Reports of Cases

OPINION OF ADVOCATE GENERAL
RICHARD DE LA TOUR
delivered on 19 November 2020[1]

Case C-511/19

AB
v
Olympiako Athlitiko Kentro Athinon – Spyros Louis

(Request for a preliminary ruling from the Areios Pagos (Court of Cassation, Greece))

(Reference for a preliminary ruling – Social policy – Directive 2000/78/EC – Principle of equal treatment in employment and occupation – Prohibition of discrimination on grounds of age – Public-sector employees placed on reserve until the termination of their contract of employment – Employment relationship ending when workers satisfy the conditions to receive a full pension – Article 6(1) – Reduction of public-sector wage costs – Legitimate employment policy objective – Situation of economic and financial crisis)

I. Introduction

1. This request for a preliminary ruling concerns the interpretation of Article 2 and Article 6(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.[2]

2. The request has been made in proceedings between AB and Olympiako Athlitiko Kentro Athinon – Spyros Louis ('OAKA') concerning his placement, in accordance with the relevant national law, under the labour reserve system prior to his retirement.

3. The measure at issue in the main proceedings consists in the implementation of a labour reserve for public-sector employees with a contract of employment governed by private law and of indefinite duration. Placement under the labour reserve system is deemed to constitute advance notice of dismissal and the reduced remuneration paid to staff subject to that system is calculated by offsetting it against the severance pay payable, where appropriate, at the end of the labour reserve period. The national legislation at issue in the main proceedings provides that employees who, over a particular period, satisfy the conditions to receive a full pension are to be placed automatically under the labour reserve system with effect from 1 January 2012 and until the termination of their employment relationship. In that regard, under that same legislation, the contract of employment governed by private law and of indefinite duration of the employees ends by operation of law and automatically when those employees satisfy the conditions of eligibility to the full pension, provided that that entitlement is acquired no later than 31 December 2013.

1 Original language: French.

2 OJ 2000 L 303, p. 16.

4. The labour reserve system is part of a series of measures adopted by the Hellenic Republic with a view to reorganising the public sector and reducing public expenditure in the context of the economic and financial crisis which that Member State has had to face. This case provides the Court inter alia with the opportunity to clarify the scope of Article 6(1) of Directive 2000/78 in such a context.

5. In this Opinion, I will suggest that the Court rule that Article 2(1) and (2)(a) and Article 6(1) of Directive 2000/78 must be interpreted as not precluding national legislation such as that at issue in the main proceedings, under which public-sector employees who, over a particular period, satisfy the conditions to receive a full pension are placed under a labour reserve system until the termination of their contract of employment in so far as, first, that legislation pursues a legitimate employment policy objective and, second, the means implemented to achieve that objective are appropriate and necessary.

II. Legal context

A. EU law

6. Article 1 of Directive 2000/78 states that the purpose of that directive is to lay down a general framework for combating discrimination on the grounds, inter alia, of age as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment.

7. Article 2(1) and (2) of the directive provides:

‘1. For the purposes of this Directive, the “principle of equal treatment” shall mean that there shall be no direct or indirect discrimination whatsoever on any of the grounds referred to in Article 1.

2. For the purposes of paragraph 1:

(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on any of the grounds referred to in Article 1;

(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons having a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons unless:

(i) that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary …

…’

8. Article 3(1) of Directive 2000/78 reads as follows:

‘Within the limits of the areas of competence conferred on the [Union], this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:

…

(c) employment and working conditions, including dismissals and pay;

…’

9. Article 6 of Directive 2000/78 provides:

‘1. Notwithstanding Article 2(2), Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary.

Such differences of treatment may include, among others:

(a) the setting of special conditions on access to employment and vocational training, employment and occupation, including dismissal and remuneration conditions, for young people, older workers and persons with caring responsibilities in order to promote their vocational integration or ensure their protection;

(b) the fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment;

…

2. Notwithstanding Article 2(2), Member States may provide that the fixing for occupational social security schemes of ages for admission or entitlement to retirement or invalidity benefits, including the fixing under those schemes of different ages for employees or groups or categories of employees, and the use, in the context of such schemes, of age criteria in actuarial calculations, does not constitute discrimination on the grounds of age, provided this does not result in discrimination on the grounds of sex.’

B. Greek law

10. Article 34, which is entitled ‘Abolition of vacant, private-law posts and labour reserve’, of Nómos 4024/2011: Syntaxiodotikés rythmíseis, eniaío misthológio – vathmológio, ergasiakí efedreía kai álles diatáxeis efarmogís tou mesopróthesmou plaisíou dimosionomikís stratigikís 2012-2015 (Law 4024/2011 on pension arrangements, uniform pay scales/employment grades, the labour reserve and other provisions implementing the Medium-Term Fiscal Strategy Framework 2012-2015)[3] of 27 October 2011, as amended by the decree-law of 16 December 2011 converted into law by Article 1 of Nómos 4047/2012 (Law 4047/2012)[4] of 23 February 2012, provides in paragraphs 1 to 4 and 8:

‘1. Article 37(7) of Law 3986/2011 (FEK A’ 152) is replaced as follows:

…

(c) The staff subject to the labour reserve system shall continue to receive, with effect from their placement under that system and for 12 months or, where provision is so made by more specific provisions, 24 months, 60% of the basic salary which he or she received at the time of his or her placement under the system in question.

…

3 FEK A’ 226.

4 FEK A’ 31; ‘Law 4024/2011’.

(e) Placement under the labour reserve system shall be deemed to constitute advance notice of dismissal for all legal purposes and the remuneration paid to the staff subject to that system in accordance with the provisions set out in point (c) shall be calculated by offsetting it against the severance pay payable, where appropriate, at the end of the labour reserve period.

