

G.L.

v

AB SpA

(Request for a preliminary ruling from the Corte suprema di cassazione)

Judgment of the Court (First Chamber) of 11 September 2025

(Reference for a preliminary ruling – Social policy – United Nations Convention on the Rights of Persons with Disabilities – Articles 2, 5 and 7 – Articles 21, 24 and 26 of the Charter of Fundamental Rights of the European Union – Directive 2000/78/EC – Equal treatment in employment and occupation – Article 1 – Article 2(1) and (2)(b) – Prohibition of discrimination on grounds of disability – Indirect discrimination – Difference of treatment in respect of an employee who does not himself or herself have a disability but cares for his or her child who has a disability – Article 5 – Employer’s obligation to make reasonable accommodation)

1. *Social policy – Equal treatment in employment and occupation – Directive 2000/78 – Scope – Employment and working conditions – Concept – Adaptation of working hours – Included*

(Council Directive 2000/78, Art. 3(1)(a) and (c))

(see paragraphs 41-44)

2. *Social policy – Equal treatment in employment and occupation – Directive 2000/78 – Prohibition of indirect discrimination on grounds of disability – Scope – Discrimination in respect of an employee who cares for his or her child who has a disability – Included*

(Art. 13 EC; Art. 19 TFEU; Charter of Fundamental Rights of the European Union, Arts 21, 24 and 26; United Nations Convention on the Rights of Persons with Disabilities, Arts 2, 5 and 7; Council Directive 2000/78, recital 12 and Arts 1 and 2(1) and (2)(a) and (b))

(see paragraphs 48-58, 61-66, operative part 1)

3. *Fundamental rights – Charter of Fundamental Rights – Principle of non-discrimination – Affirmed both by the Charter of Fundamental Rights and by the European Convention on Human Rights – Identical meaning and scope – Level of protection provided for by the Charter not infringing that guaranteed by that convention*

(Charter of Fundamental Rights of the European Union, Arts 21(1) and 52(3))

(see paragraph 59)

4. *Social policy – Equal treatment in employment and occupation – Directive 2000/78 – Reasonable accommodation for the caregiver of a child who has a disability – Concept – Reassignment to another post – Included – Condition – No disproportionate burden for the employer*

(Charter of Fundamental Rights of the European Union, Arts 24 and 26; United Nations Convention on the Rights of Persons with Disabilities, Arts 2 and 7(1); Council Directive 2000/78, recital 21 and Arts 2(2)(b) and 5)

(see paragraphs 70-80, operative part 2)

Hearing a request for a preliminary rule from the Corte suprema di cassazione (Supreme Court of Cassation, Italy), the Court of Justice develops its case-law concerning the concept of ‘discrimination by association’ on grounds of disability, for the purposes of Directive 2000/78, ([1](#)) by clarifying both the scope of that concept and the obligations on the employer to ensure compliance with the principle of equal treatment of workers and the prohibition of indirect discrimination in the case of a worker who provides assistance to his or her child who has a disability.

G.L. was employed by the company AB as a ‘station operator’ and was responsible for monitoring and supervising an underground station.

She asked AB, on several occasions, to appoint her permanently to a position with fixed working hours to enable her to care for her minor son, who has a severe disability and requires care at a fixed time.

AB did not grant those requests. However, it did provide G.L. with some provisional accommodation in respect of her working conditions, for example by assigning her a fixed workplace and providing her with a preferential working schedule as compared to other operators.

On 5 March 2019, G.L. brought an action before the Tribunale di Roma (District Court, Rome, Italy) seeking a declaration that her employer’s refusal to grant her request for accommodation in respect of her working conditions on a permanent basis was discriminatory. After her action was dismissed, both at first instance and on appeal, G.L. brought an appeal on a point of law before the referring court.

That court, referring to the principles arising from the judgment in *Coleman*, ([2](#)) decided to make a reference to the Court in order to establish whether an employee who does not himself or herself have a disability may rely before a court on the protection against indirect discrimination on grounds of disability provided for in Directive 2000/78, because of the assistance that that person provides to his or her child who has a disability. If so, it also wishes to ascertain whether the employer of such a person is required to make, in that regard, reasonable accommodation, within the meaning of Directive 2000/78, in order to remedy the discrimination.

Findings of the Court

In the first place, the Court finds, in the light of, inter alia, the judgment in *Coleman* that the prohibition of discrimination, provided for in Directive 2000/78, also covers indirect discrimination ‘by association’ on grounds of disability. That prohibition applies therefore to an employee who does not himself or herself have a disability but who is subject to such discrimination because of the assistance that that person provides to his or her child who has a disability, which enables that child to receive the primary care required by virtue of his or her condition.

