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FLASH REPORT

Country:	Greece
Title:	Parental leave recognised as working time
Date:	18 February 2019
Expert:	Panagiota Petroglou
Context	
Issue at stake:	Recognition of non-paid parental leave as working time
Ground of discrimination:	Sex
Source:	Athens Court of Appeal, judgment No. 3693/2018
Field of application:	Employment; Parental leave
Applicable law:	Act 3896/2010, implementing Directive 2006/54/EC and Article 21(1) Constitution

Content

Case: A female private bank employee brought a case to the Court complaining that the time of non-paid parental leave (one year five months and one day) for the period from December 1999 to May 2001 was not recognised by her employer (a bank of the private sector) as working time for the purpose of pay calculation (the pay system was set in pay grades on the basis of seniority), although this period had been recognised as insurable time by the social security scheme due to the payment of both the employer's and the employee's contribution. It should be noted that the wronged employee had submitted written petitions regarding this issue to her employer upon her return from parental leave, which were never answered. However, as long as she was employed, she was afraid to bring the case to the court, which she actually did once retired in September 2013.

The claimant alleged that the bank's refusal to recognise this period as working time constituted direct gender discrimination in breach of Act 3896/2010, implementing Directive 2006/54/EC, to be interpreted in the light of Articles 4(2) and 21(1) of the Greek Constitution, the CEDAW, Directive 2006/54/EC and Articles 21 and 33 of the Charter of Fundamental Rights of the EU. She claimed the relevant pay arrears for the five last years, given that pay arrears of the previous period had been time-barred.

Decision of the Court: *Judgment No. 3693/20.7.2018 of the Athens Court of Appeal*
By its judgment No. 3693/2018 the Athens Court of Appeal found that the non-recognition of the time of non-paid parental leave (one year five months and one day) of the claimant as working time for the purpose of the calculation of the pay (the pay system was set in pay grades on the basis of seniority), although this period had been recognised as insurable time by the social security scheme due to the payment of both the employer's and the employee's contribution by the employee. Although it did not explicitly identify it as direct gender discrimination, the Court of Appeal found that this practice was contrary to Act 3896/2010 and Article 21(1) of the Constitution requiring the protection of maternity and awarded to the female employee the relevant loss of pay in the form of pay arrears (EUR 6 118,12) for the last five and a half years of service.

Key points of analysis: To the author's knowledge, it is the first court decision on the recognition of parental leave as working time.

Internet link source: Not available. This judgment has not yet been published in the legal reviews nor in electronic case law banks.