

in which both parents have an expectation of access to paid leave if both fulfil the conditions of access to the social security benefit, compatible with the Directive, which requires a specific assessment, inter alia, of the birth of a child into a single-parent family, in order to determine the conditions of access to and the detailed arrangements for parental leave?

2. In the absence of a specific statutory provision laid down by the Spanish legislature, must the eligibility conditions for time off work for the birth of a child, the conditions of access to the social security cash benefit and the rules governing eligibility for parental leave, and, in particular, the possible extension of the duration of that leave owing to the lack of another parent other than the biological mother who cares for the child, be interpreted flexibly pursuant to the Community provision?

became the controlling company of subsidiaries in several Member States of the European Union which employ employees?

4. If the Court's answer to Question 3 is in the affirmative: Is this also the case where the State where that 'SE without employees' was first registered has withdrawn from the European Union after the transfer of the registered office and its law no longer contains any provisions on the conduct of a negotiation procedure for the involvement of employees in the SE?

## Case C-706/22, Information and Consultation

Konzernbetriebsrat der O SE & Co. KG – v –  
Vorstand der O Holding SE (Holding SE), reference  
lodged by the Bundesarbeitsgericht (Germany) on  
17 November 2022

1. Is Article 12(2) of Regulation (EC) No 2157/2001, in conjunction with Articles 3 to 7 of Directive 2001/86/EC, to be interpreted as meaning that, where a holding SE is formed by participating companies which do not employ employees, and do not have subsidiaries employing employees, and the holding SE was registered in the register of a Member State (a so-called 'SE without employees') without a negotiation procedure for the involvement of employees in the SE having first been conducted, under that directive that negotiation procedure has to be conducted retrospectively if the SE becomes the controlling undertaking of subsidiaries in several Member States of the European Union which employ employees?
2. If the Court's answer to Question 1 is in the affirmative: Is the retrospective conduct of the negotiation procedure in such a case possible and necessary for an unlimited time?
3. If the Court's answer to Question 2 is in the affirmative: Does Article 6 of Directive 2001/86/EC preclude the application of the law of the Member State where the SE now has its registered office for the purpose of retrospective conduct of the negotiation procedure if the 'SE without employees' was registered in the register in another Member State without such a procedure having first been conducted and before the transfer of its registered office