

Legislation on maternity protection in countries belonging to Europe

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ALBANIA

ALBANIA HAS RATIFIED ILO C183 (18.08.2004)

Name of Acts:

- Labour Code of the Republic of Albania, Law No. 7961, July 1995, amended up to Law No. 10053, 2008
- People's Assembly Act on Social Insurance in Albania, May 1993, amended to Act No. 9768, 2007
- Order No. 185, on the Special Protection for Pregnant Women and Maternity, 2002
- Order No. 167, 2006, implementing Act 7703, 1993 on Social Insurance and Act 7870, 1994 on Sickness Insurance.

Scope:

- Maternity protection is applicable to persons bound by all contracts of employment, except for the employment of persons regulated by a special law, as well as activities excluded, such as jobs carried out on friendly, volunteer or neighbourly basis.
- Maternity benefits are applicable to employed persons, who are compulsorily insured, other economically active persons, such as employers and self-employed people and to people under voluntary insurance, such as university students.

Maternity leave:

- **Length:** 365 calendar days (52 weeks).
- **Compulsory leave:** minimum of 35 days (5 weeks) prior to and 42 days (6 weeks) after childbirth.
- **Extension:** For women giving *birth to more than one child* during one pregnancy, leave will be 390 calendar days (56 weeks), including compulsory leave for a minimum of 60 days (12 weeks) prior to and 42 days (6 weeks) after childbirth .

Parental leave:

- **Scope:** The leave is given to the spouse that effectively looks after the child, or on alternative basis.
- **Length:** 12 days/year of paid leave, in case of indispensable care for dependent children; up to 15 days/year of paid leave for care of a sick child of up to 3 years of age, + 30 more days of unpaid leave.

Adoption leave:

- **Length:** Upon adoption of a baby (42 days to 1 year of age), the adoptive mother will begin maternity benefits from the day the adoption occurs (but not earlier than the 42nd day after birth) for a maximum of 330 days (49 weeks) and a minimum period of 28 days (4 weeks). When a child is adopted during the biological mother's maternity leave, she is entitled to a benefit period up to the day the adoption occurs, but not less than 42 days (6 weeks) after childbirth.
- **Conditions:** To be entitled to adoption benefits, the woman shall have completed a period of not less than 12 months of Social Insurance.

Cash benefits:

- **Maternity leave benefits:** There are two types of maternity benefits: a birth grant and a maternity allowance.

Conditions: They are payable to a woman with regard to pregnancy and childbirth, provided she has acquired 12 months of Social Insurance during 365 days (390 in case of multiple births).

Rate/duration: 1) 80% of daily average of the annual assessment basis of the last calendar year for the period prior to birth (5 weeks at least) and for 150 calendar days (21 weeks) after the birth (total at 80%, 26 weeks at least; 2) 50% for the rest of the period (26 weeks). The amount of maternity benefits for economically active women is equal to the basic flat-rate old-age pension. The period of benefits is extended to 390 days (56 weeks) in case of multiple births.

Paid by: For both types of benefits, payment is covered by the Social Insurance System, which is financed by contributions of employers and the insured.

- **Birth grant** is awarded to an insured person who is the mother or the father of a newborn child, provided one of them has contributed for 1 year prior to the birth. The grant shall be payable only once and the mother shall have priority in eligibility, if she is insured. No mention of the amount.
- **Maternity allowance benefits** are awarded to reimburse loss of wage of an insured person who has to change employment for reasons of pregnancy, provided 1 year of contributions have been paid, prior to being eligible to the benefits.
- **Parental leave benefits:** In case of illness of the child, the employer pays for the parent's absence.
- **Adoption leave benefits:** In case of adoption (of a baby up to 1 year of age), the adoptive mother receives maternity benefits beginning the day the adoption occurs, but not prior the 42nd day of childbirth, subject to a maximum of 330 days (49 weeks) from baby delivery. The minimum period of benefits for the adoptive mother, is 28 days (4 weeks). Benefits are covered by the Social Insurance System.

Medical benefits:

- No mention.

Health protection:

- **General:** Pregnant women are entitled to a break every 3 hours. When the employee works continuously or discontinuously in a sitting position at her workplace, she must be provided with a chair appropriate to perform her job. If carrying out the job requires standing up or stooping for a long time, the employee must enjoy the right to paid and short breaks lasting not less than 20 minutes every 4 continuous working hours.
- **Night work:** Pregnant women are forbidden to work at night. They cannot be forced to start the workday before 5 am in summer (or 6 am in winter) and cannot continue after 8 pm.
- **Dangerous and unhealthy work:** Pregnant or breastfeeding women may not be employed to carry out difficult or hazardous jobs, which jeopardize the health of the mother and child (manual lifting, carrying of weights above 6 kg, pushing or pulling of loads). In every activity that represents danger of exposure to agents, working processes and conditions as specifically and officially defined, the nature, level and duration of exposure for pregnant women, new mothers and breastfeeding women must be assessed by the employer with the purpose of taking into account every risk to safety and health as well as any other impact on pregnancy or breastfeeding.

Non-discrimination/Job protection:

- **General:** Any kind of discrimination in the field of employment or profession is prohibited. Discrimination means any differentiation, exclusion or preference based on race, sex, age, among other reasons, threatening the individual right to be equal in terms of employment and treatment. Special protection measures in favour of the employees are not considered to be discriminatory.
- **Pregnancy tests** are prohibited before starting employment, if they are demanded by the employer, except if the workplace requires to work under conditions that may negatively influence the pregnancy, or harm the mother's or child's life or health.
- **Dismissal:** Termination of contract is forbidden during maternity/adoption leave.

Termination of the contract for unreasonable causes is invalid. Such termination is considered of no reasonable cause when the motives for dismissal are connected with the personality of the employee and have no legitimate ties with labour relations (race, colour, sex, age, civil status, family obligations, pregnancy, religious and political beliefs, nationality and social status). The employer who has terminated the contract for unreasonable causes is obliged to pay the employee a damage that may amount up to the wage of 1 year, which is added to the wage s/he must receive during the notice deadline.

- **Burden of proof:** When an employee presents information implying the existence of discrimination, the employer is obliged to prove the contrary. The discrimination ends when the employer grants the discriminated employee a reward that includes all the advantages enjoyed by an employee of the other sex.

In the cases where the employer terminates the contract when the woman is working while being pregnant, or has returned to work after child delivery, the employer is responsible to certify that the reason for dismissal was neither pregnancy nor child delivery.

- **Guarantee of return to job:**No mention of guarantee of returning to one's job after maternity leave, loss of seniority, etc.

Breastfeeding:

- **Breastfeeding breaks:**No mention of breastfeeding breaks.

ALBANIA HAS RATIFIED ILO C183 (18.08.2004)

ARMENIA

Name of Acts:

- Constitution of the Republic of Armenia, 1995
- Labour Code of the Republic of Armenia, 2004
- Family Code of the Republic of Armenia, 2004.

Scope:

- Labour legislation and other normative legal acts shall be applied to labour relations in the territory of the Republic of Armenia regardless of the fact that the work is performed in the Republic of Armenia or in another country with the instruction of the employer.
- All working women shall be provided with pregnancy and maternity leave with full wage.

Maternity leave:

- **Length:** 140 calendar days (20 weeks).
- **Compulsory leave:** 70 days (10 weeks) before and 70 days (10 weeks) after delivery.
- **Conditions:** In the case of pregnancy and childbirth, every female employee has the right to paid maternity leave and parental leave following the birth or adoption of a child.
- **Extension:** In the event of *complicated delivery* the leave to be enjoyed after confinement is extended up to 85 days (12 weeks) and in the event of birth of *more than one child*, up to 110 calendar days (15 weeks). This leave shall be calculated at once and granted to the woman in full.

In case of *premature delivery* the unused days of maternity leave are added to the leave after delivery.

Other work arrangements: After 6 months of uninterrupted work in the same enterprise, pregnant women and employees raising a child under the age of 14 are entitled to choose the time of annual leave with priority.

Time off for medical examinations: If a pregnant woman or a woman caring for a child under 1 year of age has to attend medical examinations, the employer must release her from work preserving her average wage calculated on the basis of her average hourly wage.

Paternity leave:

- No relevant provisions on paternity leave are identified. However, all male workers are granted their annual leave, at their request, during the pregnancy and the maternity leave of their wives.

Parental leave:

- **Length:** granted until the child is 3 years of age either to the mother (step-mother), father (step-father), grandmother/father or any other relative who is actually raising the child, as well as to an employee who is the guardian of the child.
The leave may be taken as a single period or in parts.
- **Payment** is not expressly mentioned in the legislation, and parental leave seems to be unpaid.

Adoption leave:

- **Scope:** For employees who have adopted a newborn or who have been appointed as guardians of a newborn.
- **Length:** The leave is paid and lasts from the date of adoption or guardianship until the baby is 70 days old (10 weeks).

Part-daily working time:

- Part-daily working time or part-weekly working time shall be set on request of a pregnant woman and an employee raising a child until it reaches 1 year of age.

Cash benefits:

- **Maternity leave benefits: Amount:** All working women shall be provided with their full wage (100%).
Duration: 100% of salary during the whole period of maternity leave.
Payment: no mention of who is responsible for covering maternity benefits.
- **Parental leave benefit: Payment:** no mention of who is responsible for covering adoption benefits.
- **Adoption leave benefits:** All workers who adopt a child or who have been appointed as guardians of a newborn shall be granted with a paid leave.

Conditions: none are mentioned.

Payment: no mention of who is responsible for covering adoption benefits.

Medical benefits:

- No relevant provisions on medical benefits identified.

Health protection:

- **Night work:** Pregnant women, and women taking care of a child under 3 years of age may be assigned to night work only with their consent.
- **Overtime:** Pregnant women and women who are taking care of children under 1 year of age, may be assigned to do overtime work only with their consent.
- **Work on rest days:** Pregnant women, and employees raising a child under the age of 1 year and persons under 18 may be assigned work on rest and memory days only upon their consent.
- **Dangerous or unhealthy work:** Pregnant women, and women who take care of a child under 1 year of age shall not be engaged in a job with dangerous factors and harmful conditions, which may have a negative impact. The list of these prohibited jobs shall be approved by the Government.

In compliance with the **list of hazardous conditions of work**, and risk assessment results, the employer must establish the potential effects to the safety and health of pregnant women and women caring for a child under 1 year.

Risk procedure: Upon assessment of the potential impact, the employer must undertake temporary measures to ensure the elimination of the risk.

If this is impossible, the employer has to improve the working conditions so that the exposure of these workers to risks is avoided.

If this is impossible, the employer must transfer the woman (upon her consent) to another job in the organization.

Non-discrimination/ Job protection:

- **General:** The Constitution states that everyone shall be equal before the law and any discrimination based on any ground, such as sex, shall be prohibited.
- **Dismissal** for reasons related to maternity is prohibited.
No employment contract of a pregnant woman may be terminated from the day the employer receives a medical certificate confirming pregnancy till 1 month after maternity leave; in the case of an employee caring for a child, the contract cannot be terminated till the child is 1 year.
- **Job protection:** No specific mention of work guarantee upon returning from maternity leave though this is implied as seen above.

Breastfeeding:

- **Breastfeeding breaks:** Apart from the general break to rest and to eat, breastfeeding workers are entitled to at least 30 minutes of break every 3 hours to breastfeed.
At the woman's request, the breaks for breastfeeding may be joined, or added to the general break, or transferred to the end of the working day, thus shortening the working day accordingly.
The payment of breastfeeding breaks is calculated according to the employee's average daily pay.

AUSTRIA

AUSTRIA HAS RATIFIED ILO C183 (30.04.2004)

Name of ActS:

- Maternity Protection Act, 1979, amended 2007
- Parental Leave for Fathers Act, 1989, amended 2007
- General Social Insurance Act, 1955, amended 2009
- Equal Treatment Act, 1993, amended 2008
- Child Care Benefit Act, 2001, amended 2007.

Scope:

- The *Federal Act* includes: Female workers, female home workers, female apprentices, clients and, as defined in the *Homeworking Act*, employees working in private households.
- Are excluded: Employees whose employment relationship is governed by the *Agricultural Labour Act, 1984*; employees who have an employment relationship with an Austrian state (Land), a municipality or a local authorities association, unless they work in businesses.

Maternity leave:

- **Conditions:** Pregnant women must inform their employer of their pregnancy and of the expected delivery date as soon as they discover they are pregnant.
They are also obliged to draw the employer's attention to the impending start of the 8-week pre-natal leave period in the 4th week before this period starts.
They must provide medical confirmation of pregnancy and dates if requested by the employer.
The employer shall also be informed about a premature termination of the pregnancy.
- **Length:** 16 weeks. The 8-week pre-natal leave period is calculated on the basis of a doctor's certificate.
- **Compulsory leave:** 8 weeks pre-natal and 8 weeks post-natal.
In the case of premature births, multiple births or Caesarian section births, this period shall be at least 12 weeks.
- **Extensions:** If the delivery takes place *before or after the date* stated in the doctor's declaration, the 8-week period will be shortened or lengthened accordingly. If the 8-week pre-natal leave period is shortened, the post-natal leave period will be lengthened by a corresponding period, but at most to 16 weeks.
In case of *premature births, multiple births or cesarean births*, the post-natal leave period will last for at least 12 weeks.
Outside the 8-week pre-natal leave period, a pregnant woman cannot be made to work if she provides a statement from a Labour Inspectorate doctor or a medical officer that the life or health of herself or her child would be endangered if she continued to work.
In addition to the 8-week post-natal leave period, female workers will not be allowed to return to work after their delivery as long as they are not fit for work. The female worker is obliged to inform her employer of her unfitness to work without delay, providing a statement from a doctor about the expected duration of her unfitness; otherwise, she will not receive wages during her absence from work.
Other arrangements: Time off for medical examinations: If the pregnant worker is not able to work due to necessary pre-natal health checks - in particular those covered by the *Mother-Child-Booklet Ordinance* - that cannot possibly or reasonably take place outside of working hours, she is entitled to her normal wages for this time.

Parental leave:

- **Length:** Male and female workers living in the same household as the child are entitled to parental leave without pay until the child's 2nd birthday. Except in specific cases, no simultaneous parental leave is allowed.
- **Conditions:** The mother may take parental leave at earliest after the normal or prolonged postnatal maternity leave period. She must inform her employer of the beginning and duration of parental leave before the end of her post-natal leave period.

The father may take parental leave following the compulsory leave of the mother, or, if the mother is not entitled to parental leave, 8 weeks after the birth of the child (12 weeks in case of multiple or caesarean births). If the male worker takes parental leave at the earliest possible time, he must inform his employer of the starting date and duration of the leave at the latest 8 weeks after the birth of the child.

- **Return to work:** At the latest 3 months before the end of the parental leave, the worker may inform his/her employer that s/he wants to extend the leave, indicating until when.
- **Parental leave can be shared** and alternated between the father and mother twice during the child's first 2 years. Each part of the worker's leave must amount to at least 2 months and each leave must immediately follow that of the other parent. Only on the occasion of the first switch between care-givers, can the parents take 1 month of leave simultaneously; the total period of parental leave will then be 1 month shorter.
Under certain circumstances, the last 3 months of parental leave beyond the child's 2nd birthday is possible until the child is 7 years old.

Adoption leave:

- **Scope:** A worker (male or female) who adopts or fosters (with the intention of adopting) a child which has not yet reached its 2nd birthday and who lives in the same household as this child is entitled to parental leave.
- **Conditions:** In general, the same conditions as for parental leave and part-time work arrangements for parents apply.
- **Length:** At least 2 months (8 weeks). It begins on the day of adoption or fostering.
If an employee (male or female) adopts or fosters a child that is older than 18 months but younger than 2 years, s/he may take parental leave for a period of up to 6 months after the child's 2nd birthday.
If the employee adopts (or fosters with the intention of adopting) a child after its 2nd birthday but before its 7th birthday, s/he shall be entitled to parental leave for a period of 6 months.
- If the worker takes adoption leave from the day of adoption or fostering, s/he has to inform her employer of the start date and duration of the leave immediately.

Part-time work:

- **Length:** The beginning and duration of the part-time employment as well as the number and scheduling of the working hours shall be agreed upon with the employer, taking into account the interests of the business and the interests of the employee.
The duration of such part-time employment must be at least 2 months.
- **Conditions:** The information duties of the worker towards the employer as well as the possible start date match the provisions for parental leave.
The employee shall be entitled to part-time employment up to the child's 7th birthday or at the child's entry into school (if later), provided that: the employee has maintained the employment relationship for an uninterrupted period of 3 years at the time of taking up part-time employment; and the employee has worked in a business with more than 20 employees at that time.
The employee can be granted part-time employment only once for each child.
An employee who has no right to part-time employment may enter into an agreement on part-time employment with the employer up to the child's 4th birthday at the latest specifying its beginning and duration as well as the number and scheduling of the working hours.
Employees shall not be entitled to part-time employment during an apprenticeship.
- **Schedule change:** Worker and employer can request a change in the part-time work arrangement (extension, change in number of hours or organization) or a premature termination of the arrangement only once. S/he has to inform the other party in writing at least 2 or 3 months (depending on the length of arrangement) before the requested change or termination.

Cash benefits:

- **Maternity leave benefits: Scope:** Are covered, all those insured under the *General Health Insurance Act*; exceptions exist.

Amount: 100 % of the average daily wage earned over the last 13 weeks (or 3 months) before the start of the maternity leave, minus the statutory deductions. The female worker remains entitled to other payments, especially one-off ones.

Duration: Daily maternity benefit is paid by the Statutory Health Insurance during the whole period of compulsory leave (in general 16 weeks, extension to 24 weeks for multiple births or caesarean section) and for any period where a women's work is prohibited on the grounds of the provisions of maternity protection.

Paid by: Statutory Health Insurance.

- **Parental leave benefits: Amount:** Unpaid leave.

Special cases: However, a child care benefit is in general available to a mother or father who shares a household with a child and whose personal income does not exceed a certain amount per year (including foster/adoptive parents).

Father and mother (adoptive/foster parents) may not receive child care benefits at the same time; and child care benefits are not paid while the mother receives maternity leave benefits. The right to child care benefits exists at most from the birth of the child onwards until the child is 36 months old.

The right to child care benefits may be changed twice between the parents; every period of child care benefit payment has to last at least 3 months.

It is a specific amount per day, with a specified supplement in certain cases.

Paid by: The benefit is paid by the Statutory Health Insurance.

- **Adoption leave benefits: Amount:** Unpaid leave but some exceptions: same as parental leave benefits (see above).

Special cases: Child care benefits are paid to adoptive/foster parents under the same conditions as for biological parents (see parental leave benefits). They are due at the earliest from the day of adoption/fostering onwards.

Medical benefits:

- Maternity insurance comprises the period ranging from the beginning of the pregnancy to the delivery and any consequences of that delivery, as long as these consequences cannot be considered to fall under the sickness insurance or under an inability to work due to sickness.
- Assistance by a doctor, midwife or qualified pediatric or infant nurse as well as medication and other aids to the degree stipulated in the *General Social Insurance Act* are covered.
- In relation to the delivery, care in a hospital (or maternity clinic) is covered for a maximum of 10 days. If the condition of the mother or the distance to her home necessitates this, the costs of transport to and from the care facility will also be covered.
- Costs are covered by the Statutory Health Insurance.

Health protection:

- **Night work:** in general, pregnant and nursing workers may not work between 8 pm and 6 am hours. Women working in some specific professions can work until 10 pm provided they then take 11 full hours of rest (transportation, musicals, theatre and public performances, events and entertainment, film, cabaret, carers in hospitals and other care institutions, multi-shift businesses)

At the employer's request, and with special permission, pregnant and breastfeeding employees may work in the hotel and restaurant industry until 22:00 and in music performances, theatre performances, public shows, amusements, festivities and in cinemas until 11 pm, if necessary for operational reasons and provided that the employee's health allows. The employee needs to be guaranteed afterwards an uninterrupted rest period of at least 11 hours.

- **Overtime:** Pregnant and nursing workers may not work in excess of the normal daily working time as it is established legally or in a collective agreement. Under no circumstances may the daily working time exceed 9 hours and the weekly working time 40 hours.
- **Work on rest days:** Apart from some exemptions, pregnant and breastfeeding employees must not work on Sundays and public holidays. Exceptions include: employment in music and theatre performances, public shows, amusements, festivities, film recordings, the hotel and restaurant industry, and businesses with uninterrupted rotating shifts; employment in

businesses where work on Sundays and public holidays is permitted, provided that the weekly rest period for the entire staff falls on a certain working day; employment in businesses where work on Sundays and public holidays is permitted, if the business does not regularly employ more than five employees and if, apart from the pregnant or breastfeeding employee, only one employee is employed who can perform a job of the same kind; possibility of other exceptions upon request.

In these cases, the employee is entitled to an uninterrupted rest period of at least 36 hours (weekly rest) in the calendar week following work on Sunday, and to an uninterrupted rest period of at least 24 hours after a night's rest in the week following work on a public holiday. The rest period shall include a whole weekday. During this rest period the employee must not work.

- **Dangerous or unhealthy work:** Under no circumstances must pregnant employees perform heavy physical work or any work or working processes which are harmful to their organism or that of the unborn child due to the kind of the work process or the agents or work equipment used.

Risk assessment: When employing female employees, the employer has to go beyond the duties stipulated in the *Workers Protection Act*, and determine and assess the risks to the safety and health of pregnant and breastfeeding employees related to women's workplaces and the effect of these risks on the pregnancy and breastfeeding.

For workplaces in which women are employed, the employer must assess (if necessary by consulting experts and industrial doctors) the dangers to the safety and health of pregnant/nursing women and the effects of the workplace on the pregnancy/nursing.

- **Transfer:** In the case of declared or possible danger the employer must adapt the conditions of work.

If it is not possible or reasonable to adapt the conditions of work, the female worker must be transferred to a different post. If no suitable alternative post is available, the female worker shall be released from work

If the female worker is exempted from working, she remains entitled to a wage that equals her average earnings over the preceding 13 weeks. If said period covers times where she was not paid the full remuneration due to illness or because of temporarily reduced working hours the 13-week period shall be extended by these periods and they will not be considered when calculating the average earnings

- **List of dangerous work:** Very specific regulation protects pregnant women, nursing women and women until 12 weeks after delivery in the case of: arduous work (manual lifting, carrying, pushing or pulling of loads); work involving exposure to biological, chemical or physical agents; work involving physical strain (prolonged periods of sitting, standing, exposure to extreme temperatures, vibrations).

Non-discrimination/Job protection:

- **General:** No direct or indirect discrimination may occur in the employment relationship on the grounds of gender, especially with regard to marital or family status, in particular when it concerns: 1) establishing the employment relationship; 2) setting wages; 3) granting voluntary social contributions that do not constitute wages; 4) training; 5) promotions; 6) other employment conditions; 7) terminating the employment relationship.

- **Dismissal:** Employees may not be given notice of termination in a legally effective way during pregnancy and until the end of a period of 4 months after childbirth, unless the employer has not been informed about the pregnancy or childbirth.

The termination shall also be legally ineffective if the employer is notified of the pregnancy or childbirth within 5 working days after the notice of termination was given, or, if the notice was given in writing, within 5 working days from its service. Written notification of the pregnancy or childbirth shall be deemed timely, if it is mailed within the 5-day period. If the employee objects to the termination due to pregnancy or childbirth within the 5-day period, she shall simultaneously provide proof of pregnancy or the presumed pregnancy by means of a medical certificate or produce the child's birth certificate. If the employee cannot notify the employer of the pregnancy or childbirth during the period of 5 days for reasons outside of her

sphere of influence, the notification shall be deemed timely if it occurs immediately after the impediment to notification has disappeared.

- **Legal dismissal:** Notice of termination can be given in a legally effective way, if prior consent of the court has been obtained. When filing the action, the employer shall at the same time notify the Work Council. The court shall approve of the termination by the employer only if the employer cannot continue the employment relationship without causing damage to the business because of downsizing or closing down operations or closing down individual departments of the business, or if the employee agrees to the termination of employment during the court hearing. The court's consent is not required after a business has been closed down.

Moreover, employees may be dismissed in a legally effective way during pregnancy and until the end of a period of 4 months after childbirth only after the prior consent of the court has been obtained. The court may grant its consent to the dismissal only if the employee: has culpably and negligently violated the duties incumbent on her on the basis of the employment relationship, in particular if she has failed to perform her work without legitimate cause during a period of time that is deemed considerable under the given circumstances; has committed a breach of trust in the framework of her work or if she has unjustifiably received and accepted benefits in her job from third parties without her employer's knowledge; has disclosed a business or trade secret or has operated, without the employer's consent, an ancillary business which is detrimental to her deployment in the business operation (household); has been involved in violence against or substantial defamation of the employer, the members of the employer's family working or present in the business (household) or any employees of the business (household); is guilty of committing an offence which can only be committed intentionally and is punishable by imprisonment for more than 1 year or has committed a punishable offence with the intent of enriching herself or somebody else. The employee's extraordinary emotional state caused by pregnancy or childbirth has to be taken into account.

Any termination of an employment relationship by mutual agreement shall be legally effective only if it has been agreed upon in writing. If the employee is a minor, this agreement also has to be supplemented with a certification from a court or a statutory interest group of employees, stating that the employee was instructed on the protection against notice of termination of employment under this *Federal Act*.

If *parental leave* is taken in the child's 2nd year or, in the case of part-time employment, in the child's 2nd, 3rd, or 4th year, the court may also consent to the termination, if the action seeking consent to the termination was filed after the child's 1st first birthday, provided that the employer furnishes evidence that the termination of employment is justified by circumstances caused by the employee that are detrimental to the interests of the business or caused by business requirements which are an obstacle to the continued employment of the employee, and if continuation of the employment is unacceptable to the employer.

- **Re-employment:** If an employee was given notice due to closing down the business and if this business resumes its activity within a period of 4 months after the employee's childbirth, the previous layoff shall have no legal effect if the employee lodges a corresponding request with the employer. This request has to be submitted within 2 months after the business has resumed its activity. The employee has to indicate her readiness to resume work, including after end of her maternity or parental leave.
- **Burden of proof:** None on behalf of employer specifically identified but complicated procedure to dismiss a pregnant/breastfeeding employee.
- **Job protection:** No specified guaranteed right to return to work.

Breastfeeding:

- **Breastfeeding breaks:** Upon return to work, nursing mothers must inform their employer that they are breastfeeding and, if requested, provide a medical statement to this effect (by a physician or a parent-child centre). Upon request, breastfeeding employees shall be given the required time off to breastfeed their infants.

This shall be 45 minutes on days when the employee works for more than 4.5 hours; if the employee works for 8 or more hours, the time off for breastfeeding shall be split into two breaks of 45 minutes each.

If there is no breastfeeding facility in the vicinity of the place of work, a period of 90 minutes shall be granted for breastfeeding.

The competent administrative authority may instruct the employer to split the time off for breastfeeding in a certain way, if special circumstances demand so in individual cases.

The time off for breastfeeding must be granted without loss of pay. The time off for breastfeeding must neither be made up for by the employees who are breastfeeding nor must it be deducted from the other rest periods defined by law or collective agreement.

- **Breastfeeding facilities:** Pregnant and nursing women who work on the employer's premises or on a construction site, must be given the opportunity to lie down and rest under appropriate circumstances. If the special circumstances of an individual case require this, the appropriate administrative body may order the employer to set up a nursing facility.

AUSTRIA HAS RATIFIED ILO C183 (30.04.2004)

AZERBAIDJAN

AZERBAIDJAN HAS RATIFIED ILO C183 (29.10.2010)

Name of Act:

- Labour Code of the Republic of Azerbaijan, 1999.

Scope:

- Applicable to employees working in enterprises and workplaces where a contract of employment exists as well as to employees performing jobs in their homes using the employer's materials. This applies to all workplaces incorporated by foreign countries, their citizens or entities, international organizations and stateless persons in the Republic of Azerbaijan and to public officials, with some exceptions established in the law.

Maternity leave:

- **Length:** 126 days (18 weeks) starting 70 calendar days (10 weeks) prior to childbirth and ending 56 calendar days (8 weeks) after childbirth.
Women working in industry shall be granted 140 days for normal childbirth (70 days before and 70 days after birth); 156 calendar days in the event of abnormal birth (70 calendar days before and 86 after birth); 180 calendar days in the event of multiple births (70 days before and 110 calendar days after birth). Unpaid leave is granted with the employer's consent for up to 14 calendar days for women with children under the age of 16 or single parents or guardians.
- **Compulsory leave:** 70 days before, 56 days after childbirth.
- **Extension:** In the event of *abnormal or multiple births*, women shall be granted 70 days leave after childbirth.

Other arrangements: Time off for medical examinations: Women workers who undergo medical examinations for themselves or take their children to the doctor are entitled to keep their normal wages during their absence. The employer shall provide the necessary conditions for such medical examinations.

This provision is also applicable to all fathers, foster parents or legal guardians who have to raise the children themselves alone and without the mother for a particular reason.

Paternity leave:

- Unpaid leave is granted with the employer's consent for up to 14 calendar days for men whose wives are on maternity leave.

Parental leave:

- A single parent or another family member caring for a child until the age of 3 years, is eligible for partially-paid social leave. An employee caring for a child may use partially-paid social leave completely or in part at his/her discretion.

Adoption leave:

- Women who have adopted children under 2 months of age or who are raising non-adopted children are entitled to 56 calendar days (8 weeks) of post-natal leave and additional calendar days of annual leave depending on the number of children. In addition, they are entitled to partially-paid social leave in the amount determined by legislation.

Part-time leave:

- Upon request of pregnant workers, or who have children under 14, or have disabled children under 16, or have to take care of a sick family member, the employer shall give them a part-time daily or weekly job with wages based on their experience and seniority. Both sides have to agree on the time of the workday or week. This is also applicable to all fathers, foster parents or legal guardians who have to raise the children alone without the mother.

Cash benefits:

- **Maternity leave benefits: Amount:** 100% of salary.
Duration: 18 weeks.
Paid by Social Security.
- **Paternity leave benefits: Amount:** Unpaid leave. No further information.
- **Parental leave benefits: Amount:** partially-paid leave, no further information.
- **Adoption leave benefits:** Same as maternity leave + parental leave benefits.

Medical benefits:

- All permanent residents of Azerbaijan have access to medical benefits funded by the Government.

Health protection:

- **Night work/Overtime:** Women workers who are pregnant or have children under 3 years of age shall not work on night shift. Those who have children between the ages of 3 and 14 or disabled children up to 16, may work at night only with their written consent. This provision is also applicable to all fathers, foster parents or legal guardians who have to raise the children themselves without the mother for a particular reason (mother has died, or been deprived of other motherhood rights, or is away for therapy in medical institutions, or in jail).
- **Dangerous work:** Women are prohibited at workplaces with heavy, dangerous working conditions, as well as in underground tunnels, mines and other underground work. It is prohibited to have women employed to lift and carry from one place to another weight in excess of: 15 kilograms (manual lifting and carrying objects to another place), if also other work is performed; 10 kilograms (raising of over five feet tall objects); 10 kilograms (manual lifting and carrying objects to another place) if this is done during the whole workday; transporting items loaded on trucks or other moving vehicles, requiring an applied force of more than 15 kilograms. Dangerous or unhealthy work, work in intensive jobs, hazardous workplaces and in underground tunnels and other underground work is prohibited for *pregnant workers* or women who have children under 3 years of age. Output norms of pregnant women shall be reduced in accordance with medical findings.
- **Transfer:** Pregnant women in accordance with medical findings shall be transferred to an easier work which excludes an unfavorable impact from production.

Non-discrimination/Job protection:

- **General:** During hiring, a change in employment or termination of employment, no discrimination among employees is permitted on the basis of sex, family circumstances or other factors unrelated to professional qualifications, job performance, or professional skills of the employees, nor shall it be permitted to establish privileges and benefits or directly or indirectly limit rights on the basis of these factors. Concessions, privileges and additional protection for women shall not be considered discrimination.
- **Specific:** Refusing to sign a labour contract with a woman who is pregnant or has a child under the age of 3 is prohibited by law. In case of refusal of the employer to sign a labour contract with pregnant women or mothers of children under 3 years of age, the employer has to provide a written document explaining his/her reasons. (This is also applicable to all fathers, foster parents or legal guardians who have to raise the children themselves alone and without the mother for a particular reason.)
- **Dismissal:** The employer is prohibited from terminating the employment contracts of pregnant women and women with children under age 3. It is unlawful to refuse the conclusion of an employment contract with a woman because of pregnancy or the presence of a child under 3 years of age. This does not apply to refusal due to lack of work and to workplaces where women are not allowed.
- **Burden of proof:** If the employer refuses to conclude an employment contract for unlawful reasons as mentioned above, a woman has the right to demand that the employer states in writing the reason for refusal. The woman can appeal the reason for in court.
- **Job guarantee:** No mention.

Breastfeeding:

- **Breastfeeding breaks:** Women workers who have children under the age of 18 months are entitled to breastfeeding breaks, in addition to their regular lunch and rest breaks. These breaks are at least 30 minutes each, every 3 hours. If a woman worker has two or more children under 18 months, the duration of the breaks shall be at least 1 hour.

These breaks can be added to the regular lunch or rest breaks, or can be taken at the beginning of and/or at the end of workdays. If the worker decides to take her feeding breaks at the end of the day, her workday shall be shortened.

This provision is also applicable to all fathers, foster parents or legal guardians who have to raise the children themselves alone and without the mother for a particular reason.

Breaks given for feeding children are considered as working time and the average salary of the worker shall remain the same.

AZERBAIDJAN HAS RATIFIED ILO C183 (29.10.2010)

BELARUS

BELARUS HAS RATIFIED ILO C183 (10.02.2004)

Name of Acts:

- Labour Code of the Republic of Belarus, 1999
- Act on State Benefits for Families Raising Children, 1992, amended 2007
- Regulation on the Procedure of Granting Temporary Disability Benefits, 1997
- Law of the Republic of Belarus on the Fundamentals of the State Social Insurance, 1995
- Law of the Republic of Belarus on Health Care, 1993
- Decree of the Ministry of Labour and Social Protection, 2009.

Scope:

- All women.

Maternity leave:

- **Length:** 126 days (18 weeks).
- **Compulsory leave:** 70 calendar days (10 weeks) for pre-natal leave and 56 calendar days (8 weeks) for post-natal leave.
- **Extensions:** For women who live (work) in the *zone with a level of radioactive contamination*, 90 calendar days (13 weeks) prenatal and 70 days (10 weeks) post-natal maternity leave shall be granted.
In case of *complicated confinement* and in the case of *multiple births*, maternity leave shall be granted for 70 calendar days (10 weeks) pre- and post-natal each.

Parental leave:

- Working mother or father or other relative of the child to whom the custody of the child has been assigned until the child reaches 3 years of age.

Adoption leave:

- Persons entitled are those who adopt a child or who are appointed as guardians for a child under the age of 3 months.
- 70 calendar days (10 weeks) counted from the day of adoption or placing under guardianship.

Part-time work:

- Part-time work may be requested until the child is 3 years of age under the condition that the reduced working time is less than half of the normal monthly working time. The person can thus keep the right to monthly states allowances.

Cash benefits:

- **Maternity leave benefits:** two types of leave, a birth grant and maternity allowances.
- **Birth grant (or Childbirth allowances):** are paid at birth for each child. T
Amount: the amount received at the birth of the first child is lower than for subsequent children.
- **Maternity allowances: Scope/conditions:** For all women who are insured and have paid contributions into the State Social Insurance System and have presented a medical certificate. In addition, maternity benefits shall be granted to: military personnel, female officers and other categories of women working in the bodies of internal affairs, the financial investigation service, bodies and sub-units of the Ministry of Emergency Situations of the Republic of Belarus; full time students in vocational and technical institutions, specialized secondary and higher educational institutions, post-graduate courses; unemployed women.
Amount: The rate of maternity benefits is 100% of the average salary and not less than 50% of the minimum per capita subsistence wage (adapted over time).
Duration: whole leave. The right to payment of maternity benefits starts after 30 weeks of pregnancy and is granted for the normal duration of maternity leave (126 calendar days/18 weeks) and during any extension thereof.
Financing of maternity benefits is taken from the budget of the State Social Insurance. Contributors to the State Social Insurance are the following: employed persons; entrepreneurs; citizens, who perform work under a civic agreement with natural persons (self-

employed); persons working in the field of art; foreign nationals and stateless persons, working in the Republic of Belarus.

- **Parental leave benefits: Scope:** Entitlement for persons who are insured and have paid contributions to the budget of the State Social Insurance.
Amount: Benefits amount to 80% of the minimum subsistence wage.
Benefits are paid by the State Social Insurance Fund.
- **Adoption leave benefits: Duration:** are paid for the period of 70 calendar days (10 weeks) as from the day of adoption or placement under guardianship, maternity benefits are paid. Beyond that, parental leave benefits are also paid to adoptive parents.
Amount: The amount is the same as for maternity and parental benefits.

Medical benefits:

- A pregnant woman is entitled to medical examinations by the State health care system, in-patient medical aid during and after confinement, as well as medical and disease prevention assistance and medical care of the newborn child. The State also guarantees food for pregnant women, breastfeeding mothers, as well as children below 3 years of age.
- Financing of the State health care is covered by the national and local budgets. Sources for financing the state health care system include: income from commercial activities; resources from different medical insurance companies; credits from banks; voluntary donations from natural and legal persons; other legal sources.

Health protection:

- **Night work/overtime:** Night work/overtime work is prohibited for pregnant women, women who are on post-natal leave and women whose children are under the age of 3.
- **Dangerous or unhealthy work:** Employment of women in harmful working conditions and underground work (with the exception of non-physical jobs, sanitary and welfare services) are prohibited. A list of work in harmful conditions for which employment of women is forbidden exists, approved by the Government of the Republic of Belarus.
- **Transfer:** If requested by a medical certificate, pregnant women or women with a child younger than 18 months, shall be transferred to easier, non-hazardous work. During the transfer the woman preserves the average wages of her previous post. Before deciding about moving the pregnant female to another job, she is to be released from her previous job and the employer is to pay her average salary for all days missed due to this procedure.

Non-discrimination/Job protection:

- **General:** Everyone has equal opportunities to realize their labour rights. No one can be constrained in their labour rights and freedoms or obtain any advantages on the grounds of sex as well as other factors not relevant to the professional qualities of the employee.
- **Specific:** It is forbidden to refuse to employ women because of their pregnancy or because they have children. Employers must inform in writing a person who was refused an employment of the reasons of refusal.
- **Dismissal:** It is forbidden to dismiss pregnant women, women whose children are under the age of 3, single women whose children are under the age of 14 or whose disabled children are under 18, except in the case of an enterprise closing down.
- **Guarantee of return to job:** Persons on maternity leave, partially paid leave or additional unpaid leave for child-care are entitled to preserve their workplace (position) and salary.

Breastfeeding:

- **Breastfeeding breaks:** Besides the regular daily breaks, women whose children are under the age of 3 are given additional breaks of at least 30 minutes every 3 hours to feed their children. Women, having two or more children under the age of 3 are given breaks of not less than 1 hour. Breaks for feeding children are included in the working hours and are paid at the rate of the person's average wage.

BELARUS HAS RATIFIED ILO C183 (10.02.2004)

BELGIUM

Name of Acts:

- Royal Decree, 2002
- Decree aimed to Fight Against Certain Forms of Discrimination, 2012
- Labour Act, 1971
- Royal Decree concerning Maternity Protection, 1995
- Royal Decree regarding the Establishment of a Parental Leave in the Framework of Interruption of Professional Career, 1997
- Act concerning Contracts of Employment, 1978
- Act concerning Compulsory Sickness and Indemnity Insurance Scheme, 1994
- Royal Decree to execute the Act respecting Compulsory Sickness and Indemnity Insurance Scheme, 1996
- Royal Decree rendering Compulsory Collective Agreement No. 80bis, 2010
- Royal Decree concerning the Transformation of Maternity Leave to Paternity Leave in Case of Death or Hospitalization of the Mother, 1994
- Act aimed to Fight against Certain Forms of Discrimination, 2007.

Scope:

- The *Labour Act* applies to persons who provide labour services under the authority of another person.
- The provisions on maternity protection apply to all workers and employers in Belgium with the following exceptions: persons who work for the State, the provinces or other public enterprises and institutions in the public interest, unless they are aimed to commercial purposes or health care; to fishing maritime workers; to persons performing work in a family undertaking, or who regularly work under the supervision of their parents or supervisor; to domestic workers; to advisory and direction positions designated by the King; to sales representatives; to workers employed in maritime transport; and to workers employed in schools.

Maternity leave:

- **Conditions:** Submission to the employer of a medical certificate indicating the expected date of birth not later than 7 weeks before the due date (9 weeks in the case of multiple births).
- **Length:** 15 weeks: 6 weeks before (8 in the case of multiple births) and 9 weeks after the expected date of birth.
- **Compulsory leave:** Employment is prohibited during the 7 days before the expected date of birth and the 9 weeks following it.
- **Extensions:** Maternity leave is taken in one continuous period.
However, if the *newborn child has to remain in the hospital* for more than 8 weeks after birth, maternity leave may be interrupted until the child leaves the hospital to enter the household. If the birth occurs *after the expected date*, the leave is extended to the actual date of the birth. Under certain conditions new mothers have the option of converting the last 2 weeks of maternity leave to rest days that they can take intermittently during the 8-week period after they return to work.
However, in the case of a *premature birth*, post-natal leave is reduced by the number of days worked within the period of 7 days before the date of birth (i.e. the 7 days before the birth are forfeited if the woman has not taken any of these days because of a premature birth, and her maternity leave may not be longer than 15 weeks).
Other arrangements: Medical examinations: Pregnant employees shall be entitled to leave of absence with pay for pre-natal medical examinations when such examinations cannot be reasonably take place outside working hours. The employee shall inform her employer before her absence in order to keep her remuneration.

Paternity leave:

- **Scope:** The entitlement to paternity leave shall apply to all workers in the private sector, and to workers in the public sector who are not under statutory relationship.

- **Length:** Every worker is entitled to absent himself from work for 10 days, chosen at his best convenience, within the 4 months after the date of the birth of a child of whom the worker has been legally recognized as the father.

The first 3 days are fully paid by the employer and the other 7 are paid by the compulsory sickness and disability insurance scheme at 82% of his gross salary. In case of death or hospitalization of the mother, the legislation provides that the father may take the remainder unused period of maternity leave in order to ensure the care of the child.

Parental leave:

- **Principle:** Workers may interrupt their career if they wish to spend more time caring for their child until the child reaches the age of 12 years. In case of adoption or physical or mental incapacity of the child, the right lapses when the child reaches the age of 21 years.
- **Scope:** Parental leave provisions may apply to male and female workers employed in the public and private sector and persons working under the authority of another person. Each parent shall have an independent right to parental leave, which shall not be transferable.
- **Conditions:** In order to be entitled to enjoy parental leave, the worker shall have performed at least 12 months of employment with the same employer within the 15 months preceding written notification by the employee of the intended date of leave. Parental leave suspends the execution of the contract of employment.
- **Length:** The employee is entitled to a 4-month leave and can decide to choose between three options or even to change from one option to another until the 4-month limit is reached. 1) 4-month period continuously. 2) Reduction of her/his working time by 1/2 for 8 months (or can split the 8-month period of half-time work into several periods of no less than 2 months each). 3) reduction of her/his working time by 1/5 for 20 months (or to split the 20 months of 1/5ths working time into several periods of no less than 5 months each).

Cash benefits:

- **Maternity leave benefits:** **Scope:** All workers who are compulsorily insured under the sickness and indemnity scheme: Workers (including contractual employees in the public service), persons who are incapacitated for work, and registered unemployed workers. **Conditions:** Persons covered have to have been insured and have paid contributions for 120 days (17 weeks) of work or days assimilated to work (i.e. annual leave, unemployment, incapacity for work) within the 6 months preceding the acquisition of the right to indemnity. **Amount:** The worker who is employed at the moment of her pregnancy, shall enjoy 79.5% of her gross salary (no ceiling) for the first 30 days, and 75%, up to a ceiling, for the remaining period. The unemployed women receives 60% of the gross salary prior to being unemployed, up to a ceiling, and a complementary indemnity of 19,5% for the first 30 days, and of 15%, for the remaining period. **Duration:** Maternity benefits shall be paid to the worker during the period of maternity leave, namely, 15 weeks and any extensions thereof in case of multiple births (17 or 19 weeks). **Benefits are paid by** Social Security (compulsory sickness and indemnity insurance scheme).
- **Paternity leave benefits:** **Scope:** concerns all workers who are compulsorily insured under the sickness and indemnity scheme: workers (including contractual employees in the public service), persons who are incapacitated for work, and registered unemployed workers. Every worker irrespective of the type of work, and whether full or part-time work, shall be entitled to enjoy 10 days of paternity benefits. **Amount:** For the first 3 days, the worker is entitled to 100% of his remuneration paid by the employer. The remaining 7 days are paid by the sickness and indemnity insurance scheme at 82% of the preceding average remuneration. In case of post-natal leave taken by the father due to the death or hospitalization of the mother, 60% of the preceding average remuneration is granted by Social Security. **Paid by** Social Security.
- **Parental leave benefits:** **Scope:** The enjoyment of benefits for parental leave, may apply to male and female workers employed in the public and private sector and persons working under the authority of another person.

Amount: They receive a flat rate benefit of 679.59 euros per month for a full-time career break. For parents who have had or adopted a child since March 2012, they receive cash benefits for 4 months.

The flat rate amounts to 313.25 euros per month (for workers under 50 years old) or to 531.35 euros per month (for workers over 50 years old) for a working time reduced by 1/2.

It amounts to 106.28 euros per month and 142.91 euros per month for single workers (for workers under 50 years old) or to 212,54 euros per month (for workers over 50 years old) for a working time reduced by a 1/5.

The employee is entitled to a proportional amount to his/her working hours in case of part-time jobs.

Paid by: Interruption allowance is financed by the unemployment scheme of the Social Security System.

- **Adoption leave benefits: Amount:** For the first 3 days, the worker shall be entitled to the 100% of remuneration paid by the employer. The remaining days of the adoption leave are paid by the sickness and indemnity insurance scheme at 82% of the preceding average remuneration. (This appears to be peculiar).

Paid by Social Security.

Medical benefits:

- No mention.

Health protection:

- **Night work:** Night work (work between 8 pm and 6 am) is prohibited for pregnant women during the 8 weeks before the expected date of birth, and on the basis of a medical certificate, at any other period during the pregnancy or for a period up to 4 weeks immediately after the end of maternity leave.
- **Overtime:** Overtime (i.e. work in excess of 9 hours a day or 40 hours a week, or less, as provided for in collective agreements which have been rendered compulsory) is prohibited for pregnant workers.
- **Dangerous or unhealthy work:** If the safety and health of the woman worker is considered in danger according to a special assessment, her employer shall make the necessary arrangements to ensure the woman's safety by temporarily changing her working conditions and/or working hours.
- **Transfer:** She must be reinstated in her previous job under the same conditions as before as soon as the reason for the prohibition, the reduction of hours of work or the transfer to other duties has ended.

Non-discrimination/Job protection:

- **General:** Every person must be assured of equality of treatment in all provisions and practices relating to the conditions of admission to, the selection of persons for, or the selection criteria employed in connection with any job or duty or form of self-employment, irrespective of the sector, activity or grade. More particularly, in these situations it is unlawful to refer to the worker's sex or to use elements which, even in the absence of an explicit reference to the worker's sex, result in any form of discrimination.
- **Specific:** Any difference of treatment based on pregnancy, maternity or confinement is considered discrimination, and it cannot ever be justified.

Maternity protection standards are not considered a discrimination but a condition to achieve equality between men and women.

It is prohibited to refuse or impede access to employment or promotion on explicit or implicit grounds based directly or indirectly on the worker's sex. A contract of employment containing clauses of termination of the employment relation due to the pregnancy of the employee shall be null and void.

- **Dismissal:** The employer of a pregnant woman may not terminate the employment relationship from the date on which s/he is informed of the pregnancy until the end of the month following postnatal leave, except for reasons unconnected with the physical state resulting from pregnancy or confinement.

- **Burden of proof:** lies with the employer. A woman worker is entitled to a lump-sum compensation equal to 6 months of gross remuneration if reasons for dismissal do not meet the above-mentioned conditions or no reasons have been alleged, without prejudice to the damages which may be payable to the woman as a consequence of the breach of a contract of employment.
When the person who considers himself a victim of discrimination invokes before the competent court the facts that can assume the existence of a direct or indirect discrimination, it is incumbent on the defendant to prove that no discrimination has occurred.
- **Job guarantee:** A contract of employment is suspended during the period a woman is on maternity leave. She remains in the service of the employer and her absence on maternity leave counts as full service. At the end of parental leave, the worker shall be reinstated in his/her previous job or in an equivalent or similar job according to the worker's contract of employment.

Breastfeeding:

- **Breastfeeding breaks:** Nursing women have the right to one or two 30-minute nursing breaks depending on her working hours. If the woman works a minimum of 4 hours a day she has the right to one break. If she works at least 7 1/2 hours a day she can take two nursing breaks. Women covered have the right to nursing breaks during the 9 months following the birth of the child.
During nursing breaks the execution of the contract of employment is suspended and unpaid by the employer. However, 82% of the gross remuneration is paid by the sick and indemnity insurance scheme.
- **Breastfeeding facilities:** The employer must provide the necessary places and commodities for nursing women workers at or near the undertaking.

