

Conventions of the International Labour Organization (ILO) the principle of gender equality

Equal Remuneration Convention, 1951 (No. 100)

Employment and Occupation Convention,
1958 (No. 111)

Workers with Family Responsibilities Con-
vention, 1981 (No. 156)

Maternity Protection Convention, 2000 (No.
183).

Most relevant European directives in the application of the principle gender equality

Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women.

Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

Council Directive 79/7/EEC of December 19, 1978, on the progressive implementation of the principle of equal treatment for men and women in matters of social security.

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 .

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Directive 2002/73/EC of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training.

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

Charter of Fundamental Rights of the European Union 2010

Article 23 on equality between men and women

Equality between men and women in all areas, including employment, work and equal pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

Article 33 on family and professional life

Protection of the family shall enjoy legal, economic and social is ensured.

In order to reconcile family life and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to a paid maternity leave and to parental leave following the birth or adoption of a child.

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Gender Equality

TCF Textile, Clothing and Footwear



Maternity and Paternity Rights



Portugal - Malta - Turkey



Portugal

The Portuguese Constitution enshrines in its principles as fundamental tasks of the State, to promote equality between men and women (point h - Article 9) and the principle of equality (Article 13). Regarding the Worker's Rights the Portuguese Constitution enshrines the principle of equal pay for equal work (point a - Article 59), that work be organised in keeping with social dignity and in such a way as to provide personal fulfilment and to make it possible to reconcile professional and family life (point b - Article 59) and that Women shall possess the right to special protection during pregnancy and following childbirth, and female workers shall also possess the right to an adequate period of leave from work without loss of remuneration or any privileges (point 3 - Article 68).

MATERNITY AND PATERNITY RIGHT PARENTING PROTECTION

LEAVE IN A SITUATION OF RISK

Leave in a state of clinical risk, by the amount of time prescribed by the doctor, without prejudice of the initial parental leave (Article 37 of the LC - Labour Code)

Women have the right to a leave between 14 and 30 days for termination of pregnancy (abortion), when presenting a medical certificate (Article 38 of the LC).

PARENTAL LEAVE – MODALITIES

Initial (Article 40 of the LC): After the birth of their child, the mother and father are entitled to an initial parental leave of 120 or 150 consecutive days. If each parent enjoy exclusive 30 consecutive days or two periods of 15 consecutive days this license extends for another 30 days. In case of twins they are entitled to an additional 30 days for each one.

Exclusive to the mother (Article 41 of the LC): the mother has to necessarily enjoy six weeks following childbirth and may take up to 30 days before the childbirth if certified by the doctor.

Exclusive to the father (Article 43 of the LC): the father is entitled to 10 days, consecutive or unsequential, in the 30 days following the childbirth, which 5 days are compulsory to be taken immediately after the birth. After the enjoyment of this leave the father as the right to 10 more days consecutive or unsequential since that enjoyed simultaneously with the initial leave of the mother. In case of twins he is entitled to two more days for each twin.

PROTECTION IN CASE OF DISMISSAL

Article 63 of the LC: The dismissal of pregnant, postpartum or breastfeeding worker or worker in the event of parental leave requires the prior opinion of the competent authority in the area of equal opportunities between men and women (CITE) if not it is considered unjustified dismissal. In the case of collective dismissal, the criteria that serves as a basis to the selection of the workers to dismiss should be objective and may not contain any type of discrimination, whether direct or indirect.

EXPIRY OF THE FIXED-TERM CONTRACT

The expiry of the fixed-term contract of a pregnant, postpartum or breastfeeding worker (points 3 and 5 – Article 144 of the LC): The employer must report within 5 working days the reason for not renewing the contract term to the authority having jurisdiction in the area of equal opportunities between men and women (CITE), to the Workers Committee and to the Union (if the employee is affiliated).

Malta

PROTECTION IN CASE OF DISMISSAL

It is not lawful for the employer to dismiss a pregnant employee, an employee who has recently given birth or a breastfeeding employee, from the date in which such employee informs her employer, by means of a certificate issued by a registered medical practitioner or midwife, of her pregnancy to the end of her maternity leave, or during any period of special maternity leave, because of her condition or because she avails herself or seeks to avail herself of any rights in terms of law.

