



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION

**on the Implementation of Council Directive 96/34/EC of 3rd June 1996 on the
framework agreement on parental leave concluded by UNICE, CEEP and the ETUC**

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1. INTRODUCTION

On 3 June 1996, the Council adopted Directive 96/34/EC on parental leave (**Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC Official Journal L 145 , 19.6.1996 p. 4 - 9.** Amended by Directive 97/75/EC OJ L 010 16.1.1998 p.24), which implemented the first agreement concluded by the Social Partners under the Agreement on Social Policy.

This report is based on the information sent to the Commission in compliance with article 2(1) of the Directive, under which the Member States must inform the Commission of their national implementing provisions, either by legislation or collective agreements. The Commission also sent to the Member States a short questionnaire on parental leave, the answers to which complemented the information previously sent. The Commission has also consulted social partners and the network of independent legal experts on equality. It should be noted that the information sent to the Commission varied considerably in terms of content and detail. The content of this report is correct as at November 2002.

2. SCOPE – PUBLIC AND PRIVATE SECTORS

The provisions of the Framework Agreement on Parental Leave annexed to, and put into effect by, the Directive, apply to all workers, private and public, men and women, who have an employment contract or relationship as defined by the law, collective agreements or practices in force in each Member State (clause 1(2)). It is clear that employees in the public sector are covered.

Country	All Employees covered or Not	Comment
Austria	Yes, with some exceptions	<p>Exceptions:</p> <p>Employees in short-term contracts of fixed duration:</p> <ul style="list-style-type: none"> •are not entitled to parental leave at all, in case their contract is ending before birth (for private employees in trade; for certain types of teachers with one-year contracts, one following the other- "Vertragslehrerinnen") •cannot, in principle, extend parental leave beyond the termination of the contract period (more problematic in the public sector: contractual employees with the exception of university teachers)

		<p>Private sector: notion of worker/employee includes home worker (both sexes) and female apprentices.</p> <p>Employees in private households are mentioned explicitly (both sexes).</p> <p>It follows implicitly that the notion of employer includes male apprentices and employees whose earnings are less than 4076 Austrian Schillings per month.</p> <p>Special provisions for employers in the agricultural sector: outlined in general principles and are identical with the legislation of the private sector.</p> <p>Public sector: on the federal level, the provisions applying to the private sector apply in principle to the public sector, i.e. to civil servants or to contractual employees. However restricted applicability of some principles to certain groups of public employees (e.g. teachers with fixed-term contracts of employment).</p> <p>At community level (Länder), the relevant legislation is under the competence of the Länder.</p> <p>Laws passed by the Federal state do not apply to officials of the regional governments (Länderregierungen) and communities (Gemeinden) nor to workers in agriculture and forestry. Those acts passed by the regional parliaments (Ländtage) regularly follow the model(s) of the Acts passed by the Federal State legislator.</p>
Belgium	Yes, with some exceptions	Not available for judges
Denmark	Yes	
Finland	Yes	
France	Yes	
Germany	Yes	
Greece	Yes, with some exceptions	Not available to persons carrying out maritime work and for judges
Ireland	Yes	

Italy	Yes, with some exceptions	Some national provisions on parental leave are still not available for home-workers as well as for domestic workers. However, the minimum requirements fixed by the Directive are fully “covered” by rules on (compulsory) maternity leave (5 months, 2 before and 3 after childbirth)
Luxembourg	Yes	
Netherlands	Yes	
Portugal	Yes	
Spain	Yes	Including Spanish workers hired in Spain by Spanish firms to work abroad, and civilian personnel in the military. Military personnel covered by separate provisions.
Sweden	Yes	
United Kingdom	Yes	

The Commission considers that the exclusion applying to maritime workers in Greece is contrary to the Directive and has launched infringement proceedings. Greece is now planning to extend parental leave to maritime workers and judges.

3. AGE OF CHILD (INCLUDING VARIATIONS IN RESPECT OF ADOPTED CHILDREN)

Clause 2(1) of the Framework Agreement on Parental Leave stipulates that workers shall have the right to parental leave on the grounds of the birth or adoption of a child to enable them to take care of that child and that leave shall be available until a given age up to 8 years, to be defined by Member States and/or management and labour. All Member States provide parental leave for both natural and adopted children.

Country	Maximum age of child where entitlement to leave arises on birth and in general, on adoption	Variation where entitlement arises on adoption
Austria	<ul style="list-style-type: none"> • 2 years if taken as a block • 4 years if taken part-time <p>- Private sector</p> <p>Variations if one or both parents use parental leave similar for part-time workers.</p> <ul style="list-style-type: none"> • 23 months if parents take one month simultaneously; 7 years when parents "postpone" the use of the 3 months leave • Beyond 7 years when the 3 month's period would be shortened if child begins school before his 7th birthday or when the child begins school after his 7th birthday • 30 months when the child is adopted between the age of 18 months and 2 years; 7 years when child adopted after 2 years old = 6 months maximum parental leave <p>- Public sector: additional leave until child enters school for federal civil servants and federal contractual employees</p>	
Belgium	<ul style="list-style-type: none"> • 4 years in private sector (8 years if child seriously disabled) • 10 years in public sector (for unpaid scheme. But in the scheme of parental leave, combined with a career break with benefits paid by the unemployment scheme, the conditions are the same as in the private sector.) 	Maximum 8 years old for a period of 4 years from adoption
Denmark	8 years	
Finland	3 years.	

France	3 years	For child adopted under age of 3, entitlement for period of 3 years from date that child joins family. For child adopted after age of 3, but before attaining school age, entitlement for maximum one year period from date that child joins family.
Germany	3 years (although 12 of the 36 months entitlement may be postponed until child is 8 years old, with employer's agreement)	Maximum 8 years old for a duration of 3 years
Greece	<ul style="list-style-type: none"> • 3,5 years • 6 years in the civil service • 12 years for the annual parental leave granted to single parents (widows, widowers or unmarried parents) who are employed under a private law employment relationship 	
Ireland	5 years	Generally 5 years old, but by way of exception, within 2 years of adoption order if child aged between 3 and 8 years at adoption
Italy	8 years	Generally, 8 years old, but by way of exception, for child adopted between ages of 6 and 12, leave may be exercised during 3 years after adoption
Luxembourg	5 years	
Netherlands	8 years	
Portugal	6 years	
Spain	3 years for full-time leave 6 years for part-time leave	
Sweden	18 months for full-time leave or whenever there is a right to statutory parental benefits.	18 months from the point that the employee takes custody of the child for full-time leave
	8 years (or until end of first school year if later) for part-time leave	8 years (or until end of first school year if later) for part-time leave
United Kingdom	5 years	Maximum 18 years old or within 5 years of joining the family, if earlier

In response to infringement proceedings launched by the Commission:

- Ireland has removed the provision in its legislation that parental leave is available only if the child was born after 3rd June 1996, and;
- The UK has removed the provision in its legislation that parental leave is not available in respect of a child born before 15th December 1999.
- Similarly, in Luxembourg parental leave is only available to parents of children born after 31 December 1998, or if adopted, if the adoption procedure has been initiated before the relevant tribunal after that date. The Commission has initiated infringement proceedings against Luxembourg.
- In Germany, parental leave is only available if children are born after 31 December 1991, but this provision no longer has any practical impact.

4. LENGTH OF PARENTAL LEAVE AND HOW IT IS TAKEN (FULL OR PART-TIME, BLOCK OR PIECEMEAL)

Clause 2(1) of the Framework Agreement on Parental Leave stipulates that parental leave shall last for at least three months. Clause 2(3)(a) provides that Member States and/or management and labour may decide whether parental leave is granted on a full-time or part-time basis, in a piecemeal way or in the form of a time-credit system.

Country	Maximum length of leave	Form of leave	Comment
Austria	<u>Private sector:</u> 22 months	Full-time until child's second birthday (minimum length: 3 months; maximum length: 22 months)	For children born before 31/12/1999: Parents may alternate once; no simultaneous use; any combinations meeting those requirements are possible
		Full time	For children born since 1/1/2000: <ul style="list-style-type: none"> Parents may alternate twice; when alternating for the first time, simultaneous use for 1 month is possible until the child is maximum 23 months old parental leave full time + 3 months "postponed" at latest to the child's 7th birthday (or entry into school) (one parent: until child is 21 months old; both parents "postpone": first block at maximum until child is 18 months old + 3 months + 3 months) subsidiary/additional parental leave in case of prevention of the other parent; parental leave <i>sui generis</i> in cases of force majeure; maximum length of 23 months and 3 weeks, when begun at the earliest possible time during maternity leave; symmetrical construction in case the other parent is not in the same household as the child anymore; gender specific difference: common household with the child required of father only.

	46 weeks	Part time (block)	For children born before 31/12/99: one parent until child's 4 th birthday; both parents simultaneously until child's 2 nd birthday (maximum)
		Part-time	For children born after 1/1/2000 one parent or both parents alternatively until child's 4 th birthday ; both parents simultaneously until child's 2 nd birthday
		Full time then part time	For children born before 31/12/99. Until child's 1 st birthday (by one parent or by both parents alternatively), then part-time (one parent or both parents alternatively until child's 3 rd birthday; or both parents simultaneously until child's 2 nd birthday- minimum length of part-time required: 3 months
		Full time combined with part time	For children born since 1/1/2000. In case part-time is consumed before the child's 1 st birthday, the period of part-time is extended accordingly over full-time block (no protection from dismissal after the 2nd birthday)
		Adoption: If child adopted between 18 months and 2 years old: 6 months. If child adopted after 2 years of age, 6 months but may be used until the child is 7 years old. Applies also foster-parents.	Exception for Länder officials - special leave until child starts at kindergarten (4 years old) Principles described for the private sector apply.

			Private Sector: if the agreement between the employer and the employee on part time work cannot be reached, this can be asserted at civil court: the employer has to justify, that the rejection of part time parental leave is founded on reasonable grounds.
	<u>Public sector:</u> 2 years 4 years	Full-time Part-time	Provisions on "postponed" parental leave apply to certain groups of federal employees (university and other teachers, judges) in a modified form. Additional leave until child enters school for federal civil servants and federal contractual employees.
			Public Sector: The Federal State as employer may reject part time work only for that reason, that the employee, due to part time work, could be employed neither at her former workplace nor at an equivalent workplace. The employer's decision can be revoked up to the Higher Administrative Court (Verwaltungsgerichtshof). or Constitutional Court (Verfassungsgerichtshof).
Belgium	3 months	Full-time. Alternatively, in private sector, leave may be split with employer's agreement, or used in form of a reduction of working time (e.g. six months half time). In federal public sector, leave may be split, but must be taken in complete working days. Similar, but more rigid provisions in other public services. But Parental leave or career break can be used in a part-time format (since 1.05.1999).	

