W. Ferrante and M. Russo, avvocati dello Stato,

- the Commission of the European Communities, by J. Enegren and B. Conte, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 3 September 2009,

gives the following

Judgment

- ¹ This reference for a preliminary ruling concerns the interpretation of 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, ‘the Directive’).

- ² The reference was made in the course of proceedings between Mr Wolf and Stadt Frankfurt am Main (City of Frankfurt am Main) (Germany) concerning the latter’s refusal to consider Mr Wolf’s application for an intermediate career post in the fire service because he had exceeded the age limit of 30 years.

Legal context

Community legislation

³ The Directive was adopted on the basis of Article 13 EC. Recitals 9, 11, 18 and 25 in the preamble to the Directive read as follows:

‘(9) Employment and occupation are key elements in guaranteeing equal opportunities for all and contribute strongly to the full participation of citizens in economic, cultural and social life and to realising their potential.

...

(11) Discrimination based on religion or belief, disability, age or sexual orientation may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and social protection, raising the standard of living and the quality of life, economic and social cohesion and solidarity, and the free movement of persons.

...

(18) This Directive does not require, in particular, the armed forces and the police, prison or emergency services to recruit or maintain in employment persons who

do not have the required capacity to carry out the range of functions that they may be called upon to perform with regard to the legitimate objective of preserving the operational capacity of those services.

...

- (25) The prohibition of age discrimination is an essential part of meeting the aims set out in the Employment Guidelines and encouraging diversity in the workforce. However, differences in treatment in connection with age may be justified under certain circumstances and therefore require specific provisions which may vary in accordance with the situation in Member States. It is therefore essential to distinguish between differences in treatment which are justified, in particular by legitimate employment policy, labour market and vocational training objectives, and discrimination which must be prohibited.’

4 As stated in Article 1 of the Directive, its purpose is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment.

5 Article 2 of the Directive states:

‘1. For the purposes of this Directive, the “principle of equal treatment” shall mean that there shall be no direct or indirect discrimination whatsoever on any of the grounds referred to in Article 1.

2. For the purposes of paragraph 1:

- (a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on any of the grounds referred to in Article 1;

...'

6 Article 3(1)(a) of the Directive provides:

'Within the limits of the areas of competence conferred on the Community, this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:

- (a) conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion'

7 Article 4(1) of the Directive reads as follows:

‘Notwithstanding Article 2(1) and (2), Member States may provide that a difference of treatment which is based on a characteristic related to any of the grounds referred to in Article 1 shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.’

8 Article 6(1) of the Directive provides:

‘Notwithstanding Article 2(2), Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary.

Such differences of treatment may include, among others:

- (a) the setting of special conditions on access to employment and vocational training, employment and occupation, including dismissal and remuneration conditions, for young people, older workers and persons with caring responsibilities in order to promote their vocational integration or ensure their protection;

- (b) the fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment;

- (c) the fixing of a maximum age for recruitment which is based on the training requirements of the post in question or the need for a reasonable period of employment before retirement.⁹

⁹ Article 17 of the Directive reads:

‘Member States shall lay down the rules on sanctions applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are applied. The sanctions, which may comprise the payment of compensation to the victim, must be effective, proportionate and dissuasive. ...’

¹⁰ In accordance with the first paragraph of Article 18 of the Directive, it was to be transposed into the legal systems of the Member States by 2 December 2003 at the latest. The second paragraph of Article 18 provided, however, that:

‘In order to take account of particular conditions, Member States may, if necessary, have an additional period of 3 years from 2 December 2003, that is to say a total of 6 years, to implement the provisions of this Directive on age and disability discrimination. In that event they shall inform the Commission forthwith. ...’

- 11 The Federal Republic of Germany made use of that option, so that the provisions of the Directive relating to discrimination on grounds of age and disability were to be transposed in that Member State by 2 December 2006 at the latest.

National legislation

Legislation of the *Land* of Hesse

- 12 The Regulation of the *Land* of Hesse on the careers of officials in the operational divisions of the professional fire services (Hessische Feuerwehrlaufbahnverordnung) of 21 December 1994 ('the FeuerwLVO') provides, in Paragraph 3(1)(1), that recruitment to intermediate career posts is open to persons of not more than 30 years of age.
- 13 Paragraphs 194 and 197 of the Law of the *Land* of Hesse on public officials (Hessisches Beamtengesetz) of 21 March 1962 (GVBl. 1962 I, p. 26) read as follows:

'Paragraph 194 — Retirement

(1) Established police officers retire at the end of the month in which they complete their 60th year (age limit).