A woman has the right to return to the same position, same role and the same wage after maternity leave or when this is no longer possible for a valid reason, to equivalent or similar work which is consistent with her original contract of employment.

EXPIRY OF THE FIXED-TERM CONTRACT

Regulated by the Subsidiary Legislation 452.91 Protection of Maternity – Employment – Regulations

When an employee is on maternity leave or special maternity leave, the employee shall be deemed to have been in the employment of the employer and during any such absence she shall be entitled to all rights and benefits which may accrue to other employees of the same class or category of employment at the same place of work, including the right to apply for promotion opportunities at her place of work, and on return to work, she shall be entitled to return to the same job or when this is no longer possible for a valid reason, to equivalent or similar work which is consistent with her original contract of employment.

LEAVE AND ABSENCES

Regulated by the relevant Wage Regulation Order – WRO – and by L.N. 439 of 2003 - Protection of Maternity – Employment - Regulations

An employee is entitled to time off without loss of pay or any other benefit, in order to attend ante-natal examinations, if such examinations have to take place during her hours of work.

The employer is bound by law to grant every employee a minimum total of fifteen hours with pay per year as time off for urgent family reasons. These hours are to be deducted from the annual leave entitlement of the employee. Such urgent leave has to be related to cases of sickness or accident to members of the immediate family of the employee (This entitlement is regulated by L.N. 296 of 2003 - Urgent Family Leave Regulations).

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In Malta, CHAPTER 456 - EQUALITY FOR MEN AND WOMEN ACT ensures that equality between sexes is applied. In fact the introduction of this Act found in Article 2(3) says: For the purposes of subarticle (1) discrimination based on sex or because of family responsibilities is: (a) the giving of less favourable treatment, directly or indirectly, to men and women on the basis of their sex or because of family responsibilities; (b) treating a woman less favourably for reasons of actual or potential pregnancy or childbirth; (c) treating men and women less favourably on the basis of parenthood, family responsibility or for some other reason related to sex; (d) any treatment based on a provision, criterion or practice which disadvantages a substantially higher proportion of members of one sex unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors.

MATERNITY AND PATERNITY RIGHT PARENTING PROTECTION

LEAVE IN A SITUATION OF RISK

Regulated by the relevant Wage Regulation Order – WRO – and by L.N. 439 of 2003 - Protection of Maternity – Employment - Regulations

The pregnant employee is entitled to maternity leave. In the case of an employee who is pregnant, breastfeeding or has recently given birth, and who could be exposed to a risk at work that could jeopardise her health and safety and/or the pregnancy/the child, such employee is entitled to special maternity leave as long as the risk exists.

PARENTAL LEAVE – MODALITIES

Regulated by the relevant Wage Regulation Order – WRO – and by L.N. 439 of 2003 - Protection of Maternity – Employment - Regulations

A pregnant employee can resort to maternity leave for an uninterrupted period of 14 weeks; with full pay. As from 2012 the entitlement of maternity leave was extended to 16 weeks and as from 2013, it was extended to 18 weeks. However if the employee chooses to avail herself of any additional maternity leave beyond the 14 weeks, the employer shall not be obliged to pay any wages for those weeks of maternity leave which go beyond the aforementioned fourteen weeks.

Regulated by L.N. 432 of 2007 - Minimum Special Leave Entitlement Regulations

All employees are allowed birth leave on full pay on the occasion of the birth of a child to their wife. The entitlement may vary depending on the applicable WRO. Employees in activities of work which are not regulated by any WRO are allowed one working day of birth leave. The entitlement of birth leave is linked with the birth of a child and therefore in the case of a birth of twins, the entitlement is double.

Regulated by Parental Leave Regulations - S.L. 452.78 - and the Minimum Special Leave Entitlement Regulations - S.L. 452.101

Fathers are entitled to 1 paid day of birth leave and parental unpaid leave of up to 4 months (availed of in periods of one month each) until the child has attained the age of 8 years.

