



Case C-300/06 Ursula Voß v Land Berlin, judgment of 6 December 2007

Social policy – equal treatment of men and women - overtime - indirect discrimination against women employed part-time

The Court adds to its case-law on the equal treatment of men and women.

Ms Voß, who is employed as a part-time teacher by the Land of Berlin, challenged the fact that the overtime worked by her was paid at a lower hourly rate than the rate for the same hours worked by a full-time teacher. The court of appeal in this case, the *Bundesverwaltungsgericht* [Federal Administrative Court, Germany], took the view that it was necessary to examine the issue in the light of Community law, and therefore made a reference to the Court of Justice to determine whether Article 141 EC precludes national legislation on the remuneration of civil servants under which remuneration for overtime worked is paid at a lower rate than the rate applied to hours worked within the normal working hours, with the result that part-time civil servants are less well paid than full-time civil servants where it is predominantly women who are employed on a part-time basis.

The Court pointed out first of all that Article 141 EC lays down the principle of equal pay for male and female workers for equal work and excludes not only direct sex discrimination, but also indirect discrimination which maintains different treatment between men and women at work as a result of the application of criteria not based on sex where those differences of treatment are not attributable to objective factors.

In this case, the Court considered in particular the issue of indirect discrimination. It pointed out that Ms Voß receives remuneration which, for an equal number of hours worked, is lower than that paid to a full-time teacher, in respect of the hours which she has worked over and above her normal working hours but which are insufficient to bring the hours worked overall above the level of normal working hours for full-time teachers. This gives rise to a difference in treatment between the two categories of civil servant, to the detriment of those who work part-time. The Court took the view that, if it is found that, on the basis of the statistics available, the percentage of part-time workers who are women is considerably higher than the percentage of part-time workers who are men, and that that difference of treatment is not based on objective factors wholly unrelated to any discrimination based on sex, the legislation at issue should be regarded as introducing an infringement of the principle of equality between men and women which is contrary to Article 141 EC.