



ANALÝZA

„PRÁVNÍ ÚPRAVA MATEŘSKÉ A RODIČOVSKÉ DOVOLENÉ VE VYBRANÝCH ČLENSKÝCH ZEMÍCH“

PŘÍLOHA Č. 2

320a písm. a) – činnosti podporující vzájemná jednání sociálních partnerů na celostátní nebo krajské úrovni, která se týkají důležitých zájmů zaměstnavatelů a zaměstnanců v roce 2023 na aktuální témata – Analýza legislativního ukotvení duálního vzdělávání v ČR, Dynamika mezd během recese – Jak se liší recese COVID-19 od minulých ekonomických krizí?, Možnosti konsolidace makroekonomické situace ČR po pandemii koronaviru, Právní úprava mateřské a rodičovské dovolené ve vybraných členských zemích, Analýza dopadů vystoupení Spojeného království Velké Británie a Severního Irsku z EU (brexit) na export a dodavatelské řetězce českých firem, vliv brexitu na zaměstnanost další nepřímé dopady

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Questionnaire for national experts

Country: Belgium

Name, affiliation and contact of the national expert:

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Under supervision of prof. Frank Hendrickx

1. Legislation on maternity, paternity and parental leave

Please, generally describe (with references to legal sources) your national legislation on maternity leave, paternity leave and parental leave.

Provide a legal definition of:

- maternity leave,
- paternity leave and
- parental leave

according to your national legislation.

If your national legislation distinguishes between time off and social security during it, please explain, with references to legal sources.

Maternity leave in Belgium is regulated by article 39 of the Labour Act (“Arbeidswet” of 16 March 1971). This instrument refers to the entitlement to time off, the allowance during this period is regulated by the rules on social security and paid by the health insurance fund (Article 113 of the Coordinated law of 14 July 1994 on compulsory insurance for medical care and benefits)

Paternity leave in Belgium is called ‘birth leave’ and is regulated in article 30, §2 of the Labour Contract Act (Act of 3 July 1978 on labour contracts). The allowance during the paternity leave is regulated in the restoration law of 22 January 1985 on social provisions and the Royal Decree of 2 January 1991 on the granting of interruption benefits and the Coordinated law of 14 July 1994 on compulsory insurance for medical care and benefits.

Parental leave is regulated in Collective Bargaining Agreement no. 64 of 29 of April 1997 and the Royal Decree of 29 October 1997 introducing a right to parental leave in the context of a career break. The allowance during the leave is regulated in the restoration law of 22 January 1985 on social provisions and the Royal Decree of 2 January 1991 on the granting of interruption benefits and Royal Decree of 12 December 2001 implementing chapter IV of the law of 10 August 2001 on reconciliation of employment and quality of life regarding the system of time credit, career reduction and reduction of work performance to a part-time job.

None of the instruments above provides a legal definition of any sort of leave.

2. Time-off

Please, answer the questions in the following table. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

TIME OFF	
Question	Your answer with reference(s) to legal source
A. Maternity leave	
<p>1. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The right to maternity leave is not subject to specific conditions with regard to the contract of the mother. The mother has to inform the employer by means of a medical certificate of her expected delivery date. (art. 39.1 Labour Act)</p> <p>In case the mother gives birth to a lifeless child, she will have the right to maternity leave if the pregnancy lasted at least 180 days (counting from the conception) (art. 39.2 Labour Act)</p>
<p>1.1. Please indicate whether the right to time off also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>No specific rules on this specific case. The right to time off will apply.</p>
<p>1.2. Please indicate whether employees working in flexible forms of work (<i>on-call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to maternity leave applies to all employees regardless of their working conditions.</p>
<p>1.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory</i></p>	<p>The rules on maternity leave are applicable to all workers in the private and public sector.</p>

<p><i>body of a business corporation, etc.)</i> are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Self-employed mothers have a right to maternal leave</p> <ul style="list-style-type: none"> - if they meet the same conditions as those for benefits in the context of incapacity for work (disability) - if they completely stop all activities during the weeks in which they opt for complete maternity leave - during the weeks they opt for part-time maternity leave: they only can perform the normal professional activities as a self-employed person on a maximum of half-time basis and not carry out any other professional activity. -
<p>2. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>In case the mother is hospitalised or deceased the periods of maternity leave that are not used can be transferred to the person (s)who has the right to birth leave for this child on their request. (art. 39.6 Labour Act)</p>
<p>2.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>2.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>2.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>3. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>The total duration of the time off is 15 weeks. (For mothers who are expecting multiple births it is 17 weeks, with the possibility to extend to 19 weeks.)</p> <p>The maternity leave is composed of two periods:</p> <ul style="list-style-type: none"> - The prenatal leave - The postnatal leave <p>The expecting mother cannot work in the 7 days before the expected delivery date and at least 9</p>

	weeks after the birth. The remaining weeks can be taken up before or after the birth, starting 6 weeks before the expected delivery date at the earliest. (art. 39.1-3 Labour Act)
3.1. Indicate the differences for persons according to point 1.1.	/
3.2. Indicate the differences for persons according to point 1.2.	/
3.3. Indicate the differences for persons according to point 1.3.	<p>The maternity leave of self-employed persons consists of a obligatory part and a non-obligatory part. The obligatory part consists of 3 weeks in which all activities must be suspended (1 week prenatal and 2 weeks postnatal). The non-obligatory part consists of 9 weeks (or 10 in the case of a multiple birth).</p> <p>Self-employed persons can take time-off in a half-time form (one week of non-obligatory full rest equals two weeks of part-time rest).</p>
<p>4. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify legal conditions.</p>	<p>The mother has to inform the employer by means of a medical certificate of her expected delivery date. (art. 39.1 Labour Act)</p> <p>There are no other formalities regarding the entitlement of time off. The employer does not have the possibility to refuse.</p>
4.1. Indicate the differences for persons according to point 1.1.	/
4.2. Indicate the differences for persons according to point 1.2.	/

<p>4.3. Indicate the differences for persons according to point 1.3.</p>	<p>Self-employed persons need to</p> <ul style="list-style-type: none"> - Complete an application form (available from the health insurance fund) with the following information: the expected delivery date; possibly the statement that a multiple birth is expected; the number of weeks of optional rest they want to take and the exact periods in which they want to take it - After they have submitted the application to the health insurance fund, they can, if necessary, still change the number of weeks of optional rest that you want to take and/or also the period in which you want to take it. However, they must inform your health insurance fund in advance. - Enclose with the application: a medical certificate stating the expected date of delivery; and whether multiple births are expected. - After the birth of the child, they must provide the health insurance fund with an extract from the birth certificate or a medical certificate confirming the birth
<p>5. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify legal conditions.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a</p>	<p>The employee who gives birth will, under certain conditions, be able to convert the last two weeks of her maternity leave into days of postnatal rest. These days must be taken within a period of eight weeks counting from the end of the uninterrupted period of postnatal rest. The conversion is only possible if the maternity leave can be extended by at least two weeks after the mandatory nine weeks of postnatal leave (for example, two weeks of antenatal leave that were not taken before childbirth). (art. 39.3 Labour Act)</p> <p>The employee decides when she will take these days off. The planning of these days must be done in function of her timetable. She must inform her employer of this planning at least four weeks before the end of the compulsory postnatal leave.</p>

<p>child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p>	
<p>5.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>5.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>5.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>6. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify legal conditions.</p>	<p>The expecting mother cannot work in the 7 days before the expected delivery date and at least 9 weeks after the birth. Before the end of this period it is not possible to prematurely terminate the leave. (art. 39.1-3 Labour Act)</p> <p>The remaining weeks of maternity leave will be lost and cannot be taken up afterwards.</p> <p>There is no indication that the employer can refuse earlier return.</p>
<p>6.1. Indicate the differences for persons according to point 1.1.</p>	/

<p>6.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>6.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>7. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please, specify legal conditions.</p>	<p>Extensions need to take place right after the originally announced period.</p> <p>The obligated period of postnatal leave can be extended by the period of optional prenatal leave which was not used before the birth. If the child is born prematurely - i.e. before or during the period of seven days before the expected date of delivery - this period must always be reduced by the number of days on which the employee nevertheless worked during the period of seven days before the delivery. These are the seven days of compulsory rest that she did not (fully) take because the child was born earlier than the planned date. This means that a total of a maximum of five weeks (seven weeks if multiple pregnancies are expected) can be transferred. (art 39.3 Labour Act)</p> <p>If the newborn child has to remain in the hospital after the first seven days counting from birth, the postnatal leave can be extended at the employee's request for a period equal to the period that her child is in hospital after those first seven days. remains in the nursing home. The duration of such extension(s) may not exceed twenty-four weeks. To obtain this extension, the employee must provide her employer with a certificate from the nursing home at the end of the period of postnatal leave, showing that the newborn child has remained in the nursing home after the first seven days from birth and stating the duration of the recording.</p> <p>If the child is still admitted to the nursing home at the end of the extension resulting from the first certificate, a new certificate must be submitted to the employer showing that the child has not yet left the nursing home and stating the duration of the recording is listed. The employee must also provide her insurance institution with a certificate from the</p>

	nursing home attesting to the duration of the admission to the nursing home. (art. 39.4 Labour Act)
7.1. Indicate the differences for persons according to point 1.1.	/
7.2. Indicate the differences for persons according to point 1.2.	/
7.3. Indicate the differences for persons according to point 1.3.	For self-employed persons the maternity leave can be extended if the newborn child has to remain in the hospital after the first seven days counting from birth, the leave can be extended at the mother's request for a period equal to the period that her child is in hospital after those first seven days. This extension can also be taken up in the form of part-time leave.
8. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.	No specific rules apply when returning to the workplace except for the rules on breaks for breastfeeding. Collective bargaining agreement no. 80 grants the employee the right to suspend her work for a limited period of time during the working day in order to feed her child with breast milk or to express milk. This right can be exercised up to nine months after the birth of the child.
8.1. Indicate the differences for persons according to point 1.1.	/
8.2. Indicate the differences for persons according to point 1.2.	/

TIME OFF

B. Paternity leave	
<p>9. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>There are no conditions for the entitlement of the leave related to the employment relationship. However it is necessary that the parentage of the employee is established on his side with regard to the child, for him to enjoy the right to birth leave. (art. 30, §2.1 Labour Contract Act)</p> <p>The same right accrues to the employee who, at the time of birth cohabits legally with the person with regard to whom the parentage is established and with whom the child has his/her principal residence, and who is not connected by a blood relationship or to the employee who has cohabited permanently and affectionately for an uninterrupted period of three years prior to the birth with the person in respect of whom the parentage is established and with whom the child has its principal residence, and who is not connected by a bond of blood relationship. (art. 30, §2.3 Labour Contract Act).</p>
<p>9.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>There are no specific rules for this case.</p>
<p>9.2. Please indicate whether employees working through flexible forms of work <i>(on call work, telework, platform work etc.)</i> are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Employees working through flexible forms of work are also entitled to time off. The same conditions apply.</p>
<p>9.3. Indicate whether persons performing a function in a legal entity outside an employment relationship <i>(e.g. a statutory</i></p>	<p>The rules on 'birth leave' are applicable to employees and civil servants with an employee status. Statutorily appointed civil servants,</p>

<p><i>body of a business corporation, etc.)</i> are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>volunteers and self-employed persons are also entitled to time off under similar conditions.</p>
<p>10. If the entitlement to time off is transferable to other person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The entitlement is not transferable.</p>
<p>10.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>10.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>10.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>11. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>The employee is entitled to 15 days of birth leave and 20 days if the child is born after the 1st of January 2023.</p> <p>There is no entitlement to take the time off in a part-time form.</p>
<p>11.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>11.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>

<p>11.3. Indicate the differences for persons according to point 1.3.</p>	<p>For self-employed persons there is the entitlement to take up the leave in part-time form (half days).</p>
<p>12. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>The days of birth leave may be freely chosen by the employee within four months from the day of the birth. They do not necessarily have to be taken in one go, but can be spread over the period of four months from the delivery, at the employee's option. The day of delivery is the first day of that four-month period. (art. 30, §2.1 Labour Contract Act)</p> <p>The employee who wants to use his/her birth leave needs to inform the employer. This notification can happen orally or in writing. (art. 30, §3/1 Labour Contract Act).</p> <p>The law does not foresee a possibility for the employer to refuse.</p>
<p>12.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>12.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>12.3. Indicate the differences for persons according to point 1.3.</p>	<p>For self-employed persons the following conditions apply:</p> <ul style="list-style-type: none"> - Being self-employed in main occupation or in secondary occupation and pay the same amount of provisional social security contributions as a self-employed person in main occupation or after the retirement age without a pension or only with the unconditional pension and you pay the same amount of provisional social security contributions as a self-employed person in main occupation - the self-employed person has paid his/her social contributions for the two quarters preceding the quarter of the birth (or was an employee or civil servant in those quarters)

	<ul style="list-style-type: none"> - become father or co-parent - not entitled to paternity and birth leave based on an activity as civil servant or employee - complete interruption of professional activity for a few days in a period of four months after the birth.
<p>13. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify the legal conditions.</p>	<p>The days of birth leave may be freely chosen by the employee within four months from the day of the birth. They do not necessarily have to be taken in one go, but can be spread over the period of four months from the delivery, at the employee's option. There are no specific conditions, rules or consequences related to this right.</p>
<p>13.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>13.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>13.3. Indicate the differences for persons according to point 1.3.</p>	/

<p>14. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off providing time off? If so, please, specify the legal conditions.</p>	<p>Taking birth leave is optional. There is no obligation to take time off for birth leave. Therefore, the drawing can always be ended prematurely.</p>
<p>14.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>14.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>14.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>15. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p>	<p>There is no possible extension of the birth leave. Even in the case of a multiple birth the amount of days of birth leave remains the same.</p>

<p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	
<p>15.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>15.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>15.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>16. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>There are no specific rules applicable to the employee who returns to work.</p>
<p>16.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>16.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>16.3. Indicate the differences for persons according to point 1.3.</p>	/

TIME OFF	
C. Parental leave	
<p>17. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The right to parental leaves applies until the child becomes 8 years old. (art. 4 CBA no. 64)</p> <p>In order to be entitled the employee must during the 15 months preceding written notification have been linked by an employment contract for 12 months with the employer who employs him. (art. 6 CBA no. 64).</p>
<p>17.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>There are no specific rules applicable in this case.</p>
<p>17.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules for employees working through flexible forms of work. The general rules apply.</p>
<p>17.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a</i></p>	<p>Self-employed persons are not entitled to parental leave.</p>

<p><i>statutory body of a business corporation, etc.)</i> are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>18. If the entitlement to time off is transferable to another person, please, identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The right to parental leave constitutes an individual right that cannot be transferred. (comment art. 1 CBA no. 64)</p>
<p>18.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>18.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>18.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>19. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>The period of parental leave is 4 months. (art. 1 CBA no. 64). During this period it is possible to fully suspend the contract, or to exercise the right to parental leave by way of a partial reduction of the work performance. (art. 7 CBA no. 64)</p> <p>There are no specific rules for employees who performed the work a shorter time before taking the leave.</p>
<p>19.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>19.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>

19.3. Indicate the differences for persons according to point 1.3.	/
<p>20. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>An employee who wishes to make use of the right to parental leave must inform his employer in writing 3 months in advance. (this period can be shortened in consultation between the parties). The notification is made by registered letter or by handing over a document, the duplicate of which is signed for receipt by the employer. The writing contains in addition to the employee's proposal with regard to the manner in which the right is exercised, including the start and end date of the leave. (art. 9 CBA no. 64)</p> <p>The employer can, within one month of the written notification made in accordance with the formalities above, postpone the exercise of the right to parental leave for justified reasons related to the functioning of the company. (art. 11, §1 CBA no. 64)</p>
20.1. Indicate the differences for persons according to point 1.1.	/
20.2. Indicate the differences for persons according to point 1.2.	/
20.3. Indicate the differences for persons according to point 1.3.	/
<p>21. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another</i></p>	<p>The period of four months can be split in whole or in part into periods of one week or a multiple thereof, subject to the employer's approval. In the case of a division into weeks, account must be taken of the principle that four months' suspension of the performance of the employment contract is equal to sixteen weeks' suspension of the</p>

<p><i>person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of time off? If so, please, specify the legal conditions.</p>	<p>performance of the employment contract. (Art. 2/1, §1 Royal Decree 29 October 1997)</p> <p>The employer can refuse the uptake of the leave according to the forementioned system. In that case the employer needs to confer his motivated decision in writing. (Art. 2/2 Royal Decree 29 October 1997)</p>
<p>21.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>21.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>21.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>22. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5</p>	<p>There are no specific rules on the possibility to prematurely end the parental leave.</p>

<p>- characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify the legal conditions.</p>	
<p>22.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>22.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>22.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>23. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>There are no specific rules on the possibility of extending parental leave.</p>

<p>23.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>23.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>23.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>24. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>At the end of the parental leave, the employee has the right to return to his old position or, if this is not possible, in an equivalent or comparable position that is in accordance with his labor contract. (art. 14, §1 CBA no. 64)</p> <p>The employee has the right to request an adapted work arrangement or work schedule for the period following the end of the parental leave. That period is a maximum of 6 months. (art. 14, §2 CBA no. 64)</p> <p>To this end, the employee submits a written request to the employer at the latest 3 weeks before the end of the current period of parental leave. The employee gives the reasons in the application related to a better combination of work and family life. (art. 14, §3 CBA no. 64)</p> <p>The employer assesses this request and responds to it in writing at the latest one week before the end of the current period of parental leave, taking into account his own needs and the needs of the employee. In that document, the employer will state how he will make the assessment of the application has taken into account its own needs and the needs of the employee. (art. 14, §4 CBA no. 64)</p>
<p>24.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>24.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>

3. Social security during the leave

Please, answer the questions in the following tables. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

SOCIAL SECURITY	
A. Maternity leave	
<p>25. Is the employer obliged to provide any benefit or compensation to the employee on maternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The employer does not provide benefits or compensations to the employee on maternity leave and does not pay out the salary in this period.</p>
<p>25.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>/</p>
<p>25.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>/</p>

<p>25.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	/
<p>26. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	/
<p>26.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>26.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>26.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>27. Indicate the amount of the benefit/compensation.</p>	/
<p>27.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>27.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>27.3. Indicate the differences for persons according to point 1.3.</p>	/

<p>28. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	/
<p>28.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>28.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>28.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>29. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	/
<p>29.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>29.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>29.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>30. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p>	/

<p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	
<p>30.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>30.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>30.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>31. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	/
<p>32. Indicate what is the impact of the rules for social security system, if any.</p>	/
<p>33. Which benefit(s) are envisaged for persons on maternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The employee on maternity leave receives a replacement income from the National Institute for Health and Disability.</p> <p>Employees are only entitled to this benefit if:</p> <ul style="list-style-type: none"> - They have completed a waiting period of 6 months, and - (for a full-time employee) if they have worked 120 days during these 6 months (a number of 'special' days count as days workers such as annual leave) <p>They must also have paid sufficient social security contributions.</p>

	(Article 113 and 116/1 of the Coordinated law of 14 July 1994 on compulsory insurance for medical care and benefits)
<p>33.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	There are no specific rules for this case.
<p>33.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	There are no specific rules for these workers. The regular rules apply.
<p>33.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Self-employed persons receive a flat rated amount of benefit from the National Institute for health and Disability Insurance.</p> <p>During the first four weeks the mother receives a higher amount than during the remaining period of the leave.</p>
<p>34. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p>	In the case that the maternity leave (time off) can be transferred to the other parent of the child (hospitalisation or death of the mother, see above for the conditions) the other parent may receive the benefit linked to the leave. (Article 114.7 of the Coordinated law of 14 July 1994 on compulsory insurance for medical care and benefits)

<p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>In case of hospitalisation: The other parent will receive a benefit that corresponds to 60% of his gross salary (limited to the salary threshold) if he is an employee.</p> <p>In case of death: The parent of the child receives the converted maternity leave benefit at the percentage to which the mother is entitled, but the calculation is based on this person's gross salary. (Article 3 Royal Decree 17/10/94 on the conversion of maternity leave into paternity leave in the event of the death or hospitalization of the mother and Articles 221 and 222 Royal Decree 3/7/96 concerning medical care and benefits)</p> <p>In light of the EU Directives only the terminology regarding the transferability has changed (to include other co-parents in addition to fathers), but the benefits and transferability remain unchanged.</p>
<p>34.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>34.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>34.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>35. Indicate the amount of the benefit and the method of calculation.</p>	<p>During the first 30 days of the maternity leave: 82% of the gross salary (the gross daily salary of the last day of the 2nd calendar quarter preceding that in which maternity leave occurs or the last gross daily salary)</p> <p>From the 31st day of the leave: 75% of the gross salary capped at the salary limit (the gross daily salary of the last day of the 2nd calendar quarter preceding that in which maternity leave occurs or the last gross daily salary)</p>
<p>35.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>

35.2. Indicate the differences for persons according to point 1.2.	/
35.3. Indicate the differences for persons according to point 1.3.	For the year 2023 the flat rated weekly amount for self-employed persons is 830,67 euro for the first four weeks and 759,76 euros for the following weeks.
<p>36. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>In order to receive the benefit, the employee must: Send the health insurance fund:</p> <ul style="list-style-type: none"> - a medical certificate stating the planned date of your delivery - the date on which you want to start your maternity leave - the statement that a multiple birth is expected if you want to enjoy the 4 extra weeks of maternity leave for a multiple birth. <p>In addition the employee must stop working or interrupt controlled unemployment from the date on which the maternity leave starts and provide the health insurance fund with an extract from the birth certificate or a medical certificate confirming the birth as soon as possible. The health insurance fund will determine the end of the maternity leave on the basis of this extract/certificate.</p>
36.1. Indicate the differences for persons according to point 1.1.	/
36.2. Indicate the differences for persons according to point 1.2.	/
36.3. Indicate the differences for persons according to point 1.3.	Self-employed persons need to complete an application form (available from the health insurance fund) with the following information: the expected delivery date; possibly the statement that a multiple birth is expected; the number of

	<p>weeks of optional rest they want to take and the exact periods in which they want to take it.</p> <p>After having submitted the application to the health insurance fund, they can, if necessary, still change the number of weeks of optional rest that they want to take and/or also the period in which they want to take it. However, they must inform the health insurance fund in advance.</p> <p>Enclose with the application: a medical certificate stating the expected date of delivery and whether multiple births are expected.</p> <p>After the birth of the child, they must provide the health insurance fund with an extract from the birth certificate or a medical certificate confirming the birth.</p>
<p>37. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The mother will only receive the benefit if she has interrupted all employment. (article 115.1 of the Coordinated law of 14 July 1994 on compulsory insurance for medical care and benefits)</p>
<p>37.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>37.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>37.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>38. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	

<p>38.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>38.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>39. Are there any other legal instruments aimed at social security of a person on maternity leave?</p> <p>If so, please, specify.</p>	/
<p>SOCIAL SECURITY</p>	
<p>B. Paternity leave</p>	
<p>40. Is the employer obliged to provide any benefit or compensation to the employee on paternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>During the first 3 days of the birth leave, the employee receives his full salary payable by the employer. During the other days of the leave the employee receives another benefit from the health insurance funds.</p>
<p>40.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>There are no specific rules for this case.</p>

<p>40.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules for these workers. The regular rules apply.</p>
<p>40.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Self-employed persons receive an allowance, flat rated per day or half day. (see later)</p>
<p>41. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Both the time-off and the benefit are not transferable.</p>
<p>41.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>41.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>41.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>42. Indicate the amount of the benefit/compensation.</p>	<p>During the fist 3 days the employee receives a normal salary (full amount).</p>

<p>42.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>42.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>42.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>43. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>In order to receive the benefit from the employer in the first three days, it is necessary that the conditions to take up the birth leave/time off (see above) are fulfilled.</p> <p>The salary is paid in the first three days by the employer automatically.</p>
<p>43.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>43.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>43.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>44. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>There is no possibility for the employer to reduce or withdrawn the benefit if the conditions are fulfilled.</p>
<p>44.1. Indicate the differences for persons according to point 1.1.</p>	/
	/

<p>44.2. Indicate the differences for persons according to point 1.2.</p>	
<p>44.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>45. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>There is no possibility to change the benefit if the conditions are fulfilled.</p>
<p>45.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>45.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>45.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>46. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	/
<p>47. Indicate what is the impact of the rules for social security system, if any.</p>	/

<p>48. Which benefit(s) are envisaged for persons on paternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>For the other days of the birth leave a benefit/compensation is offered by the National Institute for Health and Disability Insurance (paid out by the health insurance fund).</p> <p>The conditions are the same as the conditions for the maternity benefit. Employees are only entitled to this benefit if:</p> <ul style="list-style-type: none"> - They have completed a waiting period of 6 months, and - (for a full-time employee) if they have worked 120 days during these 6 months (a number of 'special' days count as days workers such as annual leave) <p>They must also have paid sufficient social security contributions</p>
<p>48.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>/</p>
<p>48.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>/</p>
<p>48.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p>	<p>Self-employed persons receive a flat rated amount of allowance by the health insurance fund, paid out all at once.</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>49. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>The benefit nor the leave are transferrable. The rules of non-transferability were already applicable in the Belgian legal order.</p>
<p>49.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>49.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>49.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>50. Indicate the amount of the benefit and the method of calculation.</p>	<p>For the other days of the birth leave (>3 days) the amount of the benefit is 82% of the gross salary, which is limited to the wage limit. The health insurance fund deducts a withholding tax (11.11%) from this amount.</p>
<p>50.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>50.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>

<p>50.3. Indicate the differences for persons according to point 1.3.</p>	<p>Flat rated amount. 97.65 euro per day and 48,78 euro per half day for self-employed persons.</p>
<p>51. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<ul style="list-style-type: none"> - Submit an application to the health insurance fund. - Enclose an extract of the child's birth certificate. - Include other documents confirming the entitlement, such as the declaration of honor, signed by employee as a co-parent, stating that, in the absence of a definite link of parentage, the employee is the only person who meets the legal requirements to make use of the right to birth leave (only by the co-parent without a legal parentage link). - Fill in the 'beneficiary' section of the information sheet provided by the health insurance fund.
<p>51.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>51.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>51.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>51.4. Indicate the differences for persons according to point 1.1.</p>	<p>Self-employed persons need to request the allowance from the health insurance fund before the end of the quarter following the quarter of the birth. They hereby mention the days or half days in which the activity was suspended.</p>
<p>51.5. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>

<p>51.6. Indicate the differences for persons according to point 1.3.</p>	/
<p>52. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	
<p>52.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>52.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>53. Are there any other legal instruments aimed at social security of a person on paternity leave?</p> <p>If so, please, specify.</p>	/
SOCIAL SECURITY	
C. Parental leave	
<p>54. Is the employer obliged to provide any benefit or compensation to the employee on parental leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>No during parental leave the employer is not obliged to provide any compensation or benefit.</p>

<p>54.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>There are no specific rules for this case.</p>
<p>54.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules for this case. The general rules apply.</p>
<p>54.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Self-employed persons are not entitled to parental leave.</p>
<p>55. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The benefit is not transferable to another person.</p>
<p>55.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>

<p>55.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>55.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>56. Indicate the amount of the benefit/compensation.</p>	/
<p>56.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>56.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>56.3. Indicate the differences for persons according to point 1.3.</p>	/
<p>57. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	/
<p>57.1. Indicate the differences for persons according to point 1.1.</p>	/
<p>57.2. Indicate the differences for persons according to point 1.2.</p>	/
<p>57.3. Indicate the differences for persons according to point 1.3.</p>	/

58. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	/
58.1. Indicate the differences for persons according to point 1.1.	/
58.2. Indicate the differences for persons according to point 1.2.	/
58.3. Indicate the differences for persons according to point 1.3.	/
59. Indicate whether the entitlement/amount to the benefit/compensation can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	/
59.1. Indicate the differences for persons according to point 1.1.	/
59.2. Indicate the differences for persons according to point 1.2.	/
59.3. Indicate the differences for persons according to point 1.3.	/
60. Indicate whether the employer gets any compensation from the state for providing	/

<p>the benefits/compensations mentioned above. If so, under which conditions.</p>	
<p>61. Indicate what is the impact of the rules for social security system, if any.</p>	/
<p>62. Which benefit(s) are envisaged for persons on parental leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The employee on parental leave may receive an 'interruption allowance' from the National Employment Office. (art. 2 and 10 of the Royal Decree of 29 October 1997 and 100 and 102 of the Restoration law of 22 January 1985 on social provisions)</p>
<p>62.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>There are no specific rules for this case.</p>
<p>62.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules for this case. The general rules apply.</p>
<p>62.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a</i></p>	<p>Self-employed persons are not entitled to parental leave.</p>

<p><i>statutory body of a business corporation, etc.) are also entitled to the benefit/compensation.</i></p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>63. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>The benefit is not transferable to another person.</p>
<p>63.1. Indicate the differences for persons according to point 1.1.</p>	<p>/</p>
<p>63.2. Indicate the differences for persons according to point 1.2.</p>	<p>/</p>
<p>63.3. Indicate the differences for persons according to point 1.3.</p>	<p>/</p>
<p>64. Indicate the amount of the benefit and the method of calculation.</p>	<p>The allowance is a flat amount. Therefore it will not be calculated in function of the salary of the parent. Please find the amounts hereunder (art. 6 Royal Decree of 2 January 1991 on the granting of interruption benefits and art. 6/1 to 6/3 Royal Decree 12 December 2001 implementing chapter IV of the law of 10 August 2001 on reconciliation of employment and quality of life regarding the system of time credit, career reduction and reduction of work performance to a part-time job/ last index of these amounts on 1/12/2022)</p>

	<p>In the case of complete interruption of the work: 978,24 euro (gross amount)</p> <p>In the case of parttime: 489,11 euro (gross amount)</p> <p>In the case of reduction with 1/5: 165,93 euro (gross amount)</p> <p>In the case of reduction with 1/10: 82,96 euro (gross amount)</p> <p>If the employee consists of a single parent family, the allowance can be increased.</p> <p>In the case of complete interruption of the work: 1646,81 euro (gross amount)</p> <p>In the case of parttime: 823,41 euro (gross amount)</p> <p>In the case of reduction with 1/5: 223,14 euro (gross amount)</p> <p>In the case of reduction with 1/10: 164,67 euro (gross amount)</p>
64.1. Indicate the differences for persons according to point 1.1.	/
64.2. Indicate the differences for persons according to point 1.2.	/
64.3. Indicate the differences for persons according to point 1.3.	Workers in the public sector receive the same amounts.
65. Indicate the rules and conditions of claiming the benefit.	This allowance cannot be accumulated with an activity or prohibited pension and the employee needs to keep residence in Belgium or in another country of the EEA. An application must be submitted no later than 2 months after the start date of the interruption so that the National Employment Office can grant the benefit from the start of the interruption.
<i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i>	For the increase of allowance for single parent families there are several conditions:

	<ul style="list-style-type: none"> - The employee must live exclusively with one or more of his/her dependent children - The employee must be related in the first degree to the child for whom he/she is applying for parental leave and must live under the same roof with the child. - The child must comply with the conditions related to its age set for the parental leave (see above)
65.1. Indicate the differences for persons according to point 1.1.	/
65.2. Indicate the differences for persons according to point 1.2.	/
65.3. Indicate the differences for persons according to point 1.3.	/
66. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.	<p>The employee may loose his/her right to interruption benefits:</p> <ul style="list-style-type: none"> - At the end of the maximum reimbursement period or at the end of the period stated in the agreement with the employer (unless that period is extended by mutual agreement - From the day on which the employee resumes work with the same or another employer - From the day on which the employment contract ends - From the day the employee receives a pension - From the day on which the employee cumulates a full career break with a self-employed activity for more than 12 months - From the day on which the employee cumulates a half time interruption for more than 24 months or an interruption of 1/5 from more than 60 months or an interruption of 1/10 for more than 60 months with a self-employed activity

	<ul style="list-style-type: none"> - From the day on which the employee starts a self-employed activity during parental leave - From the day on which the employee increases the number of hours of his/her additional activity as an employee.
66.1. Indicate the differences for persons according to point 1.1.	/
66.2. Indicate the differences for persons according to point 1.2.	/
66.3. Indicate the differences for persons according to point 1.3.	/
<p>67. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	As long as the conditions for parental leave are fulfilled the entitlement to the benefit cannot be changed.
67.1. Indicate the differences for persons according to point 1.1.	/
67.2. Indicate the differences for persons according to point 1.2.	/
<p>68. Are there any other legal instruments aimed at social security of a person on parental leave?</p> <p>If so, please, specify.</p>	/

4. Administration

69. How is the administration of the leave and/or benefit legislated?

The administration of the leave and benefits is legislated in a fragmented way over many different Royal Decrees. The procedure to apply for benefits is mostly regulated by the governmental instances themselves (f.e. which form to fill in; physical application vs. electronic).

70. Is there any administrative burden for employers? For instance, as regards obligations, that have increased in connection with the implementation of the WLB Directive and Transparency Directive, did administrative costs of employers grow? If so, does the State compensate those costs? How?

The administrative burden has increased through the implementation of the WLB Directive (in the CBA nr. 162). This increase is caused by the right to request flexible working arrangements. The employer needs to address these requests, offer the flexible arrangement and/or motivate his decision to deny. In addition, organisational challenges arise for employers when an employee is absent for a certain period. There is no indication that the administrative cost has grown. The costs are not compensated by the State.

71. Have some responsibilities been entrusted to state authorities (e.g. labour offices or labour inspectorates)?

The implementation and execution of the payment of the benefits etc are mainly entrusted to state authorities such as the National Institute for Health and Disability Insurance and National Employment Office.

72. Has any specific mechanism or procedure been introduced in order to check who is really taking care after the child, in order to avoid fraudulent behaviour?

With regard to parental leave there is no mechanism nor procedure that requires proof of the fact that the parent is taking care of the child. It is not a condition to take up parental leave. There is therefore no inspection, nor sanction.

5. General analysis

73. Please, summarize relevant national case-law providing legal interpretation of any of legal provisions mentioned above.

Regarding parental leave the Constitutional Court has stated that it is not constitutional that the right to interruption allowances is not awarded to employees who are employed full-time by the accumulation of two half-time positions.

74. Has there been any public debate on the topic of maternity leave, parental leave, changes due to European legislation, non-transferability? Has this debate have any impact on current or proposed legislation?

The Belgian legal order already complied with most of the provisions in the new European legislation and the rules for non-transferability. Nevertheless, the debate has caused the prolongation of the birth leave for children born after the 1st of January 2023. In that sense, the European legislation has pointed out the importance of the involvement of both parents.

75. Can you provide us with any relevant statistics on maternity and/or parental leave, possibly showing some developments relevant for this questionnaire?

According to statistics of the National Employment Office¹ regarding parental leave the reduction of the activities with 1/5 was the most popular option (with 53,8%) followed by the ½ reduction (with 21,6%) in 2022. 66,3% of the parents who take parental leave are women.

76. Can you briefly sum-up and provide a short analysis of the national legislation on maternity and parental leave? What are its positives, which weaknesses can be mentioned?

The Belgian leave systems are viewed as compliant with and even more elaborate than the rules at the European level. Therefore, no significant changes needed to be made with regard to the European Directives and maternity and parental leave. In light of the promotion of gender equality, the Belgian legislation has several positive aspects, such as the non-transferability of the leave and the fact that the maternity leave is not unnecessarily long (as this can have a perverse effect on the participation of women in the labour market). Points for improvement are the possibility to extend paternity (or birth) leave and declare (a part) of this leave as obligatory. In addition, the 'low' allowance for parental leave is also assessed as a weakness. Furthermore it can be added that the rules on different leave systems are scattered over several legislative instruments, especially with regard to the social security measures on benefits and allowances. This inconvenience is accommodated for the involved citizens by clear instructions on the official websites of the governmental institutions.

¹ <https://www.rva.be/pers/cijfers-loopbaanonderbreking-thematische-verloven-en-tijdskrediet-maart-2022#:~:text=Het%20aantal%20uitkeringstrekkers%20met%20een, van%201%2F10%20bedraagt%2015.088.>

Questionnaire for national experts

Country: France

Name, affiliation and contact of the national expert:

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1. Legislation on maternity, paternity and parental leave

Please, generally describe (with references to legal sources) your national legislation on maternity leave, paternity leave and parental leave.

In France, maternity leave, which has the longest history, date back to 1909: it was, to begin with, a right for workers to suspend the work contract for 8 weeks. In 1913, an obligation for women to stop working for 4 weeks after giving birth (along with a daily allowance) was introduced. As of today, maternity leave includes both a right to take a leave from work, without losing one's job, an obligation to stop working (the employer cannot employ the worker) for 8 weeks (among which 6 of them must take place after birth), and the right to an allowance granted by the social security system for the duration of the leave. When a woman already has at least two children, the total duration of maternity leave is increased to 26 weeks: 8 weeks of prenatal leave and 18 weeks of postnatal leave.

Since 1 January 2002, fathers have been entitled to eleven consecutive days' paternity leave, in addition to a three days birth leave - not necessarily consecutive - granted and paid by the employer. Since 2021, the duration of the leave has been raised to 28 days (35 days for multiple births). Part of paternity leave has become compulsory after the reform of 2021: four consecutive days must be taken immediately after the three days birth leave. The remaining 21 days are not compulsory, and can be taken in instalments within six months of the birth.

Maternity and paternity leave entail suspension of the employment contract regulated by the labour code (Art. L1225-1 to L1225-46-1). Subject to meeting the conditions for entitlement and in the absence of more favourable provisions in the collective bargaining agreement, the beneficiary receives daily allowances paid by the health insurance fund. The amount of the daily allowance is dependent on previous wages and capped. Social security benefits for maternity and paternity leaves are regulated by the social security code (Art. L331-1 to L331-9).

At the end of maternity leave, either parent may take parental leave provided they have been employed by the company for at least one year at the time of the child's birth. This leave, which initially lasts a maximum of one year, may be extended twice and must end no later than the child's third birthday. It takes the form of either a reduction in working hours or a suspension of the employment contract. In the first case, working time must remain at least equal to 16 hours per week, and pay is reduced in the same proportion as working time. In the second case, the employee is not paid. Parental leave is regulated by the labour code (Art. L1225-47 to L1225-68). Family benefits are granted by the social security system, partly on conditions of resources, to the parent taking the leave (or both, if they decide to share). The amount does not depend on previous remuneration but is a fixed allowance, depending on the reduction of the number of hours (The amounts from 1 April 2023 to 31 March 2024 depending on the reduction in working time: €428 per month

in case the worker stops working completely ; 277 per month if he/she works 50% or less, 159 per month if he/she works between 50% and 80%; a maximum of 428 per month in case parents share).

Provide a legal definition of:

- **maternity leave**

Maternity leave is conceived as a right for a woman to take a leave from work for 6 weeks before and 10 weeks after giving birth, during which the work contract is suspended.

See Art. L1225-1 to L1225-29 of the Labour Code (LC)

During this period, a daily allowance is granted by the social security system (under conditions).

See Art. L331-1 to L331-7 of the Social Security Code (SSC)

- **paternity leave**

Paternity leave is the right for an employee, who is the husband of the mother, or a person leaving with the mother in a marital relationship, to take leave from work (25 days), during the 6 months period following the birth of the child. During that period, the work contract is suspended. During the first 7 days, the beneficiary of the leave cannot be employed.

See Art. L1225-35 to L1225-36 LC

A daily allowance is granted, in the same conditions as for maternity leave.

See Art. L331-9 SSC

- **parental leave**

Parental leave is the right granted to the father or the mother, after the end of the maternity leave, to suspend their work contract (for one year, renewable twice) or reduce the weekly working time down to a minimum of 16 hours, until the child is 3 (or 3 years after his/her arrival).

This right is granted to all workers who have been employed for at least one year in the company before the child is born (or arrives in the family, if he/she is adopted).

See Art. L1225-47 to L-1225-68 LC

The employee benefits from a monthly allowance granted by the social security system.

See Art. L531-1 to L531-9 SSC

2. Time-off

Please, answer the questions in the following table. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

TIME OFF	
Question	Your answer with reference(s) to legal source
A. Maternity leave	
<p>1. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>All employees benefit from the maternity leave, without condition.</p> <p>Art. L-1225-17 LC</p>
<p>1.1. Please indicate whether the right to time off also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The right to time off also applies in case of adoption of a child. The duration is the same.</p> <p>Art. L-1225-37 LC</p> <p>Children can be taken care of in families, by persons who obtain a licence to be “family assistants”. This is considered a professional activity, which is paid for by the government. As a result, of course, there is no “time off” from work.</p> <p>Art. L421-1 à L421-18 of the Code of social action and families</p>
<p>1.2. Please indicate whether employees working in flexible forms of work (<i>on-call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>All workers, as long as they are employees, benefit from time off.</p> <p>Art. L-1225-17 LC</p>
<p>1.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory</i></p>	<p>Independent workers (self-employed) benefit from the same regime as for maternity (paternity) leaves</p>

<p><i>body of a business corporation, etc.)</i> are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>as employees. This does not apply to lawyers (specific regime ruled by the French Bar)</p>
<p>2. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>There is no transfer of maternity leave, except if the mother dies.</p> <p>In the event of the mother's death during the maternity leave, the father may suspend his employment contract for a period at most equal to the remaining benefit period.</p> <p>If the father of the child does not exercise his right, the benefit of this right is granted to the mother's employed spouse or to the employed person linked to her by a civil solidarity pact or living in a marital relationship with her.</p> <p>Art. L1225-28 LC</p>
<p>2.1. Indicate the differences for persons according to point 1.1.</p>	<p>None</p>
<p>2.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>2.3. Indicate the differences for persons according to point 1.3.</p>	<p>None</p>
<p>3. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>1st & 2nd child: 6 weeks before birth, 10 weeks after</p> <p>3rd child: 8 weeks before birth, 18 weeks after.</p> <p>Workers do not have to take all their maternity leave, but they must stop working for at least 8 weeks, 6 of which must be after the birth.</p> <p>L1225-17 LC L1225-19</p>

	<p>In case of multiple births, duration of time off increases (12 weeks before, 22 weeks after in for 2 children; 24 weeks before and 22 after, for 3 or more children)</p> <p>L1225-18 LC</p>
<p>3.1. Indicate the differences for persons according to point 1.1.</p>	<p>In case of adoption, the duration is the same (16 weeks), taken after arrival of the child (possibly one week before). If there are already 2 children in the family, time off increases to 18 weeks. In case the leave is shared between the parents 25 days are added (16+22 or 18+22).</p> <p>In case 2 children or more are adopted, duration is 22 weeks and in case the leave is shared between the parents it becomes 22 weeks + 32 days.</p> <p>L1225-37 LC</p>
<p>3.2. Indicate the differences for persons according to point 1.2.</p>	<p>Not relevant</p>
<p>3.3. Indicate the differences for persons according to point 1.3.</p>	<p>Duration of maternity leave for self-employed: 16 weeks for a single birth 26 weeks from the 3rd child 34 weeks for twins 46 weeks for triplets or more.</p> <p>In addition, in the event of a medical condition resulting from pregnancy or childbirth attested by a medical certificate, the period of payment of the lump-sum daily allowance may be extended, at the request of the insured, by a period of 30 consecutive days, which may be split into two periods of 15 days each. The additional days may be taken from the date of declaration of pregnancy and may not exceed 15 days during the post-natal leave period. They may be accumulated with the period of compulsory cessation of work, without necessarily having to be linked to it</p> <p>Art. L623-1 SSC</p> <p>Adoption leave is shorter: 12 weeks and 3 days for a single birth</p>

	<p>19 weeks and 3 days from the 3rd child onwards; 25 weeks and 3 days for the adoption of 2 children; 34 weeks and 3 days for the adoption of 3 or more children.</p> <p>L623-1 SSC</p>
<p>4. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify legal conditions.</p>	<p>The employee must inform the employer of the motif of her leave and the date when it will end (L1225-24 LC)</p> <p>In order to benefit from the protection of pregnancy and maternity provided for in Articles L. 1225-1 et seq., the employee must submit to her employer, against a receipt or by registered letter with acknowledgement of receipt, a medical certificate attesting to her state of pregnancy and the presumed date of delivery or the actual date of delivery, as well as, if applicable, the existence and foreseeable duration of her medical condition requiring an extension of the period of suspension of her employment contract (R1225-1 LC).</p> <p>There is no precise date or delay to inform the employer.</p> <p>There is no possibility for the employer to refuse time off as it is a right for all employees. The employer cannot terminate the contract for that motive (L1225-4 LC) and the employee is supposed to get back in the same position after the suspension period (L1224-25-).</p>
<p>4.1. Indicate the differences for persons according to point 1.1.</p>	<p>In case of adoption: Information of the employer is required (L1225-42), the employer must accept to grant time off and cannot dismiss the worker (L1225-38) The employee must notify his employer by registered letter with acknowledgement of receipt or by delivery against receipt (R1225-11 LC).</p>
<p>4.2. Indicate the differences for persons according to point 1.2.</p>	<p>No difference</p>

<p>4.3. Indicate the differences for persons according to point 1.3.</p>	<p>Self-employed do not have to inform anyone except the social security system, to obtain benefits.</p>
<p>5. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify legal conditions.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p>	<p>In case the child is in healthcare until the 6th week after birth, the mother can postpone the rest of her leave to the period following the return of the child at home (L1225-22)</p> <p>The leave cannot be interrupted during the 6 weeks following the birth of the child (employment of the mother is forbidden in this period), and in total, there must be 8 weeks off taken before and after birth (L1225-29)</p> <p>For the rest of the leave legally granted, it is up to the worker to take it or not. The employer cannot oppose the worker’s choice not to take some of the non-compulsory leave.</p> <p>There is no provision in the labour code, and no case law about interruption of the leave.</p>
<p>5.1. Indicate the differences for persons according to point 1.1.</p>	<p>There is no obligation to take a leave and no prohibition to employ a worker who adopts a child. So it is up to the worker to decide when and for how long to take the leave, and inform the employer accordingly. The only limit is that it is only possible to take one week of the leave before the arrival of the child (this may change and become a bit more flexible soon, when a new decree is adopted). However, there is no provision allowing interruption of the leave, once the worker has decided to take one.</p>
<p>5.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>

<p>5.3. Indicate the differences for persons according to point 1.3.</p>	<p>On an experimental basis, since 1 July 2020 and for a period of 3 years, a partial, gradual and capped return to work is possible before the end of maternity leave (L. n° 2019-1446, 24/12/2019, Art. 53, mod. L. n° 2018-1203, 22/12/2018, Art. 75).</p> <p>The activity may be resumed for:</p> <ul style="list-style-type: none"> - a maximum of one day per week during the last 4 weeks of post-natal rest ; - a maximum of 2 days per week during the 4 weeks following the first 4-week period of partial rest. <p>This resumption may begin between the day following the end of the minimum 8-week period of interruption of activity and the end of the maternity leave.</p>
<p>6. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify legal conditions.</p>	<p>This is not clear in French law: no provision allows it clearly. Rather, the law indicates that the employer should be informed of the duration of the leave (thus, on the date when the workers decide to bring it to an end). This indicates that there is no possibility, for either party, to terminate the leave prematurely. One thing is sure, it cannot be interrupted in the 6 weeks of compulsory leave.</p>
<p>6.1. Indicate the differences for persons according to point 1.1.</p>	<p>Same solution applies.</p>
<p>6.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>

6.3. Indicate the differences for persons according to point 1.3.	See 5.3
<p>7. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please, specify legal conditions.</p>	<p>The leave can be extended in case of medical condition.</p> <p>To benefit from the extension, the employee must submit to her employer, against a receipt or by registered letter with acknowledgement of receipt, a medical certificate attesting the existence and foreseeable duration of her medical condition requiring an extension of the period of suspension of her employment contract (R1225-1 LC). Medical conditions can lead to an extension for 2 weeks before birth and 4 weeks after birth.</p> <p>The employer is not allowed to refuse the extension of the leave.</p>
7.1. Indicate the differences for persons according to point 1.1.	The possibility of an extension is not mentioned by the law.
7.2. Indicate the differences for persons according to point 1.2.	None
7.3. Indicate the differences for persons according to point 1.3.	In the event of a medical condition resulting from pregnancy or childbirth attested by a medical certificate, the duration of the leave may be extended, at the request of the insured, by a period of thirty consecutive days, which may be split into two periods of fifteen days.

	<p>The additional days may be taken from the declaration of pregnancy in the event of a pathological condition and may not exceed fifteen days during the post-natal leave period. They may be accumulated with the period of cessation of work without necessarily having to be linked to it.</p> <p>D 623-4 SSC</p>
<p>8. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>At the end of the maternity leave, the employee returns to her previous job or a similar job with at least equivalent remuneration (Art. L. 1225-25 LC).</p> <p>If no specific guarantee concerning wages results from an applicable collective agreement, the worker also benefits from general wage raises and from a raise calculated on the basis of the average raise of wages for worker of the same category (L1225-26 LC).</p> <p>The employee must therefore return to her job or, if this job is no longer available (either because it has been suppressed, or because it has been reassigned in the interests of the company to another employee), a job in the same category, which must not result in any change to the employment contract, particularly as regards pay. However, while the employer must maintain the benefits that appear to be linked to the employee's job, it may cease to pay the employee the benefits linked to the job she was doing before her leave if her duties have changed (for example, the nurse who will no longer work at night or the technician who will no longer be on call).</p> <p>An employee who returns to work after maternity leave is entitled to a professional interview (Art. L. 1225-27 LC)</p>
<p>8.1. Indicate the differences for persons according to point 1.1.</p>	<p>The same solution applies (L1225-43, L 1225-44 LC)</p>
<p>8.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>

TIME OFF	
B. Paternity leave	
<p>9. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Paternity leave is granted to the child's biological father or to the person who is not the father but who shares the mother's life as part of a marriage, civil solidarity pact or cohabitation.</p> <p>There is no other condition than being employed.</p> <p>Art. L. 1225-35 and D. 1225-8 LC</p>
<p>9.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The law does not mention the right to a leave in case the child is taken to a family assistant.</p> <p>In case of adoption, the rules concerning adoption apply to fathers (see above).</p>
<p>9.2. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>For self-employed also paternity and childcare leave is granted to the child's biological father or to the person who is not the father but who shares the mother's life as part of a marriage, civil solidarity pact or cohabitation</p> <p>Art. L 623-2, II SSC</p>
<p>10. If the entitlement to time off is transferable to other person, please identify that person and</p>	<p>There is no possibility to transfer paternity leave to another person.</p>

<p>indicate the conditions under which the entitlement may be transferred.</p>	
<p>10.1. Indicate the differences for persons according to point 1.1.</p>	
<p>10.2. Indicate the differences for persons according to point 1.2.</p>	
<p>10.3. Indicate the differences for persons according to point 1.3.</p>	
<p>11. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>In case one child is born The duration of paternity and childcare leave is 25 calendar days. The leave consists of 2 separate periods. 1 compulsory period of 4 calendar days taken immediately after the “birth leave” The employee must take a 3-day “birth leave” and then a first 4-day period of paternity and childcare leave. 1 period of 21 calendar days, which may be split (in no more than 2 periods, each of them being at least 5 days long).</p> <p>In case two or more children are born The duration of the leave extends to 32 days. The system of two separate applies, the second period being of 28 days (rather than 21)</p> <p>L1225-35, L 1225-36 LC</p>
<p>11.1. Indicate the differences for persons according to point 1.1.</p>	<p>In case of adoption, the father can take an adoption leave (see above)</p> <p>The duration of the leave is 16 weeks, taken after arrival of the child (and possibly one week before) If there are already 2 children in the family, time off increases to 18 weeks. In case the leave is shared between the parents 25 days are added (16+22 or 18+22).</p>

	In case 2 children or more are adopted, duration is 22 weeks and in case the leave is shared between the parents it becomes 22 weeks + 32 days.
11.2. Indicate the differences for persons according to point 1.2.	Not relevant
11.3. Indicate the differences for persons according to point 1.3.	<p>Paternity leave for self-employed is set at 25 calendar days for the birth of a child (32 days in the case of multiple births). It may be taken in one go or broken down into several periods</p> <p>Art. D 623-2 SSC</p> <p>There is an initial compulsory period of 7 days, which must begin on the day the child is born (or adopted).</p> <p>Then a second period of 18 days in the case of a single birth or 25 days in the case of multiple births. This second period of leave is not compulsory and may be split into three parts, the shortest of which must be at least 5 days. It must begin within 6 months of the child's birth.</p> <p>Art. L. 623-1, II SSC</p> <p>A distinction must be made between paternity leave granted to a company director and that granted to a collaborating spouse. Depending on the case, the conditions to be met and compensation differ.</p> <p>Art. L. 663-1 and L. 623-1 SSC</p>
<p>12. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p>	<p>The employee must inform the employer of the expected date of delivery at least one month before the birth.</p> <p>The employee shall inform his or her employer of the dates on which the period(s) of leave referred to in the preceding paragraph are to be taken and their duration at least one month before the beginning of each period.</p> <p>Art. D1225-8 LC</p>

<p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>The employer cannot refuse time off to the father which constitutes a right without condition</p> <p>Art. L1225-35 LC</p> <p>The paternity and childcare leave shall be taken within six months of the birth of the child</p> <p>Art. D1225-8 LC</p>
<p>12.1. Indicate the differences for persons according to point 1.1.</p>	<p>Rules applicable to adoption leave apply (see above).</p> <p>The employee must notify his employer (L1225-42 LC) by registered letter with acknowledgement of receipt or by delivery against receipt (R1225-11 LC).</p>
<p>12.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>12.3. Indicate the differences for persons according to point 1.3.</p>	<p>Not relevant. Information of the Social security only.</p>
<p>13. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care –</p>	<p>There is no provision in the law concerning interruption of the leave.</p>

<p>characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify the legal conditions.</p>	
<p>13.1. Indicate the differences for persons according to point 1.1.</p>	
<p>13.2. Indicate the differences for persons according to point 1.2.</p>	
<p>13.3. Indicate the differences for persons according to point 1.3.</p>	
<p>14. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off providing time off? If so, please, specify the legal conditions.</p>	<p>No</p>

<p>14.1. Indicate the differences for persons according to point 1.1.</p>	
<p>14.2. Indicate the differences for persons according to point 1.2.</p>	
<p>14.3. Indicate the differences for persons according to point 1.3.</p>	
<p>15. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>The leave cannot be extended but it may be postponed beyond the six months within which it is supposed to be taken in one of the following cases:</p> <p>1° The child's hospitalisation. The leave can be taken within six months of the end of the hospitalization;</p> <p>2° The death of the mother. The leave can be taken within six months of the end of the special leave that the father is entitled to in case the mother dies.</p> <p>Art. D1225-8 LC</p>
<p>15.1. Indicate the differences for persons according to point 1.1.</p>	<p>Rules applying to adoption leaves apply (see above)</p>
<p>15.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>15.3. Indicate the differences for persons according to point 1.3.</p>	<p>None</p>

<p>16. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>The rules applicable to maternity leave apply: at the end of the paternity leave, the employee returns to his previous job or a similar job with at least equivalent remuneration.</p> <p>Art. L 1225-36 LC</p>
<p>16.1. Indicate the differences for persons according to point 1.1.</p>	<p>Rules applicable to adoption apply (see above)</p>
<p>16.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>16.3. Indicate the differences for persons according to point 1.3.</p>	<p>Not relevant</p>

TIME OFF	
C. Parental leave	
<p>17. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Parental leave can be taken “during the period following the expiry of the maternity or adoption leave”, by any employee with a minimum of one year's seniority.</p> <p>It can take two forms:</p> <p>1° Either a parental leave during which the employment contract is suspended;</p> <p>2° Or a reduction in working hours (part-time activity cannot be less than sixteen hours per week)</p> <p>Art. L1225-47 LC</p>

<p>17.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Parental leave also benefits to adoptive parents (see above, Art. L1225-47 LC)</p> <p>Given the purpose of child benefits, a child entrusted to child welfare is not considered a dependent child, even if emotional ties are maintained (CNAF Circ. n° 2012-017, 1 August 2012).</p>
<p>17.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>All workers have a right to parental leave, which does not depend of their working arrangement/work contract.</p>
<p>17.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Time off is a decision for self-employed, that does depend on their own choice. The important question, it seems to me, is whether they can get benefits if they stop working.</p>
<p>18. If the entitlement to time off is transferable to another person, please, identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The entitlement is not transferable.</p>
<p>18.1. Indicate the differences for persons according to point 1.1.</p>	<p>None</p>
<p>18.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>

18.3. Indicate the differences for persons according to point 1.3.	None
<p>19. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>Time off (either full time or part time, as mentioned above) is granted for one year.</p> <p>It can be renewed twice but ends when the child is 3.</p> <p>In the case of multiple births, parental leave may be extended until the children enter nursery school. In the case of multiple births of at least three children or the simultaneous arrival of at least three children adopted or entrusted for adoption, it may be extended five times to end no later than the children's sixth birthday.</p> <p>Art. L1225-48 LC</p>
19.1. Indicate the differences for persons according to point 1.1.	<p>In the case of the adoption of a child under the age of three, the parental leave and the period of part-time work shall end at the end of a period of three years from the child's arrival at home.</p> <p>Where the child adopted or entrusted for adoption is over three years of age but has not yet reached the age at which compulsory schooling ends, parental leave and the period of part-time work may not exceed one year from the child's arrival at home.</p> <p>L1225-48 LC</p>
19.2. Indicate the differences for persons according to point 1.2.	Not relevant
19.3. Indicate the differences for persons according to point 1.3.	Same as for question 17.3: duration is up to self-employed workers.

<p>20. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>The employee shall inform his employer of the starting point and duration of the period during which he intends to benefit either from parental leave or from a reduction in his working hours.</p> <p>Where this period immediately follows maternity leave or adoption leave, the employee shall inform the employer at least one month before the end of such leave.</p> <p>Otherwise, the information is given to the employer at least two months before the start of the parental leave or part-time work.</p> <p>Article L1225-50 LC</p> <p>The information is sent to the employer by registered letter with acknowledgement of receipt or delivered against receipt.</p> <p>Article R1225-13 LC</p> <p>The employer cannot refuse to grant the leave, which is considered a worker's right.</p>
<p>20.1. Indicate the differences for persons according to point 1.1.</p>	<p>None</p>
<p>20.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>20.3. Indicate the differences for persons according to point 1.3.</p>	<p>Not relevant, it seems to me.</p>
<p>21. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p>	<p>The leave can be interrupted in two cases: In the event of the death of the child or a significant reduction in the household's resources.</p> <p>In such cases, the employee can decide: 1° If he/she benefits from parental education leave, either to resume his/her initial activity, or to work part-time within the limit of the duration initially provided for by the employment contract;</p>

<p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of time off? If so, please, specify the legal conditions.</p>	<p>2° If he/she works part-time to raise a child, to resume his/her initial activity and, with the employer's agreement, to modify the duration.</p> <p>The employee must send a reasoned request to the employer at least one month before the date on which he/she intends to benefit from these provisions.</p> <p>Article L1225-52 LC</p>
<p>21.1. Indicate the differences for persons according to point 1.1.</p>	<p>None</p>
<p>21.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>21.3. Indicate the differences for persons according to point 1.3.</p>	<p>If the self-employed starts working again, he stops receiving benefits (see below).</p>
<p>22. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p>	<p>Same answer as 21: there is only a possibility to interrupt the leave by terminating it prematurely.</p>

<p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify the legal conditions.</p>	
<p>22.1. Indicate the differences for persons according to point 1.1.</p>	None
<p>22.2. Indicate the differences for persons according to point 1.2.</p>	None
<p>22.3. Indicate the differences for persons according to point 1.3.</p>	See 21.3
<p>23. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>This would be a case of renewal (see above question 20)</p>
<p>23.1. Indicate the differences for persons according to point 1.1.</p>	

<p>23.2. Indicate the differences for persons according to point 1.2.</p>	
<p>23.3. Indicate the differences for persons according to point 1.3.</p>	
<p>24. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>At the end of the parental leave or the period of part-time work or within one month of the reasoned request to resume the initial activity mentioned in Article L. 1225-52, the employee can return to his or her previous job or a similar job with at least equivalent pay.</p> <p>Article L1225-55 LC</p> <p>The employee who returns to his initial activity at the end of parental education leave or a period of part-time activity to raise a child is entitled to a professional interview. During this interview, the employer and the employee organise the employee's return to work; they determine the employee's training needs and examine the possible consequences of the leave on his remuneration and career development. At the employee's request, the interview can take place before the end of the parental leave.</p> <p>Article L1225-57 LC</p> <p>An employee benefiting from parental education leave or working part-time to raise a child shall benefit by right from the skills assessment.</p> <p>Article L1225-58 LC</p>
<p>24.1. Indicate the differences for persons according to point 1.1.</p>	<p>None</p>
<p>24.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>

3. Social security during the leave

Please, answer the questions in the following tables. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

SOCIAL SECURITY	
A. Maternity leave	
<p>25. Is the employer obliged to provide any benefit or compensation to the employee on maternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>There is no benefit or compensation in legislation, but collective agreements can include some.</p>
<p>25.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>25.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	

<p>25.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>26. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	
<p>26.1. Indicate the differences for persons according to point 1.1.</p>	
<p>26.2. Indicate the differences for persons according to point 1.2.</p>	
<p>26.3. Indicate the differences for persons according to point 1.3.</p>	
<p>27. Indicate the amount of the benefit/compensation.</p>	
<p>27.1. Indicate the differences for persons according to point 1.1.</p>	
<p>27.2. Indicate the differences for persons according to point 1.2.</p>	
<p>27.3. Indicate the differences for persons according to point 1.3.</p>	

<p>28. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	
<p>28.1. Indicate the differences for persons according to point 1.1.</p>	
<p>28.2. Indicate the differences for persons according to point 1.2.</p>	
<p>28.3. Indicate the differences for persons according to point 1.3.</p>	
<p>29. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	
<p>29.1. Indicate the differences for persons according to point 1.1.</p>	
<p>29.2. Indicate the differences for persons according to point 1.2.</p>	
<p>29.3. Indicate the differences for persons according to point 1.3.</p>	
<p>30. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p>	

<p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	
<p>30.1. Indicate the differences for persons according to point 1.1.</p>	
<p>30.2. Indicate the differences for persons according to point 1.2.</p>	
<p>30.3. Indicate the differences for persons according to point 1.3.</p>	
<p>31. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	
<p>32. Indicate what is the impact of the rules for social security system, if any.</p>	
<p>33. Which benefit(s) are envisaged for persons on maternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>A daily allowance is granted, that correspond to the net wage (but is capped – 3600 euros per month).</p> <p>There is also a minimum (around 30 euros per day)</p> <p>Article R 331-5 SSC</p> <p>In addition, health benefits are also granted.</p>
<p>33.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p>	<p>In case of adoption of a child, same maternity benefits are granted to the adopted parents.</p>

<p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Article R 331-5 SSC</p>
<p>33.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Benefits depend on a certain amount of work, which might exclude some precarious workers.</p> <p>According to Art. R. 313-3 of the SSC, to be entitled to daily maternity insurance benefits, the insured person must prove:</p> <ul style="list-style-type: none"> a) Either that the amount of contributions due in respect of sickness, maternity, invalidity and death insurance based on the remuneration received during the previous six calendar months is at least equal to the amount of the same contributions due for a salary equal to 1,015 times the value of the minimum growth wage on the first day of the reference period; b) Or have worked at least 150 hours as an employee or in a similar capacity over the previous three calendar months or ninety days. <p>In addition, the insured person must provide proof of ten months of affiliation on the presumed date of childbirth in order to benefit from maternity insurance daily allowances.</p>
<p>33.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Self-employed mothers also have a right to a maternity allowance when they can justify have contributed to social security during 10 months before birth.</p> <p>It comprises, on the one hand, a flat-rate allowance (around 3600 euros) and daily allowances (around 60 euros).</p> <p>Art. L622-3 and L623-1 SSC, Art. D622-8 SSC. D613-4-1, D623-1 to D623-8 SSC</p> <p>Self-employed person must stop working for at least 8 weeks, among which 6 after birth to benefit from an allowance. This condition becomes 12 weeks in case of adoption.</p>

	<p>Art. D. 623-2 SSC</p> <p>The amount of the lump-sum maternal rest allowance has been set at the “monthly social security ceiling” in force on the scheduled date of the first payment (Art. D. 623-1 SSC).</p> <p>However, when the average annual income taken into account for the calculation of the sickness and maternity contribution due in respect of the 3 calendar years of activity preceding the scheduled date of the 1st payment is less than 10% of the average of the annual values of the social security ceiling in force over these 3 years, the amount of the allowance is equal to 10% of the monthly social security ceiling Maximum: 60 euros per day</p> <p>Art. D623-3 SSC, D. 663-5 SSC</p> <p>In the event of adoption, the amount of the lump-sum maternal rest allowance is halved (Art. L. 623-1, III, 1° SSC). The amount is the same whether one or more children are adopted at the same time.</p>
<p>34. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>Benefits are not transferable</p>
<p>34.1. Indicate the differences for persons according to point 1.1.</p>	
<p>34.2. Indicate the differences for persons according to point 1.2.</p>	

<p>34.3. Indicate the differences for persons according to point 1.3.</p>	
<p>35. Indicate the amount of the benefit and the method of calculation.</p>	<p>See above</p>
<p>35.1. Indicate the differences for persons according to point 1.1.</p>	
<p>35.2. Indicate the differences for persons according to point 1.2.</p>	
<p>35.3. Indicate the differences for persons according to point 1.3.</p>	
<p>36. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>The information is forwarded to the social security institution by the employer.</p>
<p>36.1. Indicate the differences for persons according to point 1.1.</p>	<p>None</p>
<p>36.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>36.3. Indicate the differences for persons according to point 1.3.</p>	<p>Benefits must be claimed by the worker himself to the social security system to which she is affiliated</p>

<p>37. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>Benefits cannot be reduced, or withdrawn</p>
<p>37.1. Indicate the differences for persons according to point 1.1.</p>	
<p>37.2. Indicate the differences for persons according to point 1.2.</p>	
<p>37.3. Indicate the differences for persons according to point 1.3.</p>	
<p>38. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>Benefits are granted for the period of the leave, and are interrupted when the worker goes back to work.</p> <p>Article L331-3 SSC</p>
<p>38.1. Indicate the differences for persons according to point 1.1.</p>	<p>No difference</p>
<p>38.2. Indicate the differences for persons according to point 1.2.</p>	<p>No difference</p>
<p>39. Are there any other legal instruments aimed at social security of a person on maternity leave?</p> <p>If so, please, specify.</p>	<p>Collective agreements can apply.</p> <p>Employers can also unilaterally or by contract increase workers' benefits.</p>
<p>SOCIAL SECURITY</p>	

B. Paternity leave	
<p>40. Is the employer obliged to provide any benefit or compensation to the employee on paternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>No (unless the employer is bound by a collective agreement including such benefits, or by the work contract)</p>
<p>40.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>40.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>40.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	

41. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.	
41.1. Indicate the differences for persons according to point 1.1.	
41.2. Indicate the differences for persons according to point 1.2.	
41.3. Indicate the differences for persons according to point 1.3.	
42. Indicate the amount of the benefit/compensation.	
42.1. Indicate the differences for persons according to point 1.1.	
42.2. Indicate the differences for persons according to point 1.2.	
42.3. Indicate the differences for persons according to point 1.3.	
43. Indicate the rules and conditions of claiming the benefit/compensation. <i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in</i>	

<p><i>a special way, e.g. through a written request etc.).</i></p>	
<p>43.1. Indicate the differences for persons according to point 1.1.</p>	
<p>43.2. Indicate the differences for persons according to point 1.2.</p>	
<p>43.3. Indicate the differences for persons according to point 1.3.</p>	
<p>44. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	
<p>44.1. Indicate the differences for persons according to point 1.1.</p>	
<p>44.2. Indicate the differences for persons according to point 1.2.</p>	
<p>44.3. Indicate the differences for persons according to point 1.3.</p>	
<p>45. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	

<p>45.1. Indicate the differences for persons according to point 1.1.</p>	
<p>45.2. Indicate the differences for persons according to point 1.2.</p>	
<p>45.3. Indicate the differences for persons according to point 1.3.</p>	
<p>46. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>Employers are not providing benefits, unless they have concluded collective agreements or work contracts in this domain. In which case, no compensation is granted by the State.</p>
<p>47. Indicate what is the impact of the rules for social security system, if any.</p>	
<p>48. Which benefit(s) are envisaged for persons on paternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Benefits consist in a daily allowance</p> <p>The same conditions apply as for maternity leave</p> <p>L 331-8 SSC</p> <p>To be entitled to compensation, the following conditions must be fulfilled:</p> <ul style="list-style-type: none"> - paternity leave must be taken within 6 months of the birth (unless the period is extended due to the child's hospitalisation or the mother's death) - the father must have had a social security number for at least 10 months at the start of the leave - he must have worked for at least 150 hours in the 3 months prior to the start of the leave (or have paid contributions on a salary equivalent to at least €10,728.55 in the 6 months prior to the start of the leave)

	<p>- he must have ceased all paid employment, even if working for more than one employer (if the father applies for leave with one employer and continues to work for another, the social security institution may claim reimbursement of the amount paid).</p> <p>Articles R313-1 and R313-17 SSC</p>
<p>48.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>In case of adoption, there is a specific adoption leave, that can be taken by one parent, or by both, in which case the duration of the leave and corresponding benefits, are increased by the 25 days (duration of paternity leave) or 32 days (if two or more children are adopted)</p> <p>L 331-7 SSC L 161-6 SSC</p>
<p>48.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>In case of seasonal or discontinuous activity, instead of the condition of having worked for at least 150 hours in the 3 months prior to the start of the leave (or having paid contributions on a salary equivalent to at least €10,728.55 in the 6 months prior to the start of the leave), the condition which applies is that the father must have worked for at least 600 hours (or have contributed on a salary equivalent to at least €21,457.10) in the 12 months prior to the start of the leave.</p> <p>Art. R 313-7 SSC</p>
<p>48.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Yes, same rights as employees.</p> <p>Provided that they can prove 10 months affiliation to a self-employed activity on the presumed date of childbirth or the start of the leave, that they cease their professional activity during the compulsory period of 7 days taken immediately after the birth of the child and that they do not resume it for the entire duration of their leave, self-employed workers are entitled, at their request, to flat-rate daily allowances equal to 1/730 of the annual social security ceiling</p>

	Art. L 623-1, II SSC
<p>49. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	No transfer is allowed
<p>49.1. Indicate the differences for persons according to point 1.1.</p>	
<p>49.2. Indicate the differences for persons according to point 1.2.</p>	
<p>49.3. Indicate the differences for persons according to point 1.3.</p>	
<p>50. Indicate the amount of the benefit and the method of calculation.</p>	<p>The amount daily allowance granted for paternity leave is the same as the one granted for maternity leave</p> <p>L 331-8 SSC</p> <p>The daily allowance is calculated as follows:</p> <p>1) Calculation of the basic daily salary: sum of the last 3 gross salaries received prior to the date of interruption of work, divided by 91.25</p> <p>2) Maximum amount of basic daily pay: The pay taken into account may not exceed the monthly social security ceiling in force on the last day of the month preceding the work stoppage (i.e. €3,666 per month in 2023, or €3,428 in 2022).</p> <p>3) the social security system deducts a flat rate of 21% from this basic daily salary.</p>

	<p>4) Minimum and maximum amounts: the daily allowance cannot be less than €10.24 or more than €95.22 per day.</p> <p>Articles R331-5 to R331-7 SSC</p> <p>Collective agreements may provide for more favourable terms of compensation than those offered by Social Security, up to full salary continuation.</p>
<p>50.1. Indicate the differences for persons according to point 1.1.</p>	None
<p>50.2. Indicate the differences for persons according to point 1.2.</p>	Differences may result from the conditions not being fulfilled.
<p>50.3. Indicate the differences for persons according to point 1.3.</p>	None
<p>51. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>The father must send a request to his CPAM (on a standardised document) with one of the following documents:</p> <p>Either a full copy of your child's birth certificate or a copy of the updated family record book (livret de famille)</p> <p>Art. D 331-5 SSC</p>
<p>51.1. Indicate the differences for persons according to point 1.1.</p>	None
<p>51.2. Indicate the differences for persons according to point 1.2.</p>	None
<p>51.3. Indicate the differences for persons according to point 1.3.</p>	None

<p>52. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>No</p>
<p>52.1. Indicate the differences for persons according to point 1.1.</p>	
<p>52.2. Indicate the differences for persons according to point 1.2.</p>	
<p>53. Are there any other legal instruments aimed at social security of a person on paternity leave?</p> <p>If so, please, specify.</p>	<p>In addition to the social security code provisions, collective agreements or work contracts can apply.</p>
<p>SOCIAL SECURITY</p>	
<p>C. Parental leave</p>	
<p>54. Is the employer obliged to provide any benefit or compensation to the employee on parental leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>No</p>

<p>54.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>54.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>54.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>55. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	
<p>55.1. Indicate the differences for persons according to point 1.1.</p>	
<p>55.2. Indicate the differences for persons according to point 1.2.</p>	

55.3. Indicate the differences for persons according to point 1.3.	
56. Indicate the amount of the benefit/compensation.	
56.1. Indicate the differences for persons according to point 1.1.	
56.2. Indicate the differences for persons according to point 1.2.	
56.3. Indicate the differences for persons according to point 1.3.	
57. Indicate the rules and conditions of claiming the benefit/compensation. <i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i>	
57.1. Indicate the differences for persons according to point 1.1.	
57.2. Indicate the differences for persons according to point 1.2.	
57.3. Indicate the differences for persons according to point 1.3.	

58. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	
58.1. Indicate the differences for persons according to point 1.1.	
58.2. Indicate the differences for persons according to point 1.2.	
58.3. Indicate the differences for persons according to point 1.3.	
59. Indicate whether the entitlement/amount to the benefit/compensation can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	
59.1. Indicate the differences for persons according to point 1.1.	
59.2. Indicate the differences for persons according to point 1.2.	
59.3. Indicate the differences for persons according to point 1.3.	
60. Indicate whether the employer gets any compensation from the state for providing	The employer is not supposed to grant such benefits. If he does, it is not compensated by the State.

<p>the benefits/compensations mentioned above. If so, under which conditions.</p>	
<p>61. Indicate what is the impact of the rules for social security system, if any.</p>	
<p>62. Which benefit(s) are envisaged for persons on parental leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>- Employees may receive the basic allowance of the childcare benefit for young children (Paje) from the “Caisse d’allocations familiales” (family allowance scheme), under a condition of resources. The maximum amount is around 180 euros per day, until the child is 3.</p> <p>Articles L531-1 to L531-9 SSC</p> <p>- In addition to this allowance, the employee may also receive the “prestation partagée d’éducation de l’enfant” (PreParE) (shared child-rearing benefit).</p> <p>3 conditions must be met:</p> <ul style="list-style-type: none"> • having at least one child under the age of 3 (or under the age of 20 in the case of adoption) • having totally or partially interrupted one’s professional activity • having validated at least 8 trimesters of pension contributions (over a reference period that varies according to the number of children: last 2 years if there is 1 dependent children family; last 4 years if there are 2 dependent children family; last 5 years if there are “ or more dependent children family). <p>“PreParE” can be awarded to one or both parents, either simultaneously or successively.</p> <p>Articles L531-1 to L531-9 SSC</p>
<p>62.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p>	<p>In case of adoption of a child, the childcare benefit can be granted until the child is 20 (for 3 years).</p> <p>Articles L531-1 to L531-9 SSC</p>

<p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>62.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Benefits are granted to all employees who fulfil the conditions. The major obstacle for flexible workers is the necessity to have contributed to the pension systems for 8 trimesters.</p>
<p>62.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The same regime applies to self-employed.</p> <p>Articles L531-1 to L531-9 SSC</p>
<p>63. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>Benefits are not transferable.</p>
<p>63.1. Indicate the differences for persons according to point 1.1.</p>	

<p>63.2. Indicate the differences for persons according to point 1.2.</p>	
<p>63.3. Indicate the differences for persons according to point 1.3.</p>	
<p>64. Indicate the amount of the benefit and the method of calculation.</p>	<p>As far as the minimum “childcare benefit for young children” is concerned, the amount depends on the personal situation of the beneficiary (couple or isolated parent), on the number of dependent children in the family, and on resources</p> <p>Articles D531-1 to D531-26 SSC</p> <p>As far as the specific PreparE is concerned (which depends on the parent interrupting its activity or shifting to part time), the maximum amount is 428 euros per month for total interruption or 277 in case of part-time (50%). In case of part time between 50 to 80%: 160 euros.</p> <p>Articles D531-1 à D531-26 SSC</p>
<p>64.1. Indicate the differences for persons according to point 1.1.</p>	None
<p>64.2. Indicate the differences for persons according to point 1.2.</p>	None
<p>64.3. Indicate the differences for persons according to point 1.3.</p>	None
<p>65. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special</i></p>	<p>Claims must be made to the social security scheme to which the worker is affiliated.</p>

<i>way, e.g. through a written request, is the employer engaged somehow? etc.).</i>	
65.1. Indicate the differences for persons according to point 1.1.	No
65.2. Indicate the differences for persons according to point 1.2.	No
65.3. Indicate the differences for persons according to point 1.3.	No
66. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.	No
66.1. Indicate the differences for persons according to point 1.1.	No
66.2. Indicate the differences for persons according to point 1.2.	No
66.3. Indicate the differences for persons according to point 1.3.	No
67. Indicate whether the entitlement to the benefit or its amount can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	No
67.1. Indicate the differences for persons according to point 1.1.	

<p>67.2. Indicate the differences for persons according to point 1.2.</p>	
<p>68. Are there any other legal instruments aimed at social security of a person on parental leave?</p> <p>If so, please, specify.</p>	<p>Collective agreements can apply. Personal or employer private insurance can be used.</p>

4. Administration

69. How is the administration of the leave and/or benefit legislated?

Basic legislation is adopted in Parliament, based on governments' proposals (articles L... of the codes).

Regulations (implementing legislation) is adopted by the government alone (decrees, articles D... of the codes)

70. Is there any administrative burden for employers? For instance, as regards obligations, that have increased in connection with the implementation of the WLB Directive and Transparency Directive, did administrative costs of employers grow? If so, does the State compensate those costs? How?

The burden on employers is limited and did not change in recent times, under EU new directives influence. Not yet at least, to my knowledge.

71. Have some responsibilities been entrusted to state authorities (e.g. labour offices or labour inspectorates)?

Both labour inspectors and social security inspectors are in charge of enforcing rules on maternity, paternity, and parental leave, in their respective domains.

72. Has any specific mechanism or procedure been introduced in order to check who is really taking care after the child, in order to avoid fraudulent behaviour?

Social security inspectors can check that children are effectively dependent on the parent benefiting from benefits. But the law does not require effective care: only that the child is born and leaves in the family.

5. General analysis

73. Please, summarize relevant national case-law providing legal interpretation of any of legal provisions mentioned above.

I have not mentioned case law. Most provisions in these domains are not highly contentious.

74. Has there been any public debate on the topic of maternity leave, parental leave, changes due to European legislation, non-transferability? Has this debate have any impact on current or proposed legislation?

There is no heated debate currently on these matters in France. There was a debate on the length (too short) of maternity leave, when it was debated at EU level. Same is true for paternity leave, but it has considerably increased and been taken seriously in recent times.

As far as parental leave is concerned, the debate is mostly on social benefits, which are not an incentive for parents earning higher wages than the average...

75. Can you provide us with any relevant statistics on maternity and/or parental leave, possibly showing some developments relevant for this questionnaire?

According to the **DREES (Directorate for Research, Studies, Evaluation and Statistics) Barometer:**

"In 2016, six out of ten French people felt that the length of maternity and paternity leave was sufficient.

Among 18-24 year-olds, 63% wanted paternity leave to be extended (which took place). This is twice as much as for maternity leave. Within couples, wanting to extend paternity leave is associated with greater involvement of the father in family tasks.

In practice, almost all employed or unemployed mothers take their maternity leave and, in 2013, seven out of ten eligible fathers took their paternity leave. Paternity leave is also more common in families where the roles of women and men are least differentiated. When both parents work, the men who make most use of paternity leave are those in the public sector. They are also the most involved in family tasks. Conversely, when the mother has never worked, fathers take paternity leave less often and are less involved in family tasks.

Self-employed parents take the least paternity and maternity leave. Among them, only three out of ten fathers took paternity leave and six out of ten mothers took maternity leave."

According to a **study by the “Observatoire français des conjonctures économiques”** (2021), less than 1% of fathers take parental leave, despite the reform of 2015. To achieve greater parity, the OFCE recommends a "more ambitious reform", which would involve "compensation calculated in proportion to previous salary".

Ariane Pailhé, Anne Solaz, Maxime Tô, “Can Daddies Learn How to Change Nappies? Evidence from a Short Paternity Leave Policy”, *Document de travail n°240, 2018*

“Seven out of 10 fathers now take paternity leave. Fathers with higher education qualifications take paternity leave more frequently than fathers with few or no qualifications. They are more likely to be in employment with a long or permanent contract, more likely to work in the public sector than in the private sector, and have higher incomes than fathers who do not take the leave. Fathers who take leave for the first time are also much more likely to do so. Fathers generally take the full amount of leave, and do so in the weeks following the birth.”

76. Can you briefly sum-up and provide a short analysis of the national legislation on maternity and parental leave? What are its positives, which weaknesses can be mentioned?

All is all, maternity and paternity leaves, although probably too short (esp. paternity leave) are well protected, and implemented (administratively). Since they benefit all workers, including self-employed, their scope is relatively large. The most important limit concerns the condition of contributions to have access to benefits, for most flexible workers.

As for parental leave, compensation granted by the social security system constitute a deterrent for both parents, but especially for men, who continue to have a higher remuneration than women (on the average), and thus lose more, if they take such a leave.

Questionnaire for national experts

Country: Hungary

Name, affiliation and contact of the national expert:

Prof. Dr. Nóra Jakab

Dr. Hilda Tóth

Dr. Bernadett Solymosi-Szekeres

1. Legislation on maternity, paternity and parental leave

Please, generally describe (with references to legal sources) your national legislation on maternity leave, paternity leave and parental leave.

Provide a legal definition of:

- maternity leave,
- paternity leave and
- parental leave

according to your national legislation.

If your national legislation distinguishes between time off and social security during it, please explain, with references to legal sources.

Act I of 2012 on Labour Code

Maternity leave

§ 127 (1) The mother shall be entitled to 24 consecutive weeks of maternity leave, of which she shall be obliged to take two weeks.

(2) * Maternity leave shall also be granted to a worker who is caring for the child on the basis of a court judgment or an enforceable guardianship order enforceable on account of the mother's state of health or death.

(3) Unless otherwise agreed, maternity leave shall be granted not more than four weeks before the expected date of childbirth.

(4) The unused part of the maternity leave, if the child is being cared for in an institution for the care of premature infants, may be taken up to one year after the child's discharge from the institution.

(5) The period of maternity leave shall be regarded as time spent at work, except in the case of entitlement specifically linked to work.

Article 129 (1) The leave provided for in Articles 127 to 128 shall cease

a) in the event of the stillbirth of a child,

b) if the child dies, on the fifteenth day after the death,

c) if the child has been temporarily placed, temporarily fostered or placed in a permanent foster home, as provided for by special legislation, or has been placed in a residential social institution for more than thirty days, on the day following the day on which the child was placed.

(2) In the case referred to in paragraph 1, the period of leave may not be less than six weeks after the birth.

Paternity leave

Article 118 (4) The father shall be entitled to ten working days' leave (hereinafter referred to as paternity leave), to be granted at the time of his request, in no more than two instalments, at the latest by the end of the second month following the birth of his child or, in the case of adoption of a child, at the latest by the end of the second month following the finalisation of the decision authorising the adoption. The worker shall also be entitled to paternity leave where the child is stillborn or dies.

Article 123 (1) Except for paternity leave and parental leave, leave shall be granted in the year in which it is due.

(5) * The employer may, in exceptional cases of important economic interest or for a reason directly and seriously affecting its operations

(a) may postpone the granting of leave, except for paternity leave, for a maximum of sixty days,

(b) may interrupt leave already taken by the worker, with the exception of paternity leave and parental leave,

(c) where a collective agreement so provides, grant one quarter of the leave not later than 31 March of the year following that in which it falls due.

(5a) * The employer shall give reasons in writing for any measure taken under paragraph 5 and, in the case referred to in paragraph 5(a), shall at the same time inform the employee of the date of grant which it proposes.

Section 125 * On termination of employment, if the employer has not granted the proportionate leave, it shall be replaced, except for paternity leave and parental leave.

(5) * The employer may, in exceptional cases of important economic interest or for a reason directly and seriously affecting its operations

(a) may postpone the granting of leave, except for paternity leave, for a maximum of sixty days

(b) interrupt leave already taken by the worker, with the exception of paternity and parental leave,

Parental leave

118/A. (1) A worker shall be entitled to forty-four working days of parental leave up to the age of three years.

(2) Parental leave may be taken only after one year of employment.

Article 122(1) The leave shall be granted by the employer after prior consultation with the employee.

(2) The employer shall grant seven working days' leave per year, except for the first three months of employment, in no more than two instalments at a time corresponding to the employee's request. Section 121 shall apply accordingly. The employee must give notice of his request at least fifteen days before the beginning of the leave.

(3) Unless otherwise agreed, leave shall be granted in such a way that the employee is released from his obligation to work and to be available for work for at least fourteen consecutive days once per calendar

year. In this respect, in addition to the days granted as leave, the weekly rest day (weekly rest period), public holidays and days off under the unequal working time system may be taken into account.

(4) The date on which leave is granted shall be communicated to the employee not later than fifteen days before the beginning of the leave. *

(4a) The employer shall grant parental leave at the time requested by the employee.

(5) Except as provided for in section 125, leave may not be exchanged.

Section 123 (1) Except for paternity leave and parental leave, leave shall be granted in the year in which it is due.

(5) The employer may, in exceptional cases of important economic interest or for reasons directly and seriously affecting its operations

(a) may postpone the granting of leave, except for paternity leave, for a maximum of sixty days

(b) to interrupt leave already taken, except for paternity and parental leave,

Article 125 On termination of employment, if the employer has not granted the leave on a pro rata basis, it shall be replaced, except for paternity and parental leave.

2. Time-off

Please, answer the questions in the following table. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

TIME OFF	
Question	Your answer with reference(s) to legal source
A. Maternity leave	
<p>1. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>LC § 127 (1) The mother shall be entitled to 24 consecutive weeks of maternity leave, of which she shall be obliged to take two weeks.</p>
<p>1.1. Please indicate whether the right to time off also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>LC § 127 (2) Maternity leave shall also be granted to a worker who is caring for a child on the basis of a court judgment or an enforceable decision of a guardianship authority which is enforceable on account of the mother's state of health or death.</p>
<p>1.2. Please indicate whether employees working in flexible forms of work (<i>on-call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>No difference in the atypical employment relationships (Telework, etc.) Platform work has not been regulated yet in Hungary.</p>
<p>1.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p>	<p>This right is connected only to the employee. However, it is a labour law definition. This period is covered by infant care benefit from the public social security system according to the Act LXXXIII of 1997</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>on compulsory health insurance benefits for insured people. Self-employed must pay contributions after the minimum wage. A person who works on a personal basis under a contract of employment who is not a self-employed person must pay contributions at least after the 30% of the minimum wage.</p>
<p>2. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>It is not transferable to another person. The employee is entitled, it sticks to personality.</p>
<p>2.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant because of point 2.</p>
<p>2.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant because of point 2.</p>
<p>2.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant because of point 2.</p>
<p>3. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>It is a continuous 24 weeks. There are not any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). There is not any entitlement to take the time off in a part-time form. Unless otherwise agreed, maternity leave must be granted no more than four weeks before the expected date of childbirth. The unused part of the maternity leave may be taken, if the child is being cared for in an institution for the care of premature infants, until one year after the child's discharge from the institution.</p>
<p>3.1. Indicate the differences for persons according to point 1.1.</p>	<p>If you mean, the substitute parent is not the biological parent, the following provision shall apply: LC 127. § (2) Maternity leave shall also be provided to an employee who provides care for a</p>

	child under court decision or resolution of the guardian authority capable of enforcement on account of the mother's health condition or death.
3.2. Indicate the differences for persons according to point 1.2.	There are no specific rules.
3.3. Indicate the differences for persons according to point 1.3.	The employee is entitled, it sticks to personality.
<p>4. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify legal conditions.</p>	<p>This administrative issue is not covered by the Labour Code. <i>The notification does not require a written form or has not any obligatory content.</i></p> <p>The employer issues it at the request of the employee, there is no possibility to refuse providing time off. The employee acts in accordance with general principles (such as good faith, fairness, cooperation) when notifies the employer.</p> <p>It is important to note that the employer and the employee may agree differently on the granting of parental leave.</p>
4.1. Indicate the differences for persons according to point 1.1.	See point 4. in the case if you mean, the substitute parent is not the biological parent.
4.2. Indicate the differences for persons according to point 1.2.	There are no specific rules.
4.3. Indicate the differences for persons according to point 1.3.	The employee is entitled, it sticks to personality.
<p>5. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p>	<p>It can not be interrupted. It is not a leave in the Labour Code, therefore the provisions for interruption shall not apply. Maternity leave is a separate title in the Labour Code.</p> <p>(General provision of interruption of leave in the LC:</p>

<p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify legal conditions.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p>	<p>LC § 123 (5) <i>In the case of an exceptionally important economic interest or for a reason directly and seriously affecting the employer's operations</i></p> <p><i>a) may postpone the granting of leave, except for paternity leave, for a maximum of sixty days,</i></p> <p><i>(b) interrupt leave already taken by the worker, with the exception of paternity and parental leave,</i></p> <p><i>(c) where a collective agreement so provides, grant one quarter of the leave not later than 31 March of the year following that in which it falls due.</i></p> <p><i>(5a) The employer shall give reasons in writing for any measure taken under paragraph 5 and, in the case referred to in paragraph 5(a), shall at the same time inform the employee of the date of grant which it proposes.) – it is not applied.</i></p>
<p>5.1. Indicate the differences for persons according to point 1.1.</p>	<p>See point 5.</p>
<p>5.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules.</p>
<p>5.3. Indicate the differences for persons according to point 1.3.</p>	<p>The employee is entitled, it sticks to personality.</p>
<p>Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p>	<p><i>It is notified to the employer and is not done through another person; the notification does not require a written form and has not any obligatory content.</i></p> <p>There is not any possibility of the employer to refuse earlier return from time off.</p> <p>LC § 129 (1) The maternity leave shall cease</p> <p><i>a) in the event of the stillbirth of a child,</i></p> <p><i>b) if the child dies, on the fifteenth day after the death,</i></p> <p><i>c) if the child has been temporarily placed, placed in temporary or permanent foster care, or placed in a residential social institution for more than thirty days, in accordance with special legislation, on the</i></p>

<p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify legal conditions.</p>	<p>day following the day on which the child was placed. (2) In the case referred to in paragraph 1, the period of leave may not be less than six weeks after the birth.</p>
<p>5.4. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>
<p>5.5. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules.</p>
<p>5.6. Indicate the differences for persons according to point 1.3.</p>	<p>The employee is entitled, it sticks to personality.</p>
<p>6. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please, specify legal conditions.</p>	<p>Yes, if the beneficiary takes two weeks or less than 24 weeks, the period of time off may be extended. (The mother shall be entitled to 24 consecutive weeks of maternity leave, of which two weeks shall be taken. LC § 127. § (1))</p>

<p>6.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>
<p>6.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules.</p>
<p>6.3. Indicate the differences for persons according to point 1.3.</p>	<p>The employee is entitled, it sticks to personality.</p>
<p>7. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>LC § 59 The employer shall make an offer to the employee to modify the remuneration after the end of the absence. This shall be based on the average annual wage increase for employees in the same job category as the employee which the employer has implemented in the meantime. In the absence of such workers, the average annual increase in the employer's actual wage rate shall apply.</p> <p>LC § 61 (1) The employer shall inform employees, indicating the job titles, of the following</p> <ul style="list-style-type: none"> a) full-time or part-time, b) for teleworking, and c) for permanent contracts of employment employment for an indefinite period of time. <p>(2) An employee may, except during the first six months of employment, request a modification of his contract of employment on the basis of the information referred to in paragraph 1.</p> <p>(3) The employer shall, at the employee's request, modify the employment contract to part-time work of half the normal full-time working hours up to the age of four years, or up to the age of six years in the case of an employee with three or more children.</p> <p>(4) Until the child is eight years old, the worker or the carer may, except during the first six months of the employment relationship</p> <ul style="list-style-type: none"> (a) a change in his place of work, (b) a change in his or her working hours, (c) teleworking; or (d) part-time work. <p>(5) The employee shall give reasons in writing for his request under paragraph (2) or (4) and indicate the date of the change.</p> <p>(6) The employer shall give written notice of the employee's request within fifteen days. If the request is refused, the employer shall give reasons</p>

	for his statement in accordance with Article 64(2). In the event of an unlawful refusal of the application or failure to make a statement, the court shall replace the employer's statement of consent
7.1. Indicate the differences for persons according to point 1.1.	There are no specific rules.
7.2. Indicate the differences for persons according to point 1.2.	There are no specific rules.

TIME OFF	
B. Paternity leave	
8. Indicate the conditions for entitlement to time off. <i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i>	LC § 118 (4) The father shall be entitled to ten working days' leave (hereinafter referred to as paternity leave), to be granted at the time of his request. LC § 294. m) father: a person having parental authority according to the Civil Code ma) a man with paternal status, or mb) adoptive male,
8.1. Please indicate whether the claim also applies when the child is taken into substitute parental care. Indicate which cases are considered to be taking the child into substitute parental care. Indicate any differences from the conditions referred to in point 1.	LC § 118 (4) The father shall be entitled to ten working days' leave (hereinafter referred to as paternity leave), to be granted at the time of his request, in no more than two instalments, at the latest by the end of the second month following the birth of his child or, in the case of adoption of a child, at the latest by the end of the second month following the finalisation of the decision authorising the adoption
8.2. Please indicate whether employees working through flexible forms of work <i>(on call work, telework, platform work etc.)</i> are also entitled to time off.	There is no difference.

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>8.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>This right is connected only to the employee (status).</p>
<p>9. If the entitlement to time off is transferable to other person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Paternity leave is granted to the father and it is not transferable. According to the LC: 294. § (1) m) father: a person with parental authority under the Civil Code ma) a man with paternal status, or (mb) an adoptive father.</p>
<p>9.1. Indicate the differences for persons according to point 1.1.</p>	<p>If you mean, the substitute parent is not the biological parent, in that case yes, because according to the LC: 294. § (1) m) father: a person with parental authority under the Civil Code ma) a man with paternal status, or (mb) an adoptive father.</p>
<p>9.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>9.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>10. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p>	<p>Maximum ten working days' leave. There are not any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). The latest by the end of the second month following the birth of the child, or the definitive date of the resolution on adoption if the child was</p>

<p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>adopted which shall be granted on the days requested by the father in not more than two installments.</p>
<p>10.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules. see point 10. if you mean, the substitute parent is not the biological parent.</p>
<p>10.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>10.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>11. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>Parental leave is part of the leave regulation in the Labour Code (maternity leave is not) therefore the general rules shall apply. The employer issues it at the request of the employee.</p> <p>LC § 134 (1) The employer shall keep records of</p> <ul style="list-style-type: none"> a) regular and extraordinary working hours, b) on-call time, c) leave, d) extraordinary working time performed under an agreement pursuant to Article 109 (2) and Article 135 (3), <p>the duration of such leave.</p> <p>(3) The employer shall provide the employee with a certificate in accordance with paragraph (2) of the</p> <ul style="list-style-type: none"> a) paternity leave, or (b) parental leave <p>paternity leave or parental leave granted by the previous employer.</p>
<p>11.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules, if you mean, the substitute parent is not the biological parent.</p>

<p>11.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>11.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>12. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify the legal conditions.</p>	<p>It is requested by the father the latest by the end of the second month following the birth of the child, or the definitive date of the resolution on adoption if the child was adopted, it shall be granted on the days requested by the father in not more than two installments.</p> <p>Regarding the notification, it does not <i>require a written form, or has not any obligatory content, but the employee shall act in accordance with the general principles of Labour Law</i> (such as good faith, fairness, cooperation).</p> <p>It can not interrupted.</p> <p>LC § 123 (5) In the case of an exceptionally important economic interest or for a reason directly and seriously affecting the employer's operations</p> <p>a) may postpone the granting of leave, except for paternity leave, for a maximum of sixty days,</p> <p>(b) interrupt leave already taken by the worker, with the exception of paternity and parental leave,</p>
<p>12.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules, if you mean, the substitute parent is not the biological parent.</p>
<p>12.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>12.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>

<p>13. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off providing time off? If so, please, specify the legal conditions.</p>	<p>The employer can not refuse earlier return from time off providing time.</p> <p>It can not be terminated prematurely.</p>
<p>13.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules, if you mean, the substitute parent is not the biological parent.</p>
<p>13.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>13.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>14. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p>	<p>If the father does not take the 10 working days, paternity leave can be extended up to the upper limit.</p> <p>There are not any possibility of the employer to refuse extension of originally provided/agreed time off.</p>

<p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	
<p>14.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules, if you mean, the substitute parent is not the biological parent.</p>
<p>14.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>14.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>15. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>The Labour Code does contain rules like in the case of maternity leave.</p>
<p>15.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules, if you mean, the substitute parent is not the biological parent.</p>
<p>15.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>15.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>

TIME OFF	
C. Parental leave	
<p>16. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>LC § 118/A. (1) A worker shall be entitled to forty-four working days of parental leave up to the age of three years.</p> <p>(2) Parental leave may be taken only after one year of employment.</p> <p>LC § 118 (1) A worker who is under the age of sixteen shall be</p> <p>a) for one child, two,</p> <p>b) four for two children,</p> <p>c) for more than two children, a total of seven for two children, and for two children for two children, shall be entitled to an additional period of leave of two working days.</p> <p>(2) The additional leave under subsection (1) shall be increased by two working days per disabled child if the employee's child is disabled.</p> <p>(3) For the purpose of entitlement to additional leave, the child shall be taken into account first in the year of his birth and last in the year in which he reaches the age of sixteen.</p>
<p>16.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The claim also applies in the case the child is taken into substitute parental care. The Labour Code does not specify which cases are considered to be taken the child into substitute parental care. The employee is entitled.</p>

<p>16.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>16.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>This right is connected only to the employee (status).</p>
<p>17. If the entitlement to time off is transferable to another person, please, identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>This right is connected to the employee. It sticks to the person. It can not be transferable.</p>
<p>17.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>
<p>17.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>17.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>18. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p>	<p>The duration is to forty-four working days' of parental leave until his or her child reaches three years of age. Parental leave shall be provided after at least one year of employment.</p>

<p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	
<p>18.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>
<p>18.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>18.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>19. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>LC § 122(1) The leave shall be granted by the employer after prior consultation with the employee.</p> <p>(2) The employer shall grant seven working days' leave per year, except for the first three months of employment, in no more than two instalments at a time corresponding to the employee's request. Section 121 shall apply accordingly. The employee must give notice of his request at least fifteen days before the beginning of the leave.</p> <p>(3) Unless otherwise agreed, leave shall be granted in such a way that the employee is released from his obligation to work and to be available for work for at least fourteen consecutive days once per calendar year. In this respect, in addition to the days granted as leave, the weekly rest day (weekly rest period), public holidays and days off under the unequal working time system may be taken into account.</p> <p>(4) The date on which leave is granted shall be communicated to the employee not later than fifteen days before the beginning of the leave. *</p> <p>(4a) The employer shall grant parental leave at the time requested by the employee.</p> <p>(5) Except as provided for in section 125, leave may not be exchanged</p>
<p>19.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>

19.2. Indicate the differences for persons according to point 1.2.	There are no specific rules. Platform is not regulated.
19.3. Indicate the differences for persons according to point 1.3.	This right is connected only to the employee (status).
<p>20. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of time off? If so, please, specify the legal conditions.</p>	<p>It can not. be interrupted LC § 123 (1) Except for paternity leave and parental leave, leave shall be granted in the year in which it is due.</p> <p>(5) The employer may, in exceptional cases of important economic interest or for reasons directly and seriously affecting its operations</p> <p>(a) may postpone the granting of leave, except for paternity leave, for a maximum of sixty days</p> <p>(b) to interrupt leave already taken, except for paternity and parental leave,</p> <p>There are not any possibility of the employer to refuse interruption of time.</p>
20.1. Indicate the differences for persons according to point 1.1.	There are no specific rules.
20.2. Indicate the differences for persons according to point 1.2.	There are no specific rules. Platform is not regulated.

<p>20.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>21. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify the legal conditions.</p>	<p>It may be postponed by the employer for a maximum of sixty days according to the Labour Code.</p> <p>There are not any requirements of notification.</p> <p>The employer can not refuse earlier return from time off.</p> <p>LC § 123 (1) Except for paternity leave and parental leave, leave shall be granted in the year in which it is due.</p> <p>(5) The employer may, in exceptional cases of important economic interest or for reasons directly and seriously affecting its operations</p> <p>(a) may postpone the granting of leave, except for paternity leave, for a maximum of sixty days</p> <p>(b) to interrupt leave already taken, except for paternity and parental leave,</p>
<p>21.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>
<p>21.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>21.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>22. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p>	<p>There is an upper limit: the duration is to forty-four working days'. If the worker uses fewer days, there is the possibility of an extension. However, there are not any provisions.</p>

<p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	
<p>22.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>
<p>22.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules. Platform is not regulated.</p>
<p>22.3. Indicate the differences for persons according to point 1.3.</p>	<p>This right is connected only to the employee (status).</p>
<p>23. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>There are no specific rules like in the case of maternity leave.</p>
<p>23.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>23.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>

3. Social security during the leave

Please, answer the questions in the following tables. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

SOCIAL SECURITY	
A. Maternity leave	
<p>24. Is the employer obliged to provide any benefit or compensation to the employee on maternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>No pay is paid for maternity leave by the employer. However according to the Labour Code it is considered as time spent at work.</p>
<p>24.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>If you mean, the substitute parent is not the biological parent, this parent is also entitled for the leave. However, in this case a special rule shall apply: Labour Code § 128. (2) Employees shall be entitled to unpaid leave for the purpose of taking care of his/her adopted child for a period of three years from the initial date of placement of the child under care, or for a period of six months for a child over three years of age, and such leave shall be allocated at the times requested by the employee.</p>
<p>24.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules. Platform is not regulated.</p>

<p>24.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>This right is connected only to the employee (status).</p>
<p>25. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>This right sticks to the employee, it can not be transferable.</p>
<p>25.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>25.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>25.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>26. Indicate the amount of the benefit/compensation.</p>	<p>The employer does not provide any remuneration for this period.</p>
<p>26.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>26.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>26.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>

<p>27. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>The employer does not provide any remuneration for this period.</p>
<p>27.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>27.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>27.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p style="background-color: black; height: 20px;"></p>	
<p>28. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The employer does not provide any remuneration for this period.</p>
<p>28.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>28.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>28.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p style="background-color: black; height: 20px;"></p>	
<p>29. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p>	<p>The employer does not provide any remuneration for this period.</p>

<p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	
<p>29.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>29.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>29.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>30. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>The employer does not provide any remuneration for this period, therefore there are not any compensation.</p>
<p>31. Indicate what is the impact of the rules for social security system, if any.</p>	<p>It is not relevant.</p>
<p>32. Which benefit(s) are envisaged for persons on maternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>From Public Social Security system the following benefit is envisaged: infant care benefit under Act LXXXIII of 1997.</p> <p>on compulsory health insurance benefits§ 40. 1) A woman who has been insured for 365 days in the two years preceding the birth of her child and whose child</p> <ul style="list-style-type: none"> - during the period of insurance or - is born within forty-two days of the termination of insurance, or - is born more than forty-two days after the termination of insurance during the period of payment of accidental sickness benefit or within twenty-eight days after the termination of such benefit. <p>(1a) The right of a woman who gives birth to a child to an infant care benefit shall cease no later than</p>

	<p>the day of the birth of the child, or, in the case of a premature child, the first day of maternity leave</p>
<p>32.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>It is worth pointing out that the labour law rules on maternity leave are not harmonised with the eligibility conditions for social security benefits, i.e. the scope of those entitled to social security benefits is wider than the scope of those entitled under labour law.</p> <p>Act LXXXIII of 1997 § 40 (4) A parent may acquire entitlement to an infant care allowance on behalf of a woman until 168 days after the birth of the child</p> <ul style="list-style-type: none"> - a woman who has taken the infant into care with a view to adoption (from the day on which the child is taken into care), - a foster carer within the meaning of Article 5(s) of Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship (hereinafter: Gyvtv) who takes care of the infant on the basis of a final decision (from the day of the appointment of the guardian), - the father of the child's parentage, if the woman giving birth to the child is certified by the health care provider as being removed from the household where the child is being cared for on grounds of her state of health (from the date indicated on the certificate until the date of the woman giving birth to the child's certified state of health), - the father of the child by blood, if the woman who has the child dies (from the date of death), - the man who has taken the child into care with a view to adoption, if the woman who wishes to adopt the child with him is certified by the health care provider as being in poor health and leaves the household where the child is being cared for (from the date shown on the certificate until the date of the certified state of health of the woman who wishes to adopt the child), - the man who has taken the child into care with a view to adoption, if the woman who intends to adopt the child dies (from the date of death), - the man who took the child into care alone with a view to adoption (from the date on which the child was taken into care), - the biological father who has custody of the infant, if the woman who has custody of the child has ceased to have custody of the child (from the date on which the woman who has custody of the child ceases to have custody of the child)

	<p>if, on the date on which any of the above conditions occur, the woman who gave birth is eligible.</p> <p>We would like to point out that there is another benefit called child care benefit which shall also apply in the case of substitute parent.</p> <p>According to § 42/F. (1) * In addition to what is contained in Subsection (1) of Section 42/A and Subsection (1) of Section 42/E, a foster parent shall be entitled to child-care benefits in respect of a child taken into foster care while engaged in the activities of registered foster carers, if he or she was insured for a period of three hundred and sixty-five days in the two-year period before the foster child is placed under his care, and if raising the child in his or her own household.</p> <p>(2) From the date of birth of the child, before the one hundred and sixty-ninth day thereafter no child-care benefits under Subsection (1) shall be paid to the foster parent for a period when engaged in paid employment of any type, other than the activities of registered foster carers.</p> <p>(3) If a foster parent concurrently provides care for two or more foster children in respect whom the foster parent would be entitled to child-care benefits, such entitlement to child-care benefits shall be limited to one child of the foster parent's choice only.</p> <p>(4) Child-care benefits under Subsection (1) shall be due and payable at the earliest from the day of undertaking foster care of the child until the child's second birthday.</p> <p>(5) The base for child-care benefits due for foster children shall be 55 per cent of the minimum wage prevailing on the first day of eligibility for child-care benefits, and the amount of child-care benefits shall be 70 per cent of the calendar day base.</p> <p>(6) If a foster parent is entitled to child-care benefits for a foster child and a biological or adopted child at the same time, the amount of child-care benefits established under Subsection (1) hereof shall be without prejudice to the amount of child-care benefits established according to Subsection (1) of Section 42/A.</p>
<p>32.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p>	<p>There is no difference as the insurance relationship is regulated by law, as follows. Platform is not regulated.</p> <p>Act LXXXIII of 1997.</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>§ 40 (2) The previous 365 days of insurance required for entitlement to the infant care benefit shall include</p> <ul style="list-style-type: none"> - the period spent insured pursuant to § 6 of Act CXXII of 2019 on persons entitled to social security benefits and on the coverage of these benefits (hereinafter: the Social Insurance Contributions Act), - the period of payment of accident sickness benefit, infant care allowance, adoption allowance, child care allowance after the termination of insurance - except for the so-called graduate allowance (child care allowance established pursuant to § 42/E of Act LXXXIII of 1997 on Compulsory Health Insurance Benefits), - 180 days of full-time education at a public education institution, a vocational training institution or an institution of higher education for more than one year, - the period of payment of rehabilitation benefits, - the duration of the period of unemployment benefit. <p>-the period of insurance acquired through an agreement concluded pursuant to Article 49/A(1) of the Social Insurance Code. For the purposes of acquiring the 365 days' insurance periods required for entitlement to the childcare allowance, the period of insurance required for the grant of the childcare allowance shall be calculated in accordance with the provisions of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities of 19 June 1968. A person who has been in service within the scope of Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and the Conditions of Employment of Other Servants of the European Communities may conclude an agreement - an agreement to provide a maternity cash benefit - with the government office of the capital/ county of the capital acting as the competent health insurance body in the place of residence or, if there is no place of residence in Hungary, with the government office of the capital acting as the competent health insurance body.</p> <p>The previous 365 days of insurance required for entitlement to an infant care allowance need not be continuous.</p>
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<p>32.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>For other employment relationships (e.g. self-employed, self-employed, agency relationship, etc.), the duration of the payment of the infant care benefit must be determined in accordance with the provisions on maternity leave.</p> <p>There are two important regulation regarding the contribution of self-employed and <i>person who works for remuneration in the context of other employment relationships</i>.</p> <p>Act CXXII of 2019 on persons entitled to social security benefits and the coverage of such benefits §40 (3) The social security contribution of an insured self-employed person shall be based on at least the minimum monthly wage.</p> <p>(4) A self-employed person shall not be liable to pay social security contributions after the lower limit for the payment of contributions for the period during which</p> <p>(a) sick pay, accident allowance, infant care allowance, adoption allowance, childcare allowance</p> <p>Act CXXII of 2019 on persons entitled to social security benefits and the coverage of such benefits § 7 (f) <i>a person who works for remuneration in the context of other employment relationships (on the basis of a contract of assignment, in an entrepreneurial relationship not constituting a sole proprietorship), with the exception of persons performing voluntary activities in the public interest as defined by law, if the income from such activities constituting the basis for contributions for the current month is equal to thirty percent of the minimum wage or thirty percent of the minimum wage for calendar days.</i> There is no difference between other forms of employment, as the insurance relationship is regulated by law, as follows.</p> <p>Act LXXXIII of 1997. § 40 (2) The previous 365 days of insurance required for entitlement to the infant care allowance must include</p> <ul style="list-style-type: none"> - the period spent insured pursuant to § 6 of Act CXXII of 2019 on persons entitled to social security benefits and on the coverage of these benefits (hereinafter: the Social Insurance Contributions Act), - the period of payment of accident sickness benefit, infant care benefit, adoption benefit, child care benefit after the termination of insurance - except for the so-called graduate child benefit
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	<p>(child care benefit established pursuant to § 42/E of Act LXXXIII of 1997 on Compulsory Health Insurance Benefits),</p> <ul style="list-style-type: none"> - 180 days of full-time education at a public education institution, a vocational training institution or an institution of higher education for more than one year, - the period of payment of rehabilitation benefits, - the duration of the period of unemployment benefit. the period of insurance acquired through an agreement concluded pursuant to Article 49/A(1) of the Social Insurance Code. For the purposes of acquiring the 365 days' insurance periods required for entitlement to the childcare allowance, the period of insurance required for the grant of the childcare allowance shall be calculated in accordance with the provisions of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities of 19 June 1968. A person who has been in service within the scope of Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and the Conditions of Employment of Other Servants of the European Communities may conclude an agreement - an agreement to provide a maternity cash benefit - with the government office of the capital/ county of the capital acting as the competent health insurance body in the place of residence or, if there is no place of residence in Hungary, with the government office of the capital acting as the competent health insurance body. <p>The previous 365 days of insurance required for entitlement to an infant care allowance need not be continuous.</p>
<p>33. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p>	<p>The parent is a broad category. However, they are entitled for the benefit on their own right. It is not a transferred right.</p> <p>No new benefit has been introduced. It is not proved who is really taking care of.</p> <p>Act LXXXIII of 1997 § 40 (4) A parent may acquire entitlement to an infant care allowance on behalf of a woman until 168 days after the birth of the child</p>

<p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<ul style="list-style-type: none"> - a woman who has taken the infant into care with a view to adoption (from the day on which the child is taken into care), - a foster carer within the meaning of Article 5(s) of Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship (hereinafter: Gyvtv) who takes care of the infant on the basis of a final decision (from the day of the appointment of the guardian), - the father of the child's parentage, if the woman giving birth to the child is certified by the health care provider as being removed from the household where the child is being cared for on grounds of her state of health (from the date indicated on the certificate until the date of the woman giving birth to the child's certified state of health), - the father of the child by blood, if the woman who has the child dies (from the date of death), - the man who has taken the child into care with a view to adoption, if the woman who wishes to adopt the child with him is certified by the health care provider as being in poor health and leaves the household where the child is being cared for (from the date shown on the certificate until the date of the certified state of health of the woman who wishes to adopt the child), - the man who has taken the child into care with a view to adoption, if the woman who intends to adopt the child dies (from the date of death), - the man who took the child into care alone with a view to adoption (from the date on which the child was taken into care), - the biological father who has custody of the infant, if the woman who has custody of the child has ceased to have custody of the child (from the date on which the woman who has custody of the child ceases to have custody of the child) <p>if, on the date on which any of the above conditions occur, the woman who gave birth is eligible.</p>
<p>33.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are not any specific rules.</p>
<p>33.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>

<p>33.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>34. Indicate the amount of the benefit and the method of calculation.</p>	<p>Act LXXXIII of 1997 § 39/A In determining the amount of the infant care allowance, income may be taken into account only if it is based on the income from an insurance relationship existing on the date of entitlement to the benefit and declared to the state tax authority for the purpose of determining the personal income tax advance and forming the basis for social security contributions.</p> <p>Act LXXXIII of 1997 § 48 (1)-(5)</p> <ol style="list-style-type: none"> 1. If the claimant has 180 calendar days of income from the last day of the third month immediately preceding the last day of the month in which the entitlement to the infant care allowance starts, the infant care allowance shall be calculated on the basis of 180 calendar days of income, if the period of insurance is continuous. In the event of interruption of continuous insurance, the income before the interruption shall not be taken into account. The 180 days of income may be taken back to the first day of the calendar year preceding the calendar year in which the entitlement to benefits began. 2. If there is no income of 180 calendar days during the period specified in point 1, but during that period the claimant has an income of at least 120 calendar days from the last day of the third month immediately preceding the month of entitlement, counted backwards from the last day of the third month immediately preceding the month of entitlement, the daily basis of the infant care allowance shall be determined by taking into account the actual income of 120 calendar days. This rule may be applied if the claimant has at least 180 days of continuous insurance within the meaning of Section 6 of Act CXXII of 2019 on the persons entitled to social security benefits and the coverage of these benefits immediately prior to the entitlement to the benefit.

3. An exception to this rule shall be made if the actual income - at least 30 calendar days - or, failing this, the contractual income - of the person concerned, on the date of commencement of his/her insurance relationship, is less than twice the minimum wage. In this case, the basis for the infant care allowance shall be determined on the basis of the actual income or, failing this, on the basis of the contractual income, provided that the basis shall not exceed 30 % of twice the minimum wage in force on the date on which entitlement commences.

Act LXXXIII of 1997 § 5/C (1) Contractual monthly income:

- in the case of sick leave entitlement, the amount of the absence allowance calculated for the month in which the entitlement to benefits commences, or the amount of the salary for one month,
- in the case of persons entitled to medical leave, the absence allowance for the period of medical leave calculated for the month in which entitlement to benefits begins,
- in the case of self-employed persons and self-employed persons in a partnership, the minimum wage applicable on the day on which entitlement commences,
- for farmers, 92 % of the minimum wage on the date of commencement of entitlement,
- in the case of persons employed under other gainful employment relationships, the minimum wage applicable on the date of commencement of entitlement to benefits in the case of insurance relationships of less than 30 days, or, in other cases, the contractual basis of the relationship.

Act LXXXIII of 1997 § 42 (4a) Benefit rule to be applied in determining the calendar day basis for the childcare allowance:

If the child is born while in receipt of childcare allowance or childcare assistance or within one year of the cessation of such entitlement, and the daily amount of the infant care allowance determined on the basis of the right of the last child born before the birth of the new child is higher than the daily amount of the infant care allowance calculated on the basis of the birth of the new child, the benefit shall be calculated on the basis of the higher daily subsistence figure if the last-established daily subsistence figure is calculated

	<p>solely by taking into account the income from employment on the date on which entitlement commences.</p> <p>Act LXXXIII of 1997 § 42 The amount of the infant care benefit per calendar day shall be 100% of the basic amount per calendar day or of the income per calendar day.</p>
<p>34.1. Indicate the differences for persons according to point 1.1.</p>	<p>There is no difference.</p>
<p>34.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>34.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>35. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>The provisions of claiming are the followings: according to Act LXXXIII of 1997 § 62 (1) insured persons shall submit their application for health insurance cash benefits and benefits for accident-related injuries with the employer. That procedure shall also apply where an application is submitted by a formerly insured person for benefits based on his or her previous legal relationship. According to Act LXXXIII of 1997 § 62 (2) child-care benefits shall be assessed by the employers' payment offices, where applicable. According to Act LXXXIII of 1997 39/A. § (4) Eligibility for this benefit, the duration and the amount of such benefits shall be assessed and established separately for each relationship. According to Act CXXII of 2019 on Entitlements to Social Security Benefits and on Funding These Services § 9 prescribes where a person is engaged in more than one insured contractual relationship, the insurance status of such person shall be assessed separately for each relationship.</p>
<p>35.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>

<p>35.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules.</p>
<p>35.3. Indicate the differences for persons according to point 1.3.</p>	<p>According to Act LXXXIII of 1997 § 62 (1a) The private entrepreneur shall submit an application for health insurance cash benefits and benefits for accident-related injuries, and a biological father and a mother who is not insured on the day of the child's birth shall submit an application for child-care benefits in accordance with Section 42/E to the health insurance administration.</p> <p>According to Act LXXXIII of 1997 § 62 (2) child-care benefits shall be assessed by the health insurance administration of jurisdiction by reference to the employer's registered address.</p> <p>According to Act LXXXIII of 1997 39/A. § (4) Eligibility for this benefit, the duration and the amount of such benefits shall be assessed and established separately for each relationship.</p> <p>According to Act CXXII of 2019 on Entitlements to Social Security Benefits and on Funding These Services § 9 prescribes where a person is engaged in more than one insured contractual relationship, the insurance status of such person shall be assessed separately for each relationship.</p>
<p>36. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>It can not be reduced as it is income based.</p> <p>According to Act LXXXIII of 1997 § 41 infant care benefits shall not be paid to the insured person who is engaged in paid employment of any type, apart from the activities of registered foster carers. A person in receipt of an infant care allowance must notify the Fund within eight days of the occurrence of the above circumstances.</p>
<p>36.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules.</p>
<p>36.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules.</p>

<p>36.3. Indicate the differences for persons according to point 1.3.</p>	<p>There are no specific rules.</p>
<p>37. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>According to Act LXXXIII of 1997 § 40 (1) Infant care benefits shall be due to a woman who was insured for a period of three hundred and sixty-five days inside a period of two years prior to giving birth, and if giving birth within forty-two days following the termination of insurance relationship. It is a so called passive right, when the insurance is terminated before granting the benefit. The entitled person is granted with infant care benefit, but is not entitled for child care benefit.</p>
<p>37.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no specific rules</p>
<p>37.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no specific rules</p>
<p>38. Are there any other legal instruments aimed at social security of a person on maternity leave?</p> <p>If so, please, specify.</p>	<p>It is not relevant.</p>
<p>SOCIAL SECURITY</p>	
<p>B. Paternity leave</p>	
<p>39. Is the employer obliged to provide any benefit or compensation to the employee on paternity leave?</p> <p>If so, please specify the conditions for entitlement.</p>	<p>Paternity leave is regulated within the Labour Code. It is not under the social security system. According to § 146 of the LC for the first five working days of paternity leave the employee shall be entitled to absentee pay, and to forty per cent of the absentee pay from the sixth working day. It does not depend on the duration of the</p>

<p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>employment relationship, the extent of the working hours.</p>
<p>39.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>If you mean, the substitute parent is not the biological parent, in that case if he is a father, yes, the rules apply. The Labour Code does not specifies the cases. According to the LC: 294. § (1) m) father: a person with parental authority under the Civil Code ma) a man with paternal status, or (mb) an adoptive father.</p>
<p>39.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules.</p>
<p>39.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>It is a labour law institution; it sticks to the person.</p>
<p>40. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>It is not relevant. It is a labour law institution; it sticks to the person. The social security system does not support this period.</p>
<p>40.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>

40.2. Indicate the differences for persons according to point 1.2.	It is not relevant.
40.3. Indicate the differences for persons according to point 1.3.	It is not relevant.
41. Indicate the amount of the benefit/compensation.	According to § 146 of the LC for the first five working days of paternity leave the employee shall be entitled to absentee pay, and to forty per cent of the absentee pay from the sixth working day. It does not depend on the duration of the employment relationship, the extent of the working hours
41.1. Indicate the differences for persons according to point 1.1.	It is not relevant.
41.2. Indicate the differences for persons according to point 1.2.	It is not relevant.
41.3. Indicate the differences for persons according to point 1.3.	It is not relevant.
42. Indicate the rules and conditions of claiming the benefit/compensation. <i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i>	It is provided automatically as soon as the time off is taken. The state reimburses this to the employer if a claim is made. See point 45.
42.1. Indicate the differences for persons according to point 1.1.	It is not relevant.

<p>42.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>42.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>43. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The employer can not reduce it.</p>
<p>43.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>43.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>43.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>44. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>There is no interruption, it can not be postponed, the employee can not be recalled.</p> <p>According to § 125 of LC upon termination of the employment relationship, compensation shall be provided for any vacation time not previously allocated as due, with the exception of paternity leave and parental leave.</p>
<p>44.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>44.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>

<p>44.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>45. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>There has been a Government Decree 535/2022 (XII. 21.) entered into force on the 1st of January on the use of paternity leave and reimbursement of the costs thereof</p> <p>Article 2 (1) To apply for paternity leave, the employee shall submit to the employer</p> <p>a) the original copy of the birth certificate of the child,</p> <p>(b) in the case of adoption, a certificate issued on the basis of a final decision of the guardianship authority authorising the adoption, or</p> <p>(c) in the case of a still-born child, the original of the document certifying the stillbirth.</p> <p>(2) The employee shall declare in writing</p> <p>(a) the production of the document referred to in paragraph 1,</p> <p>(b) the number of the document produced,</p> <p>(c) the surname and forename of the father at birth,</p> <p>(d) the name and surname of the child</p> <p>(da) the surname, forename, place and date of birth of the child,</p> <p>(db) the surname and forename, the fact of adoption, the number, date and date of the decision authorising the adoption, or</p> <p>(dc) the fact of his death, and</p> <p>(e) that his or her parental rights have not been suspended or terminated by a court.</p> <p>Article 3 (1) The employer shall keep a record of the use of paternity leave.</p>
<p>46. Indicate what is the impact of the rules for social security system, if any.</p>	<p>There are no social security rules.</p>
<p>47. Which benefit(s) are envisaged for persons on paternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p>	<p>There are no benefits for this period for the social security system.</p> <p>(He may be entitled to health care, as this is an insurance relationship.)</p>

<p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	
<p>47.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>It is not relevant.</p>
<p>47.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>It is not relevant.</p>
<p>47.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>It is not relevant.</p>
<p>48. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>No new benefit has been introduced. It is not proved, that the other parent is really taking care. There is no control.</p>

<p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	
<p>48.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>48.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>48.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>49. Indicate the amount of the benefit and the method of calculation.</p>	<p>It is not relevant as there is no social security benefit provided for this period. We have discussed the rules under the Labour Law session.</p>
<p>49.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>49.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>49.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>50. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special</i></p>	<p>It is not relevant as there is no social security benefit provided for this period. We have discussed the rules under the Labour Law session.</p>

<p><i>way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	
<p>50.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>50.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>50.3. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>50.4. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>50.5. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>
<p>50.6. Indicate the differences for persons according to point 1.3.</p>	<p>It is not relevant.</p>
<p>51. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>It is not relevant as there is no social security benefit provided for this period. We have discussed the rules under the Labour Law session.</p>
<p>51.1. Indicate the differences for persons according to point 1.1.</p>	<p>It is not relevant.</p>
<p>51.2. Indicate the differences for persons according to point 1.2.</p>	<p>It is not relevant.</p>

<p>52. Are there any other legal instruments aimed at social security of a person on paternity leave?</p> <p>If so, please, specify.</p>	<p>It is not relevant as there is no social security benefit provided for this period.</p>
<p>SOCIAL SECURITY</p>	
<p>C. Parental leave</p>	
<p>53. Is the employer obliged to provide any benefit or compensation to the employee on parental leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>It is a labour law institution, not a social security institution. It does depend on the duration of the employment relationship, According to § 118/A (2) of LC parental leave shall be provided after at least one year of employment.</p>
<p>53.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>It is a labour law institution, it sticks to the employee. Both parents can be entitled. They have to have parent authority over the child.</p>
<p>53.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules.</p>

<p>53.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	There are no specific rules.
<p>54. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	It is not transferable. It is a labour law institution it sticks to the person who is entitled.
<p>54.1. Indicate the differences for persons according to point 1.1.</p>	It is not relevant.
<p>54.2. Indicate the differences for persons according to point 1.2.</p>	It is not relevant.
<p>54.3. Indicate the differences for persons according to point 1.3.</p>	It is not relevant.
<p>55. Indicate the amount of the benefit/compensation.</p>	According to 146. § (5) of the LC the employee shall be entitled to ten per cent of the absentee pay for the duration of parental leave, minus any child-care benefits paid for the same period.
<p>55.1. Indicate the differences for persons according to point 1.1.</p>	There are no specific rules.
<p>55.2. Indicate the differences for persons according to point 1.2.</p>	There are no specific rules.

55.3. Indicate the differences for persons according to point 1.3.	There are no specific rules.
56. Indicate the rules and conditions of claiming the benefit/compensation. <i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i>	It is provided automatically as soon as the time off is taken. According to § 122 of LC (4a) The employer shall schedule parental leave at the time requested by the employee.
56.1. Indicate the differences for persons according to point 1.1.	There are no specific rules.
56.2. Indicate the differences for persons according to point 1.2.	There are no specific rules.
56.3. Indicate the differences for persons according to point 1.3.	There are no specific rules.
57. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	It can be reduced with the child care benefit. According to 146. § (5) of the LC the employee shall be entitled to ten per cent of the absentee pay for the duration of parental leave, minus any child-care benefits paid for the same period.
57.1. Indicate the differences for persons according to point 1.1.	There are no specific rules
57.2. Indicate the differences for persons according to point 1.2.	There are no specific rules
57.3. Indicate the differences for persons according to point 1.3.	There are no specific rules

<p>58. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	It can not be changed at all.
<p>58.1. Indicate the differences for persons according to point 1.1.</p>	It is not relevant.
<p>58.2. Indicate the differences for persons according to point 1.2.</p>	It is not relevant.
<p>58.3. Indicate the differences for persons according to point 1.3.</p>	It is not relevant.
<p>59. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	There is no compensation like in the case of paternity leave.
<p>60. Indicate what is the impact of the rules for social security system, if any.</p>	The amount must be reduced with the amount of the child care benefit.
<p>61. Which benefit(s) are envisaged for persons on parental leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p>	<p>They are entitled for the health care services.</p> <p>It does not depend on the duration of the employment relationship, the extent of the working hours.</p>

<p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	
<p>61.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The employee is entitled. Therefore substitute parent can also claim it. At this point the definition of the child is important. According to 294.§ (1) c child' shall mean any child raised or cared for in one's own household according to the Family Assistance Act, including where a child is raised or cared for alternately, in the same length of time, by parents living separately within the framework of joint custody, in their own household.</p>
<p>62.</p> <p>62.1. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no specific rules.</p>
<p>62.2. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>This applies to the employee status.</p>
<p>63. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p>	<p>No. There has not any new benefit been introduced It is not proved, that the other parent is really taking care. There is no control.</p>

<i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i>	
63.1. Indicate the differences for persons according to point 1.1.	It is not relevant.
63.2. Indicate the differences for persons according to point 1.2.	It is not relevant.
63.3. Indicate the differences for persons according to point 1.3.	It is not relevant.
64. Indicate the amount of the benefit and the method of calculation.	There is no benefit for this period under the social security system, therefore we can report on any provisions.
64.1. Indicate the differences for persons according to point 1.1.	It is not relevant.
64.2. Indicate the differences for persons according to point 1.2.	It is not relevant.
64.3. Indicate the differences for persons according to point 1.3.	It is not relevant.
65. Indicate the rules and conditions of claiming the benefit. <i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i>	Social security does not pay, the employer pays as above.

65.1. Indicate the differences for persons according to point 1.1.	It is not relevant.
65.2. Indicate the differences for persons according to point 1.2.	It is not relevant.
65.3. Indicate the differences for persons according to point 1.3.	It is not relevant.
66. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.	Social security does not pay, the employer pays as above.
66.1. Indicate the differences for persons according to point 1.1.	It is not relevant.
66.2. Indicate the differences for persons according to point 1.2.	It is not relevant.
66.3. Indicate the differences for persons according to point 1.3.	It is not relevant.
67. Indicate whether the entitlement to the benefit or its amount can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	Social security does not pay, the employer pays as above.
67.1. Indicate the differences for persons according to point 1.1.	It is not relevant.
67.2. Indicate the differences for persons according to point 1.2.	It is not relevant.

<p>68. Are there any other legal instruments aimed at social security of a person on parental leave?</p> <p>If so, please, specify.</p>	<p>There are no other legal instruments.</p>

4. Administration

69. How is the administration of the leave and/or benefit legislated?

In The Labour Code it is settled:

134 (1) The employer shall keep records of.

a) the regular and irregular working hours,

b) on-call time,

c) leave,

d) extraordinary working time performed under an agreement pursuant to Article 109 (2) and Article 135 (3),

the duration of such leave.

(2) The records shall also show the starting and ending dates of the normal and exceptional working hours worked and of on-call time.

(3) The register referred to in paragraph (1)(a) may, notwithstanding paragraph (2), be kept with confirmation of the written working time schedule at the end of the month and an up-to-date indication of the change.

70. Is there any administrative burden for employers? For instance, as regards obligations, that have increased in connection with the implementation of the WLB Directive and Transparency Directive, did administrative costs of employers grow? If so, does the State compensate those costs? How?

There has been a Government Decree 535/2022 (XII. 21.) entered into force on the 1st of January on the use of paternity leave and reimbursement of the costs thereof

Article 2 (1) To apply for paternity leave, the employee shall submit to the employer

a) the original copy of the birth certificate of the child,

(b) in the case of adoption, a certificate issued on the basis of a final decision of the guardianship authority authorising the adoption, or

(c) in the case of a still-born child, the original of the document certifying the stillbirth.

(2) The employee shall declare in writing

(a) the production of the document referred to in paragraph 1,

(b) the number of the document produced,

(c) the surname and forename of the father at birth,

(d) the name and surname of the child

(da) the surname, forename, place and date of birth of the child,

(db) the surname and forename, the fact of adoption, the number, date and date of the decision authorising the adoption, or

(dc) the fact of his death, and

(e) that his or her parental rights have not been suspended or terminated by a court.

Article 3 (1) The employer shall keep a record of the use of paternity leave.

(2) The records referred to in paragraph (1) shall include

(a) the name of the employee taking paternity leave,

(b) the number and date of the days actually taken,

(c) the method of calculating the absence allowance, the amount and the public charges calculated.

(3) It shall be the employer's responsibility to retain the declaration referred to in Article 2 as an annex to the records referred to in paragraph (1), taking into account the provisions on accounting records.

(4) If an employee changes his/her place of work within the period of entitlement to paternity leave, he/she shall present to his/her new employer the employment record of the employee in accordance with the provisions of the Labour Code. 80 (3) at his new employer's place of employment.

Article 4 The amount of the absence allowance and the employer's contribution payable for the first five working days of paternity leave shall be reimbursed to the employer from the central budget.

Article 5 (1) The employer shall submit the application for reimbursement of the costs related to the paternity leave to which the employee is entitled to to the regional body of the Hungarian State Treasury competent for the place of the claimant's registered office or place of business (hereinafter referred to as the "Directorate"). The Directorate shall pay the costs covered by the application, pending its decision.

(2) The Directorate shall check the records, legality and accounting of the absence allowance and public charges due, paid and accounted for on the basis of paternity leave to which the worker is entitled. The check shall be carried out on the basis of a formal, substantive and financial check of the data on the form or form submitted by the employer prior to payment and, where necessary, on the spot, by means of an ex post check on the basis of the reimbursement of expenses paid.

(3) The Board of Directors shall take a decision establishing an obligation to repay any amount overpaid or overpaid for lack of entitlement. The decision shall be subject to administrative action. The decision on the action shall have suspensory effect on implementation up to the amount in dispute.

(4) The employer may apply for the reimbursement of the absence allowance and public charges due to and paid to the employee by electronic means using the form or form published on the website of the Hungarian State Treasury, using the data content of the form or form provided for that purpose, by 31 March, 30 June, 30 September and 31 December. Within fifteen days of the deadline for submission, the Management Board shall ensure that the amount of the statement, aggregated over the quarter, is paid. The absence allowance and the public charges for the absence paid by the employer may be deducted for a maximum of three years from the date of payment.

71. Have some responsibilities been entrusted to state authorities (e.g. labour offices or labour inspectorates)?

It has not changed. Government Decree 115/2021. § 5 (1) has not been amended.

72. Has any specific mechanism or procedure been introduced in order to check who is really taking care after the child, in order to avoid fraudulent behaviour?

No specific rules have been introduced.

5. General analysis

73. Please, summarize relevant national case-law providing legal interpretation of any of legal provisions mentioned above.

Related case law

Decision 3172/2017 (VII.14.9) of the Constitutional Court: A civil servant on maternity leave who is considered to be permanently absent during that leave is not entitled to a cafeteria allowance, without infringing the requirement of equal treatment. It is not a matter of constitutional law that the childbirth and the life situation immediately preceding and following it are specific. A woman who gives birth to a child and makes use of the rights available to her is exempt from a certain part of the obligations which form part of her employment relationship. One basic example of these obligations is to be present at the place of work, another is to work there. In addition to the obligations which form part of the employment relationship as a government official, becoming a parent also affects the entitlements which go with that relationship. It is therefore reasonable that the legislature should lay down different rules for government officials on maternity leave and those not on maternity leave, as long as the difference can be explained by the effect of that particular situation on the legal relationship. In the light of those considerations, the possible legal consequence of an absence of more than thirty days, which would have the effect of removing entitlement to the cafeteria allowance, does not constitute arbitrary discrimination

Decision 74/2006 (15.12.2006) of the Constitutional Court: The Law amending the Labour Code of 1992, which amended Article 134 of the Labour Code concerning the granting of leave, by allowing leave to be granted after the year in which it is due, in cases of exceptional economic interest, until 30 June instead of the previous deadline of 31 January of the year following the year in question, and until 31 December in the case of a collective agreement, without prohibiting derogation from those new provisions, is not unconstitutional.

In one case, the plaintiff employee alleged that, after returning from maternity leave, she was disadvantaged compared to a male employee in the same job because the defendant had increased her basic personal salary by a smaller amount. While the defendant had made a pay increase of more than 15 % for the male employee, the increase for the applicant was 5 %. The Curia held that the defendant had the burden of proving that it had complied with the requirement of equal treatment in the wage increase, in particular in view of the fact that the basic salary of the plaintiff before her maternity leave was ascertainably higher than that of the employee of the same job category whom she had designated (Mfv. I. 10.630/2014/6.)

74. Has there been any public debate on the topic of maternity leave, parental leave, changes due to European legislation, non-transferability? Has this debate have any impact on current or proposed legislation?

There were some documents prepared by trade unions.

- 2022. október 26. MUNKÁSTANÁCSOK ORSZÁGOS SZÖVETSÉGE
https://szakszervezetek.hu/images/kepek/2022/mt_modositas_szakmai_velemenypdf

- <https://szef.hu/2022/10/17/a-szef-allaspontja-a-szuli-szabadsag-iranyelvro/>

75. Can you provide us with any relevant statistics on maternity and/or parental leave, possibly showing some developments relevant for this questionnaire?

Expenditure on infant care allowance has been increasing in the last few years:²
https://www.ksh.hu/stadat_files/szo/hu/szo0005.html

2016: 49662

² https://www.ksh.hu/stadat_files/szo/hu/szo0005.html (downloaded: 10.06.2023.)

2017: 55489

2018: 61219

2019: 66592

2020: 78206

2021: 100072

The number of people per thousand women of childbearing age using the infant care allowance by county and region is highest in Central Hungary and Central Transdanubia.³

76. Can you briefly sum-up and provide a short analysis of the national legislation on maternity and parental leave? What are its positives, which weaknesses can be mentioned?

The regulation was necessary. Pay for absence does not necessarily encourage workers to take parental leave in particular Paternity leave pay: note that the first five working days and the last five working days are paid differently. The first five working days of paternity leave are paid at 100% of the absence allowance, while the sixth working day is paid at 40% of the absence allowance.

Parental leave pay: the employee is entitled to 10 % of the absence allowance for the duration of the parental leave, reduced by the amount of childcare allowance or childcare allowance paid to the employee for that period.

³ https://www.ksh.hu/stadat_files/szo/hu/szo0038.html (downloaded: 10.06.2023.)

Questionnaire for national experts

Country: Report on Germany,

Name, affiliation and contact of the national expert: Dr Jule Mulder, University of Bristol Law School, UK, jule.mulder@bristol.ac.uk

1. Legislation on maternity, paternity and parental leave

Please, generally describe (with references to legal sources) your national legislation on maternity leave, paternity leave and parental leave.

Provide a legal definition of:

- maternity leave:

German law speaks about 'Mutterschutzfrist' which can be translated freely with maternity leave period but literally means maternity protection period. It is a period of several weeks before and after the birth during which the pregnant person or person who gave birth is not allowed to work.

German law speaks about protective periods and prohibition of employment. According to section 3(1) Mutterschutzgesetz (Maternity Protection Act) employers may not employ a pregnant woman in the last six weeks before childbirth (protection period before childbirth), unless she expressly agrees to work. For the calculation of the period of protection before childbirth, the expected date of delivery as shown in the medical certificate, or the certificate of a midwife or maternity nurse is decisive. If a woman does not give birth on the expected day, the protection period before childbirth is shortened or extended accordingly. Section 3(2) stipulates that employers may not employ a woman until the expiry of eight weeks after childbirth (protection period after childbirth). Section 1(4) further clarifies that the Act applies to any person who is pregnant, has given birth to a child or is breastfeeding.

The employment relationship remains. However, the main duties (pay/service) are suspended during that time.

- paternity leave and

There is currently no paternity leave in Germany. However, the coalition government (Liberal/Green/Labour) agreed to introduce a 'two-week paid leave of absence for the partner after the birth of a child' in its Coalition agreement.

- parental leave

Parental leave is an unpaid break from working life for mothers and fathers who look after and raise their child themselves. The employment relationship remains intact but the main duties (pay/service) are suspended.

According to section 15 Gesetz zum Elterngeld und zur Elternzeit (Law on Parental Allowance and Parental Leave) the entitlement to parental leave exists until a child reaches the age of three. A portion of up to 24 months can be claimed between the child's third birthday and eighth year of life. The period of maternity protection are counted towards the limitation. If there are several children, each child is

entitled to parental leave, even if the periods overlap. In the case of an adopted child and a child in full-time or adoption care, parental leave may be taken for a total of up to three years from the date of admission to the entitled person, at the latest until the child reaches the age of eight. Parental

Each employed parent -and parent similar care relationships specifically listed- is entitled to parental leave.

according to your national legislation.

If your national legislation distinguishes between time off and social security during it, please explain, with references to legal sources.

