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NEWS REPORT

Country:	Italy
Title:	Dismissal found to be direct sex discrimination
Date:	15 June 2017
Expert:	Simonetta Renga
<u>Context</u>	
Issue at stake:	Discriminatory dismissal
Ground of discrimination:	Sex
Source:	National court decisions
Field:	Pregnancy and maternity
Applicable law:	Decree No 198/2006, Code for Equal Opportunities between Men and Women

Content

Case: A working mother was dismissed after she refused to relocate to another workplace (more than 300km from the original workplace) upon her return from parental leave. The request to relocate from the employer came once the period of protection granted by Article 56 paragraph 1 of Decree No. 151/2001 had elapsed (this article provides for a working mother's right to return to the same workplace and job at the end of her maternity leave and to maintain this until the child is one year old).

Decision of the Court: The Court of Cassation's judgment No. 3052 of 6 February 2017 deemed that the dismissal of the working mother, based on her refusal to be transferred, did not relate to objective organisational reasons, but in fact concealed discriminatory treatment. The court declared the worker's transfer from Florence to Milan to be null and void, as it was specifically intended to secure the working mother's resignation/dismissal. In fact, the employer permanently hired another worker who had substituted the working mother during her parental leave. In accordance with the judgment, this showed that the transfer was actually intended to make her redundant. As a consequence, the judge deemed the dismissal, which was based on the worker's refusal to move to Milan, to be discriminatory.

Key points of analysis: In this case, the special protection of maternity was no longer enforceable, but the court demonstrated particular sensitivity regarding the direct discrimination issues. Indeed, the judges firmly rejected all objections linked to the organisational needs of the firm by underlining the employer's real plan, which was clearly proved by the substitution of the working mother by a person hired on a permanent basis.

Link to internet source: Court of Cassation judgment No. 3052 of 6 February 2017, published in Diritto & Giustizia 2017, and www.lanuovaproceduracivile.com/wp-content/uploads/2017/02/3052.doc, accessed 12 March 2017.