Denmark	<ul style="list-style-type: none"> • 52 weeks (between the parents) • 4 weeks before expected confinement until 14 weeks after birth of child. 	Full-time, as a single block	<p>Employer and employee may agree further period of leave (paid by the State) but total leave must not exceed 52 weeks.</p> <p>Full benefit which for most workers is considerably lower than full pay. By collective agreement or otherwise the employer may agree to pay full pay for the whole or part of the period of parental leave.</p> <p>It is possible to prolong parental leave by accepting reduced benefit and also the possibility of postponing the leave period until later.</p>
Finland	<p>158 consecutive calendar days after end of maternity leave (known as family leave). Additionally, at least 2 months childcare leave in respect of child under 3 years old.</p> <p>(Alternatively, partial childcare leave i.e. reduction in working hours, but not below 30 hours per week)</p>		
France	<p><u>In private sector</u> : 3 years ie. 12 months (renewable twice).</p> <p><u>In public sector</u> : 3 years by periods of 6 months renewable</p>	Full-time or by reducing working hours by at least a fifth, or a combination	
Germany	3 years	Full or part-time whole or piecemeal with employer's agreement.	Part-time restricted to employees in establishments employing more than 15 people
Greece	3.5 months	Full-time (part-time, with employer's agreement), whole or piecemeal.	In addition, single parents (widows, widowers or unmarried parents) are entitled to an annual parental leave of 6 days if they have up to 2 children, and of 8 days, if they have 3 or more children. After maternity leave, women employed in banks and public corporations are entitled to a reduced working day by

	2 years in civil service	In civil service, 2 years full-time, whole or piecemeal	2 hours if they have children up to 2 years old and by 1 hour if they have children up to 4 years old . Instead of the reduced day, they may take a continuous leave of 9 months subsequent to maternity leave. In private sector, after maternity leave, mothers are entitled to a reduced day by 1 hour, for 30 months, or, if their employer agrees, by 2 hours for the first 12 months and one hour for another 6 months; if mother do not use this, fathers are entitled to the reduced day.
Ireland	14 working weeks	Full-time, as a single block. Alternatively, as separate blocks of time or by reduced hours to maximum of 14 weeks, with employer's consent.	Even where more than one child, parent only entitled to 14 weeks in a 12 month period unless employer agrees to grant more
Italy	Parents (or a single parent) entitled to total of 10 months leave, with the mother and father each allowed maximum of 6 months	Whole or piecemeal	If father takes more than 3 months, his maximum entitlement increases to 7 months and the maximum total time per child is increased from 10 to 11 months
Luxembourg	6 months 12 months	Full-time, as single block Part-time, with agreement of employer	
Netherlands	6 months 13 weeks	Part-time (50% of contractual working hours). Leave can be taken in a flexible form with a maximum of three leave periods of each at least 1 month. Full-time, available on request. Employer can refuse if important reasons for doing so.	
Portugal	3 months 6 months	Full time Part time	

	Alternative Schemes Additional, 6 months special leave renewable for up to 2 years (3 years where third child and 4 years where child is disabled)	Full-time	
	<u>1) Schemes for care reasons that can go up to 2 (or 3) years</u> - either parent has the right to work part-time for caring for a child under 12 years old (Maternity Law, article 19, n. 1). This right can go up to 2 years length, or up to 3 years, in case of third child, or more.	Part-time	
	<u>2) Other schemes for care reasons, depending on the agreement between the employer and the employee</u> working father or mother can always agree with the employer in other part-time schemes for reasons of care of a natural or adopted child aged under 12.	Part-time	
Spain	16 weeks (extendable for two weeks for multiple birth for every child born after the second one)	Full-time	1. Suspension of the work contract (leave after birth):
	10 weeks	Part-time	(The 6 weeks after childbirth are compulsory, to be taken on a full time basis, the rest up to 16 weeks, i.e., 10 weeks can be taken part-time).
			Right exists to remuneration at the expense of the Social Security Service as long as a minimal period of 180 insured days is justified within the 5 years immediately previous to the date of childbirth or to the date of the administrative or judicial decision in case of adoption.

			2. Childcare leave ¹ no right to be remunerated during this time.
	3 years from childbirth	Full-time	3. Reduction of the work-day schedule for minors' care under 6 years ² . Reduction in working hours of between a half and a third, with the corresponding and proportional reduction of the remuneration(salary): Applicable to all categories of workers.
Sweden	18 months from birth or the point at which parent takes custody of adopted child or whenever there is a right to statutory parental benefits.	Full-time: Reduction of normal working time where parent in receipt of parental cash benefit. Reduction of normal working time by one quarter until, in most cases, child reaches 8 years or until end of first school year if later. Leave for employee's temporary care of child	
United Kingdom	13 weeks: Part-time: pro-rata entitlement (13 times employee's normal working week) 18 weeks in case of child entitled to disability living allowance.	Full-time. As general rule, may not be taken in periods other than a week or multiple of a week	Employee may not take more than 4 weeks leave in respect of any one child in a 12 month period

In Luxembourg, if pregnancy or adoption occurs during a period of parental leave, the leave terminates and is superseded by maternity or adoption leave. The Commission considers that this is incompatible with the Directive and has commenced infringement proceedings.

¹ Art. 46.3 del Estatuto de los Trabajadores, en su redacción dada por la Ley 39/1999 de 5 de noviembre (BOE 6.11.1999).

² Art. 37.5 del Estatuto de los Trabajadores, en su redacción dada por la Ley 39/1999 de 5 de noviembre (BOE 6.11.1999).

5. INDIVIDUALITY AND TRANSFERABILITY BETWEEN THE PARENTS

Clause 2(1) of the Framework Agreement on Parental Leave provides that men and women workers shall be granted an individual right to parental leave. Clause 2(2) of the Framework Agreement on Parental Leave provides that, to promote equal opportunities and equal treatment between men and women, and to encourage fathers to assume an equal share of family responsibilities, the right to parental leave should, in principle, be granted on a non-transferable basis.

Country	Individual right?	Comments
Austria	Yes	Leave may not be taken by both parents simultaneously. Under current legislation priority is given to the mother (for details see below)
Belgium	Yes	
Denmark	Yes	
Finland	Yes	The father is entitled to 2 weeks paternity leave. From 14 weeks after the birth of the child the parents are entitled to 32 weeks parental leave which they can share as they please.
France	Yes	Partial childcare leave may not be taken by both parents simultaneously
Germany	Yes	
Greece	Yes but transferable in case of full-time leave	The social partner agreement is not strict on non-transferability. It only requires that the right to parental leave "should, in principle, be granted on a non-transferable basis"
Ireland	Yes	
Italy	Yes	

Luxembourg	Yes	Each parent can benefit from leave of up to 6 months, but, on the whole, the total length of parental leave taken by the parents cannot exceed 10 months (or 11: see under point 3). Moreover, as leave is paid (generally, some exceptions are fixed by the law) only up to 6 months per child. Furthermore, it is usually only the mother (whose earnings are usually lower than those of the father) who takes the 6 months leave. Some special leave (for caring a sick child, <i>inter alia</i>) cannot be taken simultaneously.
Netherlands	Yes	Leave may not be taken by both parents simultaneously. If both parents apply for leave at same time, priority is given to the mother.
Portugal	Yes	
Spain	Yes (for the mother)	In the 16 weeks of maternity leave but only the 6 weeks immediately after the childbirth are non-transferable.
	No: can be transferred from mother to father	The rest - 10 weeks; can be taken simultaneously by both parents as long as the sum of both periods does not go beyond 10 weeks (The mother can take 4 weeks and the father can take 6 weeks). In this case the first 4 weeks can be taken simultaneously; the father takes 2 weeks just after the birth to take care of the mother and the child, and the mother takes 14 weeks (6 compulsory after birth plus 8 out of the ten left) ³
	Yes (for each worker - father and mother)	In the case of reduction of the working hours of between a half and a third for minor under 6.
	Yes	But if father and mother are employed at the same company and they were exercising this right on the ground of the same child, the company would be able to allow limited this. ⁴
	Yes	Leave for minor under 3 years old Not transferable nor submitted to any limitation.

³ Art. 48.4 del Estatuto de los Trabajadores, en su redacción dada por la Ley 39/1999 de 5 de noviembre (BOE 6.11.1999).

⁴ Art. 37.5 del Estatuto de los Trabajadores, en su redacción dada por la Ley 39/1999 de 5 de noviembre (BOE 6.11.1999).

Sweden	Yes	In respect of paid leave, it is possible for one parent to transfer to the other the right to payment, with the exception of 60 days (as of 01-01-2001) (per child) reserved to each parent.
United Kingdom	Yes	

In all Member States, entitlement to parental leave is individual and **in principle** non-transferable in conformity with the Directive.

Further, in the United Kingdom, legislation provides for a transfer of parental leave in circumstances that may be, but as yet are not, specified in legislation.

In Germany, each parent has an entitlement of three years, up to the third birthday of the child. Parents who decide to take full-time parental leave to have one parent taking the whole period and the other working the whole time are not prevented from doing so. However, if parents decide to take part-time leave, both have to take some leave in order to use the full entitlement. Full-time parental leave is thus in fact transferable. Parents will not lose any leave if the mother takes up all the leave herself.

Details for Austria:

Fathers of children born before 31.12.1999 had a secondary access to parental leave ("deduced entitlement"), and gender-specific provisions apply to them:

Whereas mothers as well as fathers were required

- to live with the child in one household and
- to exclusively take care for her/him

under the social security regime,⁵ labour law provisions required explicitly the same for a father willing to take parental leave, but not for mothers.

A father is entitled to parental leave in two cases only:

- in case, the mother were entitled to [parental] „leave on the occasion of maternity [motherhood] on grounds of Austrian legal provisions“;⁶
- or, the mother is not entitled to parental leave, but prevented from child-care by (self-) employment.⁷

Provisions applying to parents of children born between 1.1.2000 and 31.12.2001 if they want to acquire parental leave from their employer.

⁵ cf Articles 26, 26a Arbeitslosenversicherungsgesetz 1977 as amended by Bundesgesetz 30.4.1996, BGBl 201.

⁶ Article 2 Paragraph 1 Ziffer 1 Eltern-Karenzurlaubsgesetz as amended by BGBl 1995/434 and BGBl 1 1997/61

⁷ Article 2 Paragraph 1 Ziffer 2 Eltern-Karenzurlaubsgesetz as amended by BGBl 1995/434 and BGBl 1 1997/61

Mothers as well as fathers must be

- living in the same household
- looking after the child as a main occupation

Nevertheless, for fathers there is one more explicit condition:

- the mother must not take parental simultaneously,
- or she is not entitled to parental leave at all.⁸

Though it can be stated that:

- insofar as the father is fully entitled to parental leave on an individual basis;
- the amendments of 1999 to the Parental Leave Act found an approach which better conforms to the Directive insofar as: Austrian legislation improved access to part-time leave for foster-parents and in cases of adoption;
- there may be objective reasons for differentiating between fathers and mothers,

It should be noted, that there are still specific provisions applying to fathers only and others which might not encourage fathers to take parental leave.

Fathers are obliged to give notice in case:

- they do not share the same household with the child,
- or do not take care of the child as main occupation.

In this case, their parental leave may end prematurely, and the employer is entitled to require he resume work immediately⁹ (similar provisions apply to the public sector¹⁰).

More decisive provisions discouraging fathers from taking parental leave might be found in the context of Point 5 (payment).

Nevertheless, in practice young parents do not understand why it is not possible to take parental leave simultaneously, especially when the baby has just arrived. Furthermore, fathers should be given the right to commence parental leave immediately after birth.¹¹

⁸ Article 2 Paragraph 1 Eltern-Karenzurlaubsgesetz as amended by BGBl 1999/153.

⁹ Article 3 Paragraph 5 l.c

¹⁰ Article 10 Paragraph 3 Eltern-Karenzurlaubsgesetz old = 10 Paragraph 4 Elternkarenzurlaubsgesetz as amended by BGBl 1999/153 applying to civil servants, teachers on agricultural schools, and contractual employees. Their parental leave will be turned into a „normal“ unpaid leave unless the employer requires them to resume work immediately.

¹¹ Article 2 Paragraph 2 EKUG

6. CONDITIONS/FORMALITIES

Clause 2(3) of the Framework Agreement on Parental Leave stipulates that the conditions of access and detailed rules for applying parental leave shall be defined by law and/or collective agreements in the Member States, as long as the minimum requirements of the Agreement are respected. Member States and/or management and labour may make entitlement to parental leave subject to a period of work qualification and/or a length of service qualification which shall not exceed one year, adjust conditions of access and detailed rules for applying parental leave to the special circumstances of adoption and establish notice periods.