BOSNIA & HERZEGOVINA

BOSNIA & HERZEGOVINA HAVE RATIFIED ILO C183 (18.01.2010)

Name of Acts:

- Labour Code of the Federation of Bosnia & Herzegovina (Text No. 271), 1999, amended 2003
- Act on Gender Equality in Bosnia & Herzegovina (Text No. 161), 2003
- Law on Labour of the Republic of Srpska, No. 38/00, 2000
- Labour Code of the District of Brcko, Bosnia & Herzegovina, 2000, amended 2005.

Scope:

- All female employees.
- In the case of death of the mother, or of the mother abandoning the baby, or if for a justified reason she is prevented from using her right, the father of the child, or an adoptive parent, may use the right to maternity leave.

Maternity leave:

- **Federation of Bosnia & Herzegovina/Republic of Srpska:Length:**365 days (12 months). A woman may start maternity leave 28 days prior to the expected date of birth of the child.
Compulsory leave: a woman cannot take a shorter maternity leave than 42 days (6 weeks) following the birth of the child.
Extensions: Maternity leave can be extended to 18 months in the case of the birth of *twins*, as well as for the *third and each subsequent child*.
- **District of Brcko:Length:**12 consecutive months. The leave may start 28 days before the presumed date of confinement.
Compulsory leave:Compulsory leave includes: 7 days (1 week) before the presumed date of confinement and 42 days (6 weeks) after childbirth.
- **Republic of Srpska:Length:** 365 days (12 months).
Compulsory leave:A woman may start maternity leave 28 days prior to the expected date of birth of the child. A woman may not start work before 60 days (8 weeks) after childbirth.
Extensions:Maternity leave can be extended to 18 months in the case of the birth of *twins*, as well as for the *third and each subsequent child*.

Paternity leave:

- **Bosnia & Herzegovina:** an employee whose wife gives birth to a child is entitled to paternity leave of up to 7 working days in one calendar year.
- **Republic of Srpska:** 3 working days
- **District of Brcko:** 3 working days.

Parental leave:

- **Federation of Bosnia & Herzegovina:** one of the parents may take parental leave,if this is stipulated in the collective agreement or the rulebook. During absence from work for this time, the rights and obligations deriving from employment shall be at rest.
The leave lasts until the child's 3rd birthday.

Adoption leave:

- **Bosnia & Herzegovina:** Adoptive parents have the same rights as natural parents, same maternity leave (12 months).
- **Republic of Srpska:** Adoptive parents have the same rights as natural parents, same maternity leave (12 months).
- **District of Brcko:** Adoptive parents have the same rights as natural parents, same maternity leave (12 months).

Part-time work:

- **Federation of Bosnia & Herzegovina:** at the end of maternity leave, a women with a baby of up to 1 year of age shall be entitled to work half-time; for twins, or for the third and each following child, she is entitled to work part-time up to the child's 2ndbirthday. This right may also be used by the employed father, if the woman works full-time in that period.

- **Republic of Srpska:** at the end of maternity leave, one working parent of a child up to 2 years of age is entitled to work half time if the child, as determined by a competent doctor, needs special care.
- **District of Brcko:** at the end of maternity leave, a women with a baby of up to 1 year of age shall be entitled to work half-time; for twins, or for the third and each following child, she is entitled to work part-time up to the child's 2nd birthday. This right may also be used by the employed father, if the woman works full-time in that period.

Cash benefits: Maternity leave benefits: Federation Bosnia & Herzegovina: Amount: 50-80% of the reference wage, depending upon the various cantonal regulations of the Federation.

Duration: full duration of their leave.

Benefits are paid by the employer who is partly reimbursed by Social Security

Republik of Srpska: Amount: 100% of the salary the employee was earning during the last 6 months before the starting date of the maternity leave.

Duration: full duration of their leave.

Benefits are paid by the employer who is partly reimbursed by Social Security

District of Brcko: Amount: 100% of the employee's salary.

Duration: full duration of their leave.

Benefits are paid by the employer who is partly reimbursed by Social Security.

- **Paternity leave benefits: All regions:** Paid.
- **Adoption leave benefits: All regions:** Same as maternity benefits.

Medical benefits:

- No mention.

Health Protection:

- **Federation of Bosnia & Herzegovina: Overtime:** is forbidden for a pregnant woman, the mother or adoptive parent of a child up to 3 years of age, or a self-sustaining parent or adoptive parent with a child up to 6 years of age, unless s/he provides a written statement of voluntary consent to such work.
Dangerous or unhealthy work: There is a general provision covering all women stating that women cannot be employed in underground work (in mines), unless in a position of management or in health and welfare services.
As a general provision concerning all workers, the employer has the obligation to secure protection of employees' life and health, to prevent accidents and to ensure safety conditions. Employees can refuse to work if their life or health is immediately threatened due to lack of safety measures and are obliged to report this to the labour inspection authorities.
Temporary transfer: During pregnancy or breastfeeding, a woman may, upon her written consent, be assigned to other jobs if this is in the interest of her condition as established by the certified medical doctor. The temporary assignment shall not result in reduction of her salary. If this is not possible, the woman shall be entitled to paid absence from work.
- **Republic of Srpska: Night work:** is forbidden for pregnant women starting from the 6th month of pregnancy, and for mothers of a child under 1 year of age.
Overtime: no overtime work can be requested of a pregnant woman, a mother of a child up to 3 years of age, of single parents or a single adoptive parent of a child under 6 years. Exceptionally, these employees may work overtime if they provide a written statement stating their voluntary consent.
Dangerous or unhealthy work: There is a general provision covering all women stating that women cannot be employed in underground work (in mines), unless in a position of management or in health and welfare services.
Temporary transfer: Following the recommendation of the competent doctor, and upon her own consent, a pregnant/breastfeeding woman may be temporarily placed in another job if this is in the interest of her health or health of her child. If this is impossible she shall take leave of absence with total compensation.
- **District of Brcko: Overtime:** a pregnant woman, a mother or an adoptive parent of a child of up to 1 year of age, a single parent or single adoptive parent of a child of up to 2 years of age may work overtime if s/he agrees in writing of his/her own free will to such hours of work.

Dangerous or unhealthy work: There is a general provision covering all women stating that women cannot be employed in underground work (in mines), unless in a position of management or in health and welfare services.

Employers have to ensure that, so far as is reasonably practicable and in keeping with technical regulations, the workplaces, machinery, equipment and processes under their control are safe and without risk to health, and that the chemical, physical and biological substances and agents under their control are without health risks when appropriate measures of protection are taken.

Transfer: The woman shall be moved to another job; if this is impossible she shall have the right to paid leave of absence pursuant to a collective agreement or the book of rules.

Non-discrimination/Job protection:

- **Bosnia & Herzegovina: Non-discrimination:** full gender equality is guaranteed in all spheres of society, particularly in the fields of employment and labour, social and health care, irrespective of marital and family status.

Discrimination based on sex is prohibited. Any gender-based discrimination in employment offers, public vacancy notices, job allocations, contracts and termination of contracts, are in violation of the *Law on Gender Equality*.

The employer shall undertake effective measures to prevent gender-based discrimination at work or in contracts, and shall not undertake any measures against an employee who complains against gender discrimination.

A person seeking employment, as well as a person who becomes employed, shall not be discriminated against on the grounds of sex, birth or any other circumstance in respect of recruitment, training, promotion, terms and conditions of employment, cancellation of the contract of employment or other matters arising out of the employment relationship.

Dismissal: The employer cannot refuse to employ a woman because of her pregnancy, or cancel her employment contract because of her condition, or assign her to other jobs, except when she has been assigned to another job in the interest of her health as established by a certified medical doctor.

Burden of proof: The person whose rights are alleged to have been infringed (in regard of discrimination in employment) can bring a complaint to the courts. If the complainant gives evidence of a discriminatory distinction, the respondent shall have to prove that such distinction was not made on a discriminatory basis. If the court finds the complaint to be well-founded, it shall make order to ensure compliance with this article, including an order for employment, reinstatement, the provision or restoration of any right arising from the contract of employment.

- **Republic of Srpska: Non-discrimination:** When exercising the rights deriving from employment or the right to employment, an employee as well as an individual seeking employment shall not be discriminated against on the basis of gender, physical condition or any other characteristics which are not directly related to the nature of employment.

Pregnancy tests: It is forbidden to request that women seeking employment or women already employed should be tested for pregnancy.

Dismissal: An employer shall not refuse to employ a woman because of her pregnancy or terminate her employment contract during her pregnancy or maternity leave.

- **District of Brcko: Non-discrimination:** an employer may not refuse to employ a woman because she is pregnant. An employer may not refuse to employ a woman because she is pregnant nor shall s/he terminate the employee's contract of employment because she is pregnant or on maternity leave.

Job guarantee: "Prohibited discrimination on the grounds of gender at work and in employment" is defined inter alia as different treatment on the grounds of pregnancy, childbirth or exercising the right to maternity leave, including failure to enable an employee to return to the same job or another job of the same seniority with equal pay after the expiry of maternity leave.

Breastfeeding:

- **Breastfeeding breaks: Federation of Bosnia & Herzegovina:** A woman working full working hours after her maternity leave is entitled to take absence from work twice daily for a duration of 1 hour each time for the purpose of nursing the child, until the child reaches 1 year of age. These breaks are paid.
Republic of Srpska: if a woman starts work before the expiry of the whole maternity leave period (12 or 18 months, respectively), she shall be entitled to an additional daily period of 60 minutes during working hours in order to breastfeed her child. These breaks are paid.
District of Brcko: a woman who works her normal hours of work after maternity leave shall be entitled to be absent from work for 1 hour twice a day to breastfeed the child. These breaks are counted as normal hours of work, until the child reaches 1 year of age. Remuneration of nursing breaks is full pay.

BOSNIA & HERZEGOVINA HAVE RATIFIED ILO C183 (18.01.2010)

BULGARIA

BULGARIA HAS RATIFIED ILO C3 (14.02.1922)

BULGARIA HAS RATIFIED ILO C183 (6.12.2001)

Name of Acts:

- Ordinance No. 7, on the Minimum Requirements for Healthy and Safe Working Conditions in Workplaces and in the Use of Working Equipment, 1999
- Ordinance No. 5, on the Procedure, Manner and Frequency of Carrying Out Risk Assessments, 1999
- Law on Protection against Discrimination, 2003
- Labour Code, 1986
- Social Insurance Code, 1999
- Law for the Health Insurance, 1998.

Scope:

Female employees who work under an employment relationship.

Maternity leave:

- **Length:** Maternity leave amounts to 227 days (32 weeks) for each child, until the child is 6 months of age.
- **Compulsory leave:** 45 days (6 weeks) must be used before giving birth.
- **Extensions, restriction of leave:** In case of *still-birth*, of *infant death*, or if the child is given up to a *child care establishment* in the entire care of the State or for *adoption*, the mother shall be entitled to a leave of 42 days (6 weeks) after the date of childbirth. The medical authorities may extend this period in the event they find the mother's ability to work has not been fully restored after the birth, up to her complete recovery.
- **Other protective provisions:** An employee who is a mother of a small child, is entitled to work at home with the same or another employer until the child reaches the age of 6.

Paternity leave:

- Concerns a father who is married to the mother or living in the same household; he can benefit from 15 days leave at the birth of child from the date of discharge of the child from hospital.

Parental leave:

- Concerns the mother or under specified circumstances, the father or a grandparent of the child. Following the maternity leave, the mother or - with the consent of the mother - the father (adoptive father) may take *paid leave* for up to 189 days (29 weeks) after the child has reached 6 months of age.

Furthermore, the (natural or adoptive) mother, or with her consent or if she dies or becomes severely ill, the father (adoptive father) or one of their parents in case they work under an employment relationship, may take *additional paid leave* up to the child's 2nd birthday (from the fourth child onwards: 6 months), if the child is not placed in a child-care establishment. From the fourth child onwards, unpaid leave may be taken for the remainder until the child is 2 years of age.

Following this, any of the parents (adopters), if they work under a labour contract and the child has not been placed in an institution with full public support, shall have the right to *unpaid leave* up to 6 months for taking care of a child before 8 years of age. The leave may be used only once, or in several periods (not less than 5 workdays at a time).

Cash benefits:

- **Maternity leave benefits: Conditions:** A mother insured for all insurance risks shall be entitled to cash benefits for pregnancy and birth-giving. To be entitled she has to have had ensured employment for at least 12 months.

Amount: 90% of the worker's average daily wage or of her insured income.

Duration: 227 calendar days (32 weeks) of which 45 days (6 weeks) prior to the birth are provided.

Financing of benefits is ensured by the State Public Insurance (the General Sickness and Maternity Fund). In the event of termination of the social insurance for all social insurance

events during a period when pregnancy and birth benefits are received, the insured woman shall be paid benefits until the expiration of the benefit period.

- **Paternity leave benefits:Scope/Conditions:**Concerns fathers insured for all insurance risks, who take paternity leave and who have 12 months insured employment.

Amount:They are entitled to 90% of their average daily wage or of their insured income for 15 days.

Benefits are paid by State Public Insurance.

- **Parental leave benefits:Scope/Conditions:**Either the mother (adoptive mother), the father (adoptive father) or the person responsible for caring of the child, as long as the person is insured for all insurance risks and has had insured employment for 12 months.

Duration/Amount:During 189 days (29 weeks), additional paid leave (90% of average salary) for care of a small child (for raising a first, second, and third child until they reach 2 years of age, and 6 months for each subsequent child).

Benefits are paid by the State Public Insurance (the General Sickness and Maternity Fund).

Medical benefits:

- The National Health Insurance fund shall pay for medical services in case of pregnancy and motherhood.

Health protection:

- **Night work/Overtime:** Night work/overtime are prohibited for pregnant employees; mothers of children up to 6 years of age, as well as mothers who take care of disadvantaged children, notwithstanding of their age, unless by their written consent.
- **Dangerous or unhealthy work:**The employer may not order or oblige pregnant women and nursing mothers to do work that is dangerous or threatens their security and health. A pregnant woman or a nursing mother may refuse to do work defined as dangerous for the health of the mother or the child, or which after a risk assessment, has been defined to contain substantial risk for the health of the mother or her child.
The employer shall not send a pregnant woman and mother of a child of up to 3 years of age on mission without her written consent.
- **Transfer:**If the adjustment of the work conditions at the work place and/or the working time is technically and/or objectively impossible, or inappropriate, the employer shall undertake the necessary measures to place the female employee in another suitable job. The worker shall receive remuneration for the new position; if it is lower than that of the previous post, she is entitled to monetary compensation for the difference in remuneration.
- **Compensation:** By providing a certificate from the medical authority, a pregnant or nursing woman shall be released from the obligation to perform work which is inappropriate for her condition, and her employer shall pay compensation amounting to the received gross labour remuneration for the month before the day of issuing the prescription.

Non-discrimination/Job protection:

- **General:** In the field of labour rights, any direct and indirect discrimination based on gender, family and marital status, as well as differences in the contract terms and duration of working time, is forbidden.
- **Specific:**The special protection of pregnant women and mothers laid down by law is not considered discrimination, unless the pregnant woman or the mother does not wish to use this protection and she has so informed the employer in a written form.
The employer cannot refuse to employ a candidate on the grounds of pregnancy, maternity or raising children.
A pregnant worker or employee may be discharged with or without notice, only under specified circumstances.
- **Dismissal:** An employee using paternity leave, maternity leave or parental leave (leave up to the expiry of the above-mentioned 410 days (60 weeks) period) may be dismissed only if the enterprise is closing down. Employees who are mothers of children younger than 3 years of age may only be dismissed by the employer with prior consent of the Labour inspectorate.
- **Job guarantee:**No specific mention of job guarantee following maternity leave, or parental leave, though this is implicit.

Breastfeeding:

- **Breastfeeding breaks:** A female employee who breastfeeds her child is entitled to a paid leave for breastfeeding until the child reaches 8 months - 1 hour twice a day or, with her consent, 2 hours together. After the child reaches 8 months the break is of 1 hour a day and only if the medical authorities find it necessary for her to continue breastfeeding the child. For an employee working 7 hours or less the break is of 1 hour a day. Breaks shall also be granted to the adoptive mother and to the step-mother under the same terms and for the same duration as described above. The leave for breastfeeding shall be paid by the employer.
- **Breastfeeding facilities:** Suitable conditions shall be provided for pregnant and breastfeeding women to lie down while resting. Employers employing 20 or more women shall provide rooms for personal hygiene of the women and rooms for rest of the pregnant workers.

BULGARIA HAS RATIFIED ILO C3 (14.02.1922)

BULGARIA HAS RATIFIED ILO C183 (6.12.2001)

CROATIA

CROATIA HAS RATIFIED ILO C3 (8.10.1991)

CROATIA HAS RATIFIED ILO C103 (8.10.1991)

Name of Acts:

- Proglasenju Zakona o Rodiljnim I Roditeljskim Potporama, 2008
- Safety and Health Protection at the Workplace Act (Text No. 1183), 1996
- Gender Equality Act, 2003
- Act on Health Insurance, 2001
- Act on Compulsory Health Insurance
- Act on the Execution of the State Budget for 2007
- Labour Act, 1995
- Labour Act, 2009.

Scope:

- Female workers.
- A female worker has the right to maternity leave during her pregnancy, childbirth and care for her child. After the expiry of mandatory maternity leave, if the parents so agree, the right to maternity leave can be exercised by the child's father. If the mother dies, abandons the child or, if, because of illness or for other important reasons, she is unable to take care of the child, the father of the child may exercise all rights for the purpose of the protection of motherhood and child rearing under the *Labour Act*.

Maternity leave:

- **Length:** maternity leave: 28 days (4 weeks) before + 184 days (36 weeks) after birth: total of 40 weeks. Mandatory leave is 32 weeks (4 before, 26 after birth).
If the child's father exercises the right to maternity leave after the expiry of the mandatory maternity leave for a period not shorter than 3 months, the maternity leave is extended by 2 months.
A woman may take a longer maternity leave: 45 days (6 weeks) before the expected date of childbirth up until the first birthday of the child, that is, 410 days (60 weeks).
- **Compulsory leave:** The mother is obliged to take maternity leave from 28 days (4 weeks) before childbirth until the child is 6 months of age (mandatory maternity leave).
The right to mandatory maternity leave is to be exercised without interruptions. As an exception, a woman may, at her own request, begin to work before her child is 6 months old, but not before 42 days (6 weeks) have elapsed since the birth.
- **Extensions:** *formultiple births* (twins, etc.), the third or any subsequent child, a female worker may remain on maternity leave until the child/ren is/are 3 years old.
For *premature children*, the maternity leave is extended by the length of time that the child was born prematurely.

Paternity leave:

- **Length:** During the calendar year, a worker has the right to be free from work obligations and receive salary compensation (paid leave) for a maximum of 7 working days for important personal needs, for example childbirth.
Paternity leave lasts a maximum of 7 working days.
- **Benefits paid by:** For the purpose of acquiring rights arising from employment or related to employment, the periods of paid leave are considered as time spent at work.

Parental leave:

- **Conditions:** A worker who intends to exercise his/her right to suspension of the labour contract up to the 3rd year of the life of his/her child shall notify his/her employer as soon as possible, and not less than 1 month before the leave begins.
- **Length:** After the maternity leave has expired, one of the parents has the right to cease work until the child has reached 3 years of age.

Adoption leave:

- **Principle:** Same rights, to be exercised under the same conditions, by an adoptive parent or by a person in whose custody the child was placed in accordance with a decision issued by a body responsible for social welfare.
- **Conditions:** A worker who intends to exercise his or her right to adoption leave shall notify his or her employer of this intention as soon as possible, and not less than 1 month before taking the leave.
- **Length:** Up to the child's first birthday, or at least 270 days (40 weeks) (provided the adopted child is under 12 years of age), whichever is longer.

Part-time work:

- **Length:** When the mandatory maternity leave expires, the female worker has the right to work half-time until her *child is 1 year old*, whereas for twins, the third or any subsequent child, she can work half-time until the child/ren is/are 3 years old.
This right can be used by the worker who is the child's father if the mother is working full-time during this period.
After the child reaches 1 year of age, one of the child's parents has the right to work half-time until the child reaches *3 years of age* if the child, according to the opinion of an authorised physician, needs greater care and attention due to the state of his/her health and development.
- **Payment:** When working shortened working hours a worker has the right to salary compensation for the other half of normal working hours, at a level determined by the *Act on the Execution of the State Budget*.

Cash benefits:

- **Maternity leave benefits:** Two forms of maternity benefits, a Birth grant and Maternity allowances.
Conditions: are the same for both forms. Are entitled to cash benefits insured workers on maternity leave. The following are eligible: employed persons, public-sector employees, civil servants, self-employed persons, salaried full-time apprentices, temporary contract workers, military personnel, vocational trainees, postgraduate students studying abroad, and persons employed by a foreign employer if they are not covered under the employer's country provisions.
- **Birth grant: Amount:** A one-time lump sum of 2328.20 kunas is paid for newborn child assistance.
- **Maternity allowance: Amount:** Until the end of the mandatory maternity leave (6 months) the salary compensation is of 100% of the base. For the rest of the maternity leave period (6 more months) the mother shall be paid between 1663 kunas and 2500 kunas a month; in the case of multiple births, 1663 kunas a month for each child up to the age of 3 years.
Duration: The maternity allowance is received the first year of the child's life or in the case of twins or three children or more, until all children have reached the age of 3.
- **Benefits are financed** for both forms of benefits by the Croatian Health Insurance Fund, until the child reaches the age of 6 months, and the remaining period is covered by the State Budget.
- **Paternity leave benefits: Amount:** The worker is paid 100% of wages for 7 days.
Benefits are paid by the employer.
- **Adoption leave benefits:** Same as for maternity leave benefits.

Medical benefits:

- No mention.

Health protection:

- **Night work:** An employer shall not order a pregnant woman to undertake night work, unless the woman herself has so requested and the authorized physician has assessed that such work will not endanger her life or health or the life or health of the baby.
- **Overtime:** A pregnant woman, a parent of a child under 3 years of age, a single parent of a child under 6 years of age or a part-time employee may work overtime only if s/he gives a written statement indicating voluntary consent to such work, except in the case of force majeure.

- **Dangerous or unhealthy work:**The employer shall provide for and maintain the machinery, instruments, equipment, tools, workplace, access to workplace, as well as organize work in a manner which guarantees the protection of life and health of workers in accordance with the nature of the work being performed. The employer shall inform the worker of the dangers of the job being performed.
- **Transfer:** If a pregnant woman or a nursing mother performs work which endangers her or her child's life or health (as confirmed by an authorised physician), the employer must transfer her to other appropriate work. She may also be transferred on her own request. She may only be transferred to another place of work with her consent. In the event of a dispute between the employer and a female worker, only an authorised physician has the authority to determine whether the transfer to another job is appropriate. The temporary transfer must not result in the reduction of the woman's salary.

If an employer who employs five workers or less is not able to provide for the transfer of a pregnant woman or nursing mother to another job, the woman has the right to take a *leave with salary compensation* under separate regulations.

The employer may reverse the temporary transfer of a pregnant woman or nursing mother as soon as the woman's state of health permits her to return to her previous job.

Non-discrimination/Job protection:

- **General:**Direct and indirect discrimination of a person seeking employment and an employed person on the grounds of gender, marital status, family responsibilities, and birth shall be prohibited.

Discrimination on the basis of gender: means any normative or real, direct or indirect differential treatment, exclusion or limitation based on one's gender which renders more difficult or denies equal recognition, enjoyment or exercise of human rights of men and women in political, educational, economic, social, cultural, civil and any other sphere of life.

*Discrimination in the field of employment and labour:*is forbidden both in the public and private sectors, including in government bodies, when it comes to (inter alia): requirements for employment, self-employment or carrying out a professional activity, including the criteria and requirements for the selection of candidates for particular jobs in any activity and at all levels of professional hierarchy; promotion at work; career counselling; access to all types of vocational training, additional training and retraining, employment and working conditions and all rights that arise from work and are based on work, including equal pay; and cancellation of labour contracts.

Any distinction, exclusion or preference in respect of a particular job is not considered discrimination when the nature of the job or conditions in which it is performed are such that characteristics related to particular grounds constitute a genuine and determining occupational requirement, provided that the objective aimed to be achieved is legitimate and that the requirement is proportionate.

- **Specific: Discrimination in the case of maternity:**The employer must not ask for any kind of information on the woman's pregnancy nor must he order another person to ask for such information, except if the female employee personally requests a specific right envisaged under law or another regulation for the protection of pregnant women.
The employer must not refuse to employ a woman because she is pregnant, nor shall the employer terminate an employment contract on account of pregnancy of an employee or make an offer to such employee to conclude a modified employment contract.
- **Dismissal:**The employer may not dismiss a pregnant woman or a person exercising one of the following rights: the exercise of maternity, parental or adoptive parent leave, half-time work, work with shortened working hours for the purpose of intensified child care, leave of a pregnant woman or a breastfeeding mother, leave or shortened working hours for the purpose of caring for or nursing a child with severe problems or during a period of 15 days after the cessation of pregnancy or the cessation of the exercise of these rights,
A dismissal is null and void if, on the day of dismissal, the employer was aware of the pregnancy or if the employee notifies his or her employer, within a period of 15 days

following the receipt of the notice of dismissal, of pregnancy, enclosing an appropriate certificate signed by an authorized physician or another authorized body.

Pregnancy however, does not prevent termination of a fixed-duration employment contract, upon expiration of the period of time for which this contract was concluded.

- **Burden of proof:** If, in case of dispute, a person seeking employment or a worker presents the facts that give rise to a reasonable suspicion that the employer acted contrary to the law as regards discrimination in employment, (including dismissal) as described under anti-discrimination measures, the employer shall have the burden of proof to show that there was no discrimination.
- **Job guarantee:** After the expiry of maternity, parental, adoption leave or leave for the purpose of caring and nursing a child with severe development difficulties (etc.), the employee has the right to return to the same job s/he performed before the leave, and if the need for such job no longer exists, the employer shall offer him/her to conclude an employment contract for the performance of other appropriate job with working conditions which shall not be less favourable than those s/he enjoyed before the leave.

Breastfeeding:

- **Breastfeeding breaks:** A woman who, after the end of maternity leave or shorter work hours, continues to nurse her child, has the right to a break of one hour twice a day during full-time work.

The woman may exercise this right until the child reaches 1 year of age.

The period of the nursing break is included in the working hours and therefore paid. Salary compensation for the nursing break is calculated according to separate regulations.

CROATIA HAS RATIFIED ILO C3 (8.10.1991)

CROATIA HAS RATIFIED ILO C103 (8.10.1991)

CYPRUS

CYPRUS HAS RATIFIED ILO C183 (12.01.2005)

Name of Acts:

- The Maternity Protection Act No. 100 (I), 1997, amended Law 109 (I), 2007
- The Equal Treatment of Men and Women in Employment and Vocational Training, Law No. 205 (I), 2002
- The Parental Leave and Leave on Grounds of Force Majeure Law No. 69 (I), 2002, amended Law 111(I), 2007.

Scope:

- Maternity protection provisions are applicable to every person gainfully occupied as an employed person or a self-employed person.
- Persons working abroad in the service of Cypriot employers and persons who interrupt their compulsory insurance are allowed, under certain conditions, to be insured voluntarily.

Maternity leave:

- **Conditions:** The employee who presents a certificate signed by a registered doctor, certifying that she is expecting delivery on a specific week fixed in advance and mentioned in the certificate, has the right to maternity leave.
- **Length:** 18 weeks.
- **Compulsory leave:** The employee has the obligation to take 9 weeks of maternity leave starting with the second week before the expected delivery.
- **Extensions:** If the delivery does not supervene during the expected week, the *period before delivery* is extended for the time between the week of the expected delivery and the week where the childbirth supervenes, with no influence to the 6-week period required after the birth. If the birth takes place before the specific week of the expected delivery, the rest of the leave is taken after the birth, in order to assure the whole 18 week leave.

Parental leave:

- **Conditions:** The *Parental Leave Law* applies to all employees, men and women under the following conditions: 1) Continuous period of at least 6 months' employment with the same employer. 2) Notification to the employer in writing of the dates that the parental leave is to commence and conclude, at least 5 weeks before the leave is to commence. 3) Where a parent has more than one child, the parent's right to parental leave is independent for each child, provided that at least 1 year of employment with the same employer has elapsed since the expiration of parental leave previously taken.
- **Length:** up to 13 weeks for the birth or adoption of a child. This right is personal to an individual parent and non-transferable. Where more than one child was born on the same day, the entitlement to parental leave is 13 weeks for each child.
Parental leave shall be taken within the period commencing on the date after the expiration of maternity leave and ending on the child's 6th birthday. Parental leave may be taken for a minimum period of 1 week and a maximum of 4 weeks per year.

Adoption leave:

- **Scope:** Maternity protection provisions are applicable also to adoptive mothers who are employees. Parental leave provisions also apply to adoptive parents (same conditions as above).
- **Conditions:** To be entitled to adoption leave, the employee shall notify in writing, at least 6 weeks in advance, the intention to adopt a child and the date of adoption.
- **Length:** Maternity leave in case of adoption amounts to 14 weeks from the date of adoption onwards. Furthermore, 13 weeks of parental leave are granted, to be taken within a period of 6 years commencing on the date of the adoption and after the maternity leave has been taken, given that the child is not more than 12 years old.

Cash benefits:

- **Maternity benefits: Scope:** Maternity allowance is payable to insured employed women, self-employed women or voluntarily-insured woman in the service of a Cypriot employer

abroad, who is expecting a child, or who has adopted a child herself or her husband within the first 12 years from the child's birth.

Conditions: for the payment of maternity allowance are: 1) The insured woman is on maternity leave and she does not receive her whole salary or wages from her employer. 2) She has been insured for at least 26 weeks and has paid, up to the day of maternity allowance, contributions or insurable earnings not lower than 26 times the weekly amount of the basic insurable earnings (which changes from year to year). 3) The insured woman has paid or been credited with insurable earnings, in the previous contribution year not lower than 20 times the weekly amount of the basic insurable earnings.

Amount: Level of payment is 75% of the weekly average of the beneficiary's basic insurable earnings in the previous contributions year. Where the beneficiary is the main breadwinner, the weekly amount of the basic allowance is increased to 80% for one dependent, 90% for two dependents and to 100% for three dependents. The weekly amount of the supplementary benefit is equal to 75% of the average weekly insurable earnings of the beneficiary in excess of the basic insurable earnings.

Duration of payment is 18 weeks.

Paid by the Social Security Scheme, which is financed by contributions payable by employers, the insured persons and the State.

- **Parental leave benefits:** There are none (unpaid leave).
- **Adoption leave benefits:** are the same as for maternity leave benefits, for a period of 14 weeks.

Medical benefits:

- No mention.

Health protection:

- **Dangerous work:** It is forbidden to place pregnant women in work described as dangerous for the healthy progress of the pregnancy. This restriction cannot exceed the period of 6 months after the birth of the child.
- **Transfer:** Working women occupied in employment described as dangerous, have the right after the confirmation of their pregnancy and with a certificate, signed by a registered doctor, to be transferred to other work that is not harmful, with no reduction of their wages.

Non-discrimination/Job protection:

- **General:** There shall be no discrimination on the basis of sex, either directly or indirectly, with reference in particular to marital or family status. Men and women shall enjoy equal treatment, prohibiting any direct or indirect discrimination on the grounds of sex or due to pregnancy, childbirth, breastfeeding, maternity or illness due to pregnancy or childbirth as regards (among other reasons) the terms and conditions of employment, including qualifications and other terms, conditions and placement, permanency, accession, transfer, removal, detachment or promotion criteria.
Any person who intentionally does not comply with the above requirement shall be guilty of an offence and shall be punished with a fine.
- **Dismissal:** Neither taking nor requesting parental leave shall be a cause for terminating employment.
- **Burden of proof:** Under the *Parental Leave Law*, if any person considers to be affected by the non-observance of the principle of equal treatment and presents before any competent authority real evidence of any direct or indirect sex discrimination, the burden of proof that there has been no contravention of the principle of equal treatment shall lie on the respondent.
- **Job guarantee:** On the expiration of parental leave, the employee may return to work to the same or a similar position (not inferior to the position held before taking parental leave). All the acquired rights or rights to be acquired of an employee on the date that parental leave starts shall be maintained the same until the day the parental leave ends.

In particular, the maternity leave does not affect the seniority of the employee or her right to promotion or her return to the same post she occupied before the maternity leave or to another work of the same nature, with the same salary.

Breastfeeding:

- **Breastfeeding breaks:**For their nursing and/or other increased responsibilities required to bring up their child, all working mothers have the right either to interrupt their work for an hour, or to come to their work one hour later, or to leave their work one hour earlier, every day, during a period of 9 months after the delivery or after the starting of maternity leave, in the case of adoption.
The one hour daily interruption (or late arrival or early leave) is regarded as working time and thus paid.

CYPRUS HAS RATIFIED ILO C183 (12.01.2005)

CZECH REPUBLIC

Name of Acts:

- Labour Code No. 262/2006, 2006
- Law No. 264/2006, 2006
- The Act No. 309/2006 Coll. stipulating Further Requirements for Safety and Health at Work in Labour Relations and ensuring the Safety and Health Activities or Services Provided Outside Labour Relations, 2006
- Act No. 18/2006 Coll. on Sickness Insurance, 2006
- Act No. 124/2006 Coll. Slovak Republic on Health and Safety at Work (Maternity Pre-natal Care) and Amending and Supplementing Certain Acts, 2006
- Constitution of the Czech Republic
- Act No.117/1995 Coll., on State Social Support, 1995
- Act No.100/1988 Coll, on Social Security, 1988
- Act No.182/1991 Coll, implementing the Social Security Act, 1991
- The Government Bill amending Certain Laws in Connection with the Adoption of Health Services, the Act on Specific Health Services Act and the Emergency Medical Service
- Act No. 298/2011 Coll. amending Act No. 48/1997 Coll. on Public Health Insurance and Amending Some Related Acts, 2011.

Scope:

- Maternity protection is under the *Labour Code* which regulates the legal relations arising in connection with the performance of dependent work between employees and their employers. Amongst public servants, the following categories of workers are included: trainees (clerks) to become civil servants and officials of self-governing local area entities (units), university teachers (lecturers), employees of the Probation and Mediation Service and employees of the Ombudsman's Office.
- Are not included, except if expressly mentioned: judicial trainees (judges), public prosecutors, junior lawyers and employees, who perform state administration in administrative authorities as a service provided by the Czech Republic to the public.

Maternity leave:

- **Conditions:** The right to maternity leave is not subject to any qualifying condition.
- **Length:** 28 weeks.
- **Compulsory leave:** it is unclear if there is a compulsory period though there is mention of 6 weeks after birth.
- **Extension:** In case of *multiple births* a female employee is entitled to 37 weeks of maternity leave.
Leave in case of *illness or complications* is not expressly provided. In case of illness during pregnancy general rules under the sickness insurance statutory provision apply.

Paternity leave:

- **Scope:** Fathers, are entitled to paternity leave under the provisions of parental leave.

Parental leave:

- **Scope:** Parental leave is granted to the mother of a child upon termination of her maternity leave and to the father of a child from the day the child is born; it is granted within the scope mentioned above, upon request.
- **Duration:** It can be taken until the child reaches the age of 3 years.
In order to extend the care being given to a child, the employer shall grant a female or male employee parental leave if so applied for.
- **Procedure:** The female and male employees are entitled to take maternity leave and parental leave concurrently.
However, this changes in the following situations: 1) If a child is taken to a medical facility for suckling or to another health care establishment for medical treatment and the male or the female employee starts working during this period, the employee's maternity or parental leave is interrupted; the untaken part of the leave is granted again when the child is released from the health care establishment and taken care of again by its foster parents (but not beyond the

age of 3 years). 2) If a female employee or a male employee ceases to take care of a child, and the child is entrusted into foster care or institutional care substituting parental care, or if a child of a female employee is temporarily in the care of an establishment for suckling or another facility due to reasons other than its health, the female employee or the male employee is not entitled to maternity leave or parental leave for the period for which the female or male employee does not take care of the child. 3) If a child dies during a female employee's maternity or parental leave or during a male employee's parental leave, the maternity or parental leave shall be granted for 2 weeks after the child's death but not beyond the day when the child would have reached the age of 1 year.

Cash benefits:

- **Maternity leave benefits: Scope:** The following categories of workers are included: officers of the police force, of the fire and rescue service, of the customs administration, of the prison service, of the security information service, of the Office for foreign relations and information; professional soldiers; State employees under the *Service of Public Servants Act*; members of cooperatives; employees with agreements on working activity; workers with an employment relationship established under foreign legislation; judges; members of the boards of representatives of territorial self-governing units and of municipal quarters or municipal districts of territorially divided statutory cities; members of the Lower House of Parliament, senators of the Senate, members of the European Parliament, members of the Government, members of the Council for radio and television broadcasting, members of various official entities regarding telecommunications, arbitration, human rights, representatives (including elected) of various natural entities; voluntary home care services staff; foster-parents working in facilities designed for this purpose under special legislation, or who are paid for foster care; imprisoned convicts included in a work process; people working under a relationship with the same content as an employment relationship, but without establishing an official employment relationship; self-employed persons; foreign employees and employees of a foreign employer active in the Czech Republic (if they have applied to enter the insurance system).

Conditions: The person must belong to one of the above categories, must have an employment relationship and must have been insured, even if the mother is not married, is widowed, divorced, or alone.

The insured person must have participated in the sickness insurance scheme for at least 270 calendar days (39 weeks) over the last 2 years before the beginning of the maternity leave.

The following exceptions exist:

Students: The period of participation in sickness insurance includes the period of studies at a secondary school, vocational college or university considered to be systematic preparation for a future profession, for the purposes of pension insurance, if the beginning of the 6th week before the anticipated childbirth date falls in the period of 270 calendar days (38 weeks) from the date of the successful completion of the studies, or the care of the child was assumed within 270 days (38 weeks) after the date of the successful completion of the studies.

Self-employed: their period of participation in the sickness insurance scheme must be at least 180 days (16 weeks) during 1 year before the day the cash maternity benefits started; at the same time the insurance period must have lasted for at least 270 calendar days (38 weeks) during the last 2 years before the day the payment of the cash benefits started.

Amount: From the first calendar day, the amount is 60% of the daily wage of the mother (or other person entitled to the benefits).

Duration: The maternity benefits begin with the start of the maternity leave (beginning of the 6th week before the anticipated date of childbirth), for the period of 28 weeks for an insured woman who bears a child,

If the *mother bears two or more children* at the same time, the duration is 37 weeks; after the first 28 weeks, the benefits are received only if the mother continues to take care of at least two of these children.

For an *insured person who assumes the care of a child* (on the basis of a decision of the relevant authority, due to the mother's death, or long term disease), the support period is 22 weeks. If this insured person takes care of two or more children at the same time, the support

period is 31 weeks; after the first 22 weeks, the benefits are received only if the insured person continues to care for at least two of these children.

An insured person who is the *father of the child or husband of the woman* who bore the child also has the right to maternity benefits, if he has a written agreement with the mother stipulating he will care for the child. The agreement must include data laid down by law, and may be concluded with effect no sooner than the beginning of the 7th week after the birth.

Financing of benefits is covered by the Social Security System. Contributions are paid by employers, employees and the self-employed (who have voluntarily paid contributions to the sickness insurance scheme).

- **Parental leave benefits:** The parent's income is not examined; the parent may carry out an occupational activity without losing his/her entitlement to parental allowance. However, during the period of this occupational activity, the parent must ensure that the child is in the care of another adult.

Conditions: A parent is entitled to parental allowance provided: 1) a child, under the age of 3 years attends a crèche or other facility for pre-school children for a maximum of 5 calendar days per month; 2) a child over the age of 3 years attends a kindergarden or similar facility for pre-school children for no more than 4 hours a day or a maximum of 5 calendar days per month; 3) the child attends a remedial care centre, crèche, kindergarden or similar facility for disabled pre-school children for no more than 4 hours a day; 4) a child diagnosed as suffering from a long-term disability or a severe long-term disability attends a crèche, kindergarden or similar facility for pre-school children for no more than 6 hours a day or performs compulsory education.

Amounts: The parent may elect to draw parental allowance for different periods up to the child's 2nd, 3rd, or 4th birthday. By selecting the period of support, the parent also selects the amount of the allowance. Parental allowance is provided at four rates that are set at fixed monthly rates according to the duration: increased rate (11,400 CZK/month for 2 years), basic rate (7,600 CZK/month for 36 months), reduced rate (3,800 CZK/month for 9 months for parents not entitled to basic rate) and lower rate (3,000 CZK/month for 48 months).

Financed by: the State Social Support -Public Funds System.

Medical benefits:

- The Sickness Insurance System is intended for people in remunerative work, for whom it provides security through financial sickness insurance benefits in cases of "short-term social events": temporary inability to work due to an illness, injury or quarantine, caring for a family member, pregnancy and maternity or caring for a child.

Health protection:

- **Night work:** Not prohibited. If a pregnant employee who works at night requests to be transferred to day work, the employer must comply with her request. This provision shall similarly apply to a mother until the end of the 9th month after birth and to a female employee who is breastfeeding. If, through no fault of her own, a female employee earns less doing the type of work to which she has been transferred than in her previous post, she is provided with a balancing benefit (making up the difference).
- **Overtime:** The employer may not employ in overtime work, pregnant female employees, or female or male employees taking care of a child younger than 1 year.
- **Work on rest days:** Not prohibited. However, employers shall schedule working hours in such a way so that the employee has a minimum rest period of 12 hours between the end of one shift and the beginning of the subsequent one in a period of 24 consecutive hours.
- **Dangerous or unhealthy work:** Female employees may not be employed in activities which endanger their motherhood. The Ministry of Health has laid out the types of work and workplaces prohibited to female employees who are pregnant, breastfeeding or whose child is under 9 months of age.

These same categories of women can also present a medical certificate entitling them to not perform certain other activities, as listed in the medical certificate.

The employer is requested to inform female employees, who may be exposed to risk factors with adverse effects on their foetus, of this fact; they must inform them of the possible effects

on pregnancy, breastfeeding and on their health. The employer must take the necessary measures to eliminate these risks, including those concerning the reduction of mental and physical tiredness and other kinds of mental and physical stress, for the entire period necessary to protect the mother's/child's health.

- **Transfer:** In the case of a dangerous/harmful activity, the employer must transfer his employee temporarily to an alternative suitable post where she receives the same earnings as in her other job.

Non-discrimination/Job protection:

- **General:** Any and all forms of discrimination in labour relations are prohibited. The terms, such as direct discrimination, indirect discrimination, harassment, sexual harassment, persecution, an instruction to discriminate and/or incitement to discrimination, and the instances in which different treatment is permissible, are all regulated.

Employers shall ensure the equal treatment of all employees regarding working conditions, remuneration and other emoluments in cash and in kind, vocational training and opportunities for career advancement.

Discrimination does not include a different treatment in the instances where, owing to the nature of the occupational activity or owing to the context in which it is carried out, such a reason constitutes a substantial and decisive occupational requirement for the employee's performance and a necessary requirement for carrying out the work; the objective must be legitimate and the requirement adequate.

Moreover, discrimination is not deemed to occur when an employer takes a temporary measure aimed at leveling out the proportion of men and women employed (for example during recruitment, vocational training, promotion).

But in so doing, the employer cannot be detrimental to an employee of the other sex whose professional qualities exceed those of the fellow worker on whom the employer applies the temporary measure.

- **Dismissal:** The employer cannot give notice to his employee during a protection period: while a female employee is pregnant or on maternity leave or while a female or male employee is on parental leave. The notice period in these cases expires with the end of maternity or parental leave.

Such notice can be given to an employee only in the case of organizational changes (undertaking closing down or relocating).

- **Job guarantee:** The right to return to the same job performed before maternity leave once the maternity leave is finished is not provided.

Breastfeeding:

- **Breastfeeding breaks:** In addition to usual work breaks, the employer shall grant a female employee who is breastfeeding her child special breaks for breastfeeding.

A female employee who works normal weekly working hours is entitled to two 30-minute breaks per shift for each child until the child reaches the age of 1 year, and to one 30-minute break per shift during the subsequent 3 months.

If a female employee works part-time (but at least half of normal weekly working hours), she is entitled to one 30-minute break for each child until the child reaches the age of 1 year.

Breaks for breastfeeding are included in working hours and a compensatory amount equal to the woman's average earnings is paid by the employer for such breaks.

DENMARK

Name of Acts:

- The Danish Adoption (Consolidation) Act No. 928, 2000
- Labour Inspection Order, No. 559, 2004
- Act on Equal Treatment of Men and Women with Regards to Employment and Parental Leave, Act No. 711, 2002
- Consolidation Act No. 1084 on Entitlement to Leave and Benefits in the Event of Childbirth, 2009
- Act on the Public Health, Sundhedsloven, Act No. 546, 2005
- Consolidated Act No. 742, 2005
- Salaried Employees Act, Act No. 68, 2005
- Consolidation Act on the Legal Relationship between Employers and Salaried Employees.
- Act No. 223 on Employees' Entitlement to Absence from Work for Special Family Reasons, 2006
- Act No. 417 on Maternity Equalisation in the Private Labour Market, 2006
- Act No. 387 on the Board of Equal Treatment, 2008
- Consolidation Act No. 906 on Equal Pay for Men and Women, 2006
- Working Environment Act, Consolidated Act No. 1072, 2010
- Executive Order on Measures to Protect Workers from the Risks Related to Exposure to Carcinogenic Substances and Materials at Work.
- Consolidation Act on Gender Equality, Act No. 388, 2000, amended by Section 4 of Act No. 440, 2001, Act No. 146, 2002, Section 2 of Act No. 373, 2002 and Section 1 of Act No. 396, 2002.

Scope:

- All mothers. The father shall assume the mother's right to leave if the mother dies or proves unable to care for the child due to illness.

Maternity leave:

- **Length:** 18 weeks. A woman shall be entitled to absence from work due to pregnancy from the beginning of a 4-week period preceding the expected date of childbirth to 14 weeks after birth.
- **Compulsory leave:** A mother shall have the right and duty to take absence for the first 2 weeks after childbirth.
- **Extensions:** Female wage earners are entitled to leave from work due to pregnancy before the 4 weeks if: (1) a medical evaluation indicates that the pregnancy has *complications*, which would involve a health risk for the woman or foetus if further activity is continued; or (2) the special character of the work involves risks *for the foetus*; or (3) the pregnancy restricts the worker from doing her job due to *public regulations* and the employer has not offered another appropriate occupation.

If the child is *stillborn* or given up for *adoption* within 32 weeks after the birth, the mother has right to 14 weeks' break and to daily benefits.

In the case of *illness or complications* of the mother, she has right to a break and daily benefits for a maximum of 46 weeks after giving birth.

Other arrangements: Time off for medical examinations: the female worker has the right to take time off for pre-natal health examinations with full pay from her employer.

Paternity leave:

- **Scope:** Concerns all fathers.
- **Length:** Paternity leave is 2 consecutive weeks after childbirth or subject to agreement with the employer within the first 14 weeks after childbirth.

Parental leave:

- **Scope:** Concerns all parents (biological and adoptive).
- **Length:** Either parent is entitled to parental leave for 32 weeks.
The father is entitled to begin the parental leave within the first 14 weeks after childbirth.
Either parent is entitled to prolong the parental leave from 32 weeks to 40 weeks.

In certain conditions, employees and self-employed are entitled to prolong the parental leave from 32 weeks to 46 weeks.

Employees and self-employed persons may return to work in full or in part during the period in which they are entitled maternity benefits, with the exception for the mother during the first 2 weeks after childbirth.

- **Payment:** The Minister for Family and Consumer Affairs shall lay down rules governing the payment of maternity benefits for weeks in which there is a partial return to work.

Adoption leave:

- **Scope:** Prospective adopters and adopters.
- **Conditions:** A condition for entitlement to absence during the pre-adoption period is that the adoption has been arranged by an organisation approved under the Danish Adoption Act, or a privately conducted adoption of a foreign child subject to the approval of the Department of Family Affairs. Another condition is that prospective adopters stay in the place where the child is staying prior to the reception of the child.
- **Length/Process: Prospective adopters** residing abroad in order to receive a child shall be entitled to absence from work (pre-adoption) for up to 4 weeks prior (possible prolongation of 4 other weeks) to receiving the child.

Prospective adopters who are to receive an adopted child in Denmark are entitled to absence for up to 1 week (possible prolongation of 1 week) prior to receiving the child unless the child already resides in the adopters' home.

Prospective adoptive parents are also entitled to leave after the reception of the child.

Adopters: The child shall be considered received when the official conditions for returning to Denmark with the child have been fulfilled.

Where the authorities in charge of the adoption have decided that the adopter or one of the adoptive spouses must stay at home for a period of time, the parents shall be entitled to absence for the first 14 weeks after receiving the child, one of the adoptive parents at a time shall be entitled to absence apart from a right to absence at the same time for 2 consecutive weeks. It shall be possible to begin exercising the right to absence within the first 14 weeks after the reception of the child.