The Court’s analysis is also based on the finding that the purpose of Directive 2000/78 consists in combating all forms of discrimination on grounds of disability in employment and occupation. The principle of equal treatment to which that directive refers applies not to a particular category of person, but by reference to the grounds mentioned in Article 1 of that directive.

Further, in accordance with recital 12 and Article 2(1) of that directive, ‘any direct or indirect discrimination’ on grounds of disability must be prohibited and the wording of Article 13 EC, which constitutes the legal basis of Directive 2000/78, conferred, like Article 19 TFEU which replaced it, on the European Union the competence to take appropriate action to combat discrimination based, inter alia, on disability.

Moreover, Directive 2000/78 must be interpreted in the light of Articles 21, 24 and 26 of the Charter of Fundamental Rights of the European Union (‘the Charter’). The general principle of non-discrimination laid down in Article 21(1) of the Charter also covers indirect discrimination ‘by association’ on grounds of disability. That principle prohibits ‘any discrimination’ based, inter alia, on disability, ensuring therefore a broad application of that fundamental guarantee.

In addition, Article 21(1) of the Charter contains, at the very least, the same guarantees as those provided for in Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, ([3](#)) which must be taken into account by virtue of Article 52(3) of the Charter as a minimum threshold of protection.

Furthermore, under the UN Convention, ([4](#)) which may, like the Charter, be relied on in order to interpret Directive 2000/78, the States Parties to that convention are to prohibit ‘all forms of

discrimination' on the basis of disability. They are to guarantee to persons with disabilities equal and effective legal protection against 'discrimination on all grounds' and take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children by making the best interests of the child who has a disability the primary consideration in all actions concerning that child.

In the second place, the Court examines whether, in order to ensure compliance with the principle of equal treatment of workers and the prohibition of indirect discrimination referred to in Article 2(2)(b) of Directive 2000/78, reasonable accommodation, within the meaning of Article 5 thereof, must be put in place in respect of an employee, such as the employee in the present case, who does not himself or herself have a disability but who provides, to his or her child who has a disability, the assistance which enables that child to receive the primary care required by virtue of his or her condition.

With a view to the interpretation of Article 5 of Directive 2000/78 in conformity with the Charter, the Court recalls that it is apparent from Articles 24 and 26 of the Charter, first, that children are to have the right to such protection and care as is necessary for their well-being and, second, that the European Union is to recognise and respect the rights of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

Moreover, reasonable accommodation, defined in Article 2 of the UN Convention, is not limited to the needs of persons with disabilities in the workplace, but must, where necessary, also be provided to a worker who provides the assistance which enables a person with a disability to receive the primary care required by virtue of his or her condition. Furthermore, it follows from Article 7(1) of the UN Convention that an employee must be able to provide, to his or her child who has a disability, the assistance that that child requires, which implies an obligation, on the employer, to adapt the working conditions of that employee.

The Court finds that, in the absence of such an obligation, the prohibition of indirect discrimination 'by association' would be deprived of an important element of its effectiveness.

Consequently, an employer is required to make reasonable accommodation, within the meaning of Article 5 of Directive 2000/78, in respect of an employee who does not himself or herself have a disability but who provides, to his or her child who has a disability, the assistance which enables that child to receive the primary care required by virtue of his or her condition, provided that that accommodation does not impose an unreasonable burden on that employer. As regards the types of reasonable accommodation that the employer of such a caregiver is required to make, the Court states that the reduction of working time or, in certain circumstances, the reassignment to another job may constitute one of the measures of accommodation referred to in Article 5 of Directive 2000/78. In order to determine whether those measures give rise to a disproportionate burden on the employer, account should be taken, in particular, of the financial costs entailed, the scale and financial resources of the organisation or undertaking and the possibility of obtaining public funding or other assistance.

(¹) The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

(¹) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ([OJ 2000 L 303, p. 16](#)).

(²) Judgment of 17 July 2008, *Coleman* ([C-303/06](#), [EU:C:2008:415](#)) ('the judgment in *Coleman*'). In that judgment, the Court held, inter alia, that Directive 2000/78 and, in particular, Articles 1 and 2(1) and (2)(a) thereof, must be interpreted as meaning that the prohibition of direct discrimination laid down by those provisions is not limited only to persons who themselves have a disability (paragraph 56 and operative part 1).

(³) Convention signed in Rome on 4 November 1950.

(⁴) The United Nations Convention on the Rights of Persons with Disabilities, which was concluded in New York on 13 December 2006 and entered into force on 3 May 2008 ('the UN Convention').