2. Time-off

Please, answer the questions in the following table. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

TIME OFF	
Question	Your answer with reference(s) to legal source
A. Maternity leave	
<p>1. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The Act applies to women in employment, including</p> <ul style="list-style-type: none"> -employee-like person, -those in apprenticeships and internships, those working in Workplaces for disabled persons, -development workers, -volunteers, -women who work as members of a spiritual cooperative, deaconesses or members of a similar community in a position or on the basis of a contract for it, even during the period of their extracurricular education there, and -pupils and students, insofar as the training centre stipulates the place, time and course of the training event or who are completing an internship that is mandatory as part of their school or university education. <p>Civil Servants, Judges and Soldiers are explicitly excluded from its scope.</p>
<p>1.1. Please indicate whether the right to time off also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Yes – there is no difference. The person giving birth is entitled to leave. It is irrelevant whether the child is in foster care or given up for adoption.</p> <p>There is only an exception in case of death of the child. In that case women can return to work early (after 2 weeks) if they agree explicitly.</p> <p>The foster and adoptive parents are not entitled to maternity leave. However, they can apply for parental leave. Their overall entitlement to leave will be the same (see below)</p>
<p>1.2. Please indicate whether employees working in flexible forms of work (<i>on-call</i></p>	<p>Yes, it is a prohibition of employment covering all employees and employment-like work</p>

<p><i>work, telework, platform work etc.)</i> are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>relationships (i.e. workers within the meaning of EU law) and other workers or students (see list above).</p> <p>The training centre may allow a woman to work within the framework of school or university education during the protection period after childbirth if the woman expressly requests this from her training centre.</p>
<p>1.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Zweite Führungspositionen-Gesetz 2021, FÜPoG II, (Second Leadership Positions Act – i.e. an Act on inter alia Soft Quotas on Board) entitles a member of a Management Board that consists of several persons, to the right to request the Supervisory Board to revoke his or her appointment in case of Maternity. If a member of the Management Board makes use of this right, the Supervisory Board must revoke the appointment of this member of the Management Board 1. In the case of maternity leave and guarantee the reappointment after the expiry of the period of protection specified in the Maternity Protection Act (now section 84 Stock Corporation Act) Section 38 Limited Liability Companies Act provides directors with a similar right, as long as at least one other managing director has been appointed.</p>
<p>2. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Maternity leave only relates to pregnancy and giving birth (and breastfeeding). It is not transferable.</p>
<p>2.1. Indicate the differences for persons according to point 1.1.</p>	<p>none</p>
<p>2.2. Indicate the differences for persons according to point 1.2.</p>	<p>none</p>
<p>2.3. Indicate the differences for persons according to point 1.3.</p>	<p>none</p>

<p>3. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>Section 3(1) Maternity Protection Act stipulates that employers may not employ a pregnant woman in the last six weeks before childbirth (protection period before childbirth), unless she expressly agrees to work. For the calculation of the period of protection before childbirth, the expected date of delivery as shown in the medical certificate, or the certificate of a midwife or maternity nurse is decisive. If a woman does not give birth on the expected day, the protection period before childbirth is shortened or extended accordingly.</p> <p>Section 3(2) stipulates that employers may not employ a woman until the expiry of eight weeks after childbirth (protection period after childbirth).</p> <p>The protection period after childbirth is extended to twelve weeks in case of premature birth, in the case of multiple births and, if, before the expiry of eight weeks after delivery, the child is medically diagnosed with a disability.</p> <p>In the event of premature delivery, the term of protection after childbirth shall be extended by the period of shortening the period of protection before childbirth. As such, the overall leave will be the same.</p> <p>In case of the child's disability, the term of protection after childbirth is only extended upon the woman's request.</p>
<p>3.1. Indicate the differences for persons according to point 1.1.</p>	<p>None</p>
<p>3.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>3.3. Indicate the differences for persons according to point 1.3.</p>	<p>None</p>
<p>4. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p>	<p>Section 15 states that a pregnant woman should inform her employer of her pregnancy and the expected date of delivery as soon as she knows that she is pregnant. A breastfeeding woman should</p>

<p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify legal conditions.</p>	<p>inform her employer as early as possible that she is breastfeeding.</p> <p>At the request of the employer, a pregnant woman shall submit a medical certificate or the certificate of a midwife or maternity nurse as proof of her pregnancy. The certificate of pregnancy should contain the expected date of delivery.</p> <p>There is no possibility for the employer to refuse. Indeed, it is a prohibition of employment, and as such compulsory for the employer for both periods (before and after birth), and compulsory for the employee after birth.</p>
<p>4.1. Indicate the differences for persons according to point 1.1.</p>	<p>none</p>
<p>4.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>4.3. Indicate the differences for persons according to point 1.3.</p>	<p>A member of a Management Board has the right to request the Supervisory Board to revoke his or her appointment for the time of the protective period.</p>
<p>5. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify legal conditions.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness</p>	<p>Maternity leave cannot be interrupted because it is compulsory, and the employer has not influence over the time taken.</p> <p>During the six weeks' prenatal protection period under section 3(1) of the Maternity Protection Act, the pregnant worker is allowed to work voluntarily as long as she remains free to withdraw her consent at any time.</p> <p>The protective period after birth is generally compulsory for employer and employee. However, there are 2 exceptions.</p> <p>A vocational training centre may allow a woman to work within the framework of school or university education (i.e. internship) within the protection period after childbirth if the woman expressly requests this from her training centre. The woman can revoke her declaration at any time with effect for the future.</p> <p>After the death of the child, the employer may employ a woman after the first two weeks after</p>

<p>versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p>	<p>childbirth if (1.) the woman expressly requests this and (2.) according to a medical certificate, there is nothing to be said against it (see section 3(4) Maternity Protection Act). The woman can revoke her declaration at any time with effect for the future.</p> <p>As such, the leave can be interrupted.</p>
<p>5.1. Indicate the differences for persons according to point 1.1.</p>	<p>None</p>
<p>5.2. Indicate the differences for persons according to point 1.2.</p>	<p>None</p>
<p>5.3. Indicate the differences for persons according to point 1.3.</p>	<p>Reappointment is only ensured following the standard protective periods.</p>
<p>6. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify legal conditions.</p>	<p>The compulsory nature of the leave prevents a premature termination in general terms. However, there are 2 exceptions.</p> <p>A vocational training centre may allow a woman to work within the framework of school or university education (i.e. internship) within the protection period after childbirth if the woman expressly requests this from her training centre. The woman can revoke her declaration at any time with effect for the future.</p> <p>After the death of the child, the employer may employ a woman after the first two weeks after childbirth if (1.) the woman expressly requests this and (2.) according to a medical certificate, there is nothing to be said against it (see section 3(4) Maternity Protection Act). The woman can revoke her declaration at any time with effect for the future.</p> <p>As such, the leave could potentially be terminated prematurely.</p> <p>Whether employers can refuse an early return is not regulated in law. In practice this is unlikely to</p>

	happen, since the periods are relatively short, and an employer has little reason to refuse early return unless the women has also applied for parental leave. Within the latter, employers are able to refuse early return, depending on the circumstances (see below).
6.1. Indicate the differences for persons according to point 1.1.	none
6.2. Indicate the differences for persons according to point 1.2.	None
6.3. Indicate the differences for persons according to point 1.3.	Reappointment is only ensured following the standard protective periods.
<p>7. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please, specify legal conditions.</p>	<p>No, the periods is compulsory and cannot be reduced other than in case of the death of the child or within the context of school/university internships and only upon the request of the person who gave birth. Within these narrow circumstances, the request can be revoked at any time for the future. As such, the leave can be extended.</p>
7.1. Indicate the differences for persons according to point 1.1.	none

7.2. Indicate the differences for persons according to point 1.2.	None
7.3. Indicate the differences for persons according to point 1.3.	Not applicable
8. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.	<p>The contractual relationship remains intact during the leave, but the primary duties are paused. As such, the woman is entitled to return to her original post.</p> <p>Due to the German conception of maternity leave, the question of 'returning to the same job' does not arise because the employment relationship remains totally unaffected. However, a transfer to a non-equivalent post after maternity leave would be direct discrimination under the General Equal Treatment Act and the pregnant worker would be awarded compensation.</p> <p>Section 25 of the new Maternity Protection Act clarifies that after the postnatal protection period, the employee has the right to be employed in accordance with the conditions that have been contractually agreed upon.</p>
8.1. Indicate the differences for persons according to point 1.1.	None
8.2. Indicate the differences for persons according to point 1.2.	Section 84 Stock Corporation Act and Section 38 Limited Liability Companies Act provide a right to be reappointed following the protection period.

TIME OFF

B. Paternity leave	
<p>9. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>German law does not have paternity leave. However, fathers (or the other parent) can take parental leave from the birth of the child (see below). The government considers this sufficient to implement the EU obligations. However, they also plan to introduce a 10-day long leave as agreed in the coalition agreement. It is doubtful, whether the current parental leave regulation is indeed implementing the EU paternity leave requirements, given that parental leave is not related to the birth of the child.</p> <p>§ 21 (Special leave for personal reasons) Ordinance on Special Leave for Federal Civil Servants and Federal Judges (Special Leave Ordinance - SUrlV) entitles civil servants to one day of leave in case of the partner giving birth. Public employment contracts provide for similar rights in most circumstances.</p> <p>A 2001 judgment suggests that fathers (or the other parent) are entitled to special leave with continued payment of wages (section 616 Civil Code), Federal Labour Court judgment of 18.01.2001, 6 AZR 492/99. It does not determine the length of leave.</p>
<p>9.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>9.2. Please indicate whether employees working through flexible forms of work <i>(on call work, telework, platform work etc.)</i> are also entitled to time off.</p>	

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>9.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>10. If the entitlement to time off is transferable to other person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	
<p>10.1. Indicate the differences for persons according to point 1.1.</p>	
<p>10.2. Indicate the differences for persons according to point 1.2.</p>	
<p>10.3. Indicate the differences for persons according to point 1.3.</p>	
<p>11. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (<i>e.g. for workers who performed the work for a shorter time before taking the leave</i>). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	

<p>11.1. Indicate the differences for persons according to point 1.1.</p>	
<p>11.2. Indicate the differences for persons according to point 1.2.</p>	
<p>11.3. Indicate the differences for persons according to point 1.3.</p>	
<p>12. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	
<p>12.1. Indicate the differences for persons according to point 1.1.</p>	
<p>12.2. Indicate the differences for persons according to point 1.2.</p>	
<p>12.3. Indicate the differences for persons according to point 1.3.</p>	
<p>13. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p>	

<p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify the legal conditions.</p>	
<p>13.1. Indicate the differences for persons according to point 1.1.</p>	
<p>13.2. Indicate the differences for persons according to point 1.2.</p>	
<p>13.3. Indicate the differences for persons according to point 1.3.</p>	
<p>14. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p>	

<p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off providing time off? If so, please, specify the legal conditions.</p>	
<p>14.1. Indicate the differences for persons according to point 1.1.</p>	
<p>14.2. Indicate the differences for persons according to point 1.2.</p>	
<p>14.3. Indicate the differences for persons according to point 1.3.</p>	
<p>15. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	

15.1. Indicate the differences for persons according to point 1.1.	
15.2. Indicate the differences for persons according to point 1.2.	
15.3. Indicate the differences for persons according to point 1.3.	
16. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.	
16.1. Indicate the differences for persons according to point 1.1.	
16.2. Indicate the differences for persons according to point 1.2.	
16.3. Indicate the differences for persons according to point 1.3.	

TIME OFF	
C. Parental leave	
17. Indicate the conditions for entitlement to time off.	Section 15 Law on Parental Allowance and Parental Leave in principle entitles employees to parental leave if they live with their child in the same

<p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>household and take care of and educate this child themselves. Long-term foster parents and adoptive parents are entitled to leave as soon as the child lives in their household. Stepparents (i.e. partner married to the parent or in a civil union) are also entitled, however the latter requires consent of the parent with custody. Moreover, relatives up to the third degree and their spouses are entitled, if the parents are unable to care for their child due to a serious illness, severe disability or death. Grandparents are entitled to parental leave if they live in the same household and the parent is a minor (i.e. younger than 18 years) or one of the child's parents is in education that began before the age of 18 and occupies them full time and neither of the parents take parental leave.</p> <p>The entitlement to parental leave exists until a child reaches the age of three. A portion of up to 24 months can be claimed between the child's third birthday and eighth year of life.</p> <p>During parental leave, employees may only work for up to 30 hours per week (32 hours if the child is born after Sep 2021). A day care worker may care for up to five children in day care, even if the weekly care time exceeds 32 hours. Part-time work with another employer or self-employment require the consent of the employer. The latter can only reject them in writing within four weeks for urgent operational reasons.</p> <p>There is no work and/or length of service requirement in order to benefit from parental leave. The entitlement to parental leave requires no specific period of service. Employees under fixed-term contracts have a right to parental leave just as any other employed parent. However, fixed-term contracts are not extended by the period of parental leave and may therefore expire during the parental leave</p>
<p>17.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p>	<p>The child must live in the same household and the parent must take care of the child. The biological parents are not entitled to parental leave if the child is in foster care.</p> <p>However, the foster parents are explicitly included in the act. Section 15(1) no 1c explicitly refers to foster parents in with full-time care</p>

<p>Indicate any differences from the conditions referred to in point 1.</p>	<p>responsibilities. The child will still have to live in the same (foster parent) household and the foster parent will have to take care of and educate the child themselves.</p> <p>Adoptive parents are also entitled to parental leave, even if the adoption procedures are not concluded yet, as long as the child lives in their household and the foster parent will have to take care of and educate the child themselves.</p>
<p>17.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Yes, they are entitled to parental leave just like any other employee, as long as they have an employment contract. There are special forms of parental leave for civil servants, judges and soldiers.</p> <p>Section 20 is explicit in 2 regards. Firstly, persons employed for the purpose of their vocational training shall be deemed to be employees within the meaning of this Act. Parental leave is not counted towards the duration of vocational training, unless the vocational training is carried out part-time during parental leave. Secondly, employees working from home and those treated as such shall also be entitled to parental leave, provided that they work in one piece. For them, the employer is replaced by the client or intermediate foreman.</p>
<p>17.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Zweite Führungspositionen-Gesetz 2021, FÜPoG II, (Second Leadership Positions Act – i.e. an Act on inter alia Soft Quotas on Board) entitles a member of a Management Board that consists of several persons, to the right to request the Supervisory Board to revoke his or her appointment to take parental leave. If a member of the Management Board makes use of this right, the Supervisory Board must revoke the appointment of this Management Board member in the case of parental leave, assuring the reappointment after a period of up to three months (or 12 months) in accordance with the request of the Management Board member; the Supervisory Board may refrain from revoking the appointment if there is good cause (section 84 Stock Corporation Act).</p> <p>Section 38 Limited Liability Companies Act provides directors with a similar right, as long as at</p>

	least one other managing director has been appointed.
18. If the entitlement to time off is transferable to another person, please, identify that person and indicate the conditions under which the entitlement may be transferred.	The right to parental leave is the right of each parent and as such not transferable outside the limited scope outlined above.
18.1. Indicate the differences for persons according to point 1.1.	
18.2. Indicate the differences for persons according to point 1.2.	
18.3. Indicate the differences for persons according to point 1.3.	The right is not transferable at all.
19. Indicate the duration of time off. Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify. Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.	Each parent is entitled to up to three years of leave for each child. A portion of up to 24 months can be claimed between the child's third birthday and eighth year of life. If there are several children, each child is entitled to parental leave, even if the periods before and after the three-year threshold overlap. The period of maternity protection (8 or 12 weeks after birth) shall be counted towards the limitation for the mother's parental leave. Thus, mothers and fathers have the same total entitlement of leave. Parental leave can be taken part-time but this does not extend the overall time of three years. Overall, the employee may not work more than 32 hours per week on average per month during parental leave, unless they work as childminder, taking care of up to five children.
19.1. Indicate the differences for persons according to point 1.1.	In the case of an adopted child and a child in full-time or adoption care, parental leave can be taken for a total of up to three years from the date of

	<p>admission to the entitled person, at the latest until the child reaches the age of eight.</p> <p>Obviously, a deduction of the maternity protection periods does not occur in the case of foster/adoptive parents. Other than that, the same rules apply. Namely, adoptive/foster parents can take up to three years of leave, 24 months of which can be taken after the child's third birthday. They are entitled to leave for each child even if the periods overlap and the leave relates to a period where one child is younger than three and the other it older than three years old.</p>
<p>19.2. Indicate the differences for persons according to point 1.2.</p>	
<p>19.3. Indicate the differences for persons according to point 1.3.</p>	<p>The leave is generally three months but can be extended to up to 12 months. The entitlement only refers to revocation of appointment and reappointment (section 84 Stock Corporation Act and section 38 Limited Liability Companies Act).</p>
<p>20. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>Section 16 regulates the rules and conditions. In general, anyone wishing to claim parental leave must request it in writing from the employer (1) at least seven weeks before the start of the parental leave for period up to the child's third year of life and (2) at least 13 weeks before the start of parental leave for the period between the child's third birthday and the child's eighth year of life. If the employee requests parental leave in accordance as per (1), they must at the same time declare the periods for which parental leave is to be taken within two years. However, shorter application periods can be accepted in special circumstances.</p> <p>The employer must certify the employee's parental leave.</p> <p>Employers cannot refuse parental leave in the first three years. However, if the leave is taken in portions, and the third (final) falls in the period between the third and eighth birthday, the employer can refuse due to urgent occupational reasons.</p>

	<p>Employers can refuse part-time parental leave in exceptional circumstances.</p> <p>According to section 15(5) the employee can request a reduction in working hours and their distribution. The section suggests that the employer and the employee should agree on the application within four weeks. If the employer rejects the application, they must inform the employee of this within the notice period.</p> <p>This does not affect the right to continue part-time work prior to parental leave unchanged during parental leave, as long as the working time does not exceed 32 hours (more for childminders).</p> <p>If employee and employer cannot agree, the employee can request a reduction of working time for 2 periods if</p> <ul style="list-style-type: none"> -the employer employs more than 15 employees -the employee has been employed for more than 6 months -the working hours are to be reduced for at least two months to an average of not less than 15 and not more than 32 hours per week on average per month, -there are no urgent operational reasons to prevent the claim -the claim is made within the periods outlined above. <p>The application must include the start and scope of the reduced working hours. The desired distribution of the reduced working hours should be indicated in the application. If the employer rejects the claimed reduction or distribution of working hours, the refusal must be made within four or eight weeks (depending on whether it relates to periods before or after the third birthday of the child) and with written justification. If the employer does not reject the request within the given time frame, consent shall be deemed to have been given.</p>
<p>20.1. Indicate the differences for persons according to point 1.1.</p>	
<p>20.2. Indicate the differences for persons according to point 1.2.</p>	

<p>20.3. Indicate the differences for persons according to point 1.3.</p>	<p>The outlined rules above are not applicable for board members or directors who are not deemed to be employers.</p>
<p>21. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of time off? If so, please, specify the legal conditions.</p>	<p>Yes, parental leave can be taken in up to three sections or periods. A distribution over further periods is only possible with the consent of the employer.</p> <p>The law does not distinguish between different situations or why the leave is taken in periods or is interrupted.</p> <p>If the third (final) period of parental leave is to be between the child's third birthday and the child's eighth birthday, the employer may refuse the leave for urgent operational reasons. This must be done within eight weeks of receipt of the application.</p>
<p>21.1. Indicate the differences for persons according to point 1.1.</p>	
<p>21.2. Indicate the differences for persons according to point 1.2.</p>	
<p>21.3. Indicate the differences for persons according to point 1.3.</p>	<p>These rules are not applicable in these circumstances.</p>

<p>22. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify the legal conditions.</p>	<p>Yes, in general this requires the consent of the employer (section 16(3) Law on Parental Allowance and Parental Leave).</p> <p>However, in certain circumstances termination may only be rejected in writing by the employer within four weeks for urgent operational reasons. This includes the birth of another child and cases of particular hardship, including</p> <ul style="list-style-type: none"> -the occurrence of a serious illness, -severe disability or death of a parent or a child of the entitled person or -an event of a significantly endangered economic existence of the parents after taking parental leave. <p>Parental leave can also be terminated prematurely without the employer's consent in order to make use of the protection periods of the Maternity Protection Act; in these cases, the employee should notify the employer of the termination of parental leave in good time.</p>
<p>22.1. Indicate the differences for persons according to point 1.1.</p>	
<p>22.2. Indicate the differences for persons according to point 1.2.</p>	
<p>22.3. Indicate the differences for persons according to point 1.3.</p>	<p>Not applicable</p>
<p>23. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p>	<p>Yes, in general this requires the consent of the employer (section 16(3) Law on Parental Allowance and Parental Leave). Employers can thus reject it.</p> <p>An extension of parental leave may be requested if a planned change of beneficiaries cannot take place for an important reason.</p> <p>The overall total entitlement of parental leave (three years) cannot be exceeded.</p>

<p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>If the child dies during parental leave, it ends no later than three weeks after the child's death. The employee shall notify the employer immediately of a change in entitlement.</p>
<p>23.1. Indicate the differences for persons according to point 1.1.</p>	
<p>23.2. Indicate the differences for persons according to point 1.2.</p>	
<p>23.3. Indicate the differences for persons according to point 1.3.</p>	<p>Not applicable</p>
<p>24. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>In principle, the employment contract stays in place. As such, parent is entitled to return to their original position. However, this is not explicitly regulated.</p> <p>Parents are protected from dismissal from the moment they apply for parental leave (the earliest 8 or 14 weeks before the start of leave) until the end of parental leave (section 18). In special cases, termination may exceptionally be declared permissible. The declaration of admissibility is made by the supreme state authority responsible for occupational health and safety or the body designated by it. The coalition agreement indicates that there are plans to extend the protection of dismissal beyond the return to work by three months. Currently, the general law on dismissal applies.</p> <p>It has also been accepted that the refusal to offer a permanent position due to maternity or parental leave constitutes discrimination under the scope of</p>

	<p>the General Equal Treatment Act (State Labour Court of Berlin and Brandenburg, judgment of 23 April 2021, 12 Sa 1421/20).</p> <p>Parents do not lose any rights they acquired before the leave. However, the process of acquiring certain rights may be suspended during parental leave, e.g. by decreases in annual leave (section 17) or annual bonuses or delays in the assignment to a higher wage group. Childcare periods of federal civil servants for up to three years as well as parental leave count as periods of experience.</p> <p>Employees can only terminate the employment relationship at the end of parental leave with a notice period of three months.</p>
<p>24.1. Indicate the differences for persons according to point 1.1.</p>	
<p>24.2. Indicate the differences for persons according to point 1.2.</p>	

3. Social security during the leave

Please, answer the questions in the following tables. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

SOCIAL SECURITY	
A. Maternity leave	
<p>25. Is the employer obliged to provide any benefit or compensation to the employee on maternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Yes, the employer has to top up the maternity pay paid by the health insurance. However, employers are entitled to a full reimbursement of these payments which are financed by a general contribution by all employers under a complicated contribution procedure. This was introduced following a Constitutional Court judgment that considered employers' obligations to contribute to the maternity pay to undermine women's equal access to employment (Federal Constitutional Court, judgment of 18 November 2003, 1 BvR 302/96).</p> <p>If a woman works for more than one employer, the average daily remuneration from these employment relationships shall be added together for the purpose of calculating the employer's contribution referred to in paragraph 1. The resulting amount is paid by employers in proportion to the average daily wages paid by them (section 20 Maternity Protection Act).</p>
<p>25.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>There is no difference, maternity pay/leave relates to the act of giving birth.</p>
<p>25.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform</i></p>	<p>In principle, there is no difference if the worker is deemed an employee.</p>

<p><i>work etc.)</i> are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>A woman who is not a member of a statutory health insurance fund receives maternity allowance at the expense of the Confederation for the period of protection periods before and after childbirth as well as for the day of childbirth, but not more than €210 in total (section 19).</p>
<p>25.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Self-employed are not in general entitlement to maternity pay, unless they are voluntarily insured under the statutory health insurance scheme (which is not the rule) including sickness benefits. If that is the case, they are entitled to maternity allowances to the amount of these sickness benefits (usually 70 % of their former income).</p> <p>Self-employed person with private health insurance, will not receive maternity benefits. According to the Insurance Contract Act, however, self-employed women who have taken out private daily sickness allowance insurance are entitled to payment of the agreed daily sickness allowance even during the maternity protection periods if they are not professionally active or only to a limited extent during this period. Ultimately, this depends on the health insurance agreement.</p>
<p>26. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>No, the benefits are not transferable.</p>
<p>26.1. Indicate the differences for persons according to point 1.1.</p>	
<p>26.2. Indicate the differences for persons according to point 1.2.</p>	
<p>26.3. Indicate the differences for persons according to point 1.3.</p>	

<p>27. Indicate the amount of the benefit/compensation.</p>	<p>Overall, employees on maternity leave are entitled to the average monthly net income, based on the last three months before the protective period (section 18). The average pay does not include unpaid periods of absence that were outside of the control of the worker. If the employment was shorter than three months, the average pay is based on the de facto time of employment (section 21). As such, women should receive their full net pay in most cases while on maternity leave.</p> <p>This maternity pay is covered by two sources. A daily allowance (€13 per day) paid by the health insurance (section 24i Fifth Book of the Social Code) and the employer top up, that covers the remaining amount to ensure that the worker receives the average monthly pay of the last three months before the protection period (section 20 Maternity Protection Act). As stated above, the employer can receive a reimbursement.</p> <p>Women receive maternity benefit from the Federal Social Security Office if the employer has given them notice of termination during pregnancy or during the maternity leave periods after childbirth.</p>
<p>27.1. Indicate the differences for persons according to point 1.1.</p>	<p>No difference</p>
<p>27.2. Indicate the differences for persons according to point 1.2.</p>	<p>There is no difference if the worker has an employment contract and is insured in a public health insurance.</p> <p>A woman who is not a member of a statutory health insurance fund receives maternity allowance at the expense of the Confederation for the period of protection periods before and after childbirth as well as for the day of childbirth, but not more than 210 euros in total (section 19).</p>
<p>27.3. Indicate the differences for persons according to point 1.3.</p>	<p>Not applicable.</p>
<p>28. Indicate the rules and conditions of claiming the benefit/compensation.</p>	<p>The pregnant worker has to apply for it addressing the responsible entity. For insured employees, this includes an (written) application to the public</p>

<i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i>	healthcare fund including note of pregnancy and due date filled out by a doctor or midwife. The application to the employer can often be informal.
28.1. Indicate the differences for persons according to point 1.1.	No difference
28.2. Indicate the differences for persons according to point 1.2.	If the worker is not insured publicly (or part of the family insurance) application must be made to Federal Social Security Office.
28.3. Indicate the differences for persons according to point 1.3.	Not applicable.
29. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	No, the benefits are compulsory.
29.1. Indicate the differences for persons according to point 1.1.	
29.2. Indicate the differences for persons according to point 1.2.	
29.3. Indicate the differences for persons according to point 1.3.	
30. Indicate whether the entitlement/amount to the benefit/compensation can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	Women receive maternity benefit from the Federal Social Security Office if the employer has given them notice of termination during pregnancy or during the maternity leave periods after childbirth. If the employment relationship ends by notice of termination (very limited scope to terminate employment during maternity leave), the woman

	shall receive the maternity allowance supplement (top up) from the body responsible for the payment of maternity benefit for the period after the end of the employment relationship. This also applies if the employer is unable to pay the subsidy due to an insolvency event (section 20).
30.1. Indicate the differences for persons according to point 1.1.	
30.2. Indicate the differences for persons according to point 1.2.	
30.3. Indicate the differences for persons according to point 1.3.	
31. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.	Yes, the employer received full reimbursement of the top up from the health insurance. This is regulated by the Act on the Compensation of Employers' Expenses for Continued Payment of Remuneration or Expenditure Compensation Act (Aufwendungsausgleichsgesetz (AAG). Employers participate in a general pay-as-you-go procedure of the health insurance companies (U2 procedure).
32. Indicate what is the impact of the rules for social security system, if any.	While maternity leave interrupts the payment of wages, the employment relationship is retained. Social Security thus remains in place. Membership in health and long-term care insurance is maintained as long as there is an entitlement to maternity benefit. Unemployment insurance is also compulsory and covered by the health insurance. Periods of maternity leave are taken into account for the purpose of pension entitlements.
33. Which benefit(s) are envisaged for persons on maternity leave from public social security system?	I am not sure what this relates to. The public health insurance covers the maternity pay. To be entitled, one has to be insured with the public health insurance.

<p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	
<p>33.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Yes, maternity protection is related to giving birth, not care responsibilities.</p>
<p>33.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There is no difference, as long as the worker is ensured in a public health.</p> <p>If they are not ensured or only ensured under a family scheme, the Federal Social Security Office</p>
<p>33.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Not applicable.</p>
<p>34. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>It is not transferable.</p>

<p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	
<p>34.1. Indicate the differences for persons according to point 1.1.</p>	
<p>34.2. Indicate the differences for persons according to point 1.2.</p>	
<p>34.3. Indicate the differences for persons according to point 1.3.</p>	
<p>35. Indicate the amount of the benefit and the method of calculation.</p>	<p>A daily allowance (€13 per day) paid by the health insurance (section 24i Fifth Book of the Social Code)</p>
<p>35.1. Indicate the differences for persons according to point 1.1.</p>	
<p>35.2. Indicate the differences for persons according to point 1.2.</p>	<p>A woman who is not a member of a statutory health insurance fund receives maternity allowance at the expense of the Confederation for the period of protection periods before and after childbirth as well as for the day of childbirth, but not more than 210 euros in total.</p>
<p>35.3. Indicate the differences for persons according to point 1.3.</p>	<p>Not applicable</p>
<p>36. Indicate the rules and conditions of claiming the benefit.</p>	<p>The worker needs to apply for the benefit, providing a 'pregnancy certificate' with the</p>

<p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>indicated due date. The certificate is usually available 7 weeks before the due date.</p>
<p>36.1. Indicate the differences for persons according to point 1.1.</p>	
<p>36.2. Indicate the differences for persons according to point 1.2.</p>	
<p>36.3. Indicate the differences for persons according to point 1.3.</p>	
<p>37. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>No</p>
<p>37.1. Indicate the differences for persons according to point 1.1.</p>	
<p>37.2. Indicate the differences for persons according to point 1.2.</p>	
<p>37.3. Indicate the differences for persons according to point 1.3.</p>	
<p>38. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>No</p>

38.1. Indicate the differences for persons according to point 1.1.	
38.2. Indicate the differences for persons according to point 1.2.	
39. Are there any other legal instruments aimed at social security of a person on maternity leave? If so, please, specify.	I am not sure if this completely answers the question. I am certainly happy to provide clarifications if needed.
SOCIAL SECURITY	
B. Paternity leave	
40. Is the employer obliged to provide any benefit or compensation to the employee on paternity leave? If so, please specify the conditions for entitlement. <i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i>	There is no paternity leave in Germany. The proposal suggests that the employer will not be required to pay the parent on leave, but the expenses will be covered by the public purse or insurance. As per the one-day leaves available under the Civil Code and for Civil Servants (see above), employers must continue to pay the remuneration.
40.1. Please indicate whether the claim also applies when the child is taken into substitute parental care. Indicate which cases are considered to be taking the child into substitute parental care. Indicate any differences from the conditions referred to in point 1.	

<p>40.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>40.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>41. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	
<p>41.1. Indicate the differences for persons according to point 1.1.</p>	
<p>41.2. Indicate the differences for persons according to point 1.2.</p>	
<p>41.3. Indicate the differences for persons according to point 1.3.</p>	
<p>42. Indicate the amount of the benefit/compensation.</p>	

<p>42.1. Indicate the differences for persons according to point 1.1.</p>	
<p>42.2. Indicate the differences for persons according to point 1.2.</p>	
<p>42.3. Indicate the differences for persons according to point 1.3.</p>	
<p>43. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	
<p>43.1. Indicate the differences for persons according to point 1.1.</p>	
<p>43.2. Indicate the differences for persons according to point 1.2.</p>	
<p>43.3. Indicate the differences for persons according to point 1.3.</p>	
<p>44. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	
<p>44.1. Indicate the differences for persons according to point 1.1.</p>	

<p>44.2. Indicate the differences for persons according to point 1.2.</p>	
<p>44.3. Indicate the differences for persons according to point 1.3.</p>	
<p>45. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	
<p>45.1. Indicate the differences for persons according to point 1.1.</p>	
<p>45.2. Indicate the differences for persons according to point 1.2.</p>	
<p>45.3. Indicate the differences for persons according to point 1.3.</p>	
<p>46. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	
<p>47. Indicate what is the impact of the rules for social security system, if any.</p>	

<p>48. Which benefit(s) are envisaged for persons on paternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	
<p>48.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>48.2. Please indicate whether employees working through flexible forms of work <i>(on call work, telework, platform work etc.)</i> are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>48.3. Indicate whether persons performing a function in a legal entity outside an employment relationship <i>(e.g. a statutory body of a business corporation, etc.)</i> are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	

<p>49. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	
<p>49.1. Indicate the differences for persons according to point 1.1.</p>	
<p>49.2. Indicate the differences for persons according to point 1.2.</p>	
<p>49.3. Indicate the differences for persons according to point 1.3.</p>	
<p>50. Indicate the amount of the benefit and the method of calculation.</p>	
<p>50.1. Indicate the differences for persons according to point 1.1.</p>	
<p>50.2. Indicate the differences for persons according to point 1.2.</p>	
<p>50.3. Indicate the differences for persons according to point 1.3.</p>	
<p>51. Indicate the rules and conditions of claiming the benefit.</p>	

<p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	
<p>51.1. Indicate the differences for persons according to point 1.1.</p>	
<p>51.2. Indicate the differences for persons according to point 1.2.</p>	
<p>51.3. Indicate the differences for persons according to point 1.3.</p>	
<p>51.4. Indicate the differences for persons according to point 1.1.</p>	
<p>51.5. Indicate the differences for persons according to point 1.2.</p>	
<p>51.6. Indicate the differences for persons according to point 1.3.</p>	
<p>52. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	
<p>52.1. Indicate the differences for persons according to point 1.1.</p>	

<p>52.2. Indicate the differences for persons according to point 1.2.</p>	
<p>53. Are there any other legal instruments aimed at social security of a person on paternity leave?</p> <p>If so, please, specify.</p>	
<p>SOCIAL SECURITY</p>	
<p>C. Parental leave</p>	
<p>54. Is the employer obliged to provide any benefit or compensation to the employee on parental leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>No</p>
<p>54.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>54.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p>	

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>54.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>55. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	
<p>55.1. Indicate the differences for persons according to point 1.1.</p>	
<p>55.2. Indicate the differences for persons according to point 1.2.</p>	
<p>55.3. Indicate the differences for persons according to point 1.3.</p>	
<p>56. Indicate the amount of the benefit/compensation.</p>	
<p>56.1. Indicate the differences for persons according to point 1.1.</p>	
<p>56.2. Indicate the differences for persons according to point 1.2.</p>	

56.3. Indicate the differences for persons according to point 1.3.	
57. Indicate the rules and conditions of claiming the benefit/compensation. <i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i>	
57.1. Indicate the differences for persons according to point 1.1.	
57.2. Indicate the differences for persons according to point 1.2.	
57.3. Indicate the differences for persons according to point 1.3.	
58. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	
58.1. Indicate the differences for persons according to point 1.1.	
58.2. Indicate the differences for persons according to point 1.2.	
58.3. Indicate the differences for persons according to point 1.3.	

<p>59. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	
<p>59.1. Indicate the differences for persons according to point 1.1.</p>	
<p>59.2. Indicate the differences for persons according to point 1.2.</p>	
<p>59.3. Indicate the differences for persons according to point 1.3.</p>	
<p>60. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	
<p>61. Indicate what is the impact of the rules for social security system, if any.</p>	<p>The employment relationship stays in place while the duty to pay remuneration is suspended. As such, the social security remains the same. However, the employer is not obliged to make any contributions.</p>
<p>62. Which benefit(s) are envisaged for persons on parental leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p>	<p>Parents on parental leave are entitled to a parental leave allowance from the state. It is not dependent on their insurance status as such. There are no qualifying conditions, as the entitlement is not limited to employees. According to section 1(1) Act on Parental Allowance and Leave, the person (1) has to live in Germany (domicile/main residence), (2) with their child in the same household (there</p>

<p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>are additional provisions for relatives and stepparents that correspond with the entitlements to leave), (3) take care and raise the child, (4) and do not work full time while receiving the pay (§ 1(1) Law on Parental Pay and Leave). This entitles parents to some parental pay, even if they work part-time (up to 32 hours a week). The personal scope of the parental allowances is much broader and includes self-employed persons, freelancers, students, housewives and unemployed persons.</p>
<p>62.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>There is no material difference. Adoptive and foster parents are entitled to parental pay if they fulfil the conditions above. Parents who do not take care of their children (i.e. give them up for adoption) are not entitled to parental pay either.</p>
<p>62.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>No difference, as long as conditions above are fulfilled.</p>
<p>62.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>In principle, there is no difference. However, there is no entitlement to parental pay if the person's previous year's income was higher than €250000 or, if both parents are entitled, a joined income higher than €300000.</p>

<p>63. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>Parents can freely divide the parental pay months between them and can also receive them simultaneously. In total, there is an entitlement to 12 months of full-time parental pay (basic parental pay) – there are specific rules on part-time pay (parental pay plus) outlined later. If each parent takes at least 2 months of parental leave, the entitlement increases by 2 months (section 4). In practice this means that 2 months of paid parental leave are non-transferable (use it or lose it). Benefits from maternity pay are offset with parental leave payments, meaning that the total entitlement of both payments is 14 months. Since birth mothers’ maternity leave/pay is compulsory (8 weeks after birth) the non-transferable months are specifically focus on enticing fathers (or the other parent) to take some leave. Single parents are entitled to a total of 14 months.</p> <p>These rules existed prior to the Work Life Balance Directives and have not changed in the context of implementation.</p>
<p>63.1. Indicate the differences for persons according to point 1.1.</p>	
<p>63.2. Indicate the differences for persons according to point 1.2.</p>	
<p>63.3. Indicate the differences for persons according to point 1.3.</p>	
<p>64. Indicate the amount of the benefit and the method of calculation.</p>	<p>Section 2 Act on Parental Allowance and Leave provides that parents on leave receive 67 % of their previous income; with an absolute minimum of EUR 300 and a cap set at EUR 1 800 per month. The minimum allowances are not awarded to every parent, because parental allowances are offset against unemployment assistance and social assistance, which means in practice that parents receiving unemployment or social assistance do not get any parental allowances.</p>

	<p>If the previous income is lower than EUR 1 000, the percentage increases by 0.1 % for every EUR 2 below EUR 1 000, up to 100 %. If the previous income is higher than EUR 1 200 a month, the percentage decreases by 0.1 % for every EUR 2 that the income is higher than EUR 1 200, down to 65 %. Thus, those with well-paid work will usually receive 65 % of the previous income or EUR 1 800.</p> <p>There is a sibling bonus, either if there are two or more children under the age of three or three or more children under the age of six in the same household. In that case the parental pay is increased by 10 % and by at least EUR 75. There is also an additional allowance of EUR 300 per child in the case of multiple births. If parents work part-time (up to 32 hours) while receiving parental pay, the difference between current average income and prior income is used to calculate the parental leave entitlement. A maximum of EUR 2 770 is to be recognised as prior income (section 2(3)).</p> <p>The twelve calendar months before the calendar month of the birth of the child are decisive to determine the employees/workers previous income before the birth. Determine is the net income of employed (Wage and salary statements) or self-employed workers (Income tax assessment).</p> <p>Some gaps in income within that time due to e.g. receiving the basic parental allowance (first 12/14 months) are not included in the calculation.</p> <p>The calculation based on net-incomes is somewhat of an abnormality. In comparison payments in case of illness amount to 70% of the Gross income with a maximum of 90% of the net income. The focus on net-come regarding the parental pay has been criticised as it is rather complex.</p>
<p>64.1. Indicate the differences for persons according to point 1.1.</p>	
<p>64.2. Indicate the differences for persons according to point 1.2.</p>	

<p>64.3. Indicate the differences for persons according to point 1.3.</p>	
<p>65. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>Parental pay can only be applied for once the child is born. The payments can be backdated by three months. As such parents have three months' time to apply after the birth of the child if they want to receive parental pay from the start.</p> <p>Each federal state has its own parental allowance offices that are integrated in different public institutions. However, since 2023 states are supposed to use the same form.</p> <p>To apply for parental pay, parents need to provide:</p> <ul style="list-style-type: none"> -Signed Application form -Birth certificate -Proof of Identity (copy ID/Passport) -Proof of income (pay slips or tax assessment) -Employer's certificate / health insurance certificate as per maternity pay if applicable
<p>65.1. Indicate the differences for persons according to point 1.1.</p>	
<p>65.2. Indicate the differences for persons according to point 1.2.</p>	
<p>65.3. Indicate the differences for persons according to point 1.3.</p>	
<p>66. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>No</p>
<p>66.1. Indicate the differences for persons according to point 1.1.</p>	
<p>66.2. Indicate the differences for persons according to point 1.2.</p>	

<p>66.3. Indicate the differences for persons according to point 1.3.</p>	
<p>67. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The overall allowance remains the same. However, there is the possibility to receive part-time parental pay instead. In that case, parents receive half of the amount a month but for twice as long. The parental pay is referred to as 'basic parental pay' if it is indeed only paid out during the first 12/14 months of the child's life. Usually, this option is chosen when parents do not have any income during the time, they receive parental pay (i.e. are on full-time leave) and plan to return to work afterwards.</p> <p>However, it is also possible to half the monthly amount of the basic parental pay and extend the period of pay within the scope of 'parental pay plus'. Parental pay plus is calculated just as the outlined above, but is then halved (maximum), meaning that the maximum that is paid out is half of the basic parental pay, calculated on the assumption that there is no income during the leave period. The amount is paid for twice as long.</p> <p>This is attractive if periods of payment are intended to be prolonged or if parents want to work part time while on leave.</p> <p>If all of the money is paid out as a basic parental pay within the first 12 months, working part-time is not very attractive, because it seriously reduces the amount of parental pay. Parents only receives parental pay for the difference between current and prior income and the absolute period of pay will be the same.</p> <p>However, parental pay plus is paid for twice as long. Moreover, parental pay plus is only limited by the absolute maximum (half of basic parental pay taking into account the whole income). As such, if the current income is less than 50% of the previous income, the total amount of parental pay plus is not reduced (see calculation below). Parents thus receive the same total amount of parental pay (in addition to the income) but over a longer period of time.</p>

	If both parents work 4 month part-time (between 24-32 hours a week) they receive 4 additional Parental pay plus months (so called 'Partnership bonus'). There is thus also some encouragement to organise responsibilities equally and return to work. (see table to demonstrate below)
67.1. Indicate the differences for persons according to point 1.1.	
67.2. Indicate the differences for persons according to point 1.2.	
68. Are there any other legal instruments aimed at social security of a person on parental leave? If so, please, specify.	It is generally assumed that employment-employee relationship is maintained during parental leave while the main obligations (pay/service) are suspended. During parental leave, parents continue to be covered by their social security systems such as healthcare. Childcare periods for children under the age of three are taken into account for statutory entitlements to a pension and unemployment benefits. For the duration of parental leave, the employee is generally insured free of charge in the statutory health insurance. Section 224 Fifth Social Security Code specifically refers to the parental allowance (and maternity pay).

Illustration to no 67.

In comparison see this example taken from the government website:⁴

If there is no income during the pay period, the parental Pay plus simply prolongs the payment while the overall amount is the same:

Net income after birth	0 Euro per month
Difference in income	2.000 per month
Basic parental pay (65 % of the difference) (for 12 months)	1.300 Euro per month
Half of that ("absolute max")	650 Euro per month

⁴ [Wie viel Elterngeld kann ich bekommen? | Familienportal des Bundes](#)

Parental pay Plus (for 24 months)	650 Euro per month
Absolute amount Basic parental pay	15.600 Euro
Absolute amount Parental pay plus	15.600 Euro

However, if there is some part-time income during the leave it looks very different, and parental pay plus can provide real benefits.

Net-income prior to birth	2.000 Euro per month
Net-income after birth	500 Euro per month
Difference in income	1.500 Euro per month
Basic parental pay (65 % of the difference)	975 Euro per month
Theoretical possible basic parental pay without income after birth (65 % of 2.000 Euro)	1.300 Euro per month
Half of that ("absolute max ")	650 Euro per month
Parental pay Plus	650 Euro per month
Because the Basic parental pay of the difference (975€) is higher than the absolute max (650€), the Parental pay Plus is reduced. But because it is paid twice as long, the overall amount is much higher.	
Basic parental pay (if there is part-time income) for max of 12 months (12 x 975 Euro)	11.700 Euro
Parental pay plus (if there is part-time income) for max of 24 months (24 x 650 Euro)	15.600 Euro

4. Administration

69. How is the administration of the leave and/or benefit legislated?

The Maternity Protection Act and the Act of parental leave and pay are federal acts. However, it is partly the responsibility of the federal states and the public health insurance funds to administrate the entitlements.

70. Is there any administrative burden for employers? For instance, as regards obligations, that have increased in connection with the implementation of the WLB Directive and Transparency Directive, did administrative costs of employers grow? If so, does the State compensate those costs? How?

It is not obvious, that the administrative burden has increased significantly. Employers are most involved within the context of the Maternity Protection, as they must provide the top up and then reclaim it from the health insurance. If they require additional paperwork from the employee that is not strictly necessary, they will have to cover the costs. Parental leave applications are not considered too burdensome, although the entitlements to part-time parental leave are limited in smaller undertakings, considering that it will be more difficult for them to accommodate such requests. The cost for the private economy in relation to the changes made in 2022 were estimated to €820 000 but these only relate to minor changes to the Law on Carer Leave and Family Care Leave. The cost of the Act on parental leave and pay for the private economy are estimated at €2,3 Mio. These costs mostly relate to information and bureaucracy. There are no compensation mechanisms as such, other than the fact that employers are reimbursed for the maternity pay top up.

71. Have some responsibilities been entrusted to state authorities (e.g. labour offices or labour inspectorates)?

There are not labour offices or inspectors as such. However, much of the financial entitlements are indeed administrated by the state. The 2022 amendment of the General Equal Treatment Act (AGG) now subsumes disadvantages related to parental leave under the scope of responsibility of the Federal Equality Body, the so called Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes). Its responsibilities are to inform individuals claiming to have been discriminated against and the general public about the legal means available in the event of discrimination. Further, FADA is required to conduct studies on discrimination and propose measures to prevent discrimination. The agency has no power to support individuals in anti-discrimination suits, and cannot impose any fines for discrimination. Its influence on the legal and factual situation regarding anti-discrimination is limited.

72. Has any specific mechanism or procedure been introduced in order to check who is really taking care after the child, in order to avoid fraudulent behaviour?

Not as such. Indeed, there have been stories and report that many fathers use the paid parental leave, to extend deadlines (e.g. PhD submissions) or prolonged holidays. Children can also be in childcare facilities during parental leave, although there is no legal entitlement for the first year. Since both parents can take the leave at the same time, some critical articles have suggested, that many couples with young parents use the time to go on extensive holidays. As such, mothers remain with the child for the whole time and thus continue to be the primary caretaker in most cases. The critique would then point out, that the leave and pay arrangements do not help women to return to work earlier since they are on leave simultaneously with the fathers. However, it should be noted that the number of fathers that take at least 2 months of leave have increased steadily since its introduction. Moreover, the legislation was not primarily focused on the equal share of parental responsibilities, but to address the financial consequences of having a child. Indeed, the financial dip after birth was seen as one of the reasons professional women did not have children and the Act was introduced to address this.

5. General analysis

73. Please, summarize relevant national case-law providing legal interpretation of any of legal provisions mentioned above. #

Unsurprisingly, various deutes concerned with the correct calculation of the parental allowance have reached the highest courts. The Federal Social Court (Bundessozialgericht) decided that salary arrears can increase the parental allowance.⁵ If the wage tax classification (filing class) changed repeatedly within the period relevant for the determination of the allowance, the longest valid tax bracket is relevant.⁶ Lump-sum taxed one-off payments will not be considered to the calculation of the allowance.⁷ The Higher Labour Court Nürnberg held that employers are liable for the damage, if late payments of remuneration leads to a reduction in the entitlement to parental allowance due to statutory provisions. The case concerned a payments that were only received after a legal dispute and where so late that they were taxed as 'other income' which is not included in the calculation of the allowance.⁸

Section 17(1) and (2) of the Act on parental allowance and leave regulates the entitlements to annual leave that are *lex specialis* to the Federal Act on Annual Leave (Bundesurlaubsgesetz). Accordingly, the employer may reduce the leave entitlement by one twelfth in writing for each full calendar month of parental leave. Residual leave that was not taken at the beginning of parental leave can be taken after parental leave in the current or next holiday year. The Federal Labour Court has now confirmed that corresponding vacation days that have not been (effectively) reduced, can be take in the following year, regardless of any exclusion clauses in the employment contract.⁹

The Federal Labour Court has also confirmed that a written rejection of part-time parental leave because of urgent occupational reasons within the context of section 15(7) limits the reasons an employer can refer to in any potential future court hearing. As such, only the written reasons for the rejections can be used to justify the rejection.¹⁰ The rejection must be provided in writing within the strict meaning of the law. As such, it requires a signature.¹¹

74. Has there been any public debate on the topic of maternity leave, parental leave, changes due to European legislation, non-transferability? Has this debate have any impact on current or proposed legislation?

The debate is limited as the scheme is generally welcomed. It has been pointed out that the maximum pay, may mean that the breadwinner in families with only one income cannot go on leave. Indeed, well-earning parents may struggle to sustain their (potentially expansive) expenses with the allowance. The current government as agreed in its coalition agreement that the partner plus months and protections around parental leave should be extended.

There is also a concerted campaign to introduce a paternity leave. While the government has plans to do so, it has also rejected any EU obligations, suggesting that the current parental leave provisions should be sufficient. The EU Commission does not agree. Given that the government itself recognises the value of a paternity leave, it seems difficult for them to argue that the parental leave provides the same value.

75. Can you provide us with any relevant statistics on maternity and/or parental leave, possibly showing some developments relevant for this questionnaire?

⁵ Federal Social Court, judgment of 27. June 2019, B 10 EG 1/18 R.

⁶ Federal Social Court, judgment of 28. March 2019, B 10 EG 8/17 R.

⁷ Federal Social Court, judgment of 08. March 2018, B 10 EG 8/16 R.

⁸ Higher Labour Court Nürnberg, judgment of 20. January 2021, 2 Sa 253/20.

⁹ Federal Labour Court, judgment of 05. July 2022, 9 AZR 341/21.

¹⁰ Federal Labour Court, judgment of 11. December 2018, 9 AZR 298/18.

¹¹ Federal Labour Court, judgment of 27. June 2017, 9 AZR 368/16.

Questionnaire for national experts

Country: Poland

Name, affiliation and contact of the national expert: dr hab. Marcin Wujczyk, Jagiellonian University of Cracow

1. Legislation on maternity, paternity and parental leave

Please, generally describe (with references to legal sources) your national legislation on maternity leave, paternity leave and parental leave.

Provide a legal definition of:

- maternity leave,
- paternity leave and
- parental leave

according to your national legislation.

If your national legislation distinguishes between time off and social security during it, please explain, with references to legal sources.

Parenthood-related leaves from work are regulated in Articles 180-186^{8a} of the Labour Code of 26 June 1974 (hereinafter: Labour Code). In addition, detailed issues related to employees' applications for these leaves are regulated in the Ordinance of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications.

The different types of parental leave provided for in the Labour Code do not have their own legal definitions. However, based on the provisions of the Labour Code, they can be generally described as follows:

- Maternity leave - a compulsory leave to which every female employee who has given birth is entitled. It allows women to recuperate from childbirth and to provide personal care for the child during the first weeks of its life. As a general rule, the length of the leave is 20 weeks (from 21 to 37 weeks in the case of multiple births). Part of this leave may also be transferred to the father of the child or other family members. As a general rule, for the period of maternity leave the employee is entitled to a maternity allowance of 100% of the basis of the allowance, which is entirely financed by the Social Insurance Fund administered by the Social Insurance Institution.
- Leave under maternity leave conditions (adoption leave) - is granted to an employee who has taken over care of a child as a foster parent, except for a professional foster family (I), or who has taken over care of a child and has applied to the guardianship court to initiate the adoption procedure (II). The employee may take this leave if the adopted child is under 7 years of age (or in special cases 10 years of age) (I) or under 14 years of age (II). In other respects, adoption leave is very similar to maternity leave.

- Parental leave - an optional leave which may be taken by both the mother and the father of a child during the child's life after the first months of life until the child reaches the age of 6. As a general rule, the duration of the leave is 41 weeks (43 in the case of multiple births), but the periods may be doubled if the employee remains in employment during the leave at no more than half of full-time with the employer who has granted the leave. As a general rule, for the period of parental leave an employee is entitled to a maternity allowance equal to 70% of the benefit base, which is fully financed out of the Social Insurance Fund administered by the Social Insurance Institution. Similar entitlements are available to employees who have adopted a child.
- Paternity leave - an optional leave to which only the child's father is entitled irrespective of the child's mother's parental entitlements. This leave is 14 days and, as a rule, it may be taken during the first year of the child's life (in no more than two weekly parts). For the period of paternity leave, the employee is entitled to a maternity allowance of 100% of the basis of the benefit assessment, which is entirely financed out of the Social Insurance Fund administered by the Social Insurance Institution.

The rules for determining the amount of maternity allowance due during parental leave are regulated by the Act of 25 June 1999 on Cash Benefits from Social Insurance in the Event of Sickness and Maternity.

As a general rule, the basis for calculating maternity allowance for an employee is the average monthly salary paid:

- 1) For a period of 12 calendar months preceding the month in which the incapacity to work arose; or
- 2) For full calendar months of insurance, if the incapacity for work arose before the end of 12 calendar months of insurance.

In order to determine the basis for the employee's maternity allowance, one takes the income constituting the basis for contributions to sickness insurance or accident insurance, respectively, minus social insurance contributions deducted by the employer.

Childcare leave

Employees whose length of service is at least six months shall be entitled to childcare leave for the purpose of taking care of their child. The six-month employment period includes previous periods of employment.

Length of childcare leave

The length of childcare leave shall not exceed 36 months. Leave is granted for a period no longer than until the end of the calendar year in which the child turns six years of age; in some cases, e.g. if the child is permanently disabled, the deadline may be extended until the end of the calendar year in which the child turns 18.

Granting concurrent childcare leave to both parents

- Both parents are entitled to a 36-month childcare leave. Both may take childcare leave at the same time. However, the total length of childcare leave cannot exceed 36 months.
- Each parent shall be exclusively entitled to one-month childcare leave as part of the above-mentioned 36 months. This entitlement cannot be transferred to the child's other parent.
- However, the child's parent is entitled to childcare leave of up to 36 months if:
 - ✓ the child's other parent is deceased;

- ✓ the child's other parent has no parental rights;
- ✓ the child's other parent has been deprived of parental rights, or these rights have been restricted or suspended.

Requirements

- Childcare leave is granted upon employee's written request submitted to the employer at least 21 days before its intended beginning.
- The employer is obliged to grant the childcare leave request.
- Employees may withdraw their request for childcare leave not later than 7 days before its intended beginning by providing the employer with a written statement to this effect.
- If a request for childcare leave is submitted after the deadline, the employer is obligated to grant it not later than within 21 days after submission of the request.

Granting childcare leave in segments

- Childcare leave may be divided into no more than 5 segments. The number of leave segments shall be determined on the basis of submitted leave requests.

Waiver of childcare leave

- Employees may waive their right to childcare leave:
 - ✓ at any time - with employer's consent;
 - ✓ upon prior notification of the employer - not later than 30 days before the intended date of returning to work.

Protection of the employment relationship

- After completion of childcare leave, the employee shall resume work in the previous position or, if this is not possible, in a position equivalent to the position held before going on leave or in another position that corresponds to employee's professional qualifications, with remuneration not lower than would be due on the date of starting work in the position held before going on childcare leave.
- Employers may not terminate the contract of employment with or without notice of an employee eligible for childcare leave in the period between the date of submission of a request for:
 - ✓ childcare leave – and the end of that leave;
 - ✓ reduction of working time – and the return to the working time before its reduction, however for no longer than a total of 12 months.

Childcare leave and employee's eligibilities

- The time spent on childcare leave shall count toward the length of service on which depend employee's eligibilities.

2. Time-off

Please, answer the questions in the following table. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

TIME OFF	
Question	Your answer with reference(s) to legal source
A. Maternity leave	
<p>1. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>According to Article 180 § 1 of the Labour Code, a woman is entitled to maternity leave if she gives birth during the employment relationship. In this context, the length of employment as well as the working hours are not relevant.</p> <p>Childbirth is understood as the birth of a newborn showing any signs of life regardless of the duration of the pregnancy, but also the expulsion or extraction from the mother's body of a foetus showing no signs of life after 22 weeks of pregnancy.</p>
<p>1.1. Please indicate whether the right to time off also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>According to Article 183 of the Labour Code, the right to leave under the conditions of maternity leave is also granted to employees who:</p> <ul style="list-style-type: none"> • Are fostering a child, with the exception of a professional foster family (on the basis of the provisions of the Family and Guardianship Code) - if the child is under 7 years of age (or 10 years of age in the case of a child for whom a decision on postponement of compulsory education has been taken); or • have taken in a child and applied to the guardianship court to initiate proceedings for the adoption of the child (based on the provisions of the Act of 9.06.2011 on Family Support and the Foster Care System) - no longer than until the child is 14 years old; <p>For the above employees, the mother's priority rule does not apply (employees - fathers can take their leave first). Importantly, an employee - mother and</p>

	<p>an employee - father cannot take leave at the same time.</p> <p>Otherwise, the provisions on maternity leave shall apply mutatis mutandis.</p>
<p>1.2. Please indicate whether employees working in flexible forms of work (<i>on-call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to maternity leave is granted to all employees with a contract of employment, irrespective of how they perform their duties.</p> <p>The right to maternity leave does not generally apply to persons employed on a basis other than an employment contract (civil law contracts, self-employment, etc.), but as long as they are covered by sickness insurance they may receive a maternity allowance in accordance with Article 29 of the Act of 25 June 1999 on Cash Benefits from Social Insurance in the Event of Sickness and Maternity.</p>
<p>1.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to maternity leave does not generally apply to persons employed on a basis other than an employment contract (civil law contracts, self-employment, etc.), but as long as they are covered by sickness insurance, they may receive a maternity allowance in accordance with Article 29 of the Act of 25 June 1999 on Cash Benefits from Social Insurance in the Event of Sickness and Maternity.</p>
<p>2. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Pursuant to Article 180 § 4 of the Labour Code, maternity leave may also be taken by the employee - father of the child or other employee - member of the immediate family to a limited extent (up to 6 weeks, after the mother of the child has taken at least 14 weeks of leave).</p> <p>Taking maternity leave by an employee other than the child's mother is also possible where:</p> <ul style="list-style-type: none"> • The employee - mother gives up her maternity leave if she is certified as incapacitated (possible after at least 8 weeks of maternity leave) - Article 108 § 6 of the Labour Code; • The employee - mother who is in hospital or in another health care unit of a health care establishment that provides in-patient and

	<p>round-the-clock health care services due to her state of health making it impossible for her to take personal care of the child relinquishes her leave for the duration of her hospitalisation (possible after at least 8 weeks of the mother's leave) - Article 108 § 10 of the Labour Code;</p> <ul style="list-style-type: none"> • The employee - mother dies during maternity leave - Article 108 § 12 of the Labour Code; • The employee - mother abandons her child during maternity leave - Article 108 § 13 of the Labour Code; • The child's mother is not covered by social insurance for sickness and maternity or is not entitled to such coverage, and the reason for leave being taken by another person is the death of the child's mother, the mother's abandonment of the child or the mother's inability to personally care for the child - Article 108 § 15 of the Labour Code. <p style="text-align: center;">In the above cases, maternity leave may be taken by the employee - father of the child or other employee - member of the immediate family.</p> <p>In addition, only the employee - father of the child has the right to maternity leave under Article 180 § 17 of the Labour Code if the child's mother, who is not covered by social insurance in the event of sickness and maternity, as defined in the Social Insurance System Act of 13 October 1998, takes up employment with a working time of no less than half of the full working time (the employee - father, during the period of employment of the child's mother, has the right to use leave in the part falling after the day on which the child's mother took up employment).</p> <p>In no case can an employee other than the employee - mother of the child take maternity leave in excess of the amount set out in Article 180 §1 of the Labour Code.</p>
<p>2.1. Indicate the differences for persons according to point 1.1.</p>	<p>Pursuant to Article 183 § 2 of the Labour Code, the rules described in section 2 apply mutatis mutandis to persons described in section 1.1.</p>

<p>2.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>2.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>3. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>According to Article 180 § 1 of the Labour Code, the length of maternity leave depends on the number of children born at one birth and is:</p> <ul style="list-style-type: none"> • 20 weeks - in the event of giving birth to one child at one birth; • 31 weeks - in the event of giving birth to two children at one birth; • 33 weeks - in the event of giving birth to three children at one birth; • 35 weeks - in the event of giving birth to four children at one birth; • 37 weeks - in the event of giving birth to five or more children at one birth. <p>Pursuant to Article 180 § 2 of the Labour Code, an employee - mother may take maternity leave up to six weeks before the expected date of childbirth. In this case, the length of her maternity leave after giving birth is correspondingly reduced.</p> <p>Pursuant to Article 180 § 3 of the Labour Code, if a female employee has not taken maternity leave prior to childbirth, maternity leave shall commence on the day of childbirth. A week of maternity leave corresponds to 7 days counted from the first day of this leave.</p> <p>According to Article 180 § 4 of the Labour Code, after the birth of a child the mother is required to take 14 weeks of leave.</p> <p>According to Article 180¹ of the Labour Code, in the event of stillbirth or death of the child during the first 8 weeks, the female employee is entitled to maternity leave of 8 weeks after the birth, but no less than 7 days after the death of the child. A female employee who has given birth to more than one child at one birth is entitled to maternity leave</p>

	<p>in the amount corresponding to the number of children who survived childbirth.</p> <p>Pursuant to Article 182 of the Labour Code, in the case of abandonment of the child by the female employee or placement of the child, based on a court decision, in foster care, in a care and treatment facility, in a nursing and care facility or in a therapeutic rehabilitation facility, the female employee is not entitled to the part of the maternity leave falling after the date of abandonment of the child or placement of the child in foster care, in a care and treatment facility, in a nursing and care facility or in a therapeutic rehabilitation facility. However, maternity leave after childbirth may not be less than 8 weeks.</p>
<p>3.1. Indicate the differences for persons according to point 1.1.</p>	<p>The length of adoption leave is no different from maternity leave and also depends on the number of children taken in.</p> <p>As described in section 1.1, the condition for the granting of adoption leave is the indicated age of the child (no more than 7/10/14 years). The leave will therefore always end when the child reaches the indicated age - resulting in a corresponding reduction of the leave. However, it follows from Article 183 § 3 of the Labour Code that, regardless of the date on which the child was adopted, as long as the adoption took place before the child reached the indicated age - 7, 10 or 14 years - the female employee is always entitled to a minimum maternity leave of 9 weeks.</p>
<p>3.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>3.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>4. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p>	<p>As a general rule, maternity leave is granted by law and is compulsory. This means that, during its duration, the employer may not allow the employee to work, even if the employee applies or requests to be allowed to perform her duties</p>

<p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please specify legal conditions.</p>	<p>during the maternity leave. Allowing an employee to work during maternity leave is a misdemeanour against the employee's rights punishable by a fine (Article 281 §1 (5) of the Labour Code).</p> <p>As a general rule, maternity leave is taken after childbirth. The use of maternity leave after the date of delivery is not subject to an application, i.e. the leave starts from the date of delivery indicated on the child's birth certificate (which the employee is required to produce).</p> <p>In other cases, a request from the female employee or the employee - father of the child or other employee - member of the immediate family is required. However, the employer does not have the right to refuse to grant maternity leave.</p> <p>Pursuant to Article 180 § 2 of the Labour Code, if maternity leave is to begin prior to childbirth (which may be requested by the employee), it is necessary to submit an application to this effect to the employer. The mandatory wording of the application is set out in § 5 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications:</p> <ul style="list-style-type: none"> • Full name of the child's employee - mother; • Indication of the date from which part of the maternity leave is to be granted; • Copy of the doctor's certificate stating the expected date of childbirth. <p>In addition, an application is required in the following situations:</p> <ul style="list-style-type: none"> • Relinquishment by the employee - mother of the child of the remaining part of maternity leave after taking at least 14 weeks of such leave following childbirth and return to work, when the remaining leave is to be taken by the employee - father of the child or by other employee - member of the immediate family (mandatory wording of the application is set out in § 6 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to
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	<p>parenthood and documents attached to such applications), the application must be submitted at least 7 days before the expected date of return to work;</p> <ul style="list-style-type: none"> • Granting the remaining part of maternity leave to the employee - father raising the child or to other employee - member of the immediate family in the event that the employee - mother relinquishes the remaining part of maternity leave after having used at least 14 weeks of this leave following childbirth, or in the event that the employee - mother with a certificate of incapacity to live independently relinquishes the remaining part of maternity leave after having used at least 8 weeks of this leave following childbirth (mandatory wording of the application is set out in § 8 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications), the application must be submitted at least 14 days prior to the date of commencement of the leave; • Granting a part of maternity leave to the employee - father raising the child or to other employee - member of the immediate family in the case of interruption of the maternity leave by a female employee staying in a hospital or other medical facility providing stationary and round-the-clock health care services, after taking at least 8 weeks of this leave following childbirth, due to the condition of health preventing her from taking personal care of the child (mandatory wording of the application is set out in § 10 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications); • Granting a part of maternity leave to the employee - father raising the child or to other employee - member of the immediate family, in the event of the death of the female employee during the maternity leave or the insured mother of the child during the period of drawing the
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	<p>maternity allowance corresponding to the period of the leave (mandatory wording of the application is set out in § 11 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications);</p> <ul style="list-style-type: none"> • Granting a part of maternity leave to the employee - father raising the child or to other employee - member of the immediate family in the event of abandonment of the child by the female employee during maternity leave after she has taken at least 8 weeks of maternity leave following childbirth, or by the insured mother of the child in the course of receiving the maternity allowance for a period corresponding to the period of this leave after she has used at least 8 weeks of maternity leave following childbirth (mandatory wording of the application is set out in § 12 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015. on applications concerning employee rights related to parenthood and documents attached to such applications), • Granting a part of maternity leave to the employee - father raising the child or to other employee - member of the immediate family in the event of the death of the child's mother who is not subject to sickness insurance (mandatory wording of the application is set out in § 13 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications); • Granting a part of maternity leave to the employee - father raising the child or to other employee - member of the immediate family in the case of abandonment of the child by the mother who is not subject to sickness insurance (mandatory wording of the application is set out in § 14 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to
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	<p>parenthood and documents attached to such applications);</p> <ul style="list-style-type: none"> • Granting a part of maternity leave to the employee - father raising the child or to other employee - member of the immediate family in the event of the mother's inability to take personal care of the child, if the mother is not subject to sickness insurance (mandatory wording of the application is set out in § 15 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications); • Granting a part of maternity leave to the employee - father raising the child in the event that the mother of the child, who is not entitled to sickness insurance, takes up employment of no less than half of full time (mandatory wording of the application is set out in § 16 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications). <p>All these applications can be submitted in paper form or electronically (e.g. by e-mail).</p>
<p>4.1. Indicate the differences for persons according to point 1.1.</p>	<p>Pursuant to Article 183 § 6 of the Labour Code, adoption leave shall be granted at the written request of the employee submitted in paper or electronic form within 7 days from the date of taking in the child as a foster family or taking in the child as a foster family with the aim of applying to the guardianship court for initiation of adoption proceedings. The leave shall start on the date specified in the employee's application, but no later than 21 days from, respectively, the date of taking in the child as a foster family or taking in the child as a foster family with the aim of applying to the guardianship court for initiation of adoption proceedings. The compulsory wording of the application is set out in § 22 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning employee rights related to parenthood and documents attached to such applications.</p>

	The employer is obliged to grant the employee's request.
4.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
4.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
<p>5. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please specify legal conditions.</p> <p>(If the legislation distinguishes between different situations - for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care - characterise each situation and answer the questions asked separately for each question).</p>	<p>As a general rule, maternity leave should be taken continuously.</p> <p>However, according to Article 181 of the Labour Code, if the child requires hospital care and the female employee has already taken the minimum period of guaranteed leave after childbirth (8 weeks), the leave may be interrupted. For the interruption of maternity leave, the reason for which the need for hospital care for the child arose (prematurity, birth complications, illness) is not relevant. The period of leave interruption should correspond to the period of the child's stay in hospital. The leave is interrupted in such a case at the request of the employee, which should be accompanied by a medical certificate confirming the date of admission of the child to hospital.</p> <p>The request is binding on the employer.</p> <p>The female employee takes the remaining part of maternity leave after the child leaves the hospital.</p>
5.1. Indicate the differences for persons according to point 1.1.	The possibility of interruption of maternity leave for the duration of the child's hospital stay also applies to adoption leave, as provided for in Article 183 § 2 of the Labour Code.

<p>5.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>5.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>6. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations - see, for example, point 5 - characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please specify legal conditions.</p>	<p>As a general rule, maternity leave is granted by law and is compulsory. This means that, during its duration, the employer may not allow the employee to work, even if the employee applies or requests to be allowed to perform her duties during the maternity leave. Allowing an employee to work during maternity leave is a misdemeanour against the employee's rights punishable by a fine (Article 281 §1 (5) of the Labour Code).</p> <p>In certain cases, described in detail in Article 180 of the Labour Code, it is possible for the mother to terminate her maternity leave early. These cases are described in section 2 (see above).</p> <p>To reiterate, the most relevant possibility for an employee - mother to reduce her maternity leave is described in Article 180 § 4 of the Labour Code. The employee - mother may give up part of her maternity leave after taking 14 weeks thereof and return to work provided that:</p> <ul style="list-style-type: none"> • She will take 14 weeks of leave after giving birth (it does not matter whether or how much maternity leave she took during her pregnancy); • The remaining maternity leave shall be taken by the employee - father of the child or by other employee - member of the immediate family; • She submits a written request to relinquish a part of maternity leave at least 7 days before returning to work, and indicates the date of her return to work; • She attaches a copy of the request of the employee - father or other employee - member of the immediate family, who will take over the remaining part of the leave, or attaches a declaration of the father insured with the Social Security Institution

	<p>to the effect that he has ceased his gainful activity for the period of the remaining part of maternity leave.</p> <p>The employer does not have the right to refuse to shorten maternity leave if the female employee legitimately requests it. Otherwise, if the female employee does not meet the specific requirements for a shortened maternity leave, the employer must refuse (maternity leave is compulsory).</p>
<p>6.1. Indicate the differences for persons according to point 1.1.</p>	<p>Pursuant to Article 183 § 2 of the Labour Code, the rules described in section 2 shall apply mutatis mutandis to persons taking leave on conditions of maternity leave.</p>
<p>6.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>6.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>7. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally</p>	<p>Regulations do not provide for the possibility of extending the period of maternity leave beyond that set out in Article 180 § 1 of the Labour Code. However, the period of the employee - mother's absence from work after childbirth may be extended if she is unable to return to work due to illness upon completion of maternity leave.</p>

provided/agreed time off? If so, please specify legal conditions.	
7.1. Indicate the differences for persons according to point 1.1.	Regulations do not provide for the possibility of extending leave on conditions of maternity leave beyond the period set out in Article 183 § 1 and § 1 ¹ of the Labour Code.
7.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
7.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
8. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.	Pursuant to Article 186 ⁴ of the Labour Code, the employer shall re-admit the female employee to work in her previous position at the end of the period of maternity leave or, if this is not possible, gives her a position equivalent to the one held before the leave began on terms and conditions no less favourable than those that would have applied if the employee had not taken the leave.
8.1. Indicate the differences for persons according to point 1.1.	Pursuant to Article 186 ⁴ of the Labour Code, the employer shall re-admit the female employee at the end of maternity leave or, if this is not possible, gives her a position equivalent to the one held before the leave began on terms and conditions no less favourable than those that would have applied if the employee had she not taken the leave.
8.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.