LEAVE AND ABSENCES

The pregnant, postpartum or breastfeeding worker is entitled to exemption from work if it is not guaranteed the protection of their safety and health at work (Article 62 of the LC).

The pregnant worker is entitled to take time off for prenatal consultation and preparation for childbirth, for the time and number of times necessary and justified, since the doctor's appointment can not take place outside of working hours. The father is entitled to three exemptions from work to accompany woman at prenatal consultation (Article 46 of the LC).

The woman worker is entitled to a daily leave for breastfeeding or bottle-feeding by two distinct periods of 1 hour each per working day (plus 30 minutes for each additional twin beyond the first) while the mother breastfeeds. For bottle-feeding applies the same right but it may be taken by the mother or the father till the child reaches 1 year of age (Article 47 of the LC).

The worker is entitled to 30 days per year for urgent assistance in case of illness of the child with less than 12 years (Article 49 of the LC). These days can be shared by grandparent's workers (Article 50 of the LC).

The worker has the right to require performing the work on part-time or in flexible working time (Article 55 and 56 LC): The application must be submitted in writing to the employer with 30 days notice. The worker can also apply this provision for the monitoring of children, adopted or fostered children under 12 years who are under his/her care; with disabilities or chronic illness, if they are part of the household of the worker.

The pregnant, postpartum, breastfeeding worker or with children with less than 12 years has the right to exemption from overtime work or to work under flexibility. This exemption is extended to the father when the time of work coincides with a regular pattern of bottle feeding.

The woman worker is entitled to exemption from performing work in night time (between 8 pm till the 7 am of the following day) (Article 60 of the LC) during 112 days before and after childbirth, of which half before the expected date of childbirth. Whenever possible, the women workers who were exempt from night work, should be attributed a daytime schedule. If this is not possible they will be exempt from working, according to medical certificate.

As Turkish Constitution recognizes the equal rights and opportunities for all citizens, 4857 Labour Law formulates the basic and concrete rights and liberties of male and female workers. 4857 No Labour Law's 74th Article mentions that employee has 16 weeks off for the maternity, 8 weeks before the birth and 8 weeks after the birth. According to the "equal opportunity" article of the 4857 Labour Code, 5th Article, employees may not be discriminated according to their sex and pregnancy.

MATERNITY AND PATERNITY RIGHT PARENTING PROTECTION

LEAVE IN A SITUATION OF RISK

This is regulated by the 4857 No Labour Law's 74th Article If employee receives a medical report from the medical doctor, she may be allowed to work until 3 weeks before the birth. The remaining weeks would be added to the off time after the birth.

PARENTAL LEAVE – MODALITIES

This is regulated by the 4857 No Labour Law's 74th Article.

Employee has 16 weeks off for the maternity, 8 weeks before the birth and 8 weeks after the birth.

If employee receives a medical report from the medical doctor, she may be allowed to work until 3 weeks before the birth. The remaining weeks would be added to the off time after the birth.

If employee gives birth before the normal time, also the remaining weeks would be added to the afterbirth.

If an employee gives birth to more than one baby, two weeks would be added to the 8 weeks off after the birth.

Female employees have right to extend their vacation up to 6 months without pay.

According to the Labour Code, male workers do not have paternal rights that allow them to receive a paid vacation.

In the collective bargaining agreements signed with trade unions, there may be articles reflecting paternal rights as well. In most cases, this includes 2 to 4 days paid vacation.

PROTECTION IN CASE OF DISMISSAL

According to the "equal opportunity" article of the 4856 Labour Code, 5th Article, employees may not be discriminated according to their sex and pregnancy.

If an employee is dismissed due to discrimination because of the sex or pregnancy, employee has right to receive compensation equal to the sum of four months' salary.

LEAVE AND ABSENCES

Employees have right to suckle their babies for 1.5 hours per day up to 1 year after the birth.

Employee may prefer to sum up these hours and receive a one-day off per week as well.

Pregnant employees or employees who suckle their babies may not work longer than 7.5 hours per day.