Country	Notice period	Work and/or length of service qualification
Austria	8 weeks. (Premature, multiple or surgical delivery: 12 weeks) If an employee wishes to extend his/her leave, or if mother and father are taken parental leave alternatively: 3 months notice before the new part of the parental leave should begin promptly after adoption. Terms are at the disposal of the employer and the employee and can be altered by agreement.	No condition required. But for employees claiming benefits: 52 weeks employment during the last 24 months Special provision for parents of children born between 1/7/2000 and 6/8/2001: if one of the parents is on parental leave or has postponed it, he/she has a 3 months period to make a request for a parental leave until child's 2 nd birthday.
Belgium	3 months' written notice (subject to reduction by agreement with employer) Employee is required to propose how the leave should be taken when notice given. During month following notice, worker and employer agree on how leave to be taken. By default, parental leave commences on date anticipated in notice. Employee must provide documents proving birth or adoption at latest on beginning parental leave	In private sector. Employed for 12 of the 15 months preceding written notification. No qualification in public sector.
Denmark	4 weeks	Worked for same employer for at least 3 months. Act No 141 of 25 March 2002 amending the Equal Treatment Act, the Benefit Act and repealing the Child minding Leave Act. The new Act entered into force on the 27 th of March 2002 but has effect from the 1 st January 2002. For children born before the 1 st January 2002, the 'old' rules on parental leave and child-minding leave in the Equal Treatment Act, the Benefit Act and the Act on Childminding Leave apply. For children born between January 1, 2002 and March 27,

		<p>2002, the parents can choose between the old rules and the new rules.</p> <p>For children born after the 27th March 2002, only the new rules apply. Under the new rules the Act on Child-minding leave is abolished. Rules on child minding leave are now integrated into the rules on parental leave. There is no longer a separate child minding leave in addition to parental leave. In respect of Community law the new Act thus constitutes the Danish implementation of both the parental leave rules in the pregnancy directive (92/85/EEC) and the parental leave directive (96/34/EC).</p> <p>The failure to implement the Parental Leave Directive fully must be seen in connection with the disagreement that has existed for a period between Denmark and the Commission as to whether Danish collective agreements should be accepted as the sole instrument for implementing directives.</p>
Finland	2 months. On grounds of <i>force majeure</i> possible to change date (with at least one month's notice). Adoptive parents also required to give 2 months notice but, if justified, can change dates before leave begins by informing employer as soon as possible	
France	2 months (one month if parental leave follows maternity leave)	One year service
Germany	4 weeks	
Greece		<p><u>Public sector:</u></p> <p>No work or length of service qualifications in the civil service.</p> <p><u>Private sector:</u></p> <ul style="list-style-type: none"> • One year service with same employer, granted on basis of priority of those working in the firm for each calendar year • If parental leave claimed for other children in family, at least one year's employment must have been completed since end of previous period of parental leave. The other

		parent must work outside the home.
Ireland	6 weeks' written notice. Additionally, employee must confirm 4 weeks before leave due to begin, commencement date of leave, its duration and manner in which to be taken	One year continuous service. However, if at least 3 months' service, worker entitled to one week of parental leave for each month of service
Italy	Minimum 15 days, except where objectively impossible. Detailed rules may be set by collective agreement.	
Luxembourg	4 months	Requirement that worker has worked for at least one year preceding leave for same Luxembourg employer unless he has had to change employer for economic reasons for which he is not responsible, on condition that he has been legally employed for 12 months with same employer during course of 15 months prior to birth or adoption. Also requirement that employee works a specified minimum number of hours per month.
Netherlands	2 months' written notice	One year service
Portugal	10 days for parental leave 30 days for special leave	
Spain		No special conditions for the different modalities of parental leaves. But special conditions for those claiming the right to be remunerated during the 16 weeks after childbirth: to have already satisfied a minimal period of quote (to Social Security) of 180 days within the 5 years previous to the date of the childbirth or to the date of the administrative or judicial decision in case of adoption.
Sweden	2 months, but where not practicable, duty to give notice as early as possible	In service of employer either for preceding 6 months, or for not less than 12 months during preceding 2 years
United Kingdom	21 days	One year continuous employment

UNITED KINGDOM:

The UK provisions in many cases, constitute minimum conditions which come into effect only where employers and employees do not agree their own procedures for taking parental leave. They can do this by using workforce or collective agreements or through individual arrangements. Where these agreements have been concluded they apply, provided they are at least as good as the minimum (fall-back) provided in the legislation.

7. RESTRICTIONS AND SMALL FIRMS

Clause 2(3)(e) and (f) allow employers to postpone the granting of parental leave for justifiable reasons and allow special arrangements to meet the operational and organisational requirements of small firms. (In accordance with Commission Recommendation 96/280/EC of 3rd April 1996 on SMEs).

Few Member States have taken advantage of these provisions. A number of States require agreement between the employer and the employee as to the practical arrangements for taking leave, such as timing, reduced hours etc (for example, Denmark).

Country	Postponement of leave	Special arrangements for small firms
Belgium	For the reasons set out in Directive (seasonal work, difficulties in finding a replacement etc)	Small firms, (defined as those with under 50 employees) can make special arrangements for parental leave, and requests to take parental leave part-time must be agreed with employer
Denmark	For up to 26 weeks if the Employment Agency cannot provide replacement for employee on parental leave, or if employer does not want to employ replacement provided	
Ireland	For 6 months if granting of leave would have a substantial adverse effect on operation of the business	
Germany		Statutory right to claim parental leave part time restricted to employees whose employer employs more than 15 persons irrespective of trainees.
Luxembourg	Parental leave that must be taken immediately following maternity leave may not be postponed, but the second period of leave may be postponed for up to 2 months for the reasons set out in Directive	For firms with less than 15 employees, and in relation to seasonal work, employer can delay granting parental leave for up to 6 months
Portugal	<p>- Only in respect of part-time schemes <u>for care reasons that can go up to 2 or 3 years</u>, , employer may oppose leave for reasons relating to operation of the undertaking and if it is not feasible to replace employee , but the denial of the employee's request depends on a favourable opinion of the Commission for Equality on Employment and at Work</p> <p>- In <u>part-time schemes for care reasons, depending on the agreement between the employer and the employee</u>, naturally the employer can always refuse</p>	

UK	Employer may delay granting of parental leave if taking it at the time requested would unduly disrupt operation of the business. Employer must specify when the leave can be taken.	
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8. PROTECTION FROM DISMISSAL AND RIGHT TO RETURN

Clause 2(4) of the Framework Agreement on Parental Leave provides that, in order to ensure that workers can exercise their right to parental leave, Member States and/or management and labour shall take the necessary measures to protect workers against dismissal on the grounds of an application for, or the taking of, parental leave in accordance with national law, collective agreements or practices. Clause 2(5) provides that at the end of parental leave, workers shall have the right to return to the same job or, if that is not possible, to an equivalent or similar job consistent with their employment contract or relationship.

Country	Protection against dismissal	Right to return
<p>Austria</p>	<p>For 4 weeks following end of parental leave or period of part-time work. But:</p> <ul style="list-style-type: none"> • After the child's first birthday there is less protection • exception from protection of dismissal: if enterprise is closed 	<p><u>Private sector:</u></p> <p>The working contract as such is not interrupted and is being continued but the employee's obligation to work and the employer's obligation to pay salary is suspended. Employee has the right to return to the same or equivalent job. In practice there are difficulties especially for women to be reintegrated; when given notice, employee is entitled to an unemployment benefit (lessened requirements- less weeks of insurance)</p>
		<p><u>Public Sector:</u></p> <p>Women are protected from dismissal until 4 weeks after the termination of parental leave resp parental part-time work.</p> <p>However, dismissal of temporary (provisional) employment is possible on certain grounds (Civil Servants Act)</p> <ul style="list-style-type: none"> • after 4 months after protection against dismissal, the temporary (provisional) contract of employment of a civil servant may not be transformed into a permanent employment contract. • once the temporary contract turned permanent, the respective decision will have retroactive effect from the beginning of the protected period • permanent employment relationships of civil servants covered by the Civil Servants Act are not subject to termination

		regardless of sex.
		<p>For public employees with a private law contract of employment:</p> <ul style="list-style-type: none"> • during the 1st year of employment, dismissal with notice may be given any time without specific reasons (= private sector) • after the 1st year of employment, dismissal with notice may be given only on grounds provided for by the Contractual Employees Act
Belgium	<p>Two sets of provisions in private sector:</p> <ul style="list-style-type: none"> • 'ministerial' provisions (where parental leave occurs as part of career break scheme): no dismissal other than on serious grounds or for reasons unrelated to the leave from application until 3 months after end of leave. • 'social partner' provisions: almost identical except that protection ceases 2 months after end of leave and allows for fractioned leave. <p>In public sector, permanently appointed staff members may not be dismissed except for limited reasons</p>	<p>Right to return to same, or if not possible, equivalent or similar job</p> <p>Refusal to reinstate employee to same or equivalent job would be construed as constructive dismissal plus fixed damages equal to six months pay</p>
Denmark	Dismissal as result of parental leave forbidden	No express provision in legislation
Finland	Dismissal as result of parental leave forbidden	Right to return to same or equivalent job or (if no such work exists) to similar work in accordance with employment contract
France	Parental leave not legitimate reason for dismissal	Right to return to same or similar job with at least equivalent remuneration and, where techniques and working methods have changed, to receive professional training after end of parental leave
Germany	During parental leave and from the day of application for parental leave (if not more than eight weeks before parental leave begins) dismissal of the parent is subject to permission of state authorities for workplace safety. At end of parental leave, parent can only be dismissed with three months notice. In any case, dismissal for reason of taking parental leave is illegal.	Right to return to same or comparable job

Greece	Dismissal due to exercise of right to parental leave is null and void (the relevant legislative provision is not applicable to civil service, where constitutional guarantees against any unlawful dismissal, lowering in rank and prejudicial transfer are provided for all civil servants). Additionally, any direct or indirect discrimination against workers with family responsibilities, in respect of access to and retaining of employment and their professional evolution, is expressly prohibited by legislation, which covers those employed under a private law employment relationship. Moreover, unfavourable treatment of parent who make use of the reduced day is prohibited.	Right to return to same or similar, but not inferior, job (not applicable to civil service, where constitutional guarantees of security)
Ireland	Dismissal, wholly or mainly due to exercise or proposed exercise of right to parental leave is unfair.	Right to return to same, or if not reasonably practical, similar job
Italy	Dismissal for requesting or exercising right to parental leave is null and void.	Right to return to same or equivalent job
Luxembourg	Dismissal during parental leave or as from final day for prior notification of intention to take leave is null and void.	Right to return to same or similar job corresponding to worker's qualifications and at wage at least equivalent to that of former job
Netherlands	Employer must obtain permission from an administrative organisation to dismiss employee, and permission not given if dismissal linked to exercise of legal right such as right to parental leave	No specific right to return to same job unless provided for in individual employment contract. However, general employment law prohibits a change in the individual employment contract for reasons of leave-taking.
Portugal	Dismissal for requesting, taking or being entitled to parental leave or part-time work is unfair	Right to return to same job or to return to full-time work
Spain	Dismissal for requesting or taking parental leave is null and void	Right to return to same job within first year of parental leave. After first year right to return to job in same occupational group or equivalent category. Also entitlement to vocational training on return to work. In the case of reduction in the working day for care of children, no guarantee that employee may return to the working day enjoyed prior to reduction

Sweden	Dismissal only because the employee has requested or taken parental leave is invalid; if employee is in any event dismissed on notice or summarily, dismissal may be declared invalid at employee's request	Right to return to equivalent employment conditions and benefits, but only under the condition that the leave has not made changes in tasks and benefits necessary. Transfer to other tasks must be within the limits of the employment contract.
United Kingdom	Dismissal unfair where principle reason is that employee takes or seeks to take parental leave	At end of period of leave of up to 4 weeks, employee entitled to return to same job. Where parental leave longer than 4 weeks, employee entitled to return to same, or if not reasonably practicable, similar position. Variation on these provisions applies where parental leave immediately follows maternity leave

9. EMPLOYMENT RIGHTS & STATUS OF TIME ON PARENTAL LEAVE

Clause 2(6) of the Framework Agreement on Parental Leave states that rights acquired or in the process of being acquired by the worker on the date on which parental leave starts shall be maintained as they stand until the end of parental leave. At the end of parental leave, these rights, including any changes arising from national law, collective agreements or practice, shall apply. Clause 2(7) states that Member States and/or management and labour shall define the status of the employment contract or employment relationship for the period of parental leave. Clause 2(8) stipulates that all matters relating to social security are for consideration and determination by Member States according to national law, taking into account the importance of the continuity of the entitlements to social security cover under the different schemes, in particular health care.