…

2. The posts of workers bound by an employment relationship governed by private law and of indefinite duration within the administrative authorities, legal persons governed by public law, first-tier and second-tier local authorities and their establishments, legal persons governed by private law that are owned by the State, legal persons governed by public law or local authorities, because they are responsible for tasks entrusted to them by the State, administrative authorities or local authorities, they are monitored by the State, administrative authorities or local authorities, their management board is appointed and majority controlled by the State, administrative authorities or local authorities or at least 50% of their annual budget is permanently subsidised in accordance with the relevant provisions using funds provided by the abovementioned bodies, as well as the undertakings, bodies and public limited companies falling within the scope of the provisions of Chapter I of Law 3429/2005 (A' 314), as amended by paragraph (1)(a) [of Article 1] of Law 3899/2010 (A' 212), which are vacant on the entry into force of this Law, shall be abolished …

3. Contracts of employment governed by private law and of indefinite duration of incumbent employees within the abovementioned bodies … shall end by operation of law and automatically when those employees satisfy the conditions of eligibility to the full pension, which correspond to 35 years' membership of the social security scheme, provided that that entitlement is acquired, in accordance with the relevant provisions, no later than 31 December 2013 inclusive …

4. The workers referred to in the previous paragraph shall automatically be placed under the labour reserve system with effect from 1 January 2012 and until the termination of their employment relationship in accordance with the detailed rules set out in the previous paragraph …

…

8. The labour reserve period shall not exceed 24 months in respect of the workers referred to in paragraph 4 …'

11. Furthermore, the second paragraph of Article 8 of Nómos 3198/1955: Perí tropopoiíseos kai sympliróseos ton perí katangelías tis schéseos ergasías diatáxeon (Law 3198/1955 amending and supplementing the provisions relating to the termination of an employment relationship) [5] of 23 April 1955 provides, in the version thereof in force at the time of the facts in the main proceedings, that, when they satisfy the conditions to claim payment of the full old-age pension by the relevant social security body, employees are entitled to receive 40% of the severance pay to which they are entitled under the relevant provisions where they are covered by supplementary insurance, or 50% of such pay where they are not covered by supplementary insurance, whether they leave their job or are dismissed by the employer.

5 FEK A' 98; 'Law 3198/1955'.

III. The dispute in the main proceedings and the questions referred for a preliminary ruling

12. It is apparent from the order for reference that AB was recruited in 1982 by OAKA, a legal person governed by private law within the public sector,[6] under a contract of indefinite duration and was assigned the duties of technical adviser within OAKA in 1998. In performance of those duties, he received a head of section's salary and, until its abolition in 2010, a duty allowance.

13. With effect from 1 January 2012, OAKA automatically placed AB under the labour reserve system pursuant to Article 34(1)(c), the first subparagraph of (3), (4) and (8) of Law 4024/2011, which resulted in his pay being reduced to 60% of his basic salary.

14. On 30 April 2013, OAKA terminated AB's contract of employment without paying him any severance pay, on the ground that he satisfied the conditions of eligibility to his full pension, pursuant to Article 34(1)(e) of Law 4024/11 which provides for the severance pay payable to be offset against the remuneration paid to the employee during his assignment to the labour reserve.

15. By his action brought before the Monomeles Protodikeio Athinon (Court of First Instance (single judge), Athens, Greece), AB contested inter alia the validity of his transfer to the labour reserve system in accordance with the provisions of Article 34 of Law 4024/2011 cited above, claiming that those provisions establish a difference of treatment on grounds of age that is contrary to Directive 2000/78, and that that difference of treatment is not objectively justified by any legitimate aim whatsoever and the means of achieving such an aim are neither appropriate nor necessary. On that ground, he claimed that OAKA should be ordered to pay to him the sum of EUR 50 889.91, namely the difference between the salary of which he was in receipt prior to being placed under the labour reserve system and the salary which he was paid after being placed on reserve. AB also relied on the second paragraph of Article 8 of Law 3198/1955 to claim from OAKA the payment of a sum of EUR 32 108.04 by way of severance pay.

16. After that court upheld that action in part, OAKA lodged an appeal before the Monomeles Efeteio Athinon (Court of Appeal (single judge), Athens, Greece), which set aside the judgment given at first instance and dismissed the part of AB's action which had been upheld in that judgment.

17. AB appealed on a point of law to the referring court, the Areios Pagos (Court of Cassation, Greece).

18. That court observes that the provisions implementing the labour reserve system do not provide for an age limit for the staff subject to that system, unlike public-sector civil servants *stricto sensu* who are admitted to the pre-retirement system, for the purposes of which a particular age limit is fixed.

19. The referring court infers from that fact that placement under the labour reserve system does not constitute direct discrimination on grounds of age within the meaning of Article 2(2)(a) of Directive 2000/78.

20. That court notes that the national legislation establishing that system is based on the criterion of proximity to retirement on a full pension, that is to say, when the worker satisfies the conditions of eligibility for payment of that pension by the insurer concerned, which means that the worker has 35 years' contributions, provided that those conditions are met over the period between 1 January 2012 and 31 December 2013 inclusive.

6 It is clear from the documents before the Court that, although OAKA is a legal person governed by private law, it is wholly owned by the Greek State.

21. According to the referring court, it is likewise apparent from the national social security legislation that, in addition to the minimum contribution period of 35 years, it is an essential requirement for the entitlement of an employee who is insured with the Idryma Koinonikon Asfaliseon – Eniaio Tameio Asfalissis Misthoton (IKA-ETAM) (Social Security Body – General Insurance Fund for Employees, Greece) [7] to claim a full old-age pension after 35 years' employment that he or she is at least 58 years old on the date of submission of the application to the insurer, pursuant to Article 10(1) of Nómos 825/1978: Perí antikatastáseos, tropopoiíseos kai sympliróseos diatáxeon tis diepoúsis to IKA Nomothesías kai rythmíseos synafón themáton (Law 825/1978 replacing, amending and supplementing the provisions of the legislation governing the IKA and laying down related provisions) [8] of 13 November 1978, in the version thereof in force at the time of the facts in the main proceedings.

22. If Article 34(1)(c), the first subparagraph of (3) and (4) of Law 4024/2011 were to entail indirect discrimination on grounds of age within the meaning of Article 2(2)(b) of Directive 2000/78, the referring court raises the question whether the reasons stated in the explanatory memorandum to that law constitute an objectively and reasonably legitimate aim justifying the difference in treatment and whether the placement of a proportion of staff under the labour reserve system constitutes an appropriate and necessary measure for the purposes of achieving that aim.

23. In that regard, that court states that the objective of the provisions of Article 34 of Law 4024/2011 was to respond to the immediate need to reduce wage costs in accordance with the agreement concluded between the Hellenic Republic and its creditors and to consolidate the finances of the State and the broader public sector in order to tackle the economic crisis that had hit that Member State.

