

Press and Information Division

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Judgment of the Court of Justice in Case C-342/01

María Paz Merino Gómez v Continental Industrias del Caucho SA

A WORKER MUST BE ABLE TO TAKE HER ANNUAL LEAVE DURING A PERIOD OTHER THAN HER MATERNITY LEAVE EVEN IF THE LATTER COINCIDES WITH THE GENERAL PERIOD OF ANNUAL LEAVE FIXED FOR THE ENTIRE WORKFORCE BY A COLLECTIVE AGREEMENT

The purpose of annual leave is to ensure that workers have a proper break whereas maternity leave is intended to protect women and the special relationship between a woman and her child

Ms Merino Gómez, an employee with Continental Industrias, was on maternity leave from 5 May to 24 August 2001. That period coincided with one of the periods of annual leave in her workshop, which had been fixed in a collective agreement.

When she none the less applied to take her annual leave following her maternity leave, Continental Industrias turned down her application.

Ms Merino Gómez brought proceedings before the Spanish courts. The national court has referred questions to the Court of Justice on directives concerning the organisation of working time,¹ the protection of pregnant workers² and equal treatment for men and women.³

The Court started by observing that paid **annual leave** of at least four weeks, provided for by the directive on the organisation of working time, is a particularly important principle of Community social law. Its aim is to ensure that **workers take a proper break**. The purpose

¹ Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ 1993 L 307, p.18).

² Council Directive 92/85/EEC of 19 October 1992 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 (OJ 1992 L 348, p. 1).

³ Council Directive 76/207/EEC of 9 February 1976 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 (OJ 1976 L 39, p. 40).

of **maternity leave** is different: such leave is intended to **protect** a woman's **physical condition** throughout the relevant period and to protect the **special relationship between a woman and her child** after childbirth.

Next, the directive concerning the protection of pregnant workers provides that, in principle, **the rights connected to an employment contract** must also be **ensured in a case of maternity leave: including the right to paid annual leave**.

Finally, the **determination** of when **paid annual leave** is to be taken falls within the scope of the directive on the **principle of equal treatment**. The directive also **allows provisions** to be adopted which are intended to protect women during **pregnancy and the period following childbirth**. Those provisions **may not, however, result in unfavourable treatment regarding their working conditions**.

Consequently, Community law requires that a worker should be able to take her annual leave during a period other than the period of her maternity leave, including in a case in which the period of maternity leave coincides with the general period of annual leave fixed, by a collective agreement, for the entire workforce.

Unofficial document for media use only; not binding on the Court of Justice.

Available in French, English and Spanish.

The full text of the judgment can be found on the internet (www.curia.eu.int). In principle it will be available from midday CET on the day of delivery.

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