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FLASH REPORT

Country:	Belgium
Title:	New paternity and childbirth leave rights for self-employed workers
Date:	14 February 2020
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<u>Context</u>	
Issue at stake:	Paternity and co-parent childbirth leave
Grounds of discrimination:	Gender
Field of application:	Self-employment
Source:	Legislation
Applicable law:	Federal Act of 7 April 2019 and Royal Decree of 15 December 2019

Content

Law development: Until now, 'birth leave' (previously called paternity leave) was only available for employees of the private sector and public servants. A new Royal Decree of 15 December 2019 is now providing such rights to self-employed fathers or co-parents (and helper spouses).

The duration of the leave is ten days or twenty-half days which may be used as the self-employed or helper spouse pleases within four months after the birth. Some conditions apply, in particular, that a similar leave has not been granted to the father or co-parent under another scheme (for employees or public servants).

The benefit allowed to the father or co-parent is identical to the daily amount perceived by a self-employed mother during her maternity leave, EUR 81,63 per day or EUR 40,81 per half-day. An extra allocation of EUR 135 is available to the father or co-parent that is taking a maximum of 8 days' of leave.

Key points of analysis: This law concurs with the European objective of permitting a stronger involvement of the father in the tasks and responsibilities resulting from the birth of a child. The evolution in civil law which recognise same-sex union is reflected in this law by giving such rights to the father or co-parent of the mother. This avoids gender discrimination against the female spouse or life partner of the mother.

This new birth leave is optional as is maternity leave itself for self-employed workers and helper spouses.

An extra support is granted through an amount of EUR 135 for the payment of household services. This extra allocation is open to the father or co-parent using only 8 days of leave.

This new Act goes beyond the obligation of providing 10 days 'paternity leave' deriving from Directive 2019/1158/EU which is only applicable to workers in paid employment.

Internet link source: Act of 7 April 2019 accessible at
<http://www.ejustice.just.fgov.be/eli/loi/2019/04/07/2019012182/justel>.
Royal Decree of 15 December 2019, accessible at
<http://www.ejustice.just.fgov.be/eli/arrete/2019/12/15/2019206010/justel>.