In case of adoption of a stepchild (a registered partner's child), the adopter shall be entitled to absence for 2 consecutive weeks after childbirth or from the reception of the child in the home or subject to agreement with the adopter's employer within the first 14 weeks after childbirth.

Part-time work:

- Employees and self-employed persons may return to work in full or in part in the periods in which there is a right to maternity benefits.
- This shall, however, not apply to a mother for the first 2 weeks after childbirth.
- The Minister for Family and Consumer Affairs shall lay down rules governing the payment of maternity benefits for weeks in which there is a partial return to work.

Leave in case of sickness of the child:

- If the child has been admitted to hospital, the period of right to absence shall be prolonged or postponed.
- Provided work is not resumed at the time of admittance to hospital, the period of right to absence shall be prolonged by the period in hospital if admittance to hospital takes place during the first 46 weeks after childbirth or the reception of the child. The right to absence may, however, not be prolonged for more than 3 months. The right to prolong the period of absence shall not apply to the paternity leave or adopters right to absence at the same time for the first 14 weeks after the reception of the child.

Leave in case of special family reasons:

- Under the *Act on Employees' Entitlement to Absence from Work for Special Family Reasons*, an employee shall be entitled to absence from work where urgent family reasons in cases of sickness or accident make the immediate presence of the employee indispensable (force majeure).
- The length of this right is not expressly mentioned when it is based on sickness or accident.

Cash benefits:

- **Maternity leave benefits: Scope:** employees and self-employed.
Conditions: At the beginning of the absence, to be residing legally in Denmark or be subject to Danish legislation on Social Security.
Employees: 1) to be part of the labour market continuously for the last 13 weeks prior to the beginning of the period of absence and during this period to have been employed for a minimum of 120 hours; or, 2) to be entitled to unemployment benefits or an allowance in lieu of unemployment benefits. 3) If the person is not entitled to unemployment benefits, she will have to have completed within the last month vocational training of a minimum of 18 months' duration or be a trainee in paid practice as part of training that is regulated by or pursuant to statute.
Self-employed person: 1) to have been exercising an activity during the last 12 months for at least half of the normal weekly working hours relating to collective agreements for a minimum of 6 months, the last month of which prior is to the absence; 2) in the case the self-employed activity has been exercised for less than 6 months, to include periods of prior employment as an employee.
Amount: *Regular employees* have the right to full pay for 18 weeks (100%). *Salaried employees* (Funktionær) in both the public and private sectors have right to 50% of their salary for 18 weeks: 4 before the birth and 14 after.
Maternity benefits for *employees and self-employed* cannot exceed DKK 3,415 a week (or more depending on collective agreements).
Maternity benefits for an *unemployed member* of a recognized unemployment fund shall total the amount the person would have received in the form of unemployment benefits.
Duration: Benefits are paid during the whole period of maternity leave.
The employer pays the benefits relative to absence from work due to ante-natal examinations.
- **Paternity leave benefits: Amount/Duration:** paid at of 100% of salary for 2 weeks.
- **Parental leave benefits: Scope/Duration:** Concerns employees and self-employed for 32 weeks up to 46 weeks (in case of extension of leave) after childbirth or the reception of the child.
Amount: 100% of wages.
- **Adoptive leave benefits: Scope:** Concerns prospective adopters and adoptive parents employees or self-employed. If cleared by the state county and department of family affairs as suitable to adopt, the adopter has a right to adoption leave and benefits from reception of the child; benefits will be paid during the length of adoption leave.
Amount: 100% of wages.
- **Financing of all forms of benefits** by the local authorities (municipalities) for maternity, adoption, paternity and parental leave. The Government pays back 100% of this payment to the local authorities; however it reimburses only 50% of the expenditure on benefits paid to care for seriously ill children.
In the case of illness, the salaried employee is entitled to full pay for 10 days. In case of leave due to illness before the pre-natal leave, benefits are paid according to the *Act on Sickness Benefits*.

Medical benefits:

- Women with 6 weeks of residence in Denmark are entitled to maternity care. This includes medical consultations, hospital admission and the assistance of a midwife.
- Medical benefits are paid by the Insurance, Employers, Municipality or State, or a combination.
- Parents with seriously ill children under the age of 14 have the right to daily benefits from the local authorities in the case where they give up paid employment completely or partially. The illness of the child is deemed to involve a stay at a hospital or a similar institution for 12 days or more. The period of daily benefits cannot exceed 52 weeks within the preceding 18 months. The benefits can be split between the parents.

Health protection:

- **Night work** is not prohibited either for pregnant women or breastfeeding mothers, but only for minors under 18 years of age.
- **Overtime** is not prohibited for pregnant workers or breastfeeding mothers.
- **Work on rest days** is not prohibited either for pregnant workers or breastfeeding mothers. Nonetheless, working hours shall be organised so as to allow a rest period of at least 11 consecutive hours within every period of 24 hours. Within each period of 7 days, employees shall have a weekly 24-hour period off, which shall be in immediate connection to a daily rest period.
- **Dangerous or unhealthy work:** The employer has the obligation to perform in all cases a *risk assessment* covering both the impact of the hazard and its expected level and duration. An employer's decision that a pregnant or breastfeeding woman may perform specific tasks must be taken in the context of her specific job. If the employer determines that a risk is present s/he must do the following to reduce the risk: adjust or modify the physical workplace; if this is not possible change the planning and organization of work; if this is not possible move the woman to another task (transfer); if this is not possible decide that the woman should not carry out the work concerned (leave).
- **Specific dangerous jobs:** Everyone who works in a *laboratory* must be introduced to the Chemistry Institute's Registry of Chemical Safety Data system-KIROS. The employer must make an assessment of the risks to the woman and her foetus when working with or exposed to drugs and materials with the following specific Risk phrases on labels. Substances and materials that are labeled with other risk phrases may also damage the foetus, therefore, the employer must also make an assessment when pregnant and nursing women work are exposed to carcinogenic substances and processes; endocrine, disruptive, volatile substances and organic solvents; pesticides; heavy metals; anesthetic gases; asphyxiant gases. Hazardous substances must, as far as possible, be substituted with other, less dangerous substances. Pregnant workers can reduce risks significantly by encapsulation of the substance or process and by using a fume extractor or hood. All employees intending working with open *radioactive sources* must receive a thorough introduction to the work and a set of written instructions which they should read thoroughly. Women must give notice of pregnancy to their employer as early as possible. Then, together with their line manager, they estimate the amount of radiation that the unborn child will receive during pregnancy. The work of a pregnant woman must be organised in such a way that there is no risk for an unborn child of receiving a radiation dose of over 1 mSv. Pregnant women should not work with iodine-125, and should not normally access radioactive stock solutions. If the pregnant woman continues with duties which under Annex 4 of Decree No 823/1997 require personal radiation meters to be worn, the meters must be read at least once per month. If a woman is breastfeeding in a period where she is working with radioactive substances, this must be taken into account. But if this work involves volumes less than the limits for S1-authorization, then there is usually no reason why a woman should be moved to other work. **Biological materials:** The current rules for laboratory classification must always be followed, and thorough instruction given by a supervisor before work commences: avoid working with research animals: experimental animals may pose a risk to the foetus, in that they can carry a protozoan (*Toxoplasma gondii*). It is recommended that the pregnant employee ask her doctor for a blood test to determine if she carries antibodies the parasite. If she does, she can continue work as before, otherwise she must be moved to other post. Also important to avoid working with poultry/birds (danger of Ornithosis). Pregnant workers shall be careful when working with blood and tissue samples; all medical specimens should be considered potentially infectious and handled accordingly. A vaccination against infectious hepatitis is recommended before beginning work involving medical specimens. **Arduous work:** Manual handling of heavy burdens over 4-5 kg., long standing and walking labour, pull and push, combined physical strains of repeatedly heavy lifts, manual moves of

persons, much standing and walking, high pressure (in pressure chambers or in diving, etc.) are considered arduous work from which pregnant and nursing women should be prohibited. In particular, *work involving exposure physical agents with physical influences* (impact and vibrations, noise and ultrasound, ionising radiation, electromagnetic fields, chemical substances - also those which are absorbed through skin, and chemical agents, extreme cold and heat, volatile substances and organic solvents, lead and lead connections) are considered work from which pregnant and nursing women should be prohibited.

Non-discrimination/job protection:

- **General:** the employee/worker (man or woman) has the right to a compensation in case of discrimination on leave. This compensation can amount, at maximum, to the pay for 39 weeks depending on the working hours and the specific conditions of the case.
- **Pregnancy tests:** Pregnancy tests are prohibited, not on the basis of national law, but of the European Union's Judgment No. C-109/00 of 4 October 2001 on the basis of Articles 5 of the EU Directive No. 76/207 and 10 of the Directive No. 92/85 has created legal practice which is applicable until EU directive is implemented.
- **Dismissal:** an employer may not dismiss an employee for having put forward a claim to use the right to absence or for having been absent under sections 6 to 14 of the *Act on Maternity Leave* or for any other reason related to pregnancy, maternity or adoption.
If the employer dismisses the salaried employee before the start of the maternity leave or during maternity leave, she is entitled to full salary during the period of notice. If the salaried employee is dismissed during the maternity leave period, she shall be entitled to full salary from the start of the maternity leave.
- **Burden of proof:** If the dismissal takes place in connection with or during pregnancy or maternity leave, it shall be incumbent on the employer to prove that dismissal was not based on these grounds.
If the discrimination is related to a woman giving birth, the burden of proof is on the employer and the pay compensation can be calculated up to 78 weeks' pay. The employer also has to pay a fine in case of discrimination.
If reinstatement of the employee in his or her job is considered to be "unreasonable", the employee is entitled to compensation amounting to a maximum of 78 weeks of wages, which must take into account the seniority of the employee and other particular circumstances of the case.
- **Job guarantee:** No specific mention.

Breastfeeding:

- **Breastfeeding breaks:** No mention of breastfeeding breaks, etc.

ESTONIA

Name of Acts:

- Employment Contracts Act,1992
- Health Insurance Act,2002
- Holidays Act,2001
- Working and Rest Time Act,2001
- Occupational Health and Safety Requirements for Work of Pregnant and Breastfeeding Women,Regulation No.50, 2001.

Scope:

- Persons working on the basis of employment contracts and public servants.

Maternity leave:

- **Conditions:** Pregnancy and maternity leave shall be granted to a woman on the basis of a certificate for maternity leave.
- **Length:** 140 calendar days (20 weeks); up to 70 calendar days (10 weeks) before the estimated date of delivery as determined by a doctor.
- **Compulsory leave:** not mentioned.
- **Extension:** In the case of *multiple births*, pregnancy and maternity leave of 154 calendar days (22 weeks) shall be granted.
In the case of a delivery with *complications*, pregnancy and maternity leave of 154 calendar (22 weeks) days shall be granted.

Paternity leave:

- **Scope:** Concerns a father who works on the basis of an employment contract or as a public servant.
- **Length:** Paternity leave lasts 14 calendar days (2 weeks) during the pregnancy leave or maternity leave of the mother within 2 months after the birth of the child.

Parental (Child care) leave:

- **Scope:** Parental leave is entitled to either the mother or father or, if they do not use their right to parental leave, the actual caregiver of the child (who lawfully resides in the Republic of Estonia), working on the basis of an employment contract; and public servants.
- **Length:** Parental leave lasts until the child reaches 3 years of age.
- **Extension:** Afterwards, additional child care leave is granted.

Adoption leave:

- **Scope:** A person working on the basis of an employment contract or as a public servant, adopting a child under 10 years of age.
- **Condition:** The adopted child does not descend from the adoptive parent and the adoptive parent is not a step-parent.
- **Length:** 70 calendar days as of the date of entry into force of the adoption judgment.

Cash benefits:

- **Maternity leave benefits: Scope/conditions:** To be entitled to benefits, the woman must be an insured person, either as a permanent resident of Estonia or a person living in Estonia on the basis of a temporary residence permit, who pays social tax (or for whom a third person pays social tax) in the amounts and within the terms provided for in the *Social Tax Act*. Pregnant women from the 12th week of pregnancy are considered equal to such persons, even if their social tax is not paid.
Amount: the amount of wage paid during maternity leave is of 100%.
Duration: A pregnant woman has the right to receive maternity benefits for 140 calendar days (20 weeks) if her pregnancy and maternity leave commence at least 30 calendar days before the estimated date of delivery as determined by a doctor. The number of the days by which the pregnancy and maternity leave of the woman commence later than 30 days before the estimated date of delivery shall be deducted from the period for which the woman has the right to receive maternity benefits.
Financing of benefits is covered by Social Security (Estonian Health Insurance Fund).
- **Paternity leave benefits:Length:** lasts 14 days of paid leave.

Benefits are paid by the employer.

- **Parental leave benefits:** Unpaid.

Medical benefits:

- The employer is obliged to enable the pregnant woman to take time off for ante-natal examination in case the examination takes place during the working hours and retain her salary for that time.
- No mention of health care during pregnancy, birth or after birth.

Health protection:

- **Night work/Overtime:** Pregnant women shall not be required to work during night time (10 pm - 6 am) or to work overtime.
- **Dangerous or unhealthy work:** The employer is obliged to assess the risk to the safety of the pregnant or breastfeeding worker or her health based on the nature, degree and duration of exposure to risk factors or work processes such as physical agents (shocks, noise, etc.), specified chemical and biological agents, working on a ladder, platform or scaffolding, difficulty of physical work (manual handling of loads, works with local muscular tension), forced positions and movements causing mental or physical tiredness or overstrain, including constant working by standing or sitting, monotonous work, fast working pace, work of increased attention and other similar factors.

Non-discrimination/Job protection:

- **General:** It is illegal to allow or give preferences, or to restrict rights on the grounds of the sex, nationality, colour, race, native language, social origin, social status, previous activities, religion, political or other opinion, or attitude towards the duty to serve in the armed forces, of employees or employers.
- **Specific:** It is also illegal to restrict the rights of employees or employers on the grounds of marital status, family obligations, membership in citizens' associations, or representation of the interests of employees or employers.
On the other hand, to allow and give preferences based on pregnancy or the raising of children is not illegal.
- **Burden of proof:** Where an employee or a person applying for employment finds that the employer has discriminated against him or her on the basis of an attribute, the employee or person applying for employment shall submit to a labour dispute resolution body or to the Legal Chancellor an application containing the facts in proof of the discrimination.
If on the basis of the application submitted by an employee or a person applying for employment it may be presumed that direct or indirect discrimination has occurred, at the request of the Labour Dispute Resolution Body or the Legal Chancellor, the employer shall be required to explain the reasons for his or her conduct or decision. The refusal by an employer to give explanations shall be deemed to be equal to acknowledgement of discrimination.
- **Dismissal:** It is prohibited for an employer to terminate an employment contract with a pregnant woman or a person raising a child under 3 years of age.
- **Job guarantee:** implied but not explicit.

Breastfeeding:

- **Breastfeeding breaks:** A person raising a child under 18 months shall be granted additional breaks for feeding the child in addition to the general breaks for rest and meals. Each break is of at least 30 minutes every 3 hours.
The duration of a break granted for feeding two or more children of up to 18 months of age shall be at least 60 minutes.
If a person so requests, the breaks prescribed for feeding a child shall be added to the breaks for rest and meals, or the working day shall be reduced by the corresponding period of time. Breaks for feeding a child are included in working time and payment of average wages shall be continued for the breaks from state budget funds through the budget of the Ministry of Social Affairs pursuant to the procedure established by the Minister of Social Affairs.

FINLAND

Name of Acts:

- Employment Contracts Act, Act No. 55, 2001
- Occupational Safety and Health Act, Act No. 738, 2002
- Decision of the Ministry of Social Affairs and Health Concerning Radiation, 1969
- Act respecting Equality Between Women and Men, Act No. 609, 1986
- Act respecting Maternity Allowance, Act No. 477, 1993
- Health Insurance Act, Act No. 1224, 2004
- Non-discrimination Act, Act No. 21, 2004
- Act on Specialized Medical Care, Act No. 1062, 1989
- Primary Health Care Act, Act No. 66, 1972
- Social Welfare Act, Act No. 710, 1982.

Scope:

- Finnish law treats maternity, paternity and parental leave as one system of “parental leave”.
- Parental leave covers all persons working under a contract of employment. Employment relations or service obligations subject to public law; ordinary hobby activities and such contracts on work to be performed which are governed by separate provisions are excluded from this scope.
- Female employees have the right to maternity leave for the period maternity cash benefits are paid under the *Health Insurance Act*.

Maternity leave:

- **Length:** Pregnant women have the right to 105 working days (17 weeks), which may be taken for up to a maximum of 50 days (10 weeks) before and a minimum of 30 days (4 weeks) after confinement. The remaining 3 weeks are to be taken after the compulsory leave.
- **Compulsory leave:** 30 days or 4 weeks after birth.
- **Extensions:** A *pregnant employee* who cannot be transferred to other duties is entitled to special maternity leave and a special maternity allowance is paid. In case of *multiple-births*, the leave may be extended up to 60 working days (12 weeks) for the second and additional child. The extension can be added to the end of the maternity allowance or the parental allowance period.

Paternity leave:

- **Scope:** Male employees have the right to paternity leave during the period they are entitled to cash paternity benefits under the *Social Security Act*.
- **Length:** Fathers can take between 1-18 days. Additionally, if the father takes the last 12 working days in the parental allowance period, he is entitled to 12 additional working days of leave (“daddy month” - from 1 January 2010: 1-24 working days), which must be taken all in one block within 180 calendar days (16 weeks) of the final date of payment of the parental allowance.

Parental leave:

- **Scope:** Parental leave covers all persons working under a contract of employment (exception of public service contracts and contracts relating to the performance of official duties) who have the right to a parental allowance paid under the *Health Insurance Act*.
- **Length:** The parent can take parental leave until the child reaches 3 years of age.

Adoption leave:

- **Scope:** Insured persons resident in Finland (employed, self-employed and students aged 16-64) for the period they are entitled to cash adoption benefits under the Social Security Act.
- **Length:** Adoptive leave benefits are granted depending on the age of the child. In the case of a newborn adoptive child parental leave benefits are paid for 234 working days (33 weeks), counted from when the child is born. For adoptive children under 7 years of age, parental leave benefits are paid for 200 working days (18 weeks).

Part-time leave:

- **Scope:** The employer and the employee may agree on part-time work and its terms during the parental allowance period. The employee's right to partial parental allowance is prescribed. Both of the child's parents, or persons having the care and custody of the child, are entitled to take partial child-care leave during the same calendar period, but not simultaneously.
- **Length:** Can be taken up to the end of the 2nd year during which the child attends basic education.

The minimum length of the part-time childcare leave is 6 months, the specific arrangements being subject to agreement between the employee and the employer.

End: Agreement shall be reached on discontinuing part-time work or altering its terms. If agreement cannot be reached, the employee is entitled for a justified reason to discontinue part-time work and return either to the parental leave referred to above or to /her/his previous working hours.

- **Unpaid leave:** This reduction in work time is not financially compensated.

Temporary absence from work:

- As a general provision, employees are entitled to temporary absence from work if their immediate presence is necessary because of an unforeseeable and compelling reason due to an illness or accident suffered by their family.

Cash benefits:

- **Maternity leave benefits:** Two types of cash benefits are identified: Maternity grant and Maternity allowance.
- **Maternity grant** for expectant mothers. Mothers can choose between a maternity package or an amount of cash (140 euros). Mothers of twins are entitled to three maternity grants, mothers of triplets to six.

Conditions: Residence in Finland, a pregnancy that has lasted at least 154 days (22 weeks), a medical examination at a maternity health clinic or a doctor's office by the end of the 4th month of pregnancy. Such a grant is also payable to adoptive parents for an adopted child under the age of 18.

- **Maternity allowance: Scope/Conditions:** The mother must have lived in Finland or another EU/EEA member state for at least 180 days (26 weeks) before the due date and her pregnancy has lasted at least 154 days (22 weeks). Mothers and fathers must be insured under the *Health Insurance Act*.

Duration: Maternity leave benefits are paid for 105 working days (21 weeks). Of these, mothers are to take between 30-50 days (6-10 weeks) before giving birth and between 55-75 days (11-15 weeks) afterwards. If sickness prevents the mother from taking care of the child during the maternity benefit period, the father can receive the benefits if the child is in his custody.

Amount: in general, 70%, up to a ceiling, plus 40% of the additional amount up to a ceiling, plus 25% of additional amount.

The amount depends on the claimant's earnings or, if self-employed, on insurable annual income, but is at least 22.04 Euros a day.

Benefits are paid by the Social Insurance System.

- **Paternity leave benefits: Scope:** Concerns fathers insured under the *Health Insurance Act*.
Amount: They receive in general: 70% of salary, up to a ceiling, plus 40% of the additional amount up to a ceiling, plus 25% of additional amount. The amount depends on the claimant's earnings or, if self-employed, on insurable annual income, but is at least 22.04 Euros a day. **Benefits are paid** by the Social insurance.
- **Parental leave benefits: Scope/Conditions:** Concern insured persons residing in Finland (employed, self-employed and students aged 16-64).
The parent must have lived in Finland at least 180 days (26 weeks) before giving birth. The leave is payable immediately after the maternity allowance.
Amount: The amount represents in general 70% of the salary. It depends on the claimant's earnings or, if self-employed, on insurable annual income, but is at least €22.04 a day. Benefits can be paid as a partial benefit if both parents are working part-time.

Duration of the payment depends on the number of children in the family. The parental allowance eligibility period begins, for one child, at 158 weekdays (22 weeks); for each additional child, 60 weekdays later (12 weeks).

Paid by the Social Insurance System.

- **Adoption leave benefits: Scope:** Insured persons resident in Finland (employed, self-employed and students aged 16-64).

Amount: In general: 70%, up to a ceiling, plus 40% of the additional amount up to a ceiling, plus 25% of additional amount. Depends on the claimant's earnings or, if self-employed, on insurable annual income, but is at least 22.04 Euros a day.

Duration: Adoptive leave benefits are granted depending on the age of the child. In the case of a newborn adoptive child parental leave benefits are paid for 234 working days (33 weeks), counted from when the child is born. For adoptive children under 7 years of age parental leave benefits are paid in any case for 200 days (28 weeks).

Financing of benefits by Social Insurance.

Medical benefits:

- According to the *Finnish Constitution*, it is the duty of the public authorities to promote the health of the population. The provision of health care services is the responsibility of the municipalities.
- In the municipalities, primary health care services are provided by health centres, and specialized medical care is provided by hospital-district hospitals. A municipality may run its own health centre, or may do so together with several other municipalities. Some municipalities purchase nearly all their health centre services from private providers. One health centre can have several units and wards for inpatient care.
- Primary health care covers maternity and child welfare clinics, school health care, medical rehabilitation, and dental care.
- Medical benefits are covered by tax revenues.

Health protection:

- **Night work:** No prohibition of female night work was identified. In the legal provisions on night work, every employee performing night work shall, when necessary, be provided with the opportunity to change tasks or shifts in consideration of the circumstances and in order to eliminate risks to the employee's health.
- **Overtime:** not prohibited for pregnant women or nursing mothers.
- **Dangerous or unhealthy work:** *General provisions:* the employer must take the necessary measures to protect an employee from risk of occupational accidents and diseases, taking into account the nature and conditions of the work, and the age, sex and professional skills of the worker. To this end, the working environment must be under constant surveillance, and appropriate measures should be taken to prevent accidents, health hazards and dangerous situations.

During the *period of maternity* the employee is, with the employer's consent, entitled to perform work that does not pose a risk to her or to the unborn or newly born child. However, such work is not permitted during a period of 2 weeks before the expected time of birth and 2 weeks after giving birth.

- **Transfer:** A pregnant employee whose work or working conditions involve the use of chemical substances, or the risk of exposure to radiation or contagious diseases which are deemed to endanger the foetus or the health of the woman, must, if possible, be transferred to alternative duties appropriate to her professional skills and experience unless the hazards can be removed by occupational health measures.

According to the *Sickness Insurance Act*, a pregnant employee who cannot be transferred to other duties is entitled to special maternity leave and a special maternity allowance is paid. At the end of this leave, employees are entitled to return to their former duties. If this is not possible, they shall be offered equivalent work in accordance with their employment contract, and if this is not possible either, other work in accordance with their employment contract.

Both the employer and the employee have the right to discontinue work during the maternity allowance term at any time.

Non-discrimination/Job protection:

- **General:**Sex discrimination is prohibited. It is deemed to occur when an employer, in recruiting or promoting a person or in training a person for promotion, selects that person rather than another of the opposite sex with equal qualifications. In particular, when a person is given less favourable treatment than the opposite sex due to pregnancy or confinement.
- **Burden of proof:** If a person considers that she/he has been a victim of discrimination under the provisions of the *Act Respecting Equality between Women and Men* and presents a matter referred to in the Act to a court of law or to a competent authority and the facts give cause to believe that the matter is one of gender discrimination, the defendant must prove that there has been no violation of equality between women and men but that the action was for an acceptable reason not due to gender. This provision does not apply to criminal cases. Upon request, the employee must present the employer with proof of pregnancy.
- **Dismissal:** The employer shall not terminate an employment contract on the basis of the employee's pregnancy or because the employee is exercising his or her right to family leave. If the employer does terminate the employment contract of a pregnant employee or an employee on family leave, it shall be deemed to have taken place on the basis of the employee's pregnancy or family leave unless the employer can prove there was some other reason.
- **Job guarantee:**At the end of maternity leave/parental leave, employees are entitled to return to their former duties. If this is not possible, employees shall be offered equivalent work in accordance with their employment contract, and if this is not possible either, other work in accordance with their employment contract.

Breastfeeding:

- **Breastfeeding breaks:**No legal provisions identified regarding the reduction of hours of work to breastfeed.
- **Breastfeeding facilities:**However, pregnant workers and breastfeeding mothers shall have the opportunity to rest in a break room or other suitable place when necessary.

FRANCE

FRANCE HAS RATIFIED C3 (16.12.1950)

Name of Acts:

- Decree regarding the Protection of Workers in High Pressure Environments No. 90-277, 1990
- Labour Code No. 73-4, 1973
- Social Security Code
- Public Health Code
- Decree regarding the Fixing of the Period of Maternity Insurance No. 2004-1230, 2004.

Scope:

- Maternity protection in the *Labour Code* covers all persons employed on the basis of a contract of employment in the private and public sectors, the liberal professions, trade unions and associations of all kinds, as well as domestic workers.

Maternity leave:

- **Length:** 16 weeks, of which, in general, 6 weeks before and 10 weeks after the expected date of birth.

At her request and if her state of health as certified by a medical practitioner allows it, the woman may reduce the pre-natal leave to 3 weeks with a corresponding increase of the post-natal leave.

- **Compulsory leave:** 8 weeks of the maternity leave are compulsory, of which at least 6 weeks must be taken after childbirth.

- **Extension:** In case of *twins* pre-natal leave is extended to 12 weeks and postnatal leave to 22 weeks. The distribution of leave in the case of twins may be altered by increasing the pre-natal and reducing the post-natal leave up to 4 weeks or by reducing the pre-natal leave up to 3 weeks with a corresponding increase of post-natal leave.

For other *multiple births*, pre-natal leave is extended to 24 weeks and post-natal leave to 22 weeks.

For the *third and each subsequent child* (if the woman already has two or more children or if her household is in charge of two or more children) the duration is extended to 8 weeks before and 18 weeks after the expected date of birth. The 8 weeks' period of pre-natal leave may be extended by 2 weeks with a corresponding reduction of post-natal leave.

If a woman who benefits from a reduction of her pre-natal leave is granted a *sick-leave* during this period, the reduction of her pre-natal leave will be cancelled with a corresponding reduction of post-natal leave.

When *confinement occurs before the expected date* the maternity leave entitlement is retained for the full period.

Maternity leave may be extended on *medical grounds arising out of pregnancy* and confinement by a maximum of 2 weeks before and 4 weeks after the birth. If the birth takes place more than 6 weeks before the expected date and the child must be hospitalised, the period of maternity leave is extended by the period between the actual and the expected date of birth. If the child is hospitalised until the end of the 6th week following confinement, all or part of the leave remaining beyond the 6th week following confinement may be postponed until the end of the hospitalisation.

- **Special provisions:** The father may take leave for a maximum period of 10 weeks after the birth of the child if the *mother dies* during maternity leave. The period of leave is counted as time worked for the purpose of calculating seniority rights.

The employee can take unpaid leave in cases of the sickness of a child. If the child is under 16, duration of the leave is 3 days per year. It can be extended to 5 days if the child is under 1, or if the employee looks after three or more children under 16.

Paternity leave:

- **Length:** At the birth of his child the father is entitled to 11 consecutive days of paternity leave or to 18 consecutive days in case of multiple births. Moreover, all workers are also entitled to a special leave of 3 days for family reasons for the birth or adoption of a child.

- Paternity leave must be used during the 4 months following the birth. However, it can be postponed and used after these 4 months in the following cases: if the child is hospitalised (it has to be taken during the 4 months following the end of the hospitalisation), or if the mother dies (it has to be taken during the 4 months following the end of maternity leave which the father can take if the mother dies).

Parental leave:

- **Scope:** The mother and the father (or adoptive mother and father) are entitled to take parental leave or to work part-time (minimum of 16 hours a week) until the child's 3rd birthday, or in case of adoption of a child under 3 years of age, until the 3rd anniversary of the child's arrival in the home.
- **Length:** Parental leave or part-time work are granted for an initial period of 1 year, which may be extended twice (total 3 years).
In the case of parents of an adopted child, if he is older than 3 but has not yet reached the age at the end of compulsory education, the period of parental leave or part-time work cannot exceed 1 year from the day of arrival of the child in the household.
- **Extension:** Parental leave and part-time work may be extended up to 1 year in the event of sickness, accident or severe handicap of the child.
- **Seniority:** For the purpose of seniority rights, the period of parental leave is counted as 50% of time worked.

Adoption leave:

- **Scope:** All adoptive parents employed on the basis of a contract of employment in the private sector.
- **Conditions:** The worker must inform the employer of the reason of his/her absence and of the date on which he/she intends to resume work.
The period of adoption leave is counted as time worked for the purpose of calculating seniority rights.
- **Length:** An adoptive parent is entitled to 10 weeks of adoption leave counted from up to 7 days before the date of arrival in the household of the child.
If the adoption brings the total number of children in the family to three or more, the duration of the leave is 18 weeks.
In case of multiple adoption the leave is extended to 22 weeks.
- **Extension:** If a child is adopted by a couple where both parents are employed, adoption leave is extended with 11 days (18 days in case of multiple adoption) on the condition that the leave is shared between the two parents. In this case, the duration of the leave cannot be split into more than two periods, of which the shortest cannot be less than 11 days.
A worker who adopts a child is also entitled to a maximum of 6 weeks of unpaid leave when s/he goes abroad or to an overseas department, an overseas community or to Nouvelle-Calédonie, from a metropolitan department, another overseas department or from Saint-Pierre-and-Miquelon.

Part-time work:

- **Scope:** Any employee who has worked for at least 1 year prior to the date of birth/adoption of the child or the arrival of an adopted child that still goes to school has the right to reduce his/her working hours.
- **Length:** The period of work cannot be less than 16 hours per week; it has to be of at least 1 year and can be renewed twice (up to the child's 3rd birthday).
In the case of adoption of a child under 3, the period of 3 possible years of reduced working time begins when child comes to the household. If the adopted child is older than 3 but has not yet reached the age marking the end of compulsory education, the periods of parental leave or part-time work cannot exceed 1 year from the day of arrival of the child in the household.

Cash benefits:

- **Maternity leave benefits: Scope:** All salaried employees and persons working for one or more employers, as well as other categories of workers compulsorily insured under the general Social Insurance Scheme (home workers, sales representatives, taxi drivers, insurance

agents and artists) and self-employed persons who are compulsorily insured for the self-employed (non-wage earning workers in non-agricultural professions such as artisans; industrial, commercial and liberal professions).

Conditions: Claimants of maternity benefits must have been registered with the local Illness Insurance Fund for 10 months before the expected date of birth. Furthermore, they must either have completed at least 200 hours of employment during the calendar quarter or during the 90 days preceding the beginning of the 9th month before the expected date of birth or the date on which pre-natal leave begins, or have contributed to the fund for an amount equal to 1015 times the minimum wage within the 6 months preceding the beginning of the 9th month before the expected date of birth or the date on which pre-natal leave begins. Maternity benefits may be claimed only if the woman stops working for at least 8 weeks.

Amount: The daily cash benefit is equal to the basic wage (100%) up to a ceiling fixed by Social Security. The basic daily wage is normally calculated on the basis of the 3 preceding monthly wages (after deduction of social contributions). Benefits are payable even if the child is stillborn.

Duration: benefits are received for the entire duration of maternity leave and any extension thereof to which the worker is entitled. Normal duration of maternity leave is 6 weeks before and 10 weeks after the expected date of birth (for the third and each subsequent child 8 + 18 weeks, for twins 12 + 22 weeks, for other multiple births 24 + 22 weeks. Maternity leave may be extended on medical grounds by a maximum of 2 weeks before and 4 weeks after the birth.

Benefits are paid by the Social Security, Health Insurance Funds.

- **Paternity leave benefits: Scope:** All salaried fathers and fathers working for one or more employer, as well as other categories of workers compulsorily insured under the general Social Insurance Scheme (domestic workers, sale representatives, taxi drivers, insurance agents and artists), as well as self-employed persons who are compulsorily insured with the sickness and maternity insurance scheme for the self-employed (non-wage earning workers in non-agricultural professions: artisans; industrial, commercial and liberal professions). **Benefits are paid** by the Social Security, Health Insurance Funds.
- **Parental benefits:**
Amount: Unpaid?
- **Adoption leave benefits: Scope/Conditions:** Same as maternity leave benefits (see above).
Amount/Duration: For the duration of adoption leave, the adoptive parent is entitled to cash benefits equal to the basic wage up to a ceiling fixed by Social Security. The basic daily wage is normally calculated on the basis of the 3 preceding monthly wages (after deduction of social contributions). Self-employed adoptive mothers receive half of the flat rate benefit that self-employed natural mothers are entitled to at childbirth, if they stop all economic activity when the child arrives in the household. They also receive a daily flat-rate benefit for a maximum of 45 days (6 weeks). Collaborating spouses of self-employed men are also entitled to a flat rate benefit as well as a replacement benefit if they stop working for at least a week and hire a person to replace them to carry out their usual professional and household activities.
Benefits are paid by Social Security, Health Insurance Funds.

Medical benefits:

- During a period starting 4 months before the expected date of birth and ending 12 days after the birth, the Maternity Insurance covers the totality of medical expenses, pharmaceuticals, laboratorial analysis and examinations, and hospitalisation related or not to pregnancy, childbirth or its after-effects.

When the birth takes place before this period, the Maternity Insurance covers the totality of the expenses mentioned above as from the date of birth and until the expiry of the aforementioned period.

The Maternity Insurance also covers (non-exhaustive list): pathological situations noted by a midwife as from the first ante-natal examination; if necessary, a medical examination of the future father; a HIV-test; and other medical expenses, pharmaceuticals, laboratorial analysis

and examinations, apparatuses and hospitalisation related to pregnancy, childbirth or its after-effects.

Health protection:

- **Night work:** A pregnant worker or a worker who has recently given birth who works at night has the right to be assigned to day work at her request during the entire period of pregnancy and for the legal period of post-natal leave. The pregnant worker can also be assigned to day work when the occupational health physician states that night work is not compatible with her pregnancy. The assignment to day work should not entail any reduction in remuneration. In the case where the employer is not able to propose another job, the worker is entitled to a paid leave until the beginning of maternity leave and in some cases during a complementary period following the end of maternity leave. During this time the worker is entitled to remuneration consisting of a daily allowance from Social Security and a complementary remuneration from the employer.
- **Dangerous or unhealthy work:** The employer is responsible for taking the necessary measures to ensure the safety and to protect the worker's physical and mental health.
- **Temporary transfer:** *For health reasons:* A pregnant woman may, at her request or at the initiative of her employer, be transferred temporarily to another job, if her state of health as certified by a medical practitioner so warrants. In the event the woman and the employer disagree, or where the change of post is suggested by the employer, only an occupational health physician is competent to determine whether there is any medical need for changing and whether the worker is fit to take up the new post that has been suggested. The temporary transfer may not entail a loss in wages and will terminate when the woman's health so permits, at the latest at the end of maternity leave.

Exposure to risks: In case a pregnant woman or a woman who has recently given birth occupies a post which exposes her to a risk, the employer must propose another job which is compatible with her state. The employer's suggestion should take into account the conclusions and indications of the occupational health physician regarding the worker's aptitude to exert one of the existing tasks in the company, if needed by the implementation of measures such as a modification of the post she occupies or a temporary transfer to another post. The modification of her post or temporary transfer may not entail a loss in wages and terminates at the latest 1 month after the worker's return from maternity leave.

If the employer is unable to propose another job, the worker is entitled to a paid leave (minus the period covered by maternity leave). During this time the worker is entitled to remuneration consisting of a daily allowance from Social Security and a complementary remuneration from the employer.

Night work to day work: See Night work above.

Non-discrimination/Job protection:

- **General:** No person can be set aside in the procedure of recruitment or access to training on the grounds of sex or of his/her family situation (among other things). Furthermore, no employee can be sanctioned or discriminated against (directly or indirectly), in particular with regards to remuneration, training, classification/reclassification, assignment, qualification, promotion, transfer or renewal of contract on the grounds of (amongst other things) sex or his/her family situation.

It is prohibited to: mention the sex or the family situation of the desired candidate in an job offer, or in any other form of publicity related to recruitment; to refuse to employ a person, to transfer, cancel or refuse to renew a contract of employment of an employee, taking sex or family situation into consideration or to use different selection criteria according to sex or family situation; to take sex into account in any measures concerning remuneration, training, assignment, qualification, classification, promotion or transfer.

However, these measures do not hinder temporary intervention measures that only benefit women, aiming at establishing equal opportunities between men and women.

In case of dispute when applying the provisions against discrimination on the grounds of sex, pregnancy or family situation, it falls on the defending party to prove that his/her decision is justified by objective elements that have nothing to do with discrimination.

- **Specific: Maternity:** No employer may take into consideration the fact that a woman is pregnant as grounds for refusing to recruit her, for terminating her contract of employment during any period of probation or for ordering her transfer.
It is therefore unlawful for an employer to seek to obtain any information relating to her pregnancy or instruct others to obtain such information.
No woman applying for, or employed in, any job may be required to reveal the fact that she is pregnant, except where she requests to benefit from any law or regulation governing the protection of pregnant women. In the event of a dispute, the employer should communicate to the judge all the elements taken into consideration to reach a decision. The benefit of the doubt is given to the pregnant worker.
- **Dismissal** is prohibited during pregnancy and where pregnancy has been medically certified, during maternity leave (whether or not the worker uses the right to take the leave or not) as well as during 4 weeks after the end of maternity leave. It is also prohibited during the period of paid adoption leave and for 4 weeks after adoption leave.
Dismissal is nonetheless permitted in case of a serious fault of the worker unrelated to pregnancy, or when the employer is unable to maintain the contract of employment for reasons unconnected with pregnancy, confinement or adoption.
However, the dismissal or notice of dismissal may not take place during the periods of maternity and adoption leave.
Dismissal is considered to be null and void (except for the cases described above) if, the worker provides the employer, within 15 days starting from the day of notice of dismissal, either a medical certificate attesting of her pregnancy, or a certificate issued by the departmental child welfare service or the recognised adoption service arranging for the placement, attesting the arrival in his/her household of a child with a view to adoption. The above provisions do not affect the expiry of a fixed-term contract.
- **Job guarantee:** At the end of maternity leave, paternity leave, adoption leave (including the period of unpaid adoption leave) and parental leave or period of part-time work, the employee has the right to return to the his/her previous work, or to a similar job remunerated at least at the same rate. In addition the employee is entitled to wage adjustments rates granted during her/his leave period.

Breastfeeding:

- **Breastfeeding breaks:** During 1 year following the date of birth, breastfeeding mothers are entitled to breastfeeding breaks of 1 hour per day during working hours. These breaks are paid. The breastfeeding breaks are divided into two 30-minute breaks, one in the morning and one in the afternoon. The time of the break should be determined by agreement between the worker and the employer. In case no agreement is reached, it should be in the middle of each half of the working day.
- **Breastfeeding facilities:** The mother may always breastfeed her baby in the enterprise. Employers employing more than 100 women above the age of 15 years can be requested to install special breastfeeding rooms in or close to the enterprise.
The nursing facilities must satisfy certain conditions: they must be separated from the working premises, be provided with a sufficient quantity of water or be placed near a washbasin, be provided with chairs appropriate for breastfeeding, and be maintained at a suitable temperature under hygienic conditions.
Pregnant women and breastfeeding mothers must have the possibility to lay down and rest under suitable conditions.

FRANCE HAS RATIFIED C3 (16.12.1950)

GERMANY

GERMANY HAS RATIFIED C3 (31.10.1927)

Name of Acts:

- Maternity Protection Act, 1952
- Parental Allowance and Parental Leave Act, 2006
- National Insurance Regulation, 1911
- General Act on Equal Treatment, 2006.

Scope:

- Women in an employment relationship, including female home workers and those with the same legal rights as home workers.

Maternity leave:

- **Length:** Generally, the maternity leave lasts 14 weeks (6 pre-natal and 8 post-natal).
- **Compulsory leave:** Pregnant workers may not work in the final 6 weeks before delivery, unless the worker explicitly declares herself willing to work; this declaration may be revoked at any time.
- **Extension:** If the *doctor or midwife was mistaken* about the delivery date, the pre-natal leave period will be expanded or reduced accordingly.

Premature, multiple births: Women may not work 12 weeks after delivery in the case of premature or multiple births. In case of premature and other early deliveries, the post-natal leave period will be lengthened by the amount of pre-natal leave that was not taken.

If the child dies, the mother may be allowed to return to work at her express request before the end of the post-natal leave period, but not until at least 2 weeks after delivery and only if she provides a medical statement that she is fit to work. She may revoke her decision to return to work at any time.

Illness: Outside of the compulsory pre-natal leave period, pregnant workers may not work if a doctor provides a statement that the life or health of the mother or child would be endangered if work were continued.

Women who, according to a medical statement, are not able to work to their full ability in the first months after delivery may not be re-engaged in work that exceeds their capacities.

Parental leave:

- **Scope:** Workers who live in the same household as a child and raise and care for the child are entitled to parental leave for: their own child; a child with whom they live in the same household with the aim of adopting it; the child of their spouse or life partner; a child for whom the declaration of paternity under the *Civil Code* has not yet taken effect; a child with whom the person is related to the third degree (or the spouses or life partners), provided that the parents cannot take care of the child because of severe disability, sickness or death; a child taken into custody following the provisions of the *Social Security Code*.

To receive parental leave for a child of whom one does not have custody, the agreement of the person who does have custody is required.

Grandparents, who live in the same household and take care of the child, are entitled to parental leave, as long as one of the child's parents is under 18 years of age or has started his/her apprenticeship before becoming 18 and is occupied full time and does not apply for parental leave him/herself.

The right to parental leave exists for each child, until s/he is 3 years of age.

- **Length:** 3 years, minus the period of post-natal maternity leave. A part of the parental leave - up to 12 months - can be postponed with the employer's permission until the child's 8th birthday.

Parental leave may be taken - also proportionally - by each parent (or otherwise entitled person) or by both parents (entitled person) at the same time.

Parental leave may be split into two parts; a division into more than two parts is only possible with the employer's permission.

Adoption leave:

- **Scope/conditions:** Workers are entitled to parental leave for an adopted or fostered child, as well as a child with whom they live with the aim of adopting it, provided that they live in the same household and raise and take care of the child. The same qualifying conditions as for parental leave apply.
- **Length:** If a child is adopted or fostered, parental leave can be taken for a total period of 3 years between the moment the child enters the household and the child's 8th birthday.

Part-time work:

- **Scope:** the persons who are entitled to parental leave are entitled to request a reduction of normal working time, provided that the employment relationship has lasted at least 6 months and urgent business interests do not stand in the way. Furthermore, it applies only to enterprises with more than 15 employees.
- **Length:** A reduction of the normal working time must be agreed between worker and employer within 4 weeks of the worker's request for parental leave. The same conditions as for parental leave apply.
Working time must be reduced for at least 2 months to 15-30 hours per week. The person that works reduced working time receives a pro-rata parental allowance.

Cash benefits:

- **Maternity leave benefits: Scope:** In general, every employed women as well as women who are registered as unemployed.
Amount: 100% of the average normal net wages over the last 3 months before the pre-natal maternity leave period.
Duration: The maternity grant is paid for the 6-week pre-natal leave period, for the day of delivery, and for the 8-week post-natal leave period (12 weeks for multiple and premature births). In case of deliveries that take place after the expected delivery date stated by a doctor or midwife, payment of the maternity grant will be continued by a corresponding amount of days.
Financing of benefits: by the statutory Health Insurance Scheme (up to 13 euros per day by the State) supplemented by the employer.
If the worker is not entitled to a maternity grant under the provisions of the national insurance regulation and is partially or fully unable to work in relation to the employment prohibitions, she receives a lump sum equal to that prescribed by the *National Insurance Regulation*, but at most 210 euros.
In the case of earnings exceeding 13 euros per day (or 210 euros for the reference period), the employer pays the excess. In case the pregnant worker has to stop working due to a danger to the life or health of the mother or child, the employer is obliged to pay the whole net average wage.
- **Parental leave benefits: Scope:** allowances are paid to a person living in Germany for specific children (see list above) inasmuch as the parents live in the same household as the child of and work less than 30 hours a week.
Duration: Allowance is paid for a minimum period of 2 months, maximum 12 months for both parents together (14 months if during an additional 2-month period, employment remuneration is reduced). It is to be paid either from the date of birth until the child turns 14 months or from the date of adoption up to the child's 8th birthday.
Amount: The amount is 67% of the average monthly income, up to a ceiling of 1,800 euros. This percentage is increased in case the person received an income of less than 1,000 euros. Parental allowance amounts to at least 300 euros.
Paid by: Financing of benefits by the State.
- **Adoption leave benefits: Scope/Conditions:** Adoptive parents are entitled to parental allowances. They have to live in the same household as a child of whom they take care.
Duration: Minimum 2 months, maximum 12 months for both parents together (14 months in case that in an additional 2-month period employment remuneration is reduced. It is paid within a 14-month period, between the date of adoption up to the child's 8th birthday.

Amount: 67% of the average monthly income, up to a ceiling of 1800 euros. This percentage is increased in case the person received an income of less than 1000 euros. Parental allowance amounts to at least 300 euros.

Paid by the State.

Medical benefits:

- Women who are members of a statutory Health Insurance Scheme retain the following benefits during pregnancy and motherhood under the stipulations of the *National Insurance Regulation* or the *Farmers' Health Insurance Act*: 1) medical care and midwife care; 2) treatment with pharmaceuticals, bandages, and aids; 3) hospital delivery; 4) domestic care; 5) household help.

During the pregnancy and during and after delivery, the insured woman is entitled to medical help including the examinations necessary during pregnancy, check-ups, and midwife care.

If the insured woman delivers in a hospital or other care facility, she is entitled to accommodation and care for herself and her infant for the period after delivery, at most 6 days.

The insured woman is entitled to domestic care and domestic help insofar as necessitated by her pregnancy or her delivery. Domestic help is provided if she is unable to run her own household and no other person living in the same household is able to run it for her.

- Medical benefits are covered by a statutory Health Insurance Scheme.

Health protection:

- **Night work:** Pregnant and nursing workers may not work in the night-time period between 8 pm –6 am. Exceptions exist.
- **Overtime:** Pregnant and nursing workers may not work overtime hours. The supervisory authority may allow exceptions to this rule in well-founded individual cases. Notwithstanding a pregnant or nursing worker being prohibited from working overtime, the employer has to pay the net average wage of the last 13 weeks before pregnancy.
- **Dangerous or unhealthy work:** Whoever employs a pregnant or nursing worker must take appropriate measures to protect the life and health of this worker when it comes to equipping and maintaining the workplace, including machinery, equipment and devices, and when it comes to arranging the worker's work.

A list of dangerous jobs exists. The supervisory authority can determine in individual cases whether a particular type of work falls under the employment prohibitions for pregnant and nursing workers established in the *Maternity Protection Act* or in a governmental statutory order. In individual cases, the supervisory authority may prohibit the worker's engagement in certain other types of work.

Non-discrimination/Job protection:

- **General:** The employer may not disadvantage a worker on the grounds of his/her gender especially with regard to the establishment of an employment relationship, a promotion, or a termination. Distinctive treatment on the basis of gender is only allowed if a particular gender is an essential precondition for this work.

Burden of proof related to discrimination: If, in case of disagreement, the worker substantiates facts that make it credible that gender discrimination took place, the employer will have to prove that no prohibited gender discrimination took place.

- **Dismissal:** The dismissal of a worker during her pregnancy and until 4 months after delivery is not permitted if the employer was aware of the pregnancy or delivery at the time of the dismissal or was informed of the pregnancy or delivery within 2 weeks of the dismissal. Exceeding the 2-week period is allowed if it is caused by circumstances beyond the worker's control and if the information is provided as soon as possible.

The appropriate regional authorities may allow dismissal in special cases when the dismissal is unrelated to the worker's condition during pregnancy or within 4 months after delivery.