TIME OFF

B. Paternity leave	
<p>9. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The right to paternity leave, which derives from Article 182³ of the Labour Code, is an exclusive and sovereign right of the father, independent of the entitlement of the child's mother, and is also available when the mother is not an employee and cannot take leave related to the birth of the child.</p> <p>Paternity leave is optional and is granted by the mere fact of being the child's father (until the child reaches 12 months of age). The father does not have to be in a relationship with the child's mother to benefit from this leave.</p> <p>The father should use this leave to care for the child.</p>
<p>9.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The right to paternity leave is also granted to an adoptive employee - father until the expiry of 24 months from the date on which the order declaring adoption becomes final and no longer than until the child is 14 years old (Article 182³ § 1(2) of the Labour Code).</p>
<p>9.2. Please indicate whether employees working through flexible forms of work <i>(on call work, telework, platform work etc.)</i> are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to paternity leave is granted to all employees working under an employment contract, regardless of the way in which they perform their duties.</p> <p>The right to paternity leave does not, in principle, apply to persons employed on a basis other than an employment contract (civil law contracts, self-employment, etc.), but insofar as they are covered by sickness insurance they may receive maternity allowance for the period corresponding to the length of paternity leave in accordance with Article 29a of the Act of 25 June 1999 on Cash Benefits from Social Insurance in the Event of Sickness and Maternity.</p>

<p>9.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to paternity leave does not, in principle, apply to persons employed on a basis other than a contract of employment (civil law contracts, self-employment, etc.), but provided that they are covered by sickness insurance, they may receive maternity allowance for the period corresponding to paternity leave in accordance with Article 29a of the Act of 25 June 1999 on Cash Benefits from Social Insurance in the Event of Sickness and Maternity.</p>
<p>10. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Paternity leave is exclusively for the employee - father of the child and is not transferable to others.</p>
<p>10.1. Indicate the differences for persons according to point 1.1.</p>	<p>Paternity leave is reserved for the employee - father of the child and is not transferable.</p>
<p>10.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>10.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>11. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (<i>e.g. for workers who performed the work for a shorter time before taking the leave</i>). If so, please specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>The employee - father is entitled to paternity leave of up to 2 weeks, but no longer than until the child is 12 months old.</p> <p>Paternity leave may be taken either once or in no more than 2 parts, neither of which may be less than one week.</p>
<p>11.1. Indicate the differences for persons according to point 1.1.</p>	<p>The employee - father is entitled to paternity leave of up to 2 weeks, but no longer than 12 months from the date the decision declaring the adoption</p>

	<p>of the child becomes final and no longer than until the child is 14 years old.</p> <p>Paternity leave may be taken either at one time or in no more than 2 parts, neither of which may be less than one week.</p>
<p>11.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>11.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>12. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please specify the legal conditions.</p>	<p>Pursuant to Article 182³ § 2 of the Labour Code, paternity leave is granted upon application in paper or electronic form submitted by the employee - father no less than 7 days before starting the leave. The employer is obliged to grant the employee's request.</p> <p>Pursuant to § 21 of the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2015 on applications concerning the rights of employees related to parenthood and the documents attached to such applications, an application for granting paternity leave or part thereof to an employee - father raising a child must include:</p> <ul style="list-style-type: none"> • Full name of employee; • Indication of the period for which paternity leave or a part thereof is to be granted. <p>The application is to be accompanied by:</p> <ul style="list-style-type: none"> • An abridged copy of the child's (children's) birth certificate or the child's (children's) foreign birth certificate, or copies of these documents; • A declaration of the employee - father raising a child as to whether he has taken paternity leave or a part thereof.

<p>12.1. Indicate the differences for persons according to point 1.1.</p>	<p>In the case of an adopting father, the application described above must be accompanied by:</p> <ul style="list-style-type: none"> • A copy of the court's final and binding order allowing adoption of the child, where the application concerns the granting of paternity leave or a part thereof related to an adopted child.
<p>12.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>12.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>13. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations - for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care - characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify the legal conditions.</p>	<p>Under Article 181 and in conjunction with Article 182³ § 3 of the Labour Code, paternity leave may be interrupted if the child is in hospital. The remaining part of the leave may be taken by the father after the child leaves the hospital.</p> <p>The employer cannot object in such a situation to the interruption of the leave by the employee - father of the child.</p>

<p>13.1. Indicate the differences for persons according to point 1.1.</p>	<p>The possibility of interrupting leave described above applies to employee - fathers of adopted children.</p>
<p>13.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>13.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>14. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations - see, for example, point 5 - characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off providing time off? If so, please specify the legal conditions.</p>	<p>The legislation does not provide for the possibility of premature termination of paternity leave, but neither does it have to be taken all at once.</p>
<p>14.1. Indicate the differences for persons according to point 1.1.</p>	<p>The principle described above applies to employee - fathers of adopted children.</p>
<p>14.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>

<p>14.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>15. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please specify the legal conditions.</p>	<p>Paternity leave may not be extended beyond the 2 weeks specified in Article 182³ § 1 of the Labour Code.</p>
<p>15.1. Indicate the differences for persons according to point 1.1.</p>	<p>The principle described above is applicable to employee - fathers of adopted children.</p>
<p>15.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>15.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>

<p>16. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>Pursuant to Article 186⁴ of the Labour Code, the employer shall re-admit the employee at the end of paternity leave to the position he held before going on leave or, if this is not possible, to a position equivalent to the one held before the leave began, on terms and conditions no less favourable than those that would have applied if the employee had not taken the leave.</p>
<p>16.1. Indicate the differences for persons according to point 1.1.</p>	<p>Pursuant to Article 186⁴ of the Labour Code, the employer shall re-admit the employee at the end of paternity leave to the position he held before going on leave or, if this is not possible, to a position equivalent to the one held before the leave began, on terms and conditions no less favourable than those that would have applied if the employee had not taken the leave.</p>
<p>16.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>16.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p></p>	<p></p>

<p>TIME OFF</p>	
<p>C. Parental leave</p>	
<p>17. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>In principle, the right to parental leave is granted under Article 182^{1a} of the Labour Code to the employee - mother of the child and the employee - father of the child.</p> <p>As the law currently stands, the right to parental leave is disengaged from the right to maternity leave and an earlier taking of maternity leave or maternity allowance for the period corresponding to the period of maternity leave. Consequently, the</p>

	<p>right to parental leave is granted to employees - parents of the child regardless of whether the mother has acquired the right to maternity leave or even whether she was subject to insurance at the time of the child's birth.</p> <p>Under the current legislation, there is also no contraindication for the father of the child to start taking parental leave while the mother is still on maternity leave.</p>
<p>17.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Under Article 183 § 4-5 of the Labour Code, the right to parental leave also applies in the event of adopting or fostering a child.</p> <p>The rules for granting leave and taking parental leave by employees who have adopted a child or are fostering a child and have applied to the guardianship court with the aim of initiating adoption proceedings or have taken in a child as a foster family, with the exception of a professional foster family, are analogous to those applicable when the child is born within the family. The difference concerns the age of the child up to which the parents can take leave.</p>
<p>17.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to parental leave is granted to all employees working under an employment contract, regardless of the way in which they perform their duties.</p> <p>The right to parental leave does not generally apply to persons employed on a basis other than an employment contract (civil law contracts, self-employment, etc.), but, as long as they are covered by sickness insurance, they may receive maternity allowance for the period corresponding to the length of parental leave in accordance with Article 29a of the Act of 25 June 1999 on Cash Benefits from Social Insurance in the Event of Sickness and Maternity.</p>
<p>17.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p>	<p>The right to parental leave does not generally apply to persons employed on a basis other than an employment contract (civil law contracts, self-employment, etc.), but, as long as they are covered by sickness insurance, they may receive maternity allowance for the period corresponding to the</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>length of parental leave in accordance with Article 29a of the Act of 25 June 1999 on Cash Benefits from Social Insurance in the Event of Sickness and Maternity.</p>
<p>18. If the entitlement to time off is transferable to another person, please, identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Pursuant to Article 182^{1g} of the Labour Code, Article 180 § 6-17 of the Labour Code applies mutatis mutandis to parental leave. This means that other employee - member of the immediate family is entitled to the unused part of the leave corresponding to the period during which the employee entitled to parental leave:</p> <ul style="list-style-type: none"> • Cannot take personal care of the child due to the inability to lead an independent existence (Article 180 § 6 and 7 of the Labour Code); • Is in a hospital or other treatment facility of a medical institution providing in-patient and round-the-clock health care services (Article 180 § 10 of the Labour Code); • Has died (Article 180 § 12 of the Labour Code); • Has abandoned the child (Article 180 § 13 of the Labour Code). <p>An employee - father raising a child is also entitled to the part of the leave falling after the date on which the child's mother takes up employment (Article 180 § 17 of the Labour Code).</p>
<p>18.1. Indicate the differences for persons according to point 1.1.</p>	<p>By virtue of Article 183 § 5 of the Labour Code, the above rules also apply to employees who have adopted or foster a child.</p>
<p>18.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>18.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>

<p>19. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>According to Article 182^{1a} of the Labour Code, employees - parents of a child are entitled to parental leave to care for the child up to:</p> <ul style="list-style-type: none"> • 41 weeks - in the case of giving birth to one child in one birth; • 43 weeks - in the case of multiple births. <p>Employees - parents of a child with a certificate referred to in Article 4 (3) of the Act of 4 November 2016 on Support for Pregnant Women and “Pro Life” Families shall be entitled to parental leave to care for that child lasting up to:</p> <ul style="list-style-type: none"> • 65 weeks - in the case of giving birth to one child in one birth; • 67 weeks - in the case of multiple births. <p>Parental leave in the above amount is granted jointly to both employees - parents of the child.</p> <p>Parental leave may be taken simultaneously by both employees - parents of the child. In this case, the total amount of parental leave may not exceed the total available amount.</p> <p>In the period during which one of the child's parents is collecting maternity allowance for the period corresponding to the period of parental leave, the other parent may take parental leave. In such case, the combined length of parental leave and the period during which maternity allowance is collected for a period corresponding to the period of parental leave may not exceed the accrued total.</p> <p>Each employee - parent of a child has an exclusive right to 9 weeks of parental leave from the above leave entitlement. This right is not transferable to the other employee - parent of the child.</p> <p>Taking at least nine weeks of parental leave means that the employee - parent of the child has exhausted the non-transferable portion of that leave.</p> <p>Parental leave shall be granted either in one go or in no more than 5 parts no later than up to the end of the calendar year in which the child turns 6.</p>
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<p>19.1. Indicate the differences for persons according to point 1.1.</p>	<p>Pursuant to Article 183 § 4-4⁵ of the Labour Code, an employee who fosters a child, but not as a professional foster family, is entitled to parental leave to care for that child of up to:</p> <ul style="list-style-type: none"> • 41 weeks - if one child is taken in; • 43 weeks - if two or more children are taken in; <p>- until the child reaches the age of 7 and, in the case of a child for whom a postponement of compulsory school attendance has been decided, no longer than until the child reaches the age of 10;</p> <ul style="list-style-type: none"> • 38 weeks - if the child taken in by the employee up to the age of 7 and, in the case of a child for whom a postponement of compulsory school attendance has been decided, up to the age of 10, reaches that age during the leave. <p>An employee who fosters a child and has applied to the guardianship court for initiation of adoption proceedings shall be entitled to parental leave to care for that child of up to:</p> <ul style="list-style-type: none"> • 41 weeks - if one child has been taken in; • 43 weeks - if two or more children have been taken in; <p>- but not beyond the child's 14th birthday.</p> <p>An employee who fosters a child up to the age of 14 and has applied to the guardianship court for initiation of adoption proceedings is entitled to 38 weeks of parental leave.</p> <p>An employee who fosters a child and has applied to the guardianship court for initiation of adoption proceedings, in the case of a child with a certificate referred to in Article 4 (3) of the Act of 4 November 2016 on Support for Pregnant Women and "Pro Life" Families, shall be entitled to parental leave to care for that child of up to:</p> <ul style="list-style-type: none"> • 65 weeks - if one child is taken in; • 67 weeks - if two or more children are taken in;

	<ul style="list-style-type: none"> • 62 weeks - if the employee has taken in a child up to the age of 7, or up to the age of 10 in the case of a child for whom a decision has been taken to postpone compulsory school attendance; <p>- but not beyond the child's 14th birthday.</p> <p>An employee who has taken in a child as a foster family, with the exception of a professional foster family, and an employee who has taken in a child as a foster family and has applied to the guardianship court to initiate proceedings for the adoption of a child up to the age of 14, in the case of a child with a certificate referred to in Article 4(3) of the Act of 4 November 2016 on Support for Pregnant Women and “Pro Life” Families, shall be entitled to 62 weeks of parental leave.</p>
<p>19.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>19.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>20. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please specify the legal conditions.</p>	<p>Pursuant to Article 182^{1d}, parental leave shall be granted upon application submitted in paper or electronic form by the employee - parent of a child not less than 21 days prior to starting the leave.</p> <p>Applications for parental leave are binding on the employer.</p>
<p>20.1. Indicate the differences for persons according to point 1.1.</p>	<p>Under Article 183 § 5 of the Labour Code, the above rules also apply to employees who have adopted or foster a child.</p>

<p>20.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>20.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>21. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations - for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care - characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of time off? If so, please specify the legal conditions.</p>	<p>Under Article 181 in conjunction with Article 182^{1g} of the Labour Code, parental leave may be interrupted if the child is in hospital. The remaining part of the leave may be taken by the employee after the child leaves the hospital.</p> <p>The employer cannot object to the employee's interruption of leave in such a situation.</p>
<p>21.1. Indicate the differences for persons according to point 1.1.</p>	<p>Under Article 183 § 5 of the Labour Code, the above rules also apply to employees who have adopted or foster a child.</p>
<p>21.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>

<p>21.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>22. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations - see, for example, point 5 - characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please specify the legal conditions.</p>	<p>According to Article 182^{1d} § 3 of the Labour Code, employees taking parental leave have the right to relinquish it at any time with the employer's consent and return to work. The provision requires the employer to agree to the employee's relinquishment. Thus, the request to relinquish may or may not be granted by the employer not only as to the reduction of the leave, but also as to the date requested by the employee for the end of the leave. It appears, however, that the employer does not have complete discretion not to grant the request to relinquish. Indeed, the employee's request stems from the employee's right to work (Article 10 of the Labour Code). Therefore, a possible lack of consent should be objectively justified, for example by excessive factual or legal complications (e.g. the need to temporarily hire another employee).</p> <p>By virtue of Article 180¹ § 2 in conjunction with 182^{1g} of the Labour Code, parental leave is also reduced if the child dies during the leave - in this case the employee retains the right to leave for a period of 7 days from the date of the child's death.</p> <p>An employee also loses the right to parental leave if he or she abandons the child (Article 182 in conjunction with Article 182^{1g} of the Labour Code).</p>
<p>22.1. Indicate the differences for persons according to point 1.1.</p>	<p>Pursuant to Article 183 § 5 of the Labour Code, the above rules also apply to employees who have adopted or foster a child.</p>
<p>22.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>22.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>

<p>23. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please specify the legal conditions.</p>	<p>Parental leave may be extended beyond the period set out in Article 182^{1a} of the Labour Code when the employee decides to combine parental leave with work at the employer granting this leave.</p> <p>The exact rules related to the extension of parental leave are described in Article 182^{1f} of the Labour Code:</p> <ul style="list-style-type: none"> • Combining work with parental leave means that the length of the leave is extended proportionately up to the length of time during which the employee performs work while on leave, however not longer than up to 64 weeks in the case of giving birth to one child at one birth, and up to 68 weeks in the case of giving birth to two or more children at one birth (§ 1); • The period by which the parental leave is extended constitutes the multiplication of the number of weeks within which the employee combines parental leave with the performance of work at the employer granting this leave and the length of working time during which the employee performs work while on parental leave, i.e. the appropriate fraction of full-time work (§2); when a part of parental leave created as an effect of the extension of the length of parental leave is not compatible with the multiple of the week, it is granted in days; • When the employee takes leave in parts, the proportion relating to the determination of the length of leave should be calculated separately for each part; • The use of extended leave is decided on a case-by-case basis and is done by the employee submitting a request to the employer for permission to start performing work (§ 6); should the employee also wish to combine part of extended leave with the performance of work during that period (subject to the employer's agreement), that part of parental leave will necessitate recalculation (§ 7). <p>Pursuant to Article 31 (4a) of the Act on Cash Benefits from Social Insurance in the Event of</p>
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	Sickness and Maternity, the amount of maternity allowance is reduced in proportion to the working hours during which the employee combines the use of parental leave with work for the employer granting that leave.
23.1. Indicate the differences for persons according to point 1.1.	Under Article 183 § 5 of the Labour Code, the above rules also apply to employees who have adopted or foster a child.
23.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
23.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
24. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.	Pursuant to Article 186 ⁴ of the Labour Code, the employer shall re-admit the employee at the end of parental leave to the position held before leave was taken or, if this is not possible, to an equivalent position on terms no less favourable than those that would have applied if the employee had not taken the leave.
24.1. Indicate the differences for persons according to point 1.1.	Pursuant to Article 186 ⁴ of the Labour Code, the employer shall re-admit the employee to the position held before taking parental leave or, if this is not possible, to a position equivalent to the one held before the leave began on terms and conditions no less favourable than those that would have applied if the employee had not taken the leave.
24.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.

3. Social security during the leave

Please, answer the questions in the following tables. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

SOCIAL SECURITY	
A. Maternity leave	
<p>25. Is the employer obliged to provide any benefit or compensation to the employee on maternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Employees on maternity leave are entitled to maternity allowance (Article 184 of the Labour Code and Articles 29 and 29a of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p> <p>Maternity allowance is financed by the Social Insurance Fund (administered by the Social Insurance Institution) and is one of cash benefits of sickness insurance.</p> <p>Maternity allowance is not funded by the employer. The employer is not required to fund any other benefits for employees on maternity leave.</p> <p>However, the employer may be requested to pay maternity allowances to its employees. This obligation, pursuant to Article 61 of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity, applies to employers who register (employ) more than 20 insured persons for sickness insurance. The nature of payments of sickness benefits by the remitter of contributions (employer) is purely technical. Remitters disburse benefits not from their own funds but from the sickness fund, and settle with the Social Insurance Institution through contributions.</p> <p>The number of insured employees is determined as at November 30th of the preceding calendar year and, in relation to contribution remitters who had not reported anyone for sickness insurance on that date, as at the first month in which they made such report.</p>

	Employees on maternity leave from an employer with fewer than 20 employees are paid maternity allowance by the Social Insurance Institution.
<p>25.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	The above rules apply to employees who have adopted or foster a child and are on leave equivalent to maternity leave.
<p>25.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	Employees on maternity leave have an equal right to maternity allowance regardless of how they perform their duties.
<p>25.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>'Self-employed' individuals (economic operators) covered by sickness insurance are entitled to maternity allowance as per Articles 29 and 29a of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity for a period corresponding to the length of maternity leave under the Labour Code.</p> <p>Pursuant to Article 61(1)(2)(b) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity, maternity allowance is paid to such individuals by the Social Insurance Institution.</p>
<p>26. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	If maternity leave is taken by a person other than the employee - mother of the child (see section 2), that person would be entitled to maternity allowance (Art. 180 § 5, 7, 11, 13, 15, 17 of the Labour Code, and Art. 29 (3), (5), (6), (7), (9), (10)

	of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).
26.1. Indicate the differences for persons according to point 1.1.	Similar rules apply when leave on conditions of maternity leave is taken by persons other than adoptive parents-employees (Article 29 (3) to (10) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).
26.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
26.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
27. Indicate the amount of the benefit/compensation.	<p>Pursuant to Article 31 of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity, the monthly maternity allowance for the period defined by the Labour Code as the period of maternity leave is 100% of the allowance assessment basis.</p> <p>The allowance amount may change if the insured mother of the child submits, no later than 21 days after childbirth, a written request to be paid maternity allowance for the period corresponding to the period of maternity and parental leave in full (the so-called "Extended Application", Art. 30a of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p> <p>In this case, maternity allowance for the entire period of maternity and parental leave will be 81.5% of the allowance base.</p> <p>The "extended application" for maternity allowance cannot relate to the mandatory 9 weeks of parental leave for the other parent. For this part of the leave, the allowance is always 70% of the allowance base.</p> <p>Where the monthly amount of the maternity allowance is lower than the amount of the parental benefit (PLN 1,000), the amount of maternity allowance is increased to the amount of the</p>

	<p>parental benefit (Article 31 (3a) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p> <p>As a general rule, the basis for calculating maternity allowance for an employee is the average monthly salary paid:</p> <ul style="list-style-type: none"> • For a period of 12 calendar months preceding the month in which the incapacity to work arose; or • For full calendar months of insurance, if the incapacity to work arose before the end of 12 calendar months of insurance. <p>In order to determine the basis for calculating an employee's maternity allowance, income constituting the basis for contributions to, respectively, sickness insurance or accident insurance, minus social security contributions deducted by the employer, shall be taken.</p>
<p>27.1. Indicate the differences for persons according to point 1.1.</p>	<p>The above rules apply to individuals taking leave under parental leave conditions.</p>
<p>27.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>27.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>28. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>The granting of maternity leave automatically confers the right to maternity allowance.</p> <p>The responsibility for calculating and paying maternity allowances lies with the employer if it enrolls more than 20 persons for sickness insurance. The nature of payments of sickness benefits by the remitter of contributions (employer) is purely technical. Remitters (employers) pay benefits not from their own funds but from the sickness fund, and settle with the Social Insurance Institution through contributions. Employers inform the Social Insurance Institution</p>

	<p>of an employee's use of maternity leave in a personalized monthly report.</p> <p>The remitter of contributions (employer) with doubts concerning the determination of the right to the benefit or its amount should request clarification from the Social Insurance Institution (ZUS) pursuant to Article 63(2) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity.</p> <p>If the insured (employee) believes that his or her entitlement to maternity allowance has been violated, he or she also has the right to apply to the Social Insurance Institution (ZUS) to determine the entitlement to this allowance (Article 63(1) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p> <p>If maternity allowance is to be determined and paid by the Social Insurance Institution (the employer does not enrol more than 20 employees for sickness insurance) - the employer should inform the Social Insurance Institution of the employee's maternity leave by submitting Certificate Z-3.</p>
28.1. Indicate the differences for persons according to point 1.1.	The above rules apply to those taking leave under the conditions of parental leave.
28.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
28.3. Indicate the differences for persons according to point 1.3.	For economic operators, the entity that determines and pays maternity allowance benefit is the Social Insurance Institution.
29. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	<p>Maternity allowance is payable for the entire duration of maternity leave. If the maternity leave is terminated early, maternity allowance ceases to be paid.</p> <p>The possibility of reducing the amount of maternity allowance from 100% to 81.5% of its base is possible in the case of the so-called</p>

	"extended application" described in detail in section 27.
29.1. Indicate the differences for persons according to point 1.1.	The above rules apply to employees taking leave under the conditions of parental leave.
29.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
29.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
30. Indicate whether the entitlement/amount to the benefit/compensation can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	The possibility to reduce maternity allowance from 100% to 81.5% of its base is possible in the case of the so-called "extended application" described in detail in section 27.
30.1. Indicate the differences for persons according to point 1.1.	The above rules apply to employees taking leave under the conditions of parental leave.
30.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
30.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
31. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.	It follows from the provisions of the Social Insurance System Act of 13 October 1998 that remitters of contributions perform tasks related to the determination and payment of maternity allowance in return for remuneration. The

	<p>provision of Article 3(2) of the Act stipulates that remitters of contributions are entitled to remuneration for the performance of tasks related to the determination of the right to benefits and their amount and the payment of sickness insurance benefits. This provision also indicates that the remuneration of contribution remitters is determined as a percentage of the amount of sickness insurance benefits.</p> <p>Whereas the interest rate and the procedure for the settlement of remuneration payable to remitters of contributions is in turn determined by the provisions of the Regulation of the Minister of Labour and Social Policy of 14.12.1998 on the amount and procedure for the payment of remuneration to remitters of contributions for the performance of tasks under social insurance in the event of sickness and maternity. According to this regulation, the remitter is entitled to remuneration for the performance of tasks related to the determination of the right to and the amount of social insurance benefits in the event of sickness and maternity and for payment of that remuneration at the rate of 0.1% of the correct amount of paid benefits (§ 1 of the regulation). The amount of remuneration is deducted from the contributions due from the remitter (§ 2) and is shown in the declaration for the month in which the remitter has paid the benefits (§ 3). In the event of unjustified deduction of remuneration, it is reimbursed by the remitter of contributions in the settlement declaration for the following month (§ 4).</p>
<p>32. Indicate what is the impact of the rules for social security system, if any.</p>	<p>Nothing to indicate.</p>
<p>33. Which benefit(s) are envisaged for persons on maternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p>	<p>See section 25.</p>

<p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	
<p>33.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>See section 25.1.</p>
<p>33.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See section 25.2.</p>
<p>33.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See section 25.3.</p>
<p>34. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p>	<p>See section 26.</p>

<p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	
<p>34.1. Indicate the differences for persons according to point 1.1.</p>	<p>See section 26.1.</p>
<p>34.2. Indicate the differences for persons according to point 1.2.</p>	<p>See section 26.2.</p>
<p>34.3. Indicate the differences for persons according to point 1.3.</p>	<p>See section 26.3.</p>
<p>35. Indicate the amount of the benefit and the method of calculation.</p>	<p>See section 27.</p>
<p>35.1. Indicate the differences for persons according to point 1.1.</p>	<p>See section 27.1.</p>
<p>35.2. Indicate the differences for persons according to point 1.2.</p>	<p>See section 27.2.</p>
<p>35.3. Indicate the differences for persons according to point 1.3.</p>	<p>See section 27.3.</p>
<p>36. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>See section 28.</p>

<p>36.1. Indicate the differences for persons according to point 1.1.</p>	<p>See section 28.1.</p>
<p>36.2. Indicate the differences for persons according to point 1.2.</p>	<p>See section 28.2.</p>
<p>36.3. Indicate the differences for persons according to point 1.3.</p>	<p>See section 28.3.</p>
<p>37. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>See section 29.</p>
<p>37.1. Indicate the differences for persons according to point 1.1.</p>	<p>See section 29.1.</p>
<p>37.2. Indicate the differences for persons according to point 1.2.</p>	<p>See section 29.2.</p>
<p>37.3. Indicate the differences for persons according to point 1.3.</p>	<p>See section 29.3.</p>
<p>38. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>See section 30.</p>
<p>38.1. Indicate the differences for persons according to point 1.1.</p>	<p>See section 30.1.</p>

<p>38.2. Indicate the differences for persons according to point 1.2.</p>	<p>See section 30.2.</p>
<p>39. Are there any other legal instruments aimed at social security of a person on maternity leave?</p> <p>If so, please specify.</p>	<p>In principle, social security for those on maternity leave is provided through maternity allowance.</p> <p>In special situations, especially if the child's parent is financially disadvantaged, he or she can apply for additional benefits.</p> <p>For example, a one-time childbirth allowance of PLN 1,000 per child is granted for the birth of a live child. From 1 January 2013, a one-time childbirth allowance is granted if the per capita family income does not exceed PLN 1,922.00 net. The above results from the Act of 12 October 2012 amending the Act on Family Benefits.</p>
<p>SOCIAL SECURITY</p>	
<p>B. Paternity leave</p>	
<p>40. Is the employer obliged to provide any benefit or compensation to the employee on paternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Employees on paternity leave are entitled to maternity allowance (Article 184 of the Labour Code and Articles 29 and 29a of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p> <p>The essence of maternity allowance (due during the period of paternity leave) is described in section 25.</p>
<p>40.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p>	<p>The above rules apply to adoptive fathers-employees who are on paternity leave.</p>

<p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>40.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Employees on paternity leave have an equal right to maternity allowance regardless of how they perform their work duties.</p>
<p>40.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>'Self-employed' individuals (economic operators) covered by sickness insurance are entitled to maternity allowance in accordance with Articles 29 and 29a of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity for a period corresponding to the length of paternity leave under the Labour Code.</p> <p>Pursuant to Article 61(1)(2)(b) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity, maternity allowance is paid to such persons by the Social Insurance Institution.</p>
<p>41. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Paternity leave cannot be taken by anyone other than the employee - father of the child, so maternity allowance for this period cannot be taken by any other person.</p>
<p>41.1. Indicate the differences for persons according to point 1.1.</p>	<p>Paternity leave cannot be taken by anyone other than the employee - adoptive father of the child, and therefore maternity allowance for this period cannot be taken by any other person.</p>
<p>41.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>

<p>41.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>42. Indicate the amount of the benefit/compensation.</p>	<p>Pursuant to Article 31(1) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity, the monthly maternity allowance for the period established by the Labour Code as paternity leave is 100% of the benefit assessment basis.</p> <p>Where the monthly amount of maternity allowance is lower than the amount of the parental benefit (PLN 1,000), the amount of maternity allowance is increased to the amount of the parental benefit (Article 31(3a) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p> <p>As a general rule, the basis for calculating maternity allowance for an employee is the average monthly salary paid:</p> <ul style="list-style-type: none"> • For a period of 12 calendar months preceding the month in which the incapacity to work arose; or • For full calendar months of insurance, if the incapacity to work arose before the end of 12 calendar months of insurance. <p>In order to determine the basis for the employee's maternity allowance, the income constituting the basis for, respectively, contributions to sickness insurance or accident insurance, minus social insurance contributions deducted by the employer, shall be taken.</p>
<p>42.1. Indicate the differences for persons according to point 1.1.</p>	<p>The above rules apply to adoptive fathers taking paternity leave.</p>
<p>42.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>

<p>42.3. Indicate the differences for persons according to point 1.3.</p>	<p>The above rules apply to self-employed insured persons collecting maternity allowance for a period equal to paternity leave.</p>
<p>43. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>The granting of paternity leave automatically confers the right to maternity allowance.</p> <p>The rules for granting maternity allowance are described in section 28.</p>
<p>43.1. Indicate the differences for persons according to point 1.1.</p>	<p>The above rules apply to adoptive fathers taking paternity leave.</p>
<p>43.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>43.3. Indicate the differences for persons according to point 1.3.</p>	<p>For self-employed persons, the entity that determines and pays maternity allowance is the Social Insurance Institution.</p>
<p>44. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>Maternity allowance is payable for the entire duration of paternity leave at 100% of the allowance base. In the event of early termination of paternity leave, maternity allowance ceases to be paid.</p>
<p>44.1. Indicate the differences for persons according to point 1.1.</p>	<p>The above rules apply to adoptive fathers taking paternity leave.</p>
<p>44.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>44.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>

<p>45. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>Maternity allowance is payable throughout the period of paternity leave at the constant rate of 100% of the benefit base.</p>
<p>45.1. Indicate the differences for persons according to point 1.1.</p>	<p>The above rules apply to adoptive fathers taking paternity leave.</p>
<p>45.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>45.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>46. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>See section 31.</p>
<p>47. Indicate what is the impact of the rules for social security system, if any.</p>	<p>Nothing to indicate.</p>
<p>48. Which benefit(s) are envisaged for persons on paternity leave from public social security system?</p>	<p>See section 40.</p>

<p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	
<p>48.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>See section 40.1.</p>
<p>48.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See section 40.2.</p>
<p>48.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See section 40.3.</p>
<p>49. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>See section 41.</p>

<p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	
<p>49.1. Indicate the differences for persons according to point 1.1.</p>	<p>See section 41.1.</p>
<p>49.2. Indicate the differences for persons according to point 1.2.</p>	<p>See section 41.2.</p>
<p>49.3. Indicate the differences for persons according to point 1.3.</p>	<p>See section 41.3.</p>
<p>50. Indicate the amount of the benefit and the method of calculation.</p>	<p>See section 42.</p>
<p>50.1. Indicate the differences for persons according to point 1.1.</p>	<p>See section 42.1.</p>
<p>50.2. Indicate the differences for persons according to point 1.2.</p>	<p>See section 42.2.</p>
<p>50.3. Indicate the differences for persons according to point 1.3.</p>	<p>See section 42.3.</p>
<p>51. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written</i></p>	<p>See section 43.</p>

<i>request, is the employer engaged somehow? etc.).</i>	
51.1. Indicate the differences for persons according to point 1.1.	See section 43.1
51.2. Indicate the differences for persons according to point 1.2.	See section 43.2.
51.3. Indicate the differences for persons according to point 1.3.	See section 43.3,
51.4. Indicate the differences for persons according to point 1.1.	See section 43.1
51.5. Indicate the differences for persons according to point 1.2.	See section 43.2.
51.6. Indicate the differences for persons according to point 1.3.	See section 43.3,
52. Indicate whether the entitlement to the benefit or its amount can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	See section 45.
52.1. Indicate the differences for persons according to point 1.1.	See section 45.1.
52.2. Indicate the differences for persons according to point 1.2.	See section 45.2,

<p>53. Are there any other legal instruments aimed at social security of a person on paternity leave?</p> <p>If so, please specify.</p>	<p>Nothing to indicate.</p>
SOCIAL SECURITY	
C. Parental leave	
<p>54. Is the employer obliged to provide any benefit or compensation to the employee on parental leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Employees on parental leave are entitled to maternity allowance (Article 184 of the Labour Code and Articles 29 and 29a of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p> <p>The essence of maternity allowance (paid during the period of parental leave) is described in section 25.</p>
<p>54.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The above rules apply to employees - adoptive parents who are on parental leave.</p>
<p>54.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p>	<p>Employees on parental leave have an equal right to maternity allowance regardless of how they perform their work duties.</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	
<p>54.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>'Self-employed' individuals (economic operators) covered by sickness insurance are entitled to maternity allowance in accordance with Articles 29 and 29a of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity for a period corresponding to the length of parental leave under the Labour Code.</p> <p>Pursuant to Article 61(1)(2)(b) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity, maternity allowance is paid to such persons by the Social Insurance Institution.</p>
<p>55. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>When parental leave is taken by a person other than the employee - parent of the child (see section 18), such persons are entitled to maternity allowance (Art.180 § 5, 7, 11, 13, 15, 17 in connection with Art.182^{1g} of the Labour Code, Art.29(3), (5), (6), (7), (9), (10) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p>
<p>55.1. Indicate the differences for persons according to point 1.1.</p>	<p>Similar rules apply when parental leave is taken by persons other than employees - adoptive parents (Article 29 (3) to (10) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p>
<p>55.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>
<p>55.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nothing to indicate.</p>
<p>56. Indicate the amount of the benefit/compensation.</p>	<p>Pursuant to Article 31(2) of the Act on Cash Benefits from Social Insurance in the Event of</p>

	<p>Sickness and Maternity, the monthly maternity allowance for the period established by the Labour Code as a period of parental leave is 70% of the benefit assessment base.</p> <p>The amount of allowance may change if the insured mother of the child submits, no later than 21 days after childbirth, a written request to be paid maternity allowance for a period corresponding to the period of maternity leave and parental leave in full (the so-called "extended application", Article 30a of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity).</p> <p>In this case, maternity allowance for the entire period of maternity and parental leave will be 81.5% of the base of maternity allowance.</p> <p>The "extended application" for maternity allowance cannot refer to the mandatory 9 weeks of parental leave for the other parent. For this part of the leave, the allowance is always 70% of its base.</p> <p>As a general rule, the basis for calculating maternity allowance for an employee is the average monthly salary paid:</p> <ul style="list-style-type: none"> • For a period of 12 calendar months preceding the month in which the incapacity to work arose; or • For full calendar months of insurance, if the incapacity to work arose before the end of 12 calendar months of insurance. <p>In order to determine the base for the employee's maternity allowance, the income constituting the basis for contributions, respectively, to sickness insurance or accident insurance, minus social insurance contributions deducted by the employer, shall be taken.</p>
<p>56.1. Indicate the differences for persons according to point 1.1.</p>	<p>Similar rules apply when parental leave is taken by employees - adoptive parents.</p>
<p>56.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nothing to indicate.</p>

56.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
57. Indicate the rules and conditions of claiming the benefit/compensation. <i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i>	The granting of parental leave automatically confers the right to maternity allowance. The rules for granting maternity allowance are described in section 28.
57.1. Indicate the differences for persons according to point 1.1.	Similar rules apply when parental leave is taken by employees - adoptive parents.
57.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
57.3. Indicate the differences for persons according to point 1.3.	For economic operators, the entity that determines and pays maternity allowance is the Social Insurance Institution.
58. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	Maternity allowance is granted for the entire duration of parental leave. If parental leave is terminated early, maternity allowance ceases to be paid. The amount of maternity allowance shall be altered if parental leave is extended beyond the dimension set out in Article 182 ^{1a} of the Labour Code, when the employee decides to combine the use of parental leave with work for the employer granting such leave. In such situations, in accordance with Article 31(4a) of the Act on Cash Benefits from Social Insurance in the Event of Sickness and Maternity, the amount of maternity allowance is reduced in proportion to the working hours during which the

	employee combines the use of parental leave with work for the employer granting such leave.
58.1. Indicate the differences for persons according to point 1.1.	Similar rules apply when parental leave is taken by employees - adoptive parents.
58.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
58.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
59. Indicate whether the entitlement/amount to the benefit/compensation can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	The possibility of changing the amount of maternity allowance from 70% to 81.5% of its base is possible in the case of a so-called "extended application", which is described in detail in section 56.
59.1. Indicate the differences for persons according to point 1.1.	Similar rules apply when parental leave is taken by employees - adoptive parents.
59.2. Indicate the differences for persons according to point 1.2.	Nothing to indicate.
59.3. Indicate the differences for persons according to point 1.3.	Nothing to indicate.
60. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.	See section 31.

<p>61. Indicate what is the impact of the rules for social security system, if any.</p>	<p>Nothing to indicate.</p>
<p>62. Which benefit(s) are envisaged for persons on parental leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>See section 54.</p>
<p>62.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>See section 54.1.</p>
<p>62.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See section 54.2.</p>
<p>62.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p>	<p>See section 54.3.</p>

Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.	
<p>63. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	See section 55.
63.1. Indicate the differences for persons according to point 1.1.	See section 55.1.
63.2. Indicate the differences for persons according to point 1.2.	See section 55.2.
63.3. Indicate the differences for persons according to point 1.3.	See section 55.3.
64. Indicate the amount of the benefit and the method of calculation.	See section 56.
64.1. Indicate the differences for persons according to point 1.1.	See section 56.1.
64.2. Indicate the differences for persons according to point 1.2.	See section 56.2.
64.3. Indicate the differences for persons according to point 1.3.	See section 56.3.

<p>65. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	See section 57.
<p>65.1. Indicate the differences for persons according to point 1.1.</p>	See section 57.1.
<p>65.2. Indicate the differences for persons according to point 1.2.</p>	See section 57.2.
<p>65.3. Indicate the differences for persons according to point 1.3.</p>	See section 57.3.
<p>66. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	See section 58.
<p>66.1. Indicate the differences for persons according to point 1.1.</p>	See section 58.1.
<p>66.2. Indicate the differences for persons according to point 1.2.</p>	See section 58.2.
<p>66.3. Indicate the differences for persons according to point 1.3.</p>	See section 58.3.

<p>67. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>See section 59.</p>
<p>67.1. Indicate the differences for persons according to point 1.1.</p>	<p>See section 59.1.</p>
<p>67.2. Indicate the differences for persons according to point 1.2.</p>	<p>See section 59.2.</p>
<p>68. Are there any other legal instruments aimed at social security of a person on parental leave?</p> <p>If so, please specify.</p>	<p>Nothing to indicate.</p>

4. Administration

69. How is the administration of the leave and/or benefit legislated?

Employers grant parental leave and, if they enrol more than 20 persons for sickness insurance, they must also determine the amount of and pay maternity allowance. If there is any doubt about the calculation of maternity allowance, employers may submit a request to the Social Insurance Institution to determine the entitlement to this allowance. Employers enrolling 20 or fewer persons for sickness insurance only need to inform the Social Insurance Institution that the employee is taking parental leave. In such cases, the Social Insurance Institution independently determines the amount of and pays maternity allowance. In any case, employers do not finance maternity allowance.

70. Is there any administrative burden for employers? For instance, as regards obligations, that have increased in connection with the implementation of the WLB Directive and Transparency Directive, did administrative costs of employers grow? If so, does the State compensate those costs? How?

Employers grant parental leave and, if they enrol more than 20 persons for sickness insurance, they must also establish and pay maternity allowances, for which they receive remuneration described in section 31.

71. Have some responsibilities been entrusted to state authorities (e.g. labour offices or labour inspectorates)?

Labour inspectors, as public prosecutors in cases of misdemeanour against employee rights (Art. 17.3 of the Code of Procedure in Misdemeanour Cases), ensure that employers comply with the legal provisions on parental leave. Pursuant to Article 281 (1) (5) of the Labour Code, misdemeanours against employee rights include failure to grant maternity, parental and paternity leave. Accordingly, for committing the said misdemeanour, the labour inspector may impose a fine within the framework of a mandate procedure or file a request for punishment to the court with proper jurisdiction.

72. Has any specific mechanism or procedure been introduced in order to check who is really taking care after the child, in order to avoid fraudulent behaviour?

There are no specific procedures in this area.

5. General analysis

73. Please, summarize relevant national case-law providing legal interpretation of any of legal provisions mentioned above.

There are two main area of caselaw related to parental rights. The first one defines scope of protection of employees enjoying parental -related leave. In most cases caselaw interprets it very broadly. The second area is focuses on defining if the employee-women or women working under B2B contract is entitled to maternity benefir.

74. Has there been any public debate on the topic of maternity leave, parental leave, changes due to European legislation, non-transferability? Has this debate had any impact on current or proposed legislation?

On 26 April 2023, an amendment to the Labour Code came into force, implementing the provisions of the work-life balance directive and of the directive on transparent and predictable working conditions into the Polish legal order. The amendment introduced a number of changes in the system of rights related to parenthood. The most important of these include an extension of parental leave by nine weeks and the introduction of the principle that each parent is entitled to this period separately, without the possibility of transferring this entitlement to the other parent, an increase in the standard amount of maternity allowance during parental leave to 70% of the base for the calculation of the benefit, making entitlement to parental leave independent of the prior taking of maternity leave by the employee - mother, and shortening the period during which the employee - father may take paternity leave (until the child is 12 months old).

In general, these changes have been welcomed by the public as providing additional support to current and future parents and encouraging a balanced sharing of childcare responsibilities between parents. The importance of the amendment to make parental leave entitlements independent of the prior take-up of maternity leave by the employee - mother of the child is particularly highlighted. The need to amend the legislation in this regard has long been encouraged by experts.

Some have called for an increase in the maternity allowance assessment base for persons on parental leave to 100% of the benefit assessment base (similar to maternity and paternity leave). In the course of legislative work on the aforementioned amendment, such a proposal was even submitted by the Senate. However, it was rejected by the majority of the Sejm, so it should not be expected that this demand will be fulfilled in the near future.

75. Can you provide us with any relevant statistics on maternity and/or parental leave, possibly showing some developments relevant for this questionnaire?

The analysis of data on the receipt of maternity allowances by different groups of people proves that there is still a very large imbalance between women and men in this respect. Statistics made available by the Social Insurance Institution show that while the number of fathers claiming maternity allowances for paternity leave has been increasing in recent

years (from more than 148,000 in 2015 to more than 185,000 in 2020), the number of fathers claiming allowance for parental leave is still low and invariably accounts for 1% of all individuals taking advantage of this allowance (which means that 99% of people claiming allowance for parental leave are mothers).

76. Can you briefly sum up and provide a short analysis of the national legislation on maternity and parental leave? What are its positives, which weaknesses can be mentioned?

Polish law distinguishes several leaves related to parenthood. In the basic variant (at the birth of one child), an employee who has given birth is entitled to 52 weeks off (20 weeks maternity leave and 32 weeks parental leave). At the same time, the system recognises the role of fathers in the upbringing of children and therefore guarantees them a non-transferable leave entitlement - a maximum of 2 weeks paternity leave and a 9-week part of parental leave. In addition, the father can also take parental leave (of up to 31 weeks) in place of the child's mother and also take 6 weeks of maternity leave in her stead. In theory, this should foster a balancing of parental responsibilities between men and women and promote a parenting model based on the mother's and father's involvement in the child's life.

The Polish system also has the advantage of maternity allowance due during parental leave being financed entirely from the Social Insurance Fund and therefore not constituting an economic burden for employers. On the other hand, they have to reckon with the fact that employees' requests for parental leave are binding on them and they are under an obligation to accommodate employees - parents at the end of the leave, which may cause some organisational problems. It should also be borne in mind that employees on parental leave benefit from special protection against termination of employment described in Article 177 of the Labour Code.

A widely commented drawback of the Polish parental leave system is also the opacity and complexity of the provisions by which they are governed.

Questionnaire for national experts

Country: Slovak republic

Name, affiliation and contact of the national expert:

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1. [Legislation on maternity, paternity and parental leave](#)

Please, generally describe (with references to legal sources) your national legislation on maternity leave, paternity leave and parental leave.

Provide a legal definition of:

- maternity leave,
- paternity leave and
- parental leave

according to your national legislation.

If your national legislation distinguishes between time off and social security during it, please explain, with references to legal sources.

Smernica 2019/1152 a smernica 2019/1158 boli do slovenského právneho poriadku transponované zákonom č. 350/2022 Z. z., ktorý nadobudol účinnosť 1. novembra 2022. Podľa úpravy účinnej do 31.10.2022 mal muž nárok na rodičovskú dovolenku (ekvivalent materskej dovolenky ženy, trvanie rodičovskej dovolenky bolo nastavená rovnako aj pre muža) od narodenia dieťaťa v trvaní 34 týždňov (37, ak bol osamelý a 43 pri dvoch a viacerých deťoch), išlo pritom o iný inštitút ako rodičovská dovolenka na prehlbenie starostlivosti o dieťa do 3, resp. 6 rokov veku pri dlhodobo nepriaznivom zdravotnom stave dieťaťa vyžadujúceho si osobitnú starostlivosť.

Zákonník práce pojem rodičovská dovolenka používal pre dva rôzne inštitúty, preto došlo aj k zmene pojmu. Hoci dĺžka materskej dovolenky a (u otca) rodičovskej dovolenky bola v zákonníku práce nastavená rovnako, doba poberania dávky sociálneho poistenia – materského bola v zákone o sociálnom poistení nastavená inak (u otca dieťaťa bolo obdobie skrátené o 6 týždňov, keďže otec mohol poberať dávku až odo dňa pôrodu, matka už 6 týždňov pred pôrodom).

Tzv. rodičovská dovolenka otca (§ 166 ods. 1 posledná veta zákonníka práce v znení účinnom do 30.10.2022) sa novelou zmenila na otcovskú dovolenku a súčasne sa zmenila aj výmera. Podľa novej právnej úpravy v súvislosti so starostlivosťou o narodené dieťa patrí mužovi odo dňa narodenia dieťaťa otcovská dovolenka v trvaní 28 týždňov, osamelému mužovi v trvaní 31 týždňov a v súvislosti so starostlivosťou o narodené dve alebo viac detí v trvaní 37 týždňov.

Pojmy materská dovolenka (maternity leave), otcovská dovolenka (paternity leave) a rodičovská dovolenka (parental leave) sú v zákonníku práce (zákon č. 311/2001 Z. z., ďalej ako „ZP“) definované nasledovne:

Materská dovolenka - *V súvislosti s pôrodom a starostlivosťou o narodené dieťa patrí žene materská dovolenka v trvaní 34 týždňov. Osamelej žene patrí materská dovolenka v trvaní 37 týždňov a žene, ktorá porodila zároveň dve alebo viac detí, patrí materská dovolenka v trvaní 43 týždňov (§ 166 ods. 1 ZP).*

Otcovská dovolenka - *V súvislosti so starostlivosťou o narodené dieťa patrí mužovi odo dňa narodenia dieťaťa otcovská dovolenka v trvaní 28 týždňov, osamelému mužovi v trvaní 31 týždňov a v súvislosti so starostlivosťou o narodené dve alebo viac detí v trvaní 37 týždňov (§ 166 ods. 1 ZP).*

Rodičovská dovolenka - *Na prehlbenie starostlivosti o dieťa je zamestnávateľ povinný poskytnúť žene a mužovi, ktorí o to požiadajú, rodičovskú dovolenku až do dňa, v ktorom dieťa dovŕši tri roky veku. Ak ide o dlhodobu nepriaznivý zdravotný stav dieťaťa vyžadujúci osobitnú starostlivosť, je zamestnávateľ povinný poskytnúť žene a mužovi, ktorí o to požiadajú, rodičovskú dovolenku až do dňa, v ktorom dieťa dovŕši šesť rokov veku. Táto dovolenka sa poskytuje v rozsahu, o aký rodič žiada, spravidla však najmenej na jeden mesiac (§ 166 ods. 2 ZP).*

V §§ 166 – 169 ZP sú upravené ďalšie podmienky poskytovania materskej, otcovskej a rodičovskej dovolenky (popísané v dotazníku).

Materská, otcovská a rodičovská dovolenka patrí medzi dôležité osobné prekážky v práci (§ 141 ods. 1 ZP). Zamestnanec má po dobu ich trvania u zamestnávateľa pracovné voľno a jeho neprítomnosť v práci je z tohto dôvodu ospravedlivená. Ide o (neplatené) pracovné voľno bez náhrady mzdy. Materská, otcovská a rodičovská dovolenka sú ochrannou dobou z hľadiska zákazu výpovede zamestnávateľa v určitých prípadoch (§ 64 ods. 1 písm. d) ZP).

Na zamestnancov v štátnej službe sa vzťahujú ustanovenia ZP upravujúce materskú, otcovskú a rodičovskú dovolenku (§ 171 ods. 1 zákona č. 55/2017 Z. z. o štátnej službe a o zmene a doplnení niektorých zákonov v znení neskorších predpisov), k ostatným služobným pomerom sú informácie uvedené ďalej v texte.

Strata príjmu je kompenzovaná zo systému sociálneho zabezpečenia, a to dávkou nemocenského poistenia materské a štátnou sociálnou dávkou rodičovským príspevkom.

Materské (§ 48 – 53 zákona č. 461/2003 Z.z. o sociálnom poistení, ďalej ako „ZoSP“) priznáva a vypláca Sociálna poisťovňa matke, otcovi alebo inému poistencovi, ak boli nemocensky poistení najmenej 270 dní v posledných dvoch rokoch pred očakávaným dňom pôrodu (matka) alebo pred dňom, od ktorého žiadajú o priznanie materského (iný poistenec vrátane otca); poistencom môže byť aj osoba, ktorá nie je zamestnancom. Obdobie poberania materského podľa ZoSP je v zásade zhodné s obdobím materskej dovolenky podľa ZP.

Poistenkyni (matke) vzniká nárok na materské od začiatku šiesteho týždňa pred očakávaným dňom pôrodu určeným lekárom, najskôr od začiatku ôsmeho týždňa pred týmto dňom, a ak porodila skôr, odo dňa pôrodu (§ 48 ods. 2 ZoSP). Nárok na materské zaniká:

- uplynutím 34. týždňa od vzniku nároku na materské,
- uplynutím 37. týždňa od vzniku nároku na materské, ak je osamelá (slobodná, rozvedená, vdova, ktorá žije v domácnosti bez inej plnoletej fyzickej osoby), osamelosť sa preukazuje čestným vyhlásením doručeným Sociálnej poisťovni do konca 34. týždňa poberania materského,
- uplynutím 43. týždňa od vzniku nároku na materské, ak porodila zároveň dve alebo viac detí a aspoň o dve z nich sa stará (§ 48 ods. 3 ZoSP).

Obdobie poberania materského iným poistencom (t.j. otec dieťaťa, manžel matky dieťaťa, manželka otca dieťaťa, osoba, ktorá prevzala dieťa do osobnej starostlivosti na základe rozhodnutia súdu, § 49 ods. 3 ZoSP) je:

- 2 týždne od priznania materského, ak ide o otca dieťaťa počas prvých šiestich týždňov od narodenia dieťaťa; toto obdobie sa predlžuje o kalendárne dni, počas ktorých bolo dieťa prijaté do ústavnej starostlivosti zdravotníckeho zariadenia zo zdravotných dôvodov na strane dieťaťa alebo jeho matky, ak deň prijatia spadá do obdobia šiestich týždňov odo dňa pôrodu,
- 28 týždňov od priznania materského,
- 31 týždňov od priznania materského, ak je osamelý, alebo
- 37 týždňov od priznania materského, ak sa súčasne stará o dve a viac detí (§ 49 ods. 1 ZoSP).

Možnosť čerpania materského otcom dieťaťa v rozsahu 2 týždňov v období 6 týždňov po narodení dieťaťa je kľúčovým prvkom transpozície smernice 2019/1158 zákonom č. 350/2022 Z. z., ktorým sa znovelizoval aj ZoSP. O tieto dva týždne sa však nepredĺži celkové obdobie poberania materského. Obdobie poberania materského otcom (28/31/37 týždňov) sa môže rozdeliť na dve obdobia poberania materského – 2 týždne počas prvých 6 týždňov života dieťaťa (kedy je možný súbeh s materským poberaním matkou) a zvyšných 26/29/35 týždňov (kedy už súbeh možný nie je). V porovnaní s úpravou ZoZS pred nadobudnutím účinnosti transpozičnej novely je tak jedinou zmenou povolenie súbehu materského matky a otca v období prvých šiestich týždňov po narodení dieťaťa. Touto právnou úpravou sa teda umožnila súbežná starostlivosť o dieťa oboma rodičmi.

V prípade, ak matka/otec nemá nárok na materské (keďže osoba nebola v požadovanom rozsahu sociálne poistená), patrí jej dávka štátnej sociálnej podpory – rodičovský príspevok.

Rodičovský príspevok priznáva a vypláca úrad práce, sociálnych vecí a rodiny matke, otcovi alebo inej osobe podľa zákona č. 571/2009 Z. z. o rodičovskom príspevku a o zmene a doplnení niektorých zákonov (ďalej ako „ZoRP“), ide o dávku štátnej sociálnej podpory (nevyžaduje sa nemocenské či iné poistenie).

Osoba, ktorá čerpá rodičovskú dovolenku poberá rodičovský príspevok. Zákon však umožňuje aj to, že osoba poberá rodičovský príspevok a nemusí byť súčasne na rodičovskej dovolenke – poberanie príspevku je zlučiteľné s výkonom zamestnania a inej zárobkovej činnosti. Rodičovský príspevok sa poskytuje:

- do troch rokov veku dieťaťa
- do šiestich rokov veku dieťaťa, ktoré má dlhodobu nepriaznivý zdravotný stav,
- do šiestich rokov veku dieťaťa, ktoré je zverené do starostlivosti nahrádzajúcej starostlivosť rodičov, najdlhšie tri roky od právoplatnosti prvého rozhodnutia o zverení dieťaťa do starostlivosti tej istej oprávnenej osobe (§ 3 ods. 2 ZoRP).

Povinnosť zamestnávateľa poskytnúť zamestnancovi (neplatené) pracovné voľno bez náhrady mzdy na účely materskej, otcovskej a rodičovskej dovolenky sa neviaže na priznanie a výplatu materského alebo rodičovského príspevku. Nárok na materskú alebo otcovskú dovolenku má aj zamestnanec, ktorému nevznikol nárok na materské. Nárok na rodičovskú dovolenku má aj zamestnanec, ktorému nevznikol nárok na rodičovský príspevok. Na rodičovskej dovolenke s tým istým dieťaťom môžu byť obaja rodičia (resp. osoby, ktoré prevzali dieťa do starostlivosti). Iba jeden z rodičov však bude môcť poberať rodičovský príspevok. Nie je možný súbeh poberania rodičovského príspevku a materského (napr. matka materské, otec rodičovský príspevok), s výnimkou poberania materského otcom dieťa v období 2 týždňov do dovŕšenia 6 týždňov veku dieťaťa a poberania rodičovského príspevku matkou (§ 3 ods. 10 zákona č. 571/2009 Z. z.).

Transpozícia smernice 2019/1158 sa dotýka aj **služobných pomerov** (nižšie sú uvedené iba zmeny súvisiace s materskou, otcovskou alebo rodičovskou dovolenkou).

1. Zákon č. 73/1998 Z. z. o štátnej službe príslušníkov Policajného zboru, Slovenskej informačnej služby, Zboru väzenskej a justičnej stráže Slovenskej republiky a Železničnej polície v znení neskorších predpisov:

- povinnosť služobného úradu poskytnúť pri narodení dieťaťa služobné voľno otcovi dieťaťa na 14 po sebe idúcich kalendárnych dní najneskôr do uplynutia šiestich týždňov od narodenia dieťaťa; toto obdobie sa predlžuje o kalendárne dni, počas ktorých bolo dieťa prijaté do ústavnej starostlivosti zdravotníckeho zariadenia zo zdravotných dôvodov na strane dieťaťa alebo jeho matky, ak deň prijatia spadá do obdobia šiestich týždňov od narodenia dieťaťa (§ 81 ods. 1 písm. e)) – ide o dôležitú osobnú prekážku v službe a služobné voľno sa poskytuje s nárokom na služobný plat,
- povinnosť poskytnúť príslušníkovi na jeho žiadosť rodičovskú dovolenku v rozsahu deväť týždňov s nárokom na služobný plat najskôr po uplynutí šiestich týždňov odo dňa pôrodu do troch rokov veku dieťaťa, ak žiaden z oprávnených nepoberá na dieťa materské alebo rodičovský príspevok (§ 152 ods. 3). Aj pred transpozičnou novelou bola v zákone upravená materská dovolenka príslušníčky v rozsahu zhodnom so ZP (34/37/43) týždňov, príslušníkovi sa poskytuje rodičovská dovolenka v rovnakom rozsahu (§ 152 ods. 1), príslušníkom sa poskytuje aj rodičovská dovolenka do troch rokov veku dieťa, ak ide o dlhodobu ťažko zdravotne postihnuté dieťa vyžadujúce mimoriadnu starostlivosť alebo o dlhodobu ťažko zdravotne postihnuté dieťa vyžadujúce mimoriadnu starostlivosť osobitne náročnú, poskytne sa policajtky alebo policajtovi, ak o to písomne požiadajú, rodičovská dovolenka až do siedmich rokov veku dieťaťa (t. j. nie 6 ako podľa ZP),

2. Zákon č. 315/2001 Z. z. o Hasičskom a záchrannom zbore v znení neskorších predpisov:

- povinnosť služobného úradu poskytnúť pri narodení dieťaťa služobné voľno so služobným platom otcovi dieťaťa na 14 po sebe idúcich kalendárnych dní najneskôr do uplynutia šiestich týždňov od narodenia dieťaťa; toto obdobie sa predlžuje o kalendárne dni, počas ktorých bolo dieťa prijaté do ústavnej starostlivosti zdravotníckeho zariadenia zo zdravotných dôvodov na strane dieťaťa alebo jeho matky, ak deň prijatia spadá do obdobia šiestich týždňov od narodenia dieťaťa (§ 96 ods. 3),
- povinnosť poskytnúť príslušníkovi na jeho žiadosť rodičovskú dovolenku v rozsahu deväť týždňov s nárokom na služobný plat najskôr po uplynutí šiestich týždňov odo dňa pôrodu do troch rokov veku dieťaťa, ak žiaden z oprávnených nepoberá na dieťa materské alebo rodičovský príspevok (§ 102ad ods. 3). Aj pred transpozičnou novelou bola v zákone upravená materská dovolenka príslušníčky v rozsahu zhodnom so ZP (34/37/43 týždňov), príslušníkovi sa poskytuje rodičovská dovolenka v rovnakom rozsahu (§ 102ad ods. 1), príslušníkom sa poskytuje aj rodičovská dovolenka v rozsahu zhodnom so ZP (§ 102 ad ods. 2),

3. Zákon č. 281/2015 Z. z. o štátnej službe profesionálnych vojakov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov:

- povinnosť veliteľa poskytnúť profesionálnemu vojakovi služobné voľno v rozsahu desať služobných dní pri príležitosti narodenia dieťaťa, ktorého je otcom, alebo ktoré prevzal do náhradnej starostlivosti, a to do šiestich týždňov odo dňa narodenia dieťaťa; toto obdobie sa predlžuje o kalendárne dni, počas ktorých bolo dieťa prijaté do ústavnej starostlivosti zdravotníckeho zariadenia zo zdravotných dôvodov na strane dieťaťa alebo jeho matky, ak deň prijatia spadá do obdobia šiestich týždňov odo dňa narodenia dieťaťa. Ak vojak nemohol služobné voľno čerpať v plnom rozsahu z objektívnych dôvodov, veliteľ poskytne toto služobné voľno v najbližšom možnom termíne, najneskôr do jedného roku veku dieťaťa (§ 116a), služobné voľno sa poskytuje so služobným platom (§ 176 ods. 1 písm. a),
- vloženie ustanovení o materskej a rodičovskej dovolenke do zákona (§§ 130a – 130c) – rozsah MD profesionálnej vojačky je zhodný so ZP 34/37/43 týždňov, profesionálny vojak má právo na rodičovskú dovolenku v rovnakom rozsahu od narodenia dieťaťa, na prehlbenie starostlivosti môžu čerpať rodičovskú dovolenku v rozsahu zhodnom so ZP.

4. Zákon č. 35/2019 Z. z. o finančnej správe a o zmene a doplnení niektorých zákonov v znení neskorších predpisov:

- povinnosť poskytnúť služobné voľno s nárokom na služobný plat po narodení dieťaťa príslušníkovi finančnej správy, ktorý je jeho otcom, na desať po sebe idúcich pracovných dní najneskôr do uplynutia šiestich týždňov od narodenia dieťaťa; toto obdobie sa predlžuje o kalendárne dni, počas ktorých bolo dieťa prijaté do ústavnej starostlivosti zdravotníckeho zariadenia zo zdravotných dôvodov na strane dieťaťa alebo jeho matky, ak deň prijatia spadá do obdobia šiestich týždňov od narodenia dieťaťa (§ 155 ods. 1 písm. e).

Sociálne zabezpečenie príslušníkov Policajného zboru, Hasičského a záchranného zboru, Horskej záchranej služby, Slovenskej informačnej služby, Národného bezpečnostného úradu, Zboru väzenskej a justičnej stráže a ozbrojených príslušníkov finančnej správy a profesionálnych vojakov sa spravuje zákonom č. 328/2002 Z. z. o sociálnom zabezpečení policajtov a vojakov a o zmene a doplnení niektorých zákonov. Poskytovanie materského je upravené v § 10 zákona. Podmienkou vzniku nároku na materské je, aby príslušníčka bola v posledných dvoch rokoch pred pôrodom alebo pred prevzatím dieťaťa do starostlivosti nemocensky zabezpečená podľa zákona č. 328/2002 Z. z. alebo nemocensky poistená podľa ZoSP najmenej 270 kalendárnych dní, alebo sa jej v tejto dobe poskytla rodičovská dovolenka. Obdobie poskytovania materského je totožné s úpravou v ZoSP, materské sa poskytuje vo výške 100 % čistého denného služobného platu (§ 10 ods. 19 zákona č. 328/2002 Z. z.). Pozoruhodné je, že policajt alebo vojak (muž) môže materské čerpať iba v prípade, ak matka zomrela, nemôže sa o dieťa starať pre zdravotný stav alebo mu dieťa bolo zverené do starostlivosti rozhodnutím príslušného orgánu (§ 10 ods. 11 zákona č. 328/2002 Z.z.).

ZoSP ani zákon č. 328/2002 Z. z. nevylučujú súčasnú kombináciu dobrovoľného nemocenského poistenia podľa ZoSP a nemocenského zabezpečenia policajtov a vojakov. V takomto prípade môže príslušník čerpať materské zo Sociálnej poisťovne z dobrovoľného nemocenského poistenia a súčasne materské z nemocenského zabezpečenia policajtov a vojakov, resp. iba materské zo SP, ak mu nevznikne nárok na materské z nemocenského zabezpečenia.

2. Time-off

Please, answer the questions in the following table. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

TIME OFF	
Question	Your answer with reference(s) to legal source
A. Maternity leave	
<p>1. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Materská dovolenka (MD) patrí medzi dôležité osobné prekážky v práci (§ 141 ods. 1 ZP). MD z dôvodu pôrodu/prevzatia dieťaťa do starostlivosti na základe rozhodnutia súdu je právnym nárokom zamestnankyne, o ktorý nežiada, nástup na MD zamestnávateľovi oznamuje, pričom zamestnávateľ je povinný ospravedlniť jej neprítomnosť v práci z tohto dôvodu počas celého trvania MD. Počas MD nepatrí zamestnankyni mzda ani náhrada mzdy.</p> <p>Nárok na čerpanie materskej dovolenky podľa ZP vzniká iba žene, ktorá je vo vzťahu k zamestnávateľovi v pracovnom pomere, resp. služobnom pomere.</p> <p>V prípade, že žena je zamestnaná u zamestnávateľa na základe dohôd o prácach vykonávaných mimo pracovného pomeru, t. j. dohoda o vykonaní práce, dohoda o pracovnej činnosti, dohoda o brigádnickej práci študentov, nárok na materskú dovolenku jej nevznikne, pretože ustanovenia ZP o materskej dovolenke sa vzťahujú iba na zamestnankyňu (ženu) v pracovnom pomere.</p> <p>Na dĺžke trvania pracovného vzťahu ani rozsahu pracovného času nezáleží, nie sú dané ani iné podmienky, t. j. nárok na MD sa nevypočíta úmerne k pracovnému času/úväzku, a nie je podmienený požiadavkou na odpracované obdobie, resp. na určitú dĺžku pracovnoprávneho vzťahu.</p>
<p>1.1. Please indicate whether the right to time off also applies when the child is taken into substitute parental care.</p>	<p>Materská dovolenka patrí aj žene, ktorá prevzala dieťa do starostlivosti nahrádzajúcej starostlivosť rodičov na základe rozhodnutia súdu (§ 169 ods. 1 ZP).</p>

<p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Takýmito osobami s právom na materskú dovolenku sú:</p> <ul style="list-style-type: none"> • zamestnankyňa, kt. bolo dieťa zverené do náhradnej osobnej starostlivosti (§ 45 - § 47 zákona č. 36/2005 Z. z. o rodine), pričom dieťa môže súd zveriť do spoločnej osobnej starostlivosti manželov alebo do individuálnej osobnej starostlivosti, do náhradnej osobnej starostlivosti súd zverí dieťa v prípade, ak to vyžaduje záujem dieťaťa, súd uprednostňuje predovšetkým príbuzných dieťaťa, • zamestnankyňa, kt. bolo dieťa zverené do pestúnskej starostlivosti (§ 48 – 53 zákona o rodine), aj pestúnska starostlivosť môže byť spoločná a individuálna, • zamestnankyňa, ktorej bolo dieťa zverené do predosvojiteľskej starostlivosti, • zamestnankyňa, kt. bolo dieťa zverené na základe neodkladného opatrenia, ak súd koná o predosvojiteľskej starostlivosti; predosvojiteľská starostlivosť trvá minimálne 9 mesiacov (§ 103 ods. 1 ZoR), t. j. nie je možné, aby MD bola čerpaná od vydania rozsudku o osvojení. <p>Náhradná osobná starostlivosť a pestúnska starostlivosť môžu podľa § 44 ods. 2 ZoR vzniknúť iba na základe rozhodnutia súdu v konaní podľa § 111 a nasl. zákona č. 161/2015 Z. z. Civilný mimosporový poriadok.</p> <p>MD patrí náhradnej matke v rozsahu 28 týždňov, osamelej žene v trvaní 31 týždňov a žene, ktorá prevzala dve deti alebo viac detí, v trvaní 37 týždňov, najdlhšie však do dovŕšenia troch rokov veku dieťaťa (§ 169 ods. 2 ZP), t. j. rozsah je rovnaký ako pri biologickej matke po odpočítaní 6 týždňov, kt. čerpá biologická matka pred očakávaným termínom pôrodu (a ak ich nevyčerpá, zníži sa o ne obdobie čerpania MD - § 167 ods. 2 ZP).</p>
<p>1.2. Please indicate whether employees working in flexible forms of work (<i>on-call work, telework, platform work etc.</i>) are also entitled to time off.</p>	<p>ZP vo vzťahu k nároku na čerpanie MD explicitne nerozlišuje status zamestnancov v pracovnom pomere.</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Ustanovenia ZP o materskej dovolenke sa teda vzťahujú aj na zamestnancov v pracovnom pomere:</p> <ul style="list-style-type: none"> - vykonávajúcich domácku prácu a teleprácu (§ 52), - ktorí si medzi sebou rozvrhli pracovný čas a pracovnú náplň v rámci deleného pracovného miesta (job-sharing; § 49a), - s kratším pracovným časom (§ 49), - s pružným pracovným časom (§ 88 ZP). <p>Pokiaľ ide o inú flexibilnú (príležitostnú) prácu (pre/prostredníctvom platformy, pracovníci v pohotovosti (nie zamestnanci s prac. pohotovosťou podľa § 96 ZP), ZP tieto formy práce nepozná a neupravuje ich.</p> <p>ZP upravuje osobitný pracovnoprávny vzťah, ktorý vznikne na základe niektorej z dohôd o prácach vykonávaných mimo pracovného pomeru (dohoda o vykonaní práce, dohoda o pracovnej činnosti, dohoda o brigádnickej práci študentov). Na týchto zamestnancov sa ustanovenia ZP o materskej dovolenke (§ 223 ods. 2 ZP) nevzťahujú. Zamestnávateľ je však povinný ich neprítomnosť v práci z dôvodu čerpania materskej, otcovskej či rodičovskej dovolenky ospravedlniť.</p>
<p>1.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Pôsobnosť ZP sa obmedzuje na individuálne pracovnoprávne vzťahy v súvislosti s výkonom závislej práce, ktorá nemôže byť vykonávaná v zmluvnom občianskoprávnom vzťahu alebo v zmluvnom obchodnoprávnom vzťahu podľa osobitných predpisov (§ 1 ods. 1 a 3 ZP). Materská dovolenka sa vzťahuje výlučne na ženy, ktoré sú v pracovnom, resp. služobnom pomere.</p> <p>Napr. člen štatutárneho orgánu, ktorý nie je súčasne aj zamestnancom na pracovisku na inej pozícii, nemá nárok na poskytnutie MD zakotvenej v Zákonníku práce. Uvedené platí aj pre konateľov, spoločníkov, prokuristov a iné osoby vykonávajúce činnosť na základe obchodnoprávnych/občianskoprávnych zmlúv (nie je však vylúčené, aby mali v osobitných zmluvách dohodnuté možnosť čerpania osobného voľna pre účely starostlivosti o dieťa).</p> <p>Tieto osoby napriek tomu môžu mať nárok na poskytnutie dávky materské (podrobne v časti sociálne zabezpečenie) alebo rodičovského</p>

	príspevku (ak nespĺňajú podmienky pre čerpanie materského).
2. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.	Materská dovolenka je osobným neprenosným právom.
2.1. Indicate the differences for persons according to point 1.1.	Nie sú odlišné podmienky.
2.2. Indicate the differences for persons according to point 1.2.	Nie sú odlišné podmienky.
2.3. Indicate the differences for persons according to point 1.3.	Osoby nemajú nárok na poskytnutie MD.
3. Indicate the duration of time off. Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify. Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.	<p>Trvanie MD:</p> <ul style="list-style-type: none"> - 34 týždňov pri pôrode jedného dieťaťa (základná dĺžka MD) - 37 týždňov, ak je žena osamelá – za osamelú zamestnankyňu na účely ZP sa považuje žena, ktorá žije sama a je slobodná, ovdovená alebo rozvedená alebo sú u nej iné vážne dôvody, pre ktoré môže byť považovaná za osamelú (§ 40 ods. 1, 2 ZP), - 43 týždňov pri pôrode dvoch a viac detí, - 14 týždňov, ak sa dieťa narodí mŕtve. <p>MD v súvislosti s pôrodom nesmie byť kratšia ako 14 týždňov a nemôže sa skončiť ani prerušiť pred uplynutím šiestich týždňov odo dňa pôrodu (§ 168 ods. 4 ZP).</p> <p>Ženy nastupujú na MD spravidla 6 týždňov pred určeným termínom pôrodu (§167 ods. 1 ZP). Ak žena porodí pred určeným termínom pôrodu ("nestihla" byť na MD 6 týždňov pred pôrodom), poskytne sa jej MD v celom rozsahu (bude na MD spolu 34 týždňov). Ak však nebola šesť týždňov MD pred stanoveným termínom pôrodu z vlastného</p>

	<p>rozhodnutia (porodila v termíne, ale nebola predtým 6 týždňov na MD), po pôrode bude na MD už len 28 týždňov, resp. 31 týždňov, ak je osamelá a 37 týždňov pri viacetnom pôrode (§ 167 ods. 2 ZP).</p> <p>Zamestnankyňa pracujúca na čiastočný úväzok (kratší pracovný čas) má nárok na MD v rovnakom rozsahu – dĺžke ako pri plnom úväzku (pracovný pomer na ustanovený týždenný pracovný čas).</p>
<p>3.1. Indicate the differences for persons according to point 1.1.</p>	<p>Trvanie MD pri náhradnej starostlivosti o dieťa:</p> <ul style="list-style-type: none"> - 28 týždňov, - 31 týždňov osamelej žene, - 37 týždňov, ak žena prevzala do starostlivosti dve a viac detí, <p>pričom nárok na MD vzniká odo dňa prvého rozhodnutia súdu o zverení dieťaťa do starostlivosti nahrádzajúcej starostlivosť rodičov. Maximálne môže MD trvať do dovŕšenia troch rokov veku dieťaťa (§ 169 ods. 2 ZP), t. j. ak žena prevzala do starostlivosti dieťa v takom veku, že nebude môcť vyčerpať celú MD do jeho troch rokov, bude na MD iba do dovŕšenia troch rokov veku dieťaťa, následne môže čerpať rodičovskú dovolenku. Ak prevzala do starostlivosti dieťa vo veku tri roky a viac, neposkytne sa jej MD, má ale nárok na poskytnutie rodičovskej dovolenky.</p>
<p>3.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú odlišné podmienky. V prípade zamestnancov pracujúcich na základe dohôd o prácach vykonávaných mimo pracovného pomeru, títo nemajú nárok na čerpanie MD</p>
<p>3.3. Indicate the differences for persons according to point 1.3.</p>	<p>Osoby nemajú nárok na MD zakotvenú v Zákonníku práce.</p> <p>Tieto osoby napriek tomu môžu mať nárok na poskytnutie dávky materské (podrobne v časti sociálne zabezpečenie) alebo rodičovského príspevku (ak nespĺňajú podmienky pre čerpanie materského).</p>
<p>4. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p>	<p>Žena o poskytnutie MD zamestnávateľa nemusí žiadať. Zamestnávateľovi oznámi, kedy na MD nastupuje, t. j. v oznámení (nemá stanovené</p>

<p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify legal conditions.</p>	<p>obsahové a formálne náležitosti) uvedie predpokladaný termín pôrodu. Keďže ide o prekážku v práci, zamestnankyňa je povinná ju preukázať potvrdením gynekológa (poskytovateľa zdravotnej starostlivosti), pričom poskytovateľ je povinný jej takéto potvrdenie vydať (§ 144 ods. 2 ZP).</p> <p>ZP nestanovuje zamestnávateľovi povinnosť na toto písomné oznámenie zamestnankyne osobitným spôsobom reagovať.</p> <p>Žena písomne oznámi zamestnávateľovi najmenej jeden mesiac vopred predpokladaný deň nástupu na MD (§ 166 ods. 3 ZP). Predpokladaný deň nástupu sa odvíja od termínu pôrodu stanoveného lekárom, keďže na MD žena nastupuje spravidla 6 týždňov pred očakávaným termínom (34. týždeň gravidity), max. 8 týždňov pred ním (32. týždeň gravidity). (§ 167 ods. 1 ZP).</p> <p>Najneskôr sa na MD nastupuje v deň pôrodu. Pokiaľ by zamestnankyňa zamestnávateľovi vopred neoznámila čerpanie MD, pretože napr. porodila predčasne, na vznik nároku na MD to nemá vplyv – oznámi mu to bez zbytočného odkladu po pôrode (§ 144 ods. 2 ZP).</p> <p>Okrem nástupu, žena oznamuje zamestnávateľovi najmenej jeden mesiac vopred predpokladaný deň aj prerušenia či skončenie MD, jako aj zmeny týkajúce sa nástupu, prerušenia a skončenia MD. Nedodržanie tejto lehoty nemá žiadne dôsledky vo vzťahu k čerpaniu MD.</p> <p>Okrem osobitného ustanovenia § 166 ods. 3 ZP, ZP upravuje aj vo všeobecnosti ifmormačnú povinnosť zamestnanca vo vzťahu k prekážkam v práci (§ 144 ZP). Podľa § 144 ods 1 ZP ak je prekážka v práci zamestnancovi vopred známa, je povinný včas požiadať zamestnávateľa o poskytnutie pracovného voľna. Inak je zamestnanec povinný upovedomiť zamestnávateľa o prekážke v práci a o jej predpokladanom trvaní bez zbytočného odkladu.</p>
<p>4.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú dané iné postupy ako sú uvedené v bode 4. MD sa poskytuje odo dňa prvého rozhodnutia súdu o zverení dieťaťa do starostlivosti nahrádzajúcej starostlivosť rodičov (prvým rozhodnutím je napr. neodkladné opatrenie o zverení do predosvojiteľskej starostlivosti). Neodkladné opatrenie je vykonateľné vyhlásením (§ 365 ods. 3 Civilného mimosporového poriadku).</p>

	<p>Je zrejmé, že k rozhodnutiu o zverení prichádza aj nečakane.</p> <p>Prekážku v práci je zamestnankyňa povinná preukázať (§ 144 ods. 2 ZP) príslušným rozhodnutím o zverení dieťaťa.</p>
<p>4.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú dané iné postupy alebo rozdiely.</p> <p>V prípade zamestnancov pracujúcich na základe dohôd o prácach vykonávaných mimo pracovného pomeru, títo nemajú nárok na čerpanie MD, avšak podľa § 223 ods. 2 ZP, ak táto osobná prekážka zasahuje do času, na ktorý zamestnávateľ určil výkon práce, zamestnávateľ je povinný ospravedlniť túto neprítomnosť zamestnanca v práci. ZP priamo nezakotvuje povinnosť informovania o prekážke v práci ako pri zamestnancoch v pracovnom pomere podľa § 144 ZP. Ak však zamestnanec pracujúci na základe dohody požaduje ospravedlnenie neprítomnosti v práci, mal by o prekážke zamestnávateľa informovať.</p>
<p>4.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na poskytnutie MD.</p>
<p>5. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify legal conditions.</p> <p><i>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness</i></p>	<p>Áno, pričom ZP rozlišuje dve situácie:</p> <ol style="list-style-type: none"> 1. dieťa bolo počas MD hospitalizované v zdravotníckom zariadení a žena nastúpi do práce (čo nie je povinná urobiť, no ak to spraví, nevzťahuje sa na ňu zákaz výpovede počas MD). Nevyčerpaná časť MD sa žene poskytne odo dňa, keď prevezme dieťa zo zdravotníckeho zariadenia do svojej starostlivosti a prestane preto pracovať, najdlhšie do dňa, v ktorom dieťa dovŕši tri roky veku (§ 168 ods. 1 ZP). MD sa nemôže prerušiť pred uplynutím šiestich týždňov odo dňa pôrodu (§ 168 ods. 4 ZP) – sleduje sa tým ochrana zdravia ženy po pôrode. 2. dieťa bolo žene počas MD odňaté rozhodnutím súdu a následne opäť zverené do jej starostlivosti. Nevyčerpaná časť MD za obdobie od odňatia do zverenia sa žene neposkytne (§ 168 ods. 2 ZP).

