

New EU Ruling Expands Protections for Parents of Disabled Children in Italy and Beyond: Employer Obligations Explained

Insights

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The European Court of Justice (ECJ) just issued a ruling that expands the scope of EU disability discrimination law in Italy and beyond, confirming for the first time that indirect discrimination by association applies to employees who are the primary caregivers of disabled children. What does the September 11 ruling in *GL v AB SpA* mean for EU employers? When workplace rules or practices – such as shift patterns, working hours, or access to permanent contracts – put caregivers at a disadvantage compared to other workers, employers may be liable for discrimination even though the employees themselves are not disabled. The Court went even further, however, holding that reasonable accommodations may be required for such caregivers, provided these do not impose a disproportionate burden on the employer. What are your biggest obligations in light of this landmark ruling?

Case at a Glance

The dispute arose in Italy, where an employee (only referred to as “GL”) worked as a part-time station operator for engineering conglomerate AB SpA.

- She repeatedly asked her employer for a permanent role with fixed morning hours so she could care for her disabled child, who required a strict daily program of support in the afternoons.
- Although the company offered limited accommodations, such as a fixed workplace and a preferential schedule compared to colleagues with rotating shifts, it refused her request for permanent fixed hours.
- GL argued this refusal amounted to discrimination because it prevented her from balancing her work with her caregiving responsibilities.

Italian courts dismissed her claim, finding that the measures already granted were sufficient and that Italian law did not recognize enhanced caregiver protection. The matter was eventually referred to the European Court of Justice (ECJ) for clarification on whether EU law covers indirect discrimination against caregivers.

The Decision

On September 11, the ECJ issued its ruling in Case C-38/24 and expanded worker rights throughout the EU, marking a major expansion of EU equality law: protections once limited to disabled employees themselves now also cover their primary caregivers.

The Court concluded that:

- **Indirect discrimination protections extend to caregivers of disabled children.** The Court held that the prohibition of indirect discrimination on grounds of disability must be interpreted as also covering a situation in which an apparently neutral provision, criterion, or practice disadvantages a worker who does not have a disability but cares for a child who has such a disability. “Where an employer treats an employee who does not himself or herself have a disability less favourably than another employee is, has been, or would be treated in a comparable situation, and it is established that the less favourable treatment of that employee is based on the disability of his or her child, whose care is provided primarily by that employee, such treatment is contrary to the prohibition of direct discrimination.”
- **Reasonable accommodations must be considered for caregivers.** The Court stated that “an employer is required, in order to ensure compliance with the principle of equal treatment of workers and the prohibition of indirect discrimination, to make reasonable accommodation in respect of an employee who does not have a disability but who provides, to their child who has a disability, the assistance which enables that child to receive the primary care required by virtue of their condition, provided that that accommodation does not impose an unreasonable burden on that employer.”

What’s Next?

- **EU-wide Application:** All Member States must apply this expanded interpretation of EU equality law. In countries like Italy and others that did not provide such protections, you can expect to see future decisions offering broader interpretations.
- **National Reforms Likely:** Expect legislative or judicial updates in countries where caregiver protections were previously absent.
- **Rising Claims:** You should anticipate more caregiver-based discrimination cases.

Practical Action Plan for Employers

Given this development, what are some steps you can take to comply with the new era of caregiver protection if you have employees in the EU?

1. **Audit Policies:** Identify rules that may disproportionately disadvantage caregivers of disabled children.
2. **Update Equality Frameworks:** Revise policies to explicitly address associational discrimination and caregiver accommodations.

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3. Establish a Process: Create clear procedures for handling accommodation requests from all employees, including those who self-identify as caregivers. There is currently no clear guidance on whether employers may request documentation of a child's disability, so keep the process flexible, privacy-compliant, and ready to adapt as national rules develop.

4. Train HR and Managers: Ensure decision-makers understand that caregiver-related claims are now legally protected.

5. Document Justifications: Where accommodations cannot reasonably be granted, record the objective reasons for the determination, the evidence of disproportionate burden, and your communications with the employee throughout the process.

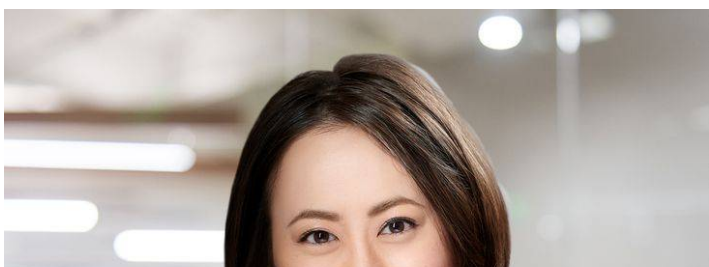
Conclusion

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