

Case C-13/05

Sonia Chacón Navas

v

Eurest Colectividades SA

(Reference for a preliminary ruling from the
Juzgado de lo Social nº 33 de Madrid)

(Directive 2000/78/EC — Equal treatment in employment and occupation —
Concept of disability)

Opinion of Advocate General Geelhoed delivered on 16 March 2006 I - 6471

Judgment of the Court (Grand Chamber), 11 July 2006 I - 6488

Summary of the Judgment

- 1. Preliminary rulings — Jurisdiction of the Court — Limits
(Art. 234 EC)*
- 2. Social policy — Equal treatment in employment and occupation — Directive 2000/78
(Council Directive 2000/78, Art. 1)*

3. *Social policy — Equal treatment in employment and occupation — Directive 2000/78 (Council Directive 2000/78, Art. 2(1) and 3(1)(c))*
4. *Social policy — Equal treatment in employment and occupation — Directive 2000/78 (Council Directive 2000/78, Art. 1)*

1. In proceedings under Article 234 EC, which are based on a clear separation of functions between the national courts and the Court of Justice, any assessment of the facts in the case is a matter for the national court. Similarly, it is solely for the national court before which the dispute has been brought, and which must assume responsibility for the subsequent judicial decision, to determine in the light of the particular circumstances of the case both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions submitted concern the interpretation of Community law, the Court is in principle bound to give a ruling.

relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it.

(see paras 32, 33)

2. A person who has been dismissed by his employer solely on account of sickness does not fall within the general framework laid down for combating discrimination on grounds of disability by Directive 2000/78 establishing a general framework for equal treatment in employment and occupation.

Nevertheless, in exceptional circumstances, the Court can examine the conditions in which the case was referred to it by the national court, in order to confirm its own jurisdiction. The Court may refuse to rule on a question referred for a preliminary ruling by a national court only where it is quite obvious that the interpretation of Community law that is sought bears no

Although the concept of 'disability' within the meaning of Directive 2000/78 must be understood as referring

to a limitation which results in particular from physical, mental or psychological impairments and which hinders the participation of the person concerned in professional life, the concepts of 'disability' and 'sickness' cannot simply be treated as being the same. By using the concept of 'disability' in Article 1 of that directive, the legislature deliberately chose a term which differs from 'sickness'. Furthermore, the importance which the Community legislature attaches to measures for adapting the workplace to the disability demonstrates that it envisaged situations in which participation in professional life is hindered over a long period of time. In order for the limitation to fall within the concept of 'disability', it must therefore be probable that it will last for a long time.

framework for equal treatment in employment and occupation precludes dismissal on grounds of disability which, in the light of the obligation to provide reasonable accommodation for people with disabilities, is not justified by the fact that the person concerned is not competent, capable and available to perform the essential functions of his post.

(see para. 51, operative part 2)

In any event, there is nothing in Directive 2000/78 to suggest that workers are protected by the prohibition of discrimination on grounds of disability as soon as they develop any type of sickness.

4. Sickness cannot as such be regarded as a ground in addition to those in relation to which Directive 2000/78 establishing a general framework for equal treatment in employment and occupation prohibits discrimination.

(see paras 43-47, operative part 1)

3. The prohibition, as regards dismissal, of discrimination on grounds of disability contained in Articles 2(1) and 3(1)(c) of Directive 2000/78 establishing a general

No provision of the Treaty prohibits discrimination on grounds of sickness as such. So far as concerns the general principle of non-discrimination, that

principle is binding on Member States where the national situation at issue in the main proceedings falls within the scope of Community law. However, it does not follow from this that the scope of Directive 2000/78 should be extended by analogy beyond the discrimination

based on the grounds listed exhaustively in Article 1 thereof.

(see paras 54, 56, 57, operative part 3)