<p>versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p>	
<p>5.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>5.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie MD.</p>
<p>5.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na poskytnutie MD.</p>
<p>6. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify legal conditions.</p>	<p>Podľa § 167 ods. 1 ZP žena nastupuje materskú dovolenku spravidla od začiatku šiesteho týždňa pred očakávaným dňom pôrodu, najskôr však od začiatku ôsmeho týždňa pred týmto dňom. Fakticky môže nastúpiť na MD aj v deň pôrodu.</p> <p>Materská dovolenka v súvislosti s pôrodom nesmie byť kratšia ako 14 týždňov a nemôže sa skončiť ani prerušiť pred uplynutím šiestich týždňov odo dňa pôrodu (§ 168 ods. 4 ZP), t. j. ako dlho musí byť žena na MD po pôrode závisí od toho, ako dlho bola na MD pred pôrodom (nastúpiť na MD môže max. 8 týždňov pred očakávaným dňom pôrodu, čo však nemusí byť skutočný termín pôrodu). S výnimkou tohto obmedzenia, žena nie je povinná „vyčerpať“ rozsah MD stanovený ZP. Predpokladaný deň skončenia MD zamestnankyňa písomne oznámi zamestnávateľovi najmenej mesiac vopred (§ 166 ods. 3 ZP). Zamestnávateľ nie je povinný na oznámenie nijako reagovať, zamestnankyňa v deň uvedený v oznámení nastúpi do práce.</p> <p>MD sa ukončí aj v prípade odňatia dieťaťa zo starostlivosti ženy rozhodnutím súdu (§ 168 ods. 2 ZP), ako aj v prípade úmrtia dieťaťa – v tomto prípade sa MD poskytuje ešte počas dvoch týždňov odo dňa úmrtia dieťaťa, najdlhšie do dňa, keď by dieťa dosiahlo jeden rok (§ 168 ods. 5 ZP).</p>

<p>6.1. Indicate the differences for persons according to point 1.1.</p>	<p>Osoby, ktoré prevzali dieťa do starostlivosti nahrádzajúcej starostlivosť rodičov, nemajú stanovenú minimálnu povinnú dĺžku čerpania MD (minimálna dĺžka MD sa vzťahuje na MD v súvislosti s pôrodom).</p>
<p>6.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie MD.</p>
<p>6.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na MD.</p>
<p>7. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p><i>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</i></p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please, specify legal conditions.</p>	<p>V oznámení o nástupe na MD žena nie je povinná uvádzať termín nástupu do práce. Zamestnávateľ môže predpokladať, že MD bude trvať príslušný počet týždňov stanovený § 166 ods. 1 ZP.</p> <p>Skončenie MD žena oznamuje zamestnávateľovi, a to písomne najmenej jeden mesiac vopred.</p> <p>Ak sa chce o dieťa osobne starať aj po uplynutí trvania MD podľa ZP, nemôže si predĺžiť MD, môže však pokračovať v starostlivosti v rámci rodičovskej dovolenky, ktorá môže (ale nemusí) nadväzovať na MD.</p> <p>Čerpanie rodičovskej dovolenky je ďalšou dôležitou osobnou prekážkou v práci, rovnako ako MD (§ 141 ods. 1 ZP), t. j. zamestnávateľ je povinný ospravedlniť neprítomnosť zamestnankyne v práci z dôvodu čerpania rodičovskej dovolenky (samozrejme aj MD a otcovskej dovolenky).</p>
<p>7.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>

<p>7.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie MD.</p>
<p>7.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nemajú nárok na MD.</p>
<p>8. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>ZP zakotvuje osobitne práva zamestnankyne po skončení MD v § 157.</p> <p>Podľa tohto ustanovenia zamestnankyňa po návrate z MD má právo na:</p> <ul style="list-style-type: none"> - zaradenie na pôvodnú prácu a pracovisko, ak to nie je možné, tak na inú prácu zodpovedajúcu pracovnej zmluve, t. j. podľa druhu práce v prac. zmluve, - zaradenie za minimálne rovnako priaznivých podmienok ako mala v čase nástupu na MD, - prospech z každého zlepšenia pracovných podmienok, na ktoré by mala právo, ak by na MD nenastúpila (§ 157 ods. 1 ZP). <p>Okrem toho ZP špecificky upravuje podmienky žien do konca 9. mesiaca po pôrode a dojčiacich žien:</p> <ul style="list-style-type: none"> - zákaz zamestnávať zdravie ohrozujúcimi/fyzicky neprimeranými prácami (§ 161), - dočasná úprava prac. podmienok s kompenzáciou rozdielu v mzde (resp. prac. voľno s náhradou mzdy), ak podľa lekárskeho posudku pôvodná práca ohrozuje jej zdravie (§ 162), - prestávky na dojčenie (§ 170 ZP). <p>Osoby, ktoré sa starajú o deti, majú právo na úpravu prac. podmienok (§ 164 ZP), a to (text boldom bol do ZP vložený transpozičnou novelou):</p> <p>(1) Zamestnávateľ je povinný prihliadať pri zaraďovaní zamestnancov do pracovných zmien aj na potreby tehotných žien a žien a mužov starajúcich sa o deti.</p> <p>(2) Ak požiada tehotná žena a žena alebo muž trvale sa starajúci o dieťa mladšie ako 15 rokov o kratší pracovný čas alebo o inú vhodnú úpravu určeného týždenného pracovného času alebo v</p>

	<p>odôvodnených prípadoch o skorší návrat na pôvodný spôsob organizácie práce, zamestnávateľ je povinný ich žiadosti vyhovieť, ak tomu nebránia vážne prevádzkové dôvody. Odmietnutie žiadosti podľa prvej vety musí zamestnávateľ písomne odôvodniť.</p> <p>(3) Ak požíada žena alebo muž trvale sa starajúci o dieťa mladšie ako osem rokov o domácku prácu, teleprácu alebo o prácu z domácnosti podľa § 52 ods. 2 na účely starostlivosti o dieťa, zamestnávateľ je povinný poskytnúť im písomnú odôvodnenú odpoveď, ak ich žiadosti nevyhoveli v primeranej lehote. Pri posudzovaní žiadosti zamestnávateľ prihliada na jeho úlohy a oprávnené záujmy zamestnanca.</p> <p>(4) Tehotná žena, žena alebo muž trvale sa starajúci o dieťa mladšie ako tri roky, osamelá žena alebo osamelý muž, ktorí sa trvale starajú o dieťa mladšie ako 15 rokov, sa môžu zamestnávať prácou nadčas len s ich súhlasom. Pracovná pohotovosť sa s nimi môže len dohodnúť.</p>
<p>8.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely, s výnimkou ustanovení špecificky sa vzťahujúcich na tehotenstvo/pôrod/dojčenie. Z uvedeného vyplýva, že žena, ktorej bolo dieťa zverené do starostlivosti rozhodnutím súdu, má po návrate z MD právo na:</p> <ul style="list-style-type: none"> - zaradenie na pôvodnú prácu a pracovisko, ak to nie je možné, tak na inú prácu zodpovedajúcu pracovnej zmluve, t. j. podľa druhu práce v prac. zmluve, - zaradenie za minimálne rovnako priaznivých podmienok ako mala v čase nástupu na MD, - prospech z každého zlepšenia pracovných podmienok, na ktoré by mala právo, ak by na MD nenastúpila (§ 157 ods. 1 ZP). <p>Okrem toho má táto zamestnankyňa ako osoba starajúca sa o dieťa právo na úpravu prac. podmienok (§ 164 ZP),</p>
<p>8.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie MD.</p>

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TIME OFF

B. Paternity leave

9. Indicate the conditions for entitlement to time off.

(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).

Otcovská dovolenka (OD) patrí medzi dôležité osobné prekážky v práci (§ 141 ods. 1 ZP). OD z dôvodu pôrodu/prevzatia dieťaťa do starostlivosti na základe rozhodnutia súdu je právnym nárokom zamestnanca, o ktorý nežiada, nástup na OD zamestnávateľovi oznamuje, pričom zamestnávateľ je povinný ospravedlniť jeho neprítomnosť v práci z tohto dôvodu počas celého trvania OD. Počas OD nepatrí zamestnancovi mzda ani náhrada mzdy.

Nárok na čerpanie OD podľa ZP vzniká iba mužovi, ktorý je vo vzťahu k zamestnávateľovi v pracovnom pomere, resp. štátnozamestnaneckom pomere (k úprave OD pri služobných pomeroch vid' info v prvej časti dotazníka).

V prípade, že muž je zamestnaný u zamestnávateľa na základe dohôd o prácach vykonávaných mimo pracovného pomeru (dohoda o vykonaní práce, dohoda o pracovnej činnosti, dohoda o brigádnickej práci študentov), nárok na otcovskú dovolenku nevznikne, pretože ustanovenia ZP o otcovskej dovolenke sa vzťahujú iba na zamestnanca v pracovnom pomere.

Na dĺžke trvania pracovného vzťahu ani rozsahu pracovného času nezáleží, nie sú dané ani iné podmienky, t. j. nárok na OD sa nevypočíta úmerne k pracovnému času/úväzku, a nie je podmienený požiadavkou na odpracované obdobie, resp. na určitú dĺžku pracovnoprávneho vzťahu.

9.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.

Indicate which cases are considered to be taking the child into substitute parental care.

Otcovská dovolenka patrí aj mužovi, ktorý prevzal dieťa na základe rozhodnutia súdu o zverení dieťaťa do starostlivosti nahrádzajúcej starostlivosť rodičov. Otcovská dovolenka sa poskytuje mužovi odo dňa prvého rozhodnutia súdu o zverení dieťaťa do starostlivosti nahrádzajúcej starostlivosť rodičov v trvaní 28 týždňov, osamelému mužovi v trvaní 31 týždňov a

<p>Indicate any differences from the conditions referred to in point 1.</p>	<p>mužovi, ktorý prevzal dve deti alebo viac detí, v trvaní 37 týždňov, najdlhšie však do dovŕšenia troch rokov veku dieťaťa (§ 169 ods. 1 a 2 ZP).</p>
<p>9.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>ZP vo vzťahu k nároku na čerpanie OD explicitne nerozlišuje status zamestnancov v pracovnom pomere.</p> <p>Ustanovenia ZP o otcovskej dovolenke sa teda vzťahujú aj na zamestnancov v pracovnom pomere:</p> <ul style="list-style-type: none"> - vykonávajúcich domácku prácu a teleprácu (§ 52), - ktorí si medzi sebou rozvrhli pracovný čas a pracovnú náplň v rámci deleného pracovného miesta (job-sharing; § 49a), - s kratším pracovným časom (§ 49), - s pružným pracovným časom (§ 88 ZP). <p>Pokiaľ ide o inú flexibilnú (príležitostnú) prácu (pre/prostredníctvom platformy, pracovníci v pohotovosti (nie zamestnanci s prac. pohotovosťou podľa § 96 ZP), ZP tieto formy práce nepozná a neupravuje ich.</p> <p>ZP upravuje osobitný pracovnoprávny vzťah, ktorý vznikne na základe niektorej z dohôd o prácach vykonávaných mimo pracovného pomeru (dohoda o vykonaní práce, dohoda o pracovnej činnosti, dohoda o brigádnickej práci študentov). Na týchto zamestnancov sa ustanovenia ZP otcovskej dovolenke (§ 223 ods. 2 ZP) nevzťahujú. Zamestnávateľ je však povinný ich neprítomnosť v práci z dôvodu čerpania materskej, otcovskej či rodičovskej dovolenky ospravedlniť</p>
<p>9.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Nie. Na poskytnutie otcovskej dovolenky majú nárok iba zamestnanci.</p> <p>Aj mužom, ktorí nečerpajú otcovskú dovolenku (pracovné voľno), však môže vzniknúť nárok na materské (dávku nemocenského poistenia, materské môže poberať aj otec) alebo rodičovského príspevku (ak nespĺňajú podmienky pre čerpanie materského).</p>
<p>10. If the entitlement to time off is transferable to other person, please identify that person and</p>	<p>Otcovská dovolenka je osobné neprenosné právo.</p>

indicate the conditions under which the entitlement may be transferred.	
10.1. Indicate the differences for persons according to point 1.1.	Nie sú rozdiely.
10.2. Indicate the differences for persons according to point 1.2.	Nie sú rozdiely.
10.3. Indicate the differences for persons according to point 1.3.	Tieto osoby nemajú nárok na OD.
<p>11. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>Trvanie OD je nastavené odo dňa narodenia dieťaťa:</p> <ul style="list-style-type: none"> - 28 týždňov, - 31 týždňov, ak ide o osamelého muža - 37 týždňov, ak sa narodili dve alebo viac detí (§ 166 ods. 1 ZP). <p>Nie sú stanovené osobitné pravidlá z hľadiska dĺžky trvania pracovného pomeru, rozsahu úväzku alebo iných skutočností.</p>
11.1. Indicate the differences for persons according to point 1.1.	<p>Skutočnosťou pre vznik nároku na OD nie je narodenie dieťaťa, ale prvé vykonateľné rozhodnutie súdu o zverení dieťaťa do starostlivosti muža – zamestnanca.</p> <p>Dĺžka OD je rovnaká, no OD sa poskytuje max. do dovŕšenia troch rokov veku dieťaťa (§ 169 ods. 2 ZP).</p>
11.2. Indicate the differences for persons according to point 1.2.	<p>Nie sú dané iné postupy alebo rozdiely.</p> <p>V prípade zamestnancov pracujúcich na základe dohôd o prácach vykonávaných mimo pracovného pomeru, títo nemajú nárok na čerpanie OD, avšak podľa § 223 ods. 2 ZP, ak táto osobná prekážka zasahuje do času, na ktorý zamestnávateľ určil výkon práce, zamestnávateľ je povinný ospravedlniť túto neprítomnosť zamestnanca v práci.</p>

<p>11.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na OD zakotvenú v Zákonníku práce.</p> <p>Tieto osoby napriek tomu môžu mať nárok na poskytnutie dávky materské (podrobne v časti sociálne zabezpečenie) alebo rodičovského príspevku (ak nespĺňajú podmienky pre čerpanie materského).</p>
<p>12. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>O OD sa nežiada, nástup na OD zamestnanec oznamuje. Zamestnanec písomne oznámi zamestnávateľovi najmenej jeden mesiac vopred predpokladaný deň nástupu na otcovskú dovolenku (§ 166 ods. 3 ZP).</p> <p>ZP nestanovuje zamestnávateľovi povinnosť na toto písomné oznámenie zamestnankyne osobitným spôsobom reagovať.</p> <p>OD je dôležitá osobná prekážka v práci - zamestnávateľ je povinný ospravedlniť neprítomnosť zamestnanca z dôvodu čerpania OD. Zamestnávateľ nemá podľa ZP žiadnu možnosť čerpania OD (ani materskej či rodičovskej dovolenky) zabrániť (resp. posunúť jej začiatok, prerušiť ju či ukončiť).</p> <p>Okrem nástupu, muž oznamuje zamestnávateľovi najmenej jeden mesiac vopred predpokladaný deň aj prerušenia či skončenia OD, ako aj zmeny týkajúce sa nástupu, prerušenia a skončenia OD. Nedodržanie tejto lehoty nemá žiadne dôsledky vo vzťahu k čerpaniu OD.</p> <p>Okrem osobitného ustanovenia § 166 ods. 3 ZP, ZP upravuje aj vo všeobecnosti ifmormačnú povinnosť zamestnanca vo vzťahu k prekážkam v práci (§ 144 ZP). Podľa § 144 ods 1 ZP ak je prekážka v práci zamestnancovi vopred známa, je povinný včas požiadať zamestnávateľa o poskytnutie pracovného voľna. Inak je zamestnanec povinný upovedomiť zamestnávateľa o prekážke v práci a o jej predpokladanom trvaní bez zbytočného odkladu.</p> <p>Keďže ide o prekážku v práci, zamestnanec je povinný ju preukázať (§ 144 ods. 2 ZP) – buď potvrdením gynekológa (poskytovateľa zdravotnej starostlivosti) o očakávanom termíne pôrodu (ak muž plánuje nastúpiť na OD odo dňa narodenia, následne prekážku potvrdí rodným listom dieťaťa), resp. rodným listom dieťaťa (ak oznamuje nástup po pôrode).</p>

<p>12.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú dané iné postupy ako sú uvedené v bode 12. Prekážku v práci je zamestnanec povinný preukázať (§ 144 ods. 2 ZP) príslušným vykonateľným rozhodnutím o zverení dieťaťa.</p>
<p>12.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú dané iné postupy alebo rozdiely. V prípade zamestnancov pracujúcich na základe dohôd o prácach vykonávaných mimo pracovného pomeru, títo nemajú nárok na čerpanie MD, avšak podľa § 223 ods. 2 ZP, ak táto osobná prekážka zasahuje do času, na ktorý zamestnávateľ určil výkon práce, zamestnávateľ je povinný ospravedlniť túto neprítomnosť zamestnanca v práci. ZP priamo nezakotvuje povinnosť informovania o prekážke v práci ako pri zamestnancoch v pracovnom pomere podľa § 144 ZP. Ak však zamestnanec pracujúci na základe dohody požaduje ospravedlnenie neprítomnosti v práci, mal by o prekážke zamestnávateľa informovať.</p>
<p>12.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na OD.</p>
<p>13. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care –</i></p>	<p>Áno, pričom ZP rozlišuje dve situácie:</p> <ol style="list-style-type: none"> 1. dieťa bolo počas OD hospitalizované v zdravotníckom zariadení a muž nastúpi do práce (čo nie je povinný urobiť, no ak to spraví, nevzťahuje sa na neho zákaz výpovede počas OD). Nevyčerpaná časť OD sa mužovi poskytne odo dňa, keď prevezme dieťa zo zdravotníckeho zariadenia do svojej starostlivosti a prestane preto pracovať, najdlhšie do dňa, v ktorom dieťa dovŕši tri roky veku (§ 168 ods. 1 ZP), 2. dieťa bolo mužovi počas OD odňaté rozhodnutím súdu a následne opäť zverené do jeho starostlivosti. Nevyčerpaná časť OD za obdobie od odňatia do zverenia sa mužovi neposkytne (§ 168 ods. 2 ZP).

<p>characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify the legal conditions.</p>	
<p>13.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>13.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie OD.</p>
<p>13.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na OD.</p>
<p>14. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off providing time off? If so, please, specify the legal conditions.</p>	<p>Muž nie je povinný „vyčerpať“ rozsah OD stanovený ZP. Predpokladaný deň skončenia OD zamestnanec písomne oznámi zamestnávateľovi najmenej mesiac vopred (§ 166 ods. 3 ZP). Zamestnávateľ nie je povinný na oznámenie oficiálne nijako reagovať, zamestnanec v deň uvedený v oznámení nastúpi do práce.</p> <p>OD sa ukončí aj v prípade odňatia dieťaťa zo starostlivosti muža rozhodnutím súdu (§ 168 ods. 2 ZP), ako aj v prípade úmrtia dieťaťa – v tomto prípade sa OD poskytuje ešte počas dvoch týždňov odo dňa úmrtia dieťaťa, najdlhšie do dňa, keď by dieťa dosiahlo jeden rok (§ 168 ods. 5 ZP).</p>
	<p>Nie sú rozdiely.</p>

<p>14.1. Indicate the differences for persons according to point 1.1.</p>	
<p>14.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie MD.</p>
<p>14.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na OD.</p>
<p>15. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</i></p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>V oznámení o nástupe na OD muž nie je povinný uvádzať aj termín nástupu do práce. Zamestnávateľ môže predpokladať, že OD bude trvať príslušný počet týždňov podľa § 166 ods. 1 ZP.</p> <p>Skončenie OD muž oznamuje zamestnávateľovi, a to písomne najmenej jeden mesiac vopred. Ak sa chce o dieťa osobne starať aj po uplynutí trvania OD podľa ZP, nemôže si predĺžiť OD, môže však pokračovať v starostlivosti v rámci rodičovskej dovolenky, ktorá môže (ale nemusí) nadväzovať na OD. Čerpanie rodičovskej dovolenky je ďalšou dôležitou osobnou prekážkou v práci, rovnako ako OD (§ 141 ods. 1 ZP), t. j. zamestnávateľ je povinný ospravedlniť neprítomnosť zamestnanca v práci z dôvodu čerpania rodičovskej dovolenky.</p>
<p>15.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>15.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie OD.</p>

<p>15.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na OD.</p>
<p>16. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>ZP zakotvuje osobitne práva zamestnanca po skončení OD v § 157.</p> <p>Podľa tohto ustanovenia zamestnanec po návrate z OD má právo na:</p> <ul style="list-style-type: none"> - zaradenie na pôvodnú prácu a pracovisko, ak to nie je možné, tak na inú prácu zodpovedajúcu pracovnej zmluve, t. j. podľa druhu práce v prac. zmluve, - zaradenie za minimálne rovnako priaznivých podmienok ako mal v čase nástupu na OD, - prospech z každého zlepšenia pracovných podmienok, na ktoré by mala právo, ak by na OD nenastúpil (§ 157 ods. 1 ZP). <p>Osoby, ktoré sa starajú o deti, majú právo na úpravu prac. podmienok (§ 164 ZP, podrobne k tomu pri materskej dovolenke: bod 8).</p>
<p>16.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>16.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie OD.</p>
<p>16.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na OD.</p>

TIME OFF

C. Parental leave

<p>17. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Rodičovská dovolenka na prehlbenie starostlivosti o dieťa (RD, § 166 ods. 2 ZP) patrí medzi dôležité osobné prekážky v práci (§ 141 ods. 1 ZP).</p> <p>RD je právnym nárokom zamestnankyne/zamestnanca, pričom zamestnávateľ je povinný ospravedlniť neprítomnosť zamestnanca v práci z tohto dôvodu počas celého trvania RD. Počas RD nepatrí zamestnancovi mzda ani náhrada mzdy.</p> <p>Nárok na čerpanie RD vzniká iba zamestnancovi, ktorý je vo vzťahu k zamestnávateľovi v pracovnom pomere, resp. štátnozamestnaneckom pomere (k služobným pomerom vid' info v prvej časti dotazníka).</p> <p>V prípade, že je zamestnanec zamestnaný u zamestnávateľa na základe dohôd o prácach vykonávaných mimo pracovného pomeru (dohoda o vykonaní práce, dohoda o pracovnej činnosti, dohoda o brigádnickej práci študentov), nárok na RD nevznikne, pretože ustanovenia ZP o RD sa vzťahujú iba na zamestnanca v pracovnom pomere.</p> <p>Na dĺžke trvania pracovného pomeru ani rozsahu pracovného času nezáleží, nie sú dané ani iné podmienky.</p>
<p>17.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Rodičovská dovolenka patrí aj žene a mužovi, ktorí prevzali dieťa na základe vykonateľného rozhodnutia súdu o zverení dieťaťa do starostlivosti nahrádzajúcej starostlivosť rodičov (§ 169 ods. 1 ZP).</p>
<p>17.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p>	<p>ZP vo vzťahu k nároku na čerpanie RD explicitne nerozlišuje status zamestnancov v pracovnom pomere.</p> <p>Ak zamestnanec realizuje prácu na základe dohôd vykonávaných mimo pracovného pomeru, nevzťahujú sa na týchto zamestnancov ustanovenia ZP o RD (§ 223 ods. 2 ZP).</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Na týchto zamestnancov sa ustanovenia ZP o materskej dovolenke (§ 223 ods. 2 ZP) nevzťahujú. Zamestnávateľ je však povinný ich neprítomnosť v práci z dôvodu čerpania materskej, otcovskej či rodičovskej dovolenky ospravedlniť</p>
<p>17.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Nie. Na poskytnutie RD majú nárok iba zamestnanci v pracovnom pomere (nie je však vylúčené, aby mali v osobitných zmluvách dohodnuté možnosť čerpania osobného voľna pre účely starostlivosti o dieťa).</p> <p>Tieto osoby môžu mať nárok na poskytnutie materského (ak sú nemocensky poistení), resp. na poskytnutie rodičovského príspevku (podrobne v časti sociálne zabezpečenie).</p>
<p>18. If the entitlement to time off is transferable to another person, please, identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Rodičovská dovolenka je osobné neprenosné právo.</p>
<p>18.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>18.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely.</p>
<p>18.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na RD.</p>
<p>19. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p>	<p>Ak bol zamestnanec na materskej/otcovskej dovolenke a chce sa ďalej starať o dieťa, RD sa poskytuje po ukončení MD/OD, inak je na zamestnancovi, kedy nastúpi na RD.</p> <p>Je možné, aby s tým istým dieťaťom bola matka na MD a otec na OD, nie je však možné súbežne poberať materské na to isté dieťa oboma rodičmi, s výnimkou dvoch týždňov počas prvých šiestich</p>

<p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>týždňov života dieťaťa (viď časti o sociálnom zabezpečení).</p> <p>Je aj možné, aby obaja rodičia boli na RD s tým istým dieťaťom, budú však poberať iba jeden rodičovský príspevok.</p> <p>Odlišuje sa tak súkromnoprávny – pracovnoprávny nárok na MR, OD, RD a nárok vyplývajúci zo sociálneho zabezpečenia.</p> <p>RD sa skončí najneskôr dovŕšením troch rokov veku dieťaťa, resp. šiestich rokov, ak má dieťa dlhodobu nepriaznivý zdravotný stav vyžadujúci si osobitnú starostlivosť. Tu treba upozorniť na rozdiel medzi preukazovaním nepriaznivého zdravotného stavu pri rodičovskej dovolenke podľa ZP a podľa zákona o rodičovskom príspevku. ZP ani žiadny iný pracovnoprávny predpis neupravuje formálne ani obsahové náležitosti dokumentu, ktorý by deklaroval dlhodobu nepriaznivý zdravotný stav dieťaťa, t. j. potvrdenie o tomto stave môže vystaviť aj ošetrojúci lekár dieťaťa. Preto by zamestnávateľa nemali požadovať pre pracovnoprávny nárok – čerpanie RD posudok požadovaný pre čerpanie rodičovského príspevku.</p> <p>Pri rodičovskom príspevku posudzuje dlhodobu nepriaznivý zdravotný stav posudkový lekár úradu práce, sociálnych vecí a rodiny (zoznam nepriaznivých zdrav. stavov je uvedený v prílohe č. 2 zákona č. 461/2003 Z. z. o sociálnom poistení). Samozrejme rodič môže preukázať zamestnávateľovi dlhodobu nepriaznivý ZS aj takýmto posudkom, ale nemusí, keďže čerpanie RD nie je podmienené priznaním rodičovského príspevku.</p> <p>Do 3. roku, resp. do 6. roku veku dieťaťa je zamestnávateľ povinný RD poskytnúť.</p> <p>Po dovŕšení tohto veku zamestnávateľ môže, ak sa tak so zamestnancom dohodne, avšak max do 5. rokov veku dieťaťa (8. rokov pri nepriaznivom zdrav. stave), avšak len v tom v rozsahu, v ktorom, zamestnanec nečerpal RD do dovŕšenia 3/6 rokov veku dieťaťa (§ 166 ods. 4 ZP). Nedochádza teda v tomto prípade k predlžovaniu dĺžky RD (do vyššieho veku dieťaťa sa môže dočerpať len nevyčerpaná časť RD).</p>
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	<p>Rodičovská dovolenka sa poskytuje v rozsahu, o aký rodič žiada, spravidla však najmenej na jeden mesiac (§ 166 ods. 2 ZP).</p> <p>Nie sú stanovené osobitné pravidlá z hľadiska dĺžky trvania pracovného pomeru, rozsahu úväzku alebo iných skutočností.</p>
<p>19.1. Indicate the differences for persons according to point 1.1.</p>	<p>Rozdiel je v intervale možného nástupu na RD a ukončenia RD (§ 169 ods. 2 a 3 ZP) v prípade, že zamestnanec prevzal dieťa, ktoré už dovŕšilo 3 roky veku (hranica MD/OD náhradných rodičov). Zamestnanec môže čerpať RD od rozhodnutia o zverení do dovŕšenia 6. roku veku dieťaťa. Ak ide o dieťa s nepriaznivým zdravotným stavom, zamestnávateľ môže (na základe dohody) poskytnúť RD do dovŕšenia 8 rokov dieťaťa, v rozsahu „nevyčerpanej“ šesťročnej RD po skončení MD/OD (§ 169 ods. 3 ZP).</p>
<p>19.2. Indicate the differences for persons according to point 1.2.</p>	<p>V prípade zamestnancov pracujúcich na základe dohôd o prácach vykonávaných mimo pracovného pomeru, títo nemajú nárok na čerpanie RD, avšak podľa § 223 ods. 2 ZP, ak táto osobná prekážka zasahuje do času, na ktorý zamestnávateľ určil výkon práce, zamestnávateľ je povinný ospravedlniť túto neprítomnosť zamestnanca v práci.</p>
<p>19.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na RD.</p>
<p>20. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>O RD sa nežiada, nástup na RD sa oznamuje. Zamestnanec písomne oznámi zamestnávateľovi najmenej jeden mesiac vopred predpokladaný deň nástupu na rodičovskú dovolenku (§ 166 ods. 3 ZP). Zamestnávateľ nie je povinný na oznámenie oficiálne reagovať.</p> <p>RD je dôležitá osobná prekážka v práci - zamestnávateľ je povinný ospravedlniť neprítomnosť zamestnanca z dôvodu čerpania RD. Zamestnávateľ nemá podľa ZP žiadnu možnosť čerpaniu RD zabrániť (resp. posunúť jej začiatok, prerušiť ju či ukončiť), ak ide o RD do troch rokov veku dieťaťa (v prípade nepriaznivého</p>

	<p>zdravotného stavu do šiestich rokov). Ak chce zamestnanec čerpať RD po tomto období, zamestnávateľ mu to môže, ale nemusí umožniť. Zamestnanec nemusí nastúpiť na rodičovskú dovolenku ihneď po materskej/otcovskej dovolenke. Je na jeho rozhodnutí, či vôbec bude čerpať rodičovskú dovolenku a kedy o ňu požiada. Zamestnávateľ je povinný poskytnúť rodičovskú dovolenku až do dňa, v ktorom dieťa dovŕši tri roky veku (resp. 6 rokov veku, ak ide o dlhodobu nepriaznivý zdravotný stav).</p> <p>Okrem nástupu zamestnanec oznamuje zamestnávateľovi najmenej jeden mesiac vopred predpokladaný deň aj prerušenia či skončenie RD, ako aj zmeny týkajúce sa nástupu, prerušenia a skončenia RD.</p> <p>Nedodržanie tejto lehoty nemá žiadne dôsledky vo vzťahu k čerpaniu RD.</p> <p>Okrem osobitného ustanovenia § 166 ods. 3 ZP, ZP upravuje aj vo všeobecnosti ifmormačnú povinnosť zamestnanca vo vzťahu k prekážkam v práci (§ 144 ZP). Podľa § 144 ods 1 ZP ak je prekážka v práci zamestnancovi vopred známa, je povinný včas požiadať zamestnávateľa o poskytnutie pracovného voľna. Inak je zamestnanec povinný upovedomiť zamestnávateľa o prekážke v práci a o jej predpokladanom trvaní bez zbytočného odkladu.</p>
<p>20.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú dané iné postupy ako sú uvedené v bode 20. Nástup na RD oznamuje súladne s § 144 ods. Prekážku v práci je zamestnanec povinný preukázať (§ 144 ods. 2 ZP) príslušným rozhodnutím o zverení dieťaťa.</p>
<p>20.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú dané iné postupy alebo rozdiely. V prípade zamestnancov pracujúcich na základe dohôd o prácach vykonávaných mimo pracovného pomeru, títo nemajú nárok na čerpanie MD, avšak podľa § 223 ods. 2 ZP, ak táto osobná prekážka zasahuje do času, na ktorý zamestnávateľ určil výkon práce, zamestnávateľ je povinný ospravedlniť túto neprítomnosť zamestnanca v práci. ZP priamo nezakotvuje povinnosť informovania o prekážke v práci ako pri zamestnancoch v pracovnom pomere podľa § 144 ZP. Ak však zamestnanec pracujúci na základe dohody požaduje ospravedlnenie neprítomnosti</p>

	v práci, mal by o prekážke zamestnávateľa informovať.
20.3. Indicate the differences for persons according to point 1.3.	Tieto osoby nemajú nárok na RD.
<p>21. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of time off? If so, please, specify the legal conditions.</p>	<p>Zamestnanec môže svoju rodičovskú dovolenku aj prerušiť, ZP nestanovuje konkrétnejšie pravidlá. Kedykoľvek v priebehu trvania rodičovskej dovolenky môže nastúpiť späť do zamestnania a v prípade potreby môže zamestnávateľa opäť informovať o ďalšom čerpaní rodičovskej dovolenky – v rozsahu minimálne jedného mesiaca. Z uvedeného vyplýva, že zamestnanec sa až do troch rokov veku dieťaťa (6 rokov pri nepriaznivom zdravotnom stave) môže opätovne RD prerušiť, nastúpiť do práce, nastúpiť opäť na RD (avšak musí to zamestnávateľovi písomne oznámiť min. mesiac vopred), pričom zamestnávateľ je povinný mu to umožniť (ospravedlniť jeho neprítomnosť z dôvodu RD ako dôležitej osobnej prekážky v práci).</p> <p>Pri RD nie je osobitne upravené prerušenie z dôvodu hospitalizácie dieťaťa v zdravotníckom zariadení, § 168 ods. 1 ZP upravuje prerušenie otcovskej a materskej dovolenky z tohto dôvodu, nie však RD.</p> <p>Pri RD nie je osobitne upravené ani odňatie dieťaťa zo starostlivosti (§ 168 ods. 2 ZP „hovori“ o materskej a otcovskej dovolenke), každopádne však RD z podstaty veci nie je možné poskytnúť zamestnancovi, ktorému bolo dieťa odňaté, nakoľko by to bolo v rozpore so základným účelom RD, ktorá slúži na prehĺbenie starostlivosti o dieťa (§ 166 ods. 2 ZP).</p>
21.1. Indicate the differences for persons according to point 1.1.	Nie sú rozdiely.
21.2. Indicate the differences for persons according to point 1.2.	Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie RD.

<p>21.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na RD.</p>
<p>22. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify the legal conditions.</p>	<p>Zamestnanec nie je povinný „vyčerpať“ rozsah RD stanovený ZP, t. j. čerpať RD do dovŕšenia troch, resp. 6 rokov veku dieťaťa. Predpokladaný deň skončenia RD zamestnanec písomne oznámi zamestnávateľovi najmenej mesiac vopred (§ 166 ods. 3 ZP). Zamestnávateľ nie je povinný na oznámenie oficiálne reagovať, zamestnanec v deň uvedený v oznámení nastúpi do práce.</p> <p>Ukončenie RD nemá vplyv na poberanie rodičovského príspevku podľa zákona 571/2009 Z. z. o rodičovskom príspevku (ktorý sa poskytuje až do dovŕšenia troch rokov veku dieťaťa, resp. šesť rokov pri dlhodobo nepriaznivom zdravotnom stave).</p>
<p>22.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>22.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie RD.</p>
<p>22.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na RD.</p>
<p>23. Indicate whether the drawdown can be extended compared to the originally announced period.</p>	<p>Zamestnávateľ sa môže so zamestnancom dohodnúť, že rodičovskú dovolenku možno poskytnúť najdlhšie do dňa, v ktorom dieťa dovŕši</p>

<p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>päť rokov veku, a ak ide o dieťa s dlhodobo nepriaznivým zdravotným stavom vyžadujúcim osobitnú starostlivosť, najdlhšie do dňa, v ktorom dieťa dovŕši osem rokov veku, a to najviac v rozsahu, v ktorom sa táto dovolenka v období do troch rokov veku dieťaťa (resp. do 6 rokov ak má dieťa dlhodobo nepriaznivý zdravotný stav) nečerpala (§ 166 ods. 4 ZP).</p>
<p>23.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>23.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie RD.</p>
<p>23.3. Indicate the differences for persons according to point 1.3.</p>	<p>Tieto osoby nemajú nárok na RD.</p>
<p>24. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>ZP zakotvuje osobitne práva zamestnankyne po skončení RD v § 157.</p> <p>Ak sa zamestnanec vráti do práce po skončení RD, zamestnávateľ je povinný:</p> <ul style="list-style-type: none"> - zamestnanca zaradiť ho na pôvodnú prácu a pracovisko, - ak zaradenie na pôvodnú prácu a pracovisko nie je možné, zamestnávateľ je povinný zaradiť ho na inú prácu zodpovedajúcu pracovnej zmluve (§ 157 ods. 1 ZP). Druh práce vymedzený v pracovnej zmluve býva z obsahového hľadiska širší ako pôvodná práca

	<p>a pracovisko, zaradenie na pôvodnú prácu a pracovisko je súčasne zaradením zodpovedajúcim pracovnej zmluve,</p> <ul style="list-style-type: none"> - zamestnávateľ je povinný zaradiť zamestnanca za podmienok, ktoré preňho nebudú menej priaznivé ako podmienky, ktoré mal v čase, keď nastúpil na RD, - zamestnanec má právo na prospech z každého zlepšenia pracovných podmienok, na ktoré by mal právo, ak by na RD nenastúpil (§ 157 ods. 1 ZP).
<p>24.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely, ak nejde o zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru. Títo nemajú nárok na čerpanie RD.</p>
<p>24.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely.</p>

3. Social security during the leave

Please, answer the questions in the following tables. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

SOCIAL SECURITY	
A. Maternity leave	
<p>25. Is the employer obliged to provide any benefit or compensation to the employee on maternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Nie. Nie je zakotvený osobitný benefit, kompenzácia, ktorú by mal uhrádzať zamestnávateľ.</p> <p>Materská dovolenka patrí medzi dôležité osobné prekážky v práci, pri ktorých zamestnávateľ poskytuje pracovné voľno bez náhrady mzdy. Strata príjmu zamestnankyne z dôvodu čerpania materskej dovolenky je kompenzovaná poskytovaním dávky nemocenského poistenia, ktorá sa nazýva materské. V prípade, ak zamestnankyňa nespĺnila podmienky na vyplácanie materského (dávka sociálneho poistenia), môže mať nárok na štátnu sociálnu dávku – rodičovský príspevok.</p>
<p>25.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Nie sú rozdiely. Zamestnávateľ poskytuje pracovné voľno bez náhrady mzdy, bez ohľadu na to, či zamestnankyňa dieťa porodila alebo prevzala do náhradnej starostlivosti.</p>
<p>25.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Nie je zakotvený osobitný benefit, kompenzácia, ktorú by mal uhrádzať zamestnávateľ.</p>

<p>25.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia, ktorý by vyplýval z právnej úpravy.</p> <p>V prípade, ak osoba bola sociálne poistená, môže jej vzniknúť nárok na materské, ak nespĺňa podmienky, tak môže mať nárok na rodičovský príspevok.</p>
<p>26. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>26.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>26.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>26.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>27. Indicate the amount of the benefit/compensation.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>27.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>27.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
	<p>Neexistuje taký benefit/kompenzácia.</p>

<p>27.3. Indicate the differences for persons according to point 1.3.</p>	
<p>28. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>28.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>28.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>28.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>29. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>29.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>29.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>29.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>

<p>30. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>30.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>30.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>30.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>31. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>32. Indicate what is the impact of the rules for social security system, if any.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>33. Which benefit(s) are envisaged for persons on maternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Strata príjmu zamestnankyne z dôvodu čerpania materskej dovolenky je kompenzovaná poskytovaním dávky nemocenského poistenia, ktorá sa nazýva materské.</p> <p>Materské je upravené v §§ 48 – 53 zákona č. 461/2003 Z. z. o sociálnom poistení (ZoSP). Zvláštnosťou SK systému je existencia dávky nemocenského poistenia nazvanej tehotenské (§§ 47a – 47c ZoSP), ktorého výplatné obdobie trvá od 27. týždňa pred očakávaným dňom pôrodu (13. týždeň tehotenstva) až do skončenia tehotenstva, pričom sa vypláca aj popri výkone zárobkovej činnosti (bez ohľadu na výšku príjmu) a počas 6 (max. 8) týždňov pred pôrodom aj popri</p>

	<p>materskom (podmienky vzniku nároku na tehotenské sú uvedené pri poslednej otázke tejto časti dotazníka).</p> <p>Základnými podmienkami pre vznik nároku na materské sú:</p> <ul style="list-style-type: none"> • účasť na nemocenskom poistení v rozsahu min. 270 dní v posledných dvoch rokoch pred dňom pôrodu/dňom, od ktorého žena žiada o materské, • existencia poistného vzťahu na nemocenskom poistení (povinného alebo dobrovoľného) alebo plynutie ochrannej lehoty po zániku nemocenského poistenia. Účelom ochrannej lehoty je chrániť poistenca po určitý čas aj po zániku nemocenského poistenia. <p>V prípade tehotnej poistenkyne je ochranná lehota:</p> <ul style="list-style-type: none"> • osem mesiacov po skončení nemocenského poistenia, ak poistenke zaniklo nemocenské poistenie v období 42 týždňov pred očakávaným dňom pôrodu prvýkrát určeným lekárom, • osem mesiacov od začiatku 40. týždňa pred očakávaným dňom pôrodu prvýkrát určeným lekárom, ak poistenke prvý deň 42. týždňa pred očakávaným dňom pôrodu prvýkrát určeným lekárom spadá do obdobia 180 dní odo dňa zániku posledného nemocenského poistenia (t. j. ak poistenka otehotnie do 180 dní od skončenia posledného poistenia); uvedené neplatí, ak jej po zániku nemocenského poistenia vzniklo nové nemocenské poistenie (§ 32 ods. 2 písm. b) a c) ZoSP). <p>Do čakacej doby (270 dní) sa započítava aj:</p> <ul style="list-style-type: none"> • obdobie akéhokolvek predchádzajúceho ukončeného nemocenského poistenia, • obdobie prerušenia povinného nemocenského poistenia zamestnanca pre čerpanie rodičovskej dovolenky, • obdobie prerušenia povinného nemocenského poistenia SZČO z dôvodu nároku na rodičovský príspevok.
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	<p>Nezapočítava sa obdobie nemocenského poistenia, počas ktorého zamestnanec nemal vymeriavací základ na platenie poistného na nemocenské poistenie z dôvodu, že nedosahoval príjem s výnimkou období, v ktorých zamestnanec nemal vymeriavací základ z dôvodu, že mal vylúčenú povinnosť platiť poistné na nemocenské poistenie (napr. z dôvodu trvania dočasnej pracovnej neschopnosti).</p> <p>Špecifickými podmienkami vzniku nároku na materské je aj:</p> <ul style="list-style-type: none"> • starostlivosť o dieťa (ZoSP pojem nešpecifikuje, avšak na základe judikatúry – na konci dotazníka, je zrejmé, že musí ísť o osobnú starostlivosť), • ak ide o zamestnanca, aj absencia príjmu, ktorý sa považuje za vymeriavací základ na platenie poistného, s výnimkou príjmu, ktorý sa poskytuje z iného dôvodu, než za vykonanú prácu (ide o všeobecnú podmienku nároku na nemocenské dávky zamestnanca podľa § 30 písm. b) ZoSP). <p>V prípade, ak tehotná žena má viac nemocenských poistení súčasne, nárok na materské sa posudzuje z každého nemocenského poistenia samostatne.</p>
<p>33.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Nárok na materské má aj <i>fyzická osoba, ak sa stará o dieťa na základe rozhodnutia príslušného orgánu</i> (§ 49 ods. 3 písm. g) ZoSP), za predpokladu, že bola v posledných dvoch rokoch pred dňom, od ktorého žiada o priznanie materského, nemocensky poistená najmenej 270 dní. Nárok na materské tejto osoby zaniká najneskôr dovŕšením tretieho roku veku dieťaťa.</p> <p>Ochranná lehota je iná ako u biologických matiek (tehotných žien). Trvá len sedem dní po zániku nemocenského poistenia, ak nemocenské poistenie trvalo menej ako sedem dní, ochranná lehota je toľko dní, koľko trvalo nemocenské poistenie (§ 32 ods. 1, ods. 2 písm. a) ZoSP).</p> <p>Nárok na materské má aj manželka otca dieťaťa, ak sa stará o dieťa, ktorého matka zomrela (§ 49 ods. 3 písm. f) ZoSP).</p>
<p>33.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform</i></p>	<p>Pre vznik nároku na materské je kľúčová existencia a trvanie nemocenského poistenia. Osobný rozsah nemocenského poistenia je upravený v § 14 ZoSP.</p>

work etc.) are also entitled to the benefit/compensation.

Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.

Povinne nemocensky poistený je:

a) zamestnanec uvedený v § 4 ods. 1 a § 4b ZoSP, t. j. **osoba v právnom vzťahu, ktorý jej zakladá právo na pravidelný mesačný príjem**, okrem dohody o brigádnickej práci študentov, dohody o vykonaní práce alebo dohody o pracovnej činnosti, ak ide o poberateľa starobného dôchodku, predčasného starobného dôchodku, invalidného dôchodku,

výsluhového dôchodku (ak dovŕšil dôchodkový vek) a invalidného výsluhového dôchodku podľa osobitného predpisu, žiaka strednej školy/študenta v rámci praktického vyučovania/praktickej výučby/odbornej praxe a osoby v právnom vzťahu na základe dohody o zaradení do aktívnych záloh, zamestnancom podľa § 4b je **osoba v právnom vzťahu na základe dohody o pracovnej činnosti na výkon sezónnej práce**, ktorý jej zakladá právo na príjem zo závislej činnosti, pričom táto osoba bude povinne poistená, aj keby bola súčasne poberateľom dôchodku, žiakom/študentom na praxi, resp. v aktívnych zálohách.

Z uvedeného vyplýva, že zamestnancami podľa ZoSP sú popri zamestnancoch v pracovnom pomere, aj osoby zamestnané na dohodu o vykonaní práce alebo na dohodu o pracovnej činnosti (okrem dôchodcov), ak dohoda trvá dlhšie ako jeden kalendárny mesiac a "dohodár" má právo na výplatu odmeny za každý kalendárny mesiac (ide o tzv. pravidelný príjem).

b) **samostatne zárobkovo činná osoba (SZČO)**, ktorej má príjem z podnikania a z inej samostatnej zárobkovej podľa § 6 ods. 1 a 2 zákona o dani z príjmov (okrem fyzickej osoby, ktorá má podľa zmluvy o výkone osobnej asistencie vykonávať osobnú asistenciu fyzickej osobe s ťažkým zdravotným postihnutím), ak jej hrubý zdaniteľný príjem z činnosti za predchádzajúci rok je vyšší ako 12-násobok aktuálne platného minimálneho vymeriavacieho základu, MVZ je 50% priemernej mzdy v národnom hospodárstve spred dvoch rokov. Ak úhrn príjmov podľa § 6 ods. 1 a 2 zákona o dani z príjmov (po odpočítaní prípadných príjmov z výkonu osobnej asistencie) presiahne príslušnú sumu, tak SZČO je od 1.7. daného roka povinne nemocensky poistená (napr. od 1.7.2022 do 30.6.2023 sú povinne nemocensky poistené SZČO, ktoré mali príjem za rok 2021 vyšší ako 6798 € (6798 = 12 x 566,50 EUR).

	<p>Dobrovoľne nemocensky poistená môže byť fyzická osoba po dovŕšení 16 rokov veku, ktorá má na území SR trvalý pobyt, povolenie na prechodný pobyt alebo povolenie na trvalý pobyt, ak nie je povinne nemocensky poistená a</p> <p>a) nemá priznaný starobný dôchodok, predčasný starobný dôchodok alebo invalidný dôchodok z dôvodu poklesu schopnosti vykonávať zárobkovú činnosť o viac ako 70 %,</p> <p>b) nie je poberateľom invalidného dôchodku po dovŕšení dôchodkového veku a</p> <p>c) je súčasne dobrovoľne dôchodkovo poistená.</p> <p>Dobrovoľné nemocenské poistenie vzniká odo dňa prihlásenia sa na dobrovoľné poistenie, najskôr odo dňa podania prihlášky, zaniká dňom odhlásenia sa z dobrovoľného poistenia, najskôr však odo dňa podania odhlášky. Zo zákona zaniká v dvoch prípadoch:</p> <ul style="list-style-type: none"> • od prvého dňa kalendárneho mesiaca nasledujúceho po kalendárnom mesiaci, za ktorý bolo naposledy zaplatené poistné na dobrovoľné poistenie, ak za dva po sebe nasledujúce kalendárne mesiace nebolo zaplatené poistné (to sa netýka prípadov, kedy poistné nebolo zaplatené z dôvodu vylúčenej doby podľa § 140 ZSP, napríklad ak poistné nebolo zaplatené z dôvodu čerpania nemocenského), • odo dňa, odkedy dobrovoľne nemocensky poistenej osobe vzniklo povinné nemocenské poistenie (zamestnanca alebo SZČO) alebo odkedy mala priznaný dôchodok. <p>Dobrovoľné nemocenské poistenie musí trvať najmenej 26 týždňov pred vznikom dôvodu na poskytnutie materského (§ 54 ods. 7 ZoSP).</p>
<p>33.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p>	<p>Za zamestnanca sa na účely nemocenského poistenia považujú aj konatelia, členovia dozorných rád a predstavenstiev, ale aj ďalší štatutári, spoločníci s.r.o., ak podľa zmluvy podľa Obchodného zákonníka majú právo na výplatu odmeny za každý kalendárny mesiac (vymedzenie pojmu zamestnanec - § 4 ZoSP, pojmu zamestnávateľ - § 7 ZoSP).</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Aj ak tieto osoby nemajú pravidelný príjem, môžu byť povinne poistení ako SZČO, resp. dobrovoľne. Ak sú poistení ako SZČO/dobrovoľne, nevzťahuje sa na nich podmienka absencie príjmu, ktorý sa považuje za vymeriavací základ na platenie poistného (všeobecná podmienka nároku na nemocenské dávky zamestnanca podľa § 30 písm. b) ZoSP).</p> <p>Osobitnou podmienkou vzniku nároku na materské je, že SZČO/dobrovoľne nemocensky poistená osoba nesmú mať dlh na poistnom vyšší ako 5 eur (§ 31 ods. 1 písm. b) ZoSP).</p>
<p>34. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>Nárok na materské nie je možné postúpiť na inú osobu (§ 119 ZoSP), je však možný prechod nároku na dávku, resp. jej výplatu, ak osoba, ktorá mala na ňu nárok (splnila všetky podmienky, vrátane podania žiadosti), zomrela (§ 118 ZoSP).</p>
<p>34.1. Indicate the differences for persons according to point 1.1.</p>	<p>Podľa predchádzajúceho bodu.</p>
<p>34.2. Indicate the differences for persons according to point 1.2.</p>	<p>Podľa predchádzajúceho bodu.</p>
<p>34.3. Indicate the differences for persons according to point 1.3.</p>	<p>Podľa predchádzajúceho bodu.</p>
<p>35. Indicate the amount of the benefit and the method of calculation.</p>	<p>Materské sa určuje z denného vymeriavacieho základu alebo pravdepodobného denného vymeriavacieho základu v rozhodujúcom období. Dôvody, pre ktoré sa pri výpočte materského</p>

	<p>použije pravdepodobný vymeriavací základ sú upravené v § 57 ods. 1 ZoSP.</p> <p>Denný vymeriavací základ (DVZ) je podiel súčtu vymeriavacích základov, z ktorých poistenec zaplatil poistné na nemocenské poistenie v rozhodujúcom období a počtu dní rozhodujúceho obdobia (§ 55 ods. 1 ZoSP), pričom nesmie byť vyšší ako DVZ určený z 2-násobku všeobecného vymeriavacieho základu (priemerná mzda v národnom hospodárstve) platného v kalendárom roku, ktorý dva roky predchádza kalendárnemu roku, v ktorom vznikol dôvod na poskytnutie materského (§ 55 ods. 2 ZoSP), napr. pre materské priznané v roku 2023 je maximálny DVZ (resp. úhrn DVZ zistených z jednotlivých nemocenských poistení) vo výške 79,6274 € (priemerná mzda za 2021 bola 1211 eur).</p> <p>Pravdepodobný denný vymeriavací základ (PDVZ) je jedna tridsatina vymeriavacieho základu, z ktorého by sa platilo poistné na nemocenské poistenie za kalendárny mesiac, v ktorom vznikol dôvod na poskytnutie materského (§ 57 ods. 2 ZoSP), maximálne suma zodpovedajúca jednej tridsatine minimálneho VZ, t. j. 50% priemernej mzdy dva roky dozadu (§ 57 ods. 3 ZoSP); napr, v roku 2023 je minimálny vymeriavací základ 605,50 €, a teda max PDZV je 20,1834 € (minimálny VZ je upravený v § 138 ods. 9 ZoSP). Ustanovenie o max PDVZ neplatí v prípade zamestnanca a povinne nemocensky poistenej SZČO, ktorí nemali v rozhodujúcom období vymeriavací základ na platenie poistného na nemocenské poistenie z dôvodu práceneschopnosti, poberania materského, prerušenia povinného nemocenského poistenia zamestnanca z dôvodu čerpania rodičovskej dovolenky alebo prerušenia povinného nemocenského poistenia samostatne zárobkovo činnej osoby, ktorá má nárok na rodičovský príspevok, alebo pri kombinácii uvedených dôvodov. V takýchto prípadoch PDVZ pre ďalšie materské nesmie byť nižší ako DVZ pri predchádzajúcom materskom, resp. nesmie byť nižší ako najvyšší zo základov pri predošlých materských z toho istého poistenia (§ 57 ods. 4 ZoSP).</p> <p>Rozhodujúce obdobie na zistenie DVZ sa určí vzhľadom na prvý deň poberania materského,</p>
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	<p>nárok na materské vznikol v ochranej lehote, rozhodujúce obdobie na zistenie DVZ sa určí ku dňu zániku nemocenského poistenia. Rozhodujúce obdobie sa určí podľa toho, o aký druh nemocenského poistenia ide (zamestnanec, SZČO, dobrovoľné), a podľa toho, kedy nemocenské poistenie začalo.</p> <p>Pri výpočte DVZ sa z počtu dní rozhodujúceho obdobia vylúčia dni, za ktoré poistenec nie je povinný platiť poistné na nemocenské poistenie (§ 140 ZoSP, napr. PN, ošetrovanie člena rodiny) a dni prerušenia povinného nemocenského poistenia (§ 26 ZoSP, napr. neplatené voľno, rodičovská dovolenka).</p> <p>Rozhodujúce obdobie na určenie DVZ je upravené v § 54 ZoSP:</p> <p>(1) nemocenské poistenie trvalo celý predchádzajúci rok – RO je predchádzajúci kalendárny rok (t. j. napr. zvýšenie/zníženie príjmu pred nástupom na MD nemá vplyv na výšku materského),</p> <p>(2) nemocenské poistenie (NP) zamestnanca z titulu toho istého zamestnania netrvalo celý predchádzajúci rok, ale obdobie platenia NP trvalo aspoň 90 dní (t.j. nestačí, že trvalo NP, muselo sa platiť – neplatí sa z dôvodov podľa § 140 ZoSP, napr. PN, OČR) pred vznikom dôvodu na poskytnutie materského – RO je od vzniku nemocenského poistenia do konca kalendárneho mesiaca predchádzajúceho kalendárnemu mesiacu, v ktorom vznikol dôvod na poskytnutie materského,</p> <p>(3) NP zamestnanca sa platilo menej ako 90 dní – RO je predchádzajúci kalendárny rok, ak v tomto roku NP trvalo aspoň 90 dní,</p> <p>(4) zamestnankyňa, ktorá bola preradená na inú prácu pred menej než 90 dňami – RO je od vzniku NP do dňa predchádzajúceho dňu, v ktorom došlo k preradeniu zamestnankyne na inú prácu.</p> <p>Ak podmienky podľa ods. 1 – 4 nie sú splnené, použije sa PDVZ.</p> <p>Odseky 2, 3, 4 sa vzťahujú výlučne na zamestnanca, určenie rozhodujúceho obdobia iným spôsobom ako podľa ods. 1 vo vzťahu k SZČO je upravené v ods. 6, vo vzťahu k dobrovoľne nemocensky poisteným osobám v ods. 7 (viď nižšie).</p> <p>Výška materského predstavuje 75 % DVZ/PDVZ alebo úhrnu DVZ/PDVZ (pri viacerých nemocenských poisteniach).</p>
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	V prípade, ak zamestnankyňa nemá nárok na materské, môže mať nárok na rodičovský príspevok (podrobne v časti dotazníka o sociálnom zabezpečení pri rodičovskej dovolenke – parental leave).
35.1. Indicate the differences for persons according to point 1.1.	Vo vzťahu k výpočtu a výške materského nie sú rozdiely.
35.2. Indicate the differences for persons according to point 1.2.	Vo vzťahu k výpočtu a výške materského nie sú rozdiely.
35.3. Indicate the differences for persons according to point 1.3.	<p>Vo vzťahu k výpočtu materského nie sú rozdiely (75 % z DVZ/PDVZ v rozhodujúcom období), rozdiel je v určovaní rozhodujúceho obdobia (ak títo štatutári, spoločníci atď. nie sú zamestnancami v zmysle ZSoP, ale sú nemocensky poistení ako SZČO/dobrovoľne). Rozhodujúce obdobie SZČO sa určí podľa § 54 ods. 6 ZoSP:</p> <p>a) nemocenské poistenie (NP) vzniklo v kalendárnom roku predchádzajúcom kalendárnemu roku, v ktorom vznikol dôvod na poskytnutie materského – RO je od vzniku NP do konca predchádzajúceho kalendárneho roka,</p> <p>b) NP vzniklo v kalendárnom roku, v ktorom vznikol dôvod na poskytnutie materského – RO je od vzniku NP do konca kalendárneho mesiaca predchádzajúceho mesiaca, v ktorom vznikol dôvod na poskytnutie materského,</p> <p>c) NP vzniklo v kalendárnom mesiaci, v ktorom vznikol dôvod na poskytnutie materského – RO je obdobie od vzniku NP do dňa predchádzajúceho dňa, v ktorom vznikol dôvod na poskytnutie materského.</p> <p>RO dobrovoľne nemocensky poistenej osoby podľa § 54 ods. 7 s tým, že musí trvať aspoň 26 týždňov:</p> <p>a) NP vzniklo v kalendárnom roku predchádzajúcom kalendárnemu roku, v ktorom vznikol dôvod na poskytnutie materského – RO je od vzniku NP do konca predchádzajúceho roka,</p> <p>b) NP vzniklo v tom istom kalendárnom roku ako dôvod na poskytnutie materského – RO je od vzniku NP do konca kalendárneho mesiaca predchádzajúceho mesiaca, v ktorom vznikol dôvod na poskytnutie materského.</p>

	Ak nárok na materské vznikol v ochranej lehote, RO sa zisťuje ku dňu zániku nemocenského poistenia (§ 54 ods. 8 ZoSP).
<p>36. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>Dávka nie je priznaná automaticky, poistenec o ňu musí požiadať na osobitnom formulári Sociálnej poisťovne - Žiadosť o materské (ak žiadosť podáva matka) alebo Žiadosť iného poistenca o materské (iný poistenec).</p> <p>Ak o materské žiada tehotná žena, žiadosť vystavuje poskytovateľ zdravotnej starostlivosti (gynekológ), ktorého navštevuje v súvislosti s preventívnymi prehliadkami v tehotenstve. Ak pôrod nastal predčasne, žiadosť vystaví poskytovateľ, u kt. žena porodila. Poskytovateľ túto žiadosť vystavuje v intervale od začiatku ôsmeho až šiesteho týždňa pred očakávaným dňom pôrodu. Očakávaný deň pôrodu sa uvádza na tlačive žiadosti, tlačivo nie je bežne dostupné, Sociálna poisťovňa ho poskytuje poskytovateľom zdrav. starostlivosti. Tehotná na tlačive vyplní osobné údaje a tlačivo podpíše.</p> <p>Poskytovateľ zdravotnej starostlivosti je podľa povinný potvrdzovať očakávaný deň pôrodu a deň skončenia tehotenstva na tlačive určenom Sociálnou poisťovňou (§ 233 ods. 2 písm. e) ZoSP). Výkon uhradza poskytovateľovi Sociálna poisťovňa. Poistenkyni vzniká nárok na materské od začiatku šiesteho týždňa pred očakávaným dňom pôrodu určeným lekárom, najskôr od začiatku ôsmeho týždňa pred týmto dňom, a ak porodila skôr, odo dňa pôrodu (§ 48 ods. 2 ZoSP).</p> <p>Ak o materské žiada iný poistenec (vrátane osoby, ktorá prevzala dieťa do starostlivosti), v žiadosti uvedie dátum, odkedy si uplatňuje nárok na materské a jeho výplatu.</p> <p>Poistenec, ktorý je zamestnancom, predloží žiadosť zamestnávateľovi, ktorý vo formulári vypíše časť „Potvrdenie zamestnávateľa“. Zamestnávateľ tam uvedie dátum, odkedy bola poskytnutá materská dovolenka, dátum kedy poistenec naposledy pracoval, dátum vypísania potvrdenia, podpis a odtlačok pečiatky. Zamestnanec následne doručí žiadosť príslušnej pobočke Sociálnej poisťovne – príslušnosť pobočky sa spravuje sídlom zamestnávateľa, ak je</p>

	<p>poistenec zamestnancom, alebo sídlom posledného zamestnávateľa, ak je poistenec zamestnancom v ochrannnej lehote (miestna príslušnosť je upravená v § 180 ZoSP).</p> <p>Poistenec, ktorý zamestnancom nie je, doručí žiadosť „rovno“ príslušnej pobočke Sociálnej poisťovne podľa miesta trvalého pobytu.</p> <p>Ak si poistenec uplatňuje nárok na materské z viacerých nemocenských poistení (napr. ako zamestnanec aj ako SZČO), osobitnú žiadosť predkladá pre každé z nich, keďže podľa § 58 ods. 1 ZoSP sa nárok na nemocenskú dávku posudzuje samostatne z každého nemocenského poistenia. Vypláca sa iba jedna dávka.</p> <p>Konanie sa spravuje § 172 a nasl. ZoSP, v prvom stupni rozhoduje pobočka SP, v druhom stupni Ústredie SP. Konanie sa začína dňom doručenia žiadosti príslušnej pobočke (§ 185 ods. 1), lehota na rozhodnutie je 60 dní od začatia konania, v mimoriadne zložitých prípadoch možno túto lehotu predĺžiť najviac o 60 dní, čo treba oznámiť účastníkom konania (§ 210 ods. 2 ZoSP). Odvolanie proti rozhodnutiu možno podať v lehote do 30 dní odo dňa oznámenia rozhodnutia (§ 215 ods. 2 ZoSP).</p>
<p>36.1. Indicate the differences for persons according to point 1.1.</p>	<p>Poistenec, ktorý prevzal dieťa do náhradnej osobnej starostlivosti žiada o materské na formulári Žiadosť iného poistenca o materské, v ktorej uvedie dátum, odkedy si uplatňuje nárok na materské a jeho výplatu. Postup je rovnaký ako v predchádzajúcom bode. Pri týchto osobách je potrebné upozorniť na skutočnosť, že hoci ZoSP uvádza, že materské môže byť priznané poistencovi, ktorému bolo dieťa zverené rozhodnutím „príslušného orgánu“, t. j. na rozdiel od ZP neuvádza, že to môže byť iba súd, reálne to môže byť iba súd. Od 1.1.2016 bolo zo zákona o rodine vypustené obsolentné ustanovenie § 49, ktoré upravovalo predpestúnsku starostlivosť – o zverení do predpestúnskej starostlivosti rozhodoval úrad práce, sociálnych vecí a rodiny.</p>
<p>36.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely.</p>

<p>36.3. Indicate the differences for persons according to point 1.3.</p>	<p>Poistenec, ktorý nie je zamestnancom nepredkladá žiadosť na potvrdenie zamestnávateľovi, iné rozdiely nie sú.</p> <p>Zamestnávateľom je fyzická alebo právnická osoba, kt. je povinná poskytovať zamestnancovi príjem zo závislej činnosti zdaňovaný podľa § 5 ods. 1 písm. a) až h) a m), ods. 2 a 3 zákona č. 595/2003 Z. z. o dani z príjmov, t. j. aj príjmy za prácu likvidátorov, prokuristov, nútených správcov, členov družstiev, spoločníkov a konateľov spoločností s ručením obmedzeným a komanditistov komanditných spoločností (pojem zamestnávateľ je vymedzený v § 7 ods. 1 ZoSP).</p>
<p>37. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>Priznaná výška materského nemôže byť znížená (samozrejme za predpokladu, že bola správne určená). Materské sa poskytuje za dni (§ 52 ods. 1 ZoSP) a vypláca sa mesačne pozadu (§ 116 ods. 1 ZoSP), a teda vyplatená suma závisí od počtu dní predchádzajúceho mesiaca.</p> <p>Ak sa poistenec prestal starať o dieťa a následne sa opäť začne starať, nárok na materské zaniká a následne opäť vznikne, pričom rozlišujeme dve situácie:</p> <p>a) poistenec sa nemôže/nesmie starať o dieťa pre svoj nepriaznivý zdravotný stav (podľa lekárskeho posudku) – nárok na materské zaniká dňom prevzatia dieťaťa do starostlivosti inej osoby a opäť vzniká dňom prevzatia dieťaťa opätovne poistencom, pričom obdobie, počas ktorého bolo dieťa v starostlivosti inej osoby sa nezapočítava do trvania nároku na materské, a teda poistenec si môže materské „dočerpať“ najneskôr do dovŕšenia troch rokov veku dieťaťa,</p> <p>b) poistenec sa o dieťa prestal starať z iného dôvodu - nárok na materské zaniká dňom skončenia jeho starostlivosti o dieťa a opätovne vzniká odo dňa pokračovania v starostlivosti o toto dieťa, no obdobie, počas ktorého sa poistenec o dieťa nestaral, sa započítava do celkového obdobia trvania nároku na materské (§ 51 ZoSP).</p> <p>Prevzatie dieťaťa do starostlivosti inej osoby je poistenec povinný oznámiť SP do ôsmich dní (§ 227 ods. 3 ZoSP).</p>

	Nárok na materské zaniká aj uplynutím zákonom stanoveného obdobia jeho poberania a smrťou poistenyne (s tým, že sumy dávky splatnej ku dňu smrti prechádzajú postupne na manžela, deti a rodičov - § 118 ods. 2 ZoSP).
37.1. Indicate the differences for persons according to point 1.1.	Nie sú rozdiely.
37.2. Indicate the differences for persons according to point 1.2.	Nie sú rozdiely.
37.3. Indicate the differences for persons according to point 1.3.	Nie sú rozdiely.
38. Indicate whether the entitlement to the benefit or its amount can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	Priznaná výška materského zmenená byť nemôže – samozrejme za predpokladu, že Sociálna poisťovňa kontrolnou činnosťou nezistí, že výška bola určená nesprávne a materské sa poskytlo vo vyššej/nížšej sume, ako malo.
38.1. Indicate the differences for persons according to point 1.1.	Nie sú rozdiely.
38.2. Indicate the differences for persons according to point 1.2.	Nie sú rozdiely.
39. Are there any other legal instruments aimed at social security of a person on maternity leave? If so, please, specify.	1. Dávka nemocenského poistenia – tehotenské (§ 47a – 47c ZoSP) Poistenkyňa, ktorá je tehotná, má nárok na tehotenské, ak v posledných dvoch rokoch pred začiatkom 27. týždňa pred očakávaným dňom pôrodu určeným lekárom bola nemocensky poistená najmenej 270 dní.

