



Work-life balance: Directive 2019/1158 on work-life balance for parents and carers

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1

Outline of the presentation

- 1) Introduction: history and background of the directive
- 2) General issues relating to implementation and transposition
- 3) Personal scope of the Work-Life Balance Directive (hereinafter the WLB Directive)
- 4) Paternity leave
- 5) Parental leave
- 6) Carer's leave
- 7) Leave due to force majeure
- 8) Flexible working arrangements
- 9) Legal protection
- 10) Conclusion

2

1) Introduction: history and background of the Directive

- Timeline:

- 1996:
- First directive based on the agreement: Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC
- 2010:
- Revised Directive on parental leave DIRECTIVE 2010/18/EU of 8 March 2010 implementing the revised framework agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC

3

1) Introduction: history and background of the Directive

- Timeline (continued)
- 2019:
- Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU
- Other relevant directives:
- Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, and its case law
- Directives prohibiting discrimination (e.g. Directive 2006/54 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast))
- Directive on atypical forms of employment, Directive on part-time work

4

1) Introduction: history and background of the Directive

This Directive updates several existing rights:

- parental leave and the right to request flexible working arrangements, and **creates new rights at European level**, namely paternity leave and carer's leave.
- The WLB Directive aims to establish a new distribution of the burdens associated with childcare and caregiving.
- Its objective: to improve the situation of women in the labour market by introducing better measures to reconcile work and private life, and by promoting a better sharing of childcare and care responsibilities between women and men.

Two areas of reform:

- 1) a specific right: **the right to paternity leave** and incentives for fathers: **parental leave, non-transferable periods of leave with adequate pay.**
- 2) the adoption of a **life-cycle approach** to work-life balance.
- Beyond parents, **workers need this work-life balance at every stage of their working lives**, not just when they have children, but when they have a seriously ill partner or a dependent parent.
- The life-cycle approach is reflected in the introduction of the right to carer's leave and the extension to carers of the right to request flexible working arrangements.

5

2) General issues relating to implementation and transposition: transposition deadline 2 August 2022

- Remuneration or allowance for the last two weeks of parental leave (Art. 8): Transposition delayed until **2 August 2024 (Art. 20)**.
- In France: Act of 9 March 2023 containing various provisions adapting to EU law.
- Ireland fined, 1 August 2025 C-69/24 Commission v Ireland

1. Implementation (Art. 2 Scope/Directive): Carer's leave and family solidarity leave: **the law extends** the entitlement to these leaves **to employees of individual family employers (Labour Code, Art. L. 7221-1) and to child care workers.**

6

2) General issues relating to implementation and transposition: transposition deadline 2 August 2022

- **2. Legal protection of parental leave** available to all employees
 - 1) as soon as they have completed one year's service with their employer (and no longer limited to parents who had completed one year's service at the time of the child's birth or arrival) (see CJEU, 25 February 2021, Case C-129/20)
 - 2) half the duration of full-time parental leave is taken into account when determining the rights to which the employee is entitled on the basis of their length of service (Labour Code, Art. L. 1225-54)
 - 3) where an employee reduces working hours as part of parental leave, the duration of part-time parental leave is treated as a period of actual work for the purposes of determining the rights to which the employee is entitled by virtue of their length of service;
 - 4) the employee retains all the benefits they had accrued prior to the start of the leave;
 - **Severance pay for an employee on part-time parental leave** is calculated on the basis of the working hours specified in their employment contract and must not be prorated according to their actual working hours CJEU, 18 May 2019, C-486/18; Soc 18 March 2020, 16-27.825

7

2) General issues relating to implementation and transposition: transposition deadline 2 August 2022

- **3) Legal protection: paternity and child-rearing leave:**
 - The duration of this leave is treated as a period of actual work for the purposes of determining the rights to which the employee is entitled on the basis of their length of service (Labour Code, Art. L. 1225-35-2)
 - Periods of paternity and child-rearing leave are treated as periods of attendance (Labour Code, Art. L. 3324-6): the employee retains all the benefits they had accrued prior to the leave.