The employer may not dismiss the worker from the moment the worker requests parental leave (but at the earliest from 8 weeks before the start of parental leave) to the end of the parental leave.

In specific cases a dismissal can be allowed by the highest regional Labour authority.

- **Job guarantee:** no explicit mention but it is illegal to dismiss a worker 4 months after returning to work, which is an implicit guarantee.

Breastfeeding:

- **Breastfeeding breaks:** Upon their request, nursing workers must be given time off for nursing.

This time will amount to at least 2 x30 minutes per day, or 1 hour once a day.

In the case of working time of more than 8 consecutive hours, at her own request, the worker must be given 45 minutes twice a day or, if no nursing facilities are available near the workplace, at least 90 minutes once a day.

The working time counts as consecutive if it is not interrupted by a rest period of at least 2 hours.

In individual cases, the supervisory authority can take additional measures with regard to the amount, organization and duration of the nursing breaks.

No loss of wages may occur as a result of nursing breaks. The nursing breaks must not be made up for by working extra hours before or after, and nursing breaks may not be counted against the rest breaks prescribed by the *Working Time Act* or other legal provisions.

- **Breastfeeding facilities:** In individual cases, the supervising authority can stipulate the provision of nursing facilities.

GERMANY HAS RATIFIED C3 (31.10.1927)

GREECE

GREECE HAS RATIFIED C3 (19.11.1920)

GREECE HAS RATIFIED C1033 (18.02.1983)

Acts:

- Act No. 3144 on Social Dialogue for the Promotion of Employment and Social Protection and Other Provisions. (Breastfeeding), 2003
- Act No. 2874 on Promotion of Employment and Other Provisions (Parental Leave, Increase of Maternity Leave), 2000
- Act No. 3488 on Application of the Principle of Equal Treatment between Men and Women Regarding Access to Employment, Vocational Training, Promotion, Terms and Conditions of Employment and Other Relevant Provisions, 2006
- Act No. 176 on Protection of Pregnant Women from Dismissal, 1997
- Act No. 1483 on Protection and Facilitation of Obligations of Workers with Family Obligations, 1983
- Social Security Law No. 1846, 1951
- Law No. 3586 on Institutional Framework for Investment and Exploitation of the Wealth of Social Security, 2007
- Law No. 3607 on Electronic Government Social Insurance, 2007
- Law No. 3655 on Administrative and Organizational Reform of the Social Security System and Other Provisions, 2008
- Law No. 1397 on National Health System, 1983.

Scope:

- Are included, workers in industry, commerce and agriculture in the private sector.
- As households do not fall into these previous categories, domestic workers are implicitly excluded.
- The norms applicable to public servants are unclear.

Maternity leave:

- **Length:** 119 days or 17 weeks.
- **Compulsory leave:** 56 days pre-natal and 63 days post-natal leave.
- **Extension:** Mothers can have an additional 6-month leave after the expiration of the maternity leave taken before or after exercising their right to reduced working hours.

Paternity leave:

- **Length:** 2 paid days after childbirth.

Parental leave:

- **Principle:** In order to facilitate balancing of family and work responsibilities parental leave is granted for each child.
- **Scope:** Parents who have already made use of parental leave for one child must complete 1 additional year of employment before requesting additional parental leave.
- **Length:** It cannot exceed 3.5 months for each parent.
- It is **unpaid**.

Adoption leave:

- Parents of adopted children under 6 years are entitled to part-time work (see below).

Part-time work:

- **Principle/Length:** The general part-time work scheme is granted with pay to either the father or the mother and consists of a reduction of working hours, either: 1) as 1 hour per day for 30 months from the end of maternity leave; 2) or in agreement with the employer, as 2 hours per day for 12 months from the end of maternity leave and for 1 hour for an additional 6 months; 3) or as the same number of hours as additional leave with pay.
- **Scope:** Workers with a contract or employment relationship in the private sector or agricultural sector. It applies to workers of both sexes, who have obligations to dependent children or other family members who need their care or support, in order to facilitate their preparation for entry to employment, conservation, and professional development. It does not

apply to employees in public, local authorities and other entities of public law, maritime work.

Parents of children under 16 years are also entitled to paid leave for school visits up to 4 days/year.

- **Conditions:** Minimum period of continuous employment with the same employer for 1 year. The child shall be not older than 3.5 years.

Cash benefits:

- **Maternity leave benefits:** are a combination of different benefits, the birth grant, maternity allowances and the dependent's supplement. There are two types of possible supplements. For all of these, the following general indications are necessary:

Scope: employees in industry, commerce, and related occupations and certain urban self-employed persons (including actors, newspaper vendors, and chartered accountants).

Pensioners and non-contributory old-age pensioners are covered for medical benefits.

Special systems exist for agricultural workers, public-sector employees, doctors and dentists, architects, notaries, commercial motor vehicle operators, shipping agents, tradesmen, and craftsmen.

Are excluded: employed and self-employed persons covered by approved occupational and public-sector funds providing equivalent benefits.

Conditions: The insured woman must have at least 200 days of contributions in the last 2 years.

Amount: The minimum benefit is 66.7% of the insured's earnings (up to a ceiling); the maximum, in certain specific cases, is 100% of salary, up to a ceiling (see Maternity supplement, below). The maximum daily benefit is 45.19 euros with no dependents; 63.27 euros/day with dependents.

The **Birth grant:** Lump sum of 928.10 euros is paid for each child+

The **Maternity benefits:** 50% of daily earnings is paid for up to 56 days before and 63 days after childbirth (17 weeks) +

The **Dependent's supplement (if applicable):** 10% of the benefits are paid for each dependent, up to 40%.

The **Supplement (if applicable)** consists of: The insured may also receive a maternity supplement of up to 33.3% of earnings, making her total allowance equal to 100% of her salary: it is equal to the difference between the pregnancy and confinement benefits and the earnings the insured woman is entitled to, in accordance with the relevant collective agreement or the salary actually paid to her, on condition that this salary does not exceed that granted to insured persons who belong to the applicable highest insurance class of the IKA (main insurance body in Greece).

Benefits are paid by Social Security; the supplementary maternity benefits by the STE (Manpower Employment Organisation).

- **Paternity leave benefits:** **Scope/Conditions:** Same as maternity leave benefits.

Amount/Duration: 100% for 2 days.

Paid by Social Security.

- **Parental leave benefits:**

Unpaid leave.

- **Adoption leave and Part-time leave benefits:**

See part-time leave (above): Workday is reduced by 1 or more hours over a various number of months and salary reduced proportionally.

Medical benefits:

- **Scope/Conditions:** Paid to an insured woman or the dependent wife of an insured man or pensioner. The insured must have at least 50 days of contributions in the last year or last 15 months (excluding the last quarter) or must be a pensioner.

The facilities of the Social Insurance Institute normally provide medical services directly to patients.

- Benefits include: general and specialist care; care in a hospital, sanatorium, or nursing home; medicine; maternity care; dental care; appliances; and transportation.

- Duration: No limit.
- Financing of benefits by Social Security and the user. Cost sharing: the insured pays 25% of pharmaceutical costs and up to 25% of other services (including prostheses and eyeglasses) except for hospitalization. Social solidarity grant pensioners pay 10% of costs.

Health protection:

- No mention.

Non-discrimination/Job protection:

- **General:** all direct or indirect discrimination based on sex and family status is forbidden when hiring, training, promoting and remunerating the work of male and female workers. Sexual harassment constitutes a form of discrimination based on sex and therefore is not permitted.
- **Specific:** Less favorable treatment of women during pregnancy and maternity or of parents during parental/maternity leave constitutes discrimination.
- **Pregnancy tests** are not expressly prohibited. However, employers are entitled to demand female employees to take pregnancy tests only when the hazardous work threatens the health of the mother or the foetus.
- **Dismissal:** Termination of the employment contract by the employer, both during pregnancy and for 1 year after childbirth or during her absence for a longer time because of an illness due to pregnancy or childbirth, is strictly forbidden and void unless there is a serious reason of complaint.
- **Job guarantee:** The employee on maternity leave has the right to return to her job or an equivalent position with the same professional terms and conditions at the end of her leave, and to benefit from any improvement in working conditions which would have been entitled during her absence. This protection also applies to working parents who make use of parental leave.

Breastfeeding:

- **Breastfeeding breaks:** There are no identifiable legal provisions on breastfeeding breaks,
- **Breastfeeding facilities:** industrial enterprises or farms with more than 300 employees have to provide adequate facilities for breastfeeding.

GREECE HAS RATIFIED C3 (19.11.1920)

GREECE HAS RATIFIED C1033 (18.02.1983)

HUNGARY

HUNGARY HAS RATIFIED ILO C183 (4.11.2003)

Name of Acts:

- Act No. 93 on Labour Safety, 1993
- Act No. 125 on Equal Treatment and the Promotion of Equal Opportunities, 2003
- Act No. 22, Labour Code, 1992
- Act No. 84 on Family Support, 1998
- Act No. 83 on Compulsory Health Insurance, 1997
- Act No. 80 on Persons Entitled Social Security Benefits and Private Pensions and the Coverage of these Benefits, 1997
- Labour Code, Act I, 2012.

Scope:

- All women in an employment relationship.

Maternity leave:

- **Length:** Generally, maternity leave lasts 24 weeks (6 months).
- **Compulsory leave:** In the absence of an agreement to the contrary, maternity leave shall be allocated so as to commence 4 weeks prior to the expected time of birth. If the mother so decides, she can choose to begin her leave at birth.
- **Extension:** The law provides no right foreextension of maternity leave (e.g. in case of the birth of *twins*).

Paternity leave:

- **Scope:** Concerns employed (biological or adoptive) fathers, even if the child is stillborn or dies.
- **Length:** Upon the birth of his child, a father shall be entitled to 5 days of extra vacation time, or 7 working days in the case of twins, until the end of the 2nd month from the date of birth; the leave is allocated on the days requested by the father.

Parental leave:

- **Scope:** Concerns employees (both women and men).
- **Length:** The employee shall be entitled to a leave of absence with pay to care for the child until the child reaches the age of 3 years or to care for the child until the child reaches the age of 10 years, if the employee receives a child care allowance.
- **Extension:** Additionally to parental leave, workers are entitled to extra vacation days based on the number of children they have: a) 2 working days for one child; b) 4 working days for two children; c) a total of 7 working days for more than two children under 16 years of age.

Adoption leave:

- **Scope:** Under the *Health Insurance Act*, insured women are entitled to maternity leave and benefits when adopting a newborn child.
- **Payment:** Adoptive parents are regarded as parents for the purpose of parental leave benefits.

Cash benefits:

- **Maternity leave benefits:** two forms: a birth grant, and maternity allowances.
Birth Grant: Scope: It is paid to resident women who give birth and who are either Hungarian nationals, long-term residents or refugees; adoptive parents, guardians or the father are entitled in case of death of the mother.
Conditions: completion of at least four prenatal medical examinations (only one in case of premature birth).
Amount: is a one-time lump-sum payment of 225% of the minimum old age pension.
Paid by: The birth grant is financed by taxes.
Maternity allowances: Conditions: completion of at least four prenatal medical examinations (only one in case of premature birth).
Scope: Maternity allowance is paid to employees and self-employed and assimilated groups (insured persons).
Amount: 70% of the daily average gross earnings of the previous year.

Duration: 24 weeks (4 weeks before and 20 weeks after planned date of birth or 24 weeks after the date of birth, depending on the mothers' choice).

Benefits are paid by the health insurance.

- **Paternity leave benefits:** Amount: 100% ("absentee pay") of the wage.
- **Parental leave benefits:** There are three forms: Child Care Fee, Home Care Allowance, Child Raising Support.

Child Care Fee: Scope: For gainfully employed parents, man or woman (insured persons).

Conditions: for payment are to have contributed at least 180 days to insurance during the 2 years before delivery; the child lives with the claimant's family; and one of the parents is obliged to stay at home and care for the child.

Duration: It is paid after the expiry of Maternity Allowances until the child reaches 2 years of age.

Amount: 70% of the daily average gross earnings of the previous year. The maximum possible amount is 70% of twice the minimum wage.

Paid by the National Health Insurance.

Child home care allowance: Scope: For parents (including foster parents, guardians), grandparents with the consent of the entitled parent; they must be Hungarian citizens, lawful refugees or lawful immigrants.

Conditions: It is paid to entitled persons who choose to not work to care for their children.

The parent of a child over 1 year of age is allowed to pursue gainful employment while continuing to receive the allowance (not more than 4 hours a day or if working from home, no time limitations).

Duration: for parents until the child is 3 years of age (10 years of age for disabled children) or for grandparents of children between 1-3 years living in the household of the parent. In the case of twins the allowance is paid until the children reach the age of compulsory schooling (6 years).

Amount: The monthly amount is equal to the minimum old-age pension, irrespective of the number of children in the family. In the case of twins the amount is doubled, irrespective of the number of twins in the family.

Paid by the State budget.

Child Raising Support: Scope: paid to parents (including foster parents, guardians), or grandparents with the consent of the entitled parent; they must be Hungarian citizens, lawful refugees or lawful immigrants.

Conditions: For parents raising three or more children in their own home, while the youngest child is between 3- 8 years of age. The beneficiary can pursue a gainful activity for no more than 4 hours a day, or without time restriction if s/he works at home.

Amount: The monthly amount is equal to the minimum old-age pension, irrespective of the number of children.

Financing of benefits by the State budget.

- **Adoption leave benefits:** Under the *Health Insurance Act*, insured women are entitled to maternity benefits when adopting a newborn child. Additionally, adoptive parents are regarded as parents for the purpose of parental leave benefits.

Medical benefits:

- Insured women are entitled to the whole scale of medical treatment during pre-natal, childbirth and post-natal period. Furthermore there are some specific maternity benefits: check-ups, delivery at home or in hospital, basic advice on breastfeeding, home care services, family assistance.
- Medical benefits are paid by health insurance contributions (by employers and employees) and health fees.

Health protection:

- **Night work:** Night work is prohibited from the time the employee's pregnancy is diagnosed until her child reaches 3 years of age. It is also forbidden for single parents until the child reaches 3 years of age.

- **Overtime:** From the time the employee's pregnancy is diagnosed until her child reaches 3 years of age, a) no irregular work schedule except upon the employee's consent; b) weekly rest days may to be allocated regularly; c) no overtime work or stand-by duty. A single-parent employee whose child is between 3-4 years of age, can work overtime or on stand-by duty only with his/her consent.
- **Dangerous or unhealthy work:** From the time her pregnancy is diagnosed until her child reaches 1 year of age, an employee shall be offered a job corresponding to her state of health if, according to medical opinion, she is considered unable to work at her original post. The woman is temporarily reassigned to a position suitable to her condition, or the working conditions in her existing position are modified as appropriate. The new position shall be designated upon the employee's approval.
- **Transfer:** If no position appropriate for her medical condition is available, she will be discharged from her work duty. She shall be given the wage normally paid for the job offered, which cannot be lower than the wage indicated in her employment contract. This wage is payable for the duration of the discharge, except if the pregnant worker refuses the new post without good reason.

Non-discrimination/Job protection:

- **General/Specific:** Provisions that result in a person or a group being treated less favourably than another person or group in a comparable situation because of his/her family status, motherhood (pregnancy) or fatherhood are considered negative discrimination. It is a violation of the principle of equal treatment if the employer inflicts direct or indirect negative discrimination upon an employee, in particular in access to employment (especially in public job advertisements for hiring), terminating the employment relationship and in the conditions of employment.
- **Burden of proof:** In procedures initiated because of a violation of the principle of equal treatment, the injured party or the party entitled to assert claims of public interest must prove that the injured person or group has suffered a disadvantage, and that the injured party or group possesses characteristics on which prohibited discrimination is possible (such as family status, motherhood, fatherhood).
If the case is proven, the other party has to prove that it has observed, or, in respect of the relevant relationship, was not obliged to observe, the principle of equal treatment.
- **Dismissal:** The employer may not terminate the employment relationship by notice: a) during pregnancy; b) during maternity leave; c) during a leave of absence taken without pay for caring for a child.
- **Work in other location:** From the time of her pregnancy up to when her child reaches 3 years of age, a woman shall not carry out work at another location without her consent if the change is due to economic reasons of the employer.
An employee may not be transferred to work at another location without the employee's consent: a) from the time her pregnancy is diagnosed until her child reaches 3 years of age; b) until the child reaches 16 years of age, if a single parent;
- **Job guarantee:** An employee may not be transferred to work at another location without the employee's consent: a) from the time her pregnancy is diagnosed until her child reaches 3 years of age; b) and/or, if a single parent, until the child reaches 16 years of age.

Breastfeeding:

- **Breastfeeding breaks:** Nursing mothers are entitled to 2 x 1 hour daily (2 x 2 hours daily in the case of twins) until the child is 6 months, and thereafter for 1 hour daily, (2 hours daily in the case of twins) until the end of the 9th month.
These breaks are paid as regular pay ("absentee pay").

HUNGARY HAS RATIFIED ILO C183 (4.11.2003)

ICELAND

Name of Acts:

- Act on Maternity/Paternity Leave and Parental Leave, 2000
- Social Security Act, Act No. 117, 1993
- Act on Equal Status and Equal Rights of Women and Men, 2008
- Act on Prohibition on Termination of Employment due to Family Responsibilities, Act No. 27/2000,2000
- Child Protection Act, Act No. 80, 2002
- Social Assistance Act, Act No. 99, 2007
- The Social Security Act, 2007
- Act on Working Environment, Health and Safety in Workplaces, Act No. 46, 1980
- Act on Payments to Parents of Chronically Ill or Severely Disabled Children, Act No. 22, 2006
- Act on Health Insurance, Act No 112, 2008.

Scope:

- All employed or self-employed workers are eligible for maternity leave upon the birth of a child.
- Parents who are not active in the labour market and parents attending full-time educational programmes are also covered.

Maternity leave:

- **Scope:** Mothers. However, there is the possibility of substitution if a parent, due to illness, the consequences of an accident or the service of a prison sentence, is unable to care for her/his child during the first 18 months after the child's birth. S/he may assign her/his unused entitlement to maternity/paternity leave to the other parent, in part or in its entirety.
- **Length:** generally, it lasts 12 weeks (3 months); maternity leave can start up to 1 month prior to the expected date of birth.
- **Compulsory leave:** A woman shall take maternity leave for at least the first 2 weeks after the birth of her child.
- **Extension:** *Multiple births:* Both parents shall have a joint right to the extension of maternity/paternity leave by 3 months for each child after the first in multiple live births. *Illness:* It is permitted to extend the mother's maternity leave by up to 2 months in the case of a serious illness suffered in connection with the birth.
- **Substitution:**

Paternity leave:

- **Scope/Length:** Every employed or self-employed worker is eligible for 3 months' paternity leave upon the birth of a child.
The leave is taken in one continuous period.
The parent shall be permitted to start his paternity leave up to 1 month prior to the expected birth date, and the right to leave shall expire when the child reaches 18 months of age.

Parental leave:

- **Scope:** All employed or self-employed workers are eligible for parental leave.
- **Length:** In addition to maternity/paternity leave, parents have a joint right to 3 additional months, which may either be taken by one of the parents or else divided between them.
The right lapses when the child reaches the age of 18 months.
Extension: Furthermore, parents are entitled to 13 weeks of *unpaid leave* each until the child reaches 8 years of age.
In total, each parent is entitled to 24 weeks paid leave + 13 weeks unpaid leave (until the child is 8 years ? – this is unclear).
- The employer shall make efforts to meet the wishes of the employee regarding the structure of the parental leave.

Part-time work:

- The employee shall be permitted to make arrangements with her/his employer for the maternity/paternity leave to take it concurrently with a reduced work time ratio.

Cash benefits:

- **Maternity leave benefits:****Scope:** Persons on maternity leave shall obtain the right to payments from the Maternity/Paternity Leave Fund. Mothers who are not active in the labour market and parents attending full-time educational programmes are also eligible for a maternity grant.
Amount: 80% of the average wage (employed persons).
Duration: 3 months.
Benefits are paid by a portion of the payroll, plus interests of the Maternity/Paternity Leave Fund. A payroll tax is paid by the employers and corresponds to a certain percentage of the total cash wages.
Self-employed parents pay Social Security tax and expenses of the Fund are paid from its revenues.
Maternity grant to parents not active in the labour market or attending full-time educational programmes are paid by the State Treasury.
- **Paternity leave benefits:** **Scope:** concerns specifically parents who are not active in the labour market or are attending full-time educational programmes.
Duration: They shall each have a separate independent entitlement to a maternity/paternity grant for up to 3 months in view of the birth, primary adoption or reception of the child in permanent foster-care.
- **Parental leave benefits:** Iceland distinguishes between paid and unpaid leave.
Paid leave: The right to paid parental leave is conditional on the fact that the parent has custody of the child, or has joint custody with the other parent at the beginning of the leave. An employee shall notify the employer in writing as soon as possible and at least 8 weeks prior to the expected birth of the child of his/her intention to take leave. If it is planned to take the leave before the birth, the expected date shall be confirmed by a medical certificate.
Unpaid leave: Conditions: 6 consecutive months of employment by the same employer. The employee shall notify her/his employer of the intention to take parental leave as soon as possible and at the latest 6 weeks prior to the intended first day of the leave. Notice of parental leave shall be in writing and shall state the intended starting day of the leave, its length and its structure.

Medical benefits:

- Health insurance cover benefits which are paid out in cash. Health insured persons are entitled to assistance.
- To be entitled to these benefits, it is necessary to be a resident in Iceland and to have been residing in Iceland for a minimum of 6 months before the health insurance benefits are requested, subject to fulfillment of other conditions. Residence refers to legal domicile.
- The Health insurance covers primary healthcare pursuant to the *Health Service Act*, i.e. general medical treatment, nursing, health protection and preventive care, emergency and casualty treatment and other. It covers midwife assistance in childbirth at the home, maternal and infant healthcare at the home.

Health protection:

- **Night work/Overtime:** Not prohibited for women or for pregnant workers.
- **Dangerous or unhealthy work:** There are no specific provisions for pregnant workers or women. However, if the safety and health of a pregnant woman, a woman who has recently given birth, or a woman who is breastfeeding, is considered to be in danger according to a special assessment, her employer shall make the necessary arrangements to ensure the woman's safety.
The employer is responsible for making a special risk assessment of the risks to the health and safety of those workers subject to greater risk than their colleagues.
- **Transfer:** If the safety and health of a pregnant woman, a woman who has recently given birth, or a woman who is breastfeeding, is considered to be in danger according to a special assessment, her employer shall make the necessary arrangements to ensure the woman's safety by temporarily changing her working conditions and/or working hours. If this is not

possible for valid or technical reasons, she will be granted with paid leave of absence according to further regulation of the Ministry of Welfare.

- Should it become necessary for a pregnant woman to cease paid employment for the sake of her health more than a month prior to the expected birth of her child, she shall be entitled to payment during this period, though not for more than 2 months. Should the birth occur prior to the expected birth date of the child, the authorization for extension under this provision shall cease to apply from that time. Further conditions will be regulated by the Ministry of Welfare.

Non-discrimination/Job protection:

- **General:**It is unlawful for an employer to discriminate against employees on the basis of sex as regards, inter alia, wages, recruitment, promotion and changes in position, dismissal, and working conditions and environment.

Affirmative action shall not be regarded as being contrary to these provisions. The same shall apply if there are valid reasons to support employing an individual of a particular gender in view of objective factors relating to the job.

- **Dismissal:**It is not permitted to dismiss an employee due to the fact that he or she has given notice of intended maternity/paternity leave or parental leave, or during his or her maternity/paternity leave or parental leave, without reasonable cause. In such a case, the dismissal shall be accompanied by written motives. The same rule shall apply to pregnant women and women who have recently given birth.

No person's employment may be terminated solely because of his or her family responsibilities. "Family responsibilities" here refers to the employee's responsibilities towards his/her children, spouse or close relatives who live in the employee's home and clearly need his/her care or custody, for example as a result of illness or disability.

- **Burden of proof:**If a likelihood is determined that, regarding engagement, assignment or appointment to a post, promotion, change of position, retraining, continuing education, vocational training, study leave, notice of termination, the working environment or employees' working training, study leave, individuals have been discriminated against on grounds of their gender, the taking of maternity/paternity leave or parental leave, or other circumstances relating to pregnancy and childbirth, the employer shall demonstrate that his/her decision was based on grounds other than the individual's gender, the taking of maternity/paternity leave or parental leave, or other circumstances relating to pregnancy and childbirth.

If a likelihood is determined, that the employer has dismissed an employee for demanding redress on the basis of this Act, the employer shall demonstrate that the dismissal, or alleged injustice is not based on the employee's demand for redress, complaint or provision of information regarding discrimination.

- **Job guarantee:** The employee shall be entitled to return to his or her job upon the completion of maternity/paternity leave or parental leave. Should this not be possible, s/he shall be entitled to a comparable position with the employer according to a contract of employment. The employment relations between an employee and her/his employer shall remain unchanged during maternity/paternity leave and parental leave.

Breastfeeding:

- **Breastfeeding breaks:**No provisions either on breastfeeding breaks nor on breastfeeding facilities.

Only mentioned is that if the safety or health of a woman who is breastfeeding a child, is considered to be in danger, her employer must make the necessary arrangements to her safety by temporarily changing her working conditions and/or working hours.

IRELAND

Name of Acts:

- Maternity Protection Act, Act No. 34, 1994
- Social Welfare Consolidation Act, Act No. 26, 2005
- Factories Act 1955 (Manual Work) (Maximum Weights and Transport) Regulations, Act No. 283, 1972
- Safety, Health and Welfare at Work (General Application) Regulations, 1993
- Employment Equality Act, Act No. 21, 1997
- Unfair Dismissals Act, Act No. 10, 1977
- Social Welfare (Consolidated Claims, Payments and Control) Regulations, Act No. 142, 2007
- Parental Leave Act, Act No. 30, 1998
- Safety, Health and Welfare at Work (Pregnant Employees, etc.) Regulations, Act No. 218, 2000
- Adoptive Leave Act, Act No. 2, 1995
- Maternity Protection (Protection of Mothers who are Breastfeeding) Regulations, 2004.

Scope:

- Women who have entered into or work under a contract of employment (including apprentices) in the private sector and in the civil service of the Government, the State, and the local and public authorities.
- In the event of the death of the mother before the end of the 24th week following the week of confinement, the father has certain rights.

Maternity leave:

- **Length:** Generally, maternity leave lasts 26 consecutive weeks plus 16 weeks unpaid maternity leave after confinement. Maternity leave may commence or end on any day selected by the female employee, with the exception of the compulsory leave.
- **Compulsory leave:** 6 weeks: 2 weeks before and 4 weeks after the end of the expected week of confinement.
- **Extensions:** If the *child is born later* than expected, post-natal leave may be extended by the necessary number of consecutive weeks, by up to a maximum of 4 weeks. The employee must, as soon as practicable, notify her employer in writing of the proposed extension and, as soon as practicable after the date of confinement, confirm to her employer in writing the notification mentioned above and specify the duration of the extension.

Parental leave:

- **Scope:** An employee who is the natural parent, the adoptive parent or any person acting in *loco parentis* with respect to an eligible child is entitled to leave from his/her employment to take care of the child.
- **Length: Full-time parental leave** lasts 14 working weeks each for both parents, either taken in a continuous period of 14 weeks or separate periods of a minimum of 6 weeks. A period of parental leave shall end: a) not later than the day on which the child concerned attains the age of 8 years; or b) in the case of a child who is the subject of an adoption order and who had attained the age of 6 years, but had not attained the age of 8 years, on or before the date of the making of that order, not later than the expiration of the period of 2 years beginning on that date; or c) if the child has a disability, not later than the day on which the child attains the age of 16 years or ceases to have that disability or any other disability.
Part-time parental leave: persons entitled to parental leave have the right to work part-time, provided that an agreement between the employer or representatives of the employer and other employers and the employee or representatives of the employee and other employees has been reached. In this case, parental leave may consist of 1 or more days or 1 or more hours/day during which, but for the leave, the employee would be working in the employment concerned, or any combination of these two possibilities. Parental leave ends not later than the day on which the child reaches 5 years of age or in case of adoption of a child between 3 and 8 years of age, not later than 2 years after the adoption.

Adoption leave:

- **Scope:** An employed adopting mother (or single male adopter). If the mother dies, the father shall be entitled to adoption leave.
- **Conditions:** Adoption leave is subject to notification to the employer.
- **Length:** 24 consecutive weeks, plus an additional (unpaid) period of 16 consecutive weeks, beginning on the day of placement, or such other period as the Minister for Equality and Law Reform may, with the consent of the Minister for Social Welfare and the Minister for Finance, prescribe by order.

Cash benefits:

- **Maternity leave benefits: Scope:** Concerns all women who are entitled to maternity leave, including women who are in self-employment. Benefits are also paid if the child is stillborn after 24 weeks of pregnancy.
Conditions: A female employee may be disqualified if she has any other occupation, except domestic work in her own home, during her absence, or fails, without good cause, to attend or submit to medical examinations required by regulations.
The right to cash benefits is subject to a medical certificate stating the expected week of birth and an employer's certificate stating that the female employee is entitled to maternity leave. Furthermore, the employee or self-employed must have paid social insurance contributions of a specified amount.
Amount: The amount of the maternity benefits is of 80% of the average amount of weekly earnings, or a fixed weekly amount, or the amount of disability benefits which the woman would otherwise receive if she was entitled to the said benefit, whichever is the greater. Maternity benefits amount to at least 207.80 euros, up to a maximum of 280 euros per week (80% of reckonable earnings of up to 350 euros).
Duration: 26 weeks.
Benefits are paid by the Social Insurance Fund. For the purposes of providing monies for meeting the expenditure, there shall be: a) contributions in respect of employed contributors, each of which shall comprise a contribution by the employed contributor and a contribution by the employer of the employed contributor, b) contributions in respect of self-employed contributors, c) contributions in respect of voluntary contributors, and d) payments out of monies provided by the National Parliament.
- **Parental leave benefits:** there are no benefits: unpaid leave.
- **Adoption leave benefits: Scope:** Benefits are distributed to an employed or self-employed adopting mother, an adopting father if the adopting mother has died, or a single male adopter.
Conditions: A specified amount of social insurance contributions is necessary to qualify for adoption leave benefits.
Amount: 80% of the average amount of weekly earnings, or a fixed weekly amount, or the amount of disability benefits which the adopting parent would otherwise receive if s/he was entitled to the said benefit, whichever is the greater (see maternity benefits above).
Duration: 24 consecutive weeks.
Financing of benefits: same as for maternity benefits.

Medical benefits:

- No mention.

Health protection:

- **Night work:** If a registered medical practitioner certifies that it is necessary for the safety or health of an employee that she should not be required to perform night work (11 pm – 6 am) during pregnancy or for 14 weeks following childbirth the employer shall not oblige her to perform night work during that period. In such cases, the employer shall transfer the employee to daytime work or, where such a transfer is not technically or objectively feasible on duly substantiated grounds or both, he shall grant the employee leave or extend the period of maternity leave.
- **Dangerous or unhealthy work:** It is the duty of every employer to assess any risk (exposure to any agent, process or working condition) to the safety or health of employees, and any possible effect on the pregnancy of, or breastfeeding by employees, resulting from any activity at that employer's place of work and to take the preventive and protective measures

necessary to ensure the safety and health of such employees and to avoid any possible effect on such pregnancy or breastfeeding.

- **Transfer:**If, by regulation, an employer is required to move a pregnant employee, an employee who has recently given birth, or an employee who is breastfeeding to other work but a) it is not technically or objectively feasible for the employer to move the employee as required; b) such a move cannot reasonably be required on duly substantiated grounds; or c) the other work to which the employer proposes to move the employee is not suitable for her, the employee shall be granted leave from her employment.

For the first 21 days of leave granted, the employee shall be entitled to receive remuneration from the employer. A health and safety benefit is payable afterwards until the woman becomes entitled to maternity benefits, or for 14 weeks after the baby's birth, and 26 weeks in the case of a breastfeeding employee.

Where an employer receives notification from an employee who 1) ceases breastfeeding, or 2) becomes aware that her condition is no longer such that she is vulnerable to the risk by virtue of which she was granted leave; and an employer has no reason to believe that if the employee returned to work she would be vulnerable to risk, the employer shall take all reasonable measures to enable the employee to return to work in the job which she held immediately before the start of her leave.

Non-discrimination/Job protection:

- **General:**Discrimination shall be taken to occur where a person is treated less favourably than another person is, has been or would be treated in a comparable situation on any of the following grounds, among others: that one is a woman and the other is a man, that they are of different marital status, that one has family status and the other does not.

This discrimination could be in relation to: a) access to employment; b) conditions of employment; c) training or experience for or in relation to employment; d) promotion or re-grading; or e) classification of posts.

- **Specific:**Nothing in the *Employment Equality Act* shall make it unlawful for an employer to arrange for or provide treatment which confers benefits on women in connection with pregnancy and maternity (including breastfeeding) or adoption.

- **Dismissal/suspension of employment** is void if the employee was terminated/suspended while on maternity leave, leave taken by the father if the mother dies, leave on safety and health grounds, for pre-natal or post-natal care, during a period of absence from work to attend ante-natal classes, or absence from work for breastfeeding, even if suspension/termination expires after expiration of those leaves.

Any notice of termination or suspension given to an employee before the employee notified the employer as required of his/her intention to take any of the above leaves, and the notice of termination or suspension of which would expire during the employee's absence on leave, is extended accordingly.

Dismissal is unfair if it results wholly or mainly from the employee's pregnancy, giving birth or breastfeeding, or matters connected therewith. Exceptions exist.

- **Job guarantee:**A female employee, or the father of a child whose mother has died, has the right to return to the same job under the contract of employment s/he was employed under before going on maternity leave, or leave on safety and health grounds. The employee must, not later than 4 weeks before the date on which s/he expects to return to work, notify the employer in writing of his/her intention to return to work and the date when s/he expects to return to work. However, if it is not reasonably practicable for the employer, or his/her successor, to permit the woman (or the father) to return to the same job, suitable alternative employment, under a new contract of employment, must be offered.

Breastfeeding:

- **Breastfeeding breaks:**An employee who is breastfeeding shall be entitled, without loss of pay, at the option of her employer to either 1 hour off from her work each day for the purpose of breastfeeding or a reduction of her working hours by 1 hour each day up to 26 weeks after confinement.

The breastfeeding break may be taken in the form of one break of 60 minutes, two breaks of 30 minutes each, three breaks of 20 minutes each, or in such other manner as to number and duration of breaks as may be agreed by her and her employer.

Time off from work, or a reduction in working hours, for breastfeeding is calculated on a pro rata basis for a part-time employee.

Breastfeeding breaks shall not lead to a loss of pay.

- **Breastfeeding facilities:** Pregnant women and nursing mothers shall be able to lie down to rest in appropriate conditions.

An employer shall not be required to provide facilities for breastfeeding in the work-place if the provision of such facilities would give rise to a cost, other than nominal cost, to the employer.

ISRAEL

Name of Acts:

- National Insurance Law, 1953, consolidated version, 1995, amended 2007
- Employment of Women Law No. 5714, 1954, amended 2007
- Sick Pay - Absence Because of a Child's Sickness Law No. 5753, 1993
- Women's Employment Regulations (Prohibited Work and Restricted Work and Dangerous Work), No. 5761, 2001
- Women's Employment Regulations (Working with Ionizing Radiation), No. 5761, 2001.

Scope:

- All female employees or self-employed women working in Israel (even if not residents of Israel).
- Women aged 18 or older in vocational training under certain conditions.
- Female employees working outside of Israel under certain conditions.

Maternity leave:

- **Length:** 12 weeks of maternity leave (maternity allowance can be paid up to 14 weeks under certain conditions).
- **Compulsory leave:** 3 weeks after delivery.
- **Extensions:** *Multi-births:* For a woman entitled to full maternity allowance, leave is extended to 14 weeks or 17 weeks for twins and 3 more weeks for the third and each subsequent child. For women who are entitled to partial maternity allowance the 7 weeks are extended by 3 weeks for each subsequent child.

Hospitalisation of mother: A female worker who is hospitalized for more than 2 weeks during the period of maternity leave is entitled to: a) extend the maternity leave period up to 4 weeks (total of 16 weeks); b) divide the maternity leave period so that any period of hospitalization exceeding 4 weeks shall not apply to maternity leave.

Hospitalisation of child: When a child must remain at the hospital, or return to the hospital for a period of more than 2 weeks during maternity leave, the female worker is entitled to: a) extend her leave up to 4 weeks (total of 16 weeks); b) to return to work immediately after compulsory leave (3 weeks after delivery) and take the remainder when the child leaves the hospital.

Other arrangements: Medical examinations/sick leave: During her pregnancy a female employee working a full week is entitled to up to 40 hours of time off for the purpose of medical examinations. She may also take sick leave if a physician certifies that her condition so requires.

Furthermore, within the 6 months following the expiration of maternity leave, an employee who is unable to work as resulting from childbirth (medical certificate needed) is entitled to be absent from work and this absence shall be treated as absence because of illness.

Illness of child: An employee is entitled to 6 days of absence per year in the event of the sickness of a child under 16 years, or up to 60 days of absence per year due to the incurable disease of a child under 18 years.

Paternity leave:

- **Conditions:** A male worker may be granted paternity leave only if his wife is entitled to a full maternity allowance (14 weeks). The employee's wife must have contributed for 10 out of the previous 14 months or for 15 out of the previous 22 months before the day the woman discontinued work during pregnancy.
- **Scope:** A father can replace his spouse during part of the maternity leave 6 weeks after the date of birth, for a period of at least 3 weeks (21 consecutive days) but only if he and his spouse have accumulated a full insurance period. His wife must have agreed in writing and the male worker shall stop working outside his household during the period for which paternity allowance is paid.

Under certain circumstances a father may be entitled to full maternity leave. A male employee, whose spouse gave birth and is unable to take care of her child due to a disability or illness, is entitled to take maternity leave for the entire period that his spouse is unable to take care of her child. In this case the father is entitled to up to 14 weeks maternity leave and

to extend the leave if more than one child is born, if the child is born prematurely and is hospitalized, or if s/he is born ill and hospitalized. In such cases, the maternity allowance for the man (calculated according to his payments to National Insurance) will be paid into the wife's bank account. Furthermore, the fact that the male employee has taken a maternity leave cannot prejudice his spouse's right, to the extent that she is working, to take a maternity leave.

Parental leave:

- **Scope:** A male worker may also be granted the same leave provided that he meets the same seniority requirement as well as one of the following requirements: a) his spouse was employed for at least 24 consecutive months with the same employer immediately before the beginning of his absence, or b) he has the sole custody of the child owing to invalidity or illness of his wife.
- **Conditions:** After 24 months of continuous employment with the same employer, a female employee is entitled to an unpaid leave equal to one fourth of the period she has worked, up to a maximum of 12 months starting on the 7th week after childbirth. The leave may be shared by both parents insofar as they are not absent from work at the same time.

Adoption leave:

- **Scope:** An employee is entitled to paid adoption leave for adoption of a child under 10 years of age.
- **Conditions:** Vacation pay for adopting a child under 10 years of age is paid to an employee for cessation of work due to the adoption but only if at least one of the adopting parents has 10 months of coverage in the last 14 months or 15 in the last 22 months. Couples may choose which one of them is eligible for payment for the entire period of the adoption vacation, or they can split up the vacation between them, on condition that each of their vacations is no less than 21 consecutive days.
- **Length:** Same as for maternity leave.

Cash benefits:

- **Maternity leave benefits:** Two forms: Childbirth allowance and Maternity allowance.
- **Childbirth allowance:** A female worker who has given birth to three or more children in one birth is entitled to a childbirth allowance in addition to the maternity allowance from the birth and up to 20 months after this date.
- **Maternity allowance: Scope:** Same scope as for maternity leave.
Conditions: To be entitled to the full maternity allowance of 14 weeks, the woman worker must have contributed during 10 of the previous 14 months or 15 of the previous 22 months before the day she discontinues work during pregnancy. In the event she contributed only 6 of the previous 14 months, she is entitled to a partial maternity allowance (7 weeks).
Amount: 100 % of the person's average daily net income in the 3 months preceding the day on which she begins maternity leave up to a maximum maternity allowance sum per day.
Duration: Social Security law allows for up to 14 weeks of paid maternity allowance. Full maternity allowance is of 14 weeks, or 17 weeks for twins and extended by 3 weeks for the third and subsequent child. Partial maternity allowance is of 7 weeks extended by 3 weeks for each subsequent child.
Payment is by Social Security.
- **Paternity leave benefits:** A male employee, whose spouse is unable to take care of her child due to a disability or illness, is entitled to take maternity allowance for the entire period that his spouse is unable to take care of her child provided that the maternity allowance was not paid to the woman for the same period and that the woman and her husband have contributed to the Social Security Fund for a given period.
- **Parental leave benefits:** Unpaid leave.
- **Adoption leave benefits:** Same as for maternity leave.

Medical benefits:

- A benefit is paid for each day of rest from work due to medical risk to the female worker or her foetus. The rate amounts to the woman's average wage per day for the last 3 months.

- All persons residing in Israel are entitled to a birth and hospitalization grant paid for a birth for which hospitalization was necessary.
- In addition, the National Insurance Institute pays the cost of transportation beyond the first 20 kilometres if the ambulance journey is more than 20 kilometres.

Health protection:

- **Night work:** A female worker, if required to work at night at a workplace where no night work existed before, may refuse such work.
- **Overtime:** A female worker shall not work overtime hours or during the weekly rest from the fifth month of her pregnancy unless she agrees in writing and on presentation of a medical certificate attesting that there is no reason for not employing her during overtime hours.
- **Dangerous or unhealthy work:** The competent ministry may, by regulation, prohibit or limit the employment of female workers in sectors, production processes or workplaces likely to be especially prejudicial to their health.

A pregnant woman shall not be exposed during work or professional training to an equivalent exposure dose, from internal or external sources of radiation, greater than 1 rem for the whole of her period of pregnancy. The average monthly rate of a woman's exposure, shall not exceed 0,15 rems.

A pregnant woman shall not be employed close to a source of heat that could raise her body temperature above 38.5 degrees Celsius for 4 hours continuously.

- **Transfer:** A pregnant worker may be excused from her job if a physician has confirmed that she is unable to perform her work due to the nature or type of work or the workplace, or if the nature or type of the work or the workplace jeopardize her or her foetus.

The right of absence in these circumstances shall be granted if the employer has not found any other suitable alternative work.

In this event, the woman is entitled to a leave without pay from her employer and to payment by the National Insurance Institute for the days of absence due to "high risk pregnancy" if the absence is at least 30 consecutive days.

Non- discrimination/Job protection:

- **Non-discrimination:** No specific anti-discrimination measures.
- **Dismissal** of full-time, occasional or temporary female employees is prohibited during *pregnancy* provided that the female employee has worked for the same employer for at least 6 consecutive months.

Dismissal is prohibited during *maternity leave* and during a period of *10 weeks (70 days) after* the end of the leave.

Both parents are protected against dismissal during *parental leave and the 45 days following* the end of parental leave.

In addition, the *nonrenewal of a fixed-term contract* is the same as the dismissal discussed above, provided that the fixed term in the contract is at least 12 months, or if it is a contract that extends a previous employment period, even if it is the first employment period of less than 12 months.

- **Job guarantee:** as the worker cannot be dismissed for a period of 10 weeks after returning from maternity leave, this implies a job awaits her. It does not say if this is the same job, with same conditions as before the leave.

Both parents are guaranteed a job after parental leave.

Breastfeeding:

- **Breastfeeding breaks:** No breastfeeding breaks.
However, a female employee who is prohibited from working at certain jobs by law because she is breastfeeding is entitled to be excused from work and this absence is tantamount to leave without pay for all intents and purposes.
This absence does not preserve the employee's seniority rights.

ITALY

ITALY HAS RATIFIED ILO C3 (22.10.1952)

ITALY HAS RATIFIED ILO C183 (7.02.2001)

Name of Acts:

- Law No. 53 on Discipline for Maternity and Paternity Support, for the Right to Care and Training and for the Coordination of the City-times, 2000
- Constitution of the Italian Republic, Article 31
- Decree Law No. 151, 2001, modified as Decree Law No.115, 2003
- Decree Law No. 119, on Leaves, Permits and Expectancy,amending the Decree Law No. 151, 2001 and other norms, 2011
- Circular INPS, No. 16, 2008
- Law No. 125 on Affirmative Actions for the Realization of Gender Equality in the Workplace, 1991
- Law No. 133 on Urgent Measures on Benefits to Families with at least Three Minors and for Maternity, 2003
- Circulars Nos. 30, 35, 37, 57, 62, 64, 69, 80, 87, 126, 139,INPS, 2011
- Circular No. 26, INPS, 2010
- Circular No.118, INPS, 2009
- Act. No. 183 authorizing Government to Adopt Legal Measures in Order to Give Incentive to Female Work, 2010
- Decree Law No.276, 2003
- Code of Equal Opportunities, Decree Law No. 198, 2006
- Law No. 104, 2006
- Legislative Decree No.119 regarding Leaves, Permits and Expectation, 2011.

Scope:

- The *Unified Text of 2001 on Maternity Protection* covers all workers employed on the basis of a contract of employment (also with a contract of apprenticeship), in the public administration, the private sector and members of cooperatives, without distinction as to the nature of their contract.
- Workers belonging to the category of managers are also covered.
- Domestic workers have the right to maternity and paternity leave.
- There is no distinction regarding the protection granted to natural or legitimate children.

Maternity leave:

- **Conditions:** The worker must inform the employer of the reason of her absence, and submit a medical certificate with the expected date of birth.
- **Length:** 5 months (20 weeks):2 months before and 3 months after the expected date of birth, or if allowed by a medical certificate, 1 month before and 4 months after the expected date of birth.
- **Compulsory leave:** The 5-month period of leave is compulsory.
- **Extension:** Maternity leave may be extended on *medical grounds* arising out of pregnancy or in case of preexisting morbidity that may worsen because of the pregnancy by a maximum of 7 months, so up to the beginning of the compulsory leave. The worker needs to submit the medical certificate to the Inspectorate of the Ministry of Labour in order to benefit from this extended leave.

The leave can also be extended to 3 months before the expected date of birth when the woman is employed in an *occupation that can be hazardous* and when she cannot be accommodated to another kind of occupation.

In case of *multiple births* there is no legal provision to extend maternity leave, but a maternity leave is associated to each child. Furthermore, there is an express legal provision that doubles the daily hours of rest breaks and it also allows the father to make use of these additional hours of daily rest.

- In the case of spontaneous or therapeutic *interruption of pregnancy* after 180 days of gestation, as well as in case of *death of the child* at birth or during maternity leave, the worker has the right to resume her working activities at any time, with a 10-day notice to her employer, provided that the National Health Service or other medical authority confirms that this will not prejudice her health.

Paternity leave:

- **Scope:**All fathers employed on the basis of a contract of employment, also with a contract of apprenticeship, in the public administration, the private sector and members of cooperatives, without distinction as to the nature of their contract.
- In the case of the death or serious illness of, or abandonment by the mother, the father can request paternity leave for a period lasting at the most, the length of the maternity leave.

Parental leave:

- **Scope:**All parents employed on the basis of a contract of employment, also with a contract of apprenticeship, in the public administration, the private sector and members of cooperatives, without distinction as to the nature of their contract.
Both parents qualify for parental leave, notwithstanding the working situation of the partner. Parental leave may be requested by the mother after completion of her compulsory maternity leave for a period up to 6 months; or by the father from the date of birth up to a period of 6 months.
- **Length:**The sum of the parental leaves of both the mother and the father cannot exceed 10 months, even when taken simultaneously. When the father takes a parental leave of at least 3 months, the sum of the parental leave may extend to 11 months.
Extension:If the mother or the father is or becomes a single parent, his/her parental leave extends up to 10 months.

Adoption leave:

- **Scope:** All adoptive parents employed on the basis of a contract of employment, also with a contract of apprenticeship, in the public administration, in private sector and members of cooperatives, without distinction as to the nature of their contract.
- **Qualifying conditions:** Adoptive parents are entitled to abstain from work for a period of 5 months (20 weeks) regardless of age at the time of the adoption of the child, (even where, during the leave, the child reaches the age of majority).
- **Length:** The rules and conditions of maternity, paternity and parental leave remain the same as the ones granted in case of legitimate and natural children. The leave must be initiated during the first 3 months of the effective arrival of the child in the family.

Part-time work:

- **General provisions:**no express provision entitling mothers to apply for a part-time contract after maternity. Nevertheless, national collective agreements may establish this option.
- **Specific example:**In the case of holdings from 20 to 33 employees, one part-time job after maternity leave is allowed; in case there are several requests, the employer gives priority to first ones.
The request to move to part-time maternity leave must be submitted with a notice of 60 days and must indicate the period for which the reduction of working time is required.

