



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

NEWS REPORT

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| Country: | Italy |
| Title: | The protection of motherhood and fatherhood |
| Date: | 2 October 2015 |
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| Update of flash report nr: | 15-IT-GE-Maternity and conciliation |
| <u>Context</u> | |
| Issue at stake: | Protection of motherhood and fatherhood, promotion of reconciliation measures, protection against gender violence |
| Ground of discrimination: | Sex |
| Source: | Legislation |
| Field: | Pregnancy and maternity; parental leave; self-employment; working conditions; |
| Applicable law: | Decree No. 80 of 15 June 2015, modifying Decree No. 151 of 26 March 2001 on the Protection of Motherhood and Fatherhood, published in OJ No. 96 of 26 April 2001 |

Content

Law development: Decree No. 80 of 15 June 2015 on the protection and conciliation of working, care and family life is one of the decrees implementing the Delegation Act No. 183/2014, which provides for a wide reform of the labour market.

The content of the draft Decree approved on 20 February 2015 has been fully confirmed, except for some minor changes and some issues concerning its financing.

Article 24 (on the introduction of some measures aimed at supporting the victims of gender violence) has been slightly modified. The period of paid leave of three months, which is awarded to working women who are victims of gender-based violence and are under a protection programme certified by local authorities, is not available to domestic workers. The allowance has been regulated in a similar way to the maternity allowance. It is paid by INPS (the National Social Welfare Institute), and is calculated on the amount of the beneficiary's last month of remuneration. Whether this leave is used daily or hourly will be regulated by either law or by a collective agreement, which shall be signed by the most representative trade unions at national level. The temporary conversion of the working relationship to which women are entitled is conditional upon the availability of such positions.

Another change regards the regulation of the hourly or daily use of the parental leave provided by the Decree, which applies in case collective agreements do not address this issue. Under the changes, the Decree is not enforceable to the workers of the defence department, the fire brigade, or the public rescue service.

An amendment has also been approved (new Article 22), which applies a criminal sanction to an employer if he or she infringes the right of an adoptive or foster mother employee to refrain from performing night-work. This right is also afforded (in the place of the mother) to the father living with the mother, until the third year the child entered the family on condition the child is not older than twelve.

Under Article 25, 10 % of the fund allocated to incentivise collective agreements at the enterprise level will be used for the promotion of conciliation measures in the period 2016-2018. The incentive and coordination of these measures will be managed by a selection of representatives of different Ministers who will have to guarantee their functioning by the resources previously available.

Article 25 on the promotion of measures of conciliation between family and working life will be enforceable after 2015. So will a number of other provisions, such as: - the right to not perform night-work; and
- for parents working as professionals: the right for the father to assume the mother's right to maternity allowance if she dies, falls seriously ill, or if the father is given official and exclusive custody of the child and the adoptive and foster mother's right to the maternity allowance.

The final text of the Decree confirms that a significant number of the other measures, for instance the extension of the period within which parents can benefit from parental leave, or the right to a period of leave for gender violence victims; will only be enforceable in 2015 as a trial. After the trials, it is expected that a number of further decrees will be issued to allocate appropriate funding.

A safeguard clause is also provided in Article 27 on Decree no. 80, which states that the financial effects of the Decree must be constantly monitored. If the cost starts to significantly exceed the amount mentioned above, a Decree of the Minister of Finance will be issued to recalculate the benefits provided by the Decree; following consultation with the Minister of Labour. The recalculation will apply especially with regard to Articles 7 to 10, which mainly concern the extension of the period within which parents can benefit from parental leave.

Key points of analysis: The recent amendments change neither the framework nor the content of the draft Decree approved on 20 February 2015. However, the introduced safeguard clause may reduce the advantages of the new Decree even in 2015.

This is the main problem of the Decree as on the whole it represents a positive step forward with regard to the strengthening of the protection of motherhood and fatherhood, most of all in the self-employment sector; and the promotion of conciliation measures.

Internet link sources:

Decree No. 80 of 15 June 2015 on the Protection of motherhood and fatherhood, promotion of reconciliation measures, and protection against gender violence, Official Journal No. 144 of 24 June 2015, o.s. No. 34, last accessed http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2015-06-24&atto.codiceRedazionale=15G00094&elenco30giorni=true, accessed 25 August 2015.