(2) If it is in the interests of the service, retirement may, on application by the police officer, be postponed beyond the completion of the 60th year for a specified period which must not exceed one year at a time, but not beyond the completion of the 62nd year.

...

Paragraph 197 — Legal status

(1) For officials in the operational divisions of professional fire services, the provisions of Paragraphs 187 and 192 to 194 apply by analogy.

...'

Federal legislation

¹⁴ The Law on pensions of public officials and judges of the Federation and the *Länder* (Gesetz über die Versorgung der Beamten und Richter in Bund und Ländern) of

24 August 1976 (BGBl. 1976 I, p. 3839) provides, in Paragraphs 4 and 14, in the version in force at the material time:

‘Paragraph 4 — Entitlement to and calculation of the pension

(1) A pension is granted only if the official

1. has performed service of at least five years ...

...

Paragraph 14 — Amount of the pension

(1) The pension amounts, for each year of pensionable service, to 1.79375% of pensionable remuneration (Paragraph 5), but at most a total of 71.75%.

...

(4) The pension amounts to at least 35% of pensionable remuneration (Paragraph 5).

...'

15 The General Law on equal treatment (Allgemeines Gleichbehandlungsgesetz) of 14 August 2006 (BGBl. 2006 I, p. 1897, 'the AGG') transposed the Directive.

16 Paragraphs 1, 3, 7, 10 and 15 of the AGG read as follows:

'Paragraph 1 — Object of the law

The object of this law is to prevent or eliminate discrimination on grounds of race, ethnic origin, sex, religion or belief, disability, age or sexual orientation.

...

Paragraph 3 — Definitions

(1) There is direct discrimination if a person is treated less favourably, on a ground mentioned in Paragraph 1, than another person is, has been or would be treated in a comparable situation. ...

...

Paragraph 7 — Prohibition of discrimination

(1) Employees must not be discriminated against on a ground mentioned in Paragraph 1 ...

(2) Provisions in agreements which infringe the prohibition of discrimination in subparagraph 1 are void.

...

Paragraph 10 — Permissible different treatment on grounds of age

Paragraph 8 notwithstanding, a difference of treatment on grounds of age is also permissible if it is objectively and reasonably justified by a legitimate aim. The means of achieving that aim must be appropriate and necessary. Such differences of treatment may include in particular the following:

...

3. fixing a maximum age for recruitment on the basis of the training requirements of the post in question or the need for a reasonable period of employment before retirement,

...

Paragraph 15 — Compensation and damages

(1) In the event of a breach of the prohibition of discrimination, the employer is obliged to make good the damage caused thereby. This does not apply if the employer is not responsible for the breach of duty.

(2) The employee can claim appropriate financial compensation for non-pecuniary damage. In the event of non-recruitment, the compensation must not exceed three months' salary if the employee would not have been recruited even if the selection had been free from discrimination.

(3) Where collective agreements apply, the employer is obliged to pay compensation only if he acts intentionally or with gross negligence.

...'

The main proceedings and the reference for a preliminary ruling

17 By a letter received by the fire service directorate of the City of Frankfurt am Main on 4 October 2006, Mr Wolf, who was born on 9 December 1976, applied for an intermediate career post in the fire service.

18 On 13 November 2006 the City of Frankfurt am Main informed Mr Wolf that the next recruitment would take place on 1 August 2007. That date was postponed to 1 February 2008, however, with a selection procedure in August 2007.

19 By letter of 28 February 2007, the City of Frankfurt am Main told Mr Wolf that his application could not be considered, because he was older than the age limit of 30 years.

- 20 On 12 April 2007 Mr Wolf claimed compensation from the City of Frankfurt am Main on the basis of Paragraph 21 of the AGG. The amount of damages sought corresponded to three months of the salary he would have received if he had been recruited.
- 21 Since that claim was rejected by decision of 4 May 2007, confirmed on 10 October 2007, Mr Wolf brought proceedings in the Verwaltungsgericht Frankfurt am Main (Administrative Court, Frankfurt am Main) seeking the annulment of the decisions of 4 May and 10 October 2007 and an order that the City of Frankfurt am Main pay damages.
- 22 Before that court, Mr Wolf argued that the FeuerwLVO was contrary to the AGG.
- 23 Since the Verwaltungsgericht Frankfurt am Main was uncertain as to the compatibility of the German legislation with Articles 6 and 17 of the Directive, it decided to stay the proceedings and refer the following questions to the Court for a preliminary ruling:
- ‘1. Does the national legislature enjoy generally a wide margin of discretion to exploit the room for manoeuvre in Article 6(1) of [the Directive], or is the discretion limited to what is needed, at any rate when it comes to setting a maximum age for recruitment with a view to a minimum period of service before retirement in accordance with point (c) of the second subparagraph of Article 6(1) of [the Directive]?
 2. Does the criterion of need in point (c) of the second subparagraph of Article 6(1) of [the Directive] express the appropriateness of the means mentioned in the first

subparagraph of Article 6(1) of [the Directive] in more concrete terms, thereby restricting the scope of that generally worded provision?