8

3) Personal scope of the Work-Life Balance Directive

- Personal scope of application Art. 2: all workers:

all workers, men and women, who have an employment contract or an employment relationship.

part-time workers, workers on fixed-term contracts or temporary agency workers, and home workers. All sizes of undertaking

Member States define employment contracts and employment relationships in accordance with the legislation, collective agreements or practices in force within their territories (but must take account of the case law of the Court of Justice)

Parental Leave Directive: public sector workers (Chatzi and H v. Land Berlin cases); case law on the concept of 'worker' should extend to other types of workers (former contract workers, ECJ Lawrie Blum, 'gig workers'/pieceworkers, reclassification as workers).

Maternity leave also applies to self-employed workers (Article 8 of Directive 2010/41/EU on self-employed workers).

9

4) Paternity leave

- Article 4 of Directive (EU) 2019/1158
- A new right to a minimum of ten working days' paternity leave, corresponding to two calendar weeks, is introduced for fathers - to be taken upon the birth of a child for the purpose of providing care and support.
- Purpose: This leave aims to enable the formation of an early bond between fathers and children, and to promote a more equal sharing of childcare and care responsibilities between women and men.
- During the minimum period of paternity leave, the worker must receive remuneration or an allowance that is at least equivalent to the national sickness benefit rate.

10

4) Paternity leave

- **Art. 3 (definition):** for **fathers** or '**equivalent second** parents' recognised under national law, *on the occasion of the birth or adoption*
- **10 working days** (before and/or after the birth)
- **No length-of-service requirements**
- In all 25 countries, this paternity leave is generally equal to or longer than the minimum standard set by the EU, namely ten working days or two weeks.
- Fathers can always exercise this right. **The situation of persons recognised as equivalent second parents (co-mothers in a same-sex relationship, for example) in more than 15 countries**
- Paternity leave is a non-transferable individual right of the father (or equivalent second parent) in all EU Member States.
- The period during which paternity leave may be taken varies: from an obligation to exercise this right immediately after the child's birth to the possibility of taking this leave up to the child's third birthday.
- QPC 8 August 2025: refusal to extend the benefit of paternity leave to a male couple with a child (no mother present; different situation, different treatment)

11

4) Paternity leave

- The situation poses a problem in the six countries where the minimum period of paternity leave (10 working days) or part thereof may be taken after the child has reached the age of six months, given that the leave 'must be taken on the occasion of the birth of the worker's child' and 'around the date of birth' so that 'a bond between fathers and children can be formed early on'.
- In France: This leave consists of a period of **four** consecutive calendar **days**, **immediately** following the paternity leave referred to in Article L. 3142-1(3), and a period of **twenty-one** calendar **days**, extended to twenty-eight calendar days in the case of multiple births.

12

5) Parental leave

- Art. 5: Parental leave
- 1) an individual right to **four months'** parental leave, to be taken **before the child reaches a specific age of up to eight years**
- This age shall be determined in such a way as to ensure that each parent is able to exercise their right to parental leave effectively and on an equal footing
- Member States shall ensure that **two months of parental leave cannot be transferred.**
- 2) **Required length of service: max. 1 year:** In the case of successive fixed-term contracts, within the meaning of Council Directive 1999/70/EC, with the same employer, the total duration of these contracts shall be taken into account for the purposes of calculating the reference period.
- France: Introduction of parental leave following the birth of a child (2025)

13

5) Parental leave (new leave entitlement in France)

- Parental leave following the birth of a child in France
- The Social Security Financing Act for 2026, adopted in 2025, introduces additional birth leave for both parents. This measure comes against a backdrop of demographic decline in France.
- It aims to improve the work-life balance and promote greater equality between women and men following the birth of a child.
- For each birth or adoption, each parent will be entitled to 1 to 2 months' paid leave.
- **This leave is individual and therefore non-transferable (the 'use it or lose it' principle).**
- An employee who has already taken maternity, paternity or adoption leave is entitled to additional birth leave once that leave has been exhausted.
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- [Article L1225-46-2 of the Labour Code](#)

