



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 106/17**

Luxembourg, 18 October 2017

Judgment in Case C-409/16

Maria-Eleni Kalliri v Ypourgos Esoterikon and Ypourgos Ehtnikis Paideias  
kai Thriskevmaton

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**A law that lays down, as a criterion for admission to a police school, a minimum height requirement irrespective of sex may constitute unlawful discrimination against women**

*Such a measure may prove not to be necessary to ensure the proper functioning of police services*

By decision of the Chief of the Greek Police, a competition notice for enrolment in the Greek police school was published for the academic year 2007/2008. That notice cited a provision of Greek law which provided that all candidates, irrespective of their sex, must be of a height of at least 1.70 metres. Ms Marie-Eleni Kalliri's application to participate in the competition for entry into the police school was refused on the ground that she was not of the height required.

Ms Kalliri therefore lodged an action before the Dioikitiko Efeteio Athinon (Administrative Court of Appeal, Athens, Greece) against that decision, considering that she had suffered discrimination on grounds of sex. The Dioikitiko Efeteio Athinon annulled that decision, declaring that the Greek law was contrary to the constitutional principle of equality between men and women.

The Greek Minister for the Interior (Ypourgos Esoterikon) and the Greek Minister for Education and Religious Affairs (Ypourgos Ehtnikis Paideias kai Thriskevmaton) lodged an appeal against that decision before the Symvoulío tis Epikratias (Council of State). That court asks the Court of Justice whether EU law<sup>1</sup> precludes a national law which lays down a minimum height requirement for all candidates, male and female, for the competition for entry into the police school.

By today's judgment, the Court of Justice finds that the fixing of a minimum height requirement for all candidates, male and female, constitutes indirect sex discrimination since it works to the disadvantage of far more women than men.

However, such a provision of law does not constitute indirect discrimination where two conditions, which it is for the national court to determine, are met: (1) the provision of law must be objectively justified by a legitimate objective, such as the operational capacity and proper functioning of police services,<sup>2</sup> and (2) the means of achieving that aim must be appropriate and necessary.

In that regard, while it is true that certain police functions may require the use of physical force requiring a particular physical aptitude, the fact remains that other functions, such as providing assistance to citizens or traffic control, do not clearly require the use of significant physical force.

Furthermore, even if all the functions carried out by the Greek police required a particular physical aptitude, it would not appear that such an aptitude is necessarily connected with being of a certain minimum height. In any event, the objective of ensuring the effective accomplishment of the task of

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<sup>1</sup> Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ 1976 L 39, p. 40), as amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 (OJ 2002 L 269, p. 15) ('Directive 76/207'). See also, Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ 2006, L 204, p.23), and 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).

<sup>2</sup> Cases: [C-416/13](#) Vital Pérez see Press Release No [149/14](#) and [C-258/15](#) Salaberria Sorondo, see Press Release No [125/16](#).

the police could be achieved by measures that are less disadvantageous to women, such as a preselection of candidates allowing their physical ability to be assessed.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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