

New 'daddy month' strengthens paternal bonding early on

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Current legal framework Daddy month Comment

Parliament recently passed a new law that grants fathers a legal entitlement to one month off work following the birth of their child. Dubbed the 'daddy month' by the media, this entitlement seeks to fill a gap that puts fathers at a disadvantage when it comes to childcare immediately following the birth of their child.

Current legal framework

Austrian law affords parents a wide variety of rights that can be seamlessly tied to one another and aim to support child-rearing and provide fulfilment to young parents, while at the same time safeguarding the mother's health and wellbeing during pregnancy.

For example, pregnant employees are afforded special protection against dismissal; a unilateral termination by employer would require prior court approval, which is hardly ever granted. During the maternity protection period, which lasts from at least eight weeks before childbirth (or even longer if required for medical reasons) until at least eight weeks after delivery (12 weeks in case of a Caesarean section), expectant mothers:

- must not perform any work;
- are supposed to stay at home; and
- will be paid by the national healthcare provider.

Once that protective period has lapsed, mothers are entitled to request maternity leave up until the second birthday of their child. Fathers living in the same household as the mother and their child can also request paternity leave but, in principle, this is interchangeable with their partner's maternity leave and can be taken only after the maternity leave has lapsed.

Once the two-year period of parental leave has expired, mothers and fathers living in the same household as their child can request parental part-time employment. This means that, subject only to the employer's inability to carry out such a request, their new working hours must be at least 12 hours per week up to a maximum of 80% of the previous work week.

Both parents can make such a request and if the company's total staff exceeds 20 employees, the parents are legally entitled to parental part-time employment. For companies with fewer than 20 employees, parents must negotiate a suitable working schedule with their employer, subject to a strict procedural calendar. Without an agreement, employees can force their proposed working hours on their employer by taking the case to the Labour Court, which will decide their future working hours. Since such a decision would be unappealable, the entire process usually ends with a settlement, moderated by the judge, which favours employees' care responsibilities over employers' business interests.

Employees who are either on parental leave or employed under a parental part-time model are also afforded special protection against dismissal (prior court approval). Unless employers were to wind down and liquidate their business, such a court approval will rarely be granted. The special protection against dismissal ends when the child turns four, but even then, parents can challenge a termination based on a claim that they were terminated for no reason other than their making use of parental-part time employment. This legal recourse is available until the child turns seven.

Daddy month

This comparably family friendly legal framework has now been supplemented by yet another legal

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entitlement that is meant to fill a void in childcare responsibilities, allowing fathers to establish a strong father-child relationship early in their newborn's life.

Under the new law, fathers can request leave for one month following the birth of their child if they are living in the same household as the mother. All that is requested from the father is to notify their employer at least three months in advance, stating the prospective date of delivery. Within one week after the child's birth, the employee can then specify the actual start date of their daddy month.

The daddy month also triggers a special protection against dismissal, which starts four months prior to the estimated date of childbirth (or a later notification by the father) and ends four weeks after the daddy month.

The good news for employers is that they need not pay fathers who are on a daddy month. A newly introduced 'family time bonus', which is a tax relief earning parents up to €1,500 per child and year, will compensate for at least a portion of the income loss.

Comment

The daddy month somewhat closes a reverse gender gap. While parental leave and part-time employment were essentially aligned between mothers and fathers, post-natal childcare was left to mothers because fathers had no right to request employment leave before the end of the maternity protection period, depriving them of the possibility to develop a similarly strong bond with their newborn early on. At the same time, the daddy month also relieves mothers of the often stressful weeks following childbirth and therefore also supports a healthy family life. The three-month pre-notification period should allow employers to plan ahead and mitigate any detrimental impact on their business.

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