	<p>Poistenkyni vzniká nárok na tehotenské od začiatku 27. týždňa pred očakávaným dňom pôrodu určeným lekárom a zaniká dňom skončenia tehotenstva.</p> <p>Nárok na tehotenské vzniká aj v období prerušenia a) nemocenského poistenia zamestnanca z dôvodu čerpania rodičovskej dovolenky, b) povinného nemocenského poistenia SZČO, ktorá má nárok na rodičovský príspevok a nevykonáva činnosť SZČO.</p> <p>Výška tehotenského je 15 % DVZ/PDVZ/ich úhrnu, najmenej 10 % DVZ z 2-násobku priemernej mesačnej mzdy spred dvoch rokov.</p> <p>2. Štátne sociálne dávky:</p> <p>a) príspevok pri narodení dieťaťa – zákon č. 383/2013 Z. z. o príspevku pri narodení dieťaťa a príspevku na viac súčasne narodených detí a o zmene a doplnení niektorých zákonov</p> <ul style="list-style-type: none"> - 829,86 eur, ak ide o dieťa narodené z prvého pôrodu až štvrtého pôrodu, - 151,37 eur, ak ide o dieťa narodené z piateho a ďalšieho pôrodu. <p>Ak sa súčasne narodilo viac detí, suma príspevku pri narodení dieťaťa sa zvyšuje o 75,69 eura na každé dieťa. Oprávnená osoba nemusí čerpať materskú/otcovskú/rodičovskú dovolenku.</p> <p>b) príspevok na viac súčasne narodených detí - zákon č. 383/2013 Z. z. - 110,36 eur raz za rok na zvýšené výdavky, ktoré vznikajú v súvislosti s riadnou starostlivosťou o súčasne narodené tri deti alebo súčasne narodených viac detí alebo v priebehu dvoch rokov opakovane narodené dve deti súčasne, alebo v priebehu dvoch rokov opakovane narodených viac detí súčasne. Oprávnená osoba nemusí čerpať materskú/otcovskú/rodičovskú dovolenku.</p> <p>Okrem toho sa poskytuje prídavok na dieťa (príp. aj príplatok k prídavku na dieťa) vo výške 60 eur na každé dieťa do 18 rokov – zákon č. 600/2003 Z. z. o prídavku na dieťa.</p> <p>Osobitné príspevky sa poskytujú podľa zákona č. 627/2005 o príspevkoch na podporu náhradnej starostlivosti:</p>
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	<ul style="list-style-type: none"> - opakovaný príspevok náhradnému rodičovi - osobitný opakovaný príspevok náhradnému rodičovi - príspevok na vzdelávanie náhradného rodiča. <p>Pri NS sa poskytujú príspevky aj dieťaťu:</p> <ul style="list-style-type: none"> - jednorazový príspevok dieťaťu pri jeho zverení do NS - jednorazový príspevok dieťaťu pri zániku NS - opakovaný príspevok dieťaťu zverenému do NS - príspevok dieťaťu na úhradu zvýšených výdavkov
SOCIAL SECURITY	
B. Paternity leave	
<p>40. Is the employer obliged to provide any benefit or compensation to the employee on paternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>ZP nestanovuje v prípade zamestnanca v pracovnom pomere/štátnozamestnaneckom pomere pre zamestnávateľa platiť benefity/kompenzácie, Otcovská dovolenka patrí medzi dôležité osobné prekážky v práci (§ 141 ods. 1 ZP). Zamestnanec v takomto prípade čerpá pracovné voľno bez náhrady mzdy a jeho neúčast' v práci je hodnotená ako ospravedlnená absencia.</p> <p>Inak je to v prípade služobných pomerov, kde sa otcovská dovolenka poskytuje ako služobné voľno so služobným platom:</p> <ul style="list-style-type: none"> - § 81 ods. 1 písm. e) zákona č. 73/1998 Z. z. - § 96 ods. 3 zákona č. 315/2001 Z. z. - § 116 a) a § 176 ods. 1 písm. a) zákona č. 281/2015 Z. z. - § 155 ods. 1 písm. e) zákona č. 35/2019 Z. z. <p>Podrobnejšie v prvej časti dotazníka.</p>
<p>40.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p>	<p>Nie, zamestnávateľ v rámci pracovného pomeru založeného pracovnou zmluvou takýto benefit/kompenzáciu neposkytuje. Aj v prípade služobných pomerov sa služobné voľno so služobným platom poskytuje otcovi dieťaťa pri narodení dieťaťa.</p>

<p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>40.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Nie je zakotvený osobitný benefit, kompenzácia, ktorú by mal uhrádzať zamestnávateľ. ZP pre účely čerpania OD nerozlišuje status zamestnancov, a preto sa nárok posuduje ako v bode 40. ZP platformovú prácu neupravuje. V prípade zamestnancov pracujúcich na základe dohody o prácach vykonávaných mimo pracovného pomeru, títo nárok na OD nemajú, zamestnávateľ je však povinný akceptovať túto prekážku ako ospravedlnenú absenciu. Z pohľadu sociálneho zabezpečenia majú však nárok na materské alebo rodičovský príspevok ako zamestnanci v pracovnom pomere, ak spĺňajú podmienky dané príslušným zákonom</p>
<p>40.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>41. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Neexistuje taký benefit/kompenzácia v pracovných/štátnozamestnaneckých pomeroch, pri služobných je neprenosný – viaže sa na osobu ako osobná prekážka.</p>
<p>41.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>41.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely oproti predchádzajúcej odpovedi.</p>
	<p>Neexistuje taký benefit/kompenzácia.</p>

<p>41.3. Indicate the differences for persons according to point 1.3.</p>	
<p>42. Indicate the amount of the benefit/compensation.</p>	<p>Zamestnanci podľa ZP nemajú nárok na žiaden benefit/kompenzáciu od zamestnávateľa. Otcovia v služobnom pomere majú nárok na poskytnutie služobného voľna so služobným platom, t. j. benefit sa poskytuje vo výške služobného platu.</p>
<p>42.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia podľa ZP, pri služobných pomeroch tiež nie, nakoľko sa viaže iba na otca dieťaťa.</p>
<p>42.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>42.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>43. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>Zamestnanci podľa ZP nemajú nárok, otcovia v služobnom pomere áno, tí však oň osobitne nežiadajú.</p>
<p>43.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>43.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>43.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>

<p>44. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>Zamestnanci podľa ZP nemajú nárok, otcovia v služobnom pomere áno, tí však oň osobitne nežiadajú a nemôže im byť znížený ani odňatý.</p>
<p>44.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>44.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>44.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p style="background-color: black; color: black;"> </p>	
<p>45. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>Nie.</p>
<p>45.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>45.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>45.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p style="background-color: black; color: black;"> </p>	
<p>46. Indicate whether the employer gets any compensation from the state for providing</p>	<p>Nie.</p>

<p>the benefits/compensations mentioned above. If so, under which conditions.</p>	
<p>47. Indicate what is the impact of the rules for social security system, if any.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>48. Which benefit(s) are envisaged for persons on paternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Strata príjmu zamestnanca z dôvodu čerpania otcovskej dovolenky je kompenzovaná poskytovaním dávky nemocenského poistenia, ktorá sa nazýva materské. Materské je upravené v §§ 48 – 53 zákona č. 461/2003 Z. z. o sociálnom poistení (ZoSP). Otec dieťaťa je na účely materského tzv. iným poistencom (iným ako biologická matka).</p> <p>Otec dieťaťa má nárok na materské, ak spĺňa čakaciu podmienku najmenej 270 dní nemocenského poistenia (NP) pred dňom, od ktorého žiada o priznanie materského, pričom k tomuto dňu musí jeho NP trvať alebo je v ochranej lehote (tie isté pravidlá ako pre materské matky s tým, že ochranná lehota je sedem dní po zániku NP, ak trvalo NP menej ako 7 dní, ochranná lehota je toľko dní, koľko trvalo NP (§ 32 ods. 1, 2 písm. b) ZoSP).</p> <p>Otec dieťaťa má nárok na materské v období 2 týždňov od priznania materského, najneskôr do 6 týždňov veku dieťaťa (v tomto prípade je možný súbeh s materským matky); toto obdobie sa predlžuje o kalendárne dni, počas ktorých bolo dieťa prijaté do ústavnej starostlivosti zdravotníckeho zariadenia zo zdravotných dôvodov na strane dieťaťa alebo jeho matky, ak deň prijatia spadá do obdobia šiestich týždňov odo dňa pôrodu (§ 49 ods. 3 písm. d) ZoSP).</p> <p>Potom, čo dieťa dovŕši 6 týždňov veku, otec, ktorý si tieto dva týždne „vyčerpal“ má nárok na materské v období:</p> <ul style="list-style-type: none"> • 26 týždňov od priznania materského, • 29 týždňov od priznania materského, ak je osamelý, alebo

	<ul style="list-style-type: none"> • 35 týždňov od priznania materského, ak sa súčasne stará o dve a viac detí, <p>pri tomto ďalšom období poberania materského nie je možný súbeh s materským matky. Ak si dva týždne „nevyčerpal“, má nárok na materské v období 28/31/37 týždňov, nie je možný súbeh s materským matky, ani s poberaním rodičovského príspevku matkou na to isté dieťa (§ 49 ods. 3 písm. e) ZoSP).</p> <p>Nárok na materské zaniká najneskôr dovŕšením tretieho roku veku dieťaťa (§ 49 ods. 2 ZoSP), je na otcovi, k akému dňu požiada o priznanie materského, z praktického hľadiska by tak mal urobiť najneskôr 28/31/37 týždňov pred dovŕšením troch rokov veku dieťaťa (ak mu bolo materské vyplácané počas 2 týždňov do dovŕšenia 6 týždňov veku dieťaťa), resp. najneskôr 26/29/35 týždňov pred dovŕšením 3. rokov dieťaťa.</p>
<p>48.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Nárok na materské môže vzniknúť aj osobe, ktorá sa stará o dieťa na základe rozhodnutia súdu. Ide o tzv. iného poistenca podľa § 49 ods. 3 písm. g) ZoSP.</p> <p>Materské môže poberať aj manžel matky dieťaťa (nie otec), ak sa matka podľa lekárskeho posudku o dieťa nemôže alebo nesmie starať pre svoj nepriaznivý zdravotný stav, ktorý trvá najmenej jeden mesiac, a matka nepoberá materské alebo rodičovský príspevok (§ 49 ods. 3 písm. c) ZoSP).</p>
<p>48.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Pre vznik nároku na materské je kľúčová existencia a trvanie nemocenského poistenia. Osobný rozsah nemocenského poistenia je upravený v § 14 ZoSP (podrobne pri materskom matky).</p>
<p>48.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation,</i></p>	<p>Za zamestnanca sa na účely nemocenského poistenia považujú aj konatelia, členovia dozorných rád a predstavenstiev, ale aj ďalší štatutári, spoločníci s.r.o., ak podľa zmluvy podľa obchodného zákonníka majú právo na výplatu</p>

<p><i>etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>odmeny za každý kalendárny mesiac (vymedzenie pojmu zamestnanec - § 4 ZoSP, pojmu zamestnávateľ - § 7 ZoSP).</p> <p>Aj ak nemajú pravidelný mesačný príjem, môžu byť povinne poistení ako SZČO, resp. dobrovoľne. Ak sú poistení ako SZČO/dobrovoľne, nevzťahuje sa na nich podmienka absencie príjmu, ktorý sa považuje za vymeriavací základ na platenie poistného (všeobecná podmienka nároku na nemocenské dávky zamestnanca podľa § 30 písm. b) ZoSP). Sociálna poisťovňa však bude skúmať, či sa pri výkone tejto zárobkovej činnosti dokážu o dieťa starať. Tento postup Soc. poisťovne je v súlade s aktuálnym rozsudkom Najvyššieho správneho súdu (viď judikatúra).</p>
<p>49. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>Nárok na materské nie je možné postúpiť na inú osobu (§ 119 ZoSP), je však možný prechod nároku na dávku, resp. jej výplatu, ak osoba, ktorá mala na ňu nárok (splnila všetky podmienky, vrátane podania žiadosti), zomrela (§ 118 ZoSP).</p>
<p>49.1. Indicate the differences for persons according to point 1.1.</p>	<p>Podľa predchádzajúceho bodu.</p>
<p>49.2. Indicate the differences for persons according to point 1.2.</p>	<p>Podľa predchádzajúceho bodu.</p>
<p>49.3. Indicate the differences for persons according to point 1.3.</p>	<p>Podľa predchádzajúceho bodu.</p>
<p>50. Indicate the amount of the benefit and the method of calculation.</p>	<p>Materské sa určuje z denného vymeriavacieho základu alebo pravdepodobného denného vymeriavacieho základu v rozhodujúcom období</p>

	(podrobne v časti materské matky). Dôvody, pre ktoré sa pri výpočte materského
50.1. Indicate the differences for persons according to point 1.1.	Vo vzťahu k výpočtu a výške materského nie sú rozdiely.
50.2. Indicate the differences for persons according to point 1.2.	Vo vzťahu k výpočtu a výške materského nie sú rozdiely.
50.3. Indicate the differences for persons according to point 1.3.	Vo vzťahu k výpočtu materského nie sú rozdiely (75 % z DVZ/PDVZ v rozhodujúcom období), rozdiel je v určovaní rozhodujúceho obdobia (ak títo štatutári, spoločníci atď. nie sú zamestnancami v zmysle ZoSP, ale sú nemocensky poistení ako SZČO/dobrovoľne, podrobne v časti materské matky).
<p>51. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>Dávka nie je priznaná automaticky, otec (iný poistenec) o ňu musí požiadať na osobitnom formulári Sociálnej poisťovne - Žiadosť iného poistenca o materské.</p> <p>Ak o materské žiada iný poistenec (vrátane osoby, ktorá prevzala dieťa do starostlivosti), v žiadosti uvedie dátum, odkedy si uplatňuje nárok na materské a jeho výplatu.</p> <p>Poistenec, ktorý je zamestnancom, predloží žiadosť zamestnávateľovi, ktorý vo formulári vypíše časť „Potvrdenie zamestnávateľa“. Zamestnávateľ tam uvedie dátum, odkedy bola poskytnutá otcovská dovolenka, dátum kedy poistenec naposledy pracoval, dátum vypísania potvrdenia, podpis a odtlačok pečiatky. Zamestnanec následne doručí žiadosť príslušnej pobočky Sociálnej poisťovne - príslušnosť pobočky sa spravuje sídlom zamestnávateľa, ak je poistenec zamestnancom, alebo sídlom posledného zamestnávateľa, ak je poistenec zamestnancom v ochrannnej lehote (miestna príslušnosť je upravená v § 180 ZoSP).</p>

	<p>Poistenec, ktorý zamestnancom nie je, doručí žiadosť „rovno“ príslušnej pobočke Sociálnej poisťovne podľa miesta trvalého pobytu.</p> <p>Ak si poistenec uplatňuje nárok na materské z viacerých nemocenských poistení (napr. ako zamestnanec aj ako SZČO), osobitnú žiadosť predkladá pre každé z nich, keďže podľa § 58 ods. 1 ZoSP sa nárok na nemocenskú dávku posudzuje samostatne z každého nemocenského poistenia. Vypláca sa iba jedna dávka.</p> <p>Konanie sa spravuje § 172 a nasl. ZoSP, v prvom stupni rozhoduje pobočka SP, v druhom stupni Ústredie SP. Konanie sa začína dňom doručenia žiadosti príslušnej pobočke (§ 185 ods. 1), lehota na rozhodnutie je 60 dní od začatia konania, v mimoriadne zložitých prípadoch možno túto lehotu predĺžiť najviac o 60 dní, čo treba oznámiť účastníkom konania (§ 210 ods. 2 ZoSP). Odvolanie proti rozhodnutiu možno podať v lehote do 30 dní odo dňa oznámenia rozhodnutia (§ 215 ods. 2 ZoSP).</p>
<p>51.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>51.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely.</p>
<p>51.3. Indicate the differences for persons according to point 1.3.</p>	<p>Poistenec, ktorý nie je zamestnancom nepredkladá žiadosť na potvrdenie zamestnávateľovi, iné rozdiely nie sú.</p> <p>Zamestnávateľom je fyzická alebo právnická osoba, kt. je povinná poskytovať zamestnancovi príjem zo závislej činnosti zdaňovaný podľa § 5 ods. 1 písm. a) až h) a m), ods. 2 a 3 zákona č. 595/2003 Z. z. o dani z príjmov, t. j. aj príjmy za prácu likvidátorov, prokuristov, nútených správcov, členov družstiev, spoločníkov a konateľov spoločností s ručením obmedzeným a komanditistov komanditných spoločností (pojem zamestnávateľ je vymedzený v § 7 ods. 1 ZoSP).</p>

<p>52. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>Priznaná výška materského nemôže byť znížená. Materské sa poskytuje za dni (§ 52 ods. 1 ZoSP) a vypláca sa mesačne pozadu (§ 116 ods. 1 ZoSP), a teda vyplatená suma závisí od počtu dní predchádzajúceho mesiaca.</p> <p>Ak sa poistenec prestal starať o dieťa a následne sa opäť začne starať, nárok na materské zaniká a následne opäť vznikne, pričom rozlišujeme dve situácie:</p> <p>a) poistenec sa nemôže/nesmie starať o dieťa pre svoj nepriaznivý zdravotný stav (podľa lekárskeho posudku) – nárok na materské zaniká dňom prevzatia dieťaťa do starostlivosti inej osoby a opäť vzniká dňom prevzatia dieťaťa opätovne poistencom, pričom obdobie, počas ktorého bolo dieťa v starostlivosti inej osoby sa nezapočítava do trvania nároku na materské, a teda poistenec si môže materské „dočerpať“ najneskôr do dovŕšenia troch rokov veku dieťaťa,</p> <p>b) poistenec sa o dieťa prestal starať z iného dôvodu - nárok na materské zaniká dňom skončenia jeho starostlivosti o dieťa a opätovne vzniká odo dňa pokračovania v starostlivosti o toto dieťa, no obdobie, počas ktorého sa poistenec o dieťa nestaral, sa započítava do celkového obdobia trvania nároku na materské (§ 51 ZoSP).</p> <p>Prevzatie dieťaťa do starostlivosti inej osoby je poistenec povinný oznámiť SP do ôsmich dní (§ 227 ods. 3 ZoSP).</p> <p>Nárok na materské zaniká aj uplynutím zákonom stanoveného obdobia jeho poberania a smrťou poistenca (s tým, že sumy dávky splatnej ku dňu smrti prechádzajú postupne na manželku, deti a rodičov - § 118 ods. 2 ZoSP).</p>
<p>52.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>52.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely.</p>
	<p>Štátne sociálne dávky uvedené v bode 39. (príspevok pri narodení dieťaťa, príspevok na viac</p>

<p>53. Are there any other legal instruments aimed at social security of a person on paternity leave?</p> <p>If so, please, specify.</p>	<p>súčasne narodených detí), môžu byť priznané aj otcovi, no pri príspevku pri narodení dieťaťa iba za predpokladu, že matka dieťaťa zomrela alebo po matke dieťaťa bolo vyhlásené pátranie, alebo dieťa bolo zverené do osobnej starostlivosti otca na základe rozhodnutia súdu. Oprávnenou osobou na uplatnenie nároku na príspevok na viac súčasne narodených detí je rodič detí (ale iba jeden z rodičov) alebo fyzická osoba, ktorá prevzala deti do starostlivosti nahrádzajúcej starostlivosť rodičov na základe rozhodnutia súdu.</p> <p>Rovnako aj príspevky na podporu náhradnej starostlivosti môže poberať aj muž.</p>
<p>SOCIAL SECURITY</p>	
<p>C. Parental leave</p>	
<p>54. Is the employer obliged to provide any benefit or compensation to the employee on parental leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Nie. Rodičovská dovolenka patrí medzi dôležité osobné prekážky v práci (§ 141 ods. 1 ZP). Zamestnanec čerpá pracovné voľno bez náhrady mzdy.</p> <p>Výnimkou sú služobné pomery, v rámci ktorých zamestnancovi patrí počas neprítomnosti v práci aj plat:</p> <ul style="list-style-type: none"> - podľa § 152 ods. 3 zákona č. 73/1998 Z. z. o štátnej službe príslušníkov Policajného zboru, Slovenskej informačnej služby, Zboru väzenskej a justičnej stráže Slovenskej republiky a Železničnej polície v znení neskorších predpisov je služobný úrad povinný poskytnúť príslušníkovi na jeho žiadosť rodičovskú dovolenku v rozsahu deväť týždňov s nárokom na služobný plat najskôr po uplynutí šiestich týždňov odo dňa pôrodu do troch rokov veku dieťaťa, ak žiaden z oprávnených nepoberá na dieťa materské alebo rodičovský príspevok, - rovnaká povinnosť v § 102ad ods. 3 zákona č. 315/2001 Z. z. o Hasičskom a záchrannom zbore -
	<p>Nie. Rodičovská dovolenka patrí medzi dôležité osobné prekážky v práci (§ 141 ods. 1 ZP).</p>

<p>54.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Zamestnanec má pracovné voľno bez náhrady mzdy bez ohľadu na to, či sa mu dieťa narodilo alebo ho prevzal do starostlivosti nahrádzajúcej starostlivosť rodičov – s výnimkou služobných pomerov uvedených vyššie.</p>
<p>54.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>54.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>55. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Neexistuje taký benefit/kompenzácia, pri služ. pomeroch ide o neprenosné právo.</p>
<p>55.1. Indicate the differences for persons according to point 1.1.</p>	<p>Neexistuje taký benefit/kompenzácia, pri služ. pomeroch ide o neprenosné právo.</p>
<p>55.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>

55.3. Indicate the differences for persons according to point 1.3.	Neexistuje taký benefit/kompenzácia.
56. Indicate the amount of the benefit/compensation.	Neexistuje taký benefit/kompenzácia, pri služobných pomeroch vo výške služobného platu.
56.1. Indicate the differences for persons according to point 1.1.	Platí odpoveď podľa predchádzajúceho bodu.
56.2. Indicate the differences for persons according to point 1.2.	Neexistuje taký benefit/kompenzácia.
56.3. Indicate the differences for persons according to point 1.3.	Neexistuje taký benefit/kompenzácia.
57. Indicate the rules and conditions of claiming the benefit/compensation. <i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i>	Neexistuje taký benefit/kompenzácia, pri služobných pomeroch sa žiada o rodičovskú dovolenku, nie však o služobný plat z dôvodu čerpania tejto dovolenky.
57.1. Indicate the differences for persons according to point 1.1.	Odpoveď podľa predchádzajúceho bodu.
57.2. Indicate the differences for persons according to point 1.2.	Neexistuje taký benefit/kompenzácia.
57.3. Indicate the differences for persons according to point 1.3.	Neexistuje taký benefit/kompenzácia.

<p>58. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>Neexistuje taký benefit/kompenzácia, pri služobných pomeroch nemôže byť znížený.</p>
<p>58.1. Indicate the differences for persons according to point 1.1.</p>	<p>Odpoveď podľa predchádzajúceho bodu.</p>
<p>58.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>58.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>59. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>Neexistuje taký benefit/kompenzácia, pri služobných pomeroch nemôže byť zmenený.</p>
<p>59.1. Indicate the differences for persons according to point 1.1.</p>	<p>Odpoveď podľa predchádzajúceho bodu.</p>
<p>59.2. Indicate the differences for persons according to point 1.2.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>59.3. Indicate the differences for persons according to point 1.3.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>60. Indicate whether the employer gets any compensation from the state for providing</p>	<p>Neexistuje taký benefit/kompenzácia.</p>

<p>the benefits/compensations mentioned above. If so, under which conditions.</p>	
<p>61. Indicate what is the impact of the rules for social security system, if any.</p>	<p>Neexistuje taký benefit/kompenzácia.</p>
<p>62. Which benefit(s) are envisaged for persons on parental leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Rodičovský príspevok – štátna sociálna dávka upravená v zákone č. 571/2009 Z. z. o rodičovskom príspevku (ďalej ako „ZoRP“), ktorou štát prispieva oprávnenej osobe na zabezpečenie riadnej starostlivosti o dieťa:</p> <ul style="list-style-type: none"> • do troch rokov veku, • do šiestich rokov veku, ktoré má dlhodobo nepriaznivý zdravotný stav, zdravotný stav dieťaťa na tento účel posudzuje úrad práce, sociálnych vecí a rodiny na základe žiadosti oprávnenej osoby podľa § 5 a 6 zákona č. 600/2003 Z. z. o prídavku na dieťa, • do šiestich rokov veku, ktoré je zverené do starostlivosti nahrádzajúcej starostlivosť rodičov, najdlhšie tri roky od právoplatnosti prvého rozhodnutia o zverení dieťaťa do starostlivosti tej istej oprávnenej osobe (§ 3 ods. 2 ZoRP). <p>Je ale potrebné zdôrazniť, že oprávnená osoba, ktorá poberá rodičovský príspevok, nemusí byť súčasne na rodičovskej dovolenke – poberanie príspevku je zlučiteľné s výkonom zamestnania a inej zárobkovej činnosti, pričom podmienka riadnej starostlivosti o dieťa sa považuje za splnenú aj v prípade, ak oprávnená osoba nezabezpečuje riadnu starostlivosť o dieťa osobne, ale inou plnoletou fyzickou osobou alebo právnickou osobou (§ 3 ods. 4 ZoRZS).</p> <p>Oprávnenu osobou je rodič dieťaťa, manžel (manželka) rodiča dieťaťa, ak žije s rodičom dieťaťa v domácnosti alebo fyzická osoba, ktorej je dieťa zverené do starostlivosti nahrádzajúcej starostlivosť rodičov (§ 2 ZoRP). Ak je viac oprávnených osôb, RP sa poskytuje len jednej z nich, s výnimkou striedavej starostlivosti a spoločnej osobnej starostlivosti oboch rodičov (§ 3 ods. 6 – 8 ZoRZS).</p>

	<p>Oprávnená osoba má nárok na rodičovský príspevok, ak</p> <p>a) zabezpečuje riadnu starostlivosť o dieťa, a</p> <p>b) má trvalý pobyt alebo prechodný pobyt na území SR alebo sa na ňu vzťahuje koordinačné nariadenie.</p> <p>Riadna starostlivosť o dieťa podľa ZoRZS je starostlivosť poskytovaná dieťaťu v záujme všestranného fyzického vývinu a psychického vývinu dieťaťa, najmä primeraná výživa dieťaťa, hygiena dieťaťa, výchova dieťaťa a dodržiavanie preventívnych prehliadok dieťaťa podľa prílohy č. 2 zákona č. 577/2004 Z. z. (§ 3 ods. 3 ZoRP).</p> <p>Priznanie a výplata RP nezávisí od pracovného úväzku, ani od iných skutočností súvisiacich s pracovnoprávnymi vzťahmi.</p> <p>Nárok na rodičovský príspevok nevzniká ani jednej oprávnenej osobe, ak aspoň jedna z nich má nárok na materské alebo na obdobnú dávku v členskom štáte, ktorých suma je vyššia ako RP; to neplatí, ak oprávnená osoba, ktorou je otec dieťaťa, do uplynutia šiestich týždňov odo dňa pôrodu alebo do uplynutia predĺženého obdobia poberania materského z dôvodu prijatia dieťaťa do ústavného zdravotníckeho zariadenia, má nárok na materské alebo obdobnú dávku ako materské (§ 3 ods. 10 písm. a) ZoRP) - zvýraznený text bol do ZoRP vložený zákonom č. 350/2022 Z. z. v súvislosti s transpozíciou smernice 2019/1158. Nárok na materské nemusí mať na to isté dieťa (ak osoba poberá materské na hocijaké dieťa, nemôže súčasne poberať RP).</p> <p>Čistočný súbeh RP a materského (otca/matky/inej osoby) je možný ešte v prípade, ak sa materské nevypláca za celý kalendárny mesiac, nakoľko RP sa vypláca za celý kalendárny mesiac, aj keď sa podmienky nároku na tento príspevok splnili len za časť kalendárneho mesiaca (§ 5 ods. 2 ZoRP).</p>
<p>62.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p>	<p>Podľa § 2 písm. b) ZoRP je oprávnenou osobou aj fyzická osoba, ktorej je dieťa zverené do starostlivosti nahrádzajúcej starostlivosť rodičov. Tu je potrebné upozorniť, že hoci ZoRP uvádza, že môže ísť aj o osobu, ktorej bolo dieťa zverené</p>

<p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>rozhodnutím úradu práce, sociálnych vecí a rodiny, t. j. na rozdiel od ZP neuvádza, že to môže byť iba súd, reálne to môže byť iba súd. Od 1.1.2016 bolo zo zákona o rodine vypustené obsolentné ustanovenie § 49, ktoré upravovalo predpestúnsku starostlivosť – o zverení do predpestúnskej starostlivosti rozhodoval úrad práce, sociálnych vecí a rodiny.</p> <p>Postavenie týchto osôb je z hľadiska nároku na RP rovnaké ako biologických rodičov, jediná odlišnosť je v max. veku dieťaťa, do ktorého sa RP poskytuje – 6 rokov, celková dĺžka poberania RP však nemôže presiahnuť tri roky (§ 3 ods. 2 písm. c) ZoRP).</p>
<p>62.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Áno, ak sú oprávnenými osobami podľa § 2 ZoRP a spĺňajú podmienky na jeho priznanie podľa § 3 ZoRP.</p>
<p>62.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Áno, ak sú oprávnenými osobami podľa § 2 ZoRP a spĺňajú podmienky na jeho priznanie podľa § 3 ZoRP.</p>
<p>63. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p>	<p>RP nie je prenosný na inú osobu.</p>

<i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i>	
63.1. Indicate the differences for persons according to point 1.1.	RP nie je prenosný.
63.2. Indicate the differences for persons according to point 1.2.	RP nie je prenosný.
63.3. Indicate the differences for persons according to point 1.3.	RP nie je prenosný.
64. Indicate the amount of the benefit and the method of calculation.	<p>Výška RP stanovená v § 4 ods. 1 ZoRP (270 eur/370 eur) sa neuplatňuje, nakoľko v súlade s § 4 ods. 6 ZoRP sa suma RP platná k 31. decembru upravuje od 1. januára nasledujúceho kalendárneho roka, rovnakým koeficientom ako sumy životného minima (t. j. podľa § 5 zákona č. 601/2003 Z. z. o životnom minime). Suma RP na konkrétny rok sa ustanoví v opatrení vydanom Ministerstvom práce, sociálnych vecí a rodiny. Na rok 2023 je suma RP:</p> <ul style="list-style-type: none"> • 301 eur • 412, 60 eur, ak sa oprávnenej osobe pred vznikom nároku na RP vyplácalo z dôvodu starostlivosti o to isté dieťa materské alebo obdobná dávka ako materské v členskom štáte – zákonodarcovi išlo o zvýhodnenie osôb, ktoré boli nemocensky poistené. <p>Ak oprávnená osoba zabezpečuje riadnu starostlivosť o dve a viac súčasne narodených detí, rodičovský príspevok sa zvyšuje o 25 % na každé dieťa, ktoré sa narodilo súčasne (§ 4 ods. 2 ZoRP).</p> <p>Ak oprávnená osoba nedbá najmenej tri po sebe nasledujúce kalendárne mesiace o riadne plnenie povinnej školskej dochádzky ďalšieho dieťaťa v jej starostlivosti, rodičovský príspevok sa zníži o 50 %. V tejto sume sa poskytuje najmenej počas troch kalendárnych mesiacov od prvého dňa kalendárneho mesiaca nasledujúceho po mesiaci, v</p>

	<p>ktorom škola oznámila úradu práce, sociálnych vecí a rodiny, že oprávnená osoba nedbá o riadne plnenie povinnej školskej dochádzky ďalšieho dieťaťa v jej starostlivosti (§ 4 ods. 3 ZoRP).</p> <p>Ak sa oprávnenej osobe vypláca za celý kalendárny mesiac materské alebo obdobná dávka ako materské v členskom štáte v sume nižšej, ako je suma rodičovského príspevku, rodičovský príspevok je počas obdobia vyplácania materského alebo obdobnej dávky ako materské v členskom štáte v sume určenej ako rozdiel medzi sumou rodičovského príspevku a sumou materského alebo obdobnej dávky ako materské v členskom štáte (§ 4 ods. 4 ZoRP).</p>
64.1. Indicate the differences for persons according to point 1.1.	Nie sú rozdiely.
64.2. Indicate the differences for persons according to point 1.2.	Nie sú rozdiely.
64.3. Indicate the differences for persons according to point 1.3.	Nie sú rozdiely.
<p>65. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>Nárok na rodičovský príspevok si uplatňuje oprávnená osoba podaním písomnej žiadosti alebo žiadosti podanej elektronickými prostriedkami podpísanej zaručeným elektronickým podpisom, ktorú podáva oprávnená osoba na úrade práce, sociálnych vecí a rodiny príslušnom podľa miesta jej trvalého pobytu (občan SR, cudzinec) alebo prechodného pobytu (cudzinec, ktorý nemá trvalý pobyt v SR).</p> <p>Zamestnávateľ nie je nijako účastný na podávaní žiadosti, resp. konaní o RP.</p> <p>O priznaní rodičovského príspevku sa nevydáva písomné rozhodnutie, vydáva sa iba v prípade, ak úrad žiadosť zamietne.</p> <p>Konanie o RP je upravené v § 8 ZoRP.</p>
65.1. Indicate the differences for persons according to point 1.1.	Nie sú rozdiely.

65.2. Indicate the differences for persons according to point 1.2.	Nie sú rozdiely.
65.3. Indicate the differences for persons according to point 1.3.	Nie sú rozdiely.
66. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.	<p>Zníženie RP: Ak oprávnená osoba nedbá najmenej tri po sebe nasledujúce kalendárne mesiace o riadne plnenie povinnej školskej dochádzky ďalšieho dieťaťa v jej starostlivosti, rodičovský príspevok sa zníži o 50 %. V tejto sume sa poskytuje najmenej počas troch kalendárnych mesiacov od prvého dňa kalendárneho mesiaca nasledujúceho po mesiaci, v ktorom škola oznámila úradu práce, sociálnych vecí a rodiny, že oprávnená osoba nedbá o riadne plnenie povinnej školskej dochádzky ďalšieho dieťaťa v jej starostlivosti (§ 4 ods. 3 ZoRP).</p> <p>Zastavenie výplaty RP (§ 5 ods. 5-7 ZoRP): Výplata rodičovského príspevku sa zastaví od kalendárneho mesiaca, ktorý nasleduje po kalendárnom mesiaci, za ktorý sa už vyplatil, ak:</p> <ul style="list-style-type: none"> • vznikol dôvod na prešetrenie, či oprávnená osoba naďalej spĺňa podmienky nároku, či sa rodičovský príspevok vypláca v správnej sume alebo je na výplatu rodičovského príspevku naďalej príslušný platiteľ na území Slovenskej republiky – výplata sa obnoví, ak oprávnená osoba preukáže, že zanikli dôvody, pre ktoré sa jeho výplata zastavila (ak tieto dôvody neexistovali, RP sa doplatí), • na poskytovanie rodičovského príspevku je príslušná inštitúcia iného členského štátu – výplata sa obnoví, ak príslušná inštitúcia rozhodla o neposkytnutí RP alebo o poskytnutí RP v nižšej sume. <p>Odňatie RP (§ 7 ods. 4 ZoRP):</p>

	<p>RP sa odníme od kalendárneho mesiaca, ktorý nasleduje po mesiaci, za ktorý sa rodičovský príspevok vyplatil:</p> <ul style="list-style-type: none"> • ak sa zmenia alebo zaniknú skutočnosti, ktoré rozhodujú o nároku na rodičovský príspevok, • ak sa rodičovský príspevok vyplácal neprávom, • na žiadosť oprávnenej osoby, • ak rodičovský príspevok poskytuje príslušná inštitúcia členského štátu v rovnakej sume alebo vo vyššej sume ako je suma rodičovského príspevku, • ak príslušná inštitúcia členského štátu neposkytuje rodičovský príspevok z dôvodu, že oprávnená osoba si naň neuplatnila nárok. <p>Zánik nároku na RP (§ 6 ods. 2 ZoRP): Nárok na rodičovský príspevok zaniká a) od prvého dňa kalendárneho mesiaca, ktorý nasleduje po kalendárnom mesiaci, v ktorom dieťa dovŕšilo vek podľa § 3 ods. 2 ZoRP, b) smrťou oprávnenej osoby alebo dieťaťa.</p>
<p>66.1. Indicate the differences for persons according to point 1.1.</p>	<p>Nie sú rozdiely.</p>
<p>66.2. Indicate the differences for persons according to point 1.2.</p>	<p>Nie sú rozdiely.</p>
<p>66.3. Indicate the differences for persons according to point 1.3.</p>	<p>Nie sú rozdiely.</p>
<p>67. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>K zníženiu výšky RP a k zastaveniu jeho výplaty, resp. odňatiu RP dôjde z vyššie uvedených dôvodov, ktoré však nesúvisia s rodičovskou dovolenkou.</p> <p>K zmene výšky RP môže dôjsť aj v súvislosti s tým, že sa oprávnenej osobe prestane vyplácať materské/obdobná dávka z členského štátu</p>

	v sume nižšej ako RP, t. j. RP sa začne vyplácať v plnej výške, resp. je oprávnenej osobe priznaná takáto dávka, a teda RP sa bude vyplácať vo výške rozdielu medzi dávkou a plnou výškou RP.
67.1. Indicate the differences for persons according to point 1.1.	Nie sú rozdiely.
67.2. Indicate the differences for persons according to point 1.2.	Nie sú rozdiely.
68. Are there any other legal instruments aimed at social security of a person on parental leave? If so, please, specify.	V súvislosti s narodením dieťaťa a starostlivosťou o dieťa sa poskytujú štátne sociálne dávky uvedené v časti materská/otcovská dovolenka. Rodič, ktorý nezabezpečuje starostlivosť o dieťa osobne (a teda ani nie je na rodičovskej dovolenke) môže starostlivosť poskytovanú inou fyzickou alebo právnickou (spolu)financovať buď z rodičovského príspevku alebo z príspevku na starostlivosť o dieťa podľa zákona č. 561/2008 Z. z. o príspevku na starostlivosť o dieťa a o zmene a doplnení niektorých zákonov.

4. Administration

69. How is the administration of the leave and/or benefit legislated?

70. Is there any administrative burden for employers? For instance, as regards obligations, that have increased in connection with the implementation of the WLB Directive and Transparency Directive, did administrative costs of employers grow? If so, does the State compensate those costs? How?

71. Have some responsibilities been entrusted to state authorities (e.g. labour offices or labour inspectorates)?

72. Has any specific mechanism or procedure been introduced in order to check who is really taking care after the child, in order to avoid fraudulent behaviour?

69, 70. Podrobnosti o oznamovaní čerpania MD/OD a RD sú uvedené v tabuľkovej časti dotazníka, zamestnávateľ v tejto súvislosti nemá nijaké špecifické povinnosti. Pokiaľ ide o žiadosť o materské, zamestnávateľ v žiadosti potvrdzuje príslušnú časť.

Osoby poberajúce materské a osoby, ktoré sa riadne starajú o dieťa do 6 rokov veku, sú poistencami štátu na účely starobného poistenia, invalidného poistenia a poistného do rezervného fondu solidarity (§ 128 ods. 2 ZoSP). Osoby poberajúce materské sú poistencami štátu na účely zdravotného poistenia (§ 11 ods. 7 písm. m) bod 1. zákona č. 580/2004 Z. z. o zdravotnom poistení), rovnako aj osoby poberajúce rodičovský príspevok (§ 11 ods. 7 písm. c) zákona o zdravotnom poistení), za predpokladu, že nemajú príjem vyšší ako 15x životné minimum.

Z uvedeného vyplýva, že zamestnávateľovi nevznikajú žiadne administratívne/finančné náklady súvisiace s čerpaním MD/OD/RD zamestnancom, s výnimkou mzdových nákladov vznikajúcich v dôsledku toho, že za obdobie MD a OD sa zamestnancovi nekráti dovolenka.

71. Úrady práce, sociálnych vecí a rodiny priznávajú a vyplácajú rodičovský príspevok a v súvislosti s ním vykonávajú aj kontrolnú činnosť (§ 10, 11 ZoRP). Dozor nad dodržiavaním pracovnoprávných predpisov vykonávajú inšpektoráty práce (zákon č. 156/2006 Z. z. o inšpekcii práce), ich pôsobnosti sa transpozícia nedotkla.

72. Zamestnávateľ nie je oprávnený kontrolovať zamestnanca v súvislosti s MD/OD/RD. Kontrolnú činnosť vo vzťahu k starostlivosti o dieťa ako podmienky vznik a trvanie nároku na materské vykonáva Sociálna poisťovňa (§ 242 a nasl. ZoSP), vo vzťahu k rodičovskému príspevku vykonávajú kontrolnú činnosť úrady práce, sociálnych vecí a rodiny.

5. General analysis

73. Please, summarize relevant national case-law providing legal interpretation of any of legal provisions mentioned above.
74. Has there been any public debate on the topic of maternity leave, parental leave, changes due to European legislation, non-transferability? Has this debate have any impact on current or proposed legislation?
75. Can you provide us with any relevant statistics on maternity and/or parental leave, possibly showing some developments relevant for this questionnaire?
76. Can you briefly sum-up and provide a short analysis of the national legislation on maternity and parental leave? What are its positives, which weaknesses can be mentioned?

73. Judikatúra

Zásadný význam z hľadiska spracúvanej témy má **Rozsudok Najvyššieho správneho súdu, sp. zn. 9Sžsk/104/2020 zo dňa 27. apríla 2022**, ktorým NSS vyhovel kasačnej sťažnosti Sociálnej poisťovne a zrušil rozsudok Krajského súdu v Prešove sp. zn. 8Sa/6/2019 zo dňa 25.7.2019 a vec mu vrátil na ďalšie konanie. Išlo o otca, ktorý si od 02.09.2018 čerpal rodičovskú dovolenku otca (po transpozícii otcovská dovolenka) a z tohto nemocenského poistenia si uplatnil nárok na materské, zároveň však od 01.09.2018 začal vykonávať prácu pre iného zamestnávateľa v rozsahu 40 hod. týždenne, bez úpravy pracovného času. O dieťa sa „reálne“ starala matka (od decembra 2018 začalo navštevovať jasle). Sociálna poisťovňa žiadosť o materské zamietla s odôvodnením, že otec neposkytuje dieťaťu starostlivosť (t.j. nie je splnená podmienka vzniku nároku na materské podľa § 49 ods. 1 ZoSP, podľa ktorého nárok na materské vznikne inému poistencovi „ktorý sa stará o dieťa“), otec rozhodnutie napadol správnu žalobou, v ktorej dôvodil, že ZoSP nepožaduje, aby starostlivosť o dieťa bola osobná a celodenná, Krajský súd žalobe vyhovel. Najvyšší správny súd sa so závermi KS nestotožnil, pričom v odôvodnení uviedol aj: „Práve materské ako opakujúca sa dávka nemocenského poistenia predstavuje kompenzáciu mzdy, a preto je opodstatnené, aby oprávnená osoba spĺňala aj podmienku straty príjmu (zárobku - mzdy, platu) za obdobie trvania dôvodu na poskytovanie materského. (...)Kasačný súd zastáva názor, že vyhodnocovanie otázky, či došlo k faktickému prevzatiu dieťaťa do starostlivosti druhého rodiča, ako aj k faktickej starostlivosti o dieťa vykonávanej týmto druhým rodičom, je zo strany správnych orgánov opodstatnené a náležité. Žalovaná v rámci svojej správnej úvahy správne vyložila pojem starostlivosti o dieťa a následne vyvodila aj správny záver, že pokiaľ žiadateľ o dávku uvádzal, že v čase jeho neprítomnosti sa o dieťa starajú iné osoby (matka dieťaťa, stará matka dieťaťa, jasle) dôvodiac, že zákon nevyžaduje osobnú starostlivosť, nemožno ho považovať za iného poistencu, ktorý prevzal dieťa do starostlivosti v zmysle § 49 ods. 1 zákona o sociálnom poistení“. V odôvodnení sa NSpSP odvoláva aj na Smernicu 2019/1158, pričom dôvodí: „Je teda zrejmé, že účelom nie je dosiahnutie čo najvyššieho materského ako peňažnej dávky, ale to, aby sa vo vyváženej miere osobne podieľali na rodinných povinnostiach, a teda aj na starostlivosti o dieťa, čo je v priamom rozpore s výkladom, ktorý prezentuje žalobca. Pokiaľ otec dieťaťa nezabezpečuje starostlivosť o dieťa, o ktoré sa stará naďalej matka alebo stará matka, nie je zabezpečená možnosť matky vrátiť sa do pracovného procesu (ako tomu bolo v danom prípade, keď sa matka do pracovného procesu nevrátila), čo je zmyslom podpory otcov v čerpaní rodičovských dovoleniek a materských dávok. Nedochádza k rovnomernému rozdeleniu povinností súvisiacich so starostlivosťou o dieťa a ani k možnosti vytvorenia puta medzi otcami a deťmi“.

Ďalšia judikatúra:

Rozsudok Okresného súdu Kežmarok, sp. zn.: 4Cpr/2/2014 z 16.05.2017: Obsahové vymedzenie pojmu pôvodná práca a pracovisko môže byť užšie ako obsahové vymedzenie druhu práce v pracovnej zmluve. Môže sa však s ním aj prekrývať, a to v prípadoch, ak druh práce je v pracovnej zmluve vymedzený tak úzko,

že zaradenie zamestnanca na pôvodnú prácu a pracovisko je súčasne zaradením podľa druhu práce. Pôvodnou prácou je však treba rozumieť súhrn konkrétnych pracovných činností, ktoré zamestnanec fakticky vykonával ku dňu nástupu na materskú alebo rodičovskú dovolenku. Pôvodným pracoviskom príslušnú organizačnú zložku alebo útvar zamestnávateľa, do pôsobnosti ktorého práca vykonávaná zamestnancom organizačne patrila.

74. Diskusia k transpozícii

Vo vzťahu k úprave otcovskej dovolenky v ZP transpozičná novela ohlas nevzbudila, nakoľko došlo iba k premenovaniu rodičovskej dovolenky, ktorú mal nárok čerpať otec od narodenia dieťaťa na otcovskú dovolenku, ktorú má nárok čerpať otec odo dňa narodenia dieťaťa. V návrhu transpozičnej novely predloženom do medzirezortného pripomienkového konania (MPK), bol začiatok čerpania OD nastavený zhodne s „pôvodnou“ rodičovskou dovolenkou otca, ktorú mohol zamestnanec začať čerpať „od narodenia dieťaťa“, v dôsledku čoho zamestnanci nastupovali na rodičovskú dovolenku otca po ukončení materskej dovolenky matky. Spresnenie ustanovenia § 166 ods. 1 ZP bolo zásadnou pripomienkou uplatnenou v rámci MPK Asociáciou zamestnávateľských zväzov, ktorá sa domnievala, že sa tým vylúči „špekulatívny výklad“ zo strany zamestnancov, ktorí tak budú môcť čerpať OD maximálne do uplynutia 28 týždňa odo dňa jeho narodenia, pričom neskôr (v rámci rodičovskej dovolenky na prehlbenie starostlivosti o dieťa) nebudú môcť čerpať materské, a teda nebudú ani motivovaní na RD nastupovať – takýto predpoklad bol nesprávny, nakoľko z hľadiska Sociálnej poisťovne nie je podstatné, či je otec na OD alebo na RD, ale že sa stará o dieťa. Iné zásadné pripomienky k návrhu transpozičnej novely vo vzťahu k materskej, otcovskej a rodičovskej dovolenke reprezentatívne organizácie zamestnávateľov ani zamestnancov neuplatnili (s tým, že zamestnávatelia sa nad rámec novely dlhodobo domáhajú, aby Zákonník práce jasne zadefinoval, kedy nie je možné zamestnanca po materskej/otcovskej dovolenke zaradiť na pôvodné pracovné miesto).

75. Štatistika

Základným zdrojom informácií sú Správy o sociálnej situácii obyvateľstva SR, ktoré každoročne pripravuje Ministerstvo práce, sociálnych vecí a rodiny a predkladá ich na rokovanie vlády zvyčajne v máji – júni. Ku dňu spracúvania dotazníka nebola zverejnená správa za rok 2022. Podľa Správy o sociálnej situácii obyvateľstva SR za rok 2021 boli údaje nasledovné:

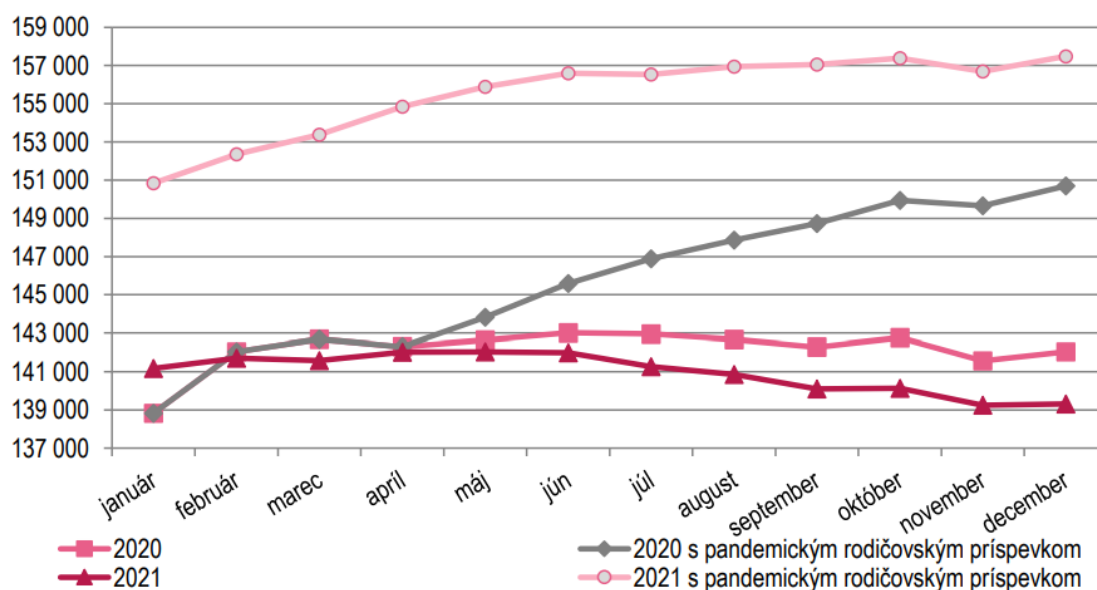
Materské a tehotenské (Správa, s. 230)

Druh dávky	Počet poberateľov			Priemerná mesačná výška dávky v €		
	muži	ženy	spolu	muži	ženy	spolu
Nemocenské (vrátane poberateľov pandemických dávok)	543 656	558 980	1 102 636	327,5	314,2	321,7
Ošetrovné (vrátane poberateľov pandemických dávok)	83 837	171 957	255 794	206,1	178,0	187,3
Materské	12 433	62 923	75 356	1040,8	785,3	824,5
Vyrovňavacia dávka	-	159	159	-	142,1	142,1
Dlhodobé ošetrovné	210	736	946	443,48	401,78	412,67
Tehotenské	-	38 052	38 052	-	202,2	202,2
Spolu	640 136	832 807	1 472 943	-	-	363,4

Zdroj: Sociálna poisťovňa

Rodičovský príspevok (Správa, s. 84)

Počet poberateľov rodičovského príspevku v r. 2020 a 2021:



Zdroj: RSD MIS

V roku 2021 bol štandardný rodičovský príspevok poskytnutý priemerne 140 954 poberateľom mesačne, čo je oproti roku 2020 pokles v priemernom mesačnom počte o 1 195 poberateľov. Z celkového počtu poberateľov tvorilo priemerne mesačne 92 205 poberateľov s vyšším rodičovským príspevkom a 48 701 poberateľov s nižším príspevkom. V r. 2021 bolo možné poberať aj tzv. pandemický rodičovský príspevok, a teda sa predĺžilo trvanie nároku, ktorý by v čase mimoriadnej situácie zanikol z dôvodu, že dieťa dovŕši vek požadovaný zákonom, resp. že uplynú tri roky od právoplatnosti prvého rozhodnutia o zverení dieťaťa do starostlivosti oprávnenej osobe. Išlo predovšetkým o poberateľov, ktorým nevznikol nárok na ošetrovné alebo ktorých ošetrovné je v nižšej sume ako je výška rodičovského príspevku. Pandemický rodičovský príspevok bol zrušený od 1.1.2022 (Správa, s. 84).

Pre informáciu ešte pridávame tabuľku o celkovom počte detí zverených do náhradnej rodinnej starostlivosti (Správa, s. 241):

Rok	Náhradná osobná starostlivosť	Pestúnska starostlivosť	Poručníctvo	Spolu
2020	6 879	1 183	640	8 702
2021	7 042	1 118	665	8 825

Zdroj: UPSVaR

76. Pozitíva a negatíva právnej úpravy

Negatívom právnej úpravy je nedostatočná flexibilita, napr. nie je možná kombinácia čiastočného úväzku a čiastočného materského počas dlhšej doby alebo poberanie rodičovského príspevku po častiach až do vyššieho veku dieťaťa, resp. „vybratie“ celej výšky RP počas kratšieho obdobia než sú tri roky. Pozitívom je možný súbeh medzi výkonom zamestnania a poberaním rodičovského príspevku, ako aj skutočnosť, že rodičovskú dovolenku je možné čerpať aj po častiach a opakovane, a že ju môžu čerpať obaja rodičia súbežne. Navyše, za obdobie materskej a otcovskej dovolenky sa zamestnancovi nekráti „riadna“ dovolenka (§ 109 ods. 2 ZP), pričom dovolenku si môže vyčerpať po návrate z materskej, otcovskej alebo rodičovskej dovolenky (§ 113 ods. 3 ZP), čo zamestnancom poskytuje ďalší priestor na trávenie času s deťmi.

Questionnaire for national experts

Country: Slovenia

Name, affiliation and contact of the national expert:

Prof Grega Strban, University of Ljubljana, Faculty of Law

Assist. Sara Bagari, University of Ljubljana, Faculty of Law

1. Legislation on maternity, paternity and parental leave

Please, generally describe (with references to legal sources) your national legislation on maternity leave, paternity leave and parental leave.

Provide a legal definition of:

- maternity leave,
- paternity leave and
- parental leave

according to your national legislation.

If your national legislation distinguishes between time off and social security during it, please explain, with references to legal sources.

The Parental Protection and Family Benefits Act (Official Gazette of the Republic of Slovenia, no. 26/2014 with amendments, *Zakon o starševskem varstvu in družinskih prejemkih*, ZSDP-1) provides for three types of leave:

- maternity leave,
- paternity leave, and
- parental leave.

On April 1 the Act Amending the Parental Protection and Family Benefits Act (*Zakon o spremembah in dopolnitvah Zakona o starševskem varstvu in družinskih prejemkih*, ZSDP-1F, Official Gazette of the RS, No. 153/2022) entered into force transposing the Directive (EU) 2019/1158 of the European Parliament and of the Council from June 20 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU into the Slovenian legal order. The new arrangements for paternity and parental leave apply to parents of children born from April 1, 2023 onwards.

Leave is determined in calendar days in the same duration for a full-time or part-time absence from work (Articles 15, 27/4 and 34/1 of ZSDP-1). That means that the duration of the leave is the same irrespective of whether a person uses the leave in the form of a full or partial absence from work. The rule applies only to paternity leave and parental leave, since these two leaves may be used also in the form of partial absence from work, whereas the maternity leave may only be used in the form of full absence from work.

The employers are obliged to enable employees to easily reconcile their family and employment responsibilities and exercise their rights to maternity, paternity and parental leave (Article 182 of the

Employment Relationships Act, Official Gazette of the Republic of Slovenia, no. 21/2013 with amendments, *Zakon o delovnih razmerjih*, ZDR-1) and, especially, they are obliged to respect the employees' right to absence from work during these leaves (Article 17 of ZSDP-1).

All leaves, including paternity leave, are paid during the entire period. The entitled person receives a salary compensation in the amount of 100% of the average salary received over twelve months prior to leave. The ceiling, i.e. the maximum amount of this compensation, may not exceed 2.5 times the average salary in Slovenia for paternity and parental leave compensation benefit, while the compensation benefit during maternity leave is not limited.

Parents are entitled to paid maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. This includes workers employed on the basis of employment contracts (both permanent and fixed-term, either full-time or part-time, including temporary agency workers), self-employed workers, and persons with other equivalent status (for example persons performing agricultural activities). There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave. Even if a person is no longer insured on the day before the first day of leave, s/he is entitled to compensation during maternity, paternity, or parental leave, if s/he has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).

MATERNITY LEAVE

Maternity leave lasts 105 calendar days (15 weeks), of which 28 days have to be used before the expected date of delivery and the rest (77 days) after the expected date of delivery. Only 15 days of maternity leave are obligatory (Article 19 of ZSDP-1). Maternity leave can only be consumed continuously, without interruptions, and in the form of full-time absence from work.

The pregnant woman is obliged to commence her maternity leave twenty-eight days prior to the expected date of confinement, as determined by the gynaecologist. If she does not respect the prescribed period, she cannot claim the unused part of the maternity leave after the childbirth, unless the confinement took place before the expected date (Article 21 of ZSDP-1).

If the child is stillborn, the mother is entitled to maternity leave until the forty-second day after the confinement. If the child has died during maternity leave, the mother is entitled to maternity leave in the same duration as she had used prior to it, but not less than forty-two days after the confinement (Article 20 of ZSDP-1).

There are some exceptions to the rule on non-transferability of the maternity leave (Articles 22 and 23 of ZSDP-1).

PATERNITY LEAVE

Paternity leave was first introduced into the Slovenian legal order by the Parental Protection and Family Benefits Act which was enacted in 2001. According to the Parental Protection and Family Benefits Act from 2001, a father had the right to paternity leave in the amount of up to 90 days, but only 15 out of those 90 days were fully compensated. The father received no compensation for the remaining 75 days, with the *exception* of social security contributions amounting to the minimum wage, which were paid out of parental insurance on his behalf.

Paternity leave became 'a great success' in terms of take-up rates, with a great majority of fathers using the compensated part of it. The Parental Protection and Family Benefits Act from 2014, which was later amended several times, has substantially changed the legal regime of paternity leave: instead of 90 days of paternity leave (of which only 15 days were compensated and 75 were not), the new Act introduced the right to a fully paid paternity leave in the duration of 30 days. A gradual extension was foreseen (by five days a year) with gradual shortening of unpaid leave (by 25 days a year). Due to the financial crisis, the new

Act postponed the entry into force of the new regime, which gradually replaced the old one between 2016 and 2018: fathers were entitled to 20 days of paid paternity leave in 2016, 25 in 2017, and 30 from 2018 onwards. Additional amendments to the legal regime of paternity leave regarding flexibility of take-up and extension of paternity leave in case of twins and multiple births were introduced in 2018 and 2019.

The paternity leave is today awarded in the length of 15 days (since April 2023, before it was 30 days) is an individual non-transferrable right of the father or the second parent and it is fully compensated (Article 25 of ZSDP-1). If the father does not exercise this right, the unused days of paternity leave cannot be transferred to the mother to be used by her instead. The father is not entitled to paternity leave if the child is stillborn, if his parental rights have been withdrawn, if he is not the actual carer of the child or if he is not capable of taking care of the child, and in some other similar situations. The father uses paternity leave for a duration of 15 days in a condensed series in the form of full or partial absence from work from the birth of the child until the child is three months old (Article 27 of ZSDP-1).

Since 2020, paternity leave has been extended for additional 10 days per child in case of twins and multiple births. The same rules apply in case of adoption of twins or more newborns, or the adoption of more children of different age until they complete the first grade of primary school.

In connection to the status of social parents and the principle of equal treatment of persons irrespective of their sexual orientation, important changes were introduced in 2014. In addition to fathers, the following persons are entitled to paternity leave as well:

- mother's spouse or cohabiting partner as well as partner of either sex in the registered same-sex partnership, and other person, who actually takes care of the child, as well as;
- the spouse, the cohabiting partner, or the partner in the registered same-sex partnership of the person, who uses the maternity leave (in certain exceptional cases, under prescribed conditions, the maternity leave can be used by another person, who is not the child's mother, for instance the father, the grandparent, or other person actually taking care of the child).

PARENTAL LEAVE

In the past, parental leave in Slovenia was the mother's right that was transferable to the father. This arrangement changed and became a family entitlement, meaning that parents had to agree in writing on how to take it (from 2002 to 2014). Now, parental leave is an individual right of each parent (since 2014). According to the Parental Protection and Family Benefits Act from 2014, each parent had an individual right to parental leave in the duration of 130 calendar days. The mother could transfer 100 days to the father, while 30 days were non-transferable. The father could transfer his entire leave, i.e. all 130 days, to the mother.

From April 2023 each parent had an individual right to parental leave in the duration of 160 calendar days, of which 60 days are non-transferable by either of the parents or entitled persons (Article 29 of ZSDP-1).

In exceptional cases, one parent is entitled to the entire parental leave in the duration of 320 days: if the other parent died, has abandoned the child, is permanently or temporarily not capable of taking care of the child, was legally deprived of his or her parental rights, was prohibited from having contacts with the child, and in certain similar situations, as well as if the other parent has not been insured for parental protection and is thus not entitled to parental leave (Article 30 of ZSDP-1).

The duration of parental leave is extended by 90 days for twins, each subsequent live-born child, and a child that requires special care (on the basis of a medical certificate) (Article 29(2)(4) of ZSDP-1). In the event of a prematurely born child, parental leave is extended by the number of days the pregnancy was shorter than 260 days (Article 29(3) of ZSDP-1), and up to 90 days if at the time of delivery, the parents already care for at least two children, who have not yet completed the first grade of primary school (Article 29(5) of ZSDP-1).

With the exception of a person, who adopts his or her spouse's or cohabiting partner's child, adoptive parents or other persons, who are entrusted with the care of a child with the intention of adoption, are

eligible for parental leave under the same conditions as biological parents (Article 39 of ZSDP-1). Furthermore, the other person, who effectively takes care of the child is also entitled to parental leave in the duration reduced by the number of days already taken by the mother or father (Article 28 of ZSDP-1).

Parental leave cannot be used by both parents at the same time, except during the extended period of parental leave (in case of twins or more than one live-born child, more children, special needs, but not in case of premature birth) and during the non-transferable part (60 days). Both parents may also use it at the same time if they both use it in the form of partial absence from work (both work part-time and care for a child part-time).

Parental leave follows and must be used immediately after the end of maternity leave. At least 30 days before maternity leave expires, the parents have to reach a written agreement on how they will use parental leave, submit it to the Centre of Social Work, and inform their employers about it. As a rule, the leave has to be taken in a continuous block without interruptions. The use of part of the non-transferable parental leave of a maximum duration of 60 days can be transferred or used by each parent until the child is eight years old at the latest (Article 29(7) of ZSDP-1). Parents who transferred the part of their parental leave, may use this part in a condensed series in the form of full or partial absence from work, no more than twice a year for a duration of at least 15 days or less than 15 days if they have transferred less. Parents must inform the competent centre about the use of the transferred parental leave no later than 15 days after the start of the leave (Article 36 of ZSDP-1).