24. In those circumstances, the Areios Pagos (Court of Cassation) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Does the adoption by the Member State of legislation applicable to government, local authorities and public-law legal entities and to all bodies (private-law legal entities) in the broader public sector in general in their capacity as employer, such as that adopted under Article 34(1)(c), (3)(a) and (4) of Law 4024/2011 placing staff under a private-law contract of employment with the above bodies on reserve for a period not exceeding twenty-four (24) months between 1 January 2012 and 31 December 2013 based solely on the criterion of the closest entitlement to retire on a full old-age pension corresponding to thirty-five (35) years' insurance, constitute indirect age discrimination within the meaning of Article 2(1) and (2)(b) and Article 3(1)(c) of Directive 2000/78/EC, especially given the fact that, under the insurance legislation in force at the time and disregarding cases that are of no relevance here, staff under a contract of employment needed to be insured with the Social Insurance Institute (IKA) or some other major insurance fund for (at least) 10 500 working days (35 years) and to be (at least) 58 years of age in order to substantiate their right to retire on a full old-age pension, without of course precluding the possibility of the above period of insurance (35 years) being completed at a different age depending on the individual case?

(2) If the answer to the first question is in the affirmative, can the adoption of a labour reserve system be objectively and logically justified, within the meaning of Article 2(2)(b)(i) and [point (a) of the second subparagraph of Article 6(1)] of the Directive, by the immediate need to ensure organisational, operational and fiscal results and, more specifically, by the immediate need to cut public spending in order to achieve certain quantitative targets by the end of 2011, as referred to in the explanatory memorandum to the law and provided for in particular under the

7 'The IKA'. The IKA-ETAM succeeded the Idryma Koinonikon Asfaliseon (IKA) (Social Security Body, Greece) in 2002 and was replaced in 2017 by the Eniaíos Foréas Koinonikís Asfálisis (EFKA) (General Social Security Body, Greece).

8 FEK A' 189; 'Law 825/1978'.

Medium-Term Fiscal Strategy Framework, and thus honour Greece's undertaking to its partner-lenders to address the very acute and prolonged fiscal and economic crisis gripping the country and, at the same time, to restructure and reduce the swollen public sector?

(3) If the answer to the second question is in the affirmative:

(a) Is the adoption of a measure such as that adopted under Article 34(1)(c) of Law 4024/2011, providing for the salary of staff placed on reserve to be cut drastically to 60% of the basic salary of which they were in receipt when they were placed on reserve, without at the same time requiring the said staff to work in the relevant public sector, and causing the loss (in fact) of any promotion in terms of pay scale or employment grade during the period between their being placed on reserve and their dismissal due to retirement on a full old-age pension, an appropriate and necessary means of achieving the above aim, within the meaning of Article 2(2)(b)(i) and Article 6(1)(a) of the Directive, where:

(i) such staff retain the facility to find an alternative occupation (in the private sector) or have the opportunity to pursue a freelance profession or business while on reserve, without losing the right to payment of the aforesaid reduced basic salary, unless the salary or income from their new occupation or employment exceeds the salary of which they were in receipt prior to being placed on reserve, in which case the above reduced basic salary is cut by the surplus (see Article 34(1)(f)); and

(ii) the public-sector employer or, if it is abolished, the Organismos Apascholisis Ergatikou Dynamikou (Hellenic Manpower Employment Organisation, Greece, "OAED") undertakes to pay both the employer's and the employee's main, supplementary and health and welfare insurance contributions to the relevant insurance fund based on the salary of which the employee was in receipt prior to being placed on reserve pending the employee's retirement (see Article 34(1)(d)); and

(iii) exemptions from labour reserve status are provided for vulnerable social groups which require protection (other spouse placed on reserve, spouse or child with a disability of at least 67% living with and dependent on the employee, employee with a disability of at least 67%, parents of large families, single-parent family living with and dependent on the employee) (see Article 34(1)(b)); and

(iv) the aforesaid staff are granted the option of transferring to other vacant posts in public-sector bodies based on objective and merit-based criteria by including them in the selection lists of the Anotato Symvoulio Epilogis Prosopikou (Supreme Council for Civil Personnel Selection, Greece, "ASEP") (see Article 34(1)(a)), although that option was limited in fact owing to drastic cutbacks in staff recruitment by various public-sector bodies due to the need to cut spending; and

(v) care is taken to adopt measures concerning the repayment of housing loans obtained from the Tameio Parakatathikon kai Daneion (Deposits and Loans Fund, Greece) by workers placed on reserve and to draft an agreement between the Greek State and the Enosi Ellinikon Trapezon (Hellenic Bank Association, Greece) to facilitate the repayment of loans contracted by such staff from other banks, based on each worker's total family income and assets (see Article 34(10) and (11)); and

(vi) provision has been made under a more recent law (see Article 1(15) of Law 4038/2012 [9]) for pension regulations and the payment order to be issued as a matter of priority for the staff [concerned], that is within no more than four months of their dismissal and submission of the supporting documents required in order to release their pension; and

(vii) the aforesaid loss of promotion in terms of pay scale or employment grade by staff under a private-law contract of employment during the period between their being placed on reserve and their dismissal due to retirement on a full old-age pension will not apply in most cases, including the present case, as, due to the length of time the employees have spent in the public sector, they have already reached the top pay scale and/or employment grade provided for under the applicable legislation governing promotions.

(b) Is the adoption of a measure such as that adopted under Article 34(1)(e) of Law 4024/2011, eliminating, for employees who are dismissed or who retire from their occupation on qualifying for a full old-age pension, all (or a proportion) of the severance pay provided for under Article 8(b) of Law 3198/1955 equal to 40% of the severance pay provided for employees with supplementary insurance (which, in the case of public-sector bodies fulfilling a public service obligation or subsidised by the State, such as the respondent private-law legal entity, is capped at the sum of EUR 15 000), by offsetting it against the reduced salary received during the period on reserve, an appropriate and necessary means of achieving the above aim within the meaning of Article 2(2)(b)(i) and Article 6(1)(a) of the Directive, bearing in mind that the aforesaid staff would otherwise have received that reduced severance pay under the aforesaid applicable labour legislation irrespective of whether they resigned or were dismissed by the body in which they were employed?'

25. AB, OAKA, the Greek Government and the European Commission submitted written observations and replied to the questions put by the Court for a written response within the prescribed time limit.

