

Case C-342/01

María Paz Merino Gómez

v

Continental Industrias del Caucho SA

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

(Social policy — Equal treatment for men and women — Maternity leave —
Worker whose period of maternity leave coincides with the period of annual leave
for all staff agreed in a collective agreement on annual leave)

Opinion of Advocate General Mischo delivered on 3 April 2003 I - 2607
Judgment of the Court (Sixth Chamber), 18 March 2004 I - 2621

Summary of the Judgment

- 1. Social policy — Protection of safety and health of workers — Directive 93/104 concerning certain aspects of the organisation of working time — Entitlement to annual leave — Pregnant workers and workers who have recently given birth or are breastfeeding — Directive 92/85 — Equal treatment of male and female workers — Directive 76/207 — Maternity leave coinciding with period for annual leave fixed by a collective agreement for the entire workforce — Worker's entitlement to take annual leave outside the period of maternity leave
(Council Directives 76/207, Art. 5(1), 92/85, Art. 11(2)(a), and 93/104, Art. 7(1))*

2. *Social policy — Protection of safety and health of workers — Pregnant workers and workers who have recently given birth or are breastfeeding — Directive 92/85 — Maternity leave coinciding with period for annual leave fixed, by a collective agreement, for the entire workforce — Worker's entitlement to a longer period of annual leave, provided for by national law, than the minimum laid down by Directive 93/104 (Council Directives 92/85, Art. 11(2)(a), and 93/104)*

1. Article 7(1) of Directive 93/104 concerning certain aspects of the organisation of working time, Article 11(2)(a) 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 and 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 are to be interpreted as meaning that a worker must 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.
2. As regards the preservation of rights connected with the employment contract, Article 11(2)(a) 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 is to be interpreted as also applying to the entitlement of a worker, whose period of maternity leave coincides with the general period of annual leave fixed, by a collective agreement, for the entire workforce, to a longer period of annual leave, provided for by national law, than the minimum laid down by Directive 93/104 concerning certain aspects of the organisation of working time.

(see para. 41, operative part 1)

(see para. 45, operative part 2)