Country	Comments
Austria	<p><u>Private Sector</u></p> <p>Time of parental leave - if nothing else is agreed – does not count for rights which are dependant to the duration of employment (seniority rights). However, 10 months at maximum of the first parental leave in an employment relationship will be taken into account to determine the period of notice for dismissal; to determine the period of sickness benefits and for the seniority rights for the duration of annual leave (vacation).</p> <p>More and more collective agreements in the private sector take the parental leave into account for the entitlement to redundancy pay (up to the maximum of 22 months: collective agreements of metal workers). However, the collective agreement which provides for the automatic advancement in the scheme of wages during parental leave is an exception.</p> <p>Entitlement to social security - in particular to health care - in general does not change. Pension scheme: Due to § 227a Social Security Act (Allgemeines Sozialversicherungsgesetz) times of de-facto and main caring for a child (in Austria) count as substitution times for the entitlement to a pension at maximum of 48 months.</p>
	<p><u>Public Sector:</u></p> <p>Agreements other than the principles laid down in <i>Mutterchutzgesetz</i> are not possible (unlike in private sector) .As a matter of principle, the status of official does not change during parental leave (the relationship between the official and the state formally ends with the official's death). Provision taking into account a period of ten months for the seniority rights applies. Time of parental leave- insofar federal legislation does not provide otherwise- are not to be taken into account for any entitlement depending on the duration of the employment (seniority rights). On the other hand, parental leave would not delay automatic advancement. Entitlement to social security - in particular to health care - in general does not change. Parental leave is taken into account for pension; the employee does not need to pay additional fees or contributions. -additional leave (maximum in total: 10 years) holds up advancement, but it is to be taken into account as period of service. Contractual employees: the whole parental leave is taken into account for seniority rights, additional leave to care for a child in the extent of 5% Private and public sector: working during parental leave to a minimum extent under the threshold does not stand against parental benefit for the same or a different employer. That is considered as a parallel working contract; if the employee does not come to work, that will not be accounted as a breach of the employment</p>

	<p>contract (the employee is allowed to "keep in touch" with the enterprise, according to the legislator's motives). Whereas contractual public employees can engage into that type of employment, it is not the case for certain groups of civil servants.</p> <p>Right to be informed: during parental leave, the employer should keep the employee informed about important on-goings in the enterprise especially concerning insolvency, formation, changes in the organisation (<i>lex imperfecta</i>).</p>
Belgium	<p>In private sector, employment contract remains in existence during leave although its execution is suspended. Acquired rights remain as essential conditions of the job in which the worker must be reinstated. Acquisition of new rights, especially concerning pay, largely covered by collective agreements. Parental leave gives no right to any social security allowance and entails a break in social security coverage → only in the "social partners" scheme</p> <p>In public sector, parental leave is assimilated to a period of service, but for contractual workers, no social security coverage → only in the "unpaid" scheme</p>
Denmark	Parental leave counts as a period of service when calculating seniority, but not for pension purposes.
Finland	Employment contract continues, although salary not paid. Parental leave counts for annual leave purposes and as a period of insurance for the calculation of retirement benefits (but application to private sector in doubt following decision of Insurance Court in December 2001).
France	Parental leave counts (at half time) for rights linked to seniority. For the calculation of retirement rights, the leave is counted as a period of insurance. All advantages acquired prior to start of leave are maintained. At end of parental leave workers are once again entitled to full rights to sickness, maternity, invalidity and death benefits.
Germany	Employment contract continues to exist during parental leave, although duties of work and salary are not in force. Parental leave is accredited for sickness and pension insurance purposes, without contributions being paid, but does not count for purposes of calculating unemployment benefit periods. Each month spent on parental leave reduces employee's annual leave entitlement by one twelfth.
Greece	Generally, parental leave counts as period of employment for all purposes, including calculation of annual leave and compensation in the case of redundancy. Employee must pay full social security contributions (both employee's and employer's) if he or she wishes to maintain social security cover during parental leave. However, extent to which parental leave counts as a period of service as well as medical coverage during leave for civil servants is unclear.
Ireland	Employee on parental leave is deemed to be in the employment of the employer and employment rights are regarded as continuing, apart from right to remuneration, superannuation benefits or any obligation to pay contributions. Such time off work is deemed to be continuous with the previous period of employment. When an employee is on leave, he/she may be credited as being in employment for the purposes of future social welfare entitlements. Time spent on parental leave does not affect entitlement to statutory annual leave and public holidays

Italy	Employment contract remains in existence during leave although its execution is suspended. Parental leave is taken into account in calculation of rights linked to seniority (but not for the payment of the "thirteenth month's pay"). Leave is fully credited for the purposes of social security contributions until child is 3 years old and for a maximum of 6 months. The employee continues to be covered by the national health system.
Luxembourg	Worker retains the benefit of all advantages acquired before the start of leave. Parental leave is taken into account in calculation of rights linked to seniority, is regarded as a <i>stage</i> period for purposes of social insurance and entitles the worker to full unemployment indemnity rights. However, parental leave does not give any right to annual leave. During parental leave employment contract is suspended.
Netherlands	Employment relationship continues, but no specific provision protecting acquired rights. Nevertheless, general employment law protects acquired rights.
Portugal	Suspension of rights, duties and safeguards of parties to employment relationship concerning the carrying out of work and pay. However, leave counts for purposes of rights relating for instance, to seniority, length of service and promotion. Leave is taken into account when calculating invalidity and old age pensions and has no adverse impact on entitlement to medical care.
Spain	Parental leave counts for length of service, and, in public sector only, for promotion. Acquired rights, or rights in the process of being acquired, are recognised insofar as concerns leave of absence to care for children. Contract is suspended during parental leave and obligations of worker to work and of employer to pay remuneration are annulled. Provisions exist to enable worker to maintain social security cover during periods of leave to care for a young child.
Sweden	An employee who requests or exercises right to leave is not required to accept reduced employment benefits or less favourable working conditions than those necessitated by the leave or any other transfer than that which may occur in context of the employment agreement and which is necessitated by the leave. Employment contract continues during parental leave. Leave counts for length of service.
United Kingdom	Employment contract continues during period of parental leave, although only certain terms and conditions relating to termination, redundancy and discipline and grievance procedures will apply. Rights relating to seniority and pensions acquired prior to start of leave are preserved. On returning to work, parent will benefit from any improvement in other terms and conditions (including those relating to pay).

10. TIME OFF ON GROUNDS OF *FORCE MAJEURE*

Clause 3(1) of the Framework Agreement on Parental Leave states that Member States and/or management and labour shall take the necessary measures to entitle workers to time off from work, in accordance with national legislation, collective agreements and/or practice, on grounds of *force majeure* for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable. Member States and/or management and labour may specify the conditions of access and detailed rules and limit the entitlement to a certain amount of time per year and/or per case: (clause 3(2)).

Country	Entitlement	Grounds
Austria	One week paid leave per year	to look after sick child or relative
	One further week per year	If childcare is necessary for a child under 12: -because the person looking after the child is prevented from doing so by death; because he's in hospital because he is in prison or arrested by authority or because he has a grave illness. The parent concerned is entitled to parental leave immediately after of the cases mentioned occurred, even if the other parent had taken parental leave previously; maximum until the child's 2 nd birthday. Additional requirement for fathers: living in the same household together with the child. - or if the other parent stops living in the same household as the child, or stop looking after the child for most of his/her time
	Up to 1 week for employees	Additional remarks: <ul style="list-style-type: none"> • Important personal reasons preventing from work • Employees ("Angestellte" as contrary to workers) are entitled to remuneration in case of a "relatively short prevention (hindrance) to work on grounds of important personal reasons "for which they cannot be held accountable". Courts have extended the applicability to: • "important personal reasons": getting a passport; taking exams for driving licence; medical examinations; baptisms; weddings; funerals (family or very close friend); any urgent case. • "a relatively short prevention" may cover a period of few hours up to one week.

		<p>In general, the provision will apply to any case in which the contractual obligation towards the employer will collide with a legal obligation to a 3rd person. This apply especially</p> <ul style="list-style-type: none"> • to parents: they are obliged to take care of their children • to a husband whose wife is giving or has been recently given birth; though there is no legal obligation, the same is valid for couples sharing an informal partnership
		Typical provisions in most Collective agreements are:
	1 day	When wife or partner is giving birth
	3 days	for marriage
	1-3 days	when moving
	at least 1 day	for funerals, etc.
Belgium	In private sector, 10 days leave per year (pro-rata for part-time workers)	On "imperious grounds", examples of which are set out in legislation and include illness, accident or hospitalisation of family member
	Staff in public sector entitled to leave of 15 days per year, which can rise to 30 days of "exceptional leave"	On "imperious grounds related to the family"
	Time off for "short periods"	If family member hospitalised
Denmark	Temporary time off work unpaid	<p>Where pressing reasons, such as illness or accident in family, making employee's presence at home urgently necessary</p> <p>This is only implemented in a number of collective agreements</p> <p>There is no legislation covering those employees who are not covered by a collective agreement containing a force majeure clause. Some 30 % of employees in the private sector are not covered by collective agreements in Denmark.</p>

Finland	Temporary time off work unpaid	On grounds of <i>force majeure</i> for urgent family reasons in cases of sickness or accident making immediate presence of employee indispensable
	Temporary time off work with maximum 4 days. According to some collective agreements 3 of the 4 days are paid. Seamen have same entitlement, on condition that they leave their vessel in port and return to it.	To care for sick child under age of 10, (the 4 days can be repeated if child is sick with different illness, or if different child is ill). If the other parent is at home and able to care for the sick child, the civil servant is not entitled to time off.
France	3 days leave per year	In case of illness or accident of child under 16 in employee's care (supported by medical certificate)
	However, 5 days leave per year	if child under one year old or if employee has 3 or more children under 16
	4 months (renewable twice)	if a reason exists (for example serious illness or serious disability or accident) which makes it impossible for an employee to work. Part-time possible.
	<p>If a reason exists (for example, serious illness or death of near relative or fatherhood) which makes it impossible for an employee to work for a relatively short time, s/he may stay at home. Collective agreements may set out more detailed arrangements concerning duration of leave. Leave paid in certain instances.</p> <p>Additionally, 5 days in the case of illness of child where parent is member of public health insurance scheme.</p> <p>In public sector : 4 months (renewable twice)</p>	If child under one year old or if employee has three or more children under 16

Germany	<p>10 days leave per parent per child (20 days for single parent). If more than one child, total maximum 25 days per parent (50 days for single parent) if parent covered by public health insurance. Leave paid by employer or public health insurance. Leave is granted irrespective of other persons being able to care for the child.</p> <p>Further, if an urgent reason exists (for example, serious illness of a child who has no one else, who can care for him) the employee may stay at home (right to "Child Sickness Leave"). Collective agreements may set out more detailed arrangements concerning duration of leave (some of them offering longer periods of leave if the child is seriously ill). Leave paid in certain instances.</p>	
Greece	6 days	For full time workers who have custody of one child and/or other dependent family members, in case of illness
	8 days	For full time workers who have custody of 2 or more children
	<p>12 days</p> <p>Additionally, full-time worker entitled to up to 4 days leave per year for school visits</p> <p>Parents employed in undertakings with at least 50 workers, who have mentally or physically handicapped children, may ask for their working day to be reduced by one hour, with a proportional pay reduction. Additionally, 2 days leave in case of death of spouse, children, parents, sisters or brothers.</p>	For full time workers who have custody of 3 or more children
Ireland	<p>Situation unclear in civil service</p> <p>The Code of Civil Servants provides nothing about force majeure cases, while Art. 53 thereof provides that employees shall be facilitated in respect of school visits, according to a ministerial decision which will fix the maximum number of days of absence, but such a ministerial decision has not yet been issued.</p>	For family emergencies caused by injury or illness, known as <i>force majeure</i> leave. Right to leave applies in the case of serious illness in respect of close relation or partner with whom employee is living as husband or wife.