3. (a) Is it a legitimate aim in the context of the first subparagraph of Article 6(1) of [the Directive] for an employer to pursue the interest in recruiting officials who will remain in active service for as long as possible by having a maximum recruitment age?

 - (b) Is the implementation of such an aim inappropriate as soon as it has the effect that officials serve for longer than is necessary to obtain the minimum pension guaranteed by law in the case of early retirement after five years' service?

 - (c) Is the implementation of such an aim inappropriate only once it has the effect that officials serve for longer than is necessary — at present 19.51 years — to earn the minimum pension guaranteed by law in the case of early retirement?
-
4. (a) Is it a legitimate aim within the meaning of the first subparagraph of Article 6(1) of [the Directive] to keep the total number of officials to be recruited to a minimum by means of a maximum recruitment age which is as low as possible, in order to keep to a minimum the number of individual benefits such as provision for accidents or sickness (assistance which also covers family members)?

- (b) In that respect, what significance can be accorded to the fact that, as officials grow older, provisions for accidents or sickness benefits (including for family members) are higher than for younger officials, so that the recruitment of older officials could increase the overall cost of such provision?

 - (c) In that respect, must firm forecasts or statistics be available, or are general assumptions based on probability sufficient?
5. (a) Is it a legitimate aim within the meaning of the first subparagraph of Article 6(1) of [the Directive] for an employer to wish to apply a particular maximum recruitment age in order to ensure a “balanced age structure in the particular career”?
- (b) If so, what requirements must the criteria for creating such an age structure satisfy in order to meet the conditions for a ground of justification (appropriateness and necessity, need)?
6. Is it a legitimate consideration within the meaning of the first subparagraph of Article 6(1) of [the Directive] for the employer to refer, in respect of a maximum recruitment age, to the fact that it is generally possible before reaching that age to acquire the relevant qualifications for recruitment to a training programme in the intermediate career in the fire service, in the form of the appropriate school education and vocational training?

7. What criteria should be used to assess whether a minimum period of service before retirement is appropriate or necessary?
- (a) May the need for a minimum period of service be justified exclusively as compensation for the acquisition, solely at the employer's expense, of a qualification with the employer (qualification for an intermediate career post in the fire service), in order to ensure, with regard to such a qualification, an adequate subsequent period of service with that employer, so that the costs of training the official are thus gradually worked off?

 - (b) What is the maximum permissible length of the service period phase that follows the period of training? Can it exceed five years, and if so, under what conditions?

 - (c) Irrespective of Question 7(a), can the appropriateness or necessity of a minimum period of service be justified by the consideration that, in the case of officials whose pensions are financed solely by the employer, the period of active service to be expected from recruitment to likely retirement date must suffice to earn a minimum pension guaranteed by law by serving for a period which is at present 19.51 years?

 - (d) Conversely, is a refusal to recruit someone justified under Article 6(1) of [the Directive] only if the person would be recruited at an age which, given his likely

The questions referred for a preliminary ruling

- 24 By its first to ninth questions, which should be taken together, the referring court raises the question of the discretion open to the national legislature to provide that differences of treatment on grounds of age do not constitute discrimination prohibited by Community law. It asks in particular whether aims such as the concern to ensure a long career for officials, to limit the amount of social benefits paid, to set up a balanced age structure within an occupation, or to ensure a minimum period of service before retirement are legitimate within the meaning of Article 6(1) of the Directive, and whether setting the maximum recruitment age for intermediate career posts in the fire service at 30 years is an appropriate and necessary means of achieving such aims.
- 25 To answer those questions, it must be examined whether the legislation at issue in the main proceedings falls within the scope of the Directive, whether it contains a difference of treatment within the meaning of the Directive, and, if so, whether or not the difference in treatment is justified.
- 26 In the first place, as regards the question whether the legislation at issue in the main proceedings falls within the scope of the Directive, it must be noted that it follows from Article 3(1)(a) of the Directive that it applies, within the framework of the areas of competence conferred on the Community, 'to all persons, as regards both the public and private sectors, including public bodies, in relation to ... conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy' (see Case C-88/08 *Hütter* [2009] ECR I-5325, paragraph 34).