2. Time-off

Please, answer the questions in the following table. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

TIME OFF	
Question	Your answer with reference(s) to legal source
A. Maternity leave	
<p>1. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Parents are entitled to maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. This includes workers employed on the basis of employment contracts (both permanent and fixed-term, either full-time or part-time, including temporary agency workers), self-employed workers, and persons with other equivalent status (for example persons performing agricultural activities).</p> <p>According to the Article 8 of ZSDP-1 the following persons are subject to compulsory insurance for parental protection:</p> <ul style="list-style-type: none"> – persons employed in Slovenia; – posted employees of the employer whose seat is in Slovenia, if they are not insured in the foreign state where they have been temporarily posted; – persons employed by foreign and international organizations and institutions as well as by foreign diplomatic or consular agencies with the base in Slovenia, if not determined otherwise by an international agreement; – self-employed persons; – persons pursuing religious service; – persons who perform foster care activities as their profession; – partners or shareholders in companies or founders of institutes and cooperatives, who are the managers, are covered as well, if they are not insured under some other ground; – farmers, members of their households and other persons whose main professional activity is farming, if they are covered by compulsory pension and disability insurance;

	<ul style="list-style-type: none"> – unemployed persons who receive unemployment benefits; – persons who receive sickness benefits from the Health Insurance Institute after the termination of an employment relationship; – persons who receive parental compensation benefits according to the Parental Protection and Family Benefits Act and if they are not insured otherwise; – persons who are entitled to the payment of social security contributions in case of part-time work due to childcare; – persons who are entitled to the payment of social security contributions in case of caring for four or more children; – persons entitled to a partial compensation for the loss of income (due to caring for a child with special needs according to the Parental Protection and Family Benefits Act or in case of family assistance according to the Social Assistance Act); – spouses, common law marriage partners and registered same-sex partners of employees of ministries of foreign affairs or defence who are appointed to work abroad; and – persons on rehabilitation according to the Pension and Disability Insurance Act, if they are entitled to compensation during rehabilitation and if not insured otherwise. <p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave. Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity, paternity, or parental leave, if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).</p>
<p>1.1. Please indicate whether the right to time off also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p>	<p>The right to maternity leave in case of substitute parental care does not apply. However, there are some exceptions to the rule on non-transferability of the maternity leave. In case the mother dies, abandons the child or is permanently or temporarily unable for independent life and work, the maternity leave,</p>

<p>Indicate any differences from the conditions referred to in point 1.</p>	<p>which is not consumed by her, can be transferred to the father of the child. However, the father is only eligible for up to seventy-seven days of maternity leave (105 days minus 28 days) (Article 22 of ZSDP-1).</p> <p>If the mother has not yet reached the age of 18, and she has a status of an apprentice, pupil or student, the maternity leave can be transferred (with her consent) to the father of the child or one of the child's grandparents. In such a case, the maternity leave lasts seventy-seven days and is further reduced by the age of the child in days at the moment when the father or one of the grandparents started the leave. In certain cases, another person who actually takes care of a child is entitled to the maternity leave under similar conditions as described above. In any event, this person can be entitled only to the maximum of seventy-seven days of maternity leave or less, i.e., the remaining days if a part of the maternity leave has already been used or has expired (Article 23 of ZSDP-1).</p>
<p>1.2. Please indicate whether employees working in flexible forms of work (<i>on-call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Parents are entitled to paid maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. See under 1.</p> <p>Employees working in flexible forms of work are entitled to paid time off if they are working on the basis of an employment contract (standard or non-standard) or if they are self-employed. Otherwise, the person is not covered by compulsory social insurance scheme for parental protection.</p>
<p>1.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See under 1.</p>

<p>2. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Each parent has the right to paid parental leave for a duration of 160 days, whereby the mother can transfer 100 days of parental leave to the father, while 60 days are non-transferable. The same goes vice versa, a father can transfer 100 days of parental leave to the mother, but 60 days are non-transferable.</p> <p>There are some exceptions to the rule on non-transferability of the maternity leave.</p> <p>In case the mother dies, abandons the child or is permanently or temporarily unable for independent life and work, the maternity leave, which is not consumed by her, can be transferred to the father of the child. However, the father is only eligible for up to seventy-seven days of maternity leave (105 days minus 28 days) (Article 22 of ZSDP-1).</p> <p>If the mother has not yet reached the age of 18, and she has a status of an apprentice, pupil or student, the maternity leave can be transferred (with her consent) to the father of the child or one of the child's grandparents. In such a case, the maternity leave lasts seventy-seven days and is further reduced by the age of the child in days at the moment when the father or one of the grandparents started the leave. In certain cases, another person who actually takes care of a child is entitled to the maternity leave under similar conditions as described above. In any event, this person can be entitled only to the maximum of seventy-seven days of maternity leave or less, i.e., the remaining days if a part of the maternity leave has already been used or has expired (Article 23 of ZSDP-1).</p>
<p>2.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>2.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>2.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>

<p>3. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>Maternity leave lasts 105 calendar days (15 weeks), of which 28 days have to be used before the expected date of delivery and the rest (77 days) after the expected date of delivery. Only 15 days of maternity leave are obligatory (Article 19 of ZSDP-1).</p> <p>Maternity leave can only be consumed continuously, without interruptions, and in the form of full-time absence from work</p> <p>The pregnant woman is obliged to commence her maternity leave twenty-eight days prior to the expected date of confinement. If she does not respect the prescribed period, she cannot claim the unused part of the maternity leave after the childbirth, unless the confinement took place before the expected date (Article 21 of ZSDP-1).</p> <p>If the child is stillborn, the mother is entitled to maternity leave until the forty-second day after the confinement. If the child has died during maternity leave, the mother is entitled to maternity leave in the same duration as she had used prior to it, but not less than forty-two days after the confinement (Article 20 of ZSDP-1)-</p> <p>There are no specific rules regarding the duration, but the benefit will be assessed less favourably.</p> <p>Maternity leave may only be used in the form of full absence from work.</p>
<p>3.1. Indicate the differences for persons according to point 1.1.</p>	<p>Another person has the right to maternity leave to the extent that the mother has, reduced by as many days as the mother or father have already used this right, but at least 28 days.</p> <p>With the consent of the mother and father, one of the child's grandparents also has the right to maternity leave in cases where the child is born to a mother who is under the age of 18 and has the status of an apprentice, pupil, schoolgirl or student. In this case, the maternity leave lasts 77 days and is shortened by as many days as the age of the child when one of the grandparents takes maternity leave.</p>

<p>3.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>3.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>4. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify legal conditions.</p>	<p>The employee is obliged to inform the employer of his/her intention to exercise maternity, paternity or parental leave at least thirty days prior to the envisaged commencement of the leave (Article 18 of the ZSDP-1).</p> <p>If the mother gives birth to a child before informing the employer about the use of maternity leave, she shall inform the employer about this within three days after the birth of the child, unless her state of health does not allow it. In this case, a medical certificate is submitted.</p> <p>If the mother enters into an employment relationship within 58 days before the expected date of delivery, she shall notify the employer of the commencement of maternity leave upon entering into the employment relationship.</p> <p>According to the ZDR-1 (Article 28), the employer may not demand the applicant to provide information on family and/or marital status, pregnancy, family planning, etc., and may not subject the conclusion of a contract of employment to the condition of providing such information or to additional conditions related to pregnancy and parenthood.</p> <p>The employer may not request or seek any information on an employee's pregnancy unless the employee concerned allows this in order to exercise her rights during pregnancy (Article 183 of the ZDR-1).</p> <p>Furthermore, the employer may not refuse providing time off during maternity leave.</p>

<p>4.1. Indicate the differences for persons according to point 1.1.</p>	<p>The father informs the employer about the use of maternity leave no later than three days from the onset of the reason for the use of maternity leave. Another person informs the employer about the use of maternity leave no later than three days from the onset of the reason for the use of maternity leave.</p>
<p>4.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>4.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>5. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify legal conditions.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p>	<p>Maternity leave can only be consumed continuously, without interruptions, and in the form of full-time absence from work.</p>
<p>5.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>

<p>5.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>5.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>6. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify legal conditions.</p>	<p>Maternity leave lasts 105 calendar days (15 weeks), of which 28 days have to be used before the expected date of delivery and the rest (77 days) after the expected date of delivery. Only 15 days of maternity leave are obligatory (Article 19 of ZSDP-1).</p> <p>Maternity leave can only be consumed continuously, without interruptions, and in the form of full-time absence from work.</p> <p>The pregnant woman is obliged to commence her maternity leave twenty-eight days prior to the expected date of confinement. If she does not respect the prescribed period, she cannot claim the unused part of the maternity leave after the childbirth, unless the date of delivery took place before the expected date (Article 21 of ZSDP-1).</p> <p>The drawing can be terminated prematurely deriving from the fact that taking maternity leave is a mother's right, not her obligation. The ZSDP-1 does not regulate this situation.</p> <p>However, Article 33 of ZSDP-1 that applies to parental leave could also be applicable in this situation. It states that the written agreement of parents on the use of parental leave can be changed if:</p> <ol style="list-style-type: none"> 1. there is a reason to extend parental leave during parental leave, 2. the birth of a second child is expected, 3. other circumstances arise that influence the parents' previous decision (such as an illness that lasts for a long period of time, sending one of the parents to work abroad, education, loss or change of job, dissolution of marriage or termination of cohabitation, early return to work in agreement with the employer). Parents must notify the center

	and their employer of a change in the use of parental leave within three days of the reason for changing the written agreement
6.1. Indicate the differences for persons according to point 1.1.	No differences.
6.2. Indicate the differences for persons according to point 1.2.	No differences.
6.3. Indicate the differences for persons according to point 1.3.	No differences.
<p>7. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please, specify legal conditions.</p>	Maternity leave can only be consumed continuously, without interruptions, and in the form of full-time absence from work.
7.1. Indicate the differences for persons according to point 1.1.	No differences.

7.2. Indicate the differences for persons according to point 1.2.	No differences.
7.3. Indicate the differences for persons according to point 1.3.	No differences.
8. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.	Article 186 of ZDR-1 states that after maternity, paternity and parental leave ends, the employer must allow the employee to start working under the terms of the employment contract. Rights that the employee acquired or improved during absence from work due to parental leave may be exercised by the employee as soon as he or she starts working, if he was unable to exercise them during the absence, which the employer must enable him or her to do.
8.1. Indicate the differences for persons according to point 1.1.	No differences.
8.2. Indicate the differences for persons according to point 1.2.	No differences.

TIME OFF	
B. Paternity leave	
9. Indicate the conditions for entitlement to time off. <i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i>	Parents are entitled to maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. This includes workers employed on the basis of employment contracts (both permanent and fixed-term, either full-time or part-time, including temporary agency workers), self-employed workers, and persons

	<p>with other equivalent status (for example persons performing agricultural activities).</p> <p>According to the Article 8 of ZSDP-1 the following persons are subject to compulsory insurance for parental protection:</p> <ul style="list-style-type: none">– persons employed in Slovenia;– posted employees of the employer whose seat is in Slovenia, if they are not insured in the foreign state where they have been temporarily posted;– persons employed by foreign and international organizations and institutions as well as by foreign diplomatic or consular agencies with the base in Slovenia, if not determined otherwise by an international agreement;– self-employed persons;– persons pursuing religious service;– persons who perform foster care activities as their profession;– partners or shareholders in companies or founders of institutes and cooperatives, who are the managers, are covered as well, if they are not insured under some other ground;– farmers, members of their households and other persons whose main professional activity is farming, if they are covered by compulsory pension and disability insurance;– unemployed persons who receive unemployment benefits;– persons who receive sickness benefits from the Health Insurance Institute after the termination of an employment relationship;– persons who receive parental compensation benefits according to the Parental Protection and Family Benefits Act and if they are not insured otherwise;– persons who are entitled to the payment of social security contributions in case of part-time work due to childcare;– persons who are entitled to the payment of social security contributions in case of caring for four or more children;– persons entitled to a partial compensation for the loss of income (due to caring for a child with special needs according to the Parental Protection and Family Benefits Act or in case of family assistance according to the Social Assistance Act);
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	<ul style="list-style-type: none"> – spouses, common law marriage partners and registered same-sex partners of employees of ministries of foreign affairs or defence who are appointed to work abroad; and – persons on rehabilitation according to the Pension and Disability Insurance Act, if they are entitled to compensation during rehabilitation and if not insured otherwise. <p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.</p> <p>Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity, paternity, or parental leave, if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).</p> <p>The father does not have the right to paternity leave if:</p> <ol style="list-style-type: none"> 1. the mother gives birth to a dead child; 2. he has been deprived of parental care, is prohibited from having contact with the child in accordance with the regulations governing family relationships, or has been ordered to prohibit access to the mother or the child in accordance with the regulations governing the tasks and powers of the police and the prevention of domestic violence; 3. has clearly shown by his conduct that he will not take care of the care and upbringing of the child or otherwise neglects parental care, based on the opinion of the competent center; 4. on the basis of a doctor's opinion, he is permanently or temporarily incapable of caring for a child.
<p>9.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p>	<p>No. The father does not have the right to paternity leave if:</p> <ol style="list-style-type: none"> 1. the mother gives birth to a dead child; 2. he has been deprived of parental care, is prohibited from having contact with the child in accordance with the regulations governing

<p>Indicate any differences from the conditions referred to in point 1.</p>	<p>family relationships, or has been ordered to prohibit access to the mother or the child in accordance with the regulations governing the tasks and powers of the police and the prevention of domestic violence;</p> <p>3. has clearly shown by his conduct that he will not take care of the care and upbringing of the child or otherwise neglects parental care, based on the opinion of the competent center;</p> <p>4. on the basis of a doctor's opinion, he is permanently or temporarily incapable of caring for a child.</p>
<p>9.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Parents are entitled to paid maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. See under 1.</p> <p>Employees working in flexible forms of work are entitled to paid time off if they are working on the basis of an employment contract (standard or non-standard) or if they are self-employed. Otherwise, the person is not covered by compulsory social insurance scheme for parental protection.</p>
<p>9.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See under 9.</p>
<p>10. If the entitlement to time off is transferable to other person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Paternity leave is the right of the father and is not transferable. If the father does not use it, the unused days of paternity leave cannot be transferred to the mother and she cannot use it instead.</p> <p>According to Article 28 of ZSDP-1, the following persons are entitled to the right to paternity leave:</p>

	<p>–mother’s spouse or cohabiting partner as well as partner of either sex in the registered same-sex partnership and other person who actually takes care of the child, as well as;</p> <p>–the spouse, the cohabiting partner or the partner in the registered same-sex partnership of the person who uses the maternity leave (in certain cases, under the prescribed conditions, the maternity leave can be used by another person who is not the child’s mother, for instance the father, the grandparent or other person actually taking care of the child – see above under maternity leave).</p>
<p>10.1. Indicate the differences for persons according to point 1.1.</p>	No differences.
<p>10.2. Indicate the differences for persons according to point 1.2.</p>	No differences.
<p>10.3. Indicate the differences for persons according to point 1.3.</p>	No differences.
<p>11. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>The paternity leave in the length of 15 days (since April 2023, before it was 30 days) is an individual non-transferrable right of the father or the second parent and it is fully compensated (Article 25 of ZSDP-1). If the father does not exercise this right, the unused days of paternity leave cannot be transferred to the mother to be used by her instead. The father is not entitled to paternity leave if the child is stillborn, if his parental rights have been withdrawn, if he is not the actual carer of the child or if he is not capable of taking care of the child, and in some other similar situations. The father uses paternity leave for a duration of 15 days in a condensed series in the form of full or partial absence from work from the birth of the child until the child is three months old (Article 27 of ZSDP-1). Since 2020, paternity leave has been extended for additional 10 days per child in case of twins and multiple births. The same rules apply in case of adoption of twins or more newborns, or the</p>

	adoption of more children of different age until they complete the first grade of primary school.
11.1. Indicate the differences for persons according to point 1.1.	No differences.
11.2. Indicate the differences for persons according to point 1.2.	No differences.
11.3. Indicate the differences for persons according to point 1.3.	No differences.
<p>12. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>The employee is obliged to inform the employer of his/her intention to exercise maternity, paternity or parental leave at least thirty days prior to the envisaged commencement of the leave (Article 18 of the ZSDP-1).</p> <p>Furthermore, the employer may not refuse providing time off during paternity leave.</p>
12.1. Indicate the differences for persons according to point 1.1.	No differences.
12.2. Indicate the differences for persons according to point 1.2.	No differences.
12.3. Indicate the differences for persons according to point 1.3.	No differences.
13. Indicate whether drawdown can be interrupted.	Paternity leave can only be consumed continuously, without interruptions.

<p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify the legal conditions.</p>	
<p>13.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>13.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>13.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>14. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another</i></p>	<p>The drawing can be terminated prematurely if the father:</p> <ol style="list-style-type: none"> 1. has been deprived of parental care, is prohibited from having contact with the child in accordance with the regulations governing family relationships, or has been ordered to prohibit access to the mother or the child in accordance with the regulations governing the tasks and powers of the police and the prevention of domestic violence;

<p><i>person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off providing time off? If so, please, specify the legal conditions.</p>	<p>2. has clearly shown by his conduct that he will not take care of the care and upbringing of the child or otherwise neglects parental care, based on the opinion of the competent center;</p> <p>3. on the basis of a doctor's opinion, he is permanently or temporarily incapable of caring for a child.</p> <p>If the father uses the paternity leave before the reasons from points 1 and 2 of the previous paragraph occur, he is entitled to the right to the extent that he has already used it before the reasons for the termination of the right occurred.</p> <p>If the father uses the paternity leave before the reason referred to in point 3 arises, he may use the unused part of the paternity leave after the reason ceases, but no later than until the child is three months old.</p> <p>If a child dies during paternity leave, the father has the right to paternity leave to the extent that he had already used it up to the day of the child's death and three more days after the child's death, but not longer than 15 days.</p> <p>Otherwise, paternity leave can only be consumed continuously, without interruptions.</p>
<p>14.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>14.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>14.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>15. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p>	<p>Paternity leave can only be consumed continuously, without interruptions. Therefore, the extension of paternity leave is not possible.</p>

<p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	
<p>15.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>15.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>15.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>16. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>Article 186 of ZDR-1 states that after maternity, paternity and parental leave ends, the employer must allow the employee to start working under the terms of the employment contract. Rights that the employee acquired or improved during absence from work due to parental leave may be exercised by the employee as soon as he or she starts working, if he was unable to exercise them during the absence, which the employer must enable him or her to do.</p>
<p>16.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>16.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>

<p>16.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>

<p>TIME OFF</p>	
<p>C. Parental leave</p>	
<p>17. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Parents are entitled to maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. This includes workers employed on the basis of employment contracts (both permanent and fixed-term, either full-time or part-time, including temporary agency workers), self-employed workers, and persons with other equivalent status (for example persons performing agricultural activities).</p> <p>According to the Article 8 of ZSDP-1 the following persons are subject to compulsory insurance for parental protection:</p> <ul style="list-style-type: none"> – persons employed in Slovenia; – posted employees of the employer whose seat is in Slovenia, if they are not insured in the foreign state where they have been temporarily posted; – persons employed by foreign and international organizations and institutions as well as by foreign diplomatic or consular agencies with the base in Slovenia, if not determined otherwise by an international agreement; – self-employed persons; – persons pursuing religious service; – persons who perform foster care activities as their profession; – partners or shareholders in companies or founders of institutes and cooperatives, who are the managers, are covered as well, if they are not insured under some other ground; – farmers, members of their households and other persons whose main professional

	<p>activity is farming, if they are covered by compulsory pension and disability insurance;</p> <ul style="list-style-type: none"> – unemployed persons who receive unemployment benefits; – persons who receive sickness benefits from the Health Insurance Institute after the termination of an employment relationship; – persons who receive parental compensation benefits according to the Parental Protection and Family Benefits Act and if they are not insured otherwise; – persons who are entitled to the payment of social security contributions in case of part-time work due to childcare; – persons who are entitled to the payment of social security contributions in case of caring for four or more children; – persons entitled to a partial compensation for the loss of income (due to caring for a child with special needs according to the Parental Protection and Family Benefits Act or in case of family assistance according to the Social Assistance Act); – spouses, common law marriage partners and registered same-sex partners of employees of ministries of foreign affairs or defence who are appointed to work abroad; and – persons on rehabilitation according to the Pension and Disability Insurance Act, if they are entitled to compensation during rehabilitation and if not insured otherwise. <p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave. Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity, paternity, or parental leave, if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).</p>
<p>17.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p>	<p>Parents do not have the right to parental leave if the child is entrusted to the care and upbringing of another person or is placed in a foster family or institution.</p>

<p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>One of the parents does not have the right to parental leave if:</p> <ol style="list-style-type: none"> 1. the child is entrusted to the care and upbringing of the other parent or lives only with the other parent who protects and cares for the child, 2. abandoned the child, 3. he is deprived of parental care, 4. he was forbidden to have contact with the child in accordance with the regulations governing family relationships, 5. a restraining order has been imposed on him in accordance with the regulations governing the duties and powers of the police and the prevention of domestic violence, or he is serving a prison sentence in a prison and does not protect and care for the child. <p>Furthermore, another person who actually cares for and protects the child has the right to parental leave to the extent that the mother or father has, reduced by as many days as the mother or father has already used this right.</p> <p>With the consent of the mother and father, one of the child's grandparents also has the right to parental leave in cases where the child is born to a mother who is younger than 18 and has the status of an apprentice, student, or student.</p> <p>Furthermore, Article 39 of ZSDP-1 regulates the right of adoptive parents, foster parents and relatives to parental leave</p> <p>An adoptive parent or a person to whom a child is placed for the purpose of adoption, or a child's relative who is granted parental care in accordance with the law governing family relations, has the right to parental leave up to eight years of age of the child to the extent that the mother or father has. It occurs no later than 15 days after the placement of the child for the purpose of adoption or the adopted adoption or the granting of parental care to a relative .</p> <p>The adopter or the person to whom the child is placed for the purpose of adoption, or the child's relative who is granted parental care in accordance with the law governing family relations, for a child who has already reached the age of eight and is younger than 15 years old, has the right to parental leave for a duration of 30 days. It occurs no later than 15 days after the placement of the child for the purpose of adoption or the adopted adoption or the granting of parental care to a relative .</p>
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	<p>A foster parent who has a child placed in foster care who has not yet reached the age of eight and for whom he can no longer use parental leave because his biological parents have already used parental leave has the right to parental leave leave for 30 days. It occurs no later than 15 days after the child is placed in foster care.</p>
<p>17.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Parents are entitled to paid maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. See under 17.</p> <p>Employees working in flexible forms of work are entitled to paid time off if they are working on the basis of an employment contract (standard or non-standard) or if they are self-employed. Otherwise, the person is not covered by compulsory social insurance scheme for parental protection.</p> <p>If parents do not qualify for a compensation benefit during leaves related to parenthood parental allowance is granted to them. These are parents who are not covered by the parental insurance since they are not employed, self-employed or in certain similar status which is the basis for the affiliation to the compulsory social insurance scheme for parental protection; i.e., the unemployed who are not eligible for unemployment benefits, students and others. Parental allowance is paid for 365 days after the birth of a child. The duration is extended under the same conditions as prescribed for the extension of the parental leave, for instance, in case of twins or more than one live-born child, if a child needs a special care.</p> <p>It is granted to mothers for seventy-seven days following the birth of a child. The right to parental allowance within the first seventy-seven days can be transferred to the father of the child (or any other person who actually nurses and cares for the child) under the same conditions as they apply in case of the maternity leave and maternity benefit. After the seventy-seventh day, one of the parents continues to enjoy this right under the same conditions until the 365th day after the child's birth or longer if the duration has been extended. The parents have to submit a written agreement</p>

	<p>determining which of them will exercise this right. According to Article 64 of ZSDP-1, the parent is entitled to the parental allowance only if she or he (for the first seventy-seven days the mother, for the rest of it the parent who is exercising the right) and the child have a permanent residence in Slovenia and they are actually living in Slovenia. The amount of a parental allowance is around EUR 465 monthly (in May 2023) and should be adjusted periodically.</p>
<p>17.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See under 17.</p>
<p>18. If the entitlement to time off is transferable to another person, please, identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Each parent has the right to parental leave for a duration of 160 days, whereby the mother can transfer 100 days of parental leave to the father, while 60 days are non-transferable. The father can transfer 100 days of parental leave to the mother, but 60 days are non-transferable.</p> <p>According to Article 30 of ZSDP-1 one of the parents can use parental leave in its entirety for a duration of 320 days if:</p> <ol style="list-style-type: none"> 1. one of the parents has died, 2. the other parent abandoned the child, 3. the other parent has been deprived of parental care, 4. one of the parents is prohibited from having contact with the child in accordance with the regulations governing family relations, or the other of the parents has been issued a restraining order in accordance with the regulations governing the police and the prevention of domestic violence, or is serving a prison sentence in a correctional facility imprisonment and does not protect and care for the child, 5. the other parent's behaviour has clearly shown that he will not take care of the care and upbringing of the child or neglects parental care in

	<p>another way, based on the opinion of the competent centre,</p> <p>6. if the child is entrusted to the care and upbringing of the other parent or lives only with the other parent who protects and cares for the child,</p> <p>7. that one of the parents becomes permanently or temporarily incapable of caring for the child based on a doctor's opinion,</p> <p>8. the other parent is not insured for parental care.</p> <p>Another person who actually cares for and protects the child has the right to parental leave to the extent that the mother or father has, reduced by as many days as the mother or father has already used this right.</p> <p>With the consent of the mother and father, one of the child's grandparents also has the right to parental leave in cases where the child is born to a mother who is younger than 18 and has the status of an apprentice, student, or student.</p>
<p>18.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>18.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>18.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>19. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>From April 2023 each parent had an individual right to parental leave in the duration of 160 calendar days, of which 60 days are non-transferable (Article 29 of ZSDP-1).</p> <p>In exceptional cases, one parent is entitled to the entire parental leave in the duration of 320 days: if the other parent died, has abandoned the child, is permanently or temporarily not capable of taking care of the child, was legally deprived of his or her parental rights, was prohibited from having contacts with the child, and in certain similar situations, as well as if the other parent has not been insured for parental protection and is thus</p>

	<p>not entitled to parental leave (Article 30 of ZSDP-1).</p> <p>The duration of parental leave is extended by 90 days for twins, each subsequent live-born child, and a child that requires special care (on the basis of a medical certificate). In the event of a prematurely born child, parental leave is extended by the number of days the pregnancy was shorter than 260 days, and up to 90 days if at the time of delivery, the parents already care for at least two children, who have not yet completed the first grade of primary school.</p>
<p>19.1. Indicate the differences for persons according to point 1.1.</p>	<p>Another person who actually cares for and protects the child has the right to parental leave to the extent that the mother or father has, reduced by as many days as the mother or father has already used this right.</p>
<p>19.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>19.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>20. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>The employee is obliged to inform the employer of his/her intention to exercise maternity, paternity or parental leave at least thirty days prior to the envisaged commencement of the leave (Article 18 of the ZSDP-1).</p> <p>The parents shall agree in writing on the use of parental leave no later than 30 days before the end of the maternity leave. They submit the agreement to the competent institution (<i>Center za socialno delo</i>) together with the request for exercising the right and inform their employers about it.</p> <p>Parental leave is used in a condensed series in the form of full or partial absence from work. The duration of parental leave is not extended if it is used in the form of a partial absence from work. The timing of the partial absence from work shall be mutually agreed upon by the parents and the employer. If no agreement is reached, the</p>

	<p>competent institution decides on the right to use parental leave, taking into account the benefits of the child.</p> <p>The non-transferable part of parental leave can also be used during maternity leave.</p> <p>The employer may not refuse providing time off during parental leave.</p>
<p>20.1. Indicate the differences for persons according to point 1.1.</p>	<p>The adopter or the person to whom the child is placed for the purpose of adoption, or the child's relative who is granted parental care in accordance with the regulations governing family relationships, or the foster parent informs the employer about the use of parental leave no later than three days from the start reason for taking parental leave.</p>
<p>20.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>20.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>21. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the</p>	<p>The parents shall agree in writing on the use of parental leave no later than 30 days before the end of the maternity leave. They submit the agreement to the competent institution together with the request for exercising the right and inform their employers about it.</p> <p>The written agreement can be changed if:</p> <ol style="list-style-type: none"> 1. there is a reason to extend parental leave during parental leave, 2. the birth of a second child is expected, 3. other circumstances arise that influence the parents' previous decision (such as an illness that lasts for a long period of time, sending one of the parents to work abroad, education, loss or change of job, dissolution of marriage or termination of cohabitation, early return to work in agreement with the employer).

<p>questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of time off? If so, please, specify the legal conditions.</p>	<p>If the parents cannot agree on the use of parental leave, or if their decision is in conflict with the child's benefit, the competent institution will decide on this, taking into account the child's benefit.</p> <p>Both parents cannot simultaneously use parental leave in the form of full absence from work, except at the time of birth:</p> <ol style="list-style-type: none"> 1. two or more children born alive at the same time, 2. a child who needs special care and protection, 3. a child in a family in which the parents are already protecting and raising at least two children up to the age of eight of the oldest child, or if they are protecting and caring for a child who needs special care and protection. <p>As a rule, the leave has to be taken in a continuous block without interruptions. The use of part of the non-transferable parental leave of a maximum duration of 60 days can be transferred or used by each parent until the child is eight years old at the latest (Article 29(7) of ZSDP-1). Parents who transferred the part of their parental leave, may use this part in a condensed series in the form of full or partial absence from work, no more than twice a year for a duration of at least 15 days or less than 15 days if they have transferred less. Parents must inform the competent center about the use of the transferred parental leave no later than 15 days after the start of the leave (Article 36 of ZSDP-1).</p>
<p>21.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>21.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>21.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>22. Indicate whether drawing can be terminated prematurely.</p>	<p>The parents shall agree in writing on the use of parental leave no later than 30 days before the end of the maternity leave. They submit the agreement</p>

<p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify the legal conditions.</p>	<p>to the competent institution together with the request for exercising the right and inform their employers about it.</p> <p>The written agreement can be changed if:</p> <ol style="list-style-type: none"> 1. there is a reason to extend parental leave during parental leave, 2. the birth of a second child is expected, 3. other circumstances arise that influence the parents' previous decision (such as an illness that lasts for a long period of time, sending one of the parents to work abroad, education, loss or change of job, dissolution of marriage or termination of cohabitation, early return to work in agreement with the employer). <p>Parents must notify the center and their employer of a change in the use of parental leave within three days of the reason for changing the written agreement.</p> <p>As a rule, the leave has to be taken in a continuous block without interruptions. The use of part of the non-transferable parental leave of a maximum duration of 60 days can be transferred or used by each parent until the child is eight years old at the latest (Article 29(7) of ZSDP-1). Parents who transferred the part of their parental leave, may use this part in a condensed series in the form of full or partial absence from work, no more than twice a year for a duration of at least 15 days or less than 15 days if they have transferred less. Parents must inform the competent center about the use of the transferred parental leave no later than 15 days after the start of the leave (Article 36 of ZSDP-1).</p> <p>The employer cannot refuse extension of originally agreed time off.</p>
<p>22.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>22.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>22.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>

<p>23. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>The parents shall agree in writing on the use of parental leave no later than 30 days before the end of the maternity leave. They submit the agreement to the competent institution together with the request for exercising the right and inform their employers about it.</p> <p>The written agreement can be changed if:</p> <ol style="list-style-type: none"> 1. there is a reason to extend parental leave during parental leave, 2. the birth of a second child is expected, 3. other circumstances arise that influence the parents' previous decision (such as an illness that lasts for a long period of time, sending one of the parents to work abroad, education, loss or change of job, dissolution of marriage or termination of cohabitation, early return to work in agreement with the employer). <p>Parents must notify the center and their employer of a change in the use of parental leave within three days of the reason for changing the written agreement.</p> <p>The employer cannot refuse extention of originally agreed time off.</p> <p>Furthemore, when two or more live-born children are born at the same time, parental leave is extended for each subsequent child by an additional 90 days. In case of adoption or placement for the purpose of adoption or granting of parental care to a relative of two or more children born alive at the same time or two or more children of different ages up to eight years of the oldest child, parental leave is extended for each subsequent child by an additional 90 days.</p> <p>When a premature baby is born, parental leave is extended by as many days as the pregnancy was shorter than 260 days.</p> <p>Upon the birth of a child who needs special care and protection, parental leave is extended by an additional 90 days based on the opinion of the medical board.</p> <p>Parental leave is also extended in the event that the parents already at the time of the child's birth look after and raise at least two children up to the age of eight for 30 days, for three children up to the age of</p>

	eight for 60 days and for four or more children up to the age of eight aged for 90 days.
23.1. Indicate the differences for persons according to point 1.1.	No differences.
23.2. Indicate the differences for persons according to point 1.2.	No differences.
23.3. Indicate the differences for persons according to point 1.3.	No differences.
24. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.	Article 186 of ZDR-1 states that after maternity, paternity and parental leave ends, the employer must allow the employee to start working under the terms of the employment contract. Rights that the employee acquired or improved during absence from work due to parental leave may be exercised by the employee as soon as he or she starts working, if he was unable to exercise them during the absence, which the employer must enable him or her to do.
24.1. Indicate the differences for persons according to point 1.1.	No differences.
24.2. Indicate the differences for persons according to point 1.2.	No differences.

3. Social security during the leave

Please, answer the questions in the following tables. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

SOCIAL SECURITY	
A. Maternity leave	
<p>25. Is the employer obliged to provide any benefit or compensation to the employee on maternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>No.</p> <p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from social security contributions (which are rather low, i.e. insured person and employer 0.10% each) and the state budget.</p> <p>Parents are entitled to compensation during maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. This includes workers employed on the basis of employment contracts (both permanent and fixed-term, either full-time or part-time, including temporary agency workers), self-employed workers, and persons with other equivalent status (for example persons performing agricultural activities).</p> <p>According to the Article 8 of ZSDP-1 the following persons are subject to compulsory insurance for parental protection:</p> <ul style="list-style-type: none"> – persons employed in Slovenia; – posted employees of the employer whose seat is in Slovenia, if they are not insured in the foreign state where they have been temporarily posted; – persons employed by foreign and international organizations and institutions as well as by foreign diplomatic or consular agencies with the base in Slovenia, if not determined otherwise by an international agreement; – self-employed persons; – persons pursuing religious service; – persons who perform foster care activities as their profession;

	<ul style="list-style-type: none"> – partners or shareholders in companies or founders of institutes and cooperatives, who are the managers, are covered as well, if they are not insured under some other ground; – farmers, members of their households and other persons whose main professional activity is farming, if they are covered by compulsory pension and disability insurance; – unemployed persons who receive unemployment benefits; – persons who receive sickness benefits from the Health Insurance Institute after the termination of an employment relationship; – persons who receive parental compensation benefits according to the Parental Protection and Family Benefits Act and if they are not insured otherwise; – persons who are entitled to the payment of social security contributions in case of part-time work due to childcare; – persons who are entitled to the payment of social security contributions in case of caring for four or more children; – persons entitled to a partial compensation for the loss of income (due to caring for a child with special needs according to the Parental Protection and Family Benefits Act or in case of family assistance according to the Social Assistance Act); – spouses, common law marriage partners and registered same-sex partners of employees of ministries of foreign affairs or defence who are appointed to work abroad; and – persons on rehabilitation according to the Pension and Disability Insurance Act, if they are entitled to compensation during rehabilitation and if not insured otherwise. <p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.</p> <p>Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for</p>
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	<p>at least 12 months within the last three years (Article 41(2) of ZSDP-1).</p> <p>The basis for compensation is the average basis from which the contributions for parental care were calculated in a consolidated 12 months, whereby the last month is considered the basis from which the contributions were calculated in the preceding month from the submission of the first leave application (Article 43(1) of ZSDP-1). If contributions for parental care were calculated for the insured person for a shorter period than specified in the first paragraph of this article, for the missing months, the sum of the harmonized amount of the basic amount of the minimum income (currently around 465 €) (Article 43(3) of ZSDP-1).</p> <p>Compensation for full absence from work amounts to 100 percent of the insurance base. Compensation for partial absence from work is equal to the proportional part of the partial absence from work (Article 47 of ZSDP-1).</p> <p>Paternity and parental benefit (but not maternity benefit!) for full absence from work cannot be higher than two and a half times the last known average gross salary in the Republic of Slovenia for the previous year or the previous year, if it is not yet known for the previous year, as determined by the Statistical Office of the Republic of Slovenia (Article 46(1) of ZSDP-1).</p> <p>Payment of compensation for full absence from work cannot be lower than the sum of the harmonized amount of the basic amount of the minimum income, as determined by the law governing social security benefits and the law governing the coordination of transfers to individuals and households in the Republic of Slovenia, and the amount taxes and mandatory social security contributions for a taxpayer who, in the tax year in which he receives compensation, does not claim relief for dependent family members in accordance with the law governing income tax, and who, apart from the compensation, has no other taxable income that would affect the amount general relief (Article 46(2) of ZSDP-1).</p>

<p>25.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The same rules apply as in the case of maternity, paternity and parental leave.</p> <p>The right to maternity leave in case of substitute parental leave does not apply. However, there are some exceptions to the rule on non-transferability of the maternity leave. In case the mother dies, abandons the child or is permanently or temporarily unable for independent life and work, the maternity leave, which is not consumed by her, can be transferred to the father of the child. However, the father is only eligible for up to seventy-seven days of maternity leave (105 days minus 28 days) (Article 22 of ZSDP-1).</p> <p>If the mother has not yet reached the age of 18, and she has a status of an apprentice, pupil or student, the maternity leave can be transferred (with her consent) to the father of the child or one of the child's grandparents. In such a case, the maternity leave lasts seventy-seven days and is further reduced by the age of the child in days at the moment when the father or one of the grandparents started the leave. In certain cases, another person who actually takes care of a child is entitled to the maternity leave under similar conditions as described above. In any event, this person can be entitled only to the maximum of seventy-seven days of maternity leave or less, i.e., the remaining days if a part of the maternity leave has already been used or has expired (Article 23 of ZSDP-1).</p>
<p>25.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The same rules apply as in the case of maternity, paternity and parental leave.</p> <p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.</p> <p>Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1). However, if the person is</p>

	<p>not insured on the day before the first day of leave, compensation is determined differently. In this case, the sum of the harmonized amount of the basic amount of the minimum income, as determined by the law regulating social welfare benefits and the law regulating the coordination of transfers to individuals and households in the Republic of Slovenia, and the amount of taxes is considered as the basis and mandatory social security contributions for a taxpayer who, in the tax year in which he receives compensation, does not claim relief for dependent family members in accordance with the law governing income tax, and who, apart from the compensation, has no other taxable income that would affect the amount of the general reliefs. The base determined in this way is increased by 20 euros gross for each month of parental care insurance that he had in the last three years before claiming the right to compensation, but by a maximum of 340 euros gross (article 43(4) of ZSDP-1).</p>
<p>25.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See under 25.</p>
<p>26. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The same rules apply as in the case of maternity, paternity and parental leave.</p> <p>In case the mother dies, abandons the child or is permanently or temporarily unable for independent life and work, the maternity leave and compensation during this time, which is not consumed by her, can be transferred to the father of the child. However, the father is only eligible for up to seventy-seven days of maternity leave (105 days minus 28 days) (Article 22 of ZSDP-1).</p> <p>If the mother has not yet reached the age of 18, and she has a status of an apprentice, pupil or student, the maternity leave can be transferred (with her</p>

	consent) to the father of the child or one of the child's grandparents. In such a case, the maternity leave lasts seventy-seven days and is further reduced by the age of the child in days at the moment when the father or one of the grandparents started the leave. In certain cases, another person who actually takes care of a child is entitled to the maternity leave under similar conditions as described above. In any event, this person can be entitled only to the maximum of seventy-seven days of maternity leave or less, i.e., the remaining days if a part of the maternity leave has already been used or has expired (Article 23 of ZSDP-1).
26.1. Indicate the differences for persons according to point 1.1.	No differences.
26.2. Indicate the differences for persons according to point 1.2.	No differences.
26.3. Indicate the differences for persons according to point 1.3.	No differences.
27. Indicate the amount of the benefit/compensation.	<p>The basis for compensation is the average basis from which the contributions for parental care were calculated in a consolidated 12 months, whereby the last month is considered the basis from which the contributions were calculated in the preceding month from the submission of the first leave application. If contributions for parental care were calculated for the insured person for a shorter period than specified in the first paragraph of this article, for the missing months, the sum of the harmonized amount of the basic amount of the minimum income (currently around 465 €).</p> <p>Compensation for full absence from work amounts to 100 percent of the insurance base.</p>
27.1. Indicate the differences for persons according to point 1.1.	No differences.

27.2. Indicate the differences for persons according to point 1.2.	No differences.
27.3. Indicate the differences for persons according to point 1.3.	No differences.
<p>28. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.</p> <p>Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).</p> <p>In order to be entitled to compensation, the worker must submit a request to the competent authority (Centre of Social Work).</p> <p>The right to maternity leave and maternity benefit is exercised no later than 60 days before the expected date of delivery, which is determined by the gynaecologist, and no later than until the start of maternity leave. If it is claimed after this deadline, it will be recognized on the day of the child's birth.</p>
28.1. Indicate the differences for persons according to point 1.1.	No differences.
28.2. Indicate the differences for persons according to point 1.2.	No differences.
28.3. Indicate the differences for persons according to point 1.3.	No differences.

<p>29. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The right to compensation ceases if the Labour Inspectorate within the Labour Inspectorate of the Republic of Slovenia determines that a person works under an employment contract or is self-employed during the vacation. In this case, the person must return the unjustly received amount of compensation.</p>
<p>29.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>29.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>29.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>30. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The right to compensation ceases if the Labour Inspectorate within the Labour Inspectorate of the Republic of Slovenia determines that a person works under an employment contract or is self-employed during the vacation. In this case, the person must return the unjustly received amount of compensation (Article 48 of ZSDP-1).</p>
<p>30.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>30.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>30.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>

<p>31. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p>
<p>32. Indicate what is the impact of the rules for social security system, if any.</p>	<p>/</p>
<p>33. Which benefit(s) are envisaged for persons on maternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 25.-31.</p>
<p>33.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 25.-31.</p>
<p>33.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 25.-31.</p>

<p>33.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>34. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>34.1. Indicate the differences for persons according to point 1.1.</p>	<p>See under 25.-31.</p>
<p>34.2. Indicate the differences for persons according to point 1.2.</p>	<p>See under 25.-31.</p>
<p>34.3. Indicate the differences for persons according to point 1.3.</p>	<p>See under 25.-31.</p>
<p>35. Indicate the amount of the benefit and the method of calculation.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>

<p>35.1. Indicate the differences for persons according to point 1.1.</p>	<p>See under 25.-31.</p>
<p>35.2. Indicate the differences for persons according to point 1.2.</p>	<p>See under 25.-31.</p>
<p>35.3. Indicate the differences for persons according to point 1.3.</p>	<p>See under 25.-31.</p>
<p>36. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 25.-31.</p>
<p>36.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>36.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>36.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>37. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 25.-31.</p>
<p>37.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>

<p>37.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>37.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>38. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 25.-31.</p>
<p>38.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>38.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>39. Are there any other legal instruments aimed at social security of a person on maternity leave?</p> <p>If so, please, specify.</p>	<p>Every father or mother is entitled to a birth grant upon the child's birth if she or he has permanent residence in Slovenia and actually lives in Slovenia, whereby the nationality of the parents or the child plays no role. The other person who takes care of the newborn and the adoptive parents have the right to the birth grant under the same conditions if the amount has not been paid to one of the parents. The amount of a birth grant amounts (in May 2023) to EUR 405 and should be adjusted periodically. This is a lump sum benefit, paid once for one child. It is not a means-tested benefit; therefore the income of the family is not important (Articles 68 and 69 of ZSDP-1).</p> <p>Furthermore, Child benefit is a supplementary income of the parents for the maintenance, upbringing and education of the child. It is a means-tested benefit provided for by the Parental</p>

	Protection and Family Benefits Act (Article 70-76 of ZSDP-1).
SOCIAL SECURITY	
B. Paternity leave	
<p>40. Is the employer obliged to provide any benefit or compensation to the employee on paternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>No. The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>Parents are entitled to compensation during maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. This includes workers employed on the basis of employment contracts (both permanent and fixed-term, either full-time or part-time, including temporary agency workers), self-employed workers, and persons with other equivalent status (for example persons performing agricultural activities).</p> <p>According to the Article 8 of ZSDP-1 the following persons are subject to compulsory insurance for parental protection:</p> <ul style="list-style-type: none"> – persons employed in Slovenia; – posted employees of the employer whose seat is in Slovenia, if they are not insured in the foreign state where they have been temporarily posted; – persons employed by foreign and international organizations and institutions as well as by foreign diplomatic or consular agencies with the base in Slovenia, if not determined otherwise by an international agreement; – self-employed persons; – persons pursuing religious service; – persons who perform foster care activities as their profession; – partners or shareholders in companies or founders of institutes and cooperatives, who are the managers, are covered as well, if they are not insured under some other ground;

- farmers, members of their households and other persons whose main professional activity is farming, if they are covered by compulsory pension and disability insurance;
- unemployed persons who receive unemployment benefits;
- persons who receive sickness benefits from the Health Insurance Institute after the termination of an employment relationship;
- persons who receive parental compensation benefits according to the Parental Protection and Family Benefits Act and if they are not insured otherwise;
- persons who are entitled to the payment of social security contributions in case of part-time work due to childcare;
- persons who are entitled to the payment of social security contributions in case of caring for four or more children;
- persons entitled to a partial compensation for the loss of income (due to caring for a child with special needs according to the Parental Protection and Family Benefits Act or in case of family assistance according to the Social Assistance Act);
- spouses, common law marriage partners and registered same-sex partners of employees of ministries of foreign affairs or defence who are appointed to work abroad; and
- persons on rehabilitation according to the Pension and Disability Insurance Act, if they are entitled to compensation during rehabilitation and if not insured otherwise.

There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.

Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).

The basis for compensation is the average basis from which the contributions for parental care

	<p>were calculated in a consolidated 12 months, whereby the last month is considered the basis from which the contributions were calculated in the preceding month from the submission of the first leave application (Article 43(1) of ZSDP-1). If contributions for parental care were calculated for the insured person for a shorter period than specified in the first paragraph of this article, for the missing months, the sum of the harmonized amount of the basic amount of the minimum income (currently around 465 €) (Article 43(3) of ZSDP-1).</p> <p>Compensation for full absence from work amounts to 100 percent of the insurance base. Compensation for partial absence from work is equal to the proportional part of the partial absence from work (Article 47 of ZSDP-1).</p> <p>Paternity and parental benefit (but not maternity benefit!) for full absence from work cannot be higher than two and a half times the last known average gross salary in the Republic of Slovenia for the previous year or the previous year, if it is not yet known for the previous year, as determined by the Statistical Office of the Republic of Slovenia (Article 46(1) of ZSDP-1).</p> <p>Payment of compensation for full absence from work cannot be lower than the sum of the harmonized amount of the basic amount of the minimum income, as determined by the law governing social security benefits and the law governing the coordination of transfers to individuals and households in the Republic of Slovenia, and the amount taxes and mandatory social security contributions for a taxpayer who, in the tax year in which he receives compensation, does not claim relief for dependent family members in accordance with the law governing income tax, and who, apart from the compensation, has no other taxable income that would affect the amount general relief (Article 46(2) of ZSDP-1).</p>
<p>40.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p>	<p>No. The father does not have the right to paid paternity leave if:</p> <ol style="list-style-type: none"> 1. the mother gives birth to a dead child; 2. he has been deprived of parental care, is prohibited from having contact with the child in accordance with the regulations governing

<p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>family relationships, or has been ordered to prohibit access to the mother or the child in accordance with the regulations governing the tasks and powers of the police and the prevention of domestic violence;</p> <p>3. has clearly shown by his conduct that he will not take care of the care and upbringing of the child or otherwise neglects parental care, based on the opinion of the competent center;</p> <p>4. on the basis of a doctor's opinion, he is permanently or temporarily incapable of caring for a child.</p>
<p>40.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Parents are entitled to paid maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. Employees working in flexible forms of work are entitled to paid time off if they are working on the basis of an employment contract (standard or non-standard) or if they are self-employed. Otherwise, the person is not covered by compulsory social insurance scheme for parental protection.</p> <p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.</p> <p>Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1). However, if the person is not insured on the day before the first day of leave, compensation is determined differently. In this case, the sum of the harmonized amount of the basic amount of the minimum income, as determined by the law regulating social welfare benefits and the law regulating the coordination of transfers to individuals and households in the Republic of Slovenia, and the amount of taxes is considered as the basis and mandatory social security contributions for a taxpayer who, in the tax year in which he receives compensation, does not claim relief for dependent family members in accordance with the law governing income tax, and</p>

	<p>who, apart from the compensation, has no other taxable income that would affect the amount of the general reliefs. The base determined in this way is increased by 20 euros gross for each month of parental care insurance that he had in the last three years before claiming the right to compensation, but by a maximum of 340 euros gross (article 43(4) of ZSDP-1).</p>
<p>40.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See under 40.</p>
<p>41. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Paternity leave is the right of the father and is not transferable. If the father does not use it, the unused days of paternity leave cannot be transferred to the mother and she cannot use it instead.</p> <p>According to Article 28 of ZSDP-1, the following persons are entitled to the right to paternity leave:</p> <ul style="list-style-type: none"> -mother's spouse or cohabiting partner as well as partner of either sex in the registered same-sex partnership and other person who actually takes care of the child, as well as; -the spouse, the cohabiting partner or the partner in the registered same-sex partnership of the person who uses the maternity leave (in certain cases, under the prescribed conditions, the maternity leave can be used by another person who is not the child's mother, for instance the father, the grandparent or other person actually taking care of the child – see above under maternity leave).
<p>41.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>

<p>41.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>41.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>42. Indicate the amount of the benefit/compensation.</p>	<p>The basis for compensation is the average basis from which the contributions for parental care were calculated in a consolidated 12 months, whereby the last month is considered the basis from which the contributions were calculated in the preceding month from the submission of the first leave application. If contributions for parental care were calculated for the insured person for a shorter period than specified in the first paragraph of this article, for the missing months, the sum of the harmonized amount of the basic amount of the minimum income (currently around 465 €).</p> <p>Compensation for full absence from work amounts to 100 percent of the insurance base. Compensation for partial absence from work is equal to the proportional part of the partial absence from work.</p> <p>The payment of compensation for full absence from work cannot be higher than two and a half times the last known average gross salary in the Republic of Slovenia for the previous year or the previous year, if it is not yet known for the previous year, as determined by the Statistical Office of the Republic of Slovenia.</p> <p>Payment of compensation for full absence from work cannot be lower than the sum of the harmonized amount of the basic amount of the minimum income, as determined by the law governing social security benefits and the law governing the coordination of transfers to individuals and households in the Republic of Slovenia, and the amount taxes and mandatory social security contributions for a taxpayer who, in the tax year in which he receives compensation, does not claim relief for dependent family members in accordance with the law governing income tax, and who, apart from the compensation,</p>

	has no other taxable income that would affect the amount general relief.
42.1. Indicate the differences for persons according to point 1.1.	No differences.
42.2. Indicate the differences for persons according to point 1.2.	No differences.
42.3. Indicate the differences for persons according to point 1.3.	No differences.
<p>43. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.</p> <p>Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).</p> <p>In order to be entitled to compensation, the worker must submit a request to the competent authority (Center of Social Work).</p> <p>The right to paternity leave and paternity benefit is recognised after the birth of the child, no later than the day before the start of paternity leave. If it is claimed after this deadline, it will be recognized from the date of filing the application.</p>
43.1. Indicate the differences for persons according to point 1.1.	No differences.
43.2. Indicate the differences for persons according to point 1.2.	No differences.

43.3. Indicate the differences for persons according to point 1.3.	No differences.
44. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	<p>The right to compensation ceases if the Labour Inspectorate within the Labour Inspectorate of the Republic of Slovenia determines that a person works under an employment contract or is self-employed during the vacation. In this case, the person must return the unjustly received amount of compensation (Article 48 of ZSDP-1).</p> <p>Compensation for partial absence from work is equal to the proportional part of the partial absence from work.</p>
44.1. Indicate the differences for persons according to point 1.1.	No differences.
44.2. Indicate the differences for persons according to point 1.2.	No differences.
44.3. Indicate the differences for persons according to point 1.3.	No differences.
<p>45. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The right to compensation ceases if the Labour Inspectorate within the Labour Inspectorate of the Republic of Slovenia determines that a person works under an employment contract or is self-employed during the vacation. In this case, the person must return the unjustly received amount of compensation (Article 48 of ZSDP-1).</p> <p>Compensation for partial absence from work is equal to the proportional part of the partial absence from work.</p>
45.1. Indicate the differences for persons according to point 1.1.	No differences.

45.2. Indicate the differences for persons according to point 1.2.	No differences.
45.3. Indicate the differences for persons according to point 1.3.	No differences.
46. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.
47. Indicate what is the impact of the rules for social security system, if any.	/
48. Which benefit(s) are envisaged for persons on paternity leave from public social security system? Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement. <i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i>	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.
48.1. Please indicate whether the claim also applies when the child is taken into substitute parental care. Indicate which cases are considered to be taking the child into substitute parental care. Indicate any differences from the conditions referred to in point 1.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.

<p>48.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 40.-46. The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 40.-46.</p>
<p>48.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 40.-46.</p>
<p>49. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 40.-46.</p>
<p>49.1. Indicate the differences for persons according to point 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 40.-46.</p>
<p>49.2. Indicate the differences for persons according to point 1.2.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives</p>

	<p>from the parental care insurance and is financed from the state budget. See under 40.-46.</p>
<p>49.3. Indicate the differences for persons according to point 1.3.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.</p>
<p>50. Indicate the amount of the benefit and the method of calculation.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.</p>
<p>50.1. Indicate the differences for persons according to point 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.</p>
<p>50.2. Indicate the differences for persons according to point 1.2.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.</p>
<p>50.3. Indicate the differences for persons according to point 1.3.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.</p>
<p>51. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.</p>

51.1. Indicate the differences for persons according to point 1.1.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.
51.2. Indicate the differences for persons according to point 1.2.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.
51.3. Indicate the differences for persons according to point 1.3.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.
51.4. Indicate the differences for persons according to point 1.1.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.
51.5. Indicate the differences for persons according to point 1.2.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.
51.6. Indicate the differences for persons according to point 1.3.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.
52. Indicate whether the entitlement to the benefit or its amount can be changed.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 40.-46.

<p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	
<p>52.1. Indicate the differences for persons according to point 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 40.-46.</p>
<p>52.2. Indicate the differences for persons according to point 1.2.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>See under 40.-46.</p>
<p>53. Are there any other legal instruments aimed at social security of a person on paternity leave?</p> <p>If so, please, specify.</p>	<p>Every father or mother is entitled to a birth grant upon the child's birth if she or he has permanent residence in Slovenia and actually lives in Slovenia, whereby the nationality of the parents or the child plays no role. The other person who takes care of the newborn and the adoptive parents have the right to the birth grant under the same conditions if the amount has not been paid to one of the parents. The amount of a birth grant amounts (in May 2023) to EUR 405 and should be adjusted periodically. This is a lump sum benefit, paid once for one child. It is not a means-tested benefit; therefore the income of the family is not important (Articles 68 and 69 of ZSDP-1).</p> <p>Furthermore, Child benefit is a supplementary income of the parents for the maintenance, upbringing and education of the child. It is a means-tested benefit provided for by the Parental Protection and Family Benefits Act (Article 70-76 of ZSDP-1).</p>
SOCIAL SECURITY	
C. Parental leave	

<p>54. Is the employer obliged to provide any benefit or compensation to the employee on parental leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>No.</p> <p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.</p> <p>Parents are entitled to compensation during maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. This includes workers employed on the basis of employment contracts (both permanent and fixed-term, either full-time or part-time, including temporary agency workers), self-employed workers, and persons with other equivalent status (for example persons performing agricultural activities).</p> <p>According to the Article 8 of ZSDP-1 the following persons are subject to compulsory insurance for parental protection:</p> <ul style="list-style-type: none"> – persons employed in Slovenia; – posted employees of the employer whose seat is in Slovenia, if they are not insured in the foreign state where they have been temporarily posted; – persons employed by foreign and international organizations and institutions as well as by foreign diplomatic or consular agencies with the base in Slovenia, if not determined otherwise by an international agreement; – self-employed persons; – persons pursuing religious service; – persons who perform foster care activities as their profession; – partners or shareholders in companies or founders of institutes and cooperatives, who are the managers, are covered as well, if they are not insured under some other ground; – farmers, members of their households and other persons whose main professional activity is farming, if they are covered by compulsory pension and disability insurance; – unemployed persons who receive unemployment benefits;
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- persons who receive sickness benefits from the Health Insurance Institute after the termination of an employment relationship;
- persons who receive parental compensation benefits according to the Parental Protection and Family Benefits Act and if they are not insured otherwise;
- persons who are entitled to the payment of social security contributions in case of part-time work due to childcare;
- persons who are entitled to the payment of social security contributions in case of caring for four or more children;
- persons entitled to a partial compensation for the loss of income (due to caring for a child with special needs according to the Parental Protection and Family Benefits Act or in case of family assistance according to the Social Assistance Act);
- spouses, common law marriage partners and registered same-sex partners of employees of ministries of foreign affairs or defence who are appointed to work abroad; and
- persons on rehabilitation according to the Pension and Disability Insurance Act, if they are entitled to compensation during rehabilitation and if not insured otherwise.

There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.

Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).

The basis for compensation is the average basis from which the contributions for parental care were calculated in a consolidated 12 months, whereby the last month is considered the basis from which the contributions were calculated in the preceding month from the submission of the first leave application (Article 43(1) of ZSDP-1). If contributions for parental care were calculated for

	<p>the insured person for a shorter period than specified in the first paragraph of this article, for the missing months, the sum of the harmonized amount of the basic amount of the minimum income (currently around 465 €) (Article 43(3) of ZSDP-1).</p> <p>Compensation for full absence from work amounts to 100 percent of the insurance base. Compensation for partial absence from work is equal to the proportional part of the partial absence from work (Article 47 of ZSDP-1).</p> <p>Paternity and parental benefit (but not maternity benefit!) for full absence from work cannot be higher than two and a half times the last known average gross salary in the Republic of Slovenia for the previous year or the previous year, if it is not yet known for the previous year, as determined by the Statistical Office of the Republic of Slovenia (Article 46(1) of ZSDP-1).</p> <p>Payment of compensation for full absence from work cannot be lower than the sum of the harmonized amount of the basic amount of the minimum income, as determined by the law governing social security benefits and the law governing the coordination of transfers to individuals and households in the Republic of Slovenia, and the amount taxes and mandatory social security contributions for a taxpayer who, in the tax year in which he receives compensation, does not claim relief for dependent family members in accordance with the law governing income tax, and who, apart from the compensation, has no other taxable income that would affect the amount general relief (Article 46(2) of ZSDP-1).</p>
<p>54.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Parents do not have the right to parental leave and compensation during if the child is entrusted to the care and upbringing of another person or is placed in a foster family or institution.</p> <p>One of the parents does not have the right to paid parental leave if:</p> <ol style="list-style-type: none"> 1. the child is entrusted to the care and upbringing of the other parent or lives only with the other parent who protects and cares for the child, 2. abandoned the child, 3. he is deprived of parental care,

	<p>4. he was forbidden to have contact with the child in accordance with the regulations governing family relationships,</p> <p>5. a restraining order has been imposed on him in accordance with the regulations governing the duties and powers of the police and the prevention of domestic violence, or he is serving a prison sentence in a prison and does not protect and care for the child.</p> <p>Furthermore, another person who actually cares for and protects the child has the right to paid parental leave to the extent that the mother or father has, reduced by as many days as the mother or father has already used this right.</p> <p>With the consent of the mother and father, one of the child's grandparents also has the right to parental leave in cases where the child is born to a mother who is younger than 18 and has the status of an apprentice, student, or student.</p> <p>Furthermore, Article 39 of ZSDP-1 regulates the right of adoptive parents, foster parents and relatives to parental leave.</p> <p>An adoptive parent or a person to whom a child is placed for the purpose of adoption, or a child's relative who is granted parental care in accordance with the law governing family relations, has the right to parental leave up to eight years of age of the child to the extent that the mother or father has. It occurs no later than 15 days after the placement of the child for the purpose of adoption or the adopted adoption or the granting of parental care to a relative .</p> <p>The adopter or the person to whom the child is placed for the purpose of adoption, or the child's relative who is granted parental care in accordance with the law governing family relations, for a child who has already reached the age of eight and is younger than 15 years old, has the right to parental leave for a duration of 30 days. It occurs no later than 15 days after the placement of the child for the purpose of adoption or the adopted adoption or the granting of parental care to a relative .</p> <p>A foster parent who has a child placed in foster care who has not yet reached the age of eight and for whom he can no longer use parental leave because his biological parents have already used parental leave has the right to parental leave leave for 30 days. It occurs no later than 15 days after the child is placed in foster care.</p>
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<p>54.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The same rules apply as in the case of maternity, paternity and parental leave.</p> <p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.</p> <p>Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1). However, if the person is not insured on the day before the first day of leave, compensation is determined differently. In this case, the sum of the harmonized amount of the basic amount of the minimum income, as determined by the law regulating social welfare benefits and the law regulating the coordination of transfers to individuals and households in the Republic of Slovenia, and the amount of taxes is considered as the basis and mandatory social security contributions for a taxpayer who, in the tax year in which he receives compensation, does not claim relief for dependent family members in accordance with the law governing income tax, and who, apart from the compensation, has no other taxable income that would affect the amount of the general reliefs. The base determined in this way is increased by 20 euros gross for each month of parental care insurance that he had in the last three years before claiming the right to compensation, but by a maximum of 340 euros gross (article 43(4) of ZSDP-1).</p> <p>If parents do not qualify for a compensation benefit during leaves related to parenthood parental allowance is granted to them. These are parents who are not covered by the parental insurance since they are not employed, self-employed or in certain similar status which is the basis for the affiliation to the compulsory social insurance scheme for parental protection; i.e., the unemployed who are not eligible for unemployment benefits, students and others. Parental allowance is paid for 365 days after the</p>
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	<p>birth of a child. The duration is extended under the same conditions as prescribed for the extension of the parental leave, for instance, in case of twins or more than one live-born child, if a child needs a special care.</p> <p>It is granted to mothers for seventy-seven days following the birth of a child. The right to parental allowance within the first seventy-seven days can be transferred to the father of the child (or any other person who actually nurses and cares for the child) under the same conditions as they apply in case of the maternity leave and maternity benefit. After the seventy-seventh day, one of the parents continues to enjoy this right under the same conditions until the 365th day after the child's birth or longer if the duration has been extended. The parents have to submit a written agreement determining which of them will exercise this right. According to Article 64 of ZSDP-1, the parent is entitled to the parental allowance only if she or he (for the first seventy-seven days the mother, for the rest of it the parent who is exercising the right) and the child have a permanent residence in Slovenia and they are actually living in Slovenia. The amount of a parental allowance is around EUR 465 monthly (in May 2023) and should be adjusted periodically.</p>
<p>54.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>See under 54.</p>
<p>55. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The same applies as in the case of parental leave.</p> <p>Each parent has the right to paid parental leave for a duration of 160 days, whereby the mother can transfer 100 days of parental leave to the father, while 60 days are non-transferable. The father can transfer 100 days of parental leave to the mother, but 60 days are non-transferable.</p>

	<p>According to Article 30 of ZSDP-1 one of the parents can use parental leave in its entirety for a duration of 320 days if:</p> <ol style="list-style-type: none"> 1. one of the parents has died, 2. the other parent abandoned the child, 3. the other parent has been deprived of parental care, 4. one of the parents is prohibited from having contact with the child in accordance with the regulations governing family relations, or the other of the parents has been issued a restraining order in accordance with the regulations governing the police and the prevention of domestic violence, or is serving a prison sentence in a correctional facility imprisonment and does not protect and care for the child, 5. the other parent's behavior has clearly shown that he will not take care of the care and upbringing of the child or neglects parental care in another way, based on the opinion of the competent center, 6. if the child is entrusted to the care and upbringing of the other parent or lives only with the other parent who protects and cares for the child, 7. that one of the parents becomes permanently or temporarily incapable of caring for the child based on a doctor's opinion, 8. the other parent is not insured for parental care. <p>Another person who actually cares for and protects the child has the right to paid parental leave to the extent that the mother or father has, reduced by as many days as the mother or father has already used this right.</p> <p>With the consent of the mother and father, one of the child's grandparents also has the right to paid parental leave in cases where the child is born to a mother who is younger than 18 and has the status of an apprentice, student, or student.</p>
<p>55.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>55.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>

<p>55.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>56. Indicate the amount of the benefit/compensation.</p>	<p>The basis for compensation is the average basis from which the contributions for parental care were calculated in a consolidated 12 months, whereby the last month is considered the basis from which the contributions were calculated in the preceding month from the submission of the first leave application. If contributions for parental care were calculated for the insured person for a shorter period than specified in the first paragraph of this article, for the missing months, the sum of the harmonized amount of the basic amount of the minimum income (currently around 465 €).</p> <p>Compensation for full absence from work amounts to 100 percent of the insurance base. Compensation for partial absence from work is equal to the proportional part of the partial absence from work.</p> <p>The payment of compensation for full absence from work cannot be higher than two and a half times the last known average gross salary in the Republic of Slovenia for the previous year or the previous year, if it is not yet known for the previous year, as determined by the Statistical Office of the Republic of Slovenia.</p> <p>Payment of compensation for full absence from work cannot be lower than the sum of the harmonized amount of the basic amount of the minimum income, as determined by the law governing social security benefits and the law governing the coordination of transfers to individuals and households in the Republic of Slovenia, and the amount taxes and mandatory social security contributions for a taxpayer who, in the tax year in which he receives compensation, does not claim relief for dependent family members in accordance with the law governing income tax, and who, apart from the compensation, has no other taxable income that would affect the amount general relief.</p> <p>If parents do not qualify for a compensation benefit during leaves related to parenthood parental</p>

	<p>allowance is granted to them. These are parents who are not covered by the parental insurance since they are not employed, self-employed or in certain similar status which is the basis for the affiliation to the compulsory social insurance scheme for parental protection; i.e., the unemployed who are not eligible for unemployment benefits, students and others. Parental allowance is paid for 365 days after the birth of a child. The duration is extended under the same conditions as prescribed for the extension of the parental leave, for instance, in case of twins or more than one live-born child, if a child needs a special care.</p> <p>It is granted to mothers for seventy-seven days following the birth of a child. The right to parental allowance within the first seventy-seven days can be transferred to the father of the child (or any other person who actually nurses and cares for the child) under the same conditions as they apply in case of the maternity leave and maternity benefit. After the seventy-seventh day, one of the parents continues to enjoy this right under the same conditions until the 365th day after the child's birth or longer if the duration has been extended. The parents have to submit a written agreement determining which of them will exercise this right. According to Article 64 of ZSDP-1, the parent is entitled to the parental allowance only if she or he (for the first seventy-seven days the mother, for the rest of it the parent who is exercising the right) and the child have a permanent residence in Slovenia and they are actually living in Slovenia. The amount of a parental allowance is around EUR 465 monthly (in May 2023) and should be adjusted periodically.</p>
<p>56.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>56.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>56.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>

<p>57. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave.</p> <p>Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation for the duration of maternity leave (maternity benefit), paternity leave (paternity benefit), or parental leave (parental benefit), if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).</p> <p>In order to be entitled to compensation, the worker must submit a request to the competent authority (Centre of Social Work).</p> <p>The right to parental leave and parental benefit have to be claimed together with the right to maternity leave, but no later than 30 days before the end of the maternity leave. When no one is entitled to maternity leave for the child, the right to parental leave has to be claimed 30 days before the expiration of 77 days of the child's age. If it is claimed after the end of maternity leave, the right to parental leave is recognized on the day the application is submitted, whereby the duration of the right is shortened by the number of days that have passed since the end of the maternity leave. If it is claimed after 77 days of the child's age, it is recognized from the day of filing the application, whereby the duration of the right is shortened by as many days as the age of the child on the day of filing the application, reduced by 77 days (Article 60(3) of ZSDP-1).</p> <p>The right to the non-transferable part of parental leave and parental benefit can be claimed until the start of this leave at the latest (Article 60(4) of ZSDP-1).</p>
<p>57.1. Indicate the differences for persons according to point 1.1.</p>	<p>The adoptive parent or the person to whom the child is placed for the purpose of adoption in accordance with the law governing family relations, asserts the right to parental leave and parental benefit no later than 30 days after the start of the parental leave. After this period, he cannot enforce the right (Article 60(5) of ZSDP-1).</p>

57.2. Indicate the differences for persons according to point 1.2.	No differences.
57.3. Indicate the differences for persons according to point 1.3.	No differences.
58. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.	The right to compensation ceases if the Labour Inspectorate within the Labour Inspectorate of the Republic of Slovenia determines that a person works under an employment contract or is self-employed during the vacation. In this case, the person must return the unjustly received amount of compensation.
58.1. Indicate the differences for persons according to point 1.1.	No differences.
58.2. Indicate the differences for persons according to point 1.2.	No differences.
58.3. Indicate the differences for persons according to point 1.3.	No differences.
59. Indicate whether the entitlement/amount to the benefit/compensation can be changed. <i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i> If so, under what conditions.	If the insured uses individual types of leave in a condensed series without interruption, or if the interruption is shorter than 365 days, the base is the same as the base that was determined when the first type of leave was used. If the insured uses individual types of leave in several parts and the interruption is longer than 365 days, the basis for calculating the compensation is the average basis from which the contributions for parental care were calculated in a consolidated 12 months, whereby the base from which the contributions were calculated in the previous month prior to the use of leave after the interruption (Article 44(3)(4) of ZSDP-1).

59.1. Indicate the differences for persons according to point 1.1.	No differences.
59.2. Indicate the differences for persons according to point 1.2.	No differences.
59.3. Indicate the differences for persons according to point 1.3.	No differences.
60. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget.
61. Indicate what is the impact of the rules for social security system, if any.	/
62. Which benefit(s) are envisaged for persons on parental leave from public social security system? Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement. <i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i>	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 54.-59.
62.1. Please indicate whether the claim also applies when the child is taken into substitute parental care. Indicate which cases are considered to be taking the child into substitute parental care.	The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.

<p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>62.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>62.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>63. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>63.1. Indicate the differences for persons according to point 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>

<p>63.2. Indicate the differences for persons according to point 1.2.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>63.3. Indicate the differences for persons according to point 1.3.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>64. Indicate the amount of the benefit and the method of calculation.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>64.1. Indicate the differences for persons according to point 1.1.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>64.2. Indicate the differences for persons according to point 1.2.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>64.3. Indicate the differences for persons according to point 1.3.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>65. Indicate the rules and conditions of claiming the benefit. <i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special</i></p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>

<p><i>way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	
<p>65.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>65.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>65.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>66. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>
<p>66.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>66.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>66.3. Indicate the differences for persons according to point 1.3.</p>	<p>No differences.</p>
<p>67. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The right to compensation during maternity, paternity and parental leave is a right that derives from the parental care insurance and is financed from the state budget. See under 25.-31.</p>

<p>67.1. Indicate the differences for persons according to point 1.1.</p>	<p>No differences.</p>
<p>67.2. Indicate the differences for persons according to point 1.2.</p>	<p>No differences.</p>
<p>68. Are there any other legal instruments aimed at social security of a person on parental leave?</p> <p>If so, please, specify.</p>	<p>Every father or mother is entitled to a birth grant upon the child's birth if she or he has permanent residence in Slovenia and actually lives in Slovenia, whereby the nationality of the parents or the child plays no role. The other person who takes care of the newborn and the adoptive parents have the right to the birth grant under the same conditions if the amount has not been paid to one of the parents. The amount of a birth grant amounts (in May 2023) to EUR 405 and should be adjusted periodically. This is a lump sum benefit, paid once for one child. It is not a means-tested benefit; therefore the income of the family is not important (Articles 68 and 69 of ZSDP-1).</p> <p>Furthermore, Child benefit is a supplementary income of the parents for the maintenance, upbringing and education of the child. It is a means-tested benefit provided for by the Parental Protection and Family Benefits Act (Article 70-76 of ZSDP-1).</p> <p>The right to a large family allowance is granted to families with three or more children who meet the prescribed criteria. The family must consist of at least three or more children who fulfil the prescribed condition as regards the age and status at least one day in a year. It is a non means-tested benefit. It amounts (in 2023) to around EUR 468.00 per year for families with three children and around EUR 568.71 per year for families with four or more children. It should be adjusted periodically. It is paid once a year (Article 77-78 of ZSDP-1).</p> <p>Another family benefit is special childcare allowance. The purpose of the special childcare allowance for children requiring special care and treatment is to help cover the increased living expenses which the family faces due to the child's condition. The allowance can be claimed with a medical certificate. It is paid for the period during which the child is granted special care due to</p>

	<p>medical reasons, but not longer than until the child reaches 18 years of age or, after that age, if they have the status of an apprentice, a pupil or a student, but no longer that until the child reaches the age of 26. The special childcare allowance amounts (in 2023) to EUR 118.48 per month and is increased to EUR 236.97 per month for children with severe mental or physical disabilities or illness. It should be adjusted regularly (Article 79-82 of ZSDP-1)</p> <p>Additionally, partial compensation for the loss of income (for children requiring special care) is a personal income paid to one of the parents who has terminated his/her employment or has started to work part-time to be able to provide nursing and care for a child with severe mental or physical disabilities. Under the same conditions, it is also granted to one of the parents or other person who provides nursing and care to two or more children with moderate or severe mental or physical disabilities. This right can be claimed with a medical certificate. According to Article 84 of ZSDP-1, a partial compensation for the loss of income is granted to one of the parents or another person under the prescribed conditions if the parent (or another person) and the child have permanent residence in Slovenia and they actually live in Slovenia. Partial compensation can be claimed by the parent (or, under prescribed conditions, another person) who decided to leave the labour market in order to be able to care for the child. If a parent works part-time, he/she is entitled to a corresponding part of the compensation. The amount of partial compensation is 1.2 times the monthly gross minimum wage. If one of the parents works part-time than full-time, he is entitled to a proportional part of the partial payment for the lost income (Article 83-86 of ZSDP-1).</p>
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4. Administration

69. How is the administration of the leave and/or benefit legislated?

The entitlement to the rights based on parental protection insurance is determined in an administrative procedure by the respective Centre of Social Work. If a person is not satisfied with the decision of the Centre of Social Work, she or he has the right to appeal to the Ministry of Labour, Family, Social Affairs and Equal Opportunities. There is judicial control over the decisions of the Ministry; the jurisdiction lies with the Labour and Social Court.

70. Is there any administrative burden for employers? For instance, as regards obligations, that have increased in connection with the implementation of the WLB Directive and Transparency Directive, did administrative costs of employers grow? If so, does the State compensate those costs? How?

There is no specific administrative burden for employers regarding paternity or parental leave. However, the amendments to the Employment Relationship Act regarding (among other) the right to flexible working arrangements are now under discussion.

According to the Employment Relationships Act, the worker may already request a different distribution of working time, including part-time work, for the purposes of reconciliation of professional and family life. The employer must justify his decision to refuse or grant such a request in writing, taking into consideration the needs of the working process. The employer cannot reject the worker's proposal simply because it would mean a different organization of the work process. Instead, each case must be assessed in terms of whether the proposed change of the employee's working time distribution is such that it does not disproportionately interfere with the organization of the work process. In this context, Slovenian legislation complies with the WLB Directive on flexible working arrangements regarding flexible working time arrangement. However, although the worker has the right to request teleworking regardless of the reason, telework needs to be agreed between the worker and the employer. The employer is not obliged to comply with the worker's request or even provide reasons for any refusal of such a request.