Cash benefits:

- **Maternity leave benefits:**There are two types of cash benefits, the State Maternity Allowance and Maternity Cash Benefits.
- **State Maternity Allowance** is reserved for mothers (Italian citizens or EU residents or non-EU residents in possession of a long-term resident permit), and paid to them for each child born or adopted, as well as for a pre-adoptive foster care child.
Conditions:The allowance is payable to the mother if she has a working relationship and a form of protection for maternity, and 1) has paid in the period from 18 to 9 months before the birth of the child (or inclusion in the family) at least 3 months of contributions (from employment, or self-employment) but has not reached the requirements for maternity benefits; 2) has resigned voluntarily from work during pregnancy and, as above, has paid at least 3 months of contributions (from employment, or self para-subordinate) in the period

from 18 to 9 months before the birth of the child (or its inclusion in the family, in the case of adoption or custody); or 3) has previously been entitled to a INPS benefit (such as illness or unemployment and has worked at least 3 months provided that less than 9 months have elapsed between the date of the loss of the right to Social Security benefits and the date of birth.

- **Maternity Cash Benefits:** as income replacement for workers who stop working during maternity leave.

Scope: It concerns female employees of private employers (including managers), workers in administration, employees, workers with intermittent employment contract, job-sharing workers, part-time workers, apprentices, workers who have actually begun their work, female employees from state enterprises, public institutions and local governments, including privatized institutions, various categories of unemployed workers, fixed-term agricultural workers with at least 51 days of work before the start of maternity leave, managers and employees in agriculture, domestic workers and care givers under certain conditions, female employees of cooperatives, employees of companies providing public transport services, women working at home, workers engaged in socially useful activities or utilities, working fathers (only in the case of death, serious illness or illness of the mother, child abandonment, sole custody to the father) meeting the requirements specified for working mothers, adoptive or foster parents (fathers and mothers), farmers, sharecroppers, agricultural entrepreneurs, craft, traders and self-employed-liberal professionals.

Conditions: *For employees:* If the employment relationship is ongoing, no requirements of seniority are necessary in terms of contribution to the Social Security and the employer pays the benefit.

For the unemployed: If the maternity leave begins within 60 days from the date of dismissal/resignation, the entitlement is automatic. If it begins more than 60 days from the date of dismissal/resignation, the right is recognized if the starting date of the leave falls within a period of unemployment (or even theoretically accessible for mobility).

For unemployed workers not insured for unemployment, the right is recognized if the worker has paid 26 weekly contributions in the 2 years preceding the beginning of motherhood and if the leave begins within 180 days from the date of dismissal/resignation.

For suspended workers: If the maternity leave begins within 60 days from the date of suspension, the entitlement is automatic. If the maternity leave begins more than 60 days from the date of suspension, the right is recognized if the starting date of the leave falls within a period of unemployment (or even theoretically accessible for mobility).

For agricultural workers contracted to work for a fixed period (OTD): 51 working days in agriculture during the calendar year preceding the start of the leave or 51 working days in agriculture during the start of the leave provided that accrued before the leave.

For employees/workers with home-based work for which payment is made directly by INPS, 52 weeks of contributions paid or payable in sectors other than the home within 2 years prior to the birth or 26 weeks of contributions in the year preceding the start of maternity leave.

Employees/workers who belong to separate management (Law 335, 1995), called "para-subordinate", for which payment is made directly by INPS: at least 3 months of contributions in the previous 12 months before the starting date of maternity leave.

For the self-employed, no clear minimum period of contributions required to be entitled with this benefit.

- **Amount:** 80% of the salary for the all periods of compulsory leave and in case of any accorded extension.

The salary is based on the last salary received before the compulsory leave calculated as global daily cash benefit, which is the last monthly salary divided by 30 days.

Part-time workers have the same rights as full-time workers with regard to the duration. Cash benefits are proportional to their salary level.

Domestic workers have the right to maternity and paternity leave. Cash benefits are disciplined by *Presidential Decree No. 1403*, of 31 December 1971.

For self-employed agricultural workers, the indemnity is calculated as 80% of the daily minimum wage for full-time agricultural workers.

For all other self-employed workers the indemnity is calculated as 80% of the daily minimum wage established by Law No. 402 of 29 July 1981 and following amendments. For craft workers, conventional merchants, farmers, sharecroppers, agricultural entrepreneurs, a daily cash benefit for birth is calculated every few years.

Unemployed receiving benefits or entitled to receive benefits: a daily cash benefit for birth is calculated every few years.

Same for precarious workers.

In case of multiple births, or multiple adoption or multiple children in foster-care, parents have the right to enjoy cash benefits for each child.

Benefits are paid by Social Security (INPS- Istituto Nazionale Previdenza Sociale).

Contributions are made by workers, employers and the self-employed.

- **Paternity leave benefits:** The father can ask for paternity leave in replacement in certain cases, of the mother.

Conditions: Daily Paternity Cash Benefits follow the same rules as maternity cash benefits and are subject to the same terms and conditions.

They are paid by Social Security (INPS).

- **Parental leave benefits: Scope:** All workers employed on the basis of a contract of employment, or apprenticeship, in the public administration, the private sector, cooperatives, without distinction on the nature of their contract are covered. Are excluded: Parents unemployed or suspended, domestic workers, homeworkers.

- **Amount:** Cash benefits are 30% of the salary for a child of less than 3 years. The method of calculation is the same as for maternity benefits.

Duration: The leave lasts for a maximum period of 6 months for both parents combined. It ends when the working relationship finishes. If the child is between 3-8 years old, the parental leave is unpaid leave.

They are paid by Social Security (INPS). If the child is between 3-8 years old, the parental leave is unpaid leave.

Medical benefits:

- During pregnancy, working women may benefit from the medical services provided by public or accredited private institutions, excluding the cost of performance, as well as periodic visits of obstetrics and gynecology, specialized services for the protection of motherhood, according to pre-conception and prevention of foetal risk.
- Examinations free of charge include: blood tests (including tests for toxoplasmosis), three ultrasounds scans, a tri-test to check the possibility of the baby having Down's syndrome; in post-natal care some vaccinations are compulsory. These benefits are extended up to the 7th month of the child and also apply to female workers that have adopted a child or have received a child in foster care.
- Medical benefits are covered by National Health Service.

Health protection:

- **Night work:** Night work (from 12 pm - 6 am) is banned for women from the beginning of their pregnancy until the child is 1 year old. Furthermore, the following are not obliged to perform night work: working mothers of a child under 3 years of age or the father that cohabits with her. Working mothers/fathers with exclusive custody of a child under 12 years of age.

- **Overtime:** is not prohibited either for pregnant workers or for nursing mothers.

- **Dangerous or unhealthy work:** it is forbidden to assign female workers to transport and lifting of weight, dangerous work, exhausting and unhealthy work.

The Inspection Service of the Ministry of Labour may decide, after a medical evaluation, to modify the working conditions or working hours of a pregnant worker, or to transfer her to another post. If the worker is transferred to a work of lower level, she will keep the same salary level and classification enjoyed before the transfer.

The Inspection Service of the Ministry of Labour, may decide to modify the working conditions or working hours and/or to extend the compulsory paid maternity leave from the regular 2 months before confinement to 3 months before confinement. In the case where the

worker stops working before the last 3 months before confinement, she will benefit from regular sickness leave until she is entitled to maternity leave –instead of extended maternity leave. It is to be noted that sickness and maternity leave are not cumulative.

- **Transfer:** During pregnancy and up to 7 months after the child's birth (this provision applies also to adoptive mothers or foster-care mothers of a child under 7 months of age), female workers are entitled to be transferred to a different or a lighter job in order to protect their health and/or that of the unborn or born child. The remuneration will be the same as that received by the worker before the transfer.

Non-discrimination/Job protection:

- **Any discrimination** based on the grounds of sex, marital status and pregnancy status is prohibited as far as access to employment is concerned as well as access to vocational training and professional education, and in terms of promotions, salary levels and professional classification. Any act or behaviour which produces a prejudice, even indirect, discriminating against workers on the grounds of sex is considered discriminatory. It is forbidden to discriminate in the access to employment, training, promotion and in working conditions by demanding certificates of marital or civil status, pregnancy, maternity and paternity.
- **Dismissal** is prohibited during pregnancy, where this has been medically certified, during maternity leave and until the child is 1 year old. Any dismissal during this time is considered void. Dismissal is also void for both the mother and the father if they are benefiting from parental leave. The father is also protected against dismissal while taking paternity leave until the child is 1 year old. The same applies in the case of adopted children. Dismissal is nonetheless permitted in case of a serious fault of the worker unrelated to pregnancy, of the termination of the company's activity, and the termination of the worker's short-term contract. Seasonal workers, who receive periodical unemployment benefits, are protected from dismissal during the period of maternity leave and have the right to return to work after the compulsory leave period.
- **Burden of proof:** When the applicant provides factual evidence, derived also from statistical data related to hiring, occupational distribution, the allocation of functions, transfers, career progression and redundancies, suitable to found, in a precise and consistent manner, the presumption of acts, agreements or discriminatory behaviour on the basis of sex, the burden of proof lies on the defendant.
- **Job guarantee:** At the end of maternity leave, paternity leave and adoption leave the employee has the right to return to his/her previous work, in the same productive unit, or in a unit in the same province until the child is 1 year old. They also have the right to perform the same duties they had before, or equivalent ones. This right to return to the same work is applicable to the other types of leave, permit or break rests. It has been extended in case of adoption or foster-care up to a year after the entry of the child in the family.

Breastfeeding:

- **Breastfeeding breaks:** During the 1st year of age of the child, working mothers can take two daily breaks during their working day to breastfeed their child, or one if the working time is less than 6 hours daily. These breaks are of 1 hour each and the woman can leave the company premises. The father is entitled to the same daily reduction of hours of work in the case where the child is raised by himself only, or the working mother does not benefit from the daily breaks, or if she is not employed, or in the case of her death or serious illness. Nursing breaks are considered as effective working periods, the salary remains at the same level.

ITALY HAS RATIFIED ILO C3 (22.10.1952)

ITALY HAS RATIFIED ILO C183 (7.02.2001)

KAZAKHSTAN

KAZAKHSTAN HAS RATIFIED C183 (13.06.2012)

Name of Act:

- Labour Code, No. 251, 2007.

Scope:

- No information.

Maternity leave:

- **Length:** 126 calendar days (18 weeks).
- **Compulsory leave:** 56 days (8 weeks), not specified before or after birth- but probably after, at least 6 weeks.
- **Extension:** In the event of a *complicated birth* or *birth of two or more children*, women shall be granted 70 calendar days ante-natal (10 weeks) and 70 calendar days post-natal (10 weeks) paid maternity leave.

Paternity leave:

- **Scope/Length:** The employer shall provide unpaid leave of up to 5 calendar days to fathers after the birth of a child.

Parental leave:

- **Length:** The employer shall provide unpaid leave to an employee for caring for a child until it reaches the age of 3 years: at the parents' choice – to the mother or the father of the child; to a parent bringing up a child on his/her own; to a grandmother, grandfather, other relative or guardian actually bringing up the child; or to an employee adopting a newborn.
- **Unpaid leave** for caring for a child until it reaches the age of 3 years may be used in full or in parts on the basis of a written application from the employee, at the employee's choice. The period of unpaid leave for caring for a child until it reaches the age of 3 years shall be counted in the general work service record and the work service record in the given specialisation.

Adoption leave:

- Employees (one of the parents) adopting newborns shall be granted paid leave for the period from the date of adoption until expiry of 56 days (8 weeks) from the birth date of the child.

Part-time work:

- The employer shall establish a part-time work regime, on the basis of a written application from a pregnant woman, a woman with a child (children) under the age of 3 years, a father or adoptive parent bringing up children under the age of 3 years without a mother, as well as from an employee caring for a sick family member in accordance with a medical opinion.

Cash benefits:

- **Maternity leave benefits: Amount:** 100% of the wage.
Duration: whole period of 126 days.
Benefits are paid by the employer. He shall pay employees temporary disability allowances, maternity allowances and allowances for women (men) adopting newborns out of his own funds.
- **Paternity leave benefits:** no indication of amount but probably paid by employer.
- **Adoption leave benefits:** Paid leave, no further indication.

Medical benefits:

- No information available on medical benefits.

Health protection:

- **Dangerous or unhealthy work:** The employer shall, on the basis of a medical opinion, transfer a pregnant woman to other post excluding any impact of harmful and (or) hazardous production factors, with retention of the average wage.

Non-discrimination/Job protection:

- **General:** It is prohibited to violate equality of rights and opportunities in concluding an employment contract. Pregnancy, the existence of children up to the age of 3 years, being under age, and disability may not restrict the right to conclude an employment contract.

- **Dismissal:** Cancellation of employment contracts on the initiative of the employer with pregnant women, women with children under the age of 3 years, single mothers bringing up a child under the age of 14 years (a disabled child under the age of 18 years), and other persons bringing up the given category of children without mothers shall not be permitted.
- **Burden of proof:** On establishment of a fact of violation of equality of rights and opportunities in concluding an employment contract, the employer shall bear the liability established by the laws.
- **Job guarantee:** No provisions regarding the right to return to work have been identified.

Breastfeeding:

- **Breastfeeding breaks:** No mention.

KAZAKHSTAN HAS RATIFIED C183 (13.06.2012)

KYRGYZSTAN

There is no information on the ILO website concerning maternity protection in Kyrgyzstan, however:

KYRGYZSTAN HAS RATIFIED C103 (31.03.1992)

Name of Acts:

- Resolution of the Government of Kyrgyzstan No. 414 on the Procedure for the Eligibility and Payment of Temporal Disability and Maternity Benefits, 2008.

Scope:

- No information.

Maternity leave and other related leaves:

- **Length:** 126 days (18 weeks).

Cash benefits:

- **Amount:** 100% for the first 10 working days. Starting from the 10th working day, 10 times the minimum wage level.
- **Benefits are paid** by the State. (The employer pays the benefits from his own funds, and is later reimbursed by the State.)

Health benefits:

- No information.

Health protection:

- No information.

Non-discrimination:

- No information.

Job protection:

- No information.

Breastfeeding:

- No information.

KYRGYZSTAN HAS RATIFIED C103 (31.03.1992)

LATVIA

LATVIA HAS RATIFIED C3 (03.06.1926)

LATVIA HAS RATIFIED C183 (09.02.2009)

Name of Acts:

- Law on Maternity and Sickness Insurance, 1995
- Regulation No. 379, Procedures for the Performance of Internal Supervision of the Working Environment, 2001
- Cabinet Regulation No. 66, Labour Protection Requirements for Protection of Employees from the Risk Caused by Noise in the Work Environment
- Cabinet Regulation No. 248, Labour Protection Requirements for the Protection of Workers from the Risk Arising from Vibrations in the Working Environment
- Law on State Social Allowances
- Labour Law, 2001
- Regulation No. 125, Requirements for Labour Protection in Workplaces.

Scope:

- Covers all employees working under an employment contract.

Maternity leave:

- **Length:** 112 days (16 weeks); up to 56 days (8 weeks) can be taken prior to the expected birth.
- **Compulsory leave:** 2 weeks prior to the expected birth and 2 weeks after childbirth, as certified by a doctor's opinion.
- **Extensions:** *Multiple births/illness related to pregnancy:* In case two or more children are born, as well as in case of pregnancy-related medical care initiated at a preventive medical institution by the 12th week of pregnancy and continued for the whole period of pregnancy, a supplementary leave of 14 days (2 weeks) is allowed. It is added to the pre-natal leave (70 calendar days/10 weeks in total).

In case of *complications* in pregnancy, childbirth or in the post-natal period, a woman shall be granted a supplementary leave of 14 days (2 weeks), adding it to the maternity leave and calculating 70 calendar days (10 weeks) in total.

Paternity leave:

- **Scope:** father of a child.
- **Length:** 10 calendar days, immediately after the birth of the child and within a 2-month period from the birth of the child.
The father may be granted additional leave in specific circumstances.

Parental leave:

- **Scope:** Every employee has the right to parental leave in connection with the birth or adoption of a child.
- **Length:** Such leave shall be granted for a period not exceeding 18 months up to the day the child reaches the age of 8 years.
- It can be taken in a single period or in parts.

Adoption leave:

- **Scope:** Every employee has the right to leave in connection with an adoption of a child.
- **Conditions:** The employee has to notify the employer in writing 1 month before the beginning of the leave of the length of the adoption leave or parts thereof.
- **Length:** For a family, which has adopted a child up to 3 years of age, one of the adopters shall be granted 10 calendar days of leave.
Parental leave shall be granted to adopting parents for a period not exceeding 18 months up to the day the child reaches the age of 8 years (in one single period or in partial periods).

Part-time work:

- An employer shall provide part-time work if requested by a pregnant woman, a woman for a period of up to 1 year after childbirth and during the whole period of breastfeeding, as well as

by an employee who has a child under 14 years of age or a disabled child under 18 years of age.

Cash benefits:

- **Maternity benefits: Amount:** 100% of average insurance contribution wage.
Conditions: Maternity benefits are granted to a woman who is covered by the Maternity and *Sickness Benefit Act*, provided that she is not working.
Maternity benefits shall be provided to the father of the child or to another person who is caring for the child at home until the child is 70 days old (10 weeks), under the following conditions: 1) the mother has died during delivery or before the 42nd day (6 weeks) after birth; 2) the mother has refused to care for and raise the child; 3) if the mother is unable to care for the child before the 42nd day (6 weeks) after birth due to an illness, injury or other reason related to her health.
Duration: Maternity benefit shall be provided to a woman for the entire period of pregnancy leave and childbirth leave (total 112 days) and any extension thereof (additional 14 days)
Benefits are paid by the State Social Insurance (from the disability, maternity and sickness special budget), income from which State Social Insurance contributions are made.
- **Paternity leave benefits:** The paternity benefit is to be granted to a father who is on paternity leave and who is socially insured. It represents 80% of the average insurance contribution wage for 10 days and is covered by the State Social Insurance.
- **Parental leave benefits: Scope/Conditions:** Child care benefits are granted to one of the child's parents or guardians as long as this person is insured, is not considered self-employed and has been granted child care leave or is employed less than 20 hours per week. Benefits are received until the child's second birthday.
Duration/Amount: Benefits received until the *child is 1 year of age* amount to 70% of the care giver's average insurance contribution wage but not less than 70 % of twice the amount of the State Social Security benefits, up to a ceiling.
In the case of twins or more children (triplets, etc.), a supplement is granted.
Benefits received for a *child between 12-24 months* (fixed amount of 30 lat per month) are assigned, covered and paid by the Social Insurance.

Medical benefits:

- No mention.

Health protection:

- **Night work:** It is prohibited to employ a pregnant woman, a woman who gave birth less than 1 year before, and a breastfeeding woman (10 pm – 6 am) if a medical certificate states that the performance of the relevant work causes a threat to the safety and health of the woman or her child.
An employee who has a child under 3 years of age may be employed at night only with his or her consent.
- **Overtime:** A pregnant woman, a woman up to 1 year after childbirth, and a woman who is breastfeeding may be employed in overtime work if she has given her written consent.
- **Dangerous or unhealthy work:** After receipt of a doctor's opinion, an employer is prohibited from employing a pregnant woman or a woman who gave birth less than 1 year before, if it is considered that performing the work threatens the safety and health of the woman or her child.
- If, following a medical recommendation, piece-work has been given or work norms have been reduced for a pregnant woman, a woman up to 1 year after childbirth or during the whole period of breastfeeding, she is entitled to receive her previous average earnings during this period.
The employer shall, in addition to the usual general risk evaluation of the work environment, ensure the risk evaluation of the work performed by pregnant workers, mothers of a child under 1 year of age, and breastfeeding workers.
- **Transfer:** If it is not possible to ensure working conditions or time that prevent exposure to risks for these categories of workers, or if the employer, on the basis of an evaluation, determines that the work may pose a threat to these workers' safety or health, but cannot

make the necessary changes to ensure their health and safety, s/he has the obligation to transfer the worker temporarily to a more appropriate job. The worker's remuneration cannot be inferior to what she gained previously.

If the transfer to another job is not possible, the employer has to grant the worker leave.

During the period of leave, the worker maintains her previous average earnings.

Non-discrimination/Job protection:

- **Differential treatment** based on the sex of an employee is prohibited when establishing legal employment relationships, as well as during the period of employment, in particular when promoting an employee, determining work conditions, remuneration or occupational training. Differential treatment based on the gender of employees is permitted only in cases where a particular gender is an objective and substantiated precondition for the performance of the relevant work or for the relevant employment.
- **Pregnancy tests:** A job interview may not include questions which are directly or indirectly discriminatory, in particular questions concerning pregnancy (except in cases where the employment contract is entered into for a specific time and the intended work or occupation may not be performed during the time of pregnancy, or also in the case where the time period in which the woman does not perform the work is not commensurate with the terms of the employment contract), and family or marital status.
- **Dismissal:** An employer is prohibited from giving notice to a pregnant worker, to a mother whose child is under 1 year and to a mother during the whole period of breastfeeding.
- **Burden of proof:** If dismissing an employee, the employer has to prove that s/he has not violated her rights and the specified procedure for termination.
- **Job guarantee:** The previous job of an employee who makes use of parental, maternity or paternity leave shall be retained. If this is not possible, the employer shall ensure equivalent or similar work with not less advantageous circumstances and employment provisions.

Breastfeeding:

- **Breastfeeding breaks:** An employee whose child is under 18 months, is granted additional breaks of not less than 30 minutes (1 hour in case of more than one child under the age of 18 months) every 3 hours.

The employee shall in good time inform the employer of the necessity for such breaks. The length of breaks shall be determined by the employer after consultation with employee representatives, taking into account the wishes of the relevant employees as far as possible. Breaks for feeding a child may, if such is requested by the employee, be transferred to the end of the working time thus shortening the working day accordingly.

Breaks for feeding a child shall be included as working time, preserving work remuneration for such time.

- **Breastfeeding facilities:** If pregnant women or women in the period following childbirth (up to 1 year) are employed, they shall be provided with the possibility of lying down and resting in suitable conditions in conformity with the hygiene requirements.

LATVIA HAS RATIFIED ILO C3 (03.06.1926)

LATVIA HAS RATIFIED ILO C183 (09.02.2009)

LITHUANIA

LITHUANIA HAS RATIFIED ILO C183 (23.09.2003)

Name of Acts:

- Constitution of the Republic of Lithuania, 1992, amended 2004
- Labour Code, 2002, amended 2008
- Law on Safety and Health at Work, No.IX-1672, 2003, amended No. IX-2507, 2004
- Law on Equal Opportunities for Women and Men, No. VIII-947, 1998, amended No. X-1380, 2007
- Law on Sickness and Maternity Social Insurance, No. IX-110,2000, amended No. X-1400, 2007.

Scope:

- Employed women.
- Labour laws and other regulatory acts shall be applied to labour relations in the territory of the Republic of Lithuania regardless of whether the person is employed in Lithuania or has been posted by his employer abroad.

Maternity leave:

- **Length:** 126 consecutive days (18 weeks): 70 calendar days (10 weeks) before and 56 calendar days (8 weeks) after childbirth.
- **Compulsory leave:** not clear if above division is compulsory or not.
- **Extension:***Multiple births:*70 days (10 weeks) post-natal leave in the case of birth of two or more children.
*Complications:*70 days (10 weeks) post-natal leave in the event of complicated confinement.

Paternity leave:

- From the day of birth of the child until the child reaches the age of 1 month.

Parental leave:

- **Scope:**Parental leave shall be granted, at the choice of the family, to the mother/adoptive mother, the father/adoptive father, the grandmother, the grandfather or any other relatives who are actually raising the child, as well as to the employee who has been recognised the child's guardian.
- **Conditions:**The employee intending to use the leave or to return to work before the end of the leave must give the employer at least 14 days' written notice. A longer period of notice may be established in the collective agreement.
- **Length:**Up to the child's 3rd birthday. The leave may be taken as a single period or distributed in portions. The employees entitled to this leave may take it in turn.

Adoption leave:

- **Scope:** For all adoptive parents.
- **Conditions:** No specific requirements for the leave but the employee intending to use the parental leave or to return to work before the end of the leave must give 14 days' notice to the employer (or longer if stipulated by collective agreement).
- **Length:** maternity leave until the child reaches 70 days of age (10 weeks), plus parental leave, until the child is 3 years old.

Part-time work:

- Part-time work is granted upon request of a pregnant woman, a woman who has recently given birth, a woman who is breastfeeding, an employee raising a child until it reaches 3 years of age, as well as an employee who raises alone a child until it reaches 14 years of age or a disabled child until it reaches 18 years of age.

Cash benefits:

- **Maternity benefits:****Scope:**Persons insured under the Sickness and Maternity Social Insurance, who have been granted maternity leave are entitled to paid benefits.
Conditions: Women who have a sickness and maternity social insurance record of not less than 3 months during the last 12 months or not less than 6 months during the last 24 months. Exceptions apply for persons under 26 years of age.

Amount: 100% of the insured person's income.

Duration: Benefits for 126 calendar days after 30 or more weeks of pregnancy.

In the case of complicated childbirth and if more than one child was born, the allowance shall be paid for extra 14 calendar days. The same applies to women who give birth in the 28th-30th week of pregnancy.

Benefits paid by Social Insurance, which is financed inter alia with contributions of the employers and the insured.

- **Paternity leave benefits** are payable to a person who has recognized paternity of the child.
Conditions: He has to be insured by the Sickness and Maternity Social Insurance, be granted child care leave before the child is 1 month old, and have accumulated until the 1st day of the childcare leave at least 7 months of Sickness and Maternity Social Insurance period during the last 24 months.
Duration/Paid by Social Insurance for the period of paternity leave from the day of childbirth until the child is 1 month old and amounts to 100% of the insured person's income.
- **Parental leave benefits** are enjoyed by one of the parents or of the adoptive parents or a guardian.
Conditions: This person has to be insured by Sickness and Maternity Social Insurance, be granted a childcare leave, and have accumulated until the 1st day of the child care leave at least 7 months Sickness and Maternity Social Insurance contributions during the last 24 months.
Amount/Duration: 100% of salary before the child turns 1 year of age and 85% before the child turns 2 years of age; between 2-3 years, the leave is unpaid.
Parental leave allowance shall be paid from the period after the end of pregnancy and childbirth leave until the child reaches the age of 2 years.
It is paid by Social Insurance, which is financed inter alia with contributions of the employers and the insured.
- **Adoption leave benefits:** is enjoyed by one of the adoptive parents.
Conditions: This person has to be insured by Sickness and Maternity Social Insurance and granted a childcare leave. For the maternity allowances, the person has to have a Sickness and Maternity Social Insurance record of not less than 3 months during the last 12 months or not less than 6 months during the last 24 months, and for the parental leave benefits s/he must have compiled at least 7 months Sickness and Maternity Social Insurance contributions during the last 24 months until the first day of leave.
Amount/Duration: 100% before the child turns 1 year of age and 85% before the child turns 2 years of age.
The payment is due for the period from the date of adoption until the day the baby is 70 days old (10 weeks). Parental leave allowance shall be paid after this period until the child reaches the age of 2 years.
Paid by Social Insurance.

Medical benefits:

- Where a pregnant woman, a woman who has recently given birth or a breastfeeding woman has to attend medical examinations, she must be released from work for such examinations without loss in her average pay, if such examinations have to take place during working hours.

Health protection:

- **Night work:** Pregnant women, women who have recently given birth or breastfeeding women may be assigned to work at night (10 pm – 6 am). If such employees refuse to work at night and submit a certificate that such work would affect their safety and health, they shall be transferred to day-time work. Where it is not possible to transfer such employees to day-time work due to objective reasons, they shall be granted a leave until they go on maternity leave or child care leave until the child is 1 year of age. During the period of leave granted before the employee goes on maternity leave she shall be paid her average monthly pay.
- **Overtime:** Pregnant women, women who have recently given birth or breastfeeding women may not be assigned to work overtime without their consent.

- **Work on rest days:** Pregnant women, women who have recently given birth to a child, breastfeeding women, the employees raising, as single parents, a child before s/he has reached the age of 3, and employees raising a child before s/he has reached the age of 14 or a disabled child before s/he has reached the age of 16, may be assigned work on rest days only subject to their consent. It shall be prohibited to work during holidays, with the exception of work which cannot be interrupted on technical grounds (enterprises and organisations of uninterrupted operation), work involving the need to provide services to the population as well as work involving urgent repair and loading. In such cases, pregnant women and the above-mentioned other categories of women may be assigned work during holidays only subject to their consent.
- **Dangerous or unhealthy work:** A pregnant or breastfeeding woman or a woman who has recently given birth must be provided with safe and healthy work conditions; they shall have the right to choose to work full or part-time. It shall be prohibited to assign them work that may be hazardous to the health of the woman or the child. The list of hazardous working conditions and dangerous factors is approved by the Government.
In compliance with the lists of hazardous working conditions and dangerous factors, as well as occupational risk assessment results, it shall be obligatory to establish potential risk to the safety and health of the above categories of working women. Upon assessment of the potential effect, the employer must take the necessary measures to ensure that the risks are eliminated.
- **Transfer:** Where the elimination of dangerous factors is impossible, the employer shall adjust the working conditions so that exposure of these women to risks is avoided.
If the adjustment of their working conditions does not result in avoidance of exposure to risks, the employer must transfer the workers (upon consent) to another job/working place in the enterprise. They will not be paid less than their average pay before the transfer.
If a transfer is not technically feasible, the pregnant woman shall, upon her consent, be granted a leave until she goes on maternity leave and shall be paid during the period of extra leave her average monthly pay. In the case of a technically impossible transfer of a woman who has recently given birth or is breastfeeding, upon her consent, she shall be granted an unpaid leave until her child is 1 year of age but she shall be paid a maternity insurance contribution prescribed by law.

Non-discrimination/Job protection:

- **General:** Violation of the equal rights of women and men includes passive and active conduct expressing humiliation and contempt, as well as the restriction of rights or granting of privileges by reason of the person's sex, except when relating to, among others, special protection of women during pregnancy, childbirth and nursing.
- **Dismissal:** An employment contract with a pregnant woman may not be terminated from the day on which her employer receives a medical certificate confirming pregnancy, up until 1 month after the end of maternity leave, except when a judicial decision prevents her from continuing her job or the employee is deprived of special rights to perform certain work in accordance with the procedure prescribed by laws.
Employment contracts with employees raising a child (children) under 3 years of age may not be terminated except in the case of a fault on the part of the employee concerned.
- **Job guarantee:** During the period of maternity, paternity, parental leave, the employee shall retain his job/position, with the exception of cases when the enterprise is dissolved.

Breastfeeding:

- **Breastfeeding breaks:** In addition to the general break to rest and to eat, every 3 hours at least, a breastfeeding woman is given a 30-minute break to breastfeed.
At the mother's request the breaks for breastfeeding may be joined to the break to rest/ eat or given at the end of the working day, shortening the working day accordingly.
Payment for the breaks to breastfeed are calculated according to the the employee's average daily pay.

LITHUANIA HAS RATIFIED ILO C183 (23.09.2003)

LUXEMBURG

LUXEMBURG HAS RATIFIED ILO C3 (16.04.1928)

LUXEMBURG HAS RATIFIED ILO C183 (08.04.2008)

Name of Acts:

- Act regarding the Implementation of the National Action for Employment, 1998, including the Act establishing Parental Leave and Leave for Family Reasons, 1999
- Act on Adoption Leave in the Private Sector, 1988, modified as Act, 2008
- Social Security Code, 2008
- Act to establish a Labour Code, 2006
- Amendment Act to the Act establishing Parental Leave and a Leave for Family Reasons, 2002
- Act regarding the Amendment of the Parental Leave Act, 1999, 2006
- Act regarding Equal Treatment of Women and Men, 2008.

Scope:

- All female workers bound by a contract of employment or apprentice contract.

Maternity leave:

- **Conditions:** Pregnant workers shall notify employers of their pregnancy by a medical certificate.
- **Length:** 16 weeks (4 months).
- **Compulsory leave:** Women shall not work during the 8 weeks (2 months) preceding the expected date of birth and the 8 weeks (2 months) after birth. In case of premature birth, the part of pre-natal leave that has not been taken shall be added to the post-natal leave. If the birth occurs after the expected date, the compulsory pre-natal leave shall be extended until the date of birth without any reduction of the post-natal leave.
- **Extensions:** Post-natal leave shall be extended to 12 weeks (3 months) in the event of *premature birth, multiple births, or breastfeeding.*
Other arrangements: Time off for medical examinations: Pregnant workers are entitled to time off, without loss of remuneration, to undergo prenatal medical examinations when they take place during working hours.

Parental leave:

- **Scope/Conditions:** Are entitled to parental leave all persons who: a) are raising one or more children of less than 5 years of age, for which family allowances are paid and who are part of the same family group (children issued from the same parents, adopted children, foster children, children issued from the spouse, grandchildren if they are orphans or if their parents are legally unable to have their custody); b) have as their main activity the education of the mentioned children, and do not exercise any professional activity throughout parental leave or exercise a reduced professional activity on a part-time basis; c) have their continuous domicile and residence in Luxembourg or are covered by the scope of European regulations; d) have been legally occupied continuously in a job located in Luxembourg at the moment of the birth or the introduction of the legal procedure for the adoption of the child, either as a self-employed, or for at least 1 year preceding the beginning of the parental leave at the same undertaking legally established in Luxembourg, with a contract of employment or apprentice contract which fulfills the conditions established in the law. During the 1-year period preceding the beginning of parental leave, the employee may change employment if it is justified for economic reasons; e) are either insured under the pension scheme as stipulated in the *Social Insurance Code* for at least 12 months immediately prior to the beginning of parental leave, or are either civil servants or employees of the State, for at least 12 months immediately prior to the beginning of parental leave.
If the parent is employed s/he shall notify in advance the employer of his/her intention to take parental leave.
- **Length/organization of leave:** Once maternity or adoption leave ends, one of the parents shall take parental leave, otherwise s/he will lose his/her right to this part of the leave (the right is not transferable). Either parent, who fulfills the qualifying conditions, is entitled at his/her request to parental leave of 6 months per child until the child is 5 years of age.

In addition, the parent who does not exercise the parental leave is entitled to a 3-month non-paid leave.

Parental leave shall be taken in one continuous period. Both parents cannot take full-time parental leave at the same time, but they are allowed to do so if they take it on part-time basis. If both parents request their parental leave at the same time, priority is given to the parent whose last name is first in alphabetical order.

With the agreement of the employer, the employee can take a part-time parental leave of 12 months. In this case, the professional activity of the worker shall be reduced to at least half of his/her normal working time.

Adoption leave:

- **Scope:** Are entitled: a woman working in the private sector who adopts a child who has not yet entered primary school, or a male worker with the consent of the woman worker.
- **Conditions:** The adoptive parent shall produce a certificate from the tribunal stating that the procedure of adoption has been instituted.
- **Length:** 8 weeks which are increased to 12 in the event of multiple adoptions.

Part-time work:

- Is considered part-time work every work below the regular daily and weekly working hours. The worker who would like to work part-time has to be informed about possibilities to work part-time in the company.

Cash benefits:

- **Maternity leave benefits: Scope:** Are entitled, all women who have been compulsorily insured for at least 6 months during the year prior to maternity leave. They must have a legal domicile in Luxemburg and must make a request in writing.
Women who want to benefit from pre-natal benefits have to have at least 5 medical examinations during pregnancy as well as at least one dental check-up.
Amount: Employees receive 100% of their earnings calculated on the wages they earned before maternity leave. Benefits cannot be less than the minimum wage.
Duration: Benefits are payable during the whole duration of pre-natal and post-natal leave, as well as during leave when it is not possible to transfer the worker to day work, when there is a risk for her health or safety or when work can be dangerous.
Benefits are paid by Social Security.
- **Parental leave benefits: Scope:** Every employee with a legal residence in Luxemburg who has worked for at least 1 year prior to the birth.
Conditions: The parent who intends to obtain cash benefits shall present a written request to the Family Allowances Fund. If the parent is an employee, the request shall be certified by the employer.
Amount: Cash benefits are paid at a monthly flat rate during the whole duration of parental leave.
Payment is mixed, by the state, employers and workers.
- **Adoption leave benefits: Scope:** Employees who have been compulsorily insured for at least 6 months during the year prior to adoption leave.
Amount: The same amount as for maternity cash benefits is paid for 8 weeks and any extensions thereof.
The **State finances** cash maternity/adoption benefits.

Medical benefits:

- Insured persons are entitled to 100% coverage of medical assistance, hospitalisation, assistance of a midwife for childbirth, medicines and food for newborn babies.
- The State covers the whole cost of medical benefits.

Health protection:

- **Night work:** Pregnant or breastfeeding mothers (until their child is 1 year of age), shall not work between 10 pm – 6 am if, upon a medical certificate, night work would be harmful for their health or safety. In this case, the employer shall transfer the worker to day work, with the same remuneration. If the transfer is not possible, the employer shall release the woman from work.

- **Overtime:** Pregnant workers and breastfeeding mothers shall not be obliged to work overtime.
- **Dangerous or unhealthy work:** *Pregnant workers* shall not be obliged to work in activities that present a risk of exposure to physical agents, to biological agents such as toxoplasma or rubella virus, to chemical agents such as lead and its derivatives nor shall they shall be obliged to work in underground mines.

For any activity likely to present a specific risk of exposure for *pregnant or nursing women* to specifically identified and listed agents, processes or working conditions, the employer is held to determine the nature, degree and duration of the exposure in order: a) to assess any risk for the safety or the health of the pregnant women or nursing mother as well as any effect on the pregnancy or breastfeeding; and b) to determine the measures to be taken.

If the results of the risk assessment reveal a risk to the workers or any negative effect on pregnancy or breastfeeding, the employer shall take the necessary measures to avoid the risk, by adapting the working conditions or working time of these workers during the whole period this is considered appropriate by the doctor.

- **Transfer:** If the adaptation is not possible or cannot be required by justified reasons, the employer shall transfer the worker to another job, maintaining her previous wages. If the transfer to another job is not possible or cannot be required by justified reasons, the employer shall release the woman from work. She is entitled to receive cash benefits during this period from the Social Security Scheme.

Non-discrimination/Job protection:

- **General:** The principle of equal treatment for men and women applies, inter alia, to their access to employment, promotion and working conditions. It implies the absence of direct or indirect discrimination based on sex.

If any person considers to be affected by the non-observance of the principle of equal treatment and presents before any competent authority any facts which suppose the existence of direct or indirect sex discrimination, the **burden of proof** that there has been no contravention of the principle of equal treatment shall lie on the respondent.

These rules are applicable to any litigation within the framework of a civil or administrative procedure of the public and private sectors having for object the access to employment, remuneration, the possibilities of promotion and vocational training, the access to an independent profession, the working conditions as well as the Social Security System.

- **Dismissal** with notice is prohibited during pregnancy (as established by a medical certificate), and for a period of 12 weeks after birth or during parental leave. These rules have no effect on the expiry of fixed-term contracts of employment. Dismissal of a pregnant woman is also prohibited during the probation period.
- **Job guarantee:** When the employee is on maternity leave or parental leave, the employer shall keep the worker's post or if this is not possible, a post according to her qualifications and with equivalent remuneration.

Breastfeeding:

- **Breastfeeding breaks:** A woman is entitled to two 45-minute nursing breaks (one in the morning and one in the afternoon).

If during the working day there is only one break of 1 hour, the two periods can be merged into one 90-minute break. The same provision is applicable in the event of the impossibility of the woman to nurse her child in the vicinity of the workplace.

The time of breastfeeding is counted as working hours and women are entitled to their normal wages.

LUXEMBURG HAS RATIFIED ILO C3 (16.04.1928)

LUXEMBURG HAS RATIFIED ILO C183 (08.04.2008)

MACEDONIA (The Former Yugoslav Republic of)

There is no information on the ILO website concerning maternity protection in Macedonia, however:

MACEDONIA HAS RATIFIED C3 (17.11.1991).

MACEDONIA HAS RATIFIED C183 (3.10.2012).

Maternity leave:

- **The length** of the maternity leave is 36 weeks or 9 months in the case of one child, and 52 weeks or 12 months in the case of two or more children.

MACEDONIA HAS RATIFIED C3 (17.11.1991).

MACEDONIA HAS RATIFIED C183 (3.10.2012).

MALTA

Name of Acts:

- Parental Leave Entitlement Regulations (Legal Notice 225), 2003, amended 2007
- Social Security Act X, 1987, amended 2009
- Protection of Maternity at Workplaces Regulations, 2001
- Conditions of Employment (Regulation) Act (Chapter 135), 1952, amended 1986 and 1995
- Employment and Industrial Relations Act (Chapter 452), 2002, amended 2009
- Protection of Maternity (Employment) Regulations, 2004, amended 2007.

Scope:

- Citizens of Malta and their spouses provided that the claimant is ordinarily resident in Malta.

Maternity leave:

- **Conditions:** The female employee has to inform her employer about her pregnancy at least 4 weeks prior to the expected date of her confinement.
- **Length:** 14 weeks, to be taken as follows: 6 weeks immediately after birth, 4 weeks before the expected date of confinement unless otherwise agreed between the employer and the employee and the remaining weeks before or after the confinement as the employee may request.
- **Compulsory leave:** 6 weeks compulsory leave immediately after the date of confinement, and 4 weeks before.
- **Extension:** When there is an *occupational risk* that could jeopardise the health and safety of an employee who is pregnant, breastfeeding or has recently given birth, the employee is entitled to a special maternity leave: a period of up to 8 weeks taken continuously or in an interrupted manner. During this period, the employer shall pay the employee a special allowance equivalent to the rate of the sickness benefit in terms of the *Social Security Act*.

Parental leave:

- **Scope:** Parental leave is an individual right of both male and female workers whether they are working whole-time or part-time.
- **Conditions:** The employee shall have been in the employment of the same employer for a continuous period of at least 12 months unless a shorter period has been established in an individual or a collective agreement.
The employer shall be notified that parental leave will be taken and of its duration at the latest 3 weeks before it begins. However, the employer may postpone the granting of parental leave for “justifiable reasons” provided that the employee is informed within 2 weeks of receipt of his/her notice and without prejudice to the employee’s right to take the parental leave entitlement at the latest before the child reaches 8 years of age.
Unless the employer and the employee agree otherwise, the employer shall not, during the period of parental leave, have the right to request the employee to return to work and the employee shall not have the right to return to work prior to the agreed date.
- **Length:** An eligible employee is entitled to an unpaid leave of absence of up to 3 months to care for his/her newborn or adopted child until the child reaches 8 years of age. The leave may be shared by both parents in established periods of 1 month each whether on a full-time or part-time basis, in a piecemeal way or in the form of a time credit system as agreed between the employer together with the employee.

Adoption leave:

- Same conditions as parental leave. The entitlement to parental leave by adoptive parents shall commence at the date when the employee provides the employer with evidence that the legal proceedings necessary for the adoption have been completed and has received an official acceptance by the appropriate authorities.

Cash benefits:

- **Maternity leave benefits:** Two systems: 1) Women entitled to maternity leave and benefits under the *Employment and Industrial Relations Act* (direct request from employer); and 2) All other female workers.

- **Employment and Industrial Relations Act: Scope:** Cash Maternity benefits are payable to Maltese citizens residing in Malta and to EU citizens and persons covered by the European Social Charter residing in Malta.
Amount: 100% of wages.
Duration: 14 weeks.
Financing of benefits by Social Security (overall contributions from employers, employees, self-employed persons and the State).
- **All other female workers: Scope:** Cash Maternity benefits are payable to Maltese citizens residing in Malta and to EU citizens and persons covered by the European Social Charter residing in Malta.
Conditions: The insured must not be entitled to maternity leave under the *Employment and Industrial Relations Act*, in other terms, these maternity benefits are payable only to women who do not avail themselves of maternity leave from their employers.
In addition, the employee shall have entered her 8th month of pregnancy or shall have given birth to a child in the 6 months prior to the date of the claim.
Amount: Maternity benefit is paid as a flat-rate of MTL 24.00 per week for 13 weeks, either in full after confinement or in two installments before and after confinement.
If for any reason a woman does not avail herself of all or part of the maternity leave, she will be entitled for the difference between the 13 weeks and the maternity leave availed of. In this case, the female worker has to produce a letter from the employer confirming the number of weeks which have been availed of as maternity leave.
Duration: 13 weeks.
Financing of benefits by Social Security (overall contributions from employers, employees, self-employed persons and the State).
- **Parental leave benefits:** unpaid.
- **Adoption leave benefits:** unpaid.

Medical benefits:

- An employee is entitled to time off without loss of pay in order to attend ante-natal examinations.
- Female workers are entitled to pre-natal and post-natal care including free confinement and hospital care.
- Financing of benefits: Social Security (overall contributions from employers, employees, self-employed persons and the State).

Health protection:

- **Night work:** Under no circumstance may an employer require that a female perform night work during a 21-week period commencing on the 8th week immediately preceding the expected date of delivery.
Transfer: Moreover, upon presentation of a medical certificate, an employer shall transfer to daytime work an employee who is pregnant or nursing and performing a night job that could pose a risk to her health. If the reassignment to daytime work is not reasonably practicable, the employee shall be given a special maternity leave. The special maternity leave is of a period of up to 8 weeks taken continuously or in an interrupted manner. During this period, the employer shall pay the employee a special allowance equivalent to the rate of the sickness benefit in terms of the *Social Security Act*.
- **Dangerous or unhealthy work:** Biological, physical and chemical agents to which pregnant and nursing workers cannot be exposed are officially listed.
Risk assessment: Before assigning work to a pregnant or nursing worker the employer shall assess the nature and degree of any hazard present at the workplace. Where a risk to the safety or health of a pregnant or nursing employee has been noted, the employer shall take measures to protect the safety or health of the employee by means of a temporary adjustment of the working environment and working hours.
- **Transfer/special leave:** If the temporary adjustment is not reasonably feasible, the employer shall reassign the employee to a suitable alternative work. In the event this temporary

adjustment is not reasonably feasible, the employer shall reassign the employee to a suitable alternative work.

If this is not possible, and upon agreement of the Occupational Health and Safety Authority, the employee shall be given special maternity leave by the employer for the whole period necessary to protect her safety and health.

The special maternity leave is a period of up-to-8 weeks leave taken continuously or in an interrupted manner. During this period, the employer shall pay the employee a special allowance equivalent to the rate of the sickness benefit in terms of the *Social Security Act*.

An employee who is reassigned or whose job functions are modified is deemed to continue to hold her previous job, or if this is not possible, a similar post. She is entitled to the same wages and benefits that she received before changes were made to her duties.

Non-discrimination/Job protection:

- **General principles:** It shall be unlawful for employers to discriminate, directly or indirectly, against a person in the arrangements made to determine or in determining who should be offered employment or in the terms and conditions on which the employment is offered or in the determination of who should be dismissed from employment.

Discriminatory treatment means any distinction, exclusion or restriction which is not justifiable in a democratic society including discrimination made on the basis of marital status, pregnancy or potential pregnancy, sex, colour, disability, religious conviction, political opinion or membership in a trade union or in an employers' association.

- **Prohibition of pregnancy testing:** Although there are no explicit provisions that prohibit pregnancy testing, any condition in a contract of service which empowers the employer to terminate the employment of a female employee on her contracting marriage or becoming pregnant with child shall be null and void.
- **Dismissal:** An employer cannot dismiss a pregnant or nursing employee. In addition a female worker who is incapable of work owing to a pathological condition arising out of confinement cannot be dismissed during the 5 weeks following the end of maternity leave.
- **Job guarantee:** At the end of the period of reassignment or at the end of her leave, the employee must be reinstated to her regular job or if this is no longer possible for a valid reason, to a similar post; she shall be entitled to all rights and benefits she would have had had she remained in her employment including the right to apply for promotion opportunities at her place of work.

Where a female employee does not resume her work at the end of the maternity leave or abandons the service of the employer without good and sufficient cause within 6 months from the date of such resumption, she shall be liable to pay the employer a sum equivalent to the wages she received during the maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** No provisions noted.

MOLDOVA

MOLDOVA HAS RATIFIED ILO C183 (28.08.2006)

Name of Acts:

- Labour Code of the Republic of Moldova, Act No. 154-XV, 2003
- Labour Code, Act No. 154-XV, 2003.

Scope:

- Employees working on the basis of an individual labour contract and workers of public bodies, religious associations, trade unions, patronages, foundations, parties and other non-commercial organizations, using wage labour; apprentices are also entitled to maternity leave, as well as the wives in the care of employees.

Maternity leave:

- **Length:** 126 days (18 weeks): pre-natal leave for 70 calendar days (10 weeks) and post-natal leave of 56 calendar days (8 weeks).
- **Compulsory leave:** the division pre-natal leave for 70 calendar days (10 weeks) and post-natal leave of 56 calendar days (8 weeks) is not specified as compulsory.
- **Extensions:** In cases of the *complicated births* or *multiple births* (two or more children) women are entitled to a postnatal holiday with a duration of 70 calendar days (2 weeks extra).

Parental leave:

- **Scope:** Women employees and women apprentices, wives in the care of the employees, father of the child, grandmother, grandfather or other relative, who takes care of the child.
- **Duration:** Partially paid parental leave is granted until the child reaches the age of 3 years and unpaid leave from 3-6 years.

Adoption leave:

- **Scope/Length:** The employee, who has adopted a newborn child directly from the maternity hospital or has established guardianship over him, is given a paid leave for the period from the date of adoption (establishment of guardianship) and before the expiration of 56 calendar days/8 weeks from the birth of the child (in case of simultaneous adoption of two or more children - 70 calendar days/10 weeks), and also following a written request, a partially paid leave until the age of 3. Then unpaid leave from ages 3 to 6 years.