IV. Analysis

26. By its questions referred for a preliminary ruling, the referring court asks the Court, in essence, to rule on whether Article 2 and Article 6(1) of Directive 2000/78 must be interpreted as precluding national legislation under which public-sector employees who, over a particular period, satisfy the conditions to receive a full pension are placed under a labour reserve system, which entails a cut to their pay and has the effect of reducing, or even abolishing, the severance pay which they could have claimed on termination of their employment relationship.

27. I note that Article 34(1)(c), the first subparagraph of (3) and (4) of Law 4024/2011 establishes the labour reserve system for workers employed under an employment relationship governed by private law and of indefinite duration by the administrative authorities, local authorities, legal persons governed by public law and legal persons governed by private law falling within the broader public sector, for a period of at the very most two years (1 January 2012 to 31 December 2013), on the basis of the criterion of proximity to retirement on a full pension, that is to say, where the worker satisfies at any time over that period the conditions to claim that pension, namely having made 35 years' contributions.

9 Nómos 4038/2012: Epeígouses rythmíseis pou aforoún tin efarmogí tou mesopróthesmou plaisíou dimosionomikís stratigikís 2012-2015 (Law 4038/2012 adopting emergency measures relating to the implementation of the Medium-Term Fiscal Strategy Framework 2012-2015) of 2 February 2012 (FEK A' 14).

28. The referring court explains that, during that period and until the retirement conditions are met, the persons placed under the labour reserve system are subject to a dramatic reduction in their pay but are not, however, required to work within the public body concerned. In addition, the severance pay to which those persons would have been entitled is offset against the reduced pay that they receive over the period for which they remain placed on reserve. Their placement on reserve is deemed to constitute advance notice of dismissal. As I therefore understand it, under the labour reserve system, the worker is dismissed but his or her dismissal will take effect only once he or she is eligible to receive a full pension. This explains why the remuneration paid during that period is set off against the amount of severance pay.

29. In order to answer the questions put by the referring court, it is important to determine whether the national legislation at issue in the main proceedings comes within the scope of Directive 2000/78 and, if so, whether it establishes a difference of treatment on grounds of age capable, as the case may be, of being justified in the light of Article 6 of that directive.

30. Turning, first, to whether the national legislation at issue in the main proceedings comes within the scope of Directive 2000/78, it is apparent both from its title and preamble and from its content and purpose that that directive seeks to lay down a general framework in order to guarantee equal treatment 'in employment and occupation' to all persons, by offering them effective protection against discrimination on one of the grounds covered by Article 1, which include age.[10]

31. In addition, it follows from Article 3(1)(c) of Directive 2000/78 that that directive applies, within the limits of the areas of competence conferred on the Union, 'to all persons, as regards both the public and private sectors, including public bodies', in relation to 'employment and working conditions, including dismissals and pay'.

32. By providing that the contract of employment governed by private law and of indefinite duration of incumbent employees within the bodies concerned ends by operation of law and automatically where those employees satisfy the conditions of eligibility to retire on the full pension and placing the employees on reserve pending the satisfaction of those conditions, the national legislation at issue in the main proceedings must be regarded as laying down rules governing 'employment and working conditions, including dismissals and pay', within the meaning of Article 3(1)(c) of Directive 2000/78.

33. In those circumstances, the national legislation at issue in the main proceedings does come within the scope of that directive.

34. With regard, in the second place, to whether the national legislation at issue in the main proceedings establishes a difference of treatment on grounds of age within the meaning of Article 2(1) of Directive 2000/78, it must be recalled that, in accordance with that provision, 'the "principle of equal treatment" shall mean that there shall be no direct or indirect discrimination whatsoever on any of the grounds referred to in Article 1' of that directive. Article 2(2)(a) of the directive clarifies that, for the purposes of the application of paragraph 1 of that article, direct discrimination is to be taken to occur where one person is treated less favourably than another in a comparable situation, on any of the grounds referred to in Article 1 of the same directive. Pursuant to Article 2(2)(b)(i) of Directive 2000/78, indirect discrimination exists where an apparently neutral provision, criterion or practice would put persons having a particular age at a particular disadvantage compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

10 See, inter alia, judgment of 2 April 2020, *Comune di Gesturi* (C-670/18, EU:C:2020:272, paragraph 20 and the case-law cited).

35. In the present case, I note that the first subparagraph of Article 34(3) of Law 4024/2011 provides that the contract of employment governed by private law and of indefinite duration of the incumbent employees within the bodies concerned ends where those employees satisfy the conditions of eligibility to retire on the full pension, referring in that regard to 35 years' membership of the social security scheme, provided that that entitlement is acquired, in accordance with the relevant provisions, no later than 31 December 2013 inclusive. In making reference to that condition of membership, Law 4024/2011 is based on an apparently neutral criterion capable of putting at a particular disadvantage workers who, having completed a number of years of work corresponding to 35 years' membership of the social security scheme, belong to a category of workers close to retirement and are therefore older. By requiring that that category of workers, on the basis of such a criterion, be placed under a labour reserve system, Law 4024/2011 treats those workers less favourably than all workers who continue to carry on their professional activity under normal conditions.

36. Accordingly, in so far as it is based indirectly on a criterion related to age, Law 4024/2011 could, prima facie, appear to establish indirect discrimination on grounds of age within the meaning of Article 1 in conjunction with Article 2(2)(b) of Directive 2000/78.

37. That said, the existence of indirect discrimination presupposes, in my view, that the alleged difference of treatment is based solely on an apparently neutral criterion capable of putting persons of a particular age at a particular disadvantage, and not also on a criterion directly related to age. However, it is apparent both from the order for reference and from the observations submitted to the Court that an employee such as the applicant in the main proceedings must satisfy the condition of being at least 58 years of age, as is clear from Article 10(1) of Law 825/1978, in order to be able to receive a full pension. It follows that placing an employee under the labour reserve system also means that that employee must meet the condition of having reached the minimum age of 58 between 1 January 2012 and 31 December 2013. Since the reference to the conditions of eligibility to retire on a full pension necessarily entails a reference to Article 10(1) of Law 825/1978, which lays down an age requirement, the direct nature of the discrimination on grounds of age appears to me to be established. The fact that that age requirement is combined with the condition relating to 35 years' contributions changes nothing, since the crucial point for classification as a difference in treatment is that the labour reserve system apparently cannot apply to those employees who have not reached the age of at least 58 during the relevant period. In other words, the labour reserve system can involve only workers who reached the age of at least 58 years between 1 January 2012 and 31 December 2013, provided that they have made 35 years' contributions or more.

