

Case C-555/07 Kücükdeveci v Swedex GmbH & Co KG [2010] ECR I-365

Facts: The applicant felt her notice period for dismissal was unfair. She claimed that national law discriminated on grounds of age, as it prevented service before the age of 25 from being considered. The period for transposing the relevant EU Directive had expired by the date of her dismissal.

Held: The national court had to disapply any contrary provision of national legislation, independently of whether it made use of its right to ask the Court for a preliminary ruling. On the facts, national law prescribed differential treatment on grounds of age and this was discriminatory. It was stated that unimplemented directives could not produce horizontal direct effects, and consistent interpretation was not possible because of the law's clarity. Nevertheless, the general principle of non-discrimination on grounds of age should be given full effect to ensure the full effectiveness of EU law. The principle of primacy of EU law extended to the principle of non-discrimination on grounds of age, meaning that contrary legislation falling within scope of EU law should be disapplied.