

Case C-109/00

Tele Danmark A/S

v

Handels- og Kontorfunktionærernes Forbund i Danmark (HK),
acting on behalf of Marianne Brandt-Nielsen

(Reference for a preliminary ruling
from the Højesteret)

(Equal treatment for men and women — Article 5(1)
of Directive 76/207/EEC — Article 10 of Directive 92/85/EEC —
Dismissal of a pregnant worker — Fixed-term employment contract)

Opinion of Advocate General Ruiz-Jarabo Colomer delivered on 10 May
2001 I-6995
Judgment of the Court (Fifth Chamber), 4 October 2001 I-7013

Summary of the Judgment

*Social policy — Men and women — Access to employment and working conditions —
Equal treatment — Directive 76/207 — Protection of safety and health of workers —*

Pregnant workers and workers who have recently given birth or are breastfeeding — Directive 92/85 — Worker recruited for a fixed period, aware that she was pregnant when the contract was concluded, but failing to inform her employer of this — Pregnancy preventing her from working during a substantial part of the contract — Dismissal of the worker on the ground of pregnancy — Not permissible — Size of the undertaking and frequent recourse to temporary employment — Immaterial (Council Directives 76/207, Art. 5(1), and 92/85, Art. 10)

Article 5(1) of Directive 76/207 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions and Article 10 of Directive 92/85 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding are to be interpreted as precluding a worker from being dismissed on the ground of pregnancy

— where she was recruited for a fixed period,

— she failed to inform the employer that she was pregnant even though she was

aware of this when the contract of employment was concluded,

— and because of her pregnancy she was unable to work during a substantial part of the term of that contract.

The fact that the worker has been recruited by a very large undertaking which employs temporary workers frequently is of no relevance to the interpretation of Article 5(1) of Directive 76/207 and Article 10 of Directive 92/85.

(see paras 34, 39 and operative part)