

Judgment of the Court (First Chamber) of 8 May 2019 (request for a preliminary ruling from the Cour de cassation — France) — RE v Praxair MRC SAS

(Case C-486/18) ⁽¹⁾

(Reference for a preliminary ruling — Social policy — Directive 96/34/EC — Framework agreement on parental leave — Clause 2.6 — Worker employed full-time and for indefinite duration on part-time parental leave — Dismissal — Compensation payment for dismissal and redeployment leave allowance — Method of calculation — Article 157 TFEU — Equal pay for male and female workers — Part-time parental leave taken primarily by female workers — Indirect discrimination — Objective factors unrelated to any sex discrimination — None)

(2019/C 230/21)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: RE

Defendant: Praxair MRC SAS

Operative part of the judgment

1. Clause 2.6 of the framework agreement on parental leave concluded on 14 December 1995, which is annexed to Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, as amended by Council Directive 97/75/EC of 15 December 1997, must be interpreted as precluding, where a worker employed full-time and for an indefinite duration is dismissed at the time he is on part-time parental leave, the compensation payment for dismissal and the redeployment leave allowance to be paid to that worker being determined at least in part on the basis of the reduced salary which he receives when the dismissal takes place.
2. Article 157 TFEU must be interpreted as precluding legislation such as that in the main proceedings which provides that, where a worker employed full-time and for an indefinite duration is dismissed at the time he is on part-time parental leave, that worker receives a compensation payment for dismissal and a redeployment leave allowance determined at least in part on the basis of the reduced salary being received when the dismissal takes place, in circumstances when a far greater number of women than men choose to take part-time parental leave and when that difference in treatment which results therefrom cannot be explained by objective factors unrelated to any sex discrimination.

⁽¹⁾ OJ C 352, 1.10.2018.