

SUMMARY

Case C-432/16. Maternity

On a proper construction of Article 10(1) of Directive 92/85, must the concept of ‘exceptional cases not connected with their condition which are permitted under national legislation and/or practice’, constituting an exception to the prohibition against dismissing pregnant workers, be understood to have been complied with simply by providing proof of the objective economic, technical, organisational or productive reasons, as defined in Article 51(1) of the Workers’ Statute, referred to in Article 52(c) of that statute? In the event of an objective individual dismissal for economic, technical, organisational or productive reasons, is there a requirement, in order to decide whether exceptional cases exist that justify the dismissal of pregnant workers and workers who have recently given birth or are breastfeeding, in accordance with Article 10(1) of Directive 92/85/EEC, that the worker affected cannot be reassigned to another job, or that there are no other workers in similar posts who may be affected? Or is it sufficient that proof should be given of economic, technical and productive reasons that affect her job? Is legislation, such as the Spanish statute transposing the prohibition on the dismissal of pregnant workers and workers who have recently given birth or are breastfeeding, by providing a guarantee that, in the absence of any proof of reasons justifying her dismissal, the dismissal is declared void (reparative protection), but not laying down a prohibition against dismissal (preventive protection), compatible with Article 10(1) of Directive 92/85/EEC, which lays down that prohibition? Is national legislation, such as the Spanish statute, which does not provide for priority for retention in the undertaking in the event of objective individual dismissal for economic, technical, organisational or productive reasons for pregnant workers and workers who have recently given birth or are breastfeeding, compatible with Article 10(1) of Directive 92/85/EEC? For the purposes of Article 10(2) of Directive 92/85/EEC, is national legislation compatible with this provision if it treats a letter of dismissal such as that shown in the present proceedings as sufficient even if it makes no reference whatsoever to the existence of any exceptional grounds, nor to the criteria which justify selecting the worker, notwithstanding her pregnancy?

Creator: European Court of Justice (ECJ)

Verdict at: 2016-08-02

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