

SUMMARY

ECJ 4 October 2024, case C-314/23 (Air Nostrum and Others), gender discrimination

Sindicato de Tripulantes Auxiliares de Vuelo de Líneas Aéreas (STAVLA), Ministerio Fiscal – v – Air Nostrum and Others, Spanish case

Summary

A daily subsistence allowance covering expenses, other than those relating to accommodation and transport, incurred by cabin crew and pilots respectively during their work-related travels, are an element of their pay. A difference in treatment in the amount of this subsistence allowance depending on whether they are granted to a group of workers consisting mainly of men (pilots) or to a group of workers consisting mainly of women (cabin crew members) cannot be regarded as indirect discrimination on grounds of sex, because pilots and cabin crew members do not perform the same work.

Question

Must Article 2(1)(e) and Article 4 of Directive 2006/54 be interpreted as meaning that (i) daily subsistence allowances compensating, at a flat rate, for certain expenses incurred by workers as a result of their work-related travel form part of their pay or, on the contrary, their working conditions and (ii) a difference in treatment in the amount of those allowances, depending on whether they are granted to a group of workers consisting mainly of men or to a group of workers consisting mainly of women, constitutes indirect discrimination on grounds of sex prohibited by that directive?

Ruling

Article 2(1)(e) and Article 4 of Directive 2006/54 must be interpreted as meaning that (i) daily

subsistence allowances compensating, at a flat rate, for certain expenses incurred by workers as a result of their work-related travel constitutes an element of their pay and (ii) a difference in the amount of those allowances, depending on whether they are granted to a group of workers consisting mainly of men or to a group of workers consisting mainly of women, is not prohibited by that directive where those two groups of workers do not perform the same work or work to which equal value is attributed.

Creator: European Court of Justice (ECJ)

Verdict at: 2024-10-04

Case number: C-314/23