



**EUROPEAN COMMISSION**

**PRESS RELEASE**

Brussels, 24 January 2013

## **Gender Equality: European Commission refers the Netherlands to the Court**

The European Commission decided today to refer the Netherlands to the Court of Justice of the European Union for not adequately protecting the rights of employees on maternity, adoption or parental leave related to their return to work. According to the EU [Gender Equality Directive](#), employees coming back from maternity, adoption or parental leave are entitled to return to their job or to an equivalent post. EU rules also specify that the employee will also benefit from any improvement in working conditions to which they would have been entitled during their absence. The EU Directive requires that the national laws explicitly protect those employment rights. Currently, Dutch legislation does not include specific and express provisions providing protection in relation to return from maternity, paternity or adoption leave. This casts doubt over the degree of protection foreseen by Dutch law and makes it difficult for citizens to know and enforce their rights.

### **Background**

The Commission first raised the issue with the Dutch authorities via letters of formal notice sent in July 2007 and January 2009. This was followed by a reasoned opinion sent in September 2011. Since then, new Dutch legislation was adopted in 2011 that amended the definitions of direct and indirect discrimination and brought it in line with the Gender Equality Directive. However, the Commission is now referring the Netherlands to the Court for the remaining inconsistencies: the legislation still does not include specific provisions outlining the conditions under which employees may return to their jobs. Furthermore, there is no express provision providing a no less favourable treatment for women returning from maternity leave and for men and women after exercising distinct rights to paternity and adoption leaves. The Commission considers the Dutch law as insufficient to ensure full legal protection for women and men returning from maternity, paternity or adoption leave.

[Directive 2006/54/EC](#) of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) ("Gender Equality Directive") prohibits direct and indirect discrimination, as well as harassment and sexual harassment in the fields of employment and occupation. It also covers the implementation of the principle of equal treatment in relation to access to employment, including promotion, and to vocational training; working conditions, including pay and occupational social security schemes.

## **For more information**

- On the January infringement package decisions, see [MEMO/13/22](#)
- On the general infringement procedure, see [MEMO/12/12](#)
- Homepage of Vice-President Viviane Reding, EU Justice Commissioner:  
<http://ec.europa.eu/reding>
- Justice Directorate General Newsroom:  
[http://ec.europa.eu/justice/newsroom/index\\_en.htm](http://ec.europa.eu/justice/newsroom/index_en.htm)
- Justice Directorate General – Gender Equality: [http://ec.europa.eu/justice/gender-equality/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/index_en.htm)

### Contacts :

[Mina Andreeva](#) (+32 2 299 13 82)

[Natasha Bertaud](#) (+32 2 296 74 56)