



## Health and safety of pregnant workers

# Background

**MEPs will vote in plenary on a Women's Rights and Gender Equality Committee proposal to prolong maternity leave from 14 to 20 weeks on full pay and introduce two weeks' paternity leave. This note summarizes key points at each stage of this legislative proposal.**

EP Women's Rights Committee MEPs have amended a European Commission legislative proposal to prolong maternity leave to 18 weeks, 6 weeks of which must be taken after giving birth. According to the European Commission, this corresponds to the duration of leave prescribed by the International Labour Organisation (ILO) in 2000 to bring about a general improvement in the health and safety of women with children. The duration laid down by the current Directive 92/85/EEC is 14 weeks, two of which must be taken before or after giving birth.

As to pay, the European Commission proposes 100% remuneration during the first six weeks of maternity leave. For the remainder of the leave, it recommends granting full pay. The latter is not a binding provision, but the amount paid must no less than sick pay.

The legislation aims to establish EU-wide minimum rules. Member States may introduce or retain rules that are more favourable to workers than those laid down in the directive.

This European Commission proposal of October 2008 was examined in a Women's Rights Committee report, but when it was put to a plenary vote in May 2009, a majority of MEPs asked that it be referred back to the committee.

*Rapporteur: Edite ESTRELA (S&D, PT)*

*Procedure: ordinary legislative procedure, first reading*

*Plenary vote: Octobre II, Strasbourg*

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# Background

## Women's Rights Committee vote

### *Maternity leave duration and pay, and introducing paternity leave*

Maternity leave duration and pay, and the idea of introducing paternity leave have been a topic of heated debate in Parliament. On 23 February 2010, the Women's Rights Committee approved a report by Edite Estrela (S&D, PT), with 19 votes in favour, 13 against and one abstention.

A majority of committee MEPs proposed that the minimum leave in the EU be prolonged from 14 to 20 weeks, 6 weeks of which must be taken after the birth. They inserted amendments stipulating that this maternity leave legislation also applied to household staff and independent workers.

According to the report, workers on maternity leave must get full pay, corresponding to 100% of their last monthly salary or their average monthly salary.

Furthermore, Member States must grant fathers the right to fully paid paternity leave of at least two weeks during the period of maternity leave, says the committee report. Until now, there has been no EU legislation on paternity leave. Some committee MEPs opposed this amendment, stressing that paternity leave is outside the scope of the directive, which governs the health and safety of pregnant workers.

### *Leave in specific situations*

This draft law on maternity and paternity leave should also apply to parents who adopt a child under 12 months old, added MEPs.

Furthermore, additional paid leave should be granted in certain situations, such as premature birth, handicapped children, handicapped mothers, adolescent mothers, multiple births and births within 18 months of a previous birth.

### *Employment rights*

The Women's Rights Committee adopted amendments seeking to prohibit the dismissal of pregnant workers at any time between the start of the pregnancy and six months after the end of the maternity leave. The grounds for any dismissal during this period will have to be formally stated in writing.

After a maternity leave, women must have the right to return to their jobs or an "equivalent post", i.e. an equivalent position with the same salary, in the same professional category and with the same functions as before the maternity leave, say MEPs.

The committee added that workers must not be obliged to work night shifts or overtime in the ten weeks preceding the birth, during the remainder of the pregnancy in the event of health problems for mother or unborn baby, or throughout the period of breastfeeding. Workers wishing to be exempted from night shifts would have to inform their employers and present a medical certificate.

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## Impact analysis

Further to the committee vote, MEPs from the Women's Rights (lead) Committee and the Employment and Social Affairs (associate) Committee agreed to commission an impact assessment of the costs and benefits of their amendments. This request is possible under the Council/Parliament/Commission "better lawmaking" inter-institutional agreement and Parliament's Conference of Committee Chairs guidelines.

The impact analysis therefore sought to determine the social and economic costs and benefits of the amendments proposed by the two committees: "a right to maternity leave of 20 weeks fully paid plus two weeks of fully paid paternity leave" (inserted by the Women's Rights and Gender Equality Committee) and "a right to 18 weeks of fully paid maternity leave" (inserted by the Employment and Social Affairs Committee). The analysis was done by an external company.

The study was conducted in ten Member States: Belgium, Denmark, Estonia, France, Germany, Hungary, Poland, Spain, Sweden and the UK. It considered four different scenarios: two for fully paid maternity leave of 18 weeks and 20 weeks, each with possible substitution rates of 30% and 80%, and two for fully-paid paternity leave of 2 weeks at substitution rates of 0% and 30%.