Italy	3 days paid leave per year	In the case of death or serious and certified illness of partner or other family member
	Alternatively, employee may agree different working arrangements with employer.	In the case of illness cited above
	Additionally, up to 2 years unpaid leave, block or piecemeal (and not counted as actual work for the Pension System)	To deal with serious and certified family matter.
		Priority criteria to take up these leaves and the modalities to check periodically the existence of the requirements are set by a decree, while collective bargaining has to set up the modalities for the attendance of the vocational training addressed to people who go back to work after such leave.
	Each parent also has right (but not to be taken by each parent simultaneously) to: Unpaid leave 5 days leave per year Longer periods of leave provided	To look after sick child up to 3 years old To look after sick child up to 8 years old To take care of disabled child or other relative
Luxembourg	2 days (per child) per year special leave During leave, legal provisions concerning social security and employment protection, in particular protection against dismissal, continue to apply	For family reasons if child under 15 in employee's care, and in respect of whom family benefits are payable, suffers serious illness or accident or if some other imperious health reason requiring presence of one of the parents
Netherlands	Paid leave. No limitation in hours or days.	For urgent, personal reasons, such as the delivery of a baby, death of family member. For urgent care tasks (a sick family member), paid short term care leave with a maximum of twice the normal working hours a week per year is possible.
Portugal	30 days per year	To provide urgent, essential care in respect of child under 10 (no age limit where child disabled) who is ill or has suffered accident. If child hospitalised, entitlement to take time off work is extended to cover period of hospitalisation.

	15 days per year	To provide urgent, essential care in respect of child over 10, spouse or partner and other specified relatives in the event of sickness Absences from work are considered justified but are usually not paid and the right to a social benefit is quite uncertain
Spain	2 days (or 4 days if travelling involved)- advance notice and justification necessary	If accident or critical illness of child or relative
	Additionally, right to one year unpaid leave or reduction of working hours of between half and third (with proportionate reduction in salary) ¹²	To take care of relative who for reasons of age, accident or disease cannot care for themselves
Sweden	An employee is entitled to parental leave to care for a sick child under the age of 12, with a maximum of 60 days a year per child. Employee entitled to time off work on grounds of <i>force majeure</i> for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable.	
United Kingdom	A reasonable amount of time off work	To deal with domestic incident such as sudden illness or accident of dependant or to make arrangements for looking after children due to sudden illness or incapacity of normal carer. Term "dependant" widely defined to include persons other than members of employee's family.

Remarks for Denmark:

There is no statutory provision to implement the force majeure clause in the Parental Leave Directive in the new Danish legislation on parental leave, which has just been passed. Denmark is thus still failing to fulfil its obligation to implement the clause on force majeure for family reasons correctly.

¹² Art. 46.4 del Estatuto de los Trabajadores, en la redacción dada por la Ley 39/1999 de 5 de noviembre (BOE 6.11.1999)

Remarks for Germany:

Parental leave in Germany is still taken by mothers in 95 % of cases. The main reasons for this are that leave is very long and in practice fully transferable between parents if not taken part time. Part time Parental leave is restricted and not yet very well accepted. There is no adequate income supplement for parental leavers - the "Erziehungsgeld" still being the equivalent of 900 Marks maximum. This leaves most families no other choice than opting for parental leave of the spouse earning the lower wage.

Remarks for Austria:

For employees of the private sector there is no flexible provision such as for civil servants. If employees' children (in the private sector) are sick and their parents need to look after them for more than two weeks per year then the parents must use their holiday entitlement for this purpose.

On the other hand, in practice, employees are highly dependent on informal factors (personal relation to the employer; general "climate" in their corporation) if they wish to make use of relatively better provisions applying to them.

ANNEX I

LIST OF IMPLEMENTING MEASURES

Belgium:

1. Convention collective de travail n 64 du Conseil National du Travail instituant un droit au congé parental du 29/04/1997 rendue obligatoire par l'A.R. du 29 octobre 1997.
2. Arrêté Royal du 10 août 1998 modifiant l'Arrêté Royal du 29 octobre 1997 relatif à l'introduction d'un droit au congé parental dans le cadre d'une interruption de carrière.

Denmark:

1. Lov om orlov jf. Lovbekndtgorelse nr.4 af 4 januar 1999 (Leave Act Consolidating Act N° 4 of 4 January 1999).
2. Bekendgørelse N°48 af 26 januar 1998(Order N°48 of 26 January 1998on training , sabbatical and child care leave.
3. In the Private sector: Agreement between the Danish Federation of t_Trade Unions (LO) and the Danish Employer's Confederation (DA), dated 3 June 1999, on implementation of Parental Leave Directive
4. In the Public sector: Agreement between the Finance Ministry and the central organisations and the Finance Ministry circular, dated 17 March 1997
5. In the sea transport sector abil has been tabled to implement §3 of the Directive. Bill amending the Seafarers Act of 13 October 1999

Germany:

1. BErzGG December 2000
2. Gesetz über die Gewährung von Erziehungsgeld und Erziehungsurlaub (Bundeserziehungsgeldgesetz - BErzGG), in der Fassung der Bekanntmachung vom 31/01/1994 (BGBl. I S. 180), zuletzt geändert durch Gesetz vom 24/03/1997 ref : Bundesgesetzblatt Teil I vom 24/03/1997 Seite 594
3. Gesetz über die Gewährung von Erziehungsgeld und zur Elternzeit (Bundeserziehungsgeldgesetz) in der Fassung der Bekanntmachung vom 7. Dezember 2001, BGBl. I, Nr. 65, S. 3358

Greece:

1. Law n° 1483/1984 of 5 October 1984, FEK A numéro 153 of 08/10/1984 [Attention: since law 2639/1998 has modified only art. 5(1) of law 1483/1984, this means that the other provisions of law 1483 are still in effect].
2. FEK A n° 205 du 02/09/1998

3. Law n° 2683/1999 (Code of Civil Servants), FEK A número 19 of 09/02/1999.
4. Decree n° 193/1988, FEK A n° 84 of 06/05/1988.

Note : It is not clear to whom Decree 193/1988 applies nowadays. It is probable that it applies a) to persons who are employed by the State, legal persons governed by public law and local authorities under a fixed term contract and b) to civil servants of local authorities.

5. Law n° 2639/1998 of 2 September 1998 Article 25 modifying Art 5(1) of law n° 1483/84

Remark: The Ministry of Labour is not competent for civil servants and personnel of legal persons governed by public law, which form a large part of employees in Greece. Therefore, they we have only half the picture regarding the situation in Greece as the specific legislation that covers these employees is not mentioned. this applies to all information on employment and social security in Greece.

Spain:

1. Real Decreto 1251/2001, de 16 de noviembre (BOE 17.11.2001), por el que se regulan las prestaciones económicas del sistema de la Seguridad Social por maternidad y riesgo durante el embarazo
2. Ley 39/1999 de 5 de noviembre, de conciliación de la vida familiar y laboral de las personas trabajadoras (BOE 6.11.1999)
3. Real Decreto Legislativo 1/1995, de 24 de marzo, por el que se aprueba el texto refundido de la Ley del Estatuto de los Trabajadores, Boletín Oficial del Estado de número 75 de 29/03/1995 Página 9654 (Marginal 7730)
4. Ley 30/1984, de 30 de agosto, de medidas para la reforma de la Función Pública, Boletín Oficial del Estado número 185 de 03/08/1984 Página 3367 (Marginal 17387)
5. Ley 66/1997, de 30 de diciembre, de Medidas Fiscales, Administrativas y del Orden Social, Boletín Oficial del Estado número 313 de 31/12/1997 Página 38517 (Marginal 28053)
6. Ley 4/1995, de 23 de marzo, de regulación del permiso parental y por maternidad, Boletín Oficial del Estado número 71 de 24/3/1995 Página 9211 (Marginal 7242)
7. Real Decreto Legislativo 1/1994, de 20 de junio, por el que se aprueba el Texto Refundido de la Ley General de la Seguridad Social, Boletín Oficial del Estado número 154 de 29/6/1994 Página 20658 (Marginal 14960)
8. Real Decreto número 356/91 de 15/03/1991, por el que se desarrolla, en materia de prestaciones por hijo a cargo, la Ley 26/1990, de 20 de diciembre, por la que se establecen en la Seguridad Social prestaciones no contributivas, Boletín Oficial del Estado de 21/03/1991

9. Real Decreto número 356/91 de 15/03/1991, por el que se desarrolla, en materia de pensiones no contributivas la Ley 26/1990, de 20 de diciembre, por la que se establecen en la Seguridad Social prestaciones no contributivas, Boletín Oficial del Estado de 21/03/1991
10. Orden de 18 de julio de 1991, por la que se regula el Convenio Especial en el Sistema de la Seguridad Social, Boletín Oficial del Estado de 30/7/91

France:

In the private sector:

1. Code du travail, Articles L 122-28-1 to L 122-32. Code de la Sécurité sociale Article L.351-4 et 5
2. Loi n°84-9 de janvier 1984 (aviation civile et armement maritime).

In the public sector:

1. Loi du 25.07.1994 (n°94-629) complétée par la loi du 16.12.1996 (n°96-1093) relative au congé parental après l'adoption d'un enfant.
2. Décret n° 85-986 du 16 septembre 1985 modifié par le décret 2002-684 du 30 avril 2002. : article 52 à 58. JO 2 mai 2002.

Ireland:

1. Parental Leave Act, 1998 of 3 December 1998
2. Parental Leave (Notice of *Force Majeure* Leave) Regulations, 1998 (SI No. 454 of 1998)
3. Parental Leave (Disputes and Appeals) Regulations, 1999 (SI No. 6 of 1999)
4. Parental Leave (Maximum Compensation) Regulations, 1999 (SI No. 34 of 1999)
5. European Communities (Parental Leave) Regulations, 2000 (SI No. 231 of 2000)

Italy:

1. Legge 8 Marzo 2000 N°53 Disposizioni per il sostegno della maternita' e della paternita', per il diritto alla cura e alla formazione e per il coordinamento dei tempi delle citta'
2. D.L.gs 26 Marzo 2001 N° 151 Testo unico delle disposizioni legislative in materia di tutela e sostegno della maternita' e della paternita', a norma dell'articolo 15 della legge 8 marzo 2000, n. 53

Luxembourg:

1. Loi du 12 février 1999 concernant la mise en oeuvre du plan d'action national en faveur de l'emploi 1998.

Netherlands:

1. Wet van 16 november 2001 tot vaststelling van regels voor het tot stand brengen van een nieuw evenwicht tussen arbeid en zorg in de ruimste zin (Wet arbeid en zorg). Chapter 6 of this new Act deals with parental leave. Staatsblad 2001, 567 and 568
2. Wet van 25 juni 1997 tot wijziging van titel 7.10 (arbeidsovereenkomst) van het Burgerlijk Wetboek met betrekking tot het ouderschapsverlof", Staatsblad 1997, 266.
3. Besluit van 25 juni 1997 tot vaststelling van het tijdstip van inwerkingtreding van de Wet van 25 juni 1997 tot wijziging van titel 7.10 (arbeidsovereenkomst) van het Burgerlijk Wetboek met betrekking tot het ouderschapsverlof", Staatsblad 1997, 267.

