SUMMARY

ECJ 16 June 2016, case C-351/14 (Rodríguez Sánchez), Parental leave

<p>The questions referred to the ECJ in this particular case on the interpretation of Clause 6(1) of the Framework Agreement on parental leave (employers must "consider and respond to" employees' requests for changes to their working patterns) are inadmissible.</p>

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Facts

Ms Rodríguez Sánchez was a full-time 'worker member' of a cooperative. She worked alternatively in day shifts and evening shifts, also working two Sundays per month. She gave birth to a child and was granted maternity leave. When this leave ended, she did not apply for parental leave but instead requested (i) a reduction in her weekly hours of work and (ii) an exemption from evening shifts and Sunday work. The employer granted request (i) but turned down the second request. Ms Rodríguez Sánchez applied to the court. She based her claim on provisions of Spanish law that entitle employees who take care of a young child to a reduction in working time.

National proceedings

At the suggestion of the court, Ms Rodríguez Sánchez amended the basis of her claim, now basing it on Article 34(8) of the Spanish Workers' Statute. It provides that "Workers shall have the right to adapt their hours of work and work schedules in order to give effect to their right to reconcile personal, family and work life […]". Again, the employer agreed to the requested

working time reduction, but not to the requested exemption from evening shifts and Sunday work. This limited the dispute to the issue of whether Ms Rodríguez Sánchez was entitled to that exemption.

The court referred four questions to the ECJ, all related to the (revised) Framework Agreement on parental leave annexed to Directive 2010/18, in particular Clause 6(1), which requires Member States "to ensure that workers, when returning from parental leave, may request changes to their working hours and/or patterns for a set period of time. Employers shall consider and respond to such requests, taking into account both employers' and workers' needs". The referring court's third question was, in essence, how specific national law transposing this Clause 6(1) must be.

ECJ's findings

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Maternity leave and parental leave are different arrangements with different purposes. Therefore, Clause 6(1) of the revised Framework Agreement, which relates to situations in which a worker returns to work following 'parental leave', cannot be interpreted as also covering a situation in which a worker returns from 'maternity leave' within the meaning of Directive 92/85, such as the situation of the applicant in the main proceedings when she made the request (§ 39-48).

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As regards the third question, it is evident that a situation such as that of Ms Rodríguez Sánchez does not fall within the scope of Clause 6(1) of the revised Framework Agreement – an interpretation of which is sought by the referring court – with the result that it is not apparent how an answer from the Court to the third question referred would have any bearing on the outcome of the dispute in the main proceedings (§ 49-67).

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There is no need to answer questions 1, 2 and 4 (§ 68-71).

Judgment

The request for a preliminary ruling [...] is inadmissible

Creator: European Court of Justice (ECJ)
Verdict at: 2016-06-16
Case number: C-351/14 (Rodríguez Sánchez)