COURT OF JUSTICE
OF THE EUROPEAN UNION

PRESS RELEASE No 108/24
Luxembourg, 27 June 2024

Judgment of the Court in Case C-284/23 | Haus Jacobus

A pregnant worker must be afforded a reasonable time limit in order to be able to bring an action against her dismissal

A two-week time limit for making a request for leave to intervene appears to be insufficient

A care-home employee challenges her dismissal before a German labour court. She relies on the prohibition of dismissal for pregnant women. The labour court considers that the action should normally be dismissed on the ground that it was brought out of time.

When the employee became aware of her pregnancy and brought the action, the ordinary time limit of three weeks following notification in writing of the dismissal, laid down by German law, had already lapsed. Furthermore, the employee failed to submit a request for leave to bring an action out of time within the additional time limit of two weeks [1] laid down by that law.

The labour court asks, however, whether the German legislation at issue is compatible with the Directive on pregnant workers [2]. It therefore refers a question to the Court of Justice on that matter.

The Court observes that, according to German legislation, a pregnant worker who is aware, at the time of her dismissal, of her pregnancy has a period of three weeks in which to bring an action [3].

By contrast, a worker who is not aware of her pregnancy before that time limit has lapsed, for a reason not attributable to her, has only **two weeks** to seek to make a request to bring such an action.

According to the Court, such a short time limit, particularly in comparison with the ordinary time limit of three weeks, appears to be incompatible with the directive [4]. **Indeed**, in view of the situation of a woman at the start of pregnancy, **it seems likely to make it very difficult for a pregnant worker to obtain effective advice** and, as the case may be, **to prepare and submit a request for leave to bring an action out of time and to bring the action itself**.

It is, however, for the labour court to ascertain whether that is indeed the case.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

The full text and, as the case may be, an abstract of the judgment is published on the CURIA website on the day of delivery.

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[1] After the obstacle to bringing an action was removed.

[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.

[3] After that time limit has expired, the dismissal is deemed to be valid unless a request for leave to bring an action out of time is made.

[4] In its judgment of 29 October 2009, *Pontin*, C-63/08 (see also press release No 98/09), the Court already gave a ruling to that effect in relation to a time limit of 15 days, for a pregnant worker, to bring an action seeking a declaration that her dismissal was invalid.