



NEWS REPORT

Date: 21 June 2010
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Title: Local authority dismisses school traffic wardens aged 60 and over.
Country: Cyprus

Context

Issue at stake: The equality body finds age discrimination in the municipality's decision to dismiss school traffic wardens once they attain the age of 60.

Ground of discrimination: Age

Source: Equality body report

Field: Employment

Legislative provisions: The Municipalities Law 1985-2009; the Equal Treatment in Employment and Occupation Law 2004;

Content

Case: The equality body received a complaint from a school traffic warden that the municipality intended to dismiss all school traffic wardens upon attaining the age of 60. According to the Municipalities' law, the date of retirement for all municipal employees attaining the age of 60 on or after 1 July 2008 is 63. The nature of the employment of the traffic wardens is rather unique: although the recruitment is done by the municipality and the training is done by the police, traffic wardens are neither municipal nor police employees; they are contracted to offer services on a part time basis. In 2007 the municipality instructed its legal advisor to draft a proposal for the regulation of the issue. As a result, a document was produced entitled "Agreement for the granting of authorisation under the municipalities' law and under the Traffic Municipal Regulations, which all traffic wardens were asked to sign. This document provides that the authorisation to act as traffic warden shall be renewed until the traffic warden attains the age of 60 and

that the authorisation is revoked upon the person attaining 60. The municipality argued that the age limit of 60 was imposed because the service has to do with the safety of children crossing the street for which an excellent physical condition and excellent reflexes are required. The municipality added that the fact that there is a long waiting list for these positions was also taken into consideration.

Decision of the Equality Body: By invoking the ECJ rulings in the cases of *Mangold*¹ and *Palacios*,² the equality body found³ that the safety of the school children crossing the street is a legitimate aim within the meaning of the exception in the Law on equal treatment in employment and occupation of 2004 (transposing article 6 of Council Directive 2000/78/EC); however the choice of the maximum age limit as a measure for the achievement of this aim was neither appropriate nor necessary, because age is not necessarily the ideal criterion for assessing one's physical condition and more objective criteria should apply. The aim may be achieved with more appropriate means which will not result in age discrimination and will rely on scientific and ascertained data rather than on general and vague probabilities and assumptions. Such means could be for instance the periodical obligatory medical test of traffic wardens in order to assess their physical condition. In response to the municipality's argument that the age limit was also intended to provide employment for the newcomers into the labour market, the equality body responded that employment policies and in particular policies regarding the creation of jobs for the unemployed are not designed by the employers (in this case the municipality) but only by the competent state organs in the framework of a national policy for the creation of jobs for the unemployed.

¹ C-144/04, dated 22.11.2005.

² C-411/05, dated 16.10.2007.

³ Decision dated 11.03.2010, ref. A.K.I. 76/2009.