Cash benefits:

- **Maternity leave benefits: Amount:** 100% of wages.
Duration: for whole period of maternity leave (126 days/18 weeks).
Benefits are paid by the Social Security.
- **Parental leave benefits: Partially paid leave:** After maternity leave, mothers are granted a partially paid leave on child care, until the child reaches the age of 3 years (4.5-36 months). It is paid from the budget of the State Social Insurance.
Unpaid leave: Following partially paid leave, mothers and fathers are given, upon written request, additional unpaid leave for child care, until child is 6 years (3-6 years).
- **Adoption benefits: Paid leave:** The employee, who has adopted a newborn child directly from the maternity hospital or established guardianship over him, is entitled to paid leave until the child is 8 weeks. It is paid from the budget of the State Social Insurance
Partially paid leave: until the child is 3 years
Unpaid leave: for a child aged 3-6 years.

Medical benefits:

- No information.

Health protection:

- **Night work:** Pregnant women, women who are on post-natal leave, women whose children are under the age of 3 cannot perform night work.
- **Overtime:** Engagement in overtime work is not admitted for employees under the age of 18, pregnant women, women who are on post-natal leave, women whose children are under the age of 3.
- **Shift work:** Persons under the age of 18, pregnant women, women on post-natal holiday, women with children under the age 3, and also persons for whom work in continuous shifts is

contra-indicated according to medical expertise, are not allowed to perform continuous shift work.

- **Dangerous/unhealthy work:** The employer is responsible to ensure labour safety at the enterprise. There is a general prohibition for women in heavy work and work in harmful working conditions, as well as underground work. Exceptions exist related to work in sanitary services and work that does not demand physical effort.

It is forbidden for women to lift and carry weights, exceeding the limits established. The list of heavy work, work in harmful conditions, for which women's work is forbidden, and also the rates of loading, lifting and carrying weights are approved by the Government after consultation with employers and trade unions.

- **Transfer:** with a medical certificate, pregnant women and breastfeeding mothers are entitled to being transferred to easier, healthier work, while preserving the average wages of their previous post.

Non-discrimination/Job protection:

- **Specific non-discrimination:** It is forbidden to refuse employment or reduction of wages for reasons connected to pregnancy or having children under the age of 6.

In the case of refusing to employ a pregnant woman or a person whose child is under the age of 6 (or for another reason) the employer has to have a motivated reason and to have informed in writing the employee at least 5 calendar days before applying the decision. The potential employee can make appeal.

- **Dismissal** of pregnant women, women with children under the age of 6, and persons who are nursing, is forbidden, except in the case of liquidation of the enterprise. No burden of proof on the employer.
- **Job guarantee:** No provisions found guaranteeing women the right to return to work.

Breastfeeding breaks:

- **Breastfeeding breaks:** Nursing breaks are not provided in the legislation.

MOLDOVA HAS RATIFIED ILO C183 (28.08.2006)

MONTENEGRO

There is no information on the ILO website concerning maternity protection in MONTENEGRO, however:

MONTENEGRO HAS RATIFIED ILO C183 (19.04.2012)

Maternity leave:

- **The length** of the maternity leave is 52 weeks or 12 months from the birth of the child.

MONTENEGRO HAS RATIFIED ILO C183 (19.04.2012)

NETHERLANDS

THE NETHERLANDS HAVE RATIFIED ILO C183 (15.01.2009)

Name of Acts:

- Sickness Act, Staatsblad No. 204, 1913
- Disability Insurance Act, Staatsblad No. 84, 1966
- Civil Code - Book 7, Special Agreements, 2001
- Equal Treatment Act, Staatsblad No. 230, 1994
- Working Conditions Decree, Staatsblad No. 60, 1997
- Work and Care Act, Staatsblad No. 567, 2001
- Working Time Act, 1995.

Scope:

- Female workers.

Maternity leave:

- **Length:** 16 weeks: 6 weeks before the day following the expected date of delivery, as indicated on a written declaration from a doctor or midwife, and 10 weeks following the delivery. This is prolonged by the number of days less than 6 weeks by which the prenatal leave has amounted to.
- **Compulsory leave:** 4 weeks pre-natal leave (28 days, prolonged by the period between the expected and the actual date of delivery) and 6 weeks (42 days) post-natal leave.
- **Extensions:** The insured female has the right to *sick pay* up to 104 days (14 weeks) if she is unable to work as a result of *pregnancy or delivery*, except during the periods of pre-natal and post-natal leave. Following this period, disability benefits are paid.

Paternity leave:

- **Scope:** A worker, upon the delivery of a child by his wife, a registered partner, woman with whom he lives together without being married, or woman by whom he has recognized a child as his own.
- **Length:** It covers 2 days of paid leave in a period of 4 consecutive weeks after birth.

Parental leave:

- **Scope:** The worker who holds a legal parental family relationship with a child or the worker who lives at the same address as a child and has durably undertaken the care and raising of the child as his own.
- **Length:** At most 26 times the weekly working hours within a period of at most 12 consecutive months, up to the child's 8th birthday, to be taken as part-time leave (amounting to at most half the weekly working hours).
- **Extension:** The worker can request parental leave for a period longer than 12 months, dividing the leave into at most 6 periods of which each period amounts to at least 1 month, or for more hours of leave per week than half the weekly working hours.
The employer can reject this request if a substantial business or service interest prevents it.

Adoption leave:

- **Scope:** Workers who adopt or foster a child.
- **Conditions:** The worker informs the employer of the intent to take adoption leave, if possible, at the latest 3 weeks before the first day of the adoption leave, indicating the total amount of leave. Documents will be provided proving that a child has been or will be adopted.
If two or more children are adopted simultaneously, the right to adoption leave only exists in relation to one child.
- **Length:** A maximum of 4 consecutive weeks of leave in a period of 18 weeks. The right to adoption leave exists from 2 weeks before the first day of the actual adoption, as this day is indicated in a document provided to the employer by the worker, proving that a child has been or will be adopted.

Part-time work:

- Parental leave is in general to be taken as part-time leave.

Cash benefits:

- **Maternity leave benefits: Scope:** The female worker is entitled to benefits for the period of the pre-natal and post-natal leave. The right to benefits also exists for women whose delivery is likely to or takes place within a period of 10 weeks before the end of her employment.
Amount: It represents 100% of the daily wage (up to a ceiling of EUR 174,64); 70% for the period of sick pay.
Duration: 16 weeks plus any period of prolongation due to sickness of the female worker.
Benefits are paid by the Social Security.
- **Paternity leave benefits:** 100% of the daily wage, paid by the employer.
- **Parental leave benefits:** unpaid.
- **Adoption leave benefits: Scope/Conditions:** The worker who wishes to qualify for benefits in relation to adoption or foster care applies through the employer to the Executive Institute for Employee Insurances at the latest 2 weeks before the start of the leave (or the date on which the worker wishes the leave to start). Documentation will be provided that a child has been or will be adopted or fostered and the date on which this adoption or fostering has taken or will take place. Also indicated will be the date on which the leave will start (or the date on which the worker wishes the leave to start). If, over the same period, a person is entitled to benefits in relation to pregnancy or delivery leave and to benefits in relation to adoption or fostering, the benefits for adoption or fostering will not be paid out.
The right to benefits also exists for those persons who, on the first day that a child is actually adopted or fostered, have been unemployed for less than 10 weeks.
Amount: 100% of the daily wage per day, up to a ceiling of 174,64 Euros, for 4 weeks, paid by Social Security.

Medical benefits:

- No information.

Health protection:

- **In general,** with respect to working time, the work of a pregnant worker and the worker up to 6 months after childbirth shall be organised in such a way that the worker's specific needs are taken into account. The pregnant worker/the worker up to 6 months after childbirth is entitled to work in a stable and regular pattern of work and rest breaks.
The employer shall fulfill this obligation within a reasonable period of time after the worker has put in a request for a different working schedule.
If required by the employer, the pregnant worker's request shall be accompanied by a written declaration from a doctor or a midwife stating that the worker is pregnant.
- **Night work:** A pregnant worker/worker up to 6 months after childbirth cannot be obliged to do night work, unless the employer can show that this exemption cannot reasonably be expected of him/her.
- **Overtime:** The pregnant worker (over 18) and workers up to 6 months after childbirth cannot be obliged to work more than 10 hours per work period, 50 hours each 4-week period and 45 hours each 16-week period.
For young workers (up to 18 years) the normal hours for young workers apply (9 hours per day, 45 hours per week maximum, 40 hours on average in each 4-week period).
- **Dangerous or unhealthy work:** If a workplace includes or is likely to include pregnant or nursing workers, the risk-inventory and risk-evaluation will pay special attention to the non-limitative list of agents, procedures and working conditions indicated in appendix 1 of guideline 92/85/EEG (EEG guideline of 19 October 1992 concerning *Measures for the Promotion of Better Health and Safety of Pregnant Workers during Pregnancy, after Delivery, and while nNrsing*).
- **Transfer:** For a pregnant or nursing worker, the employer will arrange the work space, apply a production- and work-method, and allow the use of work aids in such a way that the work will not cause danger to her health and safety or have adverse effects on her pregnancy or nursing.

If it is not reasonably possible to prevent danger to the health and safety of the worker or adverse effects on pregnancy or nursing, a temporary adjustment in the work or the work- and rest-periods will be made to prevent danger to the health and safety of a pregnant or nursing worker and to prevent any adverse effects on her pregnancy or nursing, or pregnant or nursing worker will temporarily be transferred to different work, or the pregnant or nursing worker will be temporarily exempted from work.

- **Facilities for pregnant or nursing workers:** a suitable, lockable space will be made available which is or which can immediately be made suitable for resting. In such a space a sound bed (folding or not) or a sound couch will be provided. The pregnant worker has the right to alternate work with one or more extra rest breaks. Together, these extra rest breaks amount to at most 1/8 of the worker's working time per work period. The extra rest breaks count as working time.

Non-discrimination/Job protection:

- **General principles:**The employer may not make discriminate directly or indirectly against men or women when entering into an employment agreement, when training workers, with respect to employment conditions, in relation to promotions, and when terminating the employment agreement. Deviations from this provision are allowed if it concerns provisions that protect women, for example in relation to pregnancy or delivery.
- **Dismissal:**The employer cannot terminate the employment agreement with a female worker during pregnancy. The employer may request a declaration from a doctor or midwife proving the pregnancy. The employment agreement cannot be terminated during the period of maternity leave and for a period of 6 weeks following that period or following a period of inability to work that finds its cause in the delivery or the pregnancy preceding it and that follows directly on the worker's post-natal leave. A stipulation according to which the employment agreement can end because of the pregnancy or delivery of the female worker is invalid.
- **Burden of proof:**If the person who is of the opinion that discrimination (according to the provisions of the *Equal Treatment Act*) has occurred to her disadvantage brings forward facts that make discrimination plausible, the other party is obliged to prove that they did not act contrary to this Act.
- **Job guarantee:**No explicit mention of right to return to one's previous job.

Breastfeeding:

- **Breastfeeding breaks:**For the first 9 months of her child's life, the female worker is entitled to interrupt her work to nurse or pump breastmilk, enjoying the necessary quiet and seclusion. Breaks for this purpose take place as often and for as long as required, though together amounting to at most 1/4 of the working time per work period. The determination of the time and length of the breaks is made by the female worker after consultation with the employer. The breaks count as working time and the female worker will receive wages for the periods of the breaks.
- **Breastfeeding/rest facilities:**For pregnant or nursing workers a suitable, lockable space will be made available which is or which can immediately be made suitable for resting. In such a space a sound bed (folding or not) or a sound couch will be provided.

THE NETHERLANDS HAVE RATIFIED ILO C183 (15.01.2009)

NORWAY

Name of Acts:

- Regulations concerning the Handling of Cytostatic Agents, 1980
- Cash Benefit for Parents with Small Children Act, Act No. 41, 1998
- Regulation concerning Work with Narcotic Gases, Regulation No. 1737, 1984
- Working Environment Act, Act No. 62, 2005
- National Insurance Act, Act No. 19, 1997
- Radiation Protection and Use of Radiation Act, Act No. 36, 2000
- The Gender Equality Act, Act No. 45 respecting Equality between the Sexes, 1978
- Public Health Act, Act 24No. 29, 2011.

Scope:

- The Act shall apply to undertakings that engage employees unless otherwise explicitly provided by the Act. Exempted from the Act: shipping, hunting and fishing, including processing of the catch on board ship, military aviation, which is covered by the *Aviation Act*. The Ministry may issue regulations concerning exceptions from the Act for civil aviation and state aviation other than military aviation and concerning special provisions for such aviation.
- The following persons are regarded as employees only in relation to the Act's provisions concerning health, environment and safety when performing work in undertakings subject to the Act: students at educational or research institutions, national servicemen, persons performing civilian national service, inmates in correctional institutions, patients in health institutions, rehabilitation institutions and the like, persons who for training or rehabilitation purposes are placed in undertakings without being employees, persons who without being employees participate in labour market schemes.

Maternity leave/Parental leave:

Maternity leave, paternity quota and parental leave are all part of the parental leave.

- **Scope/Length:** Parents have the right to 12 months (52 weeks) parental leave altogether, of which the mother must take 6 weeks post-natal leave and may take 12 weeks pre-natal. Unless the child is in the care of both parents, the right to leave of absence may be exercised by another person taking care of the child.

When parental benefits are paid by the National Insurance, both parents are entitled to leave of absence. In addition to leave of absence for sickness of a child, each of the parents is entitled to leave of absence for up to 12 months for each child. An employee who has sole responsibility for the care of a child shall be entitled to leave of absence for a period of up to 2 years.

An employee who has or is assigned parental responsibility on the death of the other parent and has had less than the usual access to the child shall be entitled to leave of absence when taking over responsibility for care of the child. The right to leave of absence shall not apply when adopting stepchildren or when the child is over 15 years of age.

Conditions: The employer shall be notified of leave of absence as early as possible and not later than 1 week in advance in the case of absence in excess of 2 weeks, not later than 4 weeks in advance in the case of absence in excess of 12 weeks and not later than 12 weeks in advance in the case of absence in excess of 1 year. Disregard of such notice periods shall not entail that an employee must postpone the leave of absence if it is due to circumstances unknown to the employee before expiry of the notice period.

Compulsory leave for mothers: a pregnant employee is entitled to leave of absence for up to 12 weeks during pregnancy. This right is not provided after confinement. After confinement it is of 6 weeks. The mother may return to work before 6 weeks only if she obtains a medical certificate attesting her fitness to resume work.

Paternity leave (Paternal quota):

- **Scope/Conditions:** "Paternal quota", previously known as paternity leave is granted to workers employed in the public and private sectors, except for those working in shipping, hunting, fishing (including processing of the catch on board ship) and military aviation. If the father does not use his paternal quota, his weeks of leave expire.
- **Length** of leave since 1 July 2011: 12 weeks (60 days of benefits).

Adoption leave:

- **Scope:** All workers employed in the public and private sectors, except for those working in shipping, hunting, fishing (including processing of the catch on board ship) and military aviation.
- **Conditions:** For the adoptive parents to be entitled to a leave of absence, the child has to be under 15 years of age. The adoption leave may begin from the day on which the parents receive the child in their care. The employer must be given notice as soon as possible, and not later than a specified period in advance, depending on the length of leave intended to take.
- **Length:** 12 months, to be divided between the adoptive parents, plus additional 12 months each for each child. Additionally, adoptive parents and fosterparents shall be entitled to 2 weeks' leave of absence when taking over responsibility for care of the child.

Partial leave of absence:

- **Principle:** Maternity leave, parental leave and adoption leave may be taken as partial leave of absence, within a time frame of 3 years.
- **Scope:** It may be taken by all workers employed in the public and private sectors, except for those working in shipping, hunting, fishing (including processing of the catch on board ship) and military aviation, who are natural or adoptive parents of a child.
- **Conditions:** A written agreement has to be concluded between the employee and the employer on the absence, and the partial absence must be taken within a time frame of 3 years. The employer must be given notice as soon as possible, and not later than a specified period in advance, depending on the length of leave intended to take.
- **Duration:** Time frame of 3 years.

Leave in case of sickness of the child/relatives:

- **Scope:** Employees who care for children have a right to leave: a) for the necessary supervision of the child when it is sick; b) if the child is accompanied to a medical examination or other follow-up in connection with disease; or c) if the person with daily childcare is sick or on leave because of another child.
- **Conditions:** The right to leave shall apply to children under 12 years old. Employees who care for children have a right to leave if: a) the child is hospitalized and the employee resides at the health institution; b) the child is discharged from the health institution and the employee must stay home because the child needs continuous supervision and care; or c) the child has life-threatening or another serious illness or injury.
- **Length/Situations:** An employee is entitled to leave up to 10 days each calendar year or up to 15 days if the employee is caring for more than two children.
If the child has a chronic illness or disability and there is an increased risk that the employee will be absent from work, s/he has up to 20 days each calendar year until the child turns 18. Employees are also entitled to leave to attend training at an approved health institution or public resource to deal with and treat the child.
An employee who has sole custody of children is entitled to double the number of days of leave.
An employee is entitled to leave of absence for up to 10 days each calendar year to provide necessary care to parents, spouse, partner or registered partner.
An employee who takes care of close relatives in the home in the final phase of life has a right to 60 days of leave to care for this person.

Cash benefits:

There are several types of benefits for family reasons such as: Impossibility to work during pregnancy because of the impossibility to adapt the working conditions to the pregnant worker health needs; birth; adoption; paternal quota; lump-sum grant on birth or adoption.

- **Parental benefits (maternity, paternity quota and parental):**
Conditions: The *National Insurance Act* covers all residents. The mother or father must have been employed and be earning a pensionable income for at least 6 of the 10 months immediately prior to the commencement of the benefit period.
Amount/duration: The beneficiary may decide whether to receive 100% benefits for a shorter period (47 weeks) or 80% of benefits for a longer period (57 weeks). The decision as to the

amount will apply to the whole period and to both parents. There are no parental benefits after the child has reached the age of 3.

In the case of *multiple births*, the parents are entitled to full daily cash benefits for 5 more weeks (7 weeks at reduced rate) for each child exceeding the first.

If *another child is born* before the benefit period for the first child has been fully used, the parents lose the right to receive benefits for any remaining weeks for the first child. However, they are entitled to a full period of parental benefits for the second child.

If the date of birth was 1 July 2011 or later, the *father* may receive parental benefits for 12 weeks in the case where the mother receives disability benefits.

- **Adoption benefits:** 12 weeks are earmarked for the father (paternal quota) if care for the child was assumed *on or after 1 July 2011*. The remaining benefit weeks can be shared between the parents (the joint benefit period). If care for the child was assumed *between 1 July 2009 and 30 June 2011*, the paternal quota is 10 weeks.

If the father is going to receive parental benefits beyond the paternal quota, special rules apply that set requirements for the mother.

- **Part-time work benefits:** Graduated parental benefits allow beneficiaries to combine partial parental benefits and part-time work. The period during which they receive parental benefits is then extended as they receive less benefits per day over a longer period of time. The total amount of benefits is the same as if they had chosen not to receive graduated parental benefits.
- **Benefits are paid** by the Social Insurance. The National Insurance Scheme is financed by contributions from employees, self-employed persons and other members, employers' contributions and contributions from the State.

The following benefits are financed by contributions from the State alone: Lump sum grants in case of maternity and adoption; grants to improve the functional ability of daily life; basic benefits; attendance benefits; supplementary pension for persons disabled at birth or early life; educational benefits; childcare benefits; transitional benefits for survivors and single, divorced and separated supporters; benefits for surviving family nurses; means-tested funeral grants.

Medical benefits:

- Municipalities are responsible for primary health care for all inhabitants. Municipalities organise general practitioner services, emergency departments, physiotherapy, public health centres, school medical centres, midwifery services and home nursing care. Municipalities are also responsible for ensuring that dental health care services are available.
- Time off for medical examinations: Pregnant employees shall be entitled to leave of absence with pay for pre-natal medical examinations when such examinations cannot reasonably take place outside working hours.
- The Norwegian Health Care System is financed by taxation, together with income-related employee and employer contributions and out-of-pocket payments (co-payments). The financing and provision of hospital services is mainly the responsibility of the national government, financed by income and wealth taxation.

Health protection:

- **Break time:** General provisions applicable to all workers for breaks: 1) An employee shall have at least one break if the daily working hours exceed 5 hours and 30 minutes. The breaks shall amount collectively to at least 30 minutes if the daily working hours total at least 8 hours. When the employee is not free to leave the workplace during the break or where there is no satisfactory break room, the break shall be regarded as part of the working hours. When conditions so necessitate, the break may be postponed. 2) When an employee works more than 2 hours after normal working hours, the employee shall be allowed a break of at least 30 minutes. The break is regarded as part of the working hours. Breaks which come after the end of ordinary working hours shall be subject to remuneration as overtime but shall not be included in the number of hours it is permitted to work overtime. When conditions so necessitate, the break may be reduced or postponed.

- **Night work:** Is not prohibited for either women or pregnant workers. However, there is a prohibition for children under 15 years old or attending compulsory education. Young persons between 15-18 years of age who are not attending compulsory education shall have an off-duty period of at least 8 hours including the time between 11 pm and 6 am. Work between 9 pm and 11 pm is night work, and is not permitted unless necessitated by the nature of the work or unless there is an exceptional and time-limited need for night work.
- **Overtime:** An employee shall be entitled to exemption from performing work in excess of agreed working hours when s/he so requests for weighty social reasons.
- **Work on rest days:** General prohibitions applicable to all workers and not exclusively to pregnant workers: Work on Sundays: 1) No work shall be performed from 6 pm on the day preceding a Sunday or public holiday until 10 pm on the day preceding the next working day. On Christmas Eve, and on the Saturdays preceding Easter Sunday and Whit Sunday no work shall be performed from 3 pm until 10 pm on the day preceding the next working day. Work performed during these periods shall be regarded as work on Sundays and public holidays. 2) Work on Sundays and public holidays is not permitted unless necessitated by the nature of the work. 3) Before imposing work on Sundays and public holidays, the employer shall discuss the need for such work with the employees' elected representatives. 4) In undertakings bound by a collective pay agreement, the employer and the employees' elected representatives may enter into a written agreement concerning work on Sundays and public holidays when there is an exceptional and time-limited need for it. 5) The employer and the employee may enter into a written agreement concerning work on Sundays and public allowing the employee corresponding time off on the days that are equivalent to Sundays and public holidays according to the employee's religion.
- **Dangerous work: Particular risks:** Pregnancy benefits are given to healthy pregnant women who cannot continue work during their pregnancy because it may cause harm to the foetus. Examples of particular risks are: work with chemicals, physically exhausting labour, particular stressful work, psycho-social circumstances.
Work involving exposure to biological, chemical or physical agents: Pregnant women shall either be assigned tasks that do not involve exposure to radiation, or be protected from radiation by other appropriate measures.
Working requiring special equilibrium: Pregnant women who work with narcotic gases must be transferred to other work.
Work involving physical strain (prolonged periods of sitting, standing, exposure to extreme temperatures, vibrations): Pregnant women who work with cytostatic agents must be transferred to other work.
- **Transfer:** Adaptation for employees with reduced work is applied if an employee has reduced working hours due to accident, sickness, fatigue, etc.; the employer shall, as far as possible, take appropriate measures to enable the employee to retain or obtain suitable work. Employees shall preferably be given the opportunity to continue their normal work, and if not possible the employer will make special arrangements concerning, if possible, the work, the working hours, changes to work equipment, etc.
Where it is necessary to transfer an employee to other post, the employee and the employee representatives shall be consulted before a decision is made. The employer shall, in consultation with the employee prepare a follow-up plan for return to work. Work on the follow-up should begin as early as possible, the plan should be prepared no later than when the employee has been totally or partially absent from work for 4 weeks. It should include an assessment of the employee's duties and work, as well as appropriate measures by the employer, appropriate measures with assistance from the government and a plan for further action. The employer shall submit the follow-up plan as soon as it is drawn, and no later than after 4 weeks.
- **Temporary suspension:** An employee who, according to law, has to refrain from working for a certain period prior to confinement due to hazardous working conditions/environment, is entitled to pregnancy benefits from the time she stops working, without reducing the entitlement to paid leave after confinement.

Non-discrimination/Job protection:

- **General:** Direct and indirect discrimination on the basis of political views, membership of a trade union, sexual orientation, disability or age is prohibited. In the case of discrimination on the basis of gender, the *Gender Equality Act* shall apply. In the case of discrimination on the basis of ethnic origin, national origin, descent, colour, language, religion and ethical and cultural orientation, the *Discrimination Act* shall apply.
Direct or indirect differential treatment of women and men is not permitted. Different treatment that promotes gender equality is not a contravention to this provision. In connection with the employment, promotion, dismissal or lay-off of employees, no difference must be made between women and men.
Non-discrimination applies to all aspects of employment, including: advertising of posts, appointment, relocation and promotion, training and other forms of competence development, pay and working conditions, and termination of employment.
It also applies to the employer's selection and treatment of self-employed persons and contract workers.
- **Specific:** Non-discrimination applies to special rights and rules regarding measures that are intended to protect women in connection with pregnancy, childbirth and breastfeeding. The King may prescribe further provisions as to which types of different treatment are permitted, including provisions regarding affirmative action in favour of men in connection with care of children.
- **Dismissal:** Protection against dismissal during pregnancy or following the birth or adoption of a child: 1) An employee who is pregnant may not be dismissed on grounds of pregnancy. Pregnancy shall be deemed to be the reason for dismissal of a pregnant employee unless other grounds are shown to be highly probable. If so required by the employer, a medical certificate of pregnancy shall be produced. 2) An employee who has leave of absence for up to 1 year, shall not be given notice of dismissal that becomes effective during the period of absence if the employer is aware that the absence is due to such reasons or the employee notifies without undue delay that the absence is due to such reasons. If the employee is lawfully dismissed at a time falling within this period, the notice is valid but shall be extended by a corresponding period. 3) In the case of an employee who has leave of absence in excess of 1 year, the same applies as in 1) above.
- **Pregnancy tests** are not expressly referred to. However, an employer may only require medical examinations to be conducted: when required by law or regulation, for positions that involve special risks, or when the employer finds it necessary to protect the life or health of the employee.
- **Burden of proof:** If the employee or job applicant submits information that gives reason to believe that discrimination has taken place, the employer must substantiate that such discrimination or retaliation has not occurred. Pregnancy shall be regarded as the reason for dismissal of a pregnant employee unless other grounds are shown to be highly probable.
- **Job guarantee:** is not expressly provided. However, it is established in the norm, that in the event of a dispute concerning whether an employment relationship has been legally terminated, an employee may remain in the post as long as negotiations are in progress.

Breastfeeding breaks:

- **Breastfeeding breaks:** A woman who is nursing her child is entitled to request the amount of time off necessary for this purpose, at least 30 minutes twice a day, or to request that her working hours be reduced up to 1 hour per day.
The right to time off for nursing mothers is an unpaid right under the *Working Environment Act*.

POLAND

There is little information on the ILO website concerning maternity protection in Poland, however:

POLAND HAS RATIFIED C103 (10.03.1976)

Name of Acts:

- No information concerning relevant legislation. The Information has been taken from the Website of the Ministry of Labour and Social Policy.

Maternity leave:

- **Length:**20 weeks.

Cash benefits:

- **Maternity leave benefits: Amount:** Benefits represent 100% of the wage.
- **Duration:**20 weeks (since 1 January 2009)
- **Benefits are paid** by theSocialInsuranceFund.

POLAND HAS RATIFIED C103 (10.03.1976)

PORTUGAL

PORTUGAL HAS RATIFIED C183 (08.11.2012)

Name of Acts:

- Statutory Decree No. 91/2009, 2009
- Statutory Decree No. 308-A/2007, introducing Pre-natal Family Benefits and Other Measures to Support the Family and Increase the Birth Rate, 2007
- Law No. 10/2001, requiring the Government to Submit an Annual Progress Report on Equal Opportunities for Men and Women, 2001
- Labour Code, 2009.

Scope:

- Employed and self-employed workers as well as those who are voluntarily insured under a parental leave scheme.

Maternity leave/Parental leave:

- **Length:** 120 days (17 weeks), optional extension to 150 days (21 weeks).
- **Compulsory leave:** 6 weeks after confinement.
- **Extension:** If the *pregnancy* of the worker is at risk, she is entitled to a leave whose length is prescribed by a medical certificate. In case of *multiple births*, 4 extra weeks are allowed.

Paternity leave:

- **Scope:** Paternity leave provisions cover all fathers employed under a contract of employment in the private and the public sector.
- **Conditions:** The father has to inform the employer, if possible, 5 days in advance of his intention to take paternity leave.
- **Length:** 10 days (2 weeks) of compulsory leave within 30 days following the birth of the child, 5 of which are to be taken consecutively. Furthermore, the father is optionally entitled to 10 additional days (2 weeks) of paternity leave.
- **Extensions:** In the case of *multiple births*, the leave provided is as above plus 2 days for each child other than the first.

Parental leave:

- **Scope:** Parental leave provisions cover all persons employed under a contract of employment in the private sector.
- **Conditions:** Both parents have to inform their employers at the latest by the 7th day after confinement about the beginning and end of the parental leave, as agreed between each other.
- **Length:** The mother and the father are entitled together to a **normal leave** of:
Minimum: 120 consecutive days (17 weeks): mother: 6 weeks compulsory leave; father: 2 weeks compulsory leave; shared leave: 9 weeks.
Maximum: option of 150 consecutive days (21 weeks): mother: 6 weeks compulsory leave; father: 2 weeks compulsory leave; shared leave: 13 weeks.
Moreover, they are entitled to **aprolonged leave** of 30 days (4 weeks) if each of the parents has taken a leave of 30 days (4 weeks):
Minimum +: 150 days (21 weeks)
Maximum +: 180 days (25 weeks)
This is again increased by 2 weeks if the father takes an **optional extra leave** of 10 days (2 weeks). (This is unclear?).
Minimum + Extra optional: 160 days (23 weeks)
Maximum + Extra optional: 190 days (27 weeks)

Adoption leave:

- **Scope:** Adoption leave provisions cover all persons employed under a contract of employment in the private and public sector.
- **Conditions:** An employee is entitled to paid adoption leave for adoption of a child under 15 years of age. The employee must give 10 days of notice to his/her employer of the intention to take leave, unless there is an emergency justifying that the notice cannot be given.

- **Length:** The adoptive parents are entitled to 120 consecutive days (17 weeks) of leave. This period shall be increased by 30 days (4 weeks) if each of the parents has taken a leave of 30 days (4 weeks) (total: 21 weeks).
Furthermore, in the case of multi-adoptions, this period is increased by 30 days (4 weeks) for each adopted child.

Cash benefits:

- **Maternity leave benefits:** Pregnant workers are entitled to a Pre-natal family benefits and to Maternity benefits.
- **The Pre-Natal Family Benefits** establish the conditions and procedures for the payment by the Social Security of the maternity leave, paternity leave and adoption leave.
They are given to the mother from 13 weeks of pregnancy to the child's birth upon presentation of a medical certificate stating the time of pregnancy.
They are paid by Social Security.
- **Maternity benefits: Scope:** Same scope as for maternity leave.
Conditions: To be entitled to cash benefits, the female worker must have worked for 6 continuous or non-continuous calendar months with registered earnings at the first day of the absence from work.
Amount: The female worker is entitled to benefits of 100% of her average daily wages (if the parents have opted for a leave of 120 days) or 80 % (if the parents have opted for a 150-day leave period).
For pregnant workers, the period they cannot work due to a risk to their health or that of the fetus, they receive 100% of their average daily wage.
A minimum amount has to be paid.
Benefits are paid by Social Security.
- **Paternity leave benefits:** Paternity leave benefits are paid for the whole period of paternity leave (10 days compulsory leave, 10 days optional leave, 30 additional days in case of multiple births) at 100% of the worker's reference wage.
Benefits are paid by Social Security.
- **Parental leave benefits:** If the parents have not informed the employer(s) about their intention to share the parental leave, it is assumed that the parental benefit is to be granted to the mother.
Amount/Duration: Normal leave: The parents are entitled to benefits of 100% of the average daily wages (if the parents opted for a minimum leave of 120 days/17 weeks altogether) or 80 % (if the parents opted for a maximum 150 days/21 weeks together).
Prolonged leave: If each parent took 30 days of parental leave and are therefore entitled to an additional 30 days' leave (4 weeks), the benefits amount to 100% in case of 150 days of leave (21 weeks) and 83% in case of 180 days (25 weeks) parental leave.
Multiple births: For the period of extended parental leave in case of multiple births, the benefits amount to 100% for this period.
A minimum amount of benefits has to be paid.
Benefits are paid by Social Security.
- **Adoption leave benefits:** same scope and conditions as for maternity leave benefits.
In general, adoption leave benefits are paid for the duration of adoption leave (including any extension in case of multiple adoptions).
The amount to be paid for the adoption leave shall follow what is established as the initial parental leave (or even the extended one).
Benefits are paid by the Social Security System.

Medical benefits:

- Pregnant employees are entitled to leave of absence with pay for pre-natal medical examinations or for childbirth preparation courses when such examinations cannot reasonably take place outside working hours. The father is entitled to three exemptions from work to accompany a worker to pre-natal visits. The employee shall inform her employer before her absence in order to keep her remuneration.
- Other information is missing.

Health protection:

- **Night work:** Women may be exempted to perform work between 8 pm and 7am during pregnancy, the breastfeeding period or over a 112-day (16 weeks) pre- and post-natal period (including at least 56 days (8 weeks) before the expected date of confinement; they are entitled to be assigned to day work at their demand.
In case the employer is unable to propose another job the worker is entitled to a paid leave. Furthermore, women may be exempted from night work during the remaining period of pregnancy and during the breastfeeding period, if necessary for their health or for that of the (unborn) child. She is relieved of work where the aforementioned is not possible.
- **Overtime:** Pregnant workers and male/female workers with a child under 12 months of age are not obliged to perform overtime work.
- **Dangerous or unhealthy work:** A pregnant woman, a woman who has recently given birth or who is breastfeeding is entitled to special safety and health measures in the workplace to avoid exposure to risks.
Where a risk assessment has revealed a risk to the safety or health of a pregnant or nursing employee, the employer shall adjust the working conditions accordingly.
- **Transfer:** In the event a temporary adjustment of working conditions is not reasonably feasible, the employer shall reassign the employee to a suitable alternative work. If this is not feasible, the employer shall release the worker from work for the necessary period.

Non-discrimination/Job protection:

- **General:** It is the right of every individual to have equal access to the same opportunities and treatment either in work, or when applying for a post, regardless of sex, age, sexual orientation, family status, education, social and economic status, nationality, race, language, religion, political and ideological beliefs, etc.
- **Pregnancy tests:** The employer may, in no circumstance, require female job applicants or employees to produce pregnancy tests or examinations, unless it is justified by the nature of the work.
- **Dismissal:** of pregnant workers, workers who have recently given birth and workers who are breastfeeding is always subject to prior opinion of the competent administrative body, and is presumed to be unfair otherwise.
A dismissal is only possible if the authority in the area of equal opportunity between men and women has agreed. If the authority does not approve the dismissal, it may take place only once the employer has obtained a court order which recognizes the existence of proper grounds.
- **Burden of proof:** It is for the employer to prove that the differences in working conditions are not based on gender, marital or family status, including pre-natal examinations, safety and health of workers pregnant workers, birth or breastfeeding, or parental leave.
- **Job guarantee:** No particular mention specifying the right to return to one's previous job.

Breastfeeding:

- **Breastfeeding breaks:** Nursing mothers are entitled to paid nursing/breastfeeding breaks of up to 1 hour twice a day (an extra 30 minutes for the second and each subsequent child).
In the case of bottle-feeding and in the event of absence of nursing facilities within the workplace, female and male workers are entitled to nursing breaks until the child is 1 year of age.
The right to nursing breaks may be taken by either parent or split between them.
It is not clear if nursing breaks are paid or not.

PORTUGAL HAS RATIFIED C183 (08.11.2012)

ROMANIA

ROMANIA HAS RATIFIED C3 (13.06.1921)

ROMANIA HAS RATIFIED C183 (23.10.2002)

Name of Acts:

- Emergency Ordinance No. 158/2005 on the Social Health Insurance Leaves and Indemnities, 2005
- Labour Code, Law No. 53/2003, 2003
- Law for Adopting Emergency Ordinance No. 96/2003 on Maternity Protection at Work, 2003
- Law on Equal Opportunities between Women and Men, No. 202/2002, 2002
- Emergency Ordinance No. 148/2005 on Support of the Family for Child Raising, 2005
- Act on Paternity Leave, 1999
- Emergency Decree No.111 on Leave and Monthly Allowance for Raising Children, 2010
- Emergency Ordinance No. 148/2005 on Support of the Family for Child-Raising applicable for Births before 31 December 2010, 2005.

Scope:

- Female health insurance holders whose activities are based on individual contracts of employment or service and any other dependent activities, operating in elective or appointed positions within the executive, legislative or judicial term of office and members of a cooperative, whose rights and duties shall be treated as dependent work, people receiving unemployment benefits under the law.

Maternity leave:

- **Length:** 126 calendar days (18 weeks): 63 days (9 weeks) before and after confinement.
- **Compulsory leave:** 42 days (6 weeks) after confinement.
- **Extensions:** Disabled insurance holders are, at their request, entitled to maternity leave from the 6th month of pregnancy.

Longer leave in case of *multiple births* was not identified (although, there is an increase in cash benefits in case of multiple births).

Leave in case of *illness or complications* derived from confinement was not identified.

Paternity leave:

- **Scope:** Employed fathers of a newborn child.
- **Length:** It lasts 5 days (plus 10 days if the employee attended infant care courses) and must be taken during the first 8 weeks after birth.
- **Conditions:** It is granted upon request, accompanied by a birth certificate.

Parental leave:

- **Scope:** Paid leave for child-care can be used by one of the parents of the child, another relative or the tutor under certain conditions.
- **Conditions:** 12 months of salary income in the last year or income from independent activities or income from agricultural activities subject to income tax. Since 2011 it is necessary to hold Romanian citizenship or residence by law (for foreign citizens or stateless persons).
- **Length:** For parents of child/children born on or after 1st January of 2011, child care leave is for 1 year or 2 years depending on the monthly allowance; for parents of a disabled child, it is until the child reaches 3 years. For parents who have opted for parental leave with allowance, when the child reaches 1 year, they are entitled to unpaid leave until the child is 2.

Adoption leave:

- **Scope:** For adoptions on or before the 31 December of 2010 leave is granted to persons having adopted a child under 2 years of age (or 3 years of age in case of a disabled child). For adoptions on or after the 31 December of 2010, all the benefits granted for biological parents will apply to adoptive parents.

Cash benefits:

- **Maternity benefits: Scope/conditions:** Female health insurance holders, and women who have stopped paying the insurance contribution, but give birth to a child within 9 months

from the date when the insurance holder status was lost. The condition is that the minimum period of contributions to health insurance is of 1 month over the preceding 12 months.

Duration: The benefits covers 126 calendar (63 days before and 63 days after childbirth) – same as maternity leave.

Amount: It represents 85% of the worker's average wage during the last 12 months. No ceiling.

Benefits are paid from the State Health Insurance Budget.

- **Paternity leave benefits:** **Scope:** concerns fathers taking paternity leave.

Amount/Duration: 100% for the full leave.

Benefits are paid by the employer.

- **Parental leave benefits:** **Scope:** The child-care benefit is granted to one of the parents, adoptive parents, foster parents or the person who is the appointed guardian of the child who was trusted with child's care and education.

Amount/Duration: For parents of child/ren born on or after 1st January of 2011: 1) Child care leave until the *child reaches the age of 1 year* at a monthly allowance of 75% of the average net wage received during the preceding 12 months (minimum 600 lei, maximum 3400 lei); or 2) Child care leave until the *child reaches the age of 2 years* at a monthly allowance of 75% of the average net wage received during the preceding 12 months (minimum 600 lei, maximum 1200 lei).

The monthly allowance shall be increased by 600 lei for each extra child born (twins, triplets, etc.) starting from the second child.

After the child reaches the age of 1 year, with the exception of children with disabilities, parents who have opted for parental leave with allowance are entitled to *unpaid leave* until the child reaches 2 years of age (Contradiction?).

For parents of a *disabled child*, the child care leave is until the child reaches the age of 3 years and the monthly allowance is 75% of the average net wage received during the preceding 12 months (minimum 600 lei, maximum 3400 lei).

- **Benefits are paid** from the state budget, with the exception of paternity leave benefits..

Medical benefits:

- Employers shall allow pregnant workers to undergo medical examinations during pregnancy for up to a maximum of 16 hours per month without loss of pay, if these medical check-ups can take place only during working hours.
- Medical coverage of insured persons: Medical services are provided directly to patients by providers with contracts with local health insurance funds. Medical benefits include general and specialist care, outpatient care, hospitalization, medicine, appliances, rehabilitation, preventive medical care, maternity care, transportation, and other services.
- Medical benefits for dependents: Medical services are provided directly to patients by providers with contracts with local health insurance funds. Medical benefits include general and specialist care, outpatient care, hospitalization, medicine, appliances, rehabilitation, preventive medical care, maternity care, transportation, and other services.
- Benefits are covered by the National Health Insurance Fund.

Health protection:

- **Night work:** Pregnant women, women who have recently given birth, or nursing women shall not be obliged to perform night work.
- **Overtime:** is not expressly prohibited.
- **Dangerous or unhealthy work:** In order to establish the necessary measures to protect employees, the employer, in collaboration with a labour physician, must assess every year the nature, degree and duration of risk factors arising from conditions of work and their influences on pregnant or nursing women workers.
- **Transfer:** If the safety and health of the pregnant woman worker is considered in danger, her employer shall, following a medical certificate, make the necessary arrangements to ensure her safety by temporarily changing her working conditions and/or working hours or transferring her to another post with the same salary as previously.

If the employer cannot adapt the job to the specific needs of the pregnant worker or mother returning to work after compulsory maternity leave, she is entitled to maternity risk paid leave for up to 120 days (17 weeks) upon presentation of a medical certificate. This leave cannot be given simultaneously with another leave provided for by the Public Pension System and other Social Insurance Rights.

Non-discrimination/Job protection:

- **General principle:** The principle of equal treatment for men and women is applied in the working relations. Direct or indirect discrimination based on sex, family situation or family responsibilities are prohibited.
- **Dismissal:** Employers shall not dismiss because of her pregnancy an employee who has given written notice of her pregnancy, or who is on maternity risk leave, on maternity leave, on parental leave, or the employee on leave to care for a sick child under the age of 7 years or under the age of 18 in the case of a disabled child.
This prohibition can be extended once, up to 6 months after the return of employee to work. The only exception to dismissal in these cases is if it occurs as the result of reorganization or bankruptcy of the employer.
- **Burden of proof** lies with the person against whom the petitioner filed the complaint/objection or, where appropriate, based on the request that the (judicial) proceedings consider the facts based on the existence of direct or indirect discrimination, in which non-infringement of the principle of equal treatment must be proved.
- **Job guarantee:** Upon termination of maternity leave and parental leave for child care, the employee is entitled to return to the last job or an equivalent job with equivalent working conditions and also to benefit from any improvement in working conditions that would have occurred during the absence.

Breastfeeding:

- **Breastfeeding breaks:** A female employee who breastfeeds her child shall be entitled to paid breaks for breastfeeding until the child reaches 1 year.
The length of the break is 1 hour twice a day.
The nursing breaks are paid by the employer.
The employer shall take all kind of necessary measures to guarantee appropriate working conditions and/or assigning the pregnant worker or nursing mother to another job without risk to health or safety, as recommended by the occupational physician or family doctor, keeping wages.
- **Breastfeeding facilities:** The employer shall provide the necessary place and commodities for nursing women workers, respecting the sanitary norms.

ROMANIA HAS RATIFIED C3 (13.06.1921)
ROMANIA HAS RATIFIED C183 (23.10.2002)

RUSSIAN FEDERATION

THE RUSSIAN FEDERATION HAS RATIFIED C193 (10.08.1956)

Name of Acts:

- Government Decree to approve the List of Arduous Jobs and Jobs with Harmful or Dangerous Working Conditions forbidden to Women, Decree No. 162, 2000
- Ordinance on New Standards concerning Maximum Loads to be Taken or Displaced by Women, Ordinance No. 105, 1993
- Federal Law on the Federal Budget in 2011 and the Planned Period 2012 and 2013, No. 357-FZ, 2010
- Act on State Benefits to Citizens with Children, No. 81-FZ, 1995, amended 2011
- Hygienic Recommendations for the Rational Employment of Pregnant Women; Order of the Ministry of Health and Medical Industry of the Russian Federation, 1993
- Labour Code of the Russian Federation of 31 December 2001, amended 2010
- Principles of the Legislation of the Russian Federation on Health Protection of the Citizens, 1993, amended 2010
- Federal Act on Compulsory Social Insurance in Case of Temporary Disablement and Maternity, 2006, amended 2010
- Federal Law on the Insurance Premiums to the Pension Fund of the Russian Federation, the Social Insurance Fund of the Russian Federation, the Federal Health Insurance Fund and Territorial Funds of Compulsory Medical Insurance, 2009
- Amendment to the Federal Act on Compulsory Social Insurance in Case of Temporary Disablement and Maternity, 2011.

Scope:

- Employed women.

Maternity leave:

- **Conditions:** Maternity leave is granted upon request and submission of a medical certificate.
- **Length:** 140 days (20 weeks): 70 days pre-natal (10 weeks) and 70 days post-natal (10 weeks).
- **Compulsory leave:** division of 70 days pre-natal (10 weeks) and 70 days post-natal (10 weeks) is not presented as compulsory.
- **Extension:** In the event of *multiple births*, maternity leave is extended to 194 days (25 weeks): 84 calendar days (12 weeks) before and 110 calendar days (13 weeks) after childbirth. In the case of *abnormal birth*, the maternity leave is 156 days (22 weeks): 70 calendar days (10 weeks) before and 86 calendar days (12 weeks) after childbirth.

Parental leave:

- **Scope:** the mother, father, grandmother, grandfather, other relative or trustee who is actually taking care of the child is entitled to parental leave.
- **Condition:** Parental leave is granted upon request.
- **Length:** Until the child reaches 3 years of age.

Adoption leave:

- **Scope:** An employee who has adopted a child.
- **Condition:** Upon request, employees who have adopted a child (children) may be granted a child-rearing leave until the child (children) reaches the age of 3.
- **Length** of leave is 70 calendar days (10 weeks) after the birth of the adopted child. In the event of adoption by two spouses, the leave is granted to one of them at their discretion. In the event of adoption of two or more children, the period of post-natal leave is increased up to 110 calendar days (16 weeks) after the birth date.

Part-time work:

- **Scope:** Mother, father, grandmother, grandfather, another relative or trustee who is actually taking care of the child during the leave may work part-time without losing the right to benefits under the Social Insurance System.

- **Conditions:** After submission of a medical certificate, the employer must establish a part-time working day or part-time working week upon request of the pregnant woman, a parent of the child (up to 14 years of age, or 18 for a disabled child) or of the person who is caring for a disabled family member.

Leave in case of sickness of the child:

- Benefits from the Social Insurance are paid in case of the need to care for a sick family member. In the case of a sick child under the age of 7 years it is paid for the entire period of outpatient treatment or stay in a clinic, up to 60 calendar days (7 weeks) per calendar year (90 days (13 weeks) for specified illnesses); for a child between 7 and 15 years of age, 15 days (2 weeks) for each out/inpatient treatment (up to 45 days (6 weeks) each calendar year). The amount of benefits depends on the duration of the insurance as well as on the treatment.

Cash benefits:

- **Maternity leave benefits** include: 1) pre-natal grants (lump sums) and 2) monthly maternity allowances.
- **Pre-natal grants: Lump sums:** 1) A lumpsum of 438.87 rubles is paid by the Social Insurance Fund of the Russian Federation to every women who registers in a medical institution within the first 12 weeks of her pregnancy.
2) A lump sum of 11,703.13 rubles is paid at the birth of a child; it is financed in general through the Social Insurance Fund of the Russian Federation.
- **Monthly allowances: Scope:** Are entitled to maternity cash benefits women employees covered by the State Social Insurance. Persons covered by the State Social Insurance include persons working under an employment contract, civil servants and municipal employees, members of collective farms, public officials, clergy, and prisoners who are mandated to work. Voluntary coverage is also possible for certain categories of workers such as lawyers and entrepreneurs. Other categories that are covered include: women dismissed in the case of enterprise liquidation; women in full-time professional education; women in military service (with a contract of employment) and in service in internal security and penitentiary bodies; women adopting a child.

In addition to employed women, the legislation covers other classes of economically active such as the unemployed, students, military personnel, self-employed farmers and members of collective farms.

Conditions: To receive maternity benefits, the insured women must present a medical certificate on the basis of disability. If she was insured by more than one employer during the two calendar years prior to taking leave, she must acquire a statement of wages from all employers.

Duration: Maternity allowances are paid for the normal duration of maternity leave and any extension thereof.

Amount: The benefits are 100% of the average earnings, with a maximum of 415,000 rubles per year (23,400 rubles per month).

