



## NEWS REPORT

<b>Date:</b>	26 July 2010
<b>Expert :</b>	Corina Demetriou
<b>Title:</b>	Posting of teacher with a child with disability
<b>Country:</b>	Cyprus
<b><u>Context</u></b>	
<b>Issue at stake:</b>	The Equality body finds discrimination in the posting of a teacher who has a child with disability away from her base
<b>Ground of discrimination:</b>	Disability, gender
<b>Source:</b>	Equality body report
<b>Field:</b>	Employment
<b>Legislative provisions:</b>	Law on persons with disability N.127/2000 as amended.

### Content

**Case:** A teacher with a ten month old child with a disability complained to the Equality body that she was posted in a school away from her place of residence. She had complained to the Commission for Education Service (CES), based on a regulation which entitles the CES to transfer teachers upon request when they are pregnant or caring for a child under 12 months old, explaining that the condition of her child was such that regular therapy sessions were required. The CES failed to respond to the repeated letters of both the complainant and of the Equality body. The Equality body noted that in general the civil service appears reluctant to adopt measures to enable women to reconcile professional and family life, often arguing that any favourable treatment of women pregnant or caring after small children would place other civil servants in a disadvantageous position.

**Decision of the Equality Body:**<sup>1</sup> After citing a number of gender equality laws at the national and the EU *acquis* level, the Equality body referred to

<sup>1</sup> A.K.I. 82/2009, dated 25 June 2010, [http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/A85BC1134AC8CAA2C225775800374FBD/\\$file/AKI82.2009-25062010.doc?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/A85BC1134AC8CAA2C225775800374FBD/$file/AKI82.2009-25062010.doc?OpenElement)

the ECJ decision in the case of *Coleman*<sup>2</sup> stating that the prohibition of disability discrimination provided for in Directive 2000/78/EC and in its transposing legislation (N. 127(I)/2000 as amended) is not restricted to workers with a disability but extends to workers, who although they do not have a disability themselves, are responsible for the care of a person with disability. Reference was also made to the Law on persons with disabilities which provides (in article 3B(1)) that nothing shall prevent the more favourable treatment of a person with disability in employment which although at first sight may appear as discriminatory towards other workers, it aims at preventing or balancing disadvantage due to disability. The report concludes that on the basis of the aforementioned interpretation by the ECJ, more favourable treatment may be extended to the carers of persons with disability without raising issues of violating the equality principle. Although the CES did not react in any way and did not communicate its position on the matter, it is clear that it declined the complainant's application as it proceeded to post her in another far away school after she has filed her complaint. The report states that the same policy was followed by the CES in other cases, resulting in discrimination on the ground of gender against women who were either pregnant or the main carers of their babies, adding that the practice of not taking into account the particularities of the situation of a pregnant worker or a working mother amounts to a violation of the principle that one must not treat equally two unequal things. The Equality body declared its intention to issue a recommendation and thus invited the two parties to a consultation, in accordance with the procedure prescribed in the law.

**Internet link source and additional information:**

[http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/A85BC1134AC8CAA2C225775800374FBD/\\$file/AK182.2009-25062010.doc?](http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/A85BC1134AC8CAA2C225775800374FBD/$file/AK182.2009-25062010.doc?OpenElement)

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<sup>2</sup> C-303/06, *S. Coleman v. Attridge Law and Steve Law*, [2008] ECR I-5603.