- 27 It follows from Paragraph 3 of the FeuerwLVO that only persons not more than 30 years of age can be recruited to intermediate career posts in the professional fire service. That provision thus affects the conditions of recruitment to that career. Such legislation must therefore be regarded as laying down rules relating to recruitment conditions within the meaning of Article 3(1)(a) of the Directive.
- 28 In the second place, as regards the question whether the legislation at issue in the main proceedings contains a difference of treatment on grounds of age in relation to employment and occupation, it must be noted that, under Article 2(1) of the Directive, for the purposes of the Directive, the ‘principle of equal treatment’ is to mean that there must be no direct or indirect discrimination whatsoever on any of the grounds referred to in Article 1 of the Directive. Article 2(2)(a) states that, for the purposes of the application of Article 2(1), direct discrimination is to be taken to occur where one person is treated less favourably than another person in a comparable situation, on any of the grounds referred to in Article 1 of the Directive (see Case C-411/05 *Palacios de la Villa* [2007] ECR I-8531, paragraph 50, and Case C-388/07 *Age Concern England* [2009] ECR I-1569, paragraph 33).
- 29 The application of Paragraph 3 of the FeuerwLVO has the consequence that persons are treated less favourably than other persons in comparable situations on the ground that they have exceeded the age of 30 years. Such a provision introduces a difference of treatment on grounds of age for the purposes of Article 2(2)(a) of the Directive.
- 30 In the third place, it must be examined whether, as the referring court asks, the difference of treatment consequent on the application of Paragraph 3 of the FeuerwLVO is justified with reference to the Directive.

31 On this point, the referring court considered that it should be ascertained whether the difference of treatment on grounds of age could be justified by reference to Paragraph 10 of the AGG, which essentially repeats the principles in Article 6(1) of the Directive. It therefore aligned its questions to that provision of the Directive, dismissing from the outset the possibility that the difference of treatment might, pursuant to Article 4(1) of the Directive, not constitute discrimination. According to the referring court, the physical fitness of an applicant for an intermediate career post in the fire service is assessed in a separate selection procedure, to which Mr Wolf was not admitted because of his age. Consequently, the statutory age limit for access to that career could not be regarded as a genuine and determining occupational requirement within the meaning of Article 4(1).

32 It should be recalled here that, according to settled case-law, even if, formally, the referring court has limited its question to the interpretation of Article 6(1) of the Directive in relation to a possible justification of the difference of treatment resulting from the application of the national legislation at issue in the main proceedings, that does not prevent the Court from providing that court with all the elements of interpretation of Community law which may be of assistance in adjudicating in the case pending before it, whether or not it has referred to them in the wording of its question (see, inter alia, Case C-321/03 *Dyson* [2007] ECR I-687, paragraph 24; Case C-392/05 *Alevizos* [2007] ECR I-3505, paragraph 64 and the case-law cited; and Case C-532/06 *Lianakis and Others* [2008] ECR I-251, paragraph 23). It is for the Court to extract from all the information provided by the national court, in particular from the grounds of the decision to make the reference, the points of Community law which require interpretation in view of the subject-matter of the dispute (see Case C-115/08 *ČEZ* [2009] ECR I-10265, paragraph 81 and the case-law cited).

33 According to the German Government's replies to the questions put by the Court under Article 24 of the Statute of the Court of Justice, and also to that government's observations at the hearing, the aim of setting the age limit for recruitment to

intermediate career posts in the fire service in the *Land* of Hesse at 30 years is to ensure the operational capacity and proper functioning of the professional fire service.

- 34 According to the German Government, the intermediate career in the fire service makes exceptionally high physical demands in respect of certain operations, which can only be satisfied by younger officials. In view of the medically proven ageing process, officials past the age of 45 to 50 years no longer possess those greater physical abilities and those operations have to be carried out by younger officials. The maximum recruitment age is thus intended to ensure that officials in the intermediate career of the fire service can perform the tasks which present particularly high physical requirements for a comparatively long period of their career.
- 35 It must be observed in this respect that, according to the very wording of Article 4(1) of the Directive, 'a difference of treatment which is based on a characteristic related to any of the grounds referred to in Article 1 [of the Directive] shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate'. It follows that it is not the ground on which the difference of treatment is based but a characteristic related to that ground which must constitute a genuine and determining occupational requirement.
- 36 To examine whether the difference of treatment based on age in the national legislation at issue in the main proceedings is justified, it must be ascertained whether physical fitness is a characteristic related to age and whether it constitutes a genuine and determining occupational requirement for the occupational activities in question or for carrying them out, provided that the objective pursued by the legislation is legitimate and the requirement is proportionate.