For an insured woman, who is dismissed due to liquidation of a company, the maximum amount of benefits may not exceed 438.87 rubles per month.

For women who have been insured for less than 6 months, the average earnings on which the benefits are based cannot exceed the federal monthly minimum wage.

Benefits are paid from the Budget of the Social Insurance Fund of the Russian Federation.

- **Parental leave benefits: Scope/Conditions:** Are entitled: the mother, father, grandmother, grandfather, other relative or trustee who is caring for the child and who is either insured for temporary disablement and maternity or not insured. Persons who are entitled to both parental leave benefits and unemployment benefits must choose to receive only one of them. To receive the parental leave benefits, the insured person must submit a birth certificate as well as proof that the other parent is not on leave and is not receiving child care allowance.

Amount: The benefit is 40% of the average earnings and cannot exceed 415,000 rubles for the calendar year. The minimum monthly allowance for the first child is 2,194.34 rubles and the minimum monthly allowance for the second child and all subsequent children is 4,388.67 rubles.

Mothers who were dismissed from work due to the liquidation of a company or other reasons while on parental leave cannot receive more than 8,777.35 rubles per calendar month.

Duration: Parental leave benefits are paid until the child reaches 18 months of age.

Benefits are paid from the Budget of the Social Insurance of the Russian Federation.

- **Adoption leave benefits: Scope:** for employees who have adopted a child under 3 months of age and are entitled to adoption leave.

Amount/Duration: Benefits are granted for the time of the adoption leave at the rate of 100% of average earnings. Following that, childcare benefits are granted until the child reaches 18 months at a rate according to parental leave benefits.

Benefits are paid from the budget of the Social Insurance of the Russian Federation.

Medical benefits:

- A pregnant woman is guaranteed medical observation at the state health care institutions, in-patient medical aid during and after confinement, as well as medical and disease prevention assistance and medical care of the newborn child. On the basis of a medical certificate, the State shall also guarantee food to pregnant women, breastfeeding mothers, as well as to children under 3 years of age.
- The pregnant female's salary is paid for time off taken for obligatory medical examinations.

Health protection:

- **Night work:** is not permitted for pregnant women (10 pm to 6 am).
- **Overtime:** It is not allowed for pregnant women to work overtime. Overtime work for women with children under 3 is allowed only with their written consent and if the activities are not forbidden because of their state of health according to the results of medical examination. Women whose children are under the age of 3 must be informed in writing about their right to refuse working overtime.
- **Shift work** is forbidden for pregnant women and women with children under 3 years.
- **Dangerous work:** The employer is under the obligation to create safe working conditions for *women*, confirmed by medical expertise. It is forbidden for women to work in hard, dangerous and/or unhealthy trades as well as in underground work, except in non-physical work or sanitary and domestic services.

It is forbidden for *pregnant women* to lift and carry weights which exceed the established rates, or to perform work where infectious, parasitic and fungoid diseases, chemical and cancerogene agents are involved. Pregnant women should not work in conditions affected by infra-red radiations. It is prohibited for women to perform work in electromagnetic radiation areas. Pregnant women who are working in a factory should be provided with optimum parameters of temperature, humidity and ventilation.

Rates of outputs, work norms may be reduced for pregnant females in accordance with a medical report and upon their request.

- **Transfer:** During pregnancy, it is necessary to transfer the women to workplaces without vibrations, ultrasounds or ionizing radiations. Women who have children under 18 months and who cannot perform their previous job are to be moved to another job upon their request with preservation of their average salary.

Before making a decision about moving the pregnant female to another job, she is to be released from her previous job and the employer has to pay her average salary for all days missed due to this procedure.

Non-discrimination/Job protection:

- **General principles:** No one can be constrained in his/her labour rights and freedoms or get any advantages on the basis of sex as well as other factors not relevant to professional qualities of the employee.

The establishment of distinctions, exceptions, preferences as well as limitation of employees' rights determined by the requirements of a specific job as set by federal laws or the special attention of the State to the persons requiring increased social and legal protection shall not be deemed discrimination.

- **Specific:** It is not allowed to refuse to employ women because of their pregnancy or because they have children. Employers must inform in writing a person who was refused a post of the reasons of refusal.
- **Dismissal:** The employer has no right to cancel a labour contract with pregnant employees without their agreement, except in the case of company liquidation.
If the contract of employment expires during pregnancy of an employee the employer must, upon the request of the pregnant female, prolong the labour contract till the end of maternity leave.
The employer cannot cancel the contract with a female worker with children under 3 years of age, single mothers caring for under 14 years of age (18 in the case of disabled children), and other employees who are caring for children.
Exceptions exist: organisations or activities ending, employee unfit for her position because of poor health, insufficient qualification or submission of false documents, commitment of an immoral deed.
- **Job guarantee:** The person holds his/her position of employment during the period of child care leave.

Breastfeeding:

- **Breastfeeding breaks:** In addition to the standard breaks, working women who have children of less than 18 months, are granted additional breaks for feeding the child (children), for a duration of not less than 30 minutes every 3 hours.
For women with two or more children under the age of 3, the duration of these breaks should not be less than 1 hour.
Upon request of the employee, the breaks for feeding her child/ren are added to the standard break or transferred both to the beginning or end of her workday, which is reduced accordingly.
The breaks for feeding a child (children) are included in the working time and are paid at the rate of the average salary.

THE RUSSIAN FEDERATION HAS RATIFIED C193 (10.08.1956)

SAN MARINO

SAN MARINO HAS RATIFIED C103 (23.09.1998)

Name of Acts:

- Law No.42 on the Compulsory Affiliation to the Social Security Scheme, 1955
- Law No.30 on the Modifications to the Provisions related to the Temporary Incapacity to Work, 1977
- Declaration of the Citizens' Rights and Fundamental Principles of San Marino.
- Act No. 7 respecting the Protection of Labour and of Workers
- Law No.40 on the Equality between Men and Women at Work, 1981.

Scope:

- Relevant provisions have been not identified. However it seems that the scope of application is all citizens of San Marino.

Maternity leave:

- **Conditions:** The worker is entitled to enjoy daily benefits as long as she qualifies with the requirements for the enjoyment of such benefits, that is, that she has provided medical certificates: the worker shall undergo medical examinations at least once a week.
- **Length:** Female workers are entitled to enjoy a leave of 150 days (20 weeks), during which the performance of work is not permitted: 3 months or 12 weeks before confinement and 2 months or 8 weeks after.
- **Compulsory leave:** It is expressly forbidden for female workers to perform work for 60 days (8 weeks) after the date of confinement.
- **Extension:** If the *birth takes place after the expected date*, the worker shall enjoy an extension of the pre-natal leave without pay, and start enjoying the period of 2 months paid post-natal leave from the date of confinement.

In case the *worker is temporarily unable to perform work*, she shall be entitled to enjoy a leave with pay if she is unable to work for more than 3 days up to maximum of 180 days (28 weeks) during the same year.

Parental leave:

- **Scope:** The right to take absence from work may be applied to the mother or father alternatively to the mother. In the case of the father, he shall present to his employer a declaration stating that his partner has renounced to enjoy this right. This provision shall not cover home workers, domestic workers and family.
- **Length:** After confinement, the mother is entitled to enjoy an unpaid leave of 5 months (20 weeks) during the child's first year, and she is guaranteed to return to her work after such a leave. The length of parental leave is 5 months (20 weeks) within the child's first year.

Adoption leave:

- **Scope/Length:** Workers are entitled to enjoy an unpaid adoption leave of 5 months during the child's first year, and to be guaranteed to return to work after such a leave.

Cash benefits:

- **Maternity leave benefits: Scope:** All the citizens are entitled to enjoy the benefits of the Social Security System.

Amount: 100% of the salary during the pre-natal and post-natal leave (5 months).

Duration: Maternity benefits shall be paid from the first day and for the total duration of the maternity leave, that is 5 months. If the birth arises after the expected date, the worker shall enjoy an extension of the pre-natal leave without pay, and start enjoying the period of 2 months paid post-natal leave from the date of confinement.

If the worker is temporarily unable to perform work, she is entitled to a leave with pay up to a maximum of 180 days in the same year upon presentation of a medical certificate (medical visits at least once a week).

Benefits are covered by Social Security which is financed by the contributions of employers, workers and by the State.

- **Parental leave benefits: Amount:** Unpaid leave.

- **Adoption leave benefits:Amount:** Unpaid leave.

Medical benefits:

- All the citizens affiliated to the Social Security System of San Marino whatever their age, sex, condition, activity or income, are entitled to enjoy medical benefits. Foreigners with a residence permit of at least 1 year are also entitled to these benefits.
- No explanation of what services and health care are covered (presumably all).
- Medical benefits are covered by the Social Security System.

Health protection:

- **Night work:**Female workers shall not perform night work from the beginning of the pregnancy until the child reaches its 7th month of age. The working conditions of night work are regulated by collective agreements.
- **Overtime:** No relevant provisions identified.
- **Dangerous or unhealthy work:**No relevant provisions identified.

Non-discrimination/Job protection:

- **General:** All the citizens are equal before the law and enjoy the same rights, without distinction of sex. To this respect the enjoyment of equal remunerations between men and women is a fundamental right in San Marino.
- **Specific:**Any discrimination based on sex, with regard to access to employment, at all levels of the working hierarchy is prohibited.
- **Job guarantee:**No specific mention of the right of the mother to return to her previous job after maternity leave, but she is guaranteed this right after parental leave – thus it is implicit that she is also entitled to this right after maternity leave.

Breastfeeding:

- **Breastfeeding breaks:**A female worker returning to work after maternity leave is entitled, during the 2 following months, to take paid absence from work 2 hours per day for 2 months; these 2 hours are split in various ways.
After the second month and until the child reaches the age of 1 year, the female worker is also entitled to 2 hours' leave per day, but without pay.
Nursing breaks are remunerated up to the second month, and not remunerated from the second month until the child reaches the age of 1 year.

SAN MARINO HAS RATIFIED C103 (23.09.1998)

SERBIA

SERBIA HAS RATIFIED C183 (31.08.2010)

Name of Acts:

- Law on the Prohibition of Discrimination, 2009
- Labor Law Nos. 24/05, 61/05, 54/09, 2009.

Scope:

- Employed women.

Maternity leave:

- **Length:** 16 weeks, 4 weeks before birth, 12 weeks after.
The female worker may start her maternity leave pursuant to advice of a competent medical authority 45 days (6 weeks) before the delivery term at the earliest and 28 days (4 weeks) at the latest.
Maternity leave shall last for 3 months (12 weeks) after the childbirth.
- **Compulsory leave:** 4 weeks before birth, 12 weeks after.
- **Extension:** Upon expiry of maternity leave, she is entitled to *leave for child care* to the expiry of 365 days after the beginning of her maternity leave.

Paternity leave:

- **Length:** Any employee is entitled to take absence from work with compensation of salary (paid leave) for a total of 7 business days in the course of 1 calendar year in the case of marriage, of his wife giving birth to a child, of a serious illness of a member of the immediate family and other instances set in the labour contract.

Parental leave:

- **Scope:** It appears that “parental leave” is only for the mother.
- **Length:** For her first and second child, an employed woman is entitled to leave for pregnancy, childbirth, and child care for a total duration of 365 days (52 weeks or 12 months).
For her third child and each subsequent child, the worker is entitled to 2 years of leave.
The right to maternity leave and absence from work for childcare for 2 years is also granted to any employed woman who gives birth to three or more children from her first pregnancy, as well as to any employed woman who gives birth to one, two or three children, and gives birth to two or more children in a subsequent delivery.

Cash benefits:

- **Maternity leave benefits:** Mothers are entitled to a maternity grant as well as to maternity allowances.
- **Maternity grant:** The amount of the grant is determined by the Republic Health Insurance Fund.
- **Maternity allowances: Amount/Conditions:** 100% of earnings are paid if the employee has paid at least 6 months of continuous coverage; 60% for 3-6 months of coverage; 30% for less than 3 months.
The benefits are paid monthly.
Earnings of the 12 months preceding the start of the maternity leave are used to calculate the employee's benefits, up to 5 times the national monthly average wage (46,457 dinars in March 2010).
The minimum benefit is the monthly minimum wage.
For a self-employed person, the benefit is the average covered income in the last 3 months.
Duration: The leave period for the first and second child begins 28 days before the expected date of childbirth and is paid for 365 days. The leave period for the third and each successive child is paid for 2 years.
Benefits are paid by Social Security.
- **Paternity leave benefits: Amount:** The benefits are paid but the amount is unknown as well as who pays.
- **Parental leave benefits: Amount:** Unknown if this is a paid or unpaid leave.

Medical benefits:

- All women during pregnancy and for up to 12 months after giving birth are entitled to health care services free of charge, covered by Social Security.

Health protection:

- **Dangerous or unhealthy work:** During pregnancy, a woman shall not work at jobs that, pursuant to advice of the competent health authority, may have a harmful effect on her health and the health of her child, and particularly not at jobs requiring lifting of weights or associated with exposure to extreme temperatures and vibrations.

Non-discrimination/Job protection:

- **General:** Both direct and indirect discriminations are prohibited against persons seeking employment and employees in respect to their sex, origin, language, race, color of skin, age, pregnancy, health status or disability, nationality, religion, marital status, family commitments, sexual orientation, political or other beliefs, social background, financial status, membership in political organizations, trade unions or any other personal quality. Discrimination is prohibited in relation to: 1) Employment conditions and selection of candidates for a certain job; 2) working conditions and all rights resulting from the labour relationship; 3) education, training and advanced training; 4) promotion at work; 5) termination of the labour contract.
- **Specific: Pregnancy tests:** An employer shall not condition an employment by a pregnancy test unless the job is associated with a significant risk for the health of the woman and her child as substantiated by the competent health care body.
- **Dismissal:** An employer shall not terminate the labour contract of an employee during pregnancy, maternity leave, absence for childcare or special care of the child. If the court establishes that a direct act of discrimination has been committed, or if that fact is undisputed by the parties to the lawsuit, the defendant may not be relieved of responsibility by supplying evidence that s/he is not guilty.
- **Burden of proof:** If the plaintiff proves the likelihood of the defendant's having committed an act of discrimination, the burden of providing evidence that no violation of the principle of equality or the principle of equal rights and obligations has occurred shall fall on the defendant.
- **Job guarantee:** No specific mention of the right of the woman to return to her previous post.

Breastfeeding:

- **Breastfeeding breaks:** No specific mention.

SERBIA HAS RATIFIED C183 (31.08.2010)

SLOVAKIA

SLOVAKIA HAS RATIFIED C183 (12.12.2000)

Name of Acts:

- Labour Code, Act No. 311, 2001
- Act on Social Insurance, Act No. 461, 2003
- Act on Occupational Safety and Health Protection and on the Amendment of Certain Acts, 2006
- Act concerning Health Care, Act No. 272, 1994.
- Decree of the Ministry of Health concerning Protection against Radiations, Act No. 12, 2000.

Scope:

- The *Labour Code* of Slovakia governs individual labour-law relations in connection with employment of natural persons by legal persons or natural persons, and collective labour-law relations.

Maternity leave:

- **Length:** 28 weeks (6 weeks prior to confinement, but not earlier than 8 weeks prior to confinement). If the woman takes less than 6 weeks prior to confinement for another reason than birth occurring earlier than determined by a physician, post-natal leave is granted for 22 weeks only.
- **Compulsory leave:** 14 weeks altogether, 6 weeks of which have to be granted after birth.
- **Interruption:** If for reasons related to health a child is taken into the care of an institution or other treatment establishment, and the female/male employee in the meantime appears to work, maternity leave shall be interrupted, at the earliest at the end of the 6th week following childbirth. The woman/man are entitled to take the undrawn part of maternity leave from the day the child leaves the institution and is taken back into their own care, up until the child reaches 3 years of age.
- **Extension:** If a woman gives birth to *two or more children* concurrently, or if she lives alone and is a *single, widowed or divorced woman* or is alone for other substantive reasons, she is entitled to maternity leave for a duration of 37 weeks.

Paternity leave:

- **Scope:** Concerns male employees.
- **Length:** In connection with caring for a newborn child, a man also shall be entitled to leave to the same extent as the mother (28 weeks less 6 weeks compulsory leave). Furthermore, time off with wage compensation is provided for a necessary period of time for transportation of his wife to the medical facility and back.

Parental leave:

- **Scope:** Concerns male and female employees who request parental leave for a period of at least 1 month.
- **Length:** It is allowed until the child reaches 3 years of age (or until the child reaches 6 years of age if it is seriously disabled, requiring exceptional care).

Adoption leave:

- **Scope/Conditions:** Claim to maternity leave and parental leave shall be held by a woman and man who, on the basis of a legal decision from the competent body, take into care a child entrusted to them for later adoption or fostering care.
- **Length:** 22 weeks from the day the child enters the home (31 weeks if the woman and man foster/adopt two or more children or if, concerning a woman or man living alone and is a single, widowed or divorced), until the day a child reaches 8 months of age. Furthermore, parental leave shall be provided until the child reaches 3 years of age (6 years for a long-term seriously disabled child requiring exceptional care).

Cash benefits:

- **Maternity leave benefits: Scope:** The following persons have mandatory sickness insurance:
a) employees who carry out work on the territory of the Slovak Republic or outside the territory of the Slovak Republic during the period of time set by the employer, unless an international treaty prevailing over the laws of the Slovak Republic states otherwise; b) self-

employed persons whose income gained from business and other independent gainful activities were higher than 12-times the minimum wages.

Conditions: An employee is entitled to allowances if s/he has sickness insurance for at least 270 days within the 2 last years before delivery. The period of service of policeman, professional soldiers and soldiers of preparatory service is not included in the period of 270 days.

Duration: 28 weeks following the claim of maternity benefits (starting not earlier than 8 weeks before the expected day of birth); 37 weeks in case of multiple births, provided that the person takes care of at least two born children or that the person is single.

Amount: 55% of the daily assessment basis.

Benefits are paid by the Social Insurance (part of sickness insurance).

- **Paternity leave benefits:** **Scope:** same as for maternity leave (but fathers instead of mothers). **Conditions:** the father (or in some cases the husband of the mother or wife of the father) of the child is only entitled to the maternity allowance if the mother has died, if she cannot take care of the child due to adverse health conditions lasting at least 1 month, or upon agreement with the mother.

Amount: The benefits represent 55% of the daily assessment basis.

Duration: 22 weeks or 31 weeks in case of multiple births, provided that the person takes care of at least 2 children or the person is single.

NB: the father is granted benefits only for the period during which the mother does not use her right to 28 weeks of maternity benefits, up to 22 weeks.

Benefits are paid by the Social Insurance (sickness insurance).

- **Parental leave benefits:** **Scope:** Concerns permanent or temporary residents of the Slovak Republic.

Amount: It represents a fixed monthly amount.

Duration: Paid for providing care for at least one child up to age 3 (age 6 if the child has chronic health problems). The child must not attend a nursery. The leave can be taken after 28 weeks of maternity/paternity leave.

Financing of these benefits is assured by the State.

- **Adoption leave benefits:** **Scope:** same as maternity and parental leave benefits.

Amount: 55% of the daily assessment basis.

Duration: 22 weeks from the day of taking the child into custody (at most until the child reaches 8 months of age); 31 weeks in case the person fosters/adopts two or more children.

Benefits are covered by the Social Insurance (part of sickness insurance).

Medical benefits:

- There is universal coverage for health care and services and there is no minimum qualifying period to receive medical benefits.

Health protection:

- **Night work:** When designating employees to work shifts, an employer shall be obliged to take into account the needs of pregnant women as well as women and men caring continuously for children. If a pregnant woman, a man or a woman continuously caring for a child younger than 15 years of age requests a reduction in working time or another arrangement regarding their fixed weekly working time, the employer is obliged to accommodate their request if such is not prevented by substantive operational reasons.
- **Overtime:** A pregnant woman, a woman or man continuously caring for a child under 3 years and/or an employee living alone and single, widowed or divorced who cares continuously for a child younger than 15 years may be employed for overtime work only with their consent.
- **Dangerous or unhealthy work:** Women must not be employed in jobs that are physically inappropriate for them or which harm their organism, in particular such jobs that threaten their maternal role. Lists of jobs and workplaces that are prohibited for all women, pregnant women, mothers until the end of the 9th month following childbirth and nursing women have been established by the Regulation of the Government of the Slovak Republic.
Work involving exposure to biological, chemical or physical agents: Pregnant women, mothers with children younger than 9 months of age, and nursing women may not be

employed to work with carcinogenic or mutagenic agents. The limit of radiation exposure for pregnant women whose workplace contains a source of ionising radiation shall be established in such a way that the sum of the effective doses from exterior radiation exposure and the effective dose load from the interior exposure of the foetus shall not exceed 1 mSv, counting from the day in which the pregnant woman informs the employer of her pregnancy till the end of the pregnancy.

- **Temporary change of work conditions:** If a pregnant woman performs work that is prohibited to pregnant women, or which, according to medical opinion, threatens her pregnancy, the employer must make temporary changes to her working conditions. This applies to a mother till the end of the 9th month following childbirth and to a nursing woman.
- **Transfer:** If a change in the woman's working conditions is not possible, the employer must transfer her to a different post that is suitable to her and for which she gains the same earnings as for her previous job as according to her employment contract. If this is not possible, the employer shall transfer her upon agreement to a different type of job. If a woman is transferred by no fault of her and earns less than before, she will be provided with a compensation benefit amounting to the difference in pay. If the transfer to a position with day work or to another more suitable post is not possible, the employer is obliged to provide time off and wage compensation to his employee.

Non-discrimination/Job protection:

- **General:** Women and men have the right to equal treatment with regard to access to employment, remuneration and promotion, vocational training, and also with regard to working conditions. Women shall be secured working conditions which enable them to partake in work with regard to their physiological capacity, and with regard to their social function of motherhood; women and men are both entitled to work conditions enabling them to balance work and family obligations in the upbringing and care of children. In accordance with the principle of equal treatment, discrimination shall be prohibited also from reasons (among others) of marital status and family status.
- **Dismissal:** An employer may not give notice to an employee during pregnancy, maternity leave or parental leave or while an unmarried employee is caring for a child under the age of 3. Exceptions to the prohibition of dismissal apply to pregnant workers or employees caring for a child under the age of 3 if the employee was lawfully sentenced for committing an offence or was in serious breach of labour discipline.
- **Job guarantee:** No explicit mention of guaranteeing a woman/man the right to return to the job they occupied before the maternity or parental leave.

Breastfeeding:

- **Breastfeeding breaks:** An employer is obliged to provide a mother who breastfeeds, special breaks for breastfeeding in addition to the normal daily breaks. Breastfeeding breaks are, in general, two 30-minute breaks per child until the child reaches 6 months of age, and in the following 6 months, one 30-minute break per shift. These breaks may be combined and provided at the beginning or end of the shift. If the concerned employee works part-time of at least half the normal weekly working time, she is entitled to one 30-minute break for breastfeeding per child until the end of the 6th month. Breaks for breastfeeding shall be calculated to working time and shall be provided with wage compensation equal to the amount of the mother's average earnings.
- **Breastfeeding facilities:** The employer is obliged to establish, maintain and improve the level of social facilities and personal sanitation facilities for women.

SLOVAKIA HAS RATIFIED C183 (12.12.2000)

SLOVENIA

SLOVENIA HAS RATIFIED C183 (01.03.2010)

Name of Acts:

- Employment Relationships Act, Ur. l. RS, No. 42/2002, 2002, amended 2007
- Act on Equal Opportunities for Women and Men, No. 2837, 2002
- Rules on Requirements ensuring the Safety and Health of Workers at the Workplace, 1999
- Parental Protection and Family Benefits Act, ZSDP, 2001, amended 2006.

Scope:

- Under the *Parental Protection and Family Benefits Act*, mothers have the right to maternity leave if they are insured persons.

Maternity leave:

- **Conditions:** Mothers have the right to maternity leave if they are insured persons under the *Parental Protection and Family Benefits Act*.
If the mother gives birth to a child before she has informed the employer of the intended use of maternity leave, she shall inform the employer thereof within 3 days after the birth unless her medical condition prevents her from doing so.
- **Scope/Replacement:** Under specified circumstances (the mother has died or abandoned her child), the father can take the maternity leave. A person who nurses and cares for a child in accordance with the decision of the Centre for Social Work or the judgment or provisional order of the Court, is also entitled to maternity leave at the same time as the mother: that leave is reduced by the number of days the mother and father have already taken.
When the mother is younger than 18 and is an apprentice, a schoolgirl, a pupil or a student, one of the grandparents can, with the mother's consent, take a maternity leave of 77 days (11 weeks) reduced by the number of days equivalent to the age of the infant when this person commences the leave.
- **Length:** 105 days (15 weeks).
Maternity leave may begin up to 45 days (6 weeks) prior to giving birth (based on a certificate issued by the appropriate medical authority).
- **Compulsory leave:** The mother must take at least 28 days (4 weeks) of her maternity leave before giving birth. There is no mention of compulsory leave after giving birth.

Paternity leave:

- **Scope/Conditions:** All employed fathers insured under the *Parental Protection and Family Benefits Act*.
- **Length:** 90 days (non-transferable). 15 days of this period have to be taken before the child reaches 6 months of age. The 75 remaining days of paternity leave can be used before the child is 3 years old.

Parental leave:

- **Scope:** After the expiration of maternity leave, one of the parents insured under the *Parental Protection and Family Benefits Act* has the right to a leave for the purpose of nursing and caring for a child, to be agreed between the parents.
Under specified circumstances (the mother has died or abandoned her child), the father can take the maternity leave. A person who nurses and cares for a child in accordance with the decision of the Centre for Social Work or the judgment or provisional order of the Court, is also entitled to maternity leave at the same time as the mother: that leave is reduced by the number of days the mother and father have already taken.
When the mother is younger than 18 and is an apprentice, a schoolgirl, a pupil or a student, one of the grandparents can, with the mother's consent, take a maternity leave of 77 days (11 weeks) reduced by the number of days equivalent to the age of the infant when this person commences the leave.
- **Length:** 260 days (39 weeks or 10 months) immediately after the maternity leave (an additional 90 days (13 weeks) each in case of multiple births).
In the case of premature birth, the leave is extended by as many days as the pregnancy was shorter than 260 days.

- **Extensions** are also foreseen for families with several children up to a specific age. In general, both parents cannot take parental leave at the same time in the form of full absence from work. **Adoption leave:**
- **Scope:** Adoptive parents insured under the *Parental Protection and Family Benefits Act*.
- **Length** of leave (for both parents together) is of 150 days (21 weeks) for a child aged 1-4 (weeks, months or years?) and 120 days (17 weeks) for a child aged 4-10 (weeks, months or years?), to be started at the latest 30 days (4 weeks) after the child is placed in the family for the purpose of adoption.

Part-time work:

- **Scope:** Parental and adoption leave can also be used as partial absence from work. One of the parents who nurses and cares for a child until the child's 3rd year has the right to part-time work.
- **Characteristics:** Part-time work cannot be less than 50% of the normal weekly working hours. The time schedule will be agreed upon by the parents between themselves and the employers.
- **Paid:** The insured person is entitled to parental benefits for the period of partial absence from work.

Cash benefits:

- **Maternity leave benefits: Scope/Conditions:** Persons who are entitled to maternity leave and who are insured under the *Parental Protection and Family Benefits Act*, as well as those persons who had been insured at least 12 months during the past 3 years prior to exercising the right to benefits are entitled to maternity leave benefits. The maternity benefits can be granted to the child's father, to another person caring for the child or to an adoptive parent if the mother has died, has left the child or is unable to live and work independently. **Duration:** Maternity benefits are paid during the whole period of maternity leave (105 days or 15 weeks). **Amount:** 100% of the income basis. The income basis for calculation of maternity benefits is the average basis used for calculation of the contributions for Parental Leave Insurance for the last 12 months before the first application of the leave. If the eligible person paid contributions for Parental Leave Insurance for less than 12 months, 55% of the minimum wage is used as a basis for calculation of the missing numbers of monthly payments. **Benefits are paid** by Social Security.
- **Paternity leave benefits: Scope/conditions:** The persons who are entitled to parental leave shall have the right to paternity benefits. The beneficiaries of child care benefits must be covered by the Parental Leave Insurance and be insured prior to the first day of the leave, or have been insured for at least 12 months during the past 3 years prior to exercising the right to paternity benefits. **Duration:** For the period of paternity leave (90 days). **Paid by** means of a mixed system: During 15 days (2 weeks) of leave, the father receives 100% of his income basis (amounting to at least 55% of the minimum salary and 250% of the national average wage). It is paid by the employer (?) (this is unclear). For the remaining 75 days (11 weeks) the State pays the father by means of the Social Security System.
- **Parental leave benefits:** The persons who are entitled to parental leave have the right to 1) parental benefits or 2) parental allowances.
- **Parental Benefits: Conditions:** The beneficiaries of child care benefits must be covered by the Parental Leave Insurance and be insured prior to the first day of the leave, or have been insured for at least 12 months during the past 3 years prior to exercising the right to parental benefits. **Amount:** 100% of the income basis, amounting to at least 55% of the minimum salary and 250% of the national average wage. The payment of parental benefits may not be higher than two and a half times the average monthly wage in the Republic of Slovenia determined on the grounds of the last official information on monthly wages.

Benefits covered by the Parental Leave Insurance.

- **Parental Allowances: Conditions:** Alternatively, parental allowance is paid to parents when they are not entitled to parental benefits after the birth of a child.

Length/Scope: The right to parental allowance shall be granted for 365 days (52 weeks), including payment to the mother for 77 days (11 weeks) after the birth of the child provided the mother and the child have permanent residence in the Republic of Slovenia and are citizens of the Republic of Slovenia. When the child is 77 days old, the right to parental allowance is granted *mutatis mutandis* and under the same conditions to one of the parents. Another person shall be entitled to parental allowance under the same conditions as the parents when he or she actually nurses and cares for the child, whereby the right is reduced by the number of days the parents have already used that right.

Amount: SIT 37.520 per month.

Duration: Benefits are paid whole length of parental leave (normally 260 days or 39 weeks).

Benefits are paid by Social Security.

- **Adoption leave benefits: Scope/Conditions:** The persons who are entitled to adoption leave shall have the right to cash benefits. The beneficiaries must be covered by the Parental Leave Insurance and be insured prior to the first day of the leave, or have been insured for at least 12 months during the past 3 years prior to exercising the right to adoption benefits.

Duration: 150 days (for a child aged from 1 to 4) or 120 days (for a child aged from 4 to 10).

Amount: 100% of the income basis, amounting to at least 55% of the minimum salary and at most 250% of the national average wage.

Benefits paid by Social Security.

Medical benefits:

- Specific provisions for maternity: medical check-ups and ultrasound examinations during pregnancy, hospitalisation and health care services in connection with confinement during hospitalisation, home care for the mother and the child (two visits of the nurse).
- Medical benefits are covered by the compulsory Social Insurance Scheme. There is no patient contribution for health care during pregnancy and child birth (normally patients make co-payments of amounting to 5-75%).

Health protection:

- **Night work:** Between 11 pm and 6 am the following day. If the distribution of the working time provides for a night shift, night work shall mean 8 uninterrupted hours between 10 pm and 7 am the following day. A woman worker may not carry out night work during pregnancy and the full year after she has given birth and/or throughout the breastfeeding period, if the risk assessment of such work indicates risk to her and/or her child's health. A worker, who takes care of a child under the age of 3 years, may be requested to work at night only upon his/her written consent. One of the employed parents living alone with a child and caring for him/her (child under 7 or severely ill or severely physically or mentally disabled) may be asked to work at night only upon his/her prior written consent. In the area of industry or construction an employer may assign women workers to night work only in some cases (if they are members of his/her family; if they carry out work of a managerial character or conduct work units or carry out work related to the provision of safety, health or social protection of workers; if such work is necessary due to force majeure or in order to prevent damage to raw material or other quickly perishable material; if such work has previously been assessed as being in the national interest and exploitation approved by the minister responsible for Labour).
- **Overtime:** A female worker may not carry out overtime work during pregnancy and a full year after she has given birth and/or throughout the breastfeeding period, if the risk assessment of such work indicates risk to her and her child's health. A worker, who takes care of a child under the age of 3, may only be ordered to work overtime upon his/her written consent.

One of the employed parents living alone with a child and caring for him/her (child under 7 or severely ill or severely physically or mentally disabled) may be asked to work overtime only upon his/her prior written consent.

- **Dangerous work:** During pregnancy and the entire breastfeeding period, a female worker may not carry out work which might present a risk to her or her child's health due to the exposure to risk factors and working conditions.

During pregnancy and throughout the breastfeeding period, should a female worker carry out work where she is exposed to risk factors, procedures and working conditions, the employer must take appropriate measures in order to temporarily adjust the working conditions/working time if the risk assessment indicates the risk to her and her child's health.

- **Transfer:** Should the temporary adjustment not remove the risk to the worker's or her child's health, the employer must ensure the worker other appropriate work and a wage equivalent to her previous position if it was more favourable to her.

If the employer cannot ensure the worker other appropriate work (temporary transfer), the employer must ensure her wage compensation (average monthly wage during the past 3 months but not less than the minimum wage).

Non-discrimination/Job protection:

- **General provisions:** Any direct or indirect discrimination due inter alia to sex is prohibited. An employer may not treat unequally a job seeker in gaining employment or a worker during the employment relationship and in relation to the termination of an employment contract on the basis inter alia of sex, family status or other personal circumstances.

Women and men must be provided equal opportunities and equal treatment in access to employment, promotion, training, education, retraining, wages and other income arising from the employment relationship, absences from work, working conditions, working hours and notice of termination of the employment contract.

- **Specific:** The employer may not publicly advertise a vacancy only for women or only for men, nor may an advertisement indicate that in recruiting one of the sexes would be given priority by the employer, unless one of these sexes is the essential condition for carrying out the work.

The employer may not subject the employment contract to the condition of providing information on the family and/or marital status, pregnancy, family planning, or to additional conditions related to the prohibition of pregnancy or postponement of maternity.

- **Pregnancy tests:** For the duration of the employment relationship, the employer may not request or seek any information on the worker's pregnancy unless the worker concerned allows this in order to exercise her rights during pregnancy. Additionally, in concluding the employment contract, the employer may not demand the applicant to provide information on the family and/or marital status, pregnancy, family planning nor on other information, unless it is directly related to the employment relationship.

- **Dismissal:** The employer may not terminate the employment contract of a woman worker during the period of pregnancy and all the time she is breastfeeding, nor may the employer terminate the employment contract of parents in the period when they are on parental leave in the form of full absence from work.

During these periods the employment relationship of workers may not even be terminated by the employer's cessation.

If, when declaring the cessation, the employer is not aware of the pregnancy of the worker, a special legal remedy against the termination shall apply if the worker immediately or, in the case of obstacles which are not due to her fault, immediately after the cessation of these obstacles, informs the employer about her pregnancy, proven by the submission of a medical certificate. However, the employer may terminate the employment contract after a preliminary consent by the Labour inspector, if there are reasons for extraordinary termination (for example if the worker violates any obligation arising from the employment relationship and the violation has characteristics of a criminal offence, or if the worker intentionally or by gross negligence violates any obligation arising from the employment relationship) or due to the introduction of the procedure for the cessation of the employer.

- **Burden of proof:**In case of a dispute regarding the exercise of special protection due to pregnancy and parenthood according to the *Employment Relationships Act*, the burden of proof shall be on the employer.
- **Job guarantee:**No specific mention of guarantee of returning to same job after maternity, paternity, parental leave.

Breastfeeding:

- **Breastfeeding breaks:**A woman worker, who breastfeeds a child and works full-time, shall have the right to a breastfeeding break during the working time of at least 1 hour a day. The right to wage compensation for the duration of the breastfeeding break shall be exercised in accordance with the regulations on parental leave.
- **Breastfeeding facilities:**The employer shall ensure suitable rooms with beds for pregnant and nursing mothers to rest. Pregnant and nursing mothers must also be able to lie down in rooms with beds if so required for medical reasons.

SLOVENIA HAS RATIFIED C183 (01.03.2010)

SPAIN

SPAIN HAS RATIFIED C3 (4.07.1923)

SPAIN HAS RATIFIED C103 (17.08.1965)

Name of Acts:

- Royal Decree No. 783 issuing Regulations on Protection Against Ionising Radiations, 2001
- Royal Decree No. 295 on Cash Benefits of the Social Security System concerning Maternity, Paternity, Risk during Pregnancy and Risk during Breastfeeding, 2009
- Royal Decree No. 1 on Social Security General Act, 1994
- Act No. 31 on the Prevention of Risks at Work, 1995
- Royal Decree No. 1 enacting the Worker's Charter, 1995
- Decree No. 2766 issuing Regulations on Health Protection Benefits and Management of Medical Services in the General Social Security, 1967
- Royal Decree No. 63 issuing Regulations on Health Benefits in the National Health System, 1995
- Royal Decree No. 39 issuing Regulations on Prevention Services, 1997.

Scope:

- All women workers voluntarily performing services in return for remuneration from another person (employer), who organises and directs the work.
- All categories of workers in the private sector.

Maternity leave:

- **Length:** 16 consecutive weeks.
- **Compulsory leave:** 6 weeks after birth.
- **Extensions:** In case of *multiple births*, 2 weeks for each child after the second child. If the *child is premature or has to be hospitalised* after birth, leave can be taken after the end of hospitalization, with the exception of the 6 weeks of compulsory leave. If the child is premature or has to be hospitalised after birth, the mother or the father are entitled to be absent from work for 1 hour per day. They also have the right to reduce their working hours up to 2 hours a day with the proportional reduction of their remuneration. If the *mother still needs medical care* after maternity leave as a result of the birth of her child and she is unable to work, she will be in situation of temporary incapacity and entitled to sickness benefits from the Health Insurance Scheme.

Paternity leave:

- **Scope/Length:** In cases of child birth, adoption or foster care, the worker is entitled to suspend his contract for 4 consecutive weeks.
- **Extension:** It can be extended in the event of multiple births, adoption or fostering by 2 days for each child after the second one.

Parental leave:

- **Conditions:** When both parents work for the same enterprise, the employer may prevent the concurrent exercise of their parental leave on the grounds of business risks.
- **Length:** Workers are entitled to unpaid parental leave of no more than 3 years to take care of their biological or adoptive child, beginning at the date of the child's birth or the date of adoption. Each successive child entitles the worker to a new period of leave which marks the end of the current period of leave.

Adoption leave:

- Same as maternity, paternity and parental leaves.

Part-time leave:

- By agreement between employers and female workers, the leave can be enjoyed in full- or part-time. By agreement between employers and male workers, the suspension of the contract can be enjoyed by workers in full-time or part time with a minimum of 5% of daily work performed.

Cash benefits:

- **Maternity leave benefits: Scope/conditions:** The Social Security System covers all the Spanish citizens normally exercising an activity in Spain, such as employees, casual, seasonal and permanent workers, self-employed persons, students and civil servants. Spanish-American, Portuguese, Brazilian, Andorran and Philippine citizens are considered Spanish citizens for the purposes of this law. International treaties, agreements or instruments ratified, subscribed or approved to the effect are applicable with respect to nationals from other countries.

All workers are entitled to maternity leave cash benefits, whether employees or self-employees, whatever their sex, if affiliated to any Social Security Scheme and have made the contributions required.

To be entitled to cash maternity benefits, employees should be affiliated to the general Social Security Scheme and have made contributions for 180 days in the 5 years preceding the date of birth, adoption or foster care.

Amount: 100% the contribution basis for the whole duration of maternity leave.

Duration: All workers are entitled to maternity benefits from the first day of maternity leave, and its duration will correspond to the duration of the enjoyed rest period: in general, 16 consecutive weeks, extended by 2 weeks for each child after the second child, in cases of multiple births, adoption or fostering.

Benefits are paid by the Social Security System, which is financed by different sources: contributions from the State, the insured, the employers, interests, fines and other income.

- **Paternity leave: Scope/conditions:** same as for maternity leave benefits.

Paternity benefits are incompatible with other sources of benefits for the same period as a result of the paternity leave for the birth, adoption or fostering of one child.

Amount: 100% of the contribution basis established for temporary incapacity benefits, taking as a reference the date of initiation of the rest period.

Duration: All workers are entitled to paternity benefits from the first day of the initiation of the suspension of the contract, and its duration will correspond to the duration of the enjoyed rest period, 1) in general, 13 consecutive calendar days (2 weeks) that can be extended by 2 weeks for each child after the second child, in case of multiple births, adoption or fostering; 2) for those who are covered by the Basic Statutes of Public *Officers*, 15 consecutive calendar days (2 weeks); c) when birth, adoption or fostering occurs in a large family, when the family acquires this status with the birth, adoption or fostering or when a family member has a severe disability, 20 consecutive calendar days (3 weeks), that will be extended by 2 days for each child after the second child, in case of multiple births, adoption or fostering; d) when the child born, adopted or taken into foster care has a severe disability, 20 consecutive days.

Benefits are paid in one payment by the Social Security System, without any possibility of co-financing or co-managing arrangement with private entities.

- **Parental leave: Amount:** Unpaid leave.

Medical benefits:

- The right to maternity health care is recognized and enjoys the same rules as those regulating health care.
- The National Health System provides care and health care to all people, financed by the Social Security System, including among others, women's care: a) early care and health monitoring of pregnancy; b) preparation for childbirth; c) visit to the doctor during the first month postpartum; d) the detection of risk groups and early detection of gynecological cancer and breast cancer, according to programmes established by the health services; e) treatment of the pathological complications of menopause.
- Medical assistance is covered by Social Security System, which is financed by different sources: contributions from the State, the insured, employers, interests, fines, etc.

Health protection:

- **Night work/Overtime:** If the results of an assessment of the workplace reveals a possible risk for pregnancy or breastfeeding, the employer shall take the necessary measures to prevent the exposure to this risk by adapting the conditions of work. Not to perform night work may be considered as one of these measures.

- **Dangerous or unhealthy work:**For all activities liable to involve a specific risk of exposure to agents, processes or working conditions, the employer shall determine the nature, degree and duration of exposure in order to assess any risk to the health of pregnant women, women who have recently given birth, as well as of the foetus.
- **Transfer:**If the results of the assessment of workplaces reveal a risk to the safety or health or an effect on pregnancy or breastfeeding of a worker, the employer shall take the necessary measures to ensure that, by adjusting the working conditions and/or the working hours of the worker concerned, the exposure of that worker to such risk is avoided.
In case the adaptation of the conditions of work or working time would not be possible or is not enough to prevent the risks that may negatively affect the health of the pregnant woman or the foetus, she should be transferred to another job compatible with her state, provided that those circumstances are certified by the doctor in the applicable Social Security Scheme assigned to the worker. The employer shall determine the posts that present no risk to that effect.
The worker shall be reinstated in her job as soon as her condition allows it.
She can be transferred to a post which does not correspond to her group or category, but she continues to receive the remuneration of her previous post.
These provisions apply also after confinement, in situations where there is a risk for the mother and the newborn child.
- **Temporary suspension:**If transferring the worker to another post is not technically or objectively feasible, or cannot reasonably be required on duly justified grounds, the law provides for the suspension of the employment contract. During the suspension of the contract of employment, women are entitled to cash benefits from the Social Security System until the child reaches 9 months maximum.
The suspension of the contract of employment due to the impossibility of transfer to another post of the pregnant women shall end: a) with the beginning of maternity leave; b) when the breastfed baby reaches the age of 9 months; or c) when the impossibility to exercise her job or a job compatible with her state disappears.

Non-discrimination/Job protection:

- **General principles:**Not to be discriminated on grounds of sex or marital status when seeking employment or after having been employed is one of the basic rights of workers in Spain. Any regulations, stipulations of collective agreements, individual contracts by an employer discriminating against a worker by reason of age or discriminating either in his or her favour or against him or her in matters of employment, remuneration, hours of work or other conditions of employment by reason of sex or marital status are null and void within the Spanish State.
- **Dismissal:**A contract of employment is suspended in the case of maternity and adoption. After the legal grounds of suspension have ceased to exist, the worker is entitled to his or her reinstatement in the job.
Dismissal is null and void if it is based on any of the grounds of discrimination prohibited by the *Constitution* or the law and which violate fundamental rights and freedoms of the worker. The same applies when dismissal occurs during maternity leave, risk during pregnancy, adoption or foster care, or during pregnancy, breastfeeding or parental leave.
Dismissal is allowed if there is an evidence that it is not based on grounds related to pregnancy or maternity/paternity.
- **Job guarantee:**During parental leave, the employee preserves all his/her seniority rights. The post the worker occupied has to be kept open for 1 year from the date that parental leave commences. After 1 year, a post of the same professional group or category shall be reserved for the employee on parental leave.

Breastfeeding:

- **Breastfeeding breaks:**Women workers are entitled to a break of 1 hour per day, which may be divided into two breaks to nurse their child until 9 months of age.
The duration of the break will be increased proportionally in the event of multiple births.
Nursing breaks are paid.

The mother may reduce her normal working hours by 30 minutes instead of taking the breaks. In accordance with the terms laid down in a collective or an individual agreement, the mother may choose to accumulate the 30-minute daily breaks and take them off as full working days. The father is also entitled to these breaks or to reduce his working hours by 30 minutes.

SPAIN HAS RATIFIED C3 (4.07.1923)

SPAIN HAS RATIFIED C103 (17.08.1965)

SWEDEN

Name of Acts:

- Parental Leave Act, Act No. 584, 1995
- Public Insurance Act, Act No. 381, 1962
- Regulations respecting Diving work, Regulations No. 57 of the National Board of Occupational Safety and Health Respecting Diving Work, 1993
- Regulations respecting Lead, Regulations No. 17 of the National Board of Occupational Safety and Health Respecting Lead, 1992
- Discrimination Act, Act No. 567, 2008
- Act Prohibiting Discrimination against Part-time Workers and Employees with a Fixed-term Contract, Act No. 293, 2002
- Work Environment Act, Act No. 1160, 1977
- Health and Medical Service, Act No. 763, 1982
- Health Insurance, Act No. 1224, 2004.

Scope:

- Maternity leave is guaranteed for all women workers, irrespective of how long they have been employed.

Maternity leave:

- **Conditions:** The woman should notify her employer not less than 2 months before the commencement of the leave or, if she is unable to do so, as soon as possible. The woman should also indicate the duration of her leave.
- **Length:** 14 weeks: 7 before and 7 after the expected date of birth.
- **Compulsory leave:** 2 of the 14 weeks of maternity leave are compulsory.
- **Extension:** Not identified in the *Parental Leave Act*: there is an extension for cash benefits in case of *multiple births*, but it is not clear if this extension applies also to leave.

Paternity leave:

- **Scope:** same as for parental leave below.
- **Length:** A male worker is entitled to 10 days (2 weeks) of leave in connection with childbirth or the adoption of a child.

Parental leave:

- **Scope:** the parents; a person who, although not a parent, is the legal custodian and takes care of the child; a person who has taken the child for permanent care and fosterage into her or his home; a person who is permanently living together with a parent provided that the employee is, or has been, married to, or has, or has had, the child with that parent.
- **Length:** 480 calendar days (almost 69 weeks or >17 months) for both parents until the child is 18 months; a combination of maternity leave (14 weeks), paternity leave (2 weeks) and child-care leave (52 weeks); adoption leave and part-time work are also included in parental leave. In addition, workers are entitled to leave for the time for which they are entitled to parental benefits under the *Public Insurance Act*.

Adoption leave:

- **Scope:** Same as for parental leave above.
- **Conditions:** The employee should notify his/her employer not less than 2 months before the commencement of the leave or, if unable to do so, as soon as possible. The duration of the leave should also be indicated.
- **Length:** Workers fulfilling the prescribed conditions are entitled to adoption leave for 18 months after the adoption of a child, either in the form of full-time leave or in the form of a reduction in working hours up to one-quarter of the normal hours of work, until the child reaches the age of 8 years or completes the first year of schooling, whichever is later, although at the longest until the child attains the age of 10. In case of multiple adoption, 10 additional days of leave.

Part-time work:

- **Scope/conditions:** Workers who have been in the service of an employer, either for the preceding 6 months or for not less than 12 months in the last 2 years are entitled to a reduction of normal hours of work for the care of a child.
- **Length:** Reduction of up to one-quarter of the normal hours until the child reaches 8 years of age or has not yet concluded the first year of school (whichever is older). During this period of time that a parent receives three quarters, one half, one quarter or one eighth parental benefit, the parent is entitled to a reduction of the normal working hours by three quarters, one half, one quarter or one eighth respectively.
- An employee may discontinue her/his leave which has already commenced and resume her/his work to the same extent as before the leave.