14

5) Parental leave (new parental leave following the birth of a child in France)

- (Parental leave following the birth of a child)
- The duration of this leave is one or two months, at the employee's discretion.
- This leave may be split into two periods of one month each.
- Available from 1 July 2026 (Art. L 1225-46-2 of the Labour Code).
- The employer's consent is not required.
- Where additional birth leave follows maternity or paternity leave, **the basic pay** applied is the same as that applied for maternity, paternity or adoption leave.
- This new additional birth leave: each parent adds one or two months of paid leave to their entitlement to maternity, paternity, parental or adoption leave.
- Each parent: may take the leave simultaneously or alternately with the other.

15

5) Parental leave

- **Apart from the child's age (8 years) and the employee's length of service (1 year)**
- **No other eligibility conditions required for parental leave in the Directive:**
- (CJEU case law: in particular, no requirement to be employed at the time of the birth: C-129/20 CAE, as previously noted)
- CJEU 16 July 2015 *Maistrellis* C-222/14: no requirement for the worker's partner/spouse to be in employment
- Article 5 (paragraphs 3, 5, 6): details on the implementation of the right
Member States shall establish a **reasonable period of notice** to be given by the worker to the employer when exercising their right to parental leave.
- Member States shall take into account **the needs of employers and workers.**
- Member States may determine the **circumstances** in which an employer, is authorised to postpone the granting of parental leave for a reasonable period on the grounds that taking **such parental leave at the time requested would seriously disrupt the employer's operations.** The employer shall justify such a postponement of parental leave **in writing.**

16

6) Carer's leave

- **Article 6:**
- **Caregiver leave** is a new right at EU level: it is defined as time off work for carers
- **Definition of carers (Art. 3):** workers who provide personal care or personal assistance to a family member or a person living in the same household who requires significant care or assistance for serious medical reasons as defined by each Member State.
- The duration of carer's leave is **at least five days per year per worker**, but the Directive does not require the payment of remuneration or an allowance during this period.
- Member States determine the **scope and conditions**; submission of **'appropriate justifications'** (evidence/medical certification). Member States may grant carer's leave on the basis of a reference period other than one year, per person requiring care or assistance, or per event.
- Different types of leave: 3 days' unpaid leave (short-term leave), 3 longer periods of leave (1-parental presence leave (sick child/310 days over 3 years), 2-family solidarity/end-of-life leave, 3-carer's leave for a dependent person at home (3 months, renewable))

17

6) Caregiver leave for a person with a disability

- **Case C-38/24 [Bervidi] 11 September 2025**
- European case law is increasingly focusing on discrimination that may affect carers (indirect discrimination by association): work-life balance (WLB)
- GL asked her employer for a permanent transfer to a position with fixed working hours (from 8.30 am to 3.00 pm) so that she could care for her child with a disability and meet their specific needs.
- Her employer refused her request. However, she was assigned to a permanent post with adapted working hours to facilitate a work-life balance.

18

6) Caregiver leave for a person with a disability

- The CJEU has reaffirmed:
- Directive 2000/78 on discrimination on grounds of disability, interpreted in the light of the CRPD and Articles 21, 24 and 26 of the CFR.
- It concluded that an interpretation of Directive 2000/78 limiting its application solely to persons with disabilities was likely to deprive it of a significant element of its effectiveness.
- Indirect discrimination 'by association' on grounds of disability, as well as extended reasonable accommodation, are thus recognised (extension of the CJEU's Coleman ruling on discrimination by association).
- Reduced working hours and/or redeployment may constitute reasonable adjustments in this regard, provided that they do not impose an excessive burden.
- The Court thus followed the reasoning of Advocate General Rantos, who had emphasised the need to take into account the 'social model' of disability and had noted the recent adoption of Directive 2019/1158 on work-life balance.

