

Greek police's minimum height requirement is indirectly discriminatory

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The Greek police force's requirement for new applicants to meet a certain minimum height threshold was indirectly discriminatory against women and could not be objectively justified.

Greek national law requires that applicants to police school who wish to train as police officers must be at least 1.7

metres tall without shoes, whether male or female. Ms Kalliri's application to join the police school was rejected on the basis that she was only 1.68 metres tall. She brought a complaint in the Greek courts, and a referral was made to the European Court of Justice to ask whether the minimum height requirement was compatible with EU equal treatment law.

The European Court of Justice held that the height requirement was indirectly discriminatory on grounds of sex, in that far more women are likely to be disadvantaged by the minimum threshold than men. Whilst the Greek government did have a legitimate aim in the effective accomplishment of police functions, the height requirement was not a proportionate means of achieving it. This was because not all police roles require physical aptitude and, even if they did, physical aptitude is not necessarily correlated to height.

Other reasons pointed to by the ECJ were that the law had previously required female police applicants to meet the lower threshold of 1.65 metres, and that the minimum height requirement for female applicants to the Greek armed forces, port police and coast guard was only 1.6 metres. Ultimately, if the Greek government wished to ensure the physical aptitude of its police recruits, it should conduct pre-selection aptitude tests rather than applying rigid requirements across the board. For those reasons, the disadvantage caused to women by the height requirement was not objectively justified and amounted to indirect sex discrimination.

Minimum height requirements are probably one of the clearest examples of work-related criteria or policies which have the potential to be indirectly discriminatory. Employers should avoid having any kind of blanket restrictions or requirements unless they are clearly able to show that they are a proportionate means of achieving a legitimate aim.

Esoterikon v Kalliri (C-409/16)

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