38. It follows from the foregoing that it is in accordance with two cumulative conditions, one of which is directly related to age, that the employees are placed under the labour reserve system.

39. Accordingly, it must be stated that the national legislation at issue in the main proceedings is based on a criterion that is inextricably linked to the age of employees in that it provides that employees who have not only accumulated 35 years' membership of the social security scheme but who also reached the age of at least 58 between 1 January 2012 and 31 December 2013 are to be placed under the labour reserve system. In so far as when an employee reaches the age fixed in that legislation to access the full pension entails, together with the condition relating to 35 years' contributions, him or her being placed under the labour reserve system, the view must be taken that that legislation requires directly that workers who have reached that age are treated less favourably than all other persons in employment. Such legislation therefore contains direct discrimination on grounds of age within the meaning of Article 2(2)(a) of Directive 2000/78. [11]

11 See, by analogy, judgment of 16 October 2007, *Palacios de la Villa* (C-411/05, EU:C:2007:604, paragraphs 48 and 51), in which the Court found there to be a difference in treatment *directly* based on age in relation to national legislation pursuant to which the automatic retirement clauses contained in collective agreements and which require, as the only conditions, that the worker has reached the retirement age, set at 65 years by the national legislation, *and fulfils the other social security conditions for entitlement to draw a contributory retirement pension* are regarded as lawful.

40. In my view, the fact that the condition relating to the age of 58 does not expressly appear in the provisions of the national legislation establishing the labour reserve system but appears in Article 10(1) of Law 825/1978 does not preclude the finding that that system establishes direct discrimination on grounds of age. What matters is that, by referring to the criterion of proximity to retirement on a full pension, the first subparagraph of Article 34(3) of Law 4024/2011 refers necessarily to the national legislation stipulating, as a condition for drawing such a full pension, that a worker must have reached the age of 58. In addition, the fact that not all employees who reached the age of at least 58 during the relevant period are placed under the labour reserve system, but only, within that category of employees, those who have accumulated 35 years' contributions does not appear to me to be at odds with the finding that that system entails direct discrimination on grounds of age.

41. Having made those clarifications, I would however point out that it is not for the Court to rule on the interpretation of provisions of national law, that being for the national courts having jurisdiction. [12]

42. Accordingly, it ultimately falls to the referring court, the only court having jurisdiction to assess the facts at issue in the main proceedings and to interpret the applicable national legislation, to determine whether the labour reserve system does indeed satisfy the two abovementioned conditions, and to draw from that determination the appropriate conclusions as regards the direct or indirect nature of the difference of treatment on grounds of age.

43. With regard, in the third place, to the question whether that difference of treatment can be justified, it should be recalled that Article 6(1) of Directive 2000/78 allows Member States to provide, notwithstanding Article 2(2) of that directive, that some differences of treatment on grounds of age do not constitute discrimination if, 'within the context of national law, they are objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary'.

44. Article 6(1) of Directive 2000/78 allows Member States to introduce into their national law measures providing for differences in treatment on grounds of age which fall in particular within the category of direct discrimination as defined in Article 2(2)(a) of that directive. That option, in that it constitutes an exception to the principle prohibiting discrimination, is however strictly limited by the conditions laid down in Article 6(1) itself. [13]

45. It must also be borne in mind that the Member States enjoy a broad discretion in their choice not only to pursue a particular aim in the field of social and employment policy, but also in the definition of measures capable of achieving it. [14]

46. The referring court states that the explanatory memorandum to Law 4024/2011 makes clear that the purpose of the labour reserve system is to ensure that the Hellenic Republic honours its undertakings towards its creditors and that it must, to that end, produce immediate organisational, operational and fiscal results in keeping with the strategic aim of consolidating public finances. According to that same explanatory memorandum, that objective must be pursued by ensuring that the majority of workers placed on reserve are not, however, made unemployed, but rather that they benefit from the security of retirement, that the staff of the public authorities and the broader public sector are not exposed to major upheavals and that the public-sector bodies are not, in the vast majority of cases, burdened by the cost of severance pay, which would be particularly damaging in fiscal terms.

12 See, inter alia, judgment of 28 February 2018, *John* (C-46/17, EU:C:2018:131, paragraph 50).

13 See judgment of 5 March 2009, *Age Concern England* (C-388/07, EU:C:2009:128, paragraph 62).

14 See, inter alia, judgments of 19 July 2017, *Abercrombie & Fitch Italia* (C-143/16, EU:C:2017:566, paragraph 31 and the case-law cited), and of 27 February 2020, *Land Sachsen-Anhalt (Remuneration of officials and judges)* (C-773/18 to C-775/18, EU:C:2020:125, paragraph 42 and the case-law cited).

47. As the referring court points out, the objective of the labour reserve system is therefore to address the need to reduce wage costs in accordance with the agreement concluded between the Hellenic Republic and its creditors as well as to consolidate the finances of the State and the broader public sector in order to tackle the acute economic and financial crisis which has struck that Member State.

48. According to the Greek Government, the labour reserve system responds to the need to curtail wage costs and to streamline the civil service and the broader public sector, whilst enabling workers falling under that system to meet their basic needs until they receive their full pension. In view of the exceptional fiscal crisis with which the Hellenic Republic was faced, that Member State states that that system has overriding public interest objectives, such as the consolidation of public expenditure and the streamlining and reduction of the public sector, whilst at the same time making sure not to affect the hard core of individual and social rights of the persons placed on reserve.

49. The Greek Government adds that it is apparent from the explanatory memorandum to Law 4024/2011 that the objective pursued by the labour reserve system is not solely fiscal in nature, but also involves streamlining and reducing the civil service and the broader public sector as well as restructuring its services, since that objective is directly linked to employment policy.

50. The Greek Government also explains that, since it is clear from the order for reference that the staff employed under an employment relationship governed by private law and of indefinite duration may be dismissed at any time by the employing body, placing some staff under the labour reserve system has made it possible to maintain a high level of employment by avoiding the immediate dismissal of the employees concerned.

51. In addition, the objective of establishing an age structure that balances young and older employees was likewise achieved, since the measure at issue in the main proceedings concerned staff who satisfied the condition of proximity to the date of eligibility to retire.

