
Court confirms 'equal pay for equal work' principle

Article 141 of the EC Treaty stipulates that "each member state shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied". However, male colleagues of British health inspector Bernadette Cadman, although on the same professional grade as her, were paid up to 9,000 pounds sterling (around 13,300 euro) a year more than she was.

Cadman works as a health inspector for the UK Health and Safety Executive (HSE), which is, ironically, in charge of promoting gender equality in the workplace within the UK. The HSE applies a system of pay increases that rewards length of service. In the case of Cadman, the HSE justified her lower wages because of the time she had taken off to raise her children had not contributed to her professional experience.

Back in 2001, Cadman sued the HSE before an UK employment tribunal, which in first instance ruled in her favour. The HSE appealed against the ruling, however. The Employment Appeal Tribunal was along the same lines as the 1989 Danfoss case. In that case, the court judged that, as a general rule, no special justification is required where unequal payment results from different lengths of service being taken into account.

In 2003, Cadman appealed against the decision of the Employment Appeal Tribunal to the UK Court of Appeal, and also got support from the UK Equal Opportunities Commission. The Court of Appeal found that the use of length of service as a determinant of pay has a disproportionate impact on women, because they have on average shorter service time than men. It confirmed that length of service as a determinant of pay plays an important part in the gap between female and male workers.

As this gap continues to exist, the Court of Appeal asked the European Court of Justice whether its case-law from the Danfoss case is still valid in that

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