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Press and Information

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Judgment of the Court of Justice in Case C-300/06

Ursula Voß v Land Berlin

A LOWER RATE OF REMUNERATION FOR OVERTIME THAN FOR ‘NORMAL WORKING HOURS’ CAN CONSTITUTE DISCRIMINATION BASED ON SEX

National legislation which leads part-time workers to be paid less than full-time workers for the same number of hours worked breaches the principle of equal pay where it affects a considerably higher percentage of women than men and is not objectively justified

In Germany, certain categories of civil servants can receive remuneration for overtime instead of extra leave. However, the hourly rate of pay for overtime set out in the MVerGV¹ is lower than the hourly rate of pay for hours worked in the course of normal working hours.

Ms Voß is a civil servant employed as a teacher by Land Berlin. Although she worked part-time, she gave additional classes between January and May 2000. The remuneration which she received for that period was lower than that received by a full-time teacher for the same number of hours worked. Ms Voß unsuccessfully claimed remuneration equal to that received by full-time teachers.

In order to give judgment in the dispute between Ms Voß and Land Berlin, the Bundesverwaltungsgericht asked the Court of Justice whether the principle of equal pay precludes national legislation which results in a lower rate of pay for part-time civil servants as compared with full-time civil servants.

In today’s judgment the Court points out that the principle of equal pay precludes not only direct discrimination but also any unequal treatment through the application of criteria unrelated to sex where such unequal treatment affects considerably more women than men and cannot be justified by objective factors wholly unrelated to discrimination based on sex.

The Court finds that the lower hourly rate for overtime gives rise to a difference in treatment to the detriment of teachers working part-time because a lower hourly rate is applied to them for those teaching hours which are worked over and above their normal working hours, but which are not sufficient to bring the number of hours worked overall above the level of normal working hours for full-time teachers.

¹ Verordnung über die Gewährung von Mehrarbeitsvergütung für Beamte of 13 March 1992 (BGBl. 1992 I, p. 528), as amended on 3 December 1998 (BGBl. 1998, I, p. 3494).

That difference in treatment could affect a considerably higher number of women than men. Accordingly, the Court points out that the national court must take into account all the teachers subject to the national legislation in question in order to determine whether that is so.

Since the order for reference did not refer to objectively justified criteria wholly unrelated to sex discrimination, the Court calls on the national court to check that point.

The Court holds that the principle of equal pay for male and female workers is infringed if a part-time civil servant is paid less for hours which are worked over and above his normal working hours, but which are not sufficient to bring the number of hours worked overall above the level of normal working hours for full-time civil servants, where the resulting difference in treatment affects a considerably higher number of women than men and cannot be justified by objective factors wholly unrelated to discrimination based on sex.

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Languages available: BG ES CS DE EL EN FR HU IT NL PL PT SK

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C->

It can usually be consulted after midday (CET) on the day judgment is delivered.

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