52. In the light of those factors and with a view to assessing the lawfulness of the objective pursued by the national legislation at issue in the main proceedings, I note that the Court has previously held that reliance on several aims at the same time, which are either linked to one another or classed in order of importance, does not preclude the existence of a legitimate aim within the meaning of Article 6(1) of Directive 2000/78.[15]

53. In addition, it is settled case-law that EU law does not preclude Member States from taking account of budgetary considerations at the same time as political, social or demographic considerations, provided that in so doing they observe, in particular, the general principle of the prohibition of age discrimination. In that regard, while budgetary considerations can underpin the social policy choices of a Member State and influence the nature or extent of the measures that the Member State wishes to adopt, such considerations cannot in themselves constitute a legitimate aim within the meaning of Article 6(1) of Directive 2000/78.[16] Furthermore, the fact that the national context is one of acute economic crisis does not authorise a Member State to deprive the provisions of that directive of practical effect.[17]

15 See, inter alia, judgment of 2 April 2020, *Comune di Gesturi* (C-670/18, EU:C:2020:272, paragraph 33 and the case-law cited).

16 See, inter alia, judgments of 21 July 2011, *Fuchs and Köhler* (C-159/10 and C-160/10, EU:C:2011:508, paragraphs 73 and 74); of 8 May 2019, *Leitner* (C-396/17, EU:C:2019:375, paragraph 43); and of 2 April 2020, *Comune di Gesturi* (C-670/18, EU:C:2020:272, paragraph 34).

17 See judgment of 21 December 2016, *AGET Iraklis* (C-201/15, EU:C:2016:972, paragraph 106).

54. The Court has recently held, in relation to national legislation forming part, in a general economic context, of the measures necessary to reduce the excessive deficits of the Italian public administrative authorities and seeking to prevent the cumulation of salaries and retirement pensions from public funds, that the aim of achieving an effective reduction of public expenditure may influence the nature or scope of the employment protection measures, but cannot in itself constitute a legitimate aim. [18]

55. Generally speaking, I note that, in the specific context of the present case, the objective of ensuring the fiscal consolidation of the State by reducing the State's public expenditure is inseparable from the public interest objectives pursued by the Union, namely those of ensuring the fiscal discipline of the States which have the euro as their currency and of guaranteeing the financial stability of the Eurozone. [19]

56. I would add that the Hellenic Republic had relatively limited discretion since it was required to contain public-sector wage costs in accordance with the requirements of its creditors in order to tackle the acute economic and financial crisis that it was experiencing and pursuant to the recommendations and decisions adopted by the Union with a view to strengthening and consolidating budgetary surveillance and giving notice to that Member State to take measures for the deficit reduction judged necessary in order to remedy the situation of excessive debt. [20]

57. The Greek authorities therefore had to adopt measures to bring their economic and fiscal policy in line with the general objectives of the economic and monetary union, removing any risk of jeopardising the functioning of that union. [21] With that in mind, the Hellenic Republic was, inter alia, invited to 'reduce the public wage bill'. [22]

58. With regard to the objective of the State, as an employer, of reducing the public-sector wage costs, I note that the Court has ruled that the aims which may be considered 'legitimate' within the meaning of Article 6(1) of Directive 2000/78 and, consequently, appropriate for the purposes of justifying derogation from the principle prohibiting discrimination on grounds of age, are social policy objectives, such as those related to employment policy, the labour market or vocational training. [23] As a result of their public interest, such legitimate aims are distinguishable from purely individual reasons particular to the employer's situation, such as cost reduction or improving competitiveness, although it cannot be ruled out that a national rule may recognise, in the pursuit of those legitimate aims, a certain degree of flexibility for employers. [24]

59. Contrary to AB's claim, the reduction of the wage costs of a legal person governed by private law which is part of the public sector, in the context of the acute economic and financial crisis with which the Hellenic Republic was faced, cannot be regarded as constituting a purely individual reason, that is to say, for the sole benefit of the employer, not only because the implementation of budgetary consolidation measures was, as I have stated previously, crucial to the stability of the Eurozone, but also because the same was true of the very viability of the public sector and of the continuity of those tasks in the public interest performed by bodies forming part of that sector.

18 See judgment of 2 April 2020, *Comune di Gesturi* (C-670/18, EU:C:2020:272, paragraph 35).

19 See judgment of 3 May 2017, *Sotiropoulou and Others* v *Council* (T-531/14, not published, EU:T:2017:297, paragraph 89).

20 See judgment of 3 May 2017, *Sotiropoulou and Others* v *Council* (T-531/14, not published, EU:T:2017:297, paragraph 73).

21 See, inter alia, Council Recommendation to Greece of 16 February 2010 with a view to ending the inconsistency with the broad guidelines of the economic policies in Greece and removing the risk of jeopardising the proper functioning of the economic and monetary union (OJ 2010 L 83, p. 65).

22 See recommendation cited in the previous footnote (paragraph 1(a)). See also, in the same vein, Council Decision of 16 February 2010 giving notice to Greece to take measures for the deficit reduction judged necessary in order to remedy the situation of excessive debt (OJ 2010 L 83, p. 13).

23 See, to that effect, judgment of 5 March 2009, *Age Concern England* (C-388/07, EU:C:2009:128, paragraph 49).

24 See, inter alia, judgment of 21 July 2011, *Fuchs and Köhler* (C-159/10 and C-160/10, EU:C:2011:508, paragraph 52 and the case-law cited).

60. The aim of reducing public expenditure pursued by the State, as an employer, which may take the form of a reduction of wage costs in the public sector, is therefore a public interest objective since it allows maintenance of a high-quality public service to be reconciled with respect for the fiscal constraints on the State. That said, such a public interest objective alone is not sufficient to justify a difference in treatment on grounds of age within the meaning of Article 6(1) of Directive 2000/78 unless it is accompanied by concerns relating to employment policy, the labour market and vocational training. [25]

61. It follows that the aim of reducing public expenditure by seeking to cut the wage costs of the State as an employer must coincide, in the context of considerations on the employment and labour market policy of the Member State concerned, with other aims, such as that of promoting employment and an age structure that balances young and older employees. [26]

62. I would point out, in this regard, that the labour reserve system is part of a series of measures intended to reorganise the public sector with a view to consolidating public finances and reducing expenditure. It is in that constrained fiscal context that the Hellenic Republic implemented an employment policy within the public sector intended to reconcile, on the one hand, the need to reduce public-sector wage costs and, on the other hand, the need to maintain a high level of employment and a balanced age structure within the public sector. In addition, the promotion of a high level of employment is one of the ends pursued by the European Union. [27] Accordingly, measures to increase the employment rate [28] or, at the very least, to prevent its decline pursue a 'legitimate aim' within the meaning of Article 6(1) of Directive 2000/78. The same is true of measures which seek to establish an age structure that balances young and older employees. [29]

63. Viewed from the perspective of employment policy in the public sector, the labour reserve system therefore appears to me to pursue a 'legitimate aim' within the meaning of Article 6(1) of Directive 2000/78.