71. Have some responsibilities been entrusted to state authorities (e.g. labour offices or labour inspectorates)?

No specific changes have been introduced on this issue. However, the Labour Inspectorate may impose a fine on the employer if the employer fails to comply with the provisions of the Employment Relationships Act on the scheduling of working hours, including the provisions on the employee's request for a different distribution of working hours.

72. Has any specific mechanism or procedure been introduced in order to check who is really taking care after the child, in order to avoid fraudulent behaviour?

No specific changes have been introduced regarding this question. As mentioned, the entitlement to the rights based on parental protection insurance is determined in an administrative procedure by the respective Centre of Social Work, who can also check who is really taking care after the child in the scope of the administrative procedure.

5. General analysis

73. Please, summarize relevant national case-law providing legal interpretation of any of legal provisions mentioned above.

The provisions of Article 16 of the ZSDP cannot be interpreted in such a way that the employee should also inform the employer of the specific dates of leave use 30 days before the start of the paternity leave. The right to paternity leave is a right from parental insurance and belongs to the father upon fulfilment of certain conditions in the ZSDP, without the consent of the employer. As an obligation towards the employer, only the obligation to inform about the intended use is specified, but not the obligation to coordinate or obtaining the employer's consent for use. The employee cannot, by the very nature of things, inform the employer in advance of the exact days of paternity leave use, since the date of the child's birth itself cannot be precisely determined in advance. Therefore, the provisions of Article 16 of the ZSDP cannot be interpreted in such a way that the employee should also inform the employer about the specific dates of the use of paternity leave 30 days before the start of leave upon the birth of a child. It is sufficient to inform the employer of the intention to use the leave. (Judgment of the Supreme Court of the Republic of Slovenia no. VIII Ips 294/2015)

74. Has there been any public debate on the topic of maternity leave, parental leave, changes due to European legislation, non-transferability? Has this debate have any impact on current or proposed legislation?

On April 1 the Act Amending the Parental Protection and Family Benefits Act (*Zakon o spremembah in dopolnitvah Zakona o starševskem varstvu in družinskih prejemkih*, ZSDP-1F, Official Gazette of the RS, No. 153/2022) entered into force transposing the Directive (EU) 2019/1158 of the European Parliament and of the Council from June 20 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU into the Slovenian legal order. The new arrangements for paternity and parental leave apply to parents of children born from April 1, 2023 onwards. Before ZSDP-1F father had a right to 30 days of paid paternity leave and each parent has an individual right to parental leave in the duration of 130 calendar days. The mother may transfer 100 days to the father, while 30 days are non-transferable. The father may transfer his entire leave, i.e. all 130 days, to the mother. From April 1, 2023 onwards father has a right to 15 days of paid paternity leave and each parent has an individual right to parental leave in the duration of 160 calendar days, of which 60 days are non-transferable. Interestingly, in the 2013-2014 period, there already was the idea of allocating 30 days of parental leave exclusively to fathers, but there was too much resistance, especially from women, who claimed that one month of parental leave would be withheld from children, as men would probably not take that month of parental leave.

75. Can you provide us with any relevant statistics on maternity and/or parental leave, possibly showing some developments relevant for this questionnaire?

In practice fathers usually transfer all their parental leave to mothers. This means that mothers are still commonly absent from work for 365 days due to birth and childcare, because after the expiry of their maternity leave in the duration of 105 days, they used all of 260 days of parental leave (according to legislation valid until April 1). However, the proportion of fathers taking part of the leave is (slowly but still) increasing. According to the data provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities in 2020, of 25,628 people who took parental leave in 2019, only 1,261 (4.9%) were fathers. In contrast, 26,561 fathers took paternity leave in 2019.

Slovenian research literature suggests that the reason for low take-up rates of parental leave by fathers reflects the traditional division of tasks within the family, attitude in society, a rather negative perception of fathers, who take over more family responsibilities, and employers' expectations of their male employees. As fathers generally take only part of the leave (if any), women's careers continue to be affected by their absence from the workplace as a direct result of taking parental leave.

76. Can you briefly sum-up and provide a short analysis of the national legislation on maternity and parental leave? What are its positives, which weaknesses can be mentioned?

The Parental Protection and Family Benefits Act provides for three types of leave: maternity leave, paternity leave, and parental leave. Parents are entitled to paid maternity, paternity, and parental leave if they are covered by compulsory social insurance scheme for parental protection, i.e. parental protection insurance. This includes workers employed on the basis of employment contracts (both permanent and fixed-term, either full-time or part-time, including temporary agency workers), self-employed workers, and persons with other equivalent status (for example persons performing agricultural activities). There is no qualifying period required to be eligible for paid maternity, paternity, and parental leave; a person must be covered by parental protection insurance prior to the beginning of the leave. Even if a person is no longer insured on the day before the first day of leave, he/she is entitled to compensation during maternity, paternity, or parental leave, if he/she has been insured for parental protection for at least 12 months within the last three years (Article 41(2) of ZSDP-1).

PATERNITY LEAVE

Paternity leave was first introduced into the Slovenian legal order by the Parental Protection and Family Benefits Act which was enacted in 2001. According to the Parental Protection and Family Benefits Act from 2001, a father had the right to paternity leave in the amount of up to 90 days, but only 15 out of those 90 days were fully compensated. The father received no compensation for the remaining 75 days, with the *exception* of social security contributions amounting to the minimum wage, which were paid out of parental insurance on his behalf.

The paternity leave is an individual non-transferrable right of the father or the second parent and it is fully compensated (Article 25 of ZSDP-1). If the father does not exercise this right, the unused days of paternity leave cannot be transferred to the mother to be used by her instead. The father is not entitled to paternity leave if the child is stillborn, if his parental rights have been withdrawn, if he is not the actual carer of the child or if he is not capable of taking care of the child, and in some other similar situations.

Paternity leave became 'a great success' in terms of take-up rates, with a great majority of fathers using the compensated part of it. The Parental Protection and Family Benefits Act from 2014, which was later amended several times, has substantially changed the legal regime of paternity leave: instead of 90 days of paternity leave (of which only 15 days were compensated), the new Act introduced the right to a fully paid paternity leave in the duration of 30 days. Additional amendments to the legal regime of paternity leave regarding flexibility of take-up and extension of paternity leave in case of twins and multiple births were introduced in 2018 and 2019. Since 2020, paternity leave has been extended for additional 10 days per child in case of twins and multiple births. The same rules apply in case of adoption of twins or more newborns, or the adoption of more children of different age until they complete the first grade of primary school.

In connection to the status of social parents and the principle of equal treatment of persons irrespective of their sexual orientation, important changes were introduced in 2014. In addition to fathers, the following persons are entitled to paternity leave as well:

- mother's spouse or cohabiting partner as well as partner of either sex in the registered same-sex partnership, and other person, who actually takes care of the child, as well as;
- the spouse, the cohabiting partner, or the partner in the registered same-sex partnership of the person, who uses the maternity leave (in certain exceptional cases, under prescribed conditions, the maternity leave can be used by another person, who is not the child's mother, for instance the father, the grandparent, or other person actually taking care of the child).

The Act Amending the Parental Protection and Family Benefits Act (*Zakon o spremembah in dopolnitvah Zakona o starševskem varstvu in družinskih prejemkih*, ZSDP-1F, Official Gazette of the RS, No. 153/2022) that entered into force on April 1 2023 shorten the length of paternity leave from 30 to 15 days (and prolonged the lengths of paternity leave from 130 to 160 for each of the parents). The father uses paternity leave for a duration of 15 days in a condensed series in the form of full or partial absence from work from the birth of the child until the child is three months old (Article 27 of ZSDP-1).

PARENTAL LEAVE

In the past, parental leave in Slovenia was the mother's right that was transferable to the father. This arrangement changed and became a family entitlement, meaning that parents had to agree in writing on how to take it (from 2002 to 2014). Now, parental leave is an individual right of each parent (since 2014). According to the Parental Protection and Family Benefits Act from 2014, each parent had an individual right to parental leave in the duration of 130 calendar days. The mother may transfer 100 days to the father, while 30 days were non-transferable. The father may transfer his entire leave, i.e. all 130 days, to the mother.

From April 2023 each parent had an individual right to parental leave in the duration of 160 calendar days, of which 60 days are non-transferable (Article 29 of ZSDP-1).

In exceptional cases, one parent is entitled to the entire parental leave in the duration of 320 days: if the other parent died, has abandoned the child, is permanently or temporarily not capable of taking care of the child, was legally deprived of his or her parental rights, was prohibited from having contacts with the child, and in certain similar situations, as well as if the other parent has not been insured for parental protection and is thus not entitled to parental leave (Article 30 of ZSDP-1).

The duration of parental leave is extended by 90 days for twins, each subsequent live-born child, and a child that requires special care (on the basis of a medical certificate). In the event of a prematurely born child, parental leave is extended by the number of days the pregnancy was shorter than 260 days, and up to 90 days if at the time of delivery, the parents already care for at least two children, who have not yet completed the first grade of primary school.

With the exception of a person, who adopts his or her spouse's or cohabiting partner's child, adoptive parents or other persons, who are entrusted with the care of a child with the intention of adoption, are eligible for parental leave under the same conditions as biological parents. Furthermore, the other person, who effectively takes care of the child is also entitled to parental leave in the duration reduced by the number of days already taken by the mother or father.

Parental leave cannot be used by both parents at the same time, except during the extended period of parental leave (in case of twins or more than one live-born child, more children, special needs, but not in case of premature birth) and during the non-transferable part (60 days). Both parents may also use it at the same time if they both use it in the form of partial absence from work (both work part-time and care for a child part-time).

Parental leave follows and must be used immediately after the end of maternity leave. At least 30 days before maternity leave expires, the parents have to reach a written agreement on how they will use parental leave, submit it to the Centre of Social Work, and inform their employers about it. As a rule, the leave has to be taken in a continuous block without interruptions.

As mentioned, both paternity and parental leave may be used in the form of full or partial absence from work. However, the duration of leave does not change if taken part-time, which is not the most appropriate. Such rules intentionally or unintentionally act as an incentive to use the paternity leave in the form of a full-time absence from work.

One of the biggest Slovenia advantages of Slovenian regulation of paternity and parental leave is that it is paid at the generous level throughout the entire period (100% of previous income). However, there is the need for a greater flexibility regarding the use of parental leave, which would also contribute to it being a (more) effective work-life balance measure, promoting equal sharing of care responsibilities between men and women.

Questionnaire for national experts

Country: Sweden

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1. [Legislation on maternity, paternity and parental leave](#)

Please, generally describe (with references to legal sources) your national legislation on maternity leave, paternity leave and parental leave.

Provide a legal definition of:

- maternity leave,
- paternity leave and
- parental leave

according to your national legislation.

If your national legislation distinguishes between time off and social security during it, please explain, with references to legal sources.

Answer:

General description

The right to parental leave and the protection against disadvantage when a person asks for or is on parental leave is regulated in the Swedish Parental Leave Act (Föräldraledighetslagen, SFS 1995:584). However, the Parental Leave Act do not contain any provisions on compensation. This is instead regulated in the Social Insurance Code (Socialförsäkringsbalken, SFS 2010:110). Read more about social security and compensation under the heading Social security during parental leave.

The rights under the Parental Leave Act applies regardless of how long or short the parental leave is. It makes no difference whether the parental leave is full-time or part-time or what form of work the parent has. The right also applies when a child is taken into substitute parental care and the right to time off is not dependent on duration of employment or extent of working hours.

The prohibition against disadvantaging a person taking parental leave covers in principle all situations that may arise between an employer and an employee or jobseeker.

In the case of Sweden, very few changes had to be made, in relation to maternity and parental leave, to implement Directives 2019/1158/EU and 2019/1152/EU, as Sweden already had extensive legislation regarding parental leave.

Legal definitions

In 1974 Sweden replaced gender-specific maternity leave with parental leave. Thus there is no paternity leave in Sweden and the term second parents are not used in the manner as it is used in the directive. The Parental Leave Act, with exception from the right to full-time leave for a female employee in connection to the birth of her child and while breastfeeding (maternity leave), is gender neutral. Under paternity leave we will therefore describe the possibility in Swedish legislation for the non-birth parent to take leave in connection with the birth of the child in reference to article 3 and the rules specified in article 4 of the Work-life Balance Directive.

According to the Parental Leave Act section 3 there are six types of parental leave in Sweden:

1. full-time leave for a female employee in connection to the birth of her child and while breastfeeding (maternity leave, Section 4 Parental Leave Act);
2. full-time leave for a parent until the child has reached the age of 18 months or, provided the parent is then receiving full parental benefit, during a period after that point (full-time leave with or without parental benefit, Section 5 Parental Leave Act);
3. leave for a parent in the form of a reduction of normal working hours by three quarters, half, one quarter or one eighth while the parent is receiving parental benefit at three quarters, half, one quarter or one eighth of the full rate (part-time leave with parental benefit, Section 6 Parental Leave Act);
4. leave for a parent in the form of a reduction of normal working hours by up to one quarter until, in most cases, the child has reached the age of eight (part-time leave without parental benefit, Section 7 Parental Leave Act);
5. leave for an employee's temporary care of a child (leave with temporary parental benefit, etc., Section 8 Parental Leave Act);
6. and leave in the form of a reduction of normal working hours by up to a quarter for a parent of a child for whom care allowance for children with special needs is paid (leave with care allowance for children with special needs, Section 9 Parental Leave Act).

Parental leave

According to Section 1 of the Parental Leave Act the following employees has the right to parental leave from work;

- a parent
- a parent's spouse who permanently cohabits with the parent;
- a parent's cohabitee;
- a specially appointed custodian who has care of the child,
- a person who, with the Social Welfare Committee's consent, has received a child for permanent care and fosterage with a view to adopting the child (future adoptive parent)
- a person who has received a child for permanent care and fosterage into a single home that does not belong to any of the child's parents or anyone else who has care of the child (foster home parent).

Maternity leave

According to Section 3 subparagraph 1 and Section 4 in the Parental Leave Act the legal definition of maternity leave is:

full-time leave for a female employee in connection to the birth of her child and while breastfeeding

Paternity leave

According to Chapter 13, Section 10 of The Social Insurance Code temporary parental leave can be granted an insured father or parent that is present during childbirth, taking care of the home or taking care of their child or children. The definition of parent in Chapter 13 section 10 is found in The Children and Parents Code (Föräldrabalken, SFS 1949:381). Chapter 1, Section 9 in the Children and Parents Code contains regulations relating to parental status of a woman who is a spouse, registered partner or cohabitant with a woman who is in childbirth. The Children and Parents Code also contains provisions on parenthood in case of change of gender. According to Chapter 1, Section 11a and section 14 what is said about father and paternity in other legislations also applies to a woman.

The temporary parental benefit of a second parent is given in connection with a child's birth according to Chapter 13, Section 14 of the Social Insurance Code for a maximum of 10 days per child. The ten days must be used before 60 days have passed since the child has come home after the birth or, in the case of adoption, from the time when the child was taken into the adoptive parents' care.

The right to time off in connection with the birth of the child for the second parent is regulated in Section 8 of The Parental Leave Act. According to section 8 of the Parental Leave Act an employee is entitled to leave during the period in which he or she receives temporary parental benefit under Chapter 13 of the Social Insurance Code.

Social security during parental leave.

The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan) according to the Social Insurance Code (Socialförsäkringsbalken, SFS 2010:110). A person is eligible for parental benefits if he or she is at home with their child instead of working, studying or looking for work. The right to parental benefits also extends to people with custody of a child, prospective adoptive parents and persons married to or living together with the child's parent.

In some cases, the right to leave according to the Parental Leave Act, is dependent on the employee having been granted compensation from the State. The right to compensation is above all depend on the fact that an individual is covered by the state's social insurance cover and in some cases that the person has an income qualifying for sickness benefit. More information on the Social Insurance Code is given under relevant questions in the questionnaire.

If parents have joint custody of the child, each parent is entitled to 240 days of paid parental leave. Of these 240 days, 90 days are reserved for each parent. One of the parents can choose to transfer the remaining 180 days to the other parent. If a parent has sole custody, they are entitled to all 480 days. This is regulated in the Social Insurance Code, Section B: Family Benefits.

In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.

2. Time-off

Please, answer the questions in the following table. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

TIME OFF	
Question	Your answer with reference(s) to legal source
A. Maternity leave	
<p>1. Indicate the conditions for entitlement to time off.</p> <p>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</p>	<p>A female employee is entitled to full leave in connection with her child's birth during a continuous period of at least seven weeks prior to the estimated time for delivery and seven weeks after the delivery. If she is not on leave for another reason, two weeks of this maternity leave shall be obligatory during the period prior to or after the delivery according to section 3, subparagraph 1 and section 4 in the Parental Leave Act (SFS 1995:584). There are no conditions for entitlement to maternity leave.</p> <p>In addition sections 18-21 in the Parental Leave Act contain special provisions concerning leave and transfer to other duties of female employees who are expecting children, have recently given birth to a child, or are breastfeeding.</p>
<p>1.1. Please indicate whether the right to time off also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Maternity leave is not transferable. For rights to parental leave for children in substitute parental care see under section C in this form.</p>
<p>1.2. Please indicate whether employees working in flexible forms of work (on-call work, telework, platform work etc.) are also entitled to time off.</p>	<p>All employees has the right, as parents, to leave from her or his employment according to section 1 in the Parental Leave Act (1995:584). There are no limitations when it comes to forms of work.</p>

<p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>Maternity leave is not transferable. For rights to parental leave for children in substitute parental care see under section C in this form.</p>
<p>1.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (e.g. a statutory body of a business corporation, etc.) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p> <p>For some functions the right time off is regulated in other laws, this is for example the case with government ministers who's right to parental leave is regulated in Ministers' Fees Act, etc. (Lag (1991:359) om arvoden till statsråden m.m.).</p>
<p>2. If the entitlement to time off is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Maternity leave is not transferable. For rights to parental leave see under section C in this form</p>
<p>2.1. Indicate the differences for persons according to point 1.1.</p>	<p>Maternity leave is not transferable. For rights to parental leave see under section C in this form</p>
<p>2.2. Indicate the differences for persons according to point 1.2.</p>	<p>Maternity leave is not transferable. For rights to parental leave see under section C in this form</p>
<p>2.3. Indicate the differences for persons according to point 1.3.</p>	<p>Maternity leave is not transferable. For rights to parental leave see under section C in this form</p>
<p>3. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>A female employee is entitled to full leave in connection with her child's birth during a continuous period of at least seven weeks prior to the estimated time for delivery and seven weeks after the delivery.</p> <p>If she is not on leave for another reason, two weeks of this maternity leave shall be obligatory during the period prior to or after the delivery according</p>

	<p>to section 3, subparagraph 1 and section 4 in the Parental Leave Act (SFS 1995:584).</p> <p>There are no conditions for entitlement to maternity leave.</p> <p>Concerning entitlement to take the time off in a part-time form see section C question 19 in this form.</p>
<p>3.1. Indicate the differences for persons according to point 1.1.</p>	<p>Maternity leave is not transferable. For rights to parental leave for children in substitute parental care see under section C in this form.</p>
<p>3.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>3.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>4. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify legal conditions.</p>	<p>An employee who wishes to take out maternity leave shall give notice of this to the employer not later than two months prior to commencement of the leave or, if this is impracticable, as soon as possible. When giving notice, the employee shall indicate the planned duration of the leave according to Section 13 of the Parental Leave Act.</p> <p>The notification does not require any specific form.</p> <p>The employer can not refuse fulltime maternity leave. In cases of maternity leave in the form of reduced working hours the employee shall take leave, where it is not inconvenient for the employee, in such a manner that the employer's activities may continue without substantial disturbance. If an agreement cannot be reached regarding how the leave shall be taken, the employer shall distribute the leave according to the wishes of the employee, if such distribution does not cause substantial disturbance to the employer's activities. Section 14 of the Parental Leave Act.</p>

	In order for the employer to be able to refuse parental leave on the grounds that it causes substantial disturbance to the employer's activities, the employer must justify that it is not possible to solve the disturbance in any other way, e.g. by running the business with existing staff or hiring a substitute. Case AD 2022 nr 4
4.1. Indicate the differences for persons according to point 1.1.	Maternity leave is not transferable. For rights to parental leave for children in substitute parental care see under section C in this form.
4.2. Indicate the differences for persons according to point 1.2.	According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.
4.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
<p>5. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify legal conditions.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the</p>	<p>According to section 15 of the Parental Leave Act an employee may discontinue her or his leave which has already been commenced and resume her or his work to the same extent as before the leave.</p> <p>If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.</p> <p>In the event the leave was intended to continue for one month or more, the employer may postpone the resumption by no more than one month after the employer has received notice.</p>

questions asked separately for each question).	
5.1. Indicate the differences for persons according to point 1.1.	Maternity leave is not transferable. For rights to parental leave for children in substitute parental care see under section C in this form.
5.2. Indicate the differences for persons according to point 1.2.	According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.
5.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
<p>6. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify legal conditions.</p>	<p>According to section 15 of the Parental Leave Act an employee may discontinue their leave which has already been commenced and resume her work to the same extent as before the leave with the exception of 2 weeks of obligatory maternity leave during the period prior to or after the delivery.</p> <p>If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable according to Section 15 of the Parental Leave Act.</p> <p>In the event the leave was intended to continue for one month or more, the employer may postpone the resumption by no more than one month after the employer has received notice.</p>
6.1. Indicate the differences for persons according to point 1.1.	Maternity leave is not transferable. For rights to parental leave for children in substitute parental care see under section C in this form.

<p>6.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>6.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>7. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extension of originally provided/agreed time off? If so, please, specify legal conditions.</p>	<p>The maternity Leave can be extended compared to the originally announced period.</p> <p>If an employee who wishes to extend the maternity leave she shall, according to Section 13 of the Parental Leave Act, give notice of this to her employer not later than two months prior to commencement of the leave or, if this is impracticable, as soon as possible. When giving notice, the employee shall indicate the planned duration of the leave.</p>
<p>7.1. Indicate the differences for persons according to point 1.1.</p>	<p>Maternity leave is not transferable. For rights to parental leave for children in substitute parental care see under section C in this form.</p>
<p>7.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>7.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>

<p>8. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>There are no special rules that apply when the employee returns to work in the Parental Leave Act except section 16 which concerns the prohibition of disadvantageous treatment and reprisals against employees for reasons connected with parental leave.</p> <p>Section 15 indicates that an employee may discontinue her or his leave which has already been commenced and when doing this the employee shall resume her or his work to the same extent as before the leave. If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.</p> <p>In the event the leave was intended to continue for one month or more, the employer may postpone the resumption by no more than one month after the employer has received notice.</p>
<p>8.1. Indicate the differences for persons according to point 1.1.</p>	<p>Maternity leave is not transferable. For rights to parental leave for children in substitute parental care see under section C in this form.</p>
<p>8.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>

TIME OFF	
B. Paternity leave	
<p>9. Indicate the conditions for entitlement to time off.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>According to Chapter 13, Section 10 of The Social Insurance Code temporary parental leave can be granted an insured father or parent that is present during childbirth, taking care of the home or taking care of their child or children.</p> <p>There are no conditions for entitlement to temporary parental leave in connection with child birth.</p>

<p>9.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p> <p>The following cases are considered to be taking the child into substitute parental care, according to section 1, subparagraphs 3-5 of the Parental Leave Act, and thus equated with a parent;</p> <p>3. a specially appointed custodian who has care of the child,</p> <p>4. a person who, with the Social Welfare Committee's consent, has received a child for permanent care and fosterage with a view to adopting the child (future adoptive parent)</p> <p>5. a person who has received a child for permanent care and fosterage into a single home that does not belong to any of the child's parents or anyone else who has care of the child (foster home parent).</p>
<p>9.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>9.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>10. If the entitlement to time off is transferable to other person, please identify that person and</p>	<p>According to section 8 in the Parental Leave Act, which in turn refers to Chapter 13 Section 11 of the Social Insurance Code, the ten days of temporary</p>

<p>indicate the conditions under which the entitlement may be transferred.</p>	<p>leave can be transferred to another person than the father or second parent if</p> <ol style="list-style-type: none"> 1. There is no father who is entitled to temporary parental allowance. 2. The child's mother is deceased. 3. The father of the child renounces his right to the temporary parental allowance and it would be unreasonable not to let him renounce it. 4. The child's father cannot use his right to temporary parental allowance according to section 10 5. The child's father is unlikely to exercise his right due to a non-contact order or due to other special circumstances.
<p>10.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p>
<p>10.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>10.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>11. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>The temporary parental benefit of a second parent is given in connection with a child's birth according to Chapter 13, Section 14 of the Social Insurance Code for a maximum of 10 days per child. The ten days must be used before 60 days have passed since the child has come home after the birth or, in the case of adoption, from the time when the child was taken into the adoptive parents' care.</p> <p>The right to time off in connection with the birth of the child for the second parent is regulated in Section 8 of The Parental Leave Act. According to section 8 of the Parental Leave Act an employee is entitled to leave during the period in which he or</p>

	<p>she receives temporary parental benefit under Chapter 13 of the Social Insurance Code.</p> <p>Other than what has been said above there are not any specific rules linked to the right to time off for second parent.</p>
<p>11.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p>
<p>11.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>11.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>12. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>An employee who wishes to take time off in relation to the birth of a child shall give notice of this to the employer not later than two months prior to commencement of the leave or, if this is impracticable, as soon as possible. When giving notice, the employee shall indicate the planned duration of the leave according to Section 13 of the Parental Leave Act .</p> <p>The notification does not require any specific form.</p> <p>The employer can not refuse leave in relation to the birth of a child.</p>
<p>12.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p>
<p>12.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>

<p>12.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>13. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of taking time off? If so, please, specify the legal conditions.</p>	<p>According to section 15 of the Parental Leave Act an employee may discontinue her or his leave which has already been commenced and resume her or his work to the same extent as before the leave.</p> <p>If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.</p> <p>The legislation does not distinguish between different situations.</p> <p>For the 10 day leave the employer can not refuse interruption.</p>
<p>13.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act.</p>
<p>13.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>13.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>

<p>14. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off providing time off? If so, please, specify the legal conditions.</p>	<p>According to section 15 of the Parental Leave Act an employee may discontinue her or his leave which has already been commenced and resume her or his work to the same extent as before the leave.</p> <p>If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.</p> <p>The legislation does not distinguish between different situations.</p> <p>For the 10 day leave the employer can not refuse earlier return.</p>
<p>14.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act.</p>
<p>14.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>14.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>15. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another</i></p>	<p>According to section 13-14 in the Parental Leave Act an employee has the right to extend the time off compared to the originally announced period.</p> <p>The legislation does not distinguish between different situations.</p>

<p><i>person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>Temporary parental leave in connection with the birth of a child is limited to 10 days.</p> <p>The employer can not refuse to let the second parent take time off for ten days. If the parent want to extend beyond the ten days and use other forms of parental leave see answer under section C.</p>
<p>15.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act.</p>
<p>15.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no diffrences when it comes to forms of work.</p>
<p>15.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>16. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>There are no special rules that apply when the employee returns to work in the Parental Leave Act except section 16 which concerns the prohibition of disadvantageous treatment and reprisals against employees for reasons conected with paraental leave.</p> <p>Section 15 indicates that an employee may discontinue her or his leave which has already been commenced and when doing this the employee shall resume her or his work to the same extent as before the leave. If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.</p> <p>In the event the leave was intended to continue for one month or more, the employer may postpone</p>

	the resumption by no more than one month after the employer has received notice.
16.1. Indicate the differences for persons according to point 1.1.	The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)
16.2. Indicate the differences for persons according to point 1.2.	According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.
16.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.

TIME OFF	
C. Parental leave	
17. Indicate the conditions for entitlement to time off. <i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i>	According to section 1, paragraph 1 in the Swedish Parental Leave Act (SFS 1995:584) an employee has the right, as a parent, to leave from her or his employment. There are no conditions for entitlement to time off.
17.1. Please indicate whether the claim also applies when the child is taken into substitute parental care. Indicate which cases are considered to be taking the child into substitute parental care. Indicate any differences from the conditions referred to in point 1.	The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584) The following cases are considered to be taking the child into substitute parental care, according to section 1, subparagraphs 3-5 of the Parental Leave Act, and thus equated with a parent;

	<p>3. a specially appointed custodian who has care of the child,</p> <p>4. a person who, with the Social Welfare Committee's consent, has received a child for permanent care and fosterage with a view to adopting the child (future adoptive parent)</p> <p>5. a person who has received a child for permanent care and fosterage into a single home that does not belong to any of the child's parents or anyone else who has care of the child (foster home parent).</p>
<p>17.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>All employees has the right, as parents, to leave from her or his employment according to section 1 in the Parental Leave Act (1995:584). There are no limitations when it comes to forms of work.</p> <p>This also applies when a person has taken a child into substitute parental care as stated in section 1, subparagraphs 3-5 of the Swedish Parental Leave Act.</p>
<p>17.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to time off.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p> <p>For some functions the right time off is regulated in other laws, this is for example the case with government ministers who's right to parental leave is regulated in Ministers' Fees Act, etc. (Lag (1991:359) om arvoden till statsråden m.m.). But there is no general right for persons outside the employment relationship to take time off.</p>
<p>18. If the entitlement to time off is transferable to another person, please, identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>According to Section 8 in the Parental Leave Act time off is transferable to another person if that person receives temporary parental benefit under Chapter 13 of the Social Insurance Code, for example to take care of a sick child. The person can be a relative, friend or neighbour.</p> <p>The first time someone who is not a parent wants to be off for temporary parental leave, they must make a written application to the Swedish Social Insurance Agency. Both the parents and the person taking leave must sign the form. After that, the person can continue to apply in the same way as</p>

	the parents. If the Social Insurance Agency has approved the application the person is entitled to take time off work according to Section 8 in the Parental Leave Act.
18.1. Indicate the differences for persons according to point 1.1.	The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)
18.2. Indicate the differences for persons according to point 1.2.	According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.
18.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
<p>19. Indicate the duration of time off.</p> <p>Please indicate, if there are any specific rules (e.g. for workers who performed the work for a shorter time before taking the leave). If so, please, specify.</p> <p>Please, indicate, if there is any entitlement to take the time off in a part-time form. If so, please, specify.</p>	<p>Full leave with or without parental benefit</p> <p>A parent is entitled to full-time leave for the care of a child until the child reaches the age of 18 months. (An employee who has adopted a child or received a child with the intention of adopting it is entitled to full-time leave for 18 months from the time when the employee took the child into his or her care.)</p> <p>In addition, a parent is entitled to full-time leave during the period when the parent receives full parental benefit under Chapter 12 of the Social Insurance Code. The employee's right to such leave terminates when the child reaches the age of eight years or when the child concludes its first year of school, whichever occurs later. See section 5 in the Parental Leave Act (1995:584).</p> <p><i>Entitlement to take time off in parttime form.</i></p> <p>Partial leave with parental benefit</p> <p>A parent can, besides full-time benefits, receive parental benefit for three quarters, one half, one quarter or one eighth of parental benefit under Chapter 12 of the Social Insurance Code. During this time the parent is entitled to a reduction of normal working hours by three quarters, one half, one quarter or one eighth. See section 6 of the Parental Leave Act (1995:584).</p>

	<p>Partial leave without parental benefit A parent is also entitled to, even if the parent does not take parental benefits, a reduction of normal working hours by up to one quarter for the care of a child who has not yet reached the age of eight years or who is older but has not yet concluded his or her first year of school. See section 7 of the parental Leave Act (1995:584).</p> <p>Leave with temporary parental benefit, etc. An employee is entitled to, according to section 8 of the Parental Leave Act, leave during the period in which he or she:</p> <ol style="list-style-type: none"> 1. receives temporary parental benefit under Chapter 13 of the Social Insurance Code; 2. would have been entitled to temporary parental benefit under Chapter 13, Sections 10–31 or Sections 31e and 31f of the Social Insurance Code, if the employee had not been covered by the provisions in Chapter 37, Section 3 of the same Code; or 3. would have been entitled to temporary parental benefit under Chapter 13, Section 8 or 9 of the Social Insurance Code, if the employee had not been covered by the provisions in Chapter 37, Section 3 of the same Code. <p>A parent who needs to care for his or her child when the regular carer is sick or infected is entitled to leave even if the parent is not entitled to temporary parental benefit on the grounds that:</p> <ol style="list-style-type: none"> 1. the child is younger than 240 days old; or 2. the child is younger than 240 days old and the parent is not covered by the provisions in Chapter 37, Section 3 of the Social Insurance Code. <p>Lastly, according to section 9 of the Parental Leave Act, a parent is entitled to a reduction of normal working hours by up to a quarter when care allowance for children with special needs under Chapter 22 of the Social Insurance Code is paid for the child.</p>

<p>19.1. Indicate the differences for persons according to point 1.1.</p>	<p>This also applies when a person has taken a child into substitute parental care with the exception when an employee adopts a child of the employee's spouse or cohabitee, then the employee is not entitled to a period of leave that is greater than that which would have applied if the adoption had not taken place. See section 5 in the Parental Leave Act (1995:584).</p>
<p>19.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>19.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>20. Indicate the rules and conditions of taking time off, including specification of the requirements for related legal acts.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Is there any possibility of the employer to refuse providing time off? If so, please, specify the legal conditions.</p>	<p>According to section 13 of the Parental Leave Act an employee who wishes to exercise his or her right to leave shall give notice of this to his or her employer not later than two months prior to commencement of the leave or, if this is impracticable, as soon as possible. When giving notice, the employee shall indicate the planned duration of the leave.</p> <p>An employee who wishes to exercise his or her right to leave under Section 8 Parental leave act (leave with temporary parental benefit) shall give notice of this to his or her employer not later than one week prior to the commencement of the leave. If this is impracticable the employee shall give notice of the leave as soon as possible.</p> <p>If the reason for the leave is illness or infection, no period of notice is required.</p> <p>According to section 14 of the Parental Leave act the employee shall discuss the distribution of the leave and any other issues concerning the leave with her or his employer. Where it is not inconvenient for the employee, the employee shall take full day leave in such a manner that the employer's activities may continue without substantial disturbance.</p> <p>In cases of reduced working hours, if an agreement cannot be reached regarding how the leave shall be taken, the employer shall distribute the leave according to the wishes of the employee, if such distribution does not cause substantial disturbance</p>

	<p>to the employer's activities. The employer may not without the employee's consent distribute the leave in any manner other than spreading it over all days of the working week, divide the leave during the working day, or distribute it to any other time other than the beginning or end of the working day.</p> <p>If the employer have made a decision in any manner other than according to the wishes of the employee, the employer shall inform the employee and the employee's local employees' organisation regarding the decision. If practicable, this shall be done not later than two weeks prior to the commencement of the leave. (Section 14 Parental Leave Act)</p> <p>There are no other rules or conditions for taking time off.</p> <p>The employer can not refuse full time maternity leave. In cases of reduced working hours, if an agreement cannot be reached regarding how the leave shall be taken, the employer shall distribute the leave according to the wishes of the employee, if such distribution does not cause substantial disturbance to the employer's activities.</p> <p>In order for the employer to be able to refuse parental leave on the grounds that it causes substantial disturbance to the employer's activities, the employer must justify that it is not possible to solve the disturbance in any other way, e.g. by running the business with existing staff or hiring a substitute. Case AD 2022 nr 4</p>
<p>20.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p>
<p>20.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no differences when it comes to forms of work.</p>
<p>20.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>

<p>21. Indicate whether drawdown can be interrupted.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p>(If the legislation distinguishes between different situations – for example, interruption of drawing due to placement of a child in a healthcare facility due to illness versus interruption of drawing due to removal of the child due to lack of care – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse interruption of time off? If so, please, specify the legal conditions.</p>	<p>According to section 15 of the Parental Leave Act an employee may discontinue her or his leave which has already been commenced and resume her or his work to the same extent as before the leave.</p> <p>If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.</p> <p>In the event the leave was intended to continue for one month or more, the employer may postpone the resumption by no more than one month after the employer has received notice.</p> <p>According to Section 10 in the Parental Leave Act leave may be divided into a maximum of three periods for each calendar year. This could give consequences if the three periods already have been used during that calendar year. Then the employee might need to wait until the following year to continue the parental leave. This limitation is not applicable to leave with temporary parental benefit, etc. under Section 8 of the parental Leave Act, or leave or leave with parental benefit under Chapter 12, Sections 5a – 7a of the Social Insurance Code.</p> <p>The legislation does not distinguish between different situations.</p> <p>There is no possibility for the employer to refuse interruption of time off. If the leave was intended to continue for one month or more the employer has the possibility to postpone the resumption by one month after the employer has received notice according to section 15 paragraph 3 in the Parental Leave Act.</p>
<p>21.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p>
<p>21.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no limitations when it comes to forms of work.</p>

<p>21.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>22. Indicate whether drawing can be terminated prematurely.</p> <p>If so, under what conditions.</p> <p>Indicate the consequences of the suspension of drawdown on the total claim.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>(If the legislation distinguishes between different situations – see, for example, point 5 – characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse earlier return from time off? If so, please, specify the legal conditions.</p>	<p>According to section 15 of the Parental Leave Act an employee may discontinue her or his leave which has already been commenced and resume her or his work to the same extent as before the leave.</p> <p>If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.</p> <p>In the event the leave was intended to continue for one month or more, the employer may postpone the resumption by no more than one month after the employer has received notice</p> <p>According to Section 10 in the Parental Leave Act leave may be divided into a maximum of three periods for each calendar year. This could give consequences if the three periods already have been used during that calendar year. Then the employee might need to wait until the following year to continue the parental leave. This limitation is not applicable to leave with temporary parental benefit, etc. under Section 8 of the Parental Leave Act, or leave or leave with parental benefit under Chapter 12, Sections 5a – 7a of the Social Insurance Code.</p> <p>The legislation does not distinguish between different situations.</p> <p>There is no possibility for the employer to refuse interruption of time off. If the leave was intended to continue for one month or more the employer has the possibility to postpone the resumption by one month after the employer has received notice according to section 15 paragraph 3 in the Parental Leave Act.</p>
<p>22.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p>

<p>22.2. Indicate the differences for persons according to point 1.2.</p>	<p>According to section 1 in the Parental Leave Act, there are no limitations when it comes to forms of work.</p>
<p>22.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>23. Indicate whether the drawdown can be extended compared to the originally announced period.</p> <p>If so, under what conditions.</p> <p><i>(for example, whether the drawing is notified to the employer or done through another person, whether the notification requires a written form, or has any obligatory content).</i></p> <p>Indicate the consequences of the suspension of drawdown.</p> <p>(If the legislation distinguishes between different situations, characterise each situation and answer the questions asked separately for each question).</p> <p>Is there any possibility of the employer to refuse extention of originally provided/agreed time off? If so, please, specify the legal conditions.</p>	<p>Accordinging to section 13-14 in the Parental Leave Act an employee has the right to extend the time off compared to the originally announced period. If the employee wishes to do so he or she shall give notice of this to his or her employer not later than two months prior to commencement of the leave or, if this is impracticable, as soon as possible. When giving notice, the employee shall indicate the planned duration of the leave.</p> <p>If an employee who wishes to exercise his or her right based on leave with temporary benefits the employee shall give notice of this to his or her employer not later than one week prior to the commencement of the leave. If this impracticable, and the right to leave is based on the fact that the employee is receiving temporary parental benefit or would have had the right to the benefit in accordance with regulations issued under Chapter 2, Section 5a of the Social Insurance Code, the employee shall give notice of the leave as soon as possible. However, if the reason for the leave is illness or infection, no period of notice is required.</p> <p>The legislation does not distinguish between different situations.</p> <p>There is no possibility for the employer to refuse extension if he or she has been notified in time.</p>
<p>23.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p>
<p>23.2. Indicate the differences for persons according to point 1.2.</p>	

	<p>According to section 1 in the Parental Leave Act, there are no limitations when it comes to forms of work.</p>
<p>23.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>24. Indicate the rules that apply when the employee returns to work, in the case of assignment to a job, workplace, etc.</p>	<p>There are no special rules that apply when the employee returns to work in the Parental Leave Act except section 16 which concerns the prohibition of disadvantageous treatment and reprisals against employees for reasons connected with parental leave.</p> <p>Section 15 indicates that an employee may discontinue her or his leave which has already been commenced and when doing this the employee shall resume her or his work to the same extent as before the leave. If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.</p> <p>In the event the leave was intended to continue for one month or more, the employer may postpone the resumption by no more than one month after the employer has received notice.</p> <p>Section 15b indicates that if a parent with a child who has not reached the age of eight years requests flexible working arrangements on grounds of childcare, the employer shall respond to the request within a reasonable time. If the request is denied or the requested adjustment is postponed, the employer shall provide reasons for the decision.</p> <p>The right to a response only applies if the employee has been employed by the employer for a total of at least six months when the request is made.</p> <p>Furthermore Section 15c indicates that If the working pattern is adjusted as a result of a request under Section 15b and the adjustment applies for a certain duration, the employee has the right to return to the original working pattern at the end of that duration.</p> <p>If the employee requests to return to the original working pattern before the end of that duration owing to changes in circumstances, the employee shall respond to the request within a reasonable time.</p>

24.1. Indicate the differences for persons according to point 1.1.	The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584).
24.2. Indicate the differences for persons according to point 1.2.	According to section 1 in the Parental Leave Act, there are no limitations when it comes to forms of work.

3. Social security during the leave

Please, answer the questions in the following tables. Please, always refer to your national legislation (indicate the legal act and its part, section or paragraph).

SOCIAL SECURITY	
A. Maternity leave	
<p>25. Is the employer obliged to provide any benefit or compensation to the employee on maternity leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>25.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>25.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the</p>

	<p>collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>25.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p> <p>For some functions the right time off is regulated in other laws, this is for example the case with government ministers who's right to parental leave is regulated in Ministers' Fees Act, etc. (Lag (1991:359) om arvoden till statsråden m.m.).</p> <p>Under section 2a of the Ministers' Fees Act, a 10% reduction is made on the Ministers' Commission while at home caring for a child.</p>
<p>26. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency. (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>26.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>

<p>26.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>26.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>27. Indicate the amount of the benefit/compensation.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>27.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>

<p>27.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>27.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>28. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i></p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>28.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Adgency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>

<p>28.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>28.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>29. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>29.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>

<p>29.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>29.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>30. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>30.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>

<p>30.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>30.3. Indicate the differences for persons according to point 1.3.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Administration (Försäkringskassan).</p>
<p>31. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p> <p>The employer does not get compensation from the state for supplementary parental allowance.</p>
<p>32. Indicate what is the impact of the rules for social security system, if any.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Administration (Försäkringskassan).</p>

<p>33. Which benefit(s) are envisaged for persons on maternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Adgency (Försäkringskassan) according to the Social Insurance Code (Socialförrsäkringsbalken, SFS 2010:110).</p> <p>Maternity leave does not have to be combined with the payment of parental leave benefits. But it can be. If parents have joint custody of the child, each parent is entitled to 240 days of paid parental leave. Of these 240 days, 90 days are reserved for each parent. One of the parents can choose to transfer the remaining 180 days to the other parent. If a parent has sole custody, they are entitled to all 480 days according to the Social Insurance Code, Section B: Family Benefits. The Maternity leave days are deducted from the 480 days of paid leave.</p> <p>For 390 of the 480 days, the benefit is 80 percent of the calculated income. It is provided that the person have worked at least 240 consecutive days before the birth. Otherwise the person will get the basic amount of 250 SEK (2023) a day (the “basic level”).</p> <p>For 90 days of the 480, the benefit is 180 SEK (2023) a day (the “lowest level”). The first 180 days, which includes maternity leave, have to be on the highest level.</p> <p>As the amount of parental benefit is affected by whether or not the person has worked for 240 consecutive days and the persons income the duration of employment and the amount of working hours may affect the amount of benefit.</p>
<p>33.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>Benefits for maternity leave is not transferable.</p>

<p>33.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>There are no difference based on forms av work.</p> <p>As the amount of parental benefit is affected by whether or not the person has worked for 240 consecutive days and the persons income the duration of employment and the amount of working hours may affect the amount of benefit.</p>
<p>33.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>34. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>Benefits for maternity leave is not transferable.</p> <p>Rules of non-transferability deriving from the EU directives</p> <p>Looking at Swedish parental leave legislation as a whole, the requirements are met by a good margin in relation to the rules of non-transferability deriving from the EU directives.</p>
<p>34.1. Indicate the differences for persons according to point 1.1.</p>	<p>Benefits for maternity leave is not transferable.</p>
<p>34.2. Indicate the differences for persons according to point 1.2.</p>	<p>Benefits for maternity leave are trasferable. There are no diffrences based on forms of work.</p>

<p>34.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>35. Indicate the amount of the benefit and the method of calculation.</p>	<p>For 390 of the 480 days, the benefit is 80 percent of the calculated income up to 7,5 times the price base amount multiplied by 0.97, which is a conversion factor according to Chapter 28 Section 7 in the Social Insurance Code. It is provided that the person has worked at least 240 consecutive days before the birth. Otherwise, the person will get the basic amount of 250 SEK (2023) a day (“basic level”) according to Chapter 12 Section 35 in the Swedish Social Insurance Code.</p> <p>For 90 days of the 480, the benefit is 180 SEK (2023) a day (the “lowest level”). The first 180 days, which includes maternity leave, have to be on the highest level.</p> <p>As the amount of parental benefit is affected by whether or not the person has worked for 240 consecutive days and the persons income the duration of employment and the number of working hours may affect the amount of parental benefit.</p>
<p>35.1. Indicate the differences for persons according to point 1.1.</p>	<p>Benefits for maternity leave is not transferable.</p>
<p>35.2. Indicate the differences for persons according to point 1.2.</p>	<p>Benefits for maternity leave are not transferable. There are no differences based on forms of work.</p>
<p>35.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>36. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>A parent who wants to claim maternity benefit from the Social Insurance Agency will have to do the following:</p> <ul style="list-style-type: none"> • Obtain a birth certificate from a midwife, doctor or nurse. • Submit the pregnancy certificate to the Social Insurance Agency.

	<ul style="list-style-type: none"> Apply for parental benefit from the social Insurance Agency. <p>See Chapter 11 Section 12 Social Insurance Code.</p>
36.1. Indicate the differences for persons according to point 1.1.	Benefits for maternity leave is not transferable.
36.2. Indicate the differences for persons according to point 1.2.	Benefits for maternity leave are not transferable. There are no differences based on forms of work.
36.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
37. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.	<p>If the correct information is given the benefit can not be reduced or withdrawn.</p> <p>Change of work might effect the income level and by that the level of benefit.</p>
37.1. Indicate the differences for persons according to point 1.1.	Maternity Leave is not transferable.
37.2. Indicate the differences for persons according to point 1.2.	Maternity Leave is not transferable. There are no difference based on forms of work but the saley does effect the level of benefit.
37.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
<p>38. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The entitlement to the benefit or its amount cannot be changed, but a parents salary might affect the amount given. The parent will receive benefits for the days off in full or part time form depending on how the parent has decided to distribute the leave.</p>

38.1. Indicate the differences for persons according to point 1.1.	Maternity Leave is not transferable.
38.2. Indicate the differences for persons according to point 1.2.	Maternity Leave is not transferable. There are no difference based on forms of work but the salary does effect the level of benefit.
39. Are there any other legal instruments aimed at social security of a person on maternity leave? If so, please, specify.	In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.
SOCIAL SECURITY	
B. Paternity leave	
40. Is the employer obliged to provide any benefit or compensation to the employee on paternity leave? If so, please specify the conditions for entitlement. <i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i>	The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan). In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.
40.1. Please indicate whether the claim also applies when the child is taken into substitute parental care. Indicate which cases are considered to be taking the child into substitute parental care.	The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).

<p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>40.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>40.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p> <p>For some functions the right time off is regulated in other laws, this is for example the case with government ministers who's right to parental leave is regulated in Ministers' Fees Act, etc. (Lag (1991:359) om arvoden till statsråden m.m.).</p> <p>Under section 2a of the Ministers' Fees Act, a 10% reduction is made on the Ministers' Commission while at home caring for a child.</p>
<p>41. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>41.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>41.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits,</p>

	instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).
41.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
42. Indicate the amount of the benefit/compensation.	The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).
42.1. Indicate the differences for persons according to point 1.1.	The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).
42.2. Indicate the differences for persons according to point 1.2.	The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).
42.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
43. Indicate the rules and conditions of claiming the benefit/compensation. <i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request etc.).</i>	The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).

<p>43.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>43.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>43.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>44. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>44.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>44.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>44.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>

<p>45. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>45.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>45.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>45.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>46. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>The employer does not get any compensation from the State.</p>
<p>47. Indicate what is the impact of the rules for social security system, if any.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits,</p>

	instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).
<p>48. Which benefit(s) are envisaged for persons on paternity leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan) according to the Social Insurance Code (Socialförsäkringsbalken, SFS 2010:110).</p> <p>Temporary parental benefits in connection with a child's birth according to Section 10-13 in the social Insurance Code is provided for a maximum of ten days per child, but not for a period after the sixtieth day after the child's return home after birth. In the case of adoption, the time is counted from the time the parents received the child in their care.</p> <p>The right to temporary benefit does not depend on the duration of the employment relationship but the salary does affect the amount of benefit given.</p>
<p>48.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>According to Chapter 13 Section 11 of the Social Insurance Code, the ten days of temporary leave can be transferred to another person than the father or second parent if</p> <ol style="list-style-type: none"> 1. There is no father who is entitled to temporary parental allowance. 2. The child's mother is deceased. 3. The father of the child renounces his right to the temporary parental allowance and it would be unreasonable not to let him renounce it. 4. The child's father cannot use his right to temporary parental allowance according to section 10 5. The child's father is unlikely to exercise his right due to a non-contact order or due to other special circumstances.

<p>48.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The right to temporary benefit does not depend on the forms of work but the salary does affect the amount of benefit given.</p>
<p>48.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>49. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p> <p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>According to Chapter 13 Section 11 of the Social Insurance Code, the ten days of temporary leave can be transferred to another person than the father or second parent if</p> <ol style="list-style-type: none"> 1. There is no father who is entitled to temporary parental allowance. 2. The child's mother is deceased. 3. The father of the child renounces his right to the temporary parental allowance and it would be unreasonable not to let him renounce it. 4. The child's father cannot use his right to temporary parental allowance according to section 10 5. The child's father is unlikely to exercise his right due to a non-contact order or due to other special circumstances. <p>Rules of non-transferability deriving from the EU directives</p>

	Looking at Swedish parental leave legislation as a whole, the requirements are met by a good margin in relation to the rules of non-transferability deriving from the EU directives.
49.1. Indicate the differences for persons according to point 1.1.	See question 48.1.
49.2. Indicate the differences for persons according to point 1.2.	There are no differences based on forms of work but the salary affects the amount of benefit given.
49.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
50. Indicate the amount of the benefit and the method of calculation.	The benefit is 80 percent of the calculated income up to 7,5 times the price base amount multiplied by 0.97, which is a conversion factor according to Chapter 28 Section 7 in the Social Insurance Code. It is provided that the person has worked at least 240 consecutive days before the birth. Otherwise, the person will get the basic amount of 250 SEK (2023) a day ("basic level") according to Chapter 12 Section 35 in the Swedish Social Insurance Code
50.1. Indicate the differences for persons according to point 1.1.	The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1.
50.2. Indicate the differences for persons according to point 1.2.	There are no differences when it comes to forms of work.
50.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
51. Indicate the rules and conditions of claiming the benefit.	The parent applies from the Social Insurance Agency for benefits connected to the 10 day leave.

<p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>The 10 days must be used within 60 days from returning home from the delivery. And the application to the Social Insurance Agency must be done no more than 90 days from the first day the parent were home with the child.</p>
<p>51.1. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1.</p>
<p>51.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no differences when it comes to forms of work.</p>
<p>51.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>51.4. Indicate the differences for persons according to point 1.1.</p>	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there are no differences from the conditions in point 1.</p>
<p>51.5. Indicate the differences for persons according to point 1.2.</p>	<p>There are no differences when it comes to forms of work.</p>
<p>51.6. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>52. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The entitlement to the benefit or its amount cannot be changed, but a parents salary might affect the amount given. The parent will receive benefits for the days off in full or part time form depending on how the parent has decided to distribute the leave.</p>
<p>52.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no differences for persons according to 1.1</p>

<p>52.2. Indicate the differences for persons according to point 1.2.</p>	<p>There is no differences based on forms of work but a parents salary effects the amount of benefit given.</p>
<p>53. Are there any other legal instruments aimed at social security of a person on paternity leave?</p> <p>If so, please, specify.</p>	<p>In addition to parental leave benefits paid out by the Swedish Social Insurance Administration many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>
<p>SOCIAL SECURITY</p>	
<p>C. Parental leave</p>	
<p>54. Is the employer obliged to provide any benefit or compensation to the employee on parental leave?</p> <p>If so, please specify the conditions for entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Administration many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p> <p>Most collective agreements includes the right to “parental salary” which means that the employer pays approx. 10% of regular salary for a certain period of time. The conditions for the right to receive “parental salary” depends on the duration of the employment relationship.</p>
<p>54.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>

<p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	
<p>54.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>54.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p> <p>For some functions the right time off is regulated in other laws, this is for example the case with government ministers who's right to parental leave is regulated in Ministers' Fees Act, etc. (Lag (1991:359) om arvoden till statsråden m.m.).</p> <p>Under section 2a of the Ministers' Fees Act, a 10% reduction is made on the Ministers' Commission while at home caring for a child.</p>
<p>55. If the benefit/compensation is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>55.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>

<p>55.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>55.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>56. Indicate the amount of the benefit/compensation.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>56.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>56.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>56.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>57. Indicate the rules and conditions of claiming the benefit/compensation.</p> <p><i>(for example, is the benefit/compensation provided automatically as soon as the time off is taken, or does the worker have to claim it in</i></p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>

<p><i>a special way, e.g. through a written request etc.).</i></p>	
<p>57.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>57.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>57.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>58. Indicate whether the benefit/compensation can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>58.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>58.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>

<p>58.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>59. Indicate whether the entitlement/amount to the benefit/compensation can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>59.1. Indicate the differences for persons according to point 1.1.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>59.2. Indicate the differences for persons according to point 1.2.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p>
<p>59.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>60. Indicate whether the employer gets any compensation from the state for providing the benefits/compensations mentioned above. If so, under which conditions.</p>	<p>The national legislation in Sweden distinguishes between time off and social security (parental benefits) during it. In Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan).</p> <p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>

	The employer does not get compensation from the state for supplementary parental allowance.
61. Indicate what is the impact of the rules for social security system, if any.	The employer does not get compensation from the state for supplementary parental allowance.
<p>62. Which benefit(s) are envisaged for persons on parental leave from public social security system?</p> <p>Please specify the social security system, under which each benefit is provided and the legal conditions for each entitlement.</p> <p><i>(including whether it depends on the duration of the employment relationship, the extent of the working hours, etc.).</i></p>	<p>Sweden the employer does not cover the cost of parental leave benefits, instead this is done by the Swedish Social Insurance Agency (Försäkringskassan) in accordance with the Social Insurance Code.</p> <p>The following benefits are provided under the social security system.</p> <ul style="list-style-type: none"> • parental benefit (Social Insurance Code Chapter 12) • temporary parental benefit (Social Insurance Code Chapter 13) • pregnancy cash benefit (Social Insurance Code Chapter 10) • temporary leave in connection with a child's birth or adoption (Social Insurance Code Chapter 13 Section 10-15) <p>Parental benefit</p> <p>If parents have joint custody of the child, each parent is entitled to 240 days of paid parental leave. Of these 240 days, 90 days are reserved for each parent. One of the parents can choose to transfer the remaining 180 days to the other parent. If a parent has sole custody, they are entitled to all 480 days. This is regulated in the Social Insurance Code, Section B: Family Benefits. For 390 of the 480 days the parental benefit is paid according to the sickness benefit level which is 80 percent of the calculated income up to 7,5 times the price base amount multiplied by 0.97, which is a conversion factor according to Chapter 28 Section 7 in the Social Insurance Code. It is provided that the person has worked at least 240 consecutive days before the birth. Otherwise, the person will get the basic amount of 250 SEK (2023) a day ("basic level") according to Chapter 12 Section 35 in the Swedish Social Insurance Code.</p> <p>For 90 days of the 480, the benefit is 180 SEK (2023) a day (the "lowest level"). The first 180 days have to be on the highest level.</p>

	<p>As the amount of parental benefit is affected by whether or not the person has worked for 240 consecutive days and the persons income the duration of employment and the number of working hours may affect the amount of parental benefit.</p> <p>Temporary parental benefit</p> <p>A parent who takes time off work in connection with the birth of a child, or the need for care of a sick child or in connection with the death of a child is entitled to temporary parental benefits according to chapter 13 of the Social Insurance code.</p> <p>For children up to 12 years, parents can get the benefit for a maximum of 120 days per child per year according to Chapter 13 section 16-17 of the Social Insurance Code. If the child is seriously ill, you can receive the benefit for an unlimited number of days until the child turns 18 according to Chapter 13 Section 30-31 of the Social Insurance Code.</p> <p>Further a parent is, according to Chapter 13 Section 22 Social Insurance Code, entitled to temporary parental benefit for the care of a child who has turned 12 but not 16 if it is proven that the child is in need of special supervision or care due to</p> <ol style="list-style-type: none"> 1. illness in cases other than those referred to in section 30, 2. developmental disability, or 3. other disability. <p>A Parent of a child who falls within section 1 of the Act concerning Support and Service for Persons with Certain Functional Impairments (Lag om stöd och service till vissa funktionshindrade SFS 1993:387) is, according to Chapter 13 Section 27 entitled to temporary parental benefits until the child has turned 21.</p> <p>Pregnancy cash benefit</p> <p>A parent who has a physically strenuous or hazardous job that makes it impossible to work during pregnancy has the right to pregnancy cash benefit according to Chapter 10 of the Social Insurance Code.</p> <p>Temporary leave in connection with a child's birth or adoption</p> <p>See under paternity leave in this questionnaire.</p>
	<p>The entitlement to time off also applies when the child is taken into substitute parental care, there</p>

<p>62.1. Please indicate whether the claim also applies when the child is taken into substitute parental care.</p> <p>Indicate which cases are considered to be taking the child into substitute parental care.</p> <p>Indicate any differences from the conditions referred to in point 1.</p>	<p>are no differences from the conditions in point 1. See section 1 in the Parental Leave Act (1995:584)</p> <p>The following cases are considered to be taking the child into substitute parental care, according to section 1, subparagraphs 3-5 of the Parental Leave Act, and thus equated with a parent;</p> <p>3. a specially appointed custodian who has care of the child,</p> <p>4. a person who, with the Social Welfare Committee's consent, has received a child for permanent care and fosterage with a view to adopting the child (future adoptive parent)</p> <p>5. a person who has received a child for permanent care and fosterage into a single home that does not belong to any of the child's parents or anyone else who has care of the child (foster home parent).</p>
<p>62.2. Please indicate whether employees working through flexible forms of work (<i>on call work, telework, platform work etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>As the amount of parental benefit is affected by whether or not the person has worked for 240 consecutive days and the persons income the duration of employment and the amount of working hours may affect the amount of benefit.</p>
<p>62.3. Indicate whether persons performing a function in a legal entity outside an employment relationship (<i>e.g. a statutory body of a business corporation, etc.</i>) are also entitled to the benefit/compensation.</p> <p>Indicate any differences from the conditions referred to in point 1 and, where appropriate, 1.1.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>63. If the benefit is transferable to another person, please identify that person and indicate the conditions under which the entitlement may be transferred.</p>	<p>Benefits are transferable to another person under the following circumstances: Parental benefit, Social Insurance Code Chapter 12 The main rule, according to Chapter 12 Section 15 in the Social Insurance Code, is that if the parents</p>

<p>Please, specify, how the rules of non-transferability deriving from the EU directives are implemented.</p> <p><i>(e.g. has any new benefit been introduced? What are the conditions? How is it proved, that the other parent is really taking care?).</i></p>	<p>have joint custody of a child, the time must be divided equally. Each parent then receives parental benefits for half of the time for which the benefit is given at the sickness benefit level or basic level and half of the time for which it is provided at the lowest level.</p> <p>A parent can however, by written notification to the Social Insurance Agency, transfer the right to receive parental benefit to the other parent according to Chapter 12 Section 17 of the Social Insurance Code. But, this does not apply to parental allowance at the level of sickness benefit level or at the basic level as far as a period of</p> <ol style="list-style-type: none"> 1. 90 days for each child, or 2. 90 days for the children jointly in case of multiple births. <p>There is also a possibility to transfer benefit to another person under the following circumstances: Chapter 12 Section 14 of the Social Insurance Code A parent who has sole custody of a child receives parental benefits for the entire period.</p> <p>Chapter 12 Section 16 of the Social Insurance Code If, due to illness or disability, one parent is permanently unable to care for the child, the other parent receives parental benefits for the entire period.</p> <p>Temporary parental benefit, Social Insurance Code Chapter 13</p> <p>Unlike parental benefits, temporary parental benefit does not need to be divided equally between the parents.</p> <p>According to chapter 13 Sections 8-9 in the Social Insurance Code temporary parental allowance can also be given to someone else who instead of the parent stays at home from work to care for the child if this has been approved by the Social Insurance Agency.</p> <p>Pregnancy cash benefit, Social Insurance Code Chapter 10</p> <p>The right to Pregnancy cash benefit is not transferable.</p> <p>Temporary leave in connection with a child's birth or adoption, Social Insurance Code Chapter 13 Section 10-15</p> <p>See under paternity leave in this questionnaire.</p> <p>Rules of non-transferability deriving from the EU directives</p> <p>Looking at Swedish parental leave legislation as a whole, the requirements are met by a good margin</p>
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	in relation to the rules of non-transferability deriving from the EU directives.
63.1. Indicate the differences for persons according to point 1.1.	There are no differences for persons according to point 1.1.
63.2. Indicate the differences for persons according to point 1.2.	There are no differences for persons according to point 1.2.
63.3. Indicate the differences for persons according to point 1.3.	The Parental Leave Act does not cover persons outside of the employment relationship.
64. Indicate the amount of the benefit and the method of calculation.	<p>Parental Benefit</p> <p>If parents have joint custody of the child, each parent is entitled to 240 days of paid parental leave. Of these 240 days, 90 days are reserved for each parent. One of the parents can choose to transfer the remaining 180 days to the other parent. If a parent has sole custody, they are entitled to all 480 days. This is regulated in the Social Insurance Code, Section B: Family Benefits. For 390 of the 480 days the parental benefit is paid according to the sickness benefit level which is 80 percent of the calculated income up to 7,5 times the price base amount multiplied by 0.97, which is a conversion factor according to Chapter 28 Section 7 in the Social Insurance Code. It is provided that the person has worked at least 240 consecutive days before the birth. Otherwise, the person will get the basic amount of 250 SEK (2023) a day ("basic level") according to Chapter 12 Section 35 in the Swedish Social Insurance Code.</p> <p>For 90 days of the 480, the benefit is 180 SEK (2023) a day (the "lowest level"). The first 180 days have to be on the highest level.</p> <p>Temporary parental benefit</p> <p>According to Chapter 13 Section 33 Social Insurance Code the temporary parental benefit is paid according to the sickness benefit level which is 80 percent of the calculated income up to 7,5 times the price base amount.</p>

<p>64.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no differences for persons according to point 1.1.</p>
<p>64.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no differences for persons according to point 1.2.</p>
<p>64.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>65. Indicate the rules and conditions of claiming the benefit.</p> <p><i>(for example, is the benefit provided automatically as soon as the time off is taken, or does the worker have to claim it in a special way, e.g. through a written request, is the employer engaged somehow? etc.).</i></p>	<p>In order to receive parental benefits, a notification needs to be made by the person who claims the benefit to the Social Insurance Agency according to chapter 11, section 12 of the Social Insurance Code. The application can be done by logging in to the Social Insurance Agency's webpage. The application should be done no later than 90 days after the first parental benefit day have been used. If it's the first time a pregnant parent reports to the Social Insurance Agency they also need to send in a pregnancy certificate that can be received from a midwife, doctor or nurse.</p>
<p>65.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no differences, with the exception from the pregnancy certificate, for persons according to point 1.1.</p>
<p>65.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no differences for persons according to point 1.2.</p>
<p>65.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship. .</p>
<p>66. Indicate whether the benefit can be reduced, or withdrawn. If so, under which conditions.</p>	<p>The entitlement to the benefit or its amount cannot be changed, but a parents salary might affect the amount given. The parent will receive benefits for the days off in full or part time form depending on how the parent has decided to distribute the leave.</p>

<p>66.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no differences for persons according to point 1.1.</p>
<p>66.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no differences for persons according to point 1.2.</p>
<p>66.3. Indicate the differences for persons according to point 1.3.</p>	<p>The Parental Leave Act does not cover persons outside of the employment relationship.</p>
<p>67. Indicate whether the entitlement to the benefit or its amount can be changed.</p> <p><i>(e.g. as a consequence to interruption, earlier termination or prolongation of time off, or of taking the time off in a part-time form).</i></p> <p>If so, under what conditions.</p>	<p>The entitlement to the benefit or its amount cannot be changed, but a parents salary might affect the amount given. The parent will receive benefits for the days off in full or part time form depending on how the parent has decided to distribute the leave</p>
<p>67.1. Indicate the differences for persons according to point 1.1.</p>	<p>There are no differences for persons according to point 1.1.</p>
<p>67.2. Indicate the differences for persons according to point 1.2.</p>	<p>There are no differences for persons according to point 1.2.</p>
<p>68. Are there any other legal instruments aimed at social security of a person on parental leave?</p> <p>If so, please, specify.</p>	<p>In addition to parental leave benefits paid out by the Swedish Social Insurance Agency many of the collective bargaining agreements include rights to supplementary parental allowance. The conditions vary depending on which collective agreement area the person is covered by.</p>

4. Administration

69. How is the administration of the leave and/or benefit legislated?

The administration of benefits falls on the Swedish Insurance Agency under the Social Insurance Code (Socialförsäkringsbalken, SFS 2010:110).

70. Is there any administrative burden for employers? For instance, as regards obligations, that have increased in connection with the implementation of the WLB Directive and Transparency Directive, did administrative costs of employers grow? If so, does the State compensate those costs? How?

The administrative burden and costs for employers in Sweden has only slightly increased in comparison with the situation prior to the implementation of the Directives. This can be explained by the fact that quite few adjustments had to be done to comply with the directives in relation to parental leave. The possible increase in costs for some employers are not compensated by the state.

The increase in costs are mainly due to increased regulatory burden for employers due to the obligation for the employer to respond to an employee's request for flexible working arrangements and to justify a possible refusal decision, as well as addressing a demand for a premature return to the original work pattern. Prop. 2021/22:175 p.117f

71. Have some responsibilities been entrusted to state authorities (e.g. labour offices or labour inspectorates)?

Parental leave benefits are handled by the Swedish Social Insurance Administration. The Equality Ombudsman (Diskrimineringsombudsmannen) has supervision over the Parental Leave act and shall provide advice and other support to help enable persons who have been subjected to discrimination to claim their rights according to The Act concerning the Equality Ombudsman (SFS 2008:568).

72. Has any specific mechanism or procedure been introduced in order to check who is really taking care after the child, in order to avoid fraudulent behaviour?

The mandate of the Social Insurance Agency includes the prevention of incorrect payments and the criminal use of social insurance.

Before payment of the benefit, the Social Insurance Agency finds out that the person who has applied for the compensation is entitled to it. Afterwards, certain decisions are followed up to check that the person who applied is still entitled to compensation. Checks are also carried out randomly or on the basis that the authority knows that there is a risk of error. The checks are carried out both automatically by the authority's systems and by administrators.

Furthermore, the Social Insurance Agency cooperates with several other authorities to identify and prevent suspected benefit violations. The collaboration takes place locally, regionally and nationally.

The Social Insurance Agency reports all suspected benefit violations to the police.

In connection with the introduction of the directives, the government looked at whether the introduction would lead to an increased risk of crime, but concluded that this was not the case. Prop. 2021/22:175 p.129

5. General analysis

73. Please, summarize relevant national case-law providing legal interpretation of any of legal provisions mentioned above.

74. Has there been any public debate on the topic of maternity leave, parental leave, changes due to European legislation, non-transferability? Has this debate have any impact on current or proposed legislation?

Sweden has long had generous rules linked to parental leave and the introduction of the Work-life Balance Directive did not result in any major public debate in Sweden.

75. Can you provide us with any relevant statistics on maternity and/or parental leave, possibly showing some developments relevant for this questionnaire?

The Swedish Social Insurance Agency (Försäkringskassan) is responsible for producing statistics on maternity and parental leave in Sweden. On their website, it is possible to view different statistics on maternity and parental leave and the development that has taken place over the past decades.

<https://www.forsakringskassan.se/statistik-och-analys/barn-och-familj/statistik-om-foraldrapenning>

In brief, the following may be worth highlighting:

Parental insurance has existed for over 45 years in Sweden. Right from introduction of parental insurance in 1974 both parents have been entitled to the same number of days of parental allowance and the parents could give up days to each other. In 1974, mothers took 99.5 percent of all parental benefit days, while fathers took 0.5 percent. In 2022, the mothers' took 70 percent of the parental benefit days and the fathers increased their withdrawal to around 30 percent.

Over the years, governments have made changes to the rules in parental insurance to get more people to share the responsibility. In 1995 came the so-called mother or father month. Where one month of the parental allowance was reserved for each parent. In 2002, the second reserved month was introduced, and as of 2016, three months are reserved for each parent. This has had effect but there is still a long way to go and still today only 20 % of couples in Sweden share the parental days equally. Gender norms around parental leave is still strong. Women in same-sex couples share parental benefits more equally and 40% of the same sex couples share the parental days equally. Further reading can be found on the website of the Social Insurance Administration.

76. Can you briefly sum-up and provide a short analysis of the national legislation on maternity and parental leave? What are its positives, which weaknesses can be mentioned?

In 1974 Sweden was the first country to introduce paid parental leave to both parents. Since then the legislation has continuously been reformed in order to bring about a more equal parenthood. The structure of parental insurance legislation, with earnings-related benefits and a long leave period, is by many researchers seen as a main explanation why Sweden has been able to combine relatively high fertility levels with high female labour force participation rates and low child poverty.*

There are however some weaknesses in the system. The flexibility of the Swedish system, with extensive transferable leave entitlements, means that most parental leave days are still taken by mothers. Which in turn affects women's possibility to compete on equal terms with men in the labour market. Another problem in the Swedish system is the work requirement for eligibility that excludes people with weak labour market attachment and students from the earnings-related benefits, possibly inflicting on the postponement of parenthood.**

* Sjöberg, O. 2004a Attitudes Related to Fertility and Childbearing in the EU Countries, Report presented at the Swedish Institute for Futures Studies.

**Duvander, Ferrarini, Thalberg 2005 Swedish parental leave and gender equality Achievements and reform challenges in a European perspective. Report presented at the Swedish Institute for Futures Studies.