19

7) Leave due to force majeure

- Article 7:
- Absence from work due to force majeure **already existed**.
- The WLB Directive incorporates Directive 2010/18 on parental leave and the preceding Directive 96/34.
- Member States must take the necessary measures to ensure that every worker has the right to take leave from work on grounds of force majeure relating to urgent family reasons in the event of illness or accident that makes the worker's immediate presence essential.
- The WLB Directive does not require remuneration or allowance during such leave.
- France: Articles L.3142-1, L.3142-2, L.3142-4, L.3314-5, and L.3324-6 of the Labour Code (e.g. leave in the event of the death of a close relative or the onset of a disability or cancer in a child)

20

8) Flexible working arrangements: entitlement extended beyond parents: Art. 9/carers

Outline

- Paternity, parental and carer leave = absolute rights or rights to be granted (the employer may not refuse to consider a request made by the employee and must justify any refusal)
- **The right to flexible working arrangements is relative**, i.e. a right to submit a request to the employer (who may reject it). See Case C-366/18 Ortiz Mesonero
- The right to request flexible working arrangements is extended, in the Directive, to **parents of children until they reach a specified age (not less than eight years), whether or not they have taken parental leave, and to all carers.**

Role of Member States and Law/France

- Member States are required to ensure that the right to request adjustments to their working arrangements through the use of remote working, flexible working hours or a reduction in working hours is available to these workers.
- **The Rixain Law in France grants pregnant women the right to online work:** Employers must now set out, in the collective agreement, the arrangements for pregnant employees to access telework (Labour Code, Art. L. 1222-9).

21

9) Legal protection: Articles 10 to 16:

List of guarantees

- **Rights currently being established in the field of employment,**
- **prohibition of discrimination,**
- **protection against dismissal, burden of proof,**
- **effective, proportionate and dissuasive sanctions,**
- **protection against retaliation,**
- **role of equality bodies, maintaining the level of protection**

Explanations

- Workers who request or opt for family leave and flexible working arrangements are legally protected by a series of measures.
- Member States must ensure that rights acquired or in the process of being acquired by workers at the start of the leave are maintained until the end of that leave, and that workers have the right to return to their jobs at the end of the leave.
- They must also ensure that there is no less favourable treatment or dismissal of workers on the grounds that they have requested or taken a period of leave or a flexible working arrangement.
- **Additional legal protection** is provided through sanctions, protection against reprisals or via equality bodies (this requirement is more difficult to meet)

22

9) Legal protection: Articles 8, 10 to 16:

- *Article 11*
- **Discrimination**
- Member States shall take the necessary measures to prohibit any less favourable treatment of workers on the grounds that they have requested or taken leave as provided for in Articles 4, 5 and 6, or have been absent from work in accordance with Article 7, or on the grounds that they have exercised the rights provided for in Article 9.
- Example of implementation of Article 11 In France: example of concrete evidence of discrimination following maternity leave (removal from unit coordination duties and absence of a performance review, elements considered as a whole), Soc 17 Dec 2025 No. 24-14.914
- **Article 8 (on remuneration or variable allowance depending on the State): allowance equivalent to regular wages set by employer or through collective bargaining agreement**

23

10) Conclusion: summary

Paternity leave

Paternity leave

is, generally, well established

12 Member States: duration exceeding the ten working days or two weeks specified in the Directive.

Parental leave:

Parental leave:

widespread problems regarding non-transferability and adequate allowance

Several Member States: Generous national parental leave schemes, as they go well beyond the minimum standards set by the Directive in terms of the duration of leave and the period during which parental allowance is paid.

Caregiver leave:

Carer's leave:

Most Member States have schemes that are more generous than the Directive (in terms of duration)

24

10) Conclusion: summary

- Challenge:
- Discrimination following parental leave
- V. Need for a lawyer to be awarded the increase in wages equivalent to a promotion after two periods of parental leave as compensation for the likely loss of career progression: Soc. 24 April 2024 No. 22-20.539 Ernst and Young
- Explicitly cites the directive: should discrimination based on parenthood be addressed with a specific sanction, or, such as in France, discrimination based on family status?