64. I note, in addition, that the Court has held that the automatic termination of the employment contracts of employees who meet the conditions as regards age and contributions paid for the liquidation of their pension rights has, for a long time, been a feature of employment law in many Member States and is widely used in employment relationships. That mechanism is based on a balance between political, economic, social, demographic and/or budgetary considerations and depends on the choice between prolonging people's working lives or, conversely, providing for their early retirement. [30]

65. As the Court has held in relation to clauses automatically terminating the employment contracts of employees who have reached retirement age, [31] I take the view that aims of the kind put forward by the Hellenic Republic must, in principle, be regarded as 'objectively and reasonably' justifying, 'within the context of national law', as provided for in Article 6(1) of Directive 2000/78, a difference of treatment on grounds of age, such as that contained in the national legislation at issue in the main proceedings.

25 See, in that regard, Opinion of Advocate General Mengozzi in *Vital Pérez* (C-416/13, EU:C:2014:2109), according to whom 'it is clear that where the employer is a public administration the aim of reducing costs as a rule meets a public interest objective in the same way as those mentioned in Article 6(1) of the Directive. However, this consideration alone is not sufficient, in my opinion, to hold that such an objective is one of the legitimate aims permitted by that provision. If that logic were followed, any difference in treatment on grounds of age that made a reduction in public expenditure possible could, for that reason alone, be justified on the basis of Article 6(1) of the Directive' (point 48).

26 See, inter alia, judgment of 21 July 2011, *Fuchs and Köhler* (C-159/10 and C-160/10, EU:C:2011:508, paragraphs 50 and 53).

27 See, inter alia, judgment of 16 October 2007, *Palacios de la Villa* (C-411/05, EU:C:2007:604, paragraph 64).

28 See judgment of 19 July 2017, *Abercrombie & Fitch Italia* (C-143/16, EU:C:2017:566, paragraphs 32 and 33).

29 See, inter alia, judgment of 2 April 2020, *Comune di Gesturi* (C-670/18, EU:C:2020:272, paragraph 38 and the case-law cited).

30 See, inter alia, judgment of 28 February 2018, *John* (C-46/17, EU:C:2018:131, paragraph 24 and the case-law cited).

31 See, inter alia, judgment of 16 October 2007, *Palacios de la Villa* (C-411/05, EU:C:2007:604, paragraph 66).

66. The labour reserve system is the result of a choice made by the Hellenic Republic to place employees who are about to receive a replacement income at the end of their professional career in a process under which their contract of employment is terminated. In the context of the acute economic and financial crisis which has hit the Hellenic Republic, that Member State wanted to avoid requiring employers to dismiss workers falling into other categories, thus keeping them in continued employment, in particular in the case of young people. Although it forms part of a policy of reducing public expenditure, the labour reserve system thus also addresses concerns relating to employment policy.

67. It is now important to examine whether, within the context of the broad discretion afforded to the Member States and recalled in point 43 of this Opinion, the means implemented to achieve the employment policy objective pursued by the national legislation at issue in the main proceedings are appropriate and necessary.

68. First, the labour reserve system appears to me to be an appropriate means of achieving such an aim.

69. In view of the fact that the contracts of employment of the employees concerned could be terminated at any time by their employer, it appears that the adoption of the labour reserve measure prevented those employees from being made unemployed. I would add that the choice made by the Greek legislature to place a cohort of staff nearing retirement on reserve did indeed prevent other cohorts of staff from being made unemployed.

70. At the same time, by focusing on the section of staff who satisfied the condition of proximity to the date of eligibility for retirement, the labour reserve system is an appropriate means of achieving the aim of establishing an age structure that balances young and older employees, by favouring the continued employment of younger workers, particularly in a context in which there was a freeze on new appointments. In my view, faced with the requirement of reducing wage costs, a policy of ensuring the continued employment of young workers by placing older workers on reserve is not fundamentally different from a policy of compulsory retirement at a particular age in order to promote the recruitment of young people.

71. I also note that the Court has already accepted that a measure restricting the payment of a special severance allowance only to those workers who, on the date of their dismissal, are not going to be entitled to a State retirement pension is appropriate with a view to achieving an employment policy objective. [32]

72. In the light of those factors, the measure at issue in the main proceedings can, in my view, be regarded as an appropriate tool for optimising personnel management in a context in which public-sector bodies had to deal with a significant economic and financial crisis whilst continuing to provide a high-quality public service [33] and retaining, in so far as possible, the level of employment in the public sector.

73. Second, the labour reserve system does not appear to me to go beyond what is necessary to achieve the legitimate employment policy objective pursued by the Hellenic Republic.

32 See judgment of 26 February 2015, *Ingeniørforeningen i Danmark* (C-515/13, EU:C:2015:115, paragraph 27).

33 See judgment of 21 July 2011, *Fuchs and Köhler* (C-159/10 and C-160/10, EU:C:2011:508, paragraph 50). From that perspective, the labour reserve system is a personnel management tool used in the public sector to ensure, in a constrained fiscal context, the viability of that sector and the continuity of the public-interest tasks carried out by its constituent bodies.

74. In that context, it is necessary to consider whether the measure in question enables such an objective to be achieved without unduly prejudicing the legitimate interests of the employees concerned. [34]

75. It is for the competent authorities of the Member States to find the right balance between the different interests involved. [35] Thus, in order to determine whether a measure such as that at issue in the main proceedings goes beyond what is necessary to achieve the objective pursued and unduly prejudices the interests of the employees concerned by that measure, the measure must be viewed against its legislative background and account must be taken both of the hardship that it may cause to the persons concerned and of the benefits derived from it by society in general and by the individuals who make up society. [36]

76. Furthermore, the prohibition of discrimination on grounds of age must be read in the light of the right to engage in work recognised in Article 15(1) of the Charter of Fundamental Rights of the European Union. It follows that particular attention must be paid to the participation of older workers in the labour force and thus in economic, cultural and social life. Retaining older workers in the labour force promotes, inter alia, diversity in the workforce. However, the interest represented by the continued employment of those persons must be taken into account in respecting other, potentially divergent, interests. [37]

77. It is therefore important to determine whether the Greek legislature, in exercising the broad discretion enjoyed by it in matters of employment policy, managed to strike a balance between the various interests involved in its intention to streamline the public sector.

