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NEWS REPORT

Country:	Hungary
Title:	Employer obliged to reconsider conditions 13 th month payment for female workers
Date:	20 April 2018
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<u>Context</u>	
Issue at stake:	Case of indirect pay discrimination
Ground of discrimination:	Sex
Source:	National equality body
Field:	Employment, equal pay
Applicable law:	Act 1 of the 2012 Labour Code

Content

Case development: Female workers claimed that they were victims of indirect discrimination when they did not receive a 13th month payment for taking days off to take care of their children. The collective working agreements state that only employees who were not away from work more than 25 days per year, are eligible to receive the 13th month payment. The days that workers were away from work due to annual paid holiday, work related illness, or illness which needed inpatient hospital care are not included in the days of absence.

The mothers of young children claimed that even though the conditions were seemingly impartial, they were proportionally detrimental and discriminatory to mothers who have children under the age of 12, which is the age limit for eligibility for sickness payment based on the child's rights under social security.

Decision of the Court: The Equal Treatment Authority (ETA) conducted a detailed statistical investigation, comparing the number of workers who were and were not eligible for the 13th month payment, and the number of female workers who had children under the age of 12. The statistical investigation showed that the regulation in the collective agreement was disproportionately disadvantageous to female workers with young children compared to those male or female workers who had no children.

The ETA noted in its decision that the disadvantages of being a women and having a young child accumulated in this case, and resulted in an example of multiple and intersectional discrimination.

The ETA obliged the employer to reconsider the preconditions of eligibility of the 13th month payment, eliminating the existing indirect discrimination, and prohibited the employer from further similar discrimination. ETA obliged the employer to send a written report about the measures it took to eliminate the discrimination within 60 days. ETA did not apply a fine in this case.

Key points of analysis: This case is a very important stepping-stone in the Hungarian anti-discrimination case-law because it sets a good example of how to investigate indirect wage discrimination cases and how to collect, examine and evaluate statistical evidence.

Internet link source:

<http://www.egyenlobanasmod.hu/article/view/ebh-130-2017>.