

European Union Issues Landmark Employment Discrimination Ruling

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On December 4, 2018, the European Court of Justice (“ECJ”) issued an important decision on age discrimination in relation to the age requirements for new recruits to the Irish police force.

Facts

This case relates to the applications made by three Irish citizens to join the Irish national police. Their applications were refused because of their age, and in particular Ireland’s blanket requirement that all police force applicants be aged between 18 and 35. The three Irish citizens filed a discrimination claim with Ireland’s Workplace Rights Commission (“WRC”), contending that the Irish legislation violated European law prohibiting age discrimination. Over the Irish Minister of Justice and Equality’s objection, the WRC agreed to hear the case.

Courts Below

The Minister subsequently brought a claim to Ireland’s High Court, contending that the WRC, an administrative body, lacked the authority to choose between EU and national law, and that only an Irish court was authorized to take such action. The High Court agreed, holding that the WRC was unauthorized to rule on a conflict between EU and Irish law. The WRC appealed to Ireland’s Supreme Court, which asked the ECJ for a preliminary ruling on the matter. Specifically, the ECJ summarized the question posed as “whether a national body established by law in order to ensure enforcement of EU law in a particular area must be able to disapply a rule of national law that is contrary to EU law.”

ECJ’s Decision

The WRC argued that because it was created by statute to, amongst other things, ensure compliance with anti-discrimination legislation, given that EU law was a source of such legislation that applied in Ireland, it must therefore have the jurisdiction to challenge and to disapply national laws in conflict with EU law.

In ruling on the matter, the ECJ distinguished between a tribunal permanently striking down a national law versus choosing not to apply it in the case at hand. Although only Irish courts had the ability to strike down a national law, the ECJ determined that administrative bodies tasked with enforcing EU law must at least be able to decline to follow conflicting national laws. Those bodies must “do everything necessary . . . to disregard national legislative provisions which might prevent directly applicable EU rules from having full force and effect.” Put differently, the ECJ determined that the duty to “disapply national legislation that is contrary to EU law is owed not only by national courts, but also all organs of the state—including administrative authorities.”

Because the WRC was tasked with ensuring employers’ compliance with EU discrimination laws, the ECJ ruled that it must be able to forego applying contrary Irish laws, such as the police force’s age requirements. Otherwise, EU law would be rendered less effective and discrimination claimants would face higher hurdles in seeking justice.

Next Steps

This case will now return to Ireland’s Supreme Court, which will likely remit the matter to the WRC to determine whether there has in fact been age discrimination, taking into account EU law. This ruling may also have significant wider and more general implications as to the ability for administrative bodies to account for EU law, even where such law is, on the surface, incompatible with national statutory provisions.

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