Austria:

1. Landesgesetz vom 04/11/1993 über die Regelung des Eltern-Karenzurlaubes (O.ö. Eltern-Karenzurlaubsgesetz - O.ö. EKUG), Landesgesetzblatt für Oberösterreich Nr. 123
2. Verordnung der o.ö. Landesregierung vom 15/09/1997 zur Bekämpfung von Nelkenwicklern, Landesgesetzblatt für Oberösterreich, Nr. 122/1997, ausgegeben und versendet am 24/10/1997
3. Landesgesetz vom 29/02/1996, mit dem das O.ö. Landesbeamtengesetz 1993, das als Landesgesetz geltende Gehaltsgesetz 1956, das O.ö. Landes-Vertragsbedienstetengesetz, das Landesbeamten-Pensionsgesetz, das O.ö. Mutterschutzgesetz und das O.ö. Karenzurlaubsgeldgesetz geändert und Bestimmungen über das Ausmaß der Lehrverpflichtung für Vertragslehrer an Musikschulen der o.ö. Gemeinden erlassen werden (O.ö. Dienstrechtsänderungsgesetz 1996), Landesgesetzblatt für Oberösterreich, Nr. 37/1996 , ausgegeben und versendet am 15/05/1996
4. Landesgesetz vom 03/12/1993 über das Dienstrecht der Beamten des Landes Oberösterreich (O.ö. Landesbeamtengesetz 1993 - O.ö. LBG), Landesgesetzblatt für Oberösterreich, Nr. 11/1994, zuletzt geändert durch 83/1996
5. Landesgesetz vom 3. Dezember 1993 über das Dienstrecht der Vertragsbediensteten des Landes Oberösterreich (O.ö. Landes Vertragsbedienstetengesetz - O.ö. LVBG), Landesgesetzblatt für Oberösterreich, Nr. 10/1994
6. Mutterschutzgesetz BGBl 1979/221 idF BGBl 1980/409, 1980/577, 1984/213, 1986/563, 1989/651, 1990/76, 1990/408, 1990/450, 1991/277, 1991/628, 1992/315, 1992/833, 1993/257, 1995/434, I 1997/9, I 1997/61, I 1998/70, I 1998/123, I 1999/70, I 1999/153, I 2001/98 und I 2001/103
7. Bundesgesetz vom 07/07/1976 betreffend die Vereinheitlichung des Urlaubsrechtes und die Einführung einer Pflegefreistellung, Bundesgesetzblatt für die Republik Österreich, Nr. 390/1976 idF 832/1995

8. Bundesgesetz vom 12/12/1989 mit dem ein Karenzurlaub für Väter geschaffen (Eltern-Karenzurlaubsgesetz - EKUG) und das Mutterschutzgesetz 1979, das Angestelltengesetz, das Gutsangestelltengesetz, das Landarbeitergesetz 1984, das Arbeitslosenversicherungsgesetz 1977, das Allgemeine Sozialversicherungsgesetz, das Karenzurlaubsgeldgesetz, das Beamten-Dienstrechtsgesetz 1979, das Gehaltsgesetz 1956, das Pensionsgesetz 1965, das Vertragsbedienstetengesetz 1948, die Bundesforste-Dienstordnung 1986, das Land- und Forstarbeiterdienstrechtsgesetz, das Landeslehrerdienstrechtsgesetz 1984 und das Land- und forstwirtschaftliche Landeslehrer-Dienstrechtsgesetz 1985 geändert werden, Bundesgesetzblatt für die Republik Österreich, Nr. 651/1989 idF 434/1995
9. Bundesgesetz, Änderung mit dem das Landarbeitsgesetzes 1984. ref: BGBl 07/07/2000 p.625 - SG(2000)A/14169
10. Landarbeitsordnungs-Novelle 2000 ref: LGBL nr 53 - SG(2000)A/13454
11. Landesgesetz, mit dem das Oö. Landes-Gehaltsgesetz, das Oö. Landesbeamten-Pensionsgesetz, das Oö. Objektivierungsgesetz, das Oö. Mutterschutzgesetz, das Oö. Landesbediensteten-Schutzgesetz 1998, das Oö. Land- und forstwirtschaftliche Landeslehrer-Diensthoheitsgesetz 1988, das Oö. Land- und forstwirtschaftliche Landeslehrer-Diensthoheitsgesetz 1988, das Oö. Landes-Personalvertretungsgesetz und das Oö. Nebengebühreuzulagengesetz geändert werden (Oö. Dienstrechtsänderungsgesetz 2000) ref : LGBL. Nr 24/2001, 20 Stück, 30/03/2001, seite 75; SG(2001)A/5408 du 10/05/2001
12. NÖ Gemeindebeamtendienstordnung 1976 (GBDO 1976) ref : LGBL. für das Land Niederösterreich 2400-37; SG(2001)A/6064 du 29/05/2001
13. Dienstpragmatik der Landesbeamten 1972 (DPL 1972) ref : LGBL. für das Land Niederösterreich 2200-51; SG(2001)A/6063 du 29/05/2001
14. Gesetz mit dem die Kärntner Landarbeitsordnung 1995 geändert wird LGBL. nr. 79/2001 ref: LGBL. für Kärnten 23/11/1995, 43. Stück, seite 335; SG(2001) A/12755 du 22/11/2001
15. Bundesgesetz vom 7.8.2001, mit dem ein Kinderbetreuungsgeldgesetz erlassen wird sowie das Familienlastenausgleichsgesetz 1987, das Allgemeine Sozialversicherungsgesetz, das Gewerbliche Sozialversicherungsgesetz, das Bauern-Sozialversicherungsgesetz, das Beamten-Kranken- und Unfallversicherungsgesetz, das Mutterschutzgesetz 1979, das Eltern-Karenzurlaubsgesetz, das Landarbeitsgesetz 1984, das Karenzgeldgesetz, das Arbeitslosenversicherungsgesetz 1977, das Arbeitsmarktpolitik-Finanzierungsgesetz, das Überbrückungshilfengesetz, das Karenzurlaubsgeldgesetz und die Exekutionsordnung geändert werden, Bundesgesetzblatt Teil I Nr. 103 (BGBl I 2001/103)
16. Bundesgesetz, mit dem Karenz für Väter geschaffen wird (Väter-Karenzgesetz - VKG), BGBl 1989/651 idF BGBl 1990/299, 1990/408, 1990/450, 1991/277, 1992/315, 1992/833, 1994/665, 1995/434, I 1997/61, I 1998/70, I 1998/123, I 1999/153, I 2000/6 und I 2001/103 [bis 7.8.2001: „Eltern-Karenzurlaubsgesetz (EKUG)“]

17. Familienlastenausgleichsgesetz (FLAG): Bundesgesetz vom 24. 10. 1967, BGBl. Nr. 376, betreffend den Familienlastenausgleich, zuletzt geändert durch BGBl I 2001/103
18. Verordnung der Bundesministerin für Gesundheit und Konsumentenschutz über die Festlegung eines Mutter-Kind-Paß-Untersuchungsprogrammes, die Voraussetzungen zur Erlangung des Mutter-Kind-Paß-Bonusses sowie über den Mutter-Kind-Paß (Mutter-Kind-Paß-Verordnung – MuKiPaßV), BGBl II 1997/24 (in Force until 31.12.2001)
19. Allgemeines Sozialversicherungsgesetz (ASVG) BGBl 1955, zuletzt geändert durch BGBl I 2001/99 und 2001/103
20. Arbeitslosenversicherungsgesetz 1977 (AIVG), BGBl 1994/315, zuletzt geändert durch BGBl 2001/47 und BGBl 2001/103
22. Heimarbeitsgesetz 1960, BGBl 1961/105 idGF 21. - Hausgehilfen- and Hausangestelltengesetz, BGBl 1962/235 idGF
23. Bundes-Verfassungsgesetz (B-VG), Gesetz vom 1. Oktober 1920, womit die Republik Österreich als Bundesstaat eingerichtet wird (Bundes-Verfassungsgesetz), Staatsgesetzblatt Nr. 450, in der geltenden Fassung
24. Bundesgesetz über vom 31. Mai 1967, BGBl. Nr. 200, über die Kranken- und Unfallversicherung öffentlich Bediensteter (BKUVG) idF BGBl I 2001/102
25. Bundesgesetz über das Karenzgeld (Karenzgeldgesetz – KGG), BGBl I 1997/47 idF BGBl I 1997/139, I 1998/6, I 1998/30, I 1998/148, I 2000/142 und BGBl I 2001/103
26. Bundesgesetz vom 27. Juni 1974, BGBl. Nr. 395, über Geldleistungen an öffentlich Bedienstete während des Karenzurlaubes aus Anlass der Mutterschaft, zuletzt geändert durch BGBl I 2001/103
27. Vertragsbedienstetengesetz 1948, BGBl 1948/86, zuletzt geändert durch BGBl I 2000/94
28. Beamten-Dienstrechtsgesetz 1979, BGBl 1979/333, zuletzt geändert durch BGBl I 2000/94
29. Angestelltengesetz 1921, BGBl 1921/292 idGF, zuletzt geändert durch BGBl I 2000/44
30. Bundesgesetz vom 7. Juli 1976 betreffend die Vereinheitlichung des Urlaubsrechtes und die Einführung einer Pflegefreistellung (Urlaubsgesetz 1976), BGBl 1976/390, zuletzt geändert durch BGBl I 2001/7

Länder (public sector)

Burgenland

1. Gesetz vom 20. November 1997 über das Dienstrecht der Landesbeamten (Burgenländisches Landesbeamten-Dienstrechtsgesetz 1997), LGBl Bgld 1998/17 idF LGBl Bgld 2000/38
2. Gesetz vom 1. Oktober 1985 über das Dienstrecht der Vertragsbediensteten des Landes (Landesvertragsbedienstetengesetz 1985), LGBl Bgld 1985/49 idF LGBl Bgld 2000/39
3. Gesetz vom 20. Dezember 1971 über das Dienstrecht der Beamten und Vertragsbediensteten der Gmeinden (Gemeindebedienstetengesetz 1971), LGBl Bgld 1971/13 idF LGBl Bgld 1996/54

Kärnten (Carinthia)

1. Gesetz vom 7. November 1991 über den Mutterschutz und den Karenzurlaub (K-MUG), LGBl Ktn 1992/9 idF LGBl Ktn 1997/73
2. Gemeindebedienstetengesetz, Wiederverlautbarung LGBl Ktn 1992/56 idF LGBl Ktn 1998/76
3. Stadtbeamtenengesetz 1993, LGBl Ktn 1993/115, zuletzt geändert durch LGBl Ktn LGBl 1998/71

Niederösterreich (Lower Austria)

