

Parties to the main proceedings

Applicant: Sari Kiiski

Defendant: Tampereen kaupunki

Re:

Interpretation of Article 2 of 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), and of Articles 8 and 11 of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (OJ 1992 L 348, p. 1) — Refusal of an employer to shorten the duration of child-care leave — Application made before the start of the leave on the ground of a new pregnancy of the person concerned — National legislation requiring unforeseeable and justified grounds as a condition for altering the duration of child-care leave, the practice adopted under the collective agreement excluding pregnancy from such grounds.

Operative part of the judgment

Article 2 of 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, as amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002, which prohibits all direct and indirect discrimination on grounds of sex as regards working conditions, and Articles 8 and 11 of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (10th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), which govern maternity leave, preclude provisions of national law concerning child-care leave which, in so far as they fail to take into account changes affecting the worker concerned as a result of pregnancy during the period of at least 14 weeks preceding and after childbirth, do not allow the person concerned to obtain at her request an alteration of the period of her child-care leave at the time when she claims her rights to maternity leave and thus deprive her of the rights attaching to that maternity leave.

(¹) OJ C 116, 20.5.2006.

Judgment of the Court (Second Chamber) of 20 September 2007 — Commission of the European Communities v Kingdom of Spain

(Case C-177/06) (¹)

(State Aid — Aid scheme — Incompatibility with the common market — Commission decision — Implementation — Abolition of the aid scheme — Cancellation of outstanding aid — Recovery of aid made available — Failure to fulfil obligations — Defences — Illegality of the decision — Absolute impossibility of giving effect to a decision)

(2007/C 269/25)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: F. Castillo de la Torre and C. Urraca Caviedes, acting as Agents)

Defendant: Kingdom of Spain (represented by: N. Díaz Abad, Agent)

Re:

Member State's failure to fulfil its obligations — Failure to adopt, within the period prescribed, the measures necessary to ensure implementation of Articles 2 and 3 of the Commission's Decisions of 20 December 2001 on a State aid scheme implemented by Spain in 1993 for certain newly established firms in Guipúzcoa (Spain) (C(2001) 4448) (OJ L 77 of 24 March 2003, p. 1), in Álava (Spain) (C(2001) 4475) (OJ L 17 of 22 January 2003, p. 20) and in Vizcaya (Spain) (C(2001) 4478) (OJ L 40 of 14 February 2003, p. 11).

Operative part of the judgment

The Court rules:

1. In failing to take the necessary measures within the prescribed period, to comply with Articles 2 and 3 of each of:
 - Commission Decision 2003/28/EC of 20 December 2001 on a State aid scheme implemented by Spain in 1993 for certain newly established firms in Álava (Spain);
 - Commission Decision 2003/86/EC of 20 December 2001 on a State aid scheme implemented by Spain in 1993 for certain newly established firms in Vizcaya (Spain);
 - Commission Decision 2003/192/EC of 2 December 2001 on a State aid scheme implemented by Spain in 1993 for certain newly established firms in Guipúzcoa (Spain),

the Kingdom of Spain has failed to fulfil its obligations under those provisions;

2. The Kingdom of Spain is ordered to pay the costs.

(¹) OJ C 143, 17.6.2006.