



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Poland
Title:	Legislative change to regulations on childbirth related leaves
Date:	14 July 2015 2015
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<u>Context</u>	
Issue at stake:	Extension of the entitlement of fathers to child birth related leaves; In the case of self-employed persons changing the prerequisites to receive child related benefits
Ground of discrimination:	Sex
Source:	Legislation
Field:	Maternity leave; parental leave; self-employment
Applicable law:	Law of 15 May 2015 on the amendment of the Law on financial benefits from the social security insurance in case of sickness and maternity and some other laws (unified text, JoL 2014, Item 159)

Context

Law development:

The changes regarded three matters:

1) In case of the mother's death, if the mother abandons the child, or if the mother is unable to live independently or take care of the child; the insured father or other insured closest family member will be entitled to maternity benefits. This will be for the period from the beginning of the mother's inability to take the leave until the end of the maternity leave, additional maternity leave, or parental leave.

To be entitled to obtain such leaves, the father or other closest family member must have sickness insurance. In addition, the father or other closest family member must interrupt his or her employment in order to care for the child. (Article 20 Sections 4 and 5(b)).

2) Self-employed women will be entitled to receive maternity benefits amounting to 100 % of the declared amount of salary, , only when they have paid the obligatory sickness insurance for a minimum of 12 months prior to commencing maternity leave (Article 48(a) Section 1).

In other cases the maternity benefit will be calculated from the lowest amount of money that can, according to the law, be declared.

3) Similar changes in relation to maternity benefits have been introduced with regard to farmers, who are subjected to a separate social security regime (parliamentary document no. 3335). Due to their similarity to the changes described above, this change is only indicated and not fully elaborated here.

Key points of analysis:*First proposed change*

Currently, if a mother is not insured or does not die before being able to use her maternity leave, the father is not entitled to any childbirth related leave (except the generally unpaid childcare leave), even if he is insured and pays insurance premiums (as either an employee or self-employed person). The reason is that with respect to those leaves, the right of the father is currently strictly connected with the right of the mother. This situation has rightly been considered inappropriate.

Second proposed change

The proposed changes regarding self-employed persons aim to prevent situations where after a short one or two months period of paying high insurance premiums, women give birth and start receiving (respectively) high benefits during the period of maternity, additional maternity, and parental leaves.

Internet link sources:

All accessed 14 July 2015

<http://www.sejm.gov.pl/sejm7.nsf/PrzebiegProc.xsp?nr=2832>

<http://www.twoja-firma.abc.com.pl/czytaj/-/artykul/koniec-wysokich-zasilkow-dla-osob-prowadzacych-firme/print/>

<https://palestrapolska.wordpress.com/2014/05/02/zasilek-macierzynski-wybor-orzecznictwa>