1. NÖ Mutterschutz-Landesgesetz, Wiederverlautbarung vom 18. Dezember 1975, LGBl NÖ 2039-0, zuletzt geändert durch LGBl NÖ 2039-6
2. NÖ Eltern-Karenzurlaubsgesetz (NÖ EKUG), LGBl NÖ 2050 idF LGBl NÖ 2050-1
3. Gesetz vom 15. Mai 1975 über die Gewährung eines Karenzurlaubsgeldes aus Anlaß der Mutterschaft (NÖ Karenzurlaubsgeldgesetz 1975), LGBl NÖ 2040 idF LGBl NÖ 2040-8

Oberösterreich (Upper Austria)

1. Landesgesetz vom 4. November 1993 über den Mutterschutz der in einem öffentlich-rechtlichen Dienstverhältnis zum Land Oberösterreich stehenden Dienstnehmerinnen (OÖ Mutterschutzgesetz – OÖ MSchG), LGBl OÖ 1993/122
2. Landesgesetz vom 4. November 1993 über die Regelung des Eltern-Karenzurlaubs (OÖ Eltern-Karenzurlaubsgesetz – OÖ EKUG), LGBl OÖ 1993/123
3. Landesgesetz vom 4. November 1993 über die Ansprüche der Geldleistungen aus Anlaß der Mutterschaft (OÖ Karenzurlaubsgeldgesetz – OÖ KUG), LGBl OÖ 1993/68

Salzburg

1. Salzburger Landesbeamtengesetz 1986, Wiederverlautbarung vom 15. Dezember 1986, LGBl Sbg 1987/1, zuletzt geändert durch LGBl Sbg 2000/3 und 2001/17
2. Salzburger Landesvertragsbedienstetengesetz 2000, LGBl Sbg 2000/4 idF LGBl Sbg 2001/17
3. Salzburger Gemeindebeamtengesetz 1968, Wiederverlautbarung vom 12. Februar 1968, LGBl Sbg 1968/27, zuletzt geändert durch die Novelle LGBl Sbg 2000/7
4. Salzburger Gemeindevertragsbedienstetengesetz 1968, Wiederverlautbarung vom 14. März 1968, LGBl Sbg Nr 31, zuletzt geändert durch die Novelle LGBl Sbg 2000/7
5. Salzburger Magistratsbeamtengesetz 1981, Wiederverlautbarung vom 6. Mai 1981, LGBl Sbg 1981/42, zuletzt geändert durch die Novelle LGBl Sbg 2000/7

Steiermark (Styria)

1. Gesetz vom 3. Juli 1974 über das Dienstrecht der Landesbeamten (Steiermärkisches Landesbeamtengesetz), LGBl Stmk 1974/124, zuletzt geändert durch die Novelle LGBl Stmk 2000/40
2. Gesetz vom 24. September 1996, mit dem das Steiermärkische Landesbeamtengesetz geändert wird (4. Landesbeamtengesetz-Novelle 1996), LGBl Stmk 1997/2 idF LGBl Stmk 1998/44
3. Gesetz vom 3. Juli 1974 über das Dienstrecht der Landesvertragsbediensteten (Steiermärkisches Landesvertragsbedienstetengesetz), LGBl Stmk 1974/125 idF LGBl Stmk 2000/40
4. Gesetz vom 23. Mai 1957 über den Mutterschutz von Dienstnehmerinnen der steirischen Gemeinden, auf die das Mutterschutzgesetz, BGBl 1957/76, keine Anwendung findet, LGBl Stmk 1957/42, zuletzt geändert durch die Novelle LGBl Stmk 1975/65
5. Gesetz vom 4. Februar 1957 betreffend die Dienstordnung der öffentlich-rechtlichen Bediensteten der steirischen Gemeinden mit Ausnahme der Städte mit eigenem Statut (Gemeindebedienstetengesetz 1957), LGBl Stmk 1957/34, zuletzt geändert durch die Novelle LGBl Stmk 2000/1
6. Steiermärkisches Gemeinde-Vertragsbedienstetengesetz 1962, Wiederverlautbarung vom 24. September 1962, LGBl Stmk 1962/160, zuletzt geändert durch die Novelle LGBl Stmk 1995/15
7. Dienst- und Gehaltsordnung der Beamten der Landeshauptstadt Graz 1956, LGBl Stmk 1957/30, zuletzt geändert durch die Novelle LGBl Stmk 1996/46
8. Gesetz vom 5. März 1974 über das Dienst- und Gehaltsrecht der Vertragsbediensteten der Landeshauptstadt Graz (Grazer Gemeindevertragsbedienstetengesetz), LGBl Stmk 1974/30, zuletzt geändert durch die Novelle LGBl Stmk 1995/14

Tirol

1. Tiroler Mutterschutzgesetz 1998, Wiederverlautbarung vom 29.9.1998, LGBl Tir 1998/86 idF LGBl Tir 2000/43
2. Tiroler Elternkarenzurlaubsgesetz, Wiederverlautbarung LGBl Tir 1998/87 idF LGBl Tir 2000/46
3. Tiroler Karenzurlaubsgeldgesetz 1998, Wiederverlautbarung vom 29.9.1998, LGBl Tir 1998/88 idF LGBl Tir 2000/47
4. Tiroler Gemeindebeamten-Kranken- und Unfallfürsorgegesetz 1998 (GKUFG 1998), Wiederverlautbarung vom 27.10.1998, LGBl Tir 1998/98 idF LGBl Tir 1999/42

Vorarlberg

1. Gesetz über das Dienstrecht der Landesbediensteten (Landesbedienstetengesetz 2000 – LBedG 2000), LGBl Vbg 2000/50 idF LGBl 2001/15

Wien (Vienna)

1. Gesetz über das Dienstrecht der Beamten der Bundeshauptstadt Wien (Dienstordnung 1994 – DO 1994), LGBl W 1994/56 idF LGBl W 2000/51
2. Gesetz über das Besoldungsrecht der Beamten der Bundeshauptstadt Wien (Besoldungsordnung 1994 – BO 1994), LGBl W 1994/55 idF LGBl W 2000/51
3. Gesetz über das Dienstrecht der Vertragsbediensteten der Gemeinde Wien (Vertragsbedienstetenordnung 1995 – VBO 1995), LGBl W 1995/50 idF LGBl W 2000/51
4. Wiener Karenzurlaubszuschußgesetz, LGBl W 1998/19

Agricultural Sector

1. Landarbeitsgesetz, BGBl 1984/287, Wiederverlautbarung vom 9.7.1984, zuletzt geändert durch BGBl I 2000/40 und I 2001/103 (Grundsatzgesetzgebung des Bundes)
2. Landarbeitsordnungen der Länder o.A.

Portugal:

1. Lei n.º 4/84 de 05/04/1984. Protecção da maternidade e da paternidade ref : Diário da República I Série n.º 81 de 05/04/1984 Página 1149
2. Lei n.º 17/95 de 09/06/1995. Altera a Lei n.º 4/84, de 5 de Abril (protecção da maternidade e da paternidade ref : Diário da República I Série A n.º 134 de 09/06/1995 Página 3754
3. Lei n.º 18/98 de 28/04/1998. Alargamento da protecção à maternidade e paternidade (altera a Lei n.º 4/84, de 5 de abril, alterada pela Lei n.º 17/95, de 9 de Junho) ref : Diário da República I Série A n.º 98 de 28/04/1998 Página 1888

4. Decreto-lei n.º 136/85 de 03/05/1985. Regulamenta a Lei n.º 4/84, de 5 de Abril (protecção da maternidade e da paternidade) ref : Diário da República I Série n.º 101 de 03/05/1985 Página 1161
5. Decreto-lei n.º 64-A/89 de 27/02/1989. Aprova o regime jurídico da cessação do contrato individual de trabalho, incluindo às condições de celebração e caducidade do contrato de trabalho a termo), ref : Diário da República I Série A n.º 48 (2º Suplemento) de 27/02/1989 Página 862-(4)
6. Decreto-lei n.º 272/81 de 30/09/1981, Diário da República I Série n.º 225 de 30/09/1981 Página 2614-(2)
7. Decreto-lei n.º 874/76 de 28/12/1976. Define o regime jurídico de férias feridos e faltas ref : Diário da República I Série n.º 300 Página 2856
8. Nota n.º 25/98 do Ministério do Trabalho e da Solidariedade. Identificação das disposições da legislação nacional que dão cumprimento à Directiva 96/34/CE, do Conselho relativa à licença parental
9. Decreto-lei n.º 333/95 de 23/12/1995, Diário da República I Série A n.º 295 de 23/12/1995 Página 8074
10. Maternity and Paternity Law (latest version) - Decree-Law 230/2000, from the 23 September

Finland:

1. Työsopimuslaki/Lag om arbetsavtal (320/70) 30/04/1970
2. Merimieslaki/Sjömanslag (423/78) 07/06/1978
3. Sairausvakuutuslaki/Sjukförsäkringslag (364/63) 04/07/1963
4. Vuosilomalaki/Semesterlag (272/73)
5. Merimiesten vuosilomalaki/Semesterlag för sjömän (433/84) 01/06/1984
6. Asetus valtion virkamiesten vuosilomasta/Förordning om semester för statens tjänstemän (692/92)
7. Laki kunnallisen viranhaltijan palvelussuhdeturvasta/Lag om kommunala tjänsteinnehavares anställningstrygghet (484/96) 28/06/1996
8. Valtion virkamieslaki/Statstjänstemannalag (750/93) 19/08/1994
9. Valtion yleinen virkaehtosopimus (tarkentava virkaehtosopimus 19/05/1998)
10. Kunnallinen yleinen virka- ja työehtosopimus
11. Laki merimieslain muuttamisesta/Lag om ändring av sjömanslagen (26/99) 22/01/1999
12. Kunnallinen virkaehtosopimus (uudistetut virkaehtosopimusmääräykset perhevapaista 1998).

13. Kirkon virka- ja työehtosopimukset (uudistetut määräykset perhevapaista 1998)

Sweden:

1. Föräldraledighetslag, Svensk författningssamling (SFS) 1995:584
2. Lag om allmän försäkring, Svensk författningssamling (SFS) 1962 :381
3. Lag om ersättning och ledighet för närståendevård, Svensk författningssamling (SFS) 1988 :1465

United Kingdom:

Amendment N° 1 Regulations 2001 to Maternity and Parental Leave Amendment N° 2 Regulations (Northern Ireland) 2002 of 5 April 2002 to Maternity and Parental Leave.

