

Work-life balance for parents and carers

2017/0085(COD) - 12/07/2019 - Final act

PURPOSE: to ensure the effective implementation of gender equality with regard to labour market opportunities and treatment at work across the Union.

LEGISLATIVE ACT: Directive (EU) 2019/1158 of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

CONTENT: this Directive lays down minimum requirements designed to achieve equality between men and women with regard to labour market opportunities and treatment at work, by facilitating the reconciliation of work and family life for workers who are parents, or carers.

The Directive applies to all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, taking into account the case-law of the Court of Justice

Member States have the option of introducing or maintaining provisions that are more favourable to workers.

The Directive lays down the individual rights in the following areas:

Paternity leave

Under this Directive, fathers or, where and insofar as recognised by national law, equivalent second parents, shall have the right to paternity leave of 10 working days that is to be taken on the occasion of the birth of the worker's child. Member States may determine whether to allow paternity leave to be taken partly before or only after the birth of the child and whether to allow such leave to be taken in flexible ways.

The right to paternity leave shall not be made subject to a period of work qualification or to a length of service qualification. The right to paternity leave shall be granted irrespective of the worker's marital or family status, as defined by national law.

Member States may make the right to a payment or an allowance subject to periods of previous employment, which shall not exceed six months immediately prior to the expected date of the birth of the child.

Parental leave

Each worker shall have an individual right to parental leave of four months that is to be taken before the child reaches a specified age, up to the age of eight, to be specified by each Member State or by collective agreement. That age shall be determined with a view to ensuring that each parent is able to exercise their right to parental leave effectively and on an equal basis.

Where Member States ensure a payment or an allowance of at least 65 % of the worker's net wage, which may be subject to a ceiling, for at least six months of parental leave for each parent, they may decide to maintain such system rather than provide for the payment or allowance.

Member States shall:

- ensure that two months of parental leave cannot be transferred;
- establish a reasonable period of notice that is to be given by workers to employers where they exercise their right to parental leave;
- take the necessary measures to ensure that when considering requests for full-time parental leave, employers shall, prior to any postponement in accordance with paragraph 5, offer, to the extent possible, flexible ways of taking parental leave.

Carers' leave

This new concept means leave from work for workers in order to provide personal care or support to a relative, or to a person who lives in the same household as the worker, and who is in need of significant care or support for a serious medical reason, as defined by each Member State.

Each worker has the right to carers' leave of five working days per year. Member States may determine additional details regarding the scope and conditions of carers' leave in accordance with national law or practice. The use of that right may be subject to appropriate substantiation, in accordance with national law or practice.

Member States may allocate carers' leave on the basis of a reference period other than a year, per person in need of care or support, or per case.

Flexible working arrangements

Workers with children up to a specified age, which shall be at least eight years, and carers, shall have the right to request flexible working arrangements for caring purposes. Employers shall consider and respond to requests for flexible working arrangements within a reasonable period of time, taking into account the needs of both the employer and the worker. Employers shall provide reasons for any refusal of such a request or for any postponement of such arrangements.

Member States may make the right to request flexible working arrangements subject to a period of work qualification or to a length of service qualification, which shall not exceed six months.

Protection against adverse treatment or consequences

Member States shall introduce measures necessary to protect workers, including workers who are employees' representatives, from any adverse treatment by the employer or adverse consequences resulting from a complaint lodged within the undertaking or any legal proceedings for the purpose of enforcing compliance with the requirements laid down in this Directive.

Where workers who consider that they have been dismissed on the grounds that they have applied for, or have taken leave, shall establish, before a court or other competent authority, facts capable of giving rise to a presumption that they have been dismissed on such grounds, it shall be for the employer to prove that the dismissal was based on other grounds.

ENTRY INTO FORCE: from 1.8.2019.

TRANSPOSITION: 2.8.2022 at the latest.