78. As for the benefits resulting from the labour reserve system, they may involve allowing public-sector bodies to continue to perform the tasks entrusted to them and to improve their efficiency in a context of fiscal restraint and of reduced wage costs. [38]

79. In addition, as I have previously stated, that system is a personnel management tool made available to public-sector bodies so that they do not resort to redundancies in a context of fiscal restraint and reduced wage costs. When considering the necessity of the measure at issue in the main proceedings in the light of the objectives pursued, it is clear that account must be taken of the acute economic and financial crisis in which that measure was introduced. [39] Furthermore, the issue of whether, in such a context, that measure is preferable to the alternatives is likewise concerned with the necessity of a measure. [40] Having regard to that specific context, I take the view that, in the light of the objective of ensuring continued employment, a measure such as that at issue in the main proceedings was a preferable alternative as compared with the use of measures to make not only employees close to retirement unemployed, but also other categories of staff.

34 See, to that effect, judgment of 12 October 2010, *Ingeniørforeningen i Danmark* (C-499/08, EU:C:2010:600, paragraph 32).

35 See, inter alia, judgments of 16 October 2007, *Palacios de la Villa* (C-411/05, EU:C:2007:604, paragraph 71), and of 2 April 2020, *Comune di Gesturi* (C-670/18, EU:C:2020:272, paragraph 43).

36 See, inter alia, judgment of 5 July 2017, *Fries* (C-190/16, EU:C:2017:513, paragraph 53 and the case-law cited).

37 See, inter alia, judgment of 2 April 2020, *Comune di Gesturi* (C-670/18, EU:C:2020:272, paragraph 44 and the case-law cited).

38 See, by analogy, with regard to the European public administration, judgment of 14 December 2018, *FV* v *Council* (T-750/16, EU:T:2018:972, paragraph 120).

39 See, inter alia, for the account taken of the context of persistent economic crisis and weak growth, judgment of 19 July 2017, *Abercrombie & Fitch Italia* (C-143/16, EU:C:2017:566, paragraph 42).

40 Ibid.

80. With regard to the hardship caused to employees, it is apparent from the order for reference that placing a section of staff on reserve gives rise to unfavourable consequences for them in terms of remuneration and severance pay. For instance, pursuant to Article 34(1)(c) of Law 4024/2011, the remuneration of the staff placed on reserve is reduced to 60% of the basic salary that he or she used to receive, coupled with the loss of any promotion in terms of pay scale or employment grade during the period spent on reserve, it being understood that those members of staff are no longer required to work within the body concerned.

81. Furthermore, placement on reserve also entails the loss, pursuant to Article 34(1)(e) of Law 4024/2011, of all or part of the allowance referred to in the second paragraph of Article 8 of Law 3198/1955, which is provided where an employee is dismissed or leaves because he or she has satisfied the conditions to receive the full pension.

82. That said, it must be observed that the labour reserve system does contain measures capable of mitigating its unfavourable effects on the employees concerned whilst allowing them to meet their basic needs until they receive their pension. Thus, the order for reference states that national legislation provides for measures to protect staff placed on reserve. It cites, in that regard, the ability to find alternative employment or to work as a self-employed person without losing the right to receive the abovementioned proportion of the basic salary, the obligation on the body in question or, failing that, the national employment agency to pay to the competent insurer the social security contributions payable by the employer and by the employee based on his or her previous remuneration until the latter's retirement, the exemption from the labour reserve system for socially vulnerable groups who require protection, the possibility of transferring the staff in question to other vacant posts within public-sector bodies and the adoption of measures relating to the repayment of home loans obtained by the staff in question.

83. In support of its view that the measure at issue in the main proceedings does not place an excessive burden on the staff placed on reserve, the Greek Government mentions, in addition to the measures of protection cited by the referring court, the fact that, in the majority of cases, on account of their seniority within the public body, the employees concerned have exhausted the possibilities of promotion in terms of pay scale or employment grade and that, therefore, their promotion in terms of pay scale and employment grade is unaffected.

84. It is my view that the protective measures mentioned by the referring court and the Greek Government allow the unfavourable effects of the labour reserve system for employees to be mitigated.

85. Taking into account those protective measures, the temporary nature of the system and the fact that that system concerns employees who are about to come to the end of their professional life and are guaranteed in the near future to receive a full pension, that is to say, a stable and enduring replacement income,[41] at the end of their placement on reserve, I take the view that the measure at issue in the main proceedings does not unduly prejudice the legitimate claims of the workers concerned[42] and that it does not therefore go beyond what is necessary to achieve the employment policy objective pursued by the national legislature, in a context marked by an acute economic and financial crisis.

41 See judgment of 26 September 2013, *Dansk Jurist- og Økonomforbund* (C-546/11, EU:C:2013:603, paragraphs 55 and 62).

42 See, by analogy, with regard to clauses on automatic termination of employment contracts on the ground that the employee has reached retirement age, judgment of 12 October 2010, *Rosenbladt* (C-45/09, EU:C:2010:601, paragraphs 47 and 48).

86. It follows that Article 2(1) and (2)(a) and Article 6(1) of Directive 2000/78 must, in my view, be interpreted as not precluding national legislation such as that at issue in the main proceedings under which public-sector employees who, over a particular period, satisfy the conditions to receive a full pension are placed under a labour reserve system until the termination of their contract of employment where, on the one hand, that legislation pursues a legitimate employment policy objective and, on the other hand, the means implemented to achieve that aim are appropriate and necessary.

V. Conclusion

87. In the light of all the foregoing considerations, I suggest that the Court answer the questions referred for a preliminary ruling by the Areios Pagos (Court of Cassation, Greece) as follows:

Article 2(1) and (2)(a) and Article 6(1) of Council Directive 2000/78 of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be interpreted as not precluding national legislation such as that at issue in the main proceedings under which public-sector employees who, over a particular period, satisfy the conditions to receive a full pension are placed under a labour reserve system until the termination of their contract of employment where, on the one hand, that legislation pursues a legitimate employment policy objective and, on the other hand, the means implemented to achieve that aim are appropriate and necessary.