

SUMMARY

## **Case C-174/16. Parental leave and sex discrimination**

Are the provisions of Council Directive 2010/18 implementing the revised Framework Agreement on parental leave and the provisions of the Framework Agreement to be interpreted as precluding rules of national law under which the probationary period, during which an executive post has been assigned to a person with the status of a civil servant on probation, ends by operation of law and with no possibility of extension even in the case where the male or female civil servant has been and still is on parental leave for most of that probationary period?

Are the provisions of Directive 2006/54 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, in particular Article 14(1)(a) or (c), Article 15 or Article 16 thereof, to be interpreted as meaning that rules of national law with the content referred to in Question 1 constitute indirect discrimination on grounds of sex in the case where a very much higher number of women than men is affected, or may potentially be affected, by those rules?

If the answers to Questions 1 or 2 are in the affirmative, does the interpretation of the abovementioned provisions of EU law preclude such rules of national law even in the case where the latter are justified by the objective of being able to assess, during the probationary period, the probation for an executive post to be assigned permanently only if the duties are actually performed continuously over a lengthy period?

If the answer to Question 3 is also in the affirmative, does the interpretation of European law allow a legal consequence other than continuation of the probationary period immediately following the end of the parental leave – for the duration of the period not yet elapsed at the beginning of the parental leave – for the same or a comparable official position, in the case where, for example, such a position or an equivalent established post is no longer available?

Does the interpretation of European law require, in this case, for the purpose of filling another

official position or another executive post, that a new selection procedure including other candidates in accordance with the provisions of national law should not be held?

---

**Creator:** European Court of Justice (ECJ)

**Verdict at:** 2016-03-24

**Case number:** C-174/16