

ECJ rules that effects of obesity may amount to disability

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The European Court of Justice has ruled that, whilst obesity is not of itself a 'disability', the effects of obesity on a

worker's life could be deemed a 'disability'.

Mr Kaltoft was employed by the Municipality of Billund in Denmark as a childminder until his dismissal in November 2010. Mr Kaltoft had a BMI of 54, putting him in the category of 'morbidly obese'. He claimed that his dismissal was by reason of his obesity and, on that basis, brought discrimination proceedings in Denmark. The Danish Court asked the ECJ: (i) whether there is a general prohibition in EU law against all forms of discrimination including obesity; and alternatively (ii) whether obesity could be classified as a 'disability'.

The ECJ confirmed that there is no specific prohibition in EU law against discrimination on the grounds of obesity. However, obesity could amount to a 'disability' in certain circumstances. A 'disability', must be a long-term physical, psychological or mental impairment which can hinder the full and effective participation of a person in professional life in comparison to other employees. An obese person may fit this definition if, as a result of their obesity, they suffer from mobility issues or other obesity-related medical conditions which prevent them from participating in professional life.

The ECJ held that the reason for the obesity cannot be taken into account when determining whether it amounts to a disability, as to define a disability by reference to how it originated would undermine the principle of equal treatment altogether.

FOA, acting on behalf of Karsten Kaltoft v Kommunernes Landsforening, acting on behalf of the Municipality of Billund C-354/13, 18 December 2014

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