



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

### NEWS REPORT

<b>Country:</b>	Belgium
<b>Title:</b>	Amendments to adoption leave
<b>Date:</b>	23 October 2018
<b>Expert:</b>	Jean Jacquemain
<b>Issue at stake:</b>	Different levels of benefit for maternity and adoption leave
<b>Ground of discrimination:</b>	Sex
<b>Source:</b>	Legislation
<b>Field:</b>	Labour law
<b>Applicable law:</b>	Federal Act of 6 September 2018.

### Content

**Legislative development:** Under Article 30<sup>ter</sup> of the Employment Contracts Act of 3 July 1978, any employee who adopts a child is entitled to a leave of six weeks if the child is under three years old, and four weeks if the child has reached the age of three and is less than eight years old. The Act of 6 September 2018 considerably improved these provisions, as from 1 January 2019:

- the basic duration of the leave is now six weeks for any adopting employee, whatever the child's age provided he/she is a minor (under 18);
- to this basic duration of six or six + six (in the case of an adopting couple) weeks is added a supplement of one week as from 1 January 2019, itself increasing by one week every two years to reach a total of five weeks as from 1 January 2027; this supplement is to be shared between the two members of the couple, when applicable;
- another supplement of two weeks for every parent is added in case of simultaneous adoption of more than one child.

During the leave, no remuneration is paid by employers after the first three days, but the Healthcare and Sickness Insurance Scheme provides a benefit equal to 82 % of normal remuneration under a ceiling of EUR 101.79 per day as from 1 January 2018.

**Key points of analysis:** The generous reform summed up above however results in this surprising effect that as from 1 January 2019, adoptive parents will be better treated than employees who are pregnant or have given birth. Indeed, maternity leave (of 15 weeks, which may be extended up to 20 weeks under certain circumstances) gives right to a social benefit equal to 82 % of normal remuneration (without ceiling) during the first 30 days and 75 % (with the ceiling mentioned above) during the remainder of the leave.

The Council of Equal Opportunity for Men and Women, an advisory body with the federal government, which in repeated opinions recommended that the rate of 82 % be maintained during the whole maternity leave, immediately questioned the competent minister about such a difference of treatment.

**Internet link source:** Federal Act of 6 September 2018, published in *Moniteur belge/Belgisch Staatsblad* of 26 September 2018 at <http://www.juridat.be> in French and Dutch.