37 As regards, first, the objective pursued by that national legislation, the German Government's statements show that the aim pursued is to guarantee the operational capacity and proper functioning of the professional fire service.

38 In this respect, it must be pointed out that the professional fire service forms part of the emergency services. Recital 18 in the preamble to the Directive states that the Directive does not require those services to recruit persons who do not have the required capacity to carry out the range of functions that they may be called upon to perform with regard to the legitimate objective of preserving the operational capacity of those services.

39 It is thus apparent that the concern to ensure the operational capacity and proper functioning of the professional fire service constitutes a legitimate objective within the meaning of Article 4(1) of the Directive.

40 As regards, second, the genuine and determining occupational requirement for the activities of the fire service or for carrying them out, it follows from the uncontradicted information provided by the German Government that persons in the intermediate career of the fire service perform tasks of professional firefighters on the ground. In contrast to the management duties of persons in the higher careers of the fire service, the activities of persons in the intermediate career are characterised by their physical nature. Those persons take part in fighting fires, rescuing persons, environment protection tasks, helping animals and dealing with dangerous animals, as well as supporting tasks such as the maintenance and control of protective equipment and vehicles. It follows that the possession of especially high physical capacities may be regarded as a genuine and determining occupational requirement within the meaning

of Article 4(1) of the Directive for carrying on the occupation of a person in the intermediate career of the fire service.

- 41 As regards, third, the question whether the need to possess high physical capacities is related to age, it should be noted that the German Government submits, without being contradicted, that some of the tasks of persons in the intermediate career of the fire service, such as fighting fires or rescuing persons, require exceptionally high physical capacities and can be performed only by young officials. The German Government produces scientific data deriving from studies in the field of industrial and sports medicine which show that respiratory capacity, musculature and endurance diminish with age. Thus very few officials over 45 years of age have sufficient physical capacity to perform the fire-fighting part of their activities. As for rescuing persons, at the age of 50 the officials concerned no longer have that capacity. Officials who have passed those ages work in the other branches of activities mentioned above. It follows that the need to possess full physical capacity to carry on the occupation of a person in the intermediate career of the fire services is related to the age of the persons in that career.
- 42 As regards, fourth and finally, the question whether national legislation such as that at issue in the main proceedings, which sets at 30 years the maximum recruitment age for officials having the high physical capacity to carry on an occupation in the intermediate career in the fire service, is proportionate, it must be examined whether that limit is appropriate for achieving the objective pursued and does not go beyond what is necessary to achieve it.
- 43 As has just been stated, the fire-fighting and rescue duties which are part of the intermediate career in the fire service can only be performed by younger officials. Officials older than 45 or 50 carry out other duties. To ensure the efficient functioning

of the intermediate career in the fire service, it may be considered necessary for the majority of officials in that career to be able to perform physically demanding tasks, and hence for them to be younger than 45 or 50. Moreover, the assignment of officials older than 45 or 50 to duties which are less physically demanding requires them to be replaced by young officials. The age at which an official is recruited determines the time during which he will be able to perform physically demanding tasks. An official recruited before the age of 30, who will have to follow a training programme lasting two years, can be assigned to those duties for a minimum of 15 to 20 years. By contrast, if he is recruited at the age of 40, that period will be a maximum of 5 to 10 years only. Recruitment at an older age would have the consequence that too large a number of officials could not be assigned to the most physically demanding duties. Similarly, such recruitment would not allow the officials thus recruited to be assigned to those duties for a sufficiently long period. Finally, as the German Government submits, the rational organisation of the professional fire service requires, for the intermediate career, a correlation between the physically demanding posts not suitable for older officials and the less physically demanding posts suitable for those officials.

⁴⁴ Consequently, it is apparent that national legislation such as that at issue in the main proceedings which sets the maximum age for recruitment to intermediate career posts in the fire service at 30 years may be regarded, first, as appropriate to the objective of ensuring the operational capacity and proper functioning of the professional fire service and, second, as not going beyond what is necessary to achieve that objective.

⁴⁵ Since the difference of treatment on grounds of age is justified with regard to Article 4(1) of the Directive, there is no need to examine whether it could be justified under Article 6(1) of the Directive.

46 It follows from all the foregoing that the answer to the first to ninth questions is that Article 4(1) of the Directive must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which sets the maximum age for recruitment to intermediate career posts in the fire service at 30 years.

47 In view of the answer to the first to ninth questions, there is no need to answer the tenth question.

Costs

48 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

Article 4(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be

interpreted as not precluding national legislation, such as that at issue in the main proceedings, which sets the maximum age for recruitment to intermediate career posts in the fire service at 30 years.

[Signatures]