



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

### **NEWS REPORT**

<b>Country:</b>	Portugal
<b>Title:</b>	Maternity and reconciliation of family and working life identity
<b>Date:</b>	18 December 2015
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<b><u>Context</u></b>	
<b>Issue at stake:</b>	Change in the Labour Code and new legislation on maternity and reconciliation of family and working life
<b>Ground of discrimination:</b>	Sex
<b>Source:</b>	Legislation
<b>Field:</b>	Pregnancy and maternity
<b>Applicable law:</b>	Labour Code

### **Content**

**Law development:** The Labour Code (LC) was recently changed by Law No. 120/2015 of 1 September 2015, with regard to the share of maternity leave and the reconciliation of family and working life. The amendment provides for the possibility to take telework, part-time work, or other flexible working time arrangements. The LC now allows for both parents to enjoy a part of maternity leave simultaneously, and under certain conditions grants the parents the right to telework in order to promote the reconciliation of family and working life.

In addition, Law No. 133/2015 of 7 September 2015 reinforces the sanctions for the breach of maternity rights. This Law determines the amount of losses of public allowances or other public support imposed upon companies that have dismissed women on the grounds of pregnancy or maternity.

### **Key points of analysis:**

**I.** Due to a recent change introduced to the Labour Code by Law No. 120/2015 of 1 September 2015, it is now possible for parents that choose to take maternity leave for the period of 150 days to enjoy the last 30 days of the leave simultaneously (Article 40 No. 2 of the LC). In all other situations, the leave can be shared between the parents but is not to be taken at the same time. This is quite a novelty because until now the share of maternity leave was dependent on alternative periods of the leave enjoyed by each parent at his or her own accord.

Law No. 120/2015 of 1 September 2015 also changed the LC to introduce the legal right to telework for reconciliation purposes. In this sense, a worker with a child under the age of three has the right to change to telework if the professional activity performed is compatible with this form of work and the employer can provide the necessary means to make it possible (Article 166 No. 3 of the LC).

Aside from these schemes, the LC also now imposes some limitations to flexible working time arrangements on the ground of entrepreneurial reasons (such as adaptable working time and bank of hours), which may have a negative impact on reconciliation of family and working life (see the changes introduced by Law No. 120/2015 of 1 September 2015). From now on, flexible working time arrangements determined by collective agreements or by the internal regulation of the company cannot be imposed on workers with children under three years old without the specific and written consent of the working parent (Articles 206 No. 4 (b) and 208-B No. 3 (b) of the LC).

**II.** Aside from the Labour Code, a new piece of legislation was approved that reinforces the sanction system related to the breach of maternity rights. Under Law No. 133/2015, of 7 September 2015, companies that have been found guilty by the Court for having illegally dismissed pregnant workers, recent mothers or workers who are breastfeeding, cannot benefit from public allowances or other public support measures of any kind for a period of two years after the Court's judgment.

**Internet link source:**

[www.dre.pt](http://www.dre.pt), accessed on 7 September 2015.