

ECJ 8 May 2019, case C-486/18 (Praxair MRC), Gender Discrimination, Maternity and Parental Leave

RE – v – Praxair MRC SAS, French case

Questions

1. Must clauses 2.4 and 2.6 of the framework agreement on parental leave be interpreted as precluding, where a worker employed full-time and for an indefinite duration is dismissed at the time he takes 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 being received when the dismissal takes place?
2. Must Article 157 TFEU be interpreted as precluding legislation such as that at issue 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 which he receives 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?

Ruling

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.

ECJ 8 May 2019, case C-631/17 (Inspecteur van de Belastingdienst), Social Insurance

SF – v – Inspecteur van de Belastingdienst, Dutch case

Question

Must Article 11(3)(e) of Regulation No 883/2004 must be interpreted to the effect that a situation such as the one at issue in the main proceedings in which a person, whilst working as a seaman for an employer established in a Member State on board a vessel flying the flag of a third State and travelling outside of the territory of the European Union, maintained his residence in his Member State of origin, falls within the scope of that provision, such that the applicable national legislation is that of the Member State of residence of that person?

Ruling

Article 11(3)(e) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012, must be interpreted to the effect that a situation such as the one at issue in the main proceedings in which a person, whilst working as a seaman for an employer established in a Member State on board a vessel flying the flag of a third State and travelling outside of the territory of the European Union, maintained his residence in his Member State of origin, falls within the scope of that provision, such that the applicable national legislation is that of the Member State of residence of that person.