

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 19 October 2017 (request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia — Spain) — Elda Otero Ramos v Servicio Galego de Saúde, Instituto Nacional de la Seguridad Social

(Case C-531/15) ⁽¹⁾

(Reference for a preliminary ruling — Directive 92/85/EEC — Article 4(1) — Protection of the safety and health of workers — Breastfeeding worker — Risk assessment of her work — Challenged by the worker concerned — Directive 2006/54/EC — Article 19 — Equal treatment — Discrimination on grounds of sex — Burden of proof)

(2017/C 424/02)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Applicant: Elda Otero Ramos

Defendants: Servicio Galego de Saúde, Instituto Nacional de la Seguridad Social

Operative part of the judgment

1. Article 19(1) of 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 must be interpreted as applying to a situation such as that at issue in the main proceedings, in which a breastfeeding worker challenges, before a court or other competent authority of the Member State concerned, the risk assessment of her work in so far as she claims that the assessment was not conducted in accordance with Article 4(1) 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.
2. On a proper construction of Article 19(1) of Directive 2006/54, in a situation such as that at issue in the main proceedings, it is for the worker in question to provide evidence capable of suggesting that the risk assessment of her work had not been conducted in accordance with the requirements of Article 4(1) of Directive 92/85 and from which it can therefore be presumed that there was direct discrimination on grounds of sex within the meaning of Directive 2006/54, which it is for the referring court to ascertain. It would then be for the defendant to prove that that risk assessment had been conducted in accordance with the requirements of that provision and that there had, therefore, been no breach of the principle of non-discrimination.

⁽¹⁾ OJ C 429, 21.12.2015.