Cash benefits:

- **Maternity leave benefits:** They are part of parental leave benefits and follow the same scope, conditions, etc. (see below). The parental leave benefits system covers maternity, parental, paternity and adoption leave.
- **Paternity leave benefits:** See parental leave benefits below.
- **Parental leave benefits: Scope:** concerns all persons (citizens and residents).
Conditions: Medical certificate regarding the birth. For a parent living in another EU/EEA country to receive benefits from Sweden, s/he cannot work in the other country and must be married or living together with the parent who works in Sweden.
Duration: Parental benefits are paid for a total of 480 calendar days (69 weeks or almost 15 months) for both parents. These benefit days cover payment during maternity leave. If the parents have joint custody, each parent is entitled to benefits for half of the leave. If one parent has sole custody, he or she is entitled to the whole period of 480 calendar days.
Amount: If the *parents have been insured* for at least 240 consecutive days (34 weeks) before the birth, 80% of earnings are paid for a total of 390 calendar days (56 weeks) to both parents if they have joint custody of the child, and 60 SEK per day for the remaining period of 90 calendar days (13 weeks).
For all Swedish *residents not qualifying* for the 80% level, they receive the basic level of cash benefits (180 SEK a day in 2006) for 390 calendar days (56 weeks) and 60 SEK per day for the remaining period of 90 calendar days (13 weeks).
In the event of the *birth of twins* parental benefits are paid for an additional 90 days (13 weeks) at the basic sickness benefit level and for 90 days (13 weeks) at the minimum level.
In the event of the *birth of more than two children* at the same time, the parental benefit is paid at the basic sickness benefit level for an additional 180 days (26 weeks) for each child in addition to the two first children.
If the *parent is working part-time*, during this period of time s/he receives benefits corresponding to the percentage of working hours s/he is working.
- **Benefits are covered** by Social Insurance Funds.

Medical benefits:

- In terms of the amount exceeding the deductible services, which are specifically mentioned in the law, an insured person is entitled to be reimbursed for necessary medical expenses and for expenses necessarily incurred during pregnancy and delivery.

Health protection:

- **Night work/overtime:** There is no prohibition for a female pregnant worker.
- **Dangerous or unhealthy work:** Under the *Work Environment Act*, the Government or the National Board for Occupational Safety and Health may prohibit certain groups of workers from working on a particular type of job if it entails a special risk for this group, or prescribe that special conditions should apply when work is done by such a group.
The employer is also obliged to take all the necessary precautions to prevent any employee from being exposed to health hazards and risks of accidents. Jobs which involve an immediate or serious danger to the health and life of a worker may be suspended by the safety delegate pending a decision of the Labour Inspectorate.

Working conditions shall be adapted to people's differing physical and mental aptitudes. The employee shall be given the opportunity of participating in the design of his own working situation and in processes of change and development affecting his own work.

- **Transfer:**The *Parental Leave Act* provides that a woman worker, who on account of her pregnancy cannot perform physically arduous work, be entitled to a transfer to a less arduous job while receiving the same benefits of employment from the 60th day (8.5 weeks) inclusive before the expected date of birth.

If the transfer is not practicable, the woman is entitled to leave, insofar as it is necessary to protect her health and safety, though without retaining employment benefits during the period to which the leave relates.

A woman must be transferred to another job only where it can reasonably be requested from the employer. The right to be transferred applies only to the extent that the employer can be reasonably required to provide the woman with other work within the activity.

An insured woman whose work capacity has been reduced by one-fourth and who cannot be offered another suitable job is entitled to a pregnancy benefit. The pregnancy benefit, which corresponds to the sickness benefit, is paid at the earliest from the 60th day (8.5 weeks) before the birth of the child until the 11th day (1.5 weeks) before the expected date of birth (parental benefits are paid for the remaining 10 days).

An employee may discontinue her/his leave which has already been commenced and resume her or his work to the same extent as before the leave.

Non-discrimination/Job protection:

- **General:**All direct and indirect discrimination on the grounds of sex is prohibited. An employer may not discriminate against a person who is an employee, who is enquiring about or applying for work, who is applying for or carrying out a traineeship, or is available to perform work or is performing work as temporary or borrowed labour. Employers are required to make it easier for both male and female employees to combine employment and parenthood. Furthermore, employers employing more than ten workers must draw up an annual plan of action outlining positive measures to promote equal opportunity.
- **Dismissal:**A worker may not be dismissed because s/he claims or exercises a right to maternity, paternity, adoption and parental leave. Should the worker nonetheless be dismissed, the dismissal shall be declared null and void. These workers cannot suffer any reduction in benefits connected with employment or any prejudice regarding conditions of employment.
- **Burden of proof:**If a job applicant or an employee proves circumstances that give cause to assume that s/he has been disfavoured for reasons related to parental leave, the employer shall have to prove that no such disfavour has occurred or that it is a necessary consequence of the parental leave.
- **Job guarantee:**Regarding resumption of work, an employee may discontinue her/his leave and resume her/his work to the same extent as before the leave. If the employee wishes to exercise her/right to resume work, the employee shall give notice to the employer to that effect as soon as practicable. In the event the leave was intended to continue for 1 month or more, the employer may postpone the resumption by no more than 1 month after s/he has received notice.

Breastfeeding:

- **Breastfeeding breaks:**Female employees are entitled to nursing leave (duration not specified).

SWITZERLAND

SWITZERLAND HAS RATIFIED C183 (04.06.2014)

Name of Acts:

- Framework Ordinance respecting the Personnel of the Confederation, 2000, amended 2010
- Ordinance No. 1 regarding the Act on the Industry, Handicrafts and Commerce, 2000, amended 2011
- Ordinance regarding Maternity Protection, 2001, amended 2008
- Federal Sickness Insurance Act, 1994, amended 2011
- Federal Act on Old Age Insurance, 1946, amended 2011
- Federal Act respecting Equality between Women and Men, 1995, amended 2011
- Federal Act respecting Earnings Loss Insurance in Case of “Service” and Maternity, 1952, amended 2011
- Regulation respecting Earnings Loss Insurance, 2004, amended 2011
- Federal Law on General Provisions concerning Legislation on Social Insurances, 2000, amended 2011
- Federal Act respecting the Personnel of the Confederation, 2000, amended 2011
- Labour Act respecting Work in Industry, Handicrafts and Commerce, 1964, amended 2008
- Code of Obligations, 1911, amended 2011
- Ordinance 3 regarding the Labour Act (Hygiene, OLT 3), 1993, amended 2010
- Federal Act on Family Allowances, 2011.

Scope:

- The *Labour Act* applies to all enterprises public and private.
- Enterprises excluded: Public administration federal, cantonal and communal, public transport regulated by federal *Labour Law*, Swiss maritime transport regulated by federal *Maritime Law*, agricultural enterprises and/or services whose activity deals with or uses the products of the main exploitation. Are also excluded the facilities of milk collectors and enterprises that work with milk, horticultural exploitations, fisheries, private households.
- Persons excluded: Members of religious communities, civil servants of third countries and International Organizations residing in Switzerland, workers with high managerial functions, independent artistic or scientific activities, professors in private schools, social assistants, monitors, homeworkers, commercial agents according to the federal law.

The *Labour Code* does not apply to family enterprises where only the director of the enterprise, his/her parents in ascendant or descendant line and spouses or registered partners and his/her children are employed. The *Labour Code* is applicable to other workers hired by the enterprise.

Special norms may be enacted to protect the work performed by minors.

As households are excluded from the scope of the *Labour Code*, this norm is inapplicable to domestic servants, who, nevertheless, are covered by the *Code of Obligations* and other federal or cantonal legislation.

Women employed on the basis of a contract of employment in the public sector are not covered by the *Code of Obligations* but by special laws. However, these special norms generally do not provide less than 14 weeks of maternity leave.

Maternity leave:

- **Length:** Maternity leave is regulated at federal level, however the cantonal laws can provide better conditions
At federal level, 14 weeks to be taken in one time.
The Canton of Geneva provides 16 weeks.
Female workers employed by the Swiss Confederation are entitled to 98 days (14 weeks) and at least 4 months (16 weeks) if the woman has completed 1 year of service.
Up to the 16th week after birth the woman can be employed only with her consent.
- **Compulsory leave:** A woman is prohibited from working during 8 weeks after the birth of her child.

- **Extension/reduction:** No extension provided for *multiple births*. During pregnancy, a woman may be excused from work or may leave her work without any other formality than that of notifying her employer. However there is no obligation on the employer to pay the salary if the woman does not present a certificate of sickness. Employers, in principle, may not reduce a woman's annual leave. However, annual leave may be reduced by one-twelfth for each full month of absence if the employee has been prevented from doing her work for more than 2 months because of pregnancy. If the pregnant woman cannot work for reasons of health connected to her pregnancy, her absence is considered as an illness and paid according to her years of service in the company.

Parental leave:

- No express legal provisions on parental leave.
- However, employees with special family duties enjoy two rights: 1) Employees with family duties such as the education of minors under 15 years shall not be assigned to overtime work and they may enjoy a break of 1.5 hours at noon. 2) Employees needing to take care of a sick child have the right to paid leave up to 3 days.

Adoption leave:

- There is no adoption leave at the federal level however some Cantons have introduced adoption leave and benefits identical to maternity leave benefits. This is the case in the Canton of Geneva where since July 2005 parents are entitled to 16 weeks of adoption leave (same as maternity leave) as from the child's placement.

Cash benefits:

- **Maternity leave benefits: Scope:** Are covered those who have paid contributions. Employees, self-employed and unemployed receive benefits. Maternity benefits concern female employees; self-employed workers; female workers working for and paid by her husband's or relative's undertaking; unemployed female workers receiving benefits; female worker on sick leave. **Conditions:** To be entitled to cash benefits, women workers shall have worked during the 5 months prior to delivery and in addition shall have been insured with the compulsory federal insurance fund AVS (Assurance-Vieillesse-Survivants) for at least the 9 months immediately preceding delivery (6 months in the event of delivery before the 7th month of pregnancy, 7 months if delivery occurs before the 8th month, and 8 months if before the 9th month). Moreover, women workers should already be affiliated to a sickness fund for at least 270 days (9 months) before the birth of their child, without a break of more than 3 months, before they are entitled to cash benefits for loss of income because of pregnancy and childbirth. (Employers may also take an individual insurance against sickness with an optional insurance for loss of income arising out of pregnancy and childbirth.) If an optional insurance for loss of income arising out of pregnancy and childbirth has been taken out by the employer or the employee, the amount of benefits agreed between the insurer and the insured person may not be less than the level of compensation paid for in the event of sickness. The woman must also cease all work during her maternity leave. Periods worked in an EU or EFTA country are taken into account. If a female worker does not meet the qualifying conditions to be entitled to maternity leave allowances, or if during pregnancy she is prevented from working because of sickness, the employer shall be required to continue to pay her salary for a limited period of time (3 weeks during the first year of service; a longer period is fixed thereafter on an "equitable basis". After 1 year of service, wages are to be paid for "a reasonably longer period", taking into account duration of the employment relationship and the particular circumstances of the case. A number of Cantonal Labour Courts have established directives for the interpretation of what is considered a "reasonably longer period". In the Canton of Bern, for example, payment is compulsory for 1 month during the second year of employment, 2 months during the third and fourth years, 3 months for the fifth up to the ninth years, 4 months during the tenth up to the fourteenth year, etc.

Amount: 80 % of the woman's average income received before the entitlement to the allowance. The payment of the allowance will start on the day of the birth of the child regardless of the length of the pregnancy.

Female workers employed by the Confederation are entitled to 4 months paid maternity leave based on 100% of the monthly wage preceding the leave.

Duration: The entitlement to benefits begins on the day of delivery. This benefit ends the 98th day (14 weeks) from the day it was awarded. It ends before that time if the mother takes a gainful activity or if the baby dies.

In case of prolonged hospitalization of the newborn (more than 3 weeks after birth), the mother may request that the payment of the allowance be postponed until the child returns home.

If the child is stillborn or dies after birth, the allowance remains due if the woman was pregnant for at least 23 weeks.

Benefits are paid by contributions to the Allowance Plan for Loss of Earnings (APG), collected in conjunction with the AVS (retirement funds).

The following are subject to the obligation to contribute: employers, employees, independent people without gainful employment.

Currently, the contribution rate is 0.3% of gross salary for active people. The employer must pay half of the contributions. Those not gainfully required to contribute (because of age) pay CHF 300.-a year.

The Government does not participate in the financing of the maternity allowance.

- **Adoption leave benefits:** There is no adoption leave at the federal level however some Cantons have introduced adoption leave benefits identical to maternity leave benefits. This is the case in the Canton of Geneva where since July 2005 parents are entitled to a 16-week adoption leave and corresponding benefits as from the child's placement.

Medical benefits:

- Women domiciled in Switzerland are entitled to specific maternity care. In addition to the general benefits this includes: check-ups during pregnancy, contribution to childbirth preparation courses, delivery at home or in a hospital, basic advice on breastfeeding, and all expenses related to the hospitalisation of the mother and her newborn baby as long as they stay in a hospital.
- Medical care costs are paid by the compulsory Sickness Insurance. Contributions made to the mandatory private insurance (50% employer, 50% employee) or 100% self-employed.

Health protection:

- **Night work:** Throughout pregnancy and during lactation, women should not perform night work or shift work when it comes to tasks that are dangerous or painful or organized as part of a system of shift work particularly damaging to health (work in teams that require regular rotation (morning-evening-night) or more than 3 consecutive nights of work). Pregnant women should not be employed at night between 8 pm – 6 am during the 8 weeks preceding confinement. Whenever feasible, the employer should reassign night workers to day-time activities. Such an obligation is also valid for the period between the 8th and the 16th week after confinement. If this is not possible, women employed between 8 pm – 6 am should be given paid leave (80% of their wages).
- **Overtime:** Pregnant women and nursing mothers may not work overtime. The maximum daily working time of pregnant women is 9 hours/day.
- **Dangerous or unhealthy work:** Pregnant workers shall not *work standing* for more than 4 hours a day. After the 4th month of pregnancy, if the pregnant worker needs to work standing, she will have the right to at least 12 daily hours of rest and 10 minutes' break every 2 hours. Employers must ensure that exposure to *hazardous substances* is not detrimental to the mother or the child. The exposure limits are laid down in the Swiss National Accident Insurance (CAN) and are applicable in Switzerland. Are considered particularly dangerous for the mother and child: substances carcinogenic, mutagenic or toxic to reproduction with specific characterizations; mercury and its derivatives; inhibitors of mitosis; carbon oxide.

In the case of pregnant women exposed to *radiations*, a maximum of 2 mSv (millisieverts) dose is permitted during the whole duration of pregnancy. Nursing mothers shall not work with radioactive substances if there is a risk of incorporation or contamination for them. Moreover, employers shall not assign a pregnant woman or nursing mother to work with *microorganisms* deemed harmful to the embryo or foetus (rubella and toxoplasmosis are excepted if the worker is sufficiently immune).

Handling loads over 5 kg and the occasional handling of loads over 10 kg during the first 6 months of pregnancy. These activities are prohibited for women after the 7th month of pregnancy.

Pregnant workers must not work in *temperatures* under -5° C or over + 28° C, as well as high levels of *humidity*, or where *noise* is over 85 decibels.

Tasks requiring *movements and postures* causing early fatigue: work requiring movements and awkward postures repeatedly (stretching, bending, staying crouched or leaning forward), and activities imposing a static position without the possibility of movement; work involving the impact of shocks, jolts or vibrations.

Pregnant women should not be assigned to jobs where the *sound pressure levels* are greater than or equal to 85 dB (A) (LEX 8 h). The exposure to infrasound and ultrasound should be assessed separately.

- **Risk assessment** should be undertaken by an expert in occupational safety and health and all appropriate information given to the concerned female workers. The medical doctor who follows the pregnant worker during pregnancy shall certify if she may continue working or not and indicate the necessary changes the employer shall adopt for her to continue working. The employer is responsible for the costs of risk assessment.
- **Transfer:** Pregnant workers and nursing mothers are precluded to execute dangerous or unhealthy jobs and are entitled to be assigned to an equivalent job that does not put them in danger. If this change is not possible, they are entitled to paid leave and they will receive 80% of their wages, including a fair compensation for any loss of remuneration in kind. This 80% of wages cannot be deducted from eventual sickness allowance to which she is entitled.

Non-discrimination/Job protection:

- **General:** Discrimination is prohibited on the basis of pregnancy. This prohibition applies to recruitment, allocation of duties, arrangement of working conditions, wage, training, promotion and termination of employment.
- **Dismissal:** After the trial period has elapsed, dismissal with notice is prohibited during pregnancy and during 16 weeks after birth. If notice has been given before the commencement of the protected period and has not expired at the beginning of this period, the notice is suspended and continues until after the protected period has ended. In general, dismissal without notice is permitted for a “valid reason” in the private sector and in the public service.
- **Burden of proof:** Where the employee establishes facts from which discrimination appears as being “plausible”, discrimination may be presumed to exist, the employer must prove that there has been no contravention of the principle of equal treatment. This provision applies to allocation of duties, arrangement of working conditions, wage, training, promotion and termination of employment but not to recruitment.
- **Job guarantee:** Not specifically identified.

Breastfeeding:

- **Breastfeeding breaks:** Until the child is 1 year of age, breastfeeding time is considered as working time if done at the workplace. If the mother leaves the workplace for breastfeeding, half of the time is considered working time. The extension of these breaks is not defined by the norm.
Breaks are considered working time and thus paid.
Pregnant women and breastfeeding women can work only with their consent. They can leave the workplace without the consent of the employer.

SWITZERLAND HAS RATIFIED C183 (04.06.2014)

TAJKISTAN

TAJKISTAN HAS RATIFIED C103 (26.11.1993)

Name of Acts:

- Labour Code, No. 417, 1997.

Scope:

- Labour legislation (which includes provisions on maternity leave) and other statutory enactments shall apply to labour relations and associated relationships involving physical persons employed under the terms of an employment contract in enterprises, institutions and other organizations, irrespective of the form of ownership, or working for private individuals, as well as persons who are members or associates of enterprises.

Maternity leave:

- **Length:** 140 calendar days (20 weeks): 70 days (10 weeks) prior to childbirth and 70 (10 weeks) after childbirth.
- **Extension:** If *two or more children* are born, 110 calendar days (16 weeks) after childbirth are granted.
In case of *complications* related to the birth, post-natal leave of 86 days is granted.

Parental leave:

- **Scope:** Child care leave can be taken by the mother, the father, grandmother, grandfather or other relative or guardian who is actually taking care of the child.
- **Length/Characteristics:** The persons entitled to child-care leave may take it after the expiry of maternity leave.
Paid leave until the child is 18 months old and an additional unpaid leave can be requested until the child reaches 3 years of age.

Adoption leave:

- **Scope:** Persons who adopt newborn children straight from a maternity home, or acting as guardians of such children, shall be granted paid leave.
- **Length:** For a period starting from the day of adoption (establishment of guardianship) and continuing for 70 calendar days (10 weeks) (or 110 days/15 weeks when two newborn children are adopted) from the day of birth of the child.
These persons are entitled to additional paid child-care leave until the child reaches the age of 18 months and can request additional unpaid leave until the child reaches the age of 3.

Part-time work:

- The persons entitled to child-care leave may also choose to work on a part-time basis or at home and retain the right to receive the State Social Security allowance.

Cash benefits:

- **Maternity leave benefits: Amount:** 100% of salary.
Duration: Cash benefits covers the whole period of maternity leave (20 weeks).
Benefits are paid by Social Security.
- **Parental leave benefits: Duration:** After maternity leave and until the child reaches 18 months of age (476 days), paid by the Social Security. After that date, leave is unpaid (until the child reaches 3 years).
Amount: Not specified.
- **Adoption leave benefits: Duration:** During adoption leave (up to the 70th day after birth) and during child care leave (up 18 months after the birth of the child)
Amount: monthly subsidies paid by Social Security, but amount not specified.

Medical benefits:

- No information.

Health protection:

- **Night work:** It shall not be permitted to recruit women for night work, except in those sectors of the national economy where special needs so require.
Where team work is organized for women with children under 14 years (or 16 in the case of disabled children), the services of those women shall preferably be used during the day provided that production needs so permit.

This provision is also applicable to fathers or legal guardians who have to raise the children alone (if the mother has died or has been deprived of other motherhood rights or has to be away for therapy in medical institutions, etc.).

- **Overtime:** Women workers who are pregnant or have children under 3 years of age shall not work overtime or on weekends, holidays or be sent on business trips.
Those who have children between the ages of 3-14 (or disabled children up to age of 16), may work overtime or be sent on business trips only with their consent.
This provision is also applicable to fathers or legal guardians (see above).
- **Part-time work:** Upon request of a pregnant worker, or women whose children are under the age of 14 (disabled children under the age of 16), including where they act as the guardian of a child, or have to care of a sick family member, the employer shall give them a part-time daily or weekly job.
This provision also applies to fathers or legal guardians (see above).
- **Dangerous or unhealthy work:** General provision covering *all women*: It shall be forbidden to hire women for underground work, heavy work and work in harmful conditions.
In accordance with a medical report, the rates of output and service shall be reduced for *pregnant women* or they shall be transferred to lighter work excluding the influence of hazardous production factors.
- **Transfer:** In the case of transfer, women shall continue to receive the average monthly wage which they had been paid for their previous work. Until such time as the issue of providing a pregnant woman with a different, lighter form of work, she is released from her duties and shall continue to receive her average monthly wage for each working day missed as the result of the above process.

Non-discrimination/Job protection:

- **General:** All citizens are equal in employment relationships. Any distinctions, preference or refusal to hire a worker on grounds of sex, among other reasons, resulting in violation of the principle of equality of opportunity at work, is prohibited.
Distinctions necessitated by the nature of the work or by the concern of the State for persons in need of enhanced social protection (such as women, young people or disabled persons) shall not constitute discrimination.
Persons who believe that they have suffered discrimination in employment shall be entitled to apply to the courts for redress.
- **Specific:** Refusing to employ women and to reduce their wages for reasons linked to pregnancy or the fact that they have children is forbidden.
In case of refusal of the employer to sign a labour contract with pregnant women, mothers of children under 3 years of age, or single mothers with a child below the age of 14 (or 16 if the child is disabled), a written document has to be provided by the employer explaining the reasons of his/her decision. A refusal to offer employment to the persons indicated may be subject to legal appeal.
An employer shall be obliged to offer employment to women sent by the Employment Office for the purpose of finding work and the relevant posts shall be filled in accordance with the established quota.
- **Dismissal:** The employer is prohibited from terminating the employment contracts of pregnant women and women with children under age 3 (and of single mothers with a disabled child below the age of 16), apart from cases where the enterprise concerned is entirely liquidated, under the condition that alternative employment is found.
Alternative employment shall also be found for the above women by an employer in cases where their employment contract is terminated since the period stipulated in the contract has expired. During the period in which alternative employment is being sought, wages shall continue to be paid but not for more than 3 months from the day on which the fixed employment contract expires.
- **Job guarantee:** During child care leave a post shall be retained and leave shall be counted as a continuous period of service.

However, periods of leave taken to care for a child shall not be included in the period of service providing entitlement to subsequent paid leave.

Breastfeeding:

- **Breastfeeding breaks:** Women workers who have children under the age of 18 months shall be entitled to additional breaks for feeding their children of at least 30 minutes every 3 hours (1 hour in case of two or more children below 18 months of age).

These breaks can be added up to the regular lunch or rest breaks, or can be taken at the beginning of and/or at the end of the workday.

Breaks given for feeding children are considered as working time and the average salary of the worker shall remain the same.

This provision is also applicable to fathers or legal guardians (see above).

TAJIKISTAN HAS RATIFIED C103 (26.11.1993)

TURKEY

Name of Act:

- Labour Act, Act No. 4857, 2003
- Resmi Gazete, Act No. 25134, 2003, amended Act No. 5763, 2007.

Scope:

- No information.

Maternity leave:

- **Length:** 16 weeks. Maternity leave may be increased before and after confinement if deemed necessary in view of the female employee's health and the nature of her work.
- **Compulsory leave:** 8 weeks after birth.
- **Extension:** In case of *multiple births*, an extra 2-week period shall be added to the 8 weeks before confinement during which female employees must not work. Maternity leave may be increased before and after confinement if deemed necessary in view of the female *employee's health* and the nature of her work. The increased time increments shall be indicated in the physician's report.

Parental leave:

- **Length:** If the female employee so wishes, she shall be granted an unpaid leave of up to 6 months after the expiry of the 16 weeks of maternity leave. This period shall not be considered in determining the employee's 1 year of service for entitlement to annual leave with pay.
- **Extension:** In the case *multiple births*, 2 extra weeks.

Cash benefits:

- **Maternity leave benefits: Scope/Conditions:** Are provided only to insured women who must have at least 120 days of contributions.
Amount: 66.6% of salary.
Duration: 12 weeks.
Paid by Social Security.
- **Parental leave benefits: Amount:** Unpaid leave during 6 months.

Medical benefits:

- In cases in which medical services for pregnancy and childbirth cannot be provided directly through health facilities under contract to the Social Security Institution or in a government hospital, a lump sum is paid according to law. The lump sum is increased for multiple births.
- The female employee shall be granted leave with pay for periodic examinations during her pregnancy.

Health protection:

- **General:** A regulation to be prepared by the Ministry of Labour and Social Security, after taking the opinion of the Ministry of Health, shall specify during which periods and in what types of jobs the employment of pregnant and nursing women is to be prohibited, what conditions and procedures they shall abide by while working on jobs in which they may be employed as well as how the nursing rooms and child care centres are to be established.
- **Transfer:** If deemed necessary in the physician's report, the pregnant employee may be assigned to lighter duties. In this case no reduction shall be made in her wage.

Non-discrimination/Job protection:

- **General:** Except for biological reasons or reasons related to the nature of the job, the employer must not make any discrimination, either directly or indirectly, against an employee in the conclusion, conditions, execution and termination of his/her employment contract due to the employee's sex or maternity.
- **Dismissal:** The following shall not constitute a valid reason for termination: race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin; absence from work during maternity leave when female workers must not be engaged in work
- **Burden of proof:** The burden of proving that the termination was based on a valid reason shall rest on the employer. However, the burden of proof shall be on the employee if s/he

claims that the termination was based on a reason different from the one presented by the employer.

- **Job guarantee:** No provision guaranteeing the right to return to the job held before maternity leave.

Breastfeeding:

- **Breastfeeding breaks:** Female employees shall be allowed a total of 90 minutes nursing leave in order to enable them to feed their children below the age of 1 year.
The employee shall decide herself at what times and in how many instalments she will use this leave.
The nursing leave shall be treated as part of the daily working time and thus paid.

UKRAINE

There is no information on the ILO website concerning maternity protection in UKRAINE, however:

UKRAINE HAS RATIFIED C103 (14.09.1956)

Name of Acts:

- Labour Code, 1972

Maternity leave:

- **Length:** 126 calendar days (18 weeks): 70 days before and 56 days after childbirth.

Cash benefits:

- **Maternity leave benefits: Amount:** 100% of the wage.
Duration: It covers 126 days.
Benefits are paid by the Social Security System.

UKRAINE HAS RATIFIED C103 (14.09.1956)

UNITED KINGDOM

Name of Acts:

- The Statutory Maternity Pay (Compensation of Employers) Amendment Regulations, 2003
- Employment Rights Act, 1996
- Statutory Maternity Pay (General) Regulations, 1986
- The Paternity and Adoption Leave Regulations, 2002
- The Management of Health and Safety at Work Regulations, 1999
- The Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations, 2002
- Social Security Contributions and Benefits Act, 2002
- The Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations, 2002
- The Maternity and Parental Leave Regulations, 1999
- The Social Fund Maternity Grant Amendment Regulations, Act No. 2760, 2010
- Equality Act, 2010 and its Regulations, 2011.

Scope:

- An employee is entitled to ordinary maternity leave and additional maternity leave. "Employee" means the individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment.

Maternity leave:

- **Conditions:** An employee is entitled to statutory maternity leave (ordinary maternity leave and additional maternity leave) provided that she satisfies the following conditions: 1) she notifies her employer no later than the end of the 15th week before her expected week of childbirth; or, if that is not reasonably practicable, as soon as is reasonably practicable, she notifies her employer of her pregnancy, the expected week of childbirth, and the date on which she intends her ordinary maternity leave period to start; and 2) if requested by her employer, she produces for his/her inspection a certificate from a registered medical practitioner, or a registered midwife, stating the expected week of childbirth.
- **Length:** it covers up to 1 year (52 consecutive weeks).
- **Compulsory leave:** No less than 2 weeks after childbirth.

Paternity leave:

- **Scope/conditions:** An employee is entitled to be absent from work for the purpose of caring for a child or supporting the child's mother. The employee has to be either the father of the child or married to/partner of the child's mother. If he is the father of the child, he shall have or expect to have the responsibility for the upbringing of the child. If he is the mother's husband or partner but not the child's father, he shall have or expect to have the main responsibility (apart from any responsibility of the mother) for the upbringing of the child. He must have been continuously employed for a period of not less than 26 weeks (6 months) ending with the week immediately preceding the 14th week before the expected week of the child's birth and have complied with the notice requirements.
- **Length:** Either 1 week or 2 consecutive weeks, at the choice of the employee, to be taken within 56 days (8 weeks) of the child's birth or adoption. Additional paternity leave is for a maximum of 26 weeks: if the partner has returned to work, this leave can be taken between 20-52 weeks after the child is born or adopted.

Parental leave:

- **Scope:** Every employee who expects to have responsibility for a child, is entitled to be absent from work on parental leave for the purpose of caring for that child. A self-employed professional or worker (agency worker, contractor, etc.) is not entitled to parental leave. Foster parents do not have rights to parental leave but may be able to request a flexible working pattern.
- **Conditions:** 1) the child is under 5 years, (or under 18 if disabled); 2) parent is employed with at least 1 year of continuous service; 3) be the parent: named on the child's birth certificate or named on the child's adoption certificate with legal parental responsibility for a child under 5 (or under 18 if the child is disabled); 4) if separated and not living with the

children, parents are entitled to parental leave if they keep formal parental responsibility for the children.

An employer can ask for evidence of an employee's right to parental leave. This could be: the child's birth certificate, papers confirming the child's adoption or the date of placement in adoption, or the award of disability living allowance of the child.

- **Length:** 13 weeks of leave for any individual child.
- **Leave in case of sickness of the child:** An employee is entitled to be permitted by her/his employer to take a reasonable amount of time off during the employee's working hours in order to take action which is necessary: 1) to provide assistance on an occasion when a dependent falls ill, gives birth, or is injured or assaulted; 2) to make arrangements for the provision of care for a dependent who is ill or injured; 3) in consequence of the death of a dependent; 4) because of the unexpected disruption or termination of arrangements for the care of a dependent; 5) to deal with an incident which involves a child of the employee and which occurs unexpectedly in a period during which an educational establishment which the child attends is responsible for him.

Adoption leave:

- **Scope:** An employee is entitled to adoption leave when adopting a child.
- **Qualifying conditions:** 1) the employee is the child's adopter; 2) has been continuously employed for a period of not less than 26 weeks ending with the week in which s/he was notified of having been matched with the child; and 3) has notified the agency that s/he agrees that the child should be placed with him/her and on the date of placement; and has complied with the notice requirements in regulation.
- **Paternity leave for adoption:** An employee is entitled to be absent from work for the purpose of caring for a child or supporting the child's adopter, as long as he meets the following requirements: 1) has been continuously employed for a period of not less than 26 weeks ending with the week in which the child's adopter is notified of having been matched with the child; 2) is either married to or the partner of the child's adopter, and 3) has, or expects to have, the main responsibility (apart from the responsibility of the adopter) for the upbringing of the child.
- **Length:** 52 weeks: 26 weeks of ordinary adoption leave (OAL) and 26 weeks of additional adoption leave (AAL).

Part-time work:

- **General provisions:** Anyone can ask their employer for flexible work arrangements, but the law provides some employees with the statutory right to request a flexible working pattern.
- **Conditions:** 1) be an employee, but not an agency worker or in the armed forces; 2) have worked for the employer for 26 weeks continuously before applying; 3) not have made another application to work flexibly under the right during the past 12 months.
Moreover, to be entitled to the statutory right, the person must: 1) have or expect to have parental responsibility of a child aged under 17; 2) have or expect to have parental responsibility of a disabled child under 18 who receives Disability Living Allowance (DLA); 3) be the parent/guardian/special guardian/foster parent/private foster carer, or the holder of a residence order, or the spouse, partner or civil partner of one of these and be applying to care for the child; 4) be a carer who cares for, or expects to be caring for, an adult who is a spouse, partner, civil partner or relative; 5) or who, although not related, lives at the same address.

Cash benefits:

- **Maternity leave benefits:** There are two main maternity benefits available to women under the Social Security Scheme: 1) Statutory Maternity Pay (SMP) from the employer and 2) the Maternity Allowance (MA) from the Department for Work and Pensions (DWP). Both types of payment are intended to help women take time off work both before and after the birth. It is not possible to receive both at the same time. A third form also exists, the Employment and Support Allowance.

Statutory Maternity Pay (SMP): Conditions/Characteristics: is a weekly payment, paid by the employer to his/her employees or former employees; they have to have been employed by

the employer prior to becoming pregnant and during their pregnancy. Qualifying conditions are based on the length of the employment with that employer and the amount she earns.

Amount: The amount of SMP received also depends on how much she earns. It represents 90% of the woman's weekly earnings paid during the first 6 weeks of maternity pay period and from week 6 to week 39, either £123.06 or 90% of her average weekly earnings, whichever is lower (since April 2009).

Benefits are paid by the employers who are entitled to recover 92% of the Statutory Maternity Pay they have paid.

Maternity Allowance (MA): Conditions/Characteristics: is a weekly payment, payable to women who have been employed or self-employed for some of the time during and before becoming pregnant; during that time, their earnings had to attain at least £30 a week.

Employment and Support Allowance: If a woman is not entitled to either SMP or MA, she may be able to obtain some Employment and Support Allowance instead.

- **Paternity leave benefits: Conditions:** 1) The employee has to have been working continuously for his employer for 26 weeks up to the 15th week the baby is due. 2) The employee has an average weekly earning at or above the Lower Earnings Limit for National Insurance purposes which applies at the end of the 15th week before the week the baby is due. 3) The employee must tell his employer of his intention to take paternity leave by the 15th week before the baby is expected and must give 28 days' notice of any change of date.

Normal paternity leave benefits: are payable for 1 or 2 weeks at fixed or earning-related weekly rates, which may prescribe different kinds of rates for different cases.

Amount: Benefits represent £123.06 or 90% of the average weekly earnings, whichever is less.

Benefits are paid by the employers, who are entitled to recover 92% of the Statutory Paternity Pay they have paid.

Additional paternity leave and pay: Conditions: To qualify for Additional Paternity Leave and Pay, 1) the employee must be the father of a child due on or after 3 April 2011; 2) his wife, partner or civil partner is pregnant and due to give birth to a child on or after 3 April 2011; 3) the employee and his partner receive notification that they have been matched with a child for adoption on or after 3 April 2011; 4) the spouse, civil partner or partner (including same-sex relationships) is adopting a child from overseas and the child enters Great Britain on or after 3 April 2011; 5) the mother or adopter must have started working again and any relevant payment must have stopped, with at least 2 weeks of the 39 week payment period remaining; 6) the employee must intend to care for the child during the Additional Statutory Paternity Pay period.

Moreover, the employee must: 1) be an employed earner (must work for someone who is liable to pay the employer's share of class one National Insurance contributions); 2) earn at least the lower earnings limit (LEL) for National Insurance contributions in force at the end of the qualifying week.

Additional Paternity Pay is only payable during the period of the partner's 39-week Maternity Allowance, Statutory Maternity or Statutory Adoption Pay period.

- **Parental leave benefits: Amount:** Unpaid leave (but the employee may get income support if s/he has a low income).
- **Adoption leave benefits: Scope:** In case of adoption, the scope is the same as for maternity and paternity pay related to the birth of a child.

Statutory Adoption Leave Pay: Conditions: 1) be an employee; 2) be newly matched with a child by an adoption agency ("matched" means that the adoption agency gives the details of the child they think is suitable); 3) have worked continuously for the current employer for at least 26 weeks before the beginning of the week when the match takes place; 4) give the employer the correct notice; 5) give the employer documentary proof showing the right to paid Statutory Adoption Leave; 6) The adoption agency must be recognized in the UK. Employees do not qualify for Statutory Adoption Leave or Pay if they arrange a private adoption; become a special guardian; adopt a stepchild, or have a child through surrogacy.

If adopting a relative from overseas, the employee must: be the child's adopter; have worked for the employer continuously for at least 26 weeks by the time the Statutory Adoption Leave begins; have received official notification confirming the central authority has, or is prepared to, issue a certificate confirming eligibility to adopt and have been assessed and approved as being a suitable adoptive parent.

Amount: 90% of the weekly earnings during the first 6 weeks and for the remaining period £128.73 (2011) or 90% of the average weekly earnings, whichever is lower.

Duration: 39 weeks (adoption leave is 52 weeks in total).

Medical benefits:

- An employee who is pregnant, and has, on the advice of a registered medical practitioner, midwife or health visitor, made an appointment to attend at any place for the purpose of receiving ante-natal care, is entitled to be permitted by her employer to take paid time off during the employee's working hours in order to enable her to keep the appointment.
- Pre-natal, childbirth and post-natal care are covered. Prescriptions and NHS dental treatment are free during pregnancy and for 12 months after having given birth. Children also get free prescriptions until they are 16 years. To claim free prescriptions, it is necessary to ask the doctor or midwife for a specific form that lasts for a year after the due date.
- Medical benefits are covered by the National Health System which depends upon payroll taxes.

Health protection:

- **Night work:** Where a certificate from a registered medical practitioner or a registered midwife shows that it is necessary for the health or safety of a new or expectant mother that she should not work at night for any period of such work identified in the certificate, the employer shall suspend her from work for so long as is necessary for her health or safety.
- **Overtime/Work on rest days:** Not prohibited.
- **Dangerous or unhealthy work: Risk assessment:** Where the persons working in an undertaking include women of child-bearing age and the work is of a kind which could involve risk, by reason of her condition, to the health and safety of a new or expectant mother or to that of the baby from any processes or working conditions, or physical, biological or chemical agents, the employer should make a suitable and sufficient assessment of risks involved. "New or expectant mother" means an employee who is pregnant, who has given birth within the previous 6 months, or who is breastfeeding.
- **Transfer:** Where, there is a risk involved to the health and safety of mother/child, the employer shall, if it is reasonable to do so, alter the employee's working conditions or hours of work. The employer must either remove the risk or remove the pregnant worker from being exposed to it. Offering the pregnant worker another suitable alternative work is one of the options. If it is not possible either to remove the risk or to transfer the pregnant worker, the employer should suspend the pregnant worker from work, on full pay. If the pregnant worker has been in her job for a month or more when she is suspended, she has the right to be paid for up to 26 weeks of suspension. The pay should be equal to a normal week's pay.

Non-discrimination/Job protection:

- **General:** The *Equality Act 2010* prohibits direct discrimination, discrimination in employment to hire or promote a person; pregnancy and maternity discrimination among other subjects.
- **Specific:** An employee who takes ordinary maternity leave is entitled, during the period of leave, to the benefit of all of the terms and conditions of employment which would have applied if she had not been absent, and is bound, during that period, by any obligations arising under those terms and conditions.
- **Dismissal:** An employee who is dismissed is to be regarded as unfairly dismissed if the employee took, or sought to take, maternity leave, paternity or adoption leave or when the employer believed that the employee was likely to take ordinary or additional adoption leave, or the employee failed to return after a period of additional adoption leave in a case where: 1)

the employer did not notify her/him, or otherwise, of the date on which that period would end, and s/he reasonably believed that the period had not ended; or 2) the employer gave her/him less than 28 days' notice of the date on which the period would end, and it was not reasonably practicable for her/him to return on that date.

An employee who is dismissed shall also be regarded for the purposes as unfairly dismissed if it is shown that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was connected with 1) the pregnancy of the employee; 2) the fact that the employee had given birth to a child; 3) the application of a relevant requirement, or a relevant recommendation; 4) the fact that she took, sought to take or availed herself of the benefits of, ordinary maternity leave; 5) the fact that she took additional maternity leave, parental leave, or time off.

- **Burden of proof:** If there are facts from which the court could decide, in the absence of any other explanation, that an employer contravened the provision concerning dismissal relating to maternity, the court must hold that the contravention occurred. This will not apply if the person shows that s/he did not contravene the provision.

- **Job guarantee:** An employee who returns to work after a period of *ordinary maternity leave, or a period of parental leave of 4 weeks or less*, which was an isolated period of leave, or the last of two or more consecutive periods of statutory leave which did not include any period of additional maternity leave or additional adoption leave, or a period of parental leave of more than 4 weeks, is entitled to return to the job in which she was employed before her absence.

An employee who returns to work after a period of *paternity leave, additional maternity leave, or a period of parental leave of more than 4 weeks*, whether or not preceded by another period of statutory leave, or a period of ordinary maternity leave, or a period of parental leave of 4 weeks or less, is entitled to return from leave to the job in which she was employed before her absence or, if it is not reasonably practicable for the employer to permit her to return to that job, to another job which is both suitable for her and appropriate for her to do in the circumstances.

An employee who takes *additional maternity leave or parental leave for a period of more than 4 weeks*, is entitled to return from leave to the job in which she was employed before her absence, or, if it is not reasonably practicable for the employer to permit her to return to that job, to another job which is both suitable for her and appropriate for her to do in the circumstances.

An employee who takes *parental leave for a period of 4 weeks or less immediately after additional maternity leave* is entitled to return from her leave to the job in which she was employed before her absence unless 1) it would not have been reasonably practicable for her to return to that job if she had returned at the end of her additional maternity leave period, and 2) it is not reasonably practicable for the employer to permit her to return to that job at the end of her period of parental leave. Otherwise, she is entitled to return to another job which is both suitable for her and appropriate for her to do in the circumstances.

Breastfeeding:

- **Breastfeeding breaks:** There are no legal restrictions concerning breastfeeding at work or any time limit for doing so.

The employee should provide her employer with written notification that she will be breastfeeding. It is advisable to do this before returning to work, so the employer can ensure returning to a healthy, safe and suitable environment.

- **Breastfeeding facilities:** The employer may provide a private, healthy and safe environment to express and store milk, although there is no legal requirement for them to do so. However, the employer is legally required to provide somewhere for pregnant and breastfeeding mothers to rest and, where necessary, this should include somewhere to lie down.

UZBEKISTAN

UZBEKISTAN HAS RATIFIED C103 (13.07.1992)

Name of Act:

- Labour Code of the Republic of Uzbekistan, 1995, amended 2008.

Scope:

- All women working in the territory of Uzbekistan.
- The entitlement to maternity leave also covers a father or tutor, grandmother, grandfather or other relatives who actually takes care of the child, in cases when the mother's care for the child is absent (for example in case of death or long stay in a medical establishment).

Maternity leave:

- **Length:** 126 calendar days (18 weeks): 70 days before (10 weeks) and 56 days (8 weeks) after childbirth.

Maternity leave shall be calculated cumulatively and shall be granted entirely irrespective of the number of days actually used before childbirth.

- **Extension:** In case of birth of *two or more children*, or a *birth with complications*, the post-natal period of maternity leave is extended to 70 calendar days (10 weeks, instead of 8).

Parental (Childcare) leave:

- **Scope:** On completion of maternity leave, women are granted childcare leave, which may be used entirely or partially by the child's father, grandmother and grandfather, or by another relative who actually takes care of the child. These leave provisions also apply in case of adoption or guardianship.
- **Length:** On completion of maternity leave women shall be granted childcare leave until the child reaches the age of 2 years with an allowance for this period. On her request, she shall also be granted a complementary leave without pay to care for the child until the age of 3 years.

Adoption leave:

- **Scope:** Persons who adopt newly born children directly from the maternity hospital or put them under their guardianship shall be granted leave.
- **Length:** Starting from the day of adoption (guardianship), up to completion of 56 calendar days (8 weeks). On adoption of two or more children, 70 calendar days (10 weeks).
On their request, adoptive parents (guardians) are also entitled to additional childcare leave until the child reaches the age of 3 years.

Part-time work:

- **Scope/Conditions:** Upon request, pregnant women, women with children of 14 years of age (16 for a disabled child), including children taken into custody, the employer shall allow part-time work.

This provision also applies to a father or tutor, grandmother, grandfather or other relatives who actually takes care of the child, in cases when the mother's care for the child is absent (for example in case of death or long stay in a medical establishment).

If requested, the mother or other person entitled to parental leave may continue to work on a part-time basis or at home upon agreement with the employer.

Cash benefits:

- **Maternity benefits:** Two forms of benefits: a Birth grant and Maternity allowances.
- **Birth Grant:** Upon birth of a child a lump sum allowance shall be paid.
- **Maternity Allowance:** **Scope:** all insured workers.
Amount: 100% of the wage.
Duration: Throughout the entire period of maternity leave and its extensions (18 weeks).
Benefits are paid by the State Social Insurance Scheme. Contributions to the Social Insurance Scheme shall be paid by employers as well as by insured workers themselves.
- **Parental leave benefits,** upon completion of maternity leave women/father, etc. are granted childcare leave and benefits.
Amount: Mothers caring for children younger than age 2 may receive monthly paid leave equal to 20% of the national minimum wage.

Benefits are paid by the State Social Insurance Scheme.

- **Adoption leave benefits:** are paid by the State Social Security Scheme but the amount is not specified.

Medical benefits:

- No mention.

Health protection:

- **Night work:** It shall not be permitted to engage pregnant women and women with children under the age of 14 years (for disabled children, 16 years) in night work without their consent. In the case of pregnant women and women with children under 3 years of age, a medical certificate confirming that such work is not a threat to the health of the mother and the child is necessary. These provisions are also applicable to a father or tutor, grandmother, grandfather or other relatives who actually takes care of the child, in cases when the mother's care for the child is absent.

- **Overtime:** It shall not be permitted to engage pregnant women and women with children under the age of 14 years (disabled children, 16 years) in overtime work without their consent. These provisions are also applicable to the person who actually takes care of the child, in cases when the mother's care for the child is absent.

Working time for women with children under the age of 3 years who work in budget-financed establishments and organizations shall not exceed 35 hours per week. The remuneration of these women shall be at the same level as remuneration of employees of appropriate categories working full time.

It shall not be permitted to engage pregnant women and women with children under the age of 14 years (for disabled children, 16 years) on weekends. This is also applicable to the person who cares for the child in cases when the mother is absent.

- **Dangerous or unhealthy work:** It is prohibited to engage women at workplaces with *harmful working conditions and on underground work* except in some cases (non-physical work or workers of sanitary and welfare services). The list of jobs with harmful working conditions is determined by the Ministry of Labour and Social Protection and the Ministry of Health after consultation with the Council of the Trade Union Federation and employers' representatives.

It shall be prohibited for women to *lift or handle loads* exceeding the maximum permissible norms for them.

In accordance with a medical certificate, *the rate of output and servicing requirements* shall be reduced for pregnant women; or they shall be transferred to lighter jobs or jobs excluding exposure to harmful production factors while maintaining their previous job's average monthly wage.

- **Transfer:** In case of the impossibility to perform the work listed above, women with children under the age of 2 years shall be transferred to lighter jobs excluding exposure to harmful production factors while maintaining the average monthly wage of her previous post. Pending the decisions whether to provide the women a lighter job or jobs excluding exposure to harmful production factors, the pregnant woman shall be released from work while maintaining her average monthly wage for all days missed due to this procedure.

Non-discrimination/Job protection:

- **General:** All citizens shall have equal opportunities in the enjoyment and exercising of labour rights. Introduction of any constraints or any advantages in labour rights on the basis of sex or other factors not relevant to the workers' professional qualities and the outcomes of their work shall not be tolerated and shall be qualified as discrimination.
- **Specific:** When refusing to hire a pregnant woman or a woman with a child under the age of 3 years, the employer must provide in writing the reasons for the refusal. Distinction at work, which is determined by the requirements inherent in a specific kind of work, or caused by special attention to the State of persons who are in need of increased social protection, shall not be deemed discrimination.
- **Dismissal:** Termination of the labour agreement of pregnant women and women with children under 3 years on the employer's initiative shall not be permitted except in cases of complete

liquidation of the enterprise when termination of a labour agreement is permitted with compulsory placement.

The placement shall be accomplished by the local labour body, which provides appropriate social pay specified by legislation. This compulsory placement shall be provided by the employer in cases of termination of a labour agreement due to its expiration. The women shall maintain their wage during the placement period, which should not however exceed 3 months from the date of expiration of a fixed term labour agreement.

These provisions are also applicable to a father or tutor, grandmother, grandfather or other relatives who actually take care of the child, in cases when the mother's care for the child is absent (for example in case of death or long stay in medical establishment).

Court measures: The person considering himself/herself to be discriminated against at work shall be entitled to go to court and appeal for the elimination of the discrimination as well as to compensation of the material loss and redress of the moral damage.

- **Job guarantee:** During childcare leave the job or post shall be retained for the woman.

Breastfeeding:

- **Breastfeeding breaks:** In addition to breaks for taking their own rest and meals, women with children under 2 years shall be granted complementary breaks to feed a child, at least every 3 hours, 30 minutes each. When there are two or more children under 2 years, the length of the break shall not be less than 1 hour.

Upon request of the woman the breaks to feed a child may be added to breaks for taking rest and meals or transferred either to the beginning or to the end of the working day (or shift).

Concrete length of these leaves and the way of their granting shall be established by collective agreement between the employer and trade union committee or other worker's representative's body.

The right to breaks for feeding a child also covers a father or tutor, grandmother, grandfather or other relatives who actually takes care of the child, in cases when the mother's care for the child is absent (for example in case of death or long stay in medical establishment).

No mention of payment of breastfeeding breaks.

UZBEKISTAN HAS RATIFIED C103 (13.07.1992)