ANNEX II

Official Journal L 145 , 19/06/1996 p. 0004 - 0009

COUNCIL DIRECTIVE 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Agreement on social policy, annexed to the Protocol (No 14) on social policy, annexed to the Treaty establishing the European Community, and in particular Article 4 (2) thereof,

Having regard to the proposal from the Commission,

(1) Whereas on the basis of the Protocol on social policy, the Member States, with the exception of the United Kingdom of Great Britain and Northern Ireland, (hereinafter referred to as 'the Member States'), wishing to pursue the course mapped out by the 1989 Social Charter have concluded an Agreement on social policy amongst themselves;

(2) Whereas management and labour may, in accordance with Article 4 (2) of the Agreement on social policy, request jointly that agreements at Community level be implemented by a Council decision on a proposal from the Commission;

(3) Whereas paragraph 16 of the Community Charter of the Fundamental Social Rights of Workers on equal treatment for men and women provides, inter alia, that 'measures should also be developed enabling men and women to reconcile their occupational and family obligations';

(4) Whereas the Council, despite the existence of a broad consensus, has not been able to act on the proposal for a Directive on parental leave for family reasons (1), as amended (2) on 15 November 1984;

(5) Whereas the Commission, in accordance with Article 3 (2) of the Agreement on social policy, consulted management and labour on the possible direction of Community action with regard to reconciling working and family life;

(6) Whereas the Commission, considering after such consultation that Community action was desirable, once again consulted management and labour on the substance of the envisaged proposal in accordance with Article 3 (3) of the said Agreement;

(7) Whereas the general cross-industry organisations (UNICE, CEEP and the ETUC) informed the Commission in their joint letter of 5 July 1995 of their desire to initiate the procedure provided for by Article 4 of the said Agreement;

(8) Whereas the said cross-industry organisations concluded, on 14 December 1995, a framework agreement on parental leave; whereas they have forwarded to the Commission their joint request to implement this framework agreement by a Council Decision on a proposal from the Commission in accordance with Article 4 (2) of the said Agreement;

(9) Whereas the Council, in its Resolution of 6 December 1994 on certain aspects for a European Union social policy; a contribution to economic and social convergence in the Union (3), asked the two sides of industry to make use of the possibilities for concluding agreements, since they are as a rule closer to social reality and to social problems; whereas in Madrid, the members of the European Council from those States which have signed the Agreement on social policy welcomed the conclusion of this framework agreement;

(10) Whereas the signatory parties wanted to conclude a framework agreement setting out minimum requirements on parental leave and time off from work on grounds of force majeure and referring back to the Member States and/or management and labour for the definition of the conditions under which parental leave would be implemented, in order to take account of the situation, including the situation with regard to family policy, existing in each Member State, particularly as regards the conditions for granting parental leave and exercise of the right to parental leave;

(11) Whereas the proper instrument for implementing this framework agreement is a Directive within the meaning of Article 189 of the Treaty; whereas it is therefore binding on the Member States as to the result to be achieved, but leaves them the choice of form and methods;

(12) Whereas, in keeping with the principle of subsidiarity and the principle of proportionality as set out in Article 3b of the Treaty, the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved by the Community; whereas this Directive is confined to the minimum required to achieve these objectives and does not go beyond what is necessary to achieve that purpose;

(13) Whereas the Commission has drafted its proposal for a Directive, taking into account the representative status of the signatory parties, their mandate and the legality of the clauses of the framework agreement and compliance with the relevant provisions concerning small and medium-sized undertakings;

(14) Whereas the Commission, in accordance with its Communication of 14 December 1993 concerning the implementation of the Protocol on social policy, informed the European Parliament by sending it the text of the framework agreement, accompanied by its proposal for a Directive and the explanatory memorandum;

(15) Whereas the Commission also informed the Economic and Social Committee by sending it the text of the framework agreement, accompanied by its proposal for a Directive and the explanatory memorandum;

(16) Whereas clause 4 point 2 of the framework agreement states that the implementation of the provisions of this agreement does not constitute valid grounds for reducing the general level of protection afforded to workers in the field of this agreement. This does not prejudice the right of Member States and/or management and labour to develop different legislative, regulatory or contractual provisions, in the light of changing circumstances (including the introduction of non-transferability), as long as the minimum requirements provided for in the present agreement are complied with;

(17) Whereas the Community Charter of the Fundamental Social Rights of Workers recognises the importance of the fight against all forms of discrimination, especially based on sex, colour, race, opinions and creeds;

(18) Whereas Article F (2) of the Treaty on European Union provides that 'the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law';

(19) Whereas the Member States can entrust management and labour, at their joint request, with the implementation of this Directive, as long as they take all the necessary steps to ensure that they can at all times guarantee the results imposed by this Directive;

(20) Whereas the implementation of the framework agreement contributes to achieving the objectives under Article 1 of the Agreement on social policy,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Implementation of the framework agreement

The purpose of this Directive is to put into effect the annexed framework agreement on parental leave concluded on 14 December 1995 between the general cross-industry organisations (Unice, CEEP and the ETUC)

Article 2

Final provisions

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 3 June 1998 at the latest or shall ensure by that date at the latest that management and labour have introduced the necessary measures by agreement, the Member States being required to take any necessary measure enabling them at any time to be in a position to guarantee the results imposed by this Directive. They shall forthwith inform the Commission thereof.

2. The Member States may have a maximum additional period of one year, if this is necessary to take account of special difficulties or implementation by a collective agreement. They must forthwith inform the Commission of such circumstances.

3. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 3 June 1996.

For the Council
The President
T. TREU

ANNEX III

FRAMEWORK AGREEMENT ON PARENTAL LEAVE

PREAMBLE

The enclosed framework agreement represents an undertaking by Unice, CEEP and the ETUC to set out minimum requirements on parental leave and time off from work on grounds of force majeure, as an important means of reconciling work and family life and promoting equal opportunities and treatment between men and women.

ETUC, Unice and CEEP request the Commission to submit this framework agreement to the Council for a Council Decision making these minimum requirements binding in the Member States of the European Community, with the exception of the United Kingdom of Great Britain and Northern Ireland.

I. GENERAL CONSIDERATIONS

1. Having regard to the Agreement on social policy annexed to the Protocol on social policy, annexed to the Treaty establishing the European Community, and in particular Articles 3 (4) and 4 (2) thereof;
2. Whereas Article 4 (2) of the Agreement on social policy provides that agreements concluded at Community level shall be implemented, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission;
3. Whereas the Commission has announced its intention to propose a Community measure on the reconciliation of work and family life;
4. Whereas the Community Charter of Fundamental Social Rights stipulates at point 16 dealing with equal treatment that measures should be developed to enable men and women to reconcile their occupational and family obligations;
5. Whereas the Council Resolution of 6 December 1994 recognises that an effective policy of equal opportunities presupposes an integrated overall strategy allowing for better organisation of working hours and greater flexibility, and for an easier return to working life, and notes the important role of the two sides of industry in this area and in offering both men and women an opportunity to reconcile their work responsibilities with family obligations;
6. Whereas measures to reconcile work and family life should encourage the introduction of new flexible ways of organising work and time which are better suited to the changing needs of society and which should take the needs of both undertakings and workers into account;
7. Whereas family policy should be looked at in the context of demographic changes, the effects of the ageing population, closing the generation gap and promoting women's participation in the labour force;
8. Whereas men should be encouraged to assume an equal share of family responsibilities, for example they should be encouraged to take parental leave by means such as awareness programmes;

9. Whereas the present agreement is a framework agreement setting out minimum requirements and provisions for parental leave, distinct from maternity leave, and for time off from work on grounds of force majeure, and refers back to Member States and social partners for the establishment of the conditions of access and detailed rules of application in order to take account of the situation in each Member State;
10. Whereas Member States should provide for the maintenance of entitlements to benefits in kind under sickness insurance during the minimum period of parental leave;
11. Whereas Member States should also, where appropriate under national conditions and taking into account the budgetary situation, consider the maintenance of entitlements to relevant social security benefits as they stand during the minimum period of parental leave;
12. Whereas this agreement takes into consideration the need to improve social policy requirements, to enhance the competitiveness of the Community economy and to avoid imposing administrative, financial and legal constraints in a way which would impede the creation and development of small and medium-sized undertakings;
13. Whereas management and labour are best placed to find solutions that correspond to the needs of both employers and workers and must therefore have conferred on them a special role in the implementation and application of the present agreement,

THE SIGNATORY PARTIES HAVE AGREED THE FOLLOWING:

II. CONTENT

Clause 1: Purpose and scope

1. This agreement lays down minimum requirements designed to facilitate the reconciliation of parental and professional responsibilities for working parents.
2. This agreement applies to all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreements or practices in force in each Member State.

Clause 2: Parental leave

1. This agreement grants, subject to clause 2.2, men and women workers an individual right to parental leave on the grounds of the birth or adoption of a child to enable them to take care of that child, for at least three months, until a given age up to 8 years to be defined by Member States and/or management and labour.
2. To promote equal opportunities and equal treatment between men and women, the parties to this agreement consider that the right to parental leave provided for under clause 2.1 should, in principle, be granted on a non-transferable basis.
3. The conditions of access and detailed rules for applying parental leave shall be defined by law and/or collective agreement in the Member States, as long as the minimum requirements of this agreement are respected. Member States and/or management and labour may, in particular:

- (a) decide whether parental leave is granted on a full-time or part-time basis, in a piecemeal way or in the form of a time-credit system;
 - (b) make entitlement to parental leave subject to a period of work qualification and/or a length of service qualification which shall not exceed one year;
 - (c) adjust conditions of access and detailed rules for applying parental leave to the special circumstances of adoption;
 - (d) establish notice periods to be given by the worker to the employer when exercising the right to parental leave, specifying the beginning and the end of the period of leave;
 - (e) define the circumstances in which an employer, following consultation in accordance with national law, collective agreements and practices, is allowed to postpone the granting of parental leave for justifiable reasons related to the operation of the undertaking (e.g. where work is of a seasonal nature, where a replacement cannot be found within the notice period, where a significant proportion of the workforce applies for parental leave at the same time, where a specific function is of strategic importance). Any problem arising from the application of this provision should be dealt with in accordance with national law, collective agreements and practices;
 - (f) in addition to (e), authorise special arrangements to meet the operational and organisational requirements of small undertakings.
4. In order to ensure that workers can exercise their right to parental leave, Member States and/or management and labour shall take the necessary measures to protect workers against dismissal on the grounds of an application for, or the taking of, parental leave in accordance with national law, collective agreements or practices.
 5. At the end of parental leave, workers shall have the right to return to the same job or, if that is not possible, to an equivalent or similar job consistent with their employment contract or employment relationship.
 6. Rights acquired or in the process of being acquired by the worker on the date on which parental leave starts shall be maintained as they stand until the end of parental leave. At the end of parental leave, these rights, including any changes arising from national law, collective agreements or practice, shall apply.
 7. Member States and/or management and labour shall define the status of the employment contract or employment relationship for the period of parental leave.
 8. All matters relating to social security in relation to this agreement are for consideration and determination by Member States according to national law, taking into account the importance of the continuity of the entitlements to social security cover under the different schemes, in particular health care.

Clause 3: **Time off from work on grounds of force majeure**

1. Member States and/or management and labour shall take the necessary measures to entitle workers to time off from work, in accordance with national legislation, collective agreements and/or practice, on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable.
2. Member States and/or management and labour may specify the conditions of access and detailed rules for applying clause 3.1 and limit this entitlement to a certain amount of time per year and/or per case.

Clause 4: **Final provisions**

1. Member States may apply or introduce more favourable provisions than those set out in this agreement.
2. Implementation of the provisions of this agreement shall not constitute valid grounds for reducing the general level of protection afforded to workers in the field covered by this agreement. This shall not prejudice the right of Member States and/or management and labour to develop different legislative, regulatory or contractual provisions, in the light of changing circumstances (including the introduction of non-transferability), as long as the minimum requirements provided for in the present agreement are complied with.
3. The present agreement shall not prejudice the right of management and labour to conclude, at the appropriate level including European level, agreements adapting and/or complementing the provisions of this agreement in order to take into account particular circumstances.
4. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with the Council decision within a period of two years from its adoption or shall ensure that management and labour¹³ introduce the necessary measures by way of agreement by the end of this period. Member States may, if necessary to take account of particular difficulties or implementation by collective agreement, have up to a maximum of one additional year to comply with this decision.
5. The prevention and settlement of disputes and grievances arising from the application of this agreement shall be dealt with in accordance with national law, collective agreements and practices.
6. Without prejudice to the respective role of the Commission, national courts and the Court of Justice, any matter relating to the interpretation of this agreement at European level should, in the first instance, be referred by the Commission to the signatory parties who will give an opinion.

¹³ Within the meaning of Article 2(4) of the Agreement on social policy

7. The signatory parties shall review the application of this agreement five years after the date of the Council decision if requested by one of the parties to this agreement.

Done at Brussels, 14 December 1995.

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