The costs of the proposals vary among the Member States, because the status of both maternity and paternity leave schemes differs from country to country. The analysis also demonstrates the importance of the substitution rate for economic costs.

In the highest cost scenario, i.e. fully-paid maternity leave of 20 weeks and a substitution rate of 30%, the total economic costs per year vary from €0 (Estonia, Poland) to €1.324 million (United Kingdom).

According to the study, the benefits are difficult to quantify and estimate in monetary terms. Among the qualitative benefits, the study mentions child development and health effects, mother's health, cost savings of childcare for the number of added weeks and, to a lesser extent, fertility rate.

In addition, two briefing notes on a "methodology to quantify the benefits of maternity leave" and "on the benefits of maternity leave and parental leave in the EU 27" were also prepared.

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**Table on legal provisions in Member States on maternity leave**

Country	Duration	Obligatory period	Payment
AT	16 weeks	8 weeks before and 8 weeks after	100% of average earnings
BE	15 weeks	1 week before birth, 9 after birth	Dependent on SPF ('Sécurité sociale')
BU	410 days	45 days before and 95 after birth	<i>410 days are paid at 90% of average salary during the last six months before the leave. Maternity leave can be extended for another year, (till the child's second birthday), paid at the level of the minimum salary in the country.</i>
CY	18 weeks	2 weeks before and 7 weeks after birth	75 % of average income by state & common practice the other 25% to be paid by employer (not obligatory)
CZ	28 weeks	<i>As a recommendation 6-8 weeks before birth, 14 weeks after</i>	69% of average income of 12 months with ceiling
DE	14 weeks	6 weeks before, 8 weeks after birth	100% of last (average) earnings
DK	18 weeks	none	According to most collective agreements: 100% of salary
EE	140 calendar days	No, but maternity benefit decreases if maternity leave starts less than 30 days before expected date of birth	100% of average earnings of preceding calendar year
EL	17 weeks	7 before, 9 after birth	100% of previous monthly salary
ES	16 weeks, transferable to partner	6 weeks after birth for mother	100% of calculation basis
FI	105 working days	2 weeks before estimated birth	Payment is depending on previous earnings (decreasing after the first 56 working days after birth) minimum amount is 15.20 EUR per day, otherwise depending on collective agreements
FR	16 weeks	2 weeks before and 6 weeks after	100% of earnings in last 3 months with ceiling
HU	24 weeks	<i>As a recommendation 4 weeks before birth</i>	70% of the former salary (sickness pay)
IE	42 weeks	2 weeks before birth, four weeks after birth	26 weeks are paid at a level of 80% of earnings with ceiling
IT	5 months	2 months before, 3 months after birth	80% of average daily remuneration paid in the month preceding leave
LT	126 calendar days	yes	100% of average earnings
LU	16 weeks	8 weeks before, 8 weeks after confinement	100% of average earnings
LV	112 days	2 weeks before and 2 weeks after confinement	<i>80 % of average earnings (12 months for employee and 12 months for self-employed persons)</i>
MT	14 weeks	4 weeks before, 6 weeks after birth	Full pay
NL	16 weeks	4 weeks before and 6 weeks after birth	Full pay

# Background

<b>PL</b>	<i>depending on no of children born at once 1 child - 20 weeks, 2 children - 31 weeks, 3 children - 33 weeks, 4 children - 35 weeks 5 or more - 37 weeks after 14th week, the leave can be transferred to father</i>	8 weeks after birth	100% of average earnings
<b>PT</b>	180 days (6 months)  OR  150 days (5 months, shared with the father who must take a licence of 30 days together or divided in 2 periods of 15 days in exclusivity)	8 weeks after birth	83 % of the base salary  100% of the base salary
<b>RO</b>	126 days	42 days after delivery	Maternity allowance on the basis of 85% average income
<b>SE</b>	7 weeks before and 7 weeks after confinement, then until child is 18 months old	2 weeks before or after confinement	390 days are paid at 80% of earning, 90 days are paid at a minimum allowance
<b>SI</b>	105 days	28 days before due birth date	100% of average earnings
<b>SK</b>	28 weeks	14 weeks	55% of daily assessment basis, upper limit 15 000 SKK (about 500 EUR)
<b>UK</b>	52 weeks	2 weeks after birth	Employer pays 90% of former income first 6 weeks, then lump sum (about 151 EUR)

Source: EC impact assessment 2008, updated (in italics) by European Parliament information offices March 2010