



SUNICOP

European Labour Law

(Protection of motherhood and parental leave)



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Protection of motherhood and parental leave

Directive 92/85/EEC of 19 October 1992 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 is based on Article 137 of the EC Treaty and constitutes the tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC.

Protection of motherhood and parental leave

Definitions

- (a) **pregnant worker shall mean a pregnant worker who informs her employer of her condition, in accordance with national legislation and/or national practice;**
- (b) **worker who has recently given birth shall mean a worker who has recently given birth within the meaning of national legislation and/or national practice and who informs her employer of her condition, in accordance with that legislation and/or practice;**
- (c) **worker who is breastfeeding shall mean a worker who is breastfeeding within the meaning of national legislation and/or national practice and who informs her employer of her condition, in accordance with that legislation and/or practice (Article 2).**

Protection of motherhood and parental leave

Pregnancy

Dekker case

Thibault case

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In vitro fertilisation

Mayr case

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Parental leave

Parental Leave was introduced by Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, ETUC and CEEP (European Centre of Employer and Enterprises providing Public Services) on 14 December 1995

The agreement was revised by the Framework Agreement on Parental Leave (Revised) 18 June 2009

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Purpose:

The agreement lays down minimum requirements designed to facilitate the reconciliation of parental leave and professional responsibilities for working parents taking into account the increasing diversity of family structures while respecting national laws, collective agreements and/or practice.

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Scope:

Agreement applies to all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreements and/or practice in force in each Member state. Member States and/or social partner shall not exclude from the scope and application of this agreement workers, contract of employment or employment relationships solely because they relate to part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with temporary agency

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- The agreement entitles men and women workers to an individual right to parental leave on the grounds of the birth or adoption of a child to take care of that child until a given age up to eight years to be defined by Member States and/or social partners.
- The leave shall be granted for at least a period of four months and to promote equal opportunities and equal treatment between men and women, should, in principle, be provided on a non-transferable basis. To encourage a more equal take-up of leave by both parents, at least one of four months shall be provided on a non-transferable basis