



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

### NEWS REPORT

<b>Country:</b>	Austria
<b>Title:</b>	Final Act of Parliament for extensive amendments to maternity leave and parental leave regulations
<b>Date:</b>	3 March 2016
<b>Expert:</b>	Martina Thomasberger
<b><u>Context</u></b>	Legislation concerning maternity protection and parental leave amended
<b>Issue at stake:</b>	Parental leave and maternity leave, and work life balance
<b>Ground of discrimination:</b>	Sex
<b>Sources:</b>	Legislation
<b>Field:</b>	Parental leave; pregnancy and maternity; employment
<b>Applicable law:</b>	Maternity Protection Act ( <i>Mutterschutzgesetz, MSchG</i> ) and Paternal Leave Act ( <i>Väterkarenzgesetz, VKG</i> )

### Content

**Law development:** After a public review process and extensive parliamentary deliberations and revisions at the end of 2015, a legislative initiative for the amendment of parental leave regulations (Maternity Protection Act and Fathers' Parental Leave Act) of the Federal Ministry for Labour, Social Affairs and Consumer Protection was voted on in Parliament and went into effect on 1 January 2016. As the personal scope of the relevant Acts covers all workers and employees as well as civil servants and teachers, the amendments have a broad impact on the Austrian workforce.

**Key points of analysis:** Compared to the original legislative initiative, the amended legislation comprises additional improvements for the workforce.

Foster parents who take care of non-biological children without intent for adoption under the supervision of the competent child welfare authorities are to be included into the material scope of parental leave statutes in the same way as adoptive parents.

"Free contractual employees" (*freie Dienstnehmer/innen*) will under the new legislation be included into the scopes of maternity leave and protection against dismissal until four months after delivery; they will however still not be included into special occupational safety protections for pregnant women and they will not be granted parental leave.

Protection against dismissal in the Maternity Protection Act will be extended women who suffer miscarriages (which are defined as still births of foetuses under 500 g of weight) for four weeks.

The legal change with the broadest impact on the workforce is the adaptation of parental part time work. For children born from 1 January 2016 onwards, the admissible reduction of working time has to amount to at least 20 % of working hours according to labour law

or applicable collective agreement (in general between 37 and 42 hours per week) or of the contractual working time in cases of part time work and at least 12 hours per week. Applications to the employer for parental part time work that vary from this framework can be agreed upon by both employer and employee but cannot be subject of the formal legal procedure requirements that can result in a court decision. There are however no changes to the possibilities for legally changing working time arrangements (e.g. the beginning and end of daily work) without working time reductions.

The parliamentary motions of resolution added two further amendments: It is now legally defined that in a female same sex partnership the partner who is not the birth mother may take parental leave under the rules of the Fathers' Parental leave Act. Additionally a part of historical legislation concerning continued pay during maternity leave periods, that had brought about some disarray concerning mandatory maternity leave benefits for younger children, was voided.

**Internet link source:**

Stakeholders' reviews:

[http://www.parlament.gv.at/PAKT/VHG/XXV/ME/ME\\_00167/index.shtml](http://www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00167/index.shtml), accessed 26 February 2016.

Federal Law Bulletin:

[https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2015\\_I\\_149/BGBLA\\_2015\\_I\\_149.pdf](https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2015_I_149/BGBLA_2015_I_149.pdf), accessed 26 February 2016.