

Paternity leave

Labour Code Amendment 2022, Slovakia

1 November 2022

One of the changes brought about by the expected amendment to the Labour Code is the **change of names from "maternity leave and parental leave" to "maternity leave, paternity leave and parental leave"**. This is the heading above Article 166 et seq. of the Labour Code.

Although at first glance it may seem that a new institution in the form of paternity leave is being added to Slovak labour law, this is not quite the case. The explanatory memorandum to this part of the amendment to the Labour Code clearly shows that paternity leave has already been regulated in the Labour Code, but it has been named differently - as parental leave. Although the general rule is that individual institutions are to be judged by their content and not by their name, it is this difference in name that has been misinterpreted by some members of the public, which has led to the adoption of this specific name - paternity leave.

In factual terms, nothing changes except the name itself. Paternity leave will be granted without pay, just like maternity leave, and will continue to be an important personal obstacle on the part of the employee compensated under Act No 461/2003 Coll. on Social Insurance.

However, it is worth noting the current clarification of the prohibition of termination and the exceptions to the prohibition of termination under Section 64 of the Labour Code. Following an amendment, the added wording of Section 64(1)(d) provides protection from dismissal to an employee who has notified the employer of his or her commencement of paternity leave. However, the period of protection thus formulated applies at the earliest 6 weeks before the expected date of childbirth and lasts until the end of the paternity leave. However, if such an employee is given notice between the notification of the commencement of paternity leave (but not earlier than 6 weeks before the expected date of childbirth) and the day preceding the date of commencement of paternity leave on the grounds that the employer is relocating and the employee does not agree to a change of the agreed place of work, the protection period does not apply to such an employee (modified wording of Article 64(3)(a)(2) of the Labour Code).

Within the framework of such increased protection of the employee-father, it also applies that in the period from the notification of the expected start of paternity leave (not earlier than 6 weeks before the expected date of childbirth) until the end of the duration of paternity leave, the employee cannot be "dismissed" for breach of labour discipline (modified wording of Section 64(3)(c) of the Labour Code).

Text in force until 31 October 2022	Version effective from 1 November 2022
Originally heading above § 166 - Maternity and parental leave	New heading above § 166 - Maternity leave, paternity leave and parental leave
§ 166 - paragraph 1	(Modified) § 166 - paragraph 1
A woman is entitled to 34 weeks' maternity leave in connection with childbirth and the care of the newborn child. A single woman shall be entitled to 37 weeks' maternity leave and a woman who has given birth to two or more children at the same time shall be entitled to 43 weeks' maternity leave. A man shall also be entitled to parental leave to the same extent in respect of the care of the child born, if he cares for the child born.	A woman is entitled to 34 weeks' maternity leave in connection with childbirth and the care of the newborn child. A single woman shall be entitled to 37 weeks' maternity leave and a woman who has given birth to two or more children at the same time shall be entitled to 43 weeks' maternity leave. A man shall be entitled to 28 weeks' paternity leave from the date of birth in respect of the care of a newborn child, 31 weeks' paternity leave for a single man and 37 weeks' paternity leave in respect of the care of two or more newborn children.
§ 166 - paragraph 3	(Modified) § 166 - paragraph 3
The woman and the man shall notify the employer in writing at least one month in advance of the expected date of commencement of maternity leave and parental leave, the expected date of their interruption, termination and changes concerning the commencement, interruption and termination of maternity leave and parental leave.	The woman and the man shall notify the employer in writing at least one month in advance of the expected date of commencement of maternity leave, paternity leave and parental leave, the expected date of their interruption, termination and changes concerning the commencement, interruption and termination of maternity leave, paternity leave and parental leave.
§ 168 - paragraphs 1,2	(Modified) § 168 - paragraphs 1,2
<p>1 If the child has been taken into the care of a nursing home or other medical institution for medical reasons and the woman and man have not yet commenced work, maternity leave and parental leave shall be interrupted by such commencement at the earliest on the expiration of six weeks from the date of delivery. The unexhausted part shall be granted to the woman and the man from the date on which he takes the child back into his care from the institution and therefore ceases to work, but no longer than until the child is three years old.</p>	<p>1 Where a child has been taken into the care of a health institution for medical reasons and the woman or man starts work, maternity leave or paternity leave shall be interrupted by that start of work; the provision of paragraph (4) shall not be affected thereby. The unused part of the maternity or paternity leave shall be granted to the woman or man from the date on which they take the child into their care from the health establishment and therefore cease to work, up to a maximum of the date on which the child reaches the age of three years.</p>
<p>2 A woman and a man who has ceased to care for a child who has been born and whose child has for that reason been placed in substitute care, as well as a woman and a man whose child is in the temporary care of a children's home or similar institution for reasons other than health, shall not be entitled to maternity leave and parental leave for the period during which the child is not being cared for by the woman and the man.</p>	<p>2 A woman or man who has been removed from the personal care of a child by a court order under a special provision shall not be entitled to maternity leave or paternity leave for the period during which the child is not cared for by them.</p>
§ 168 - paragraph 5	(Modified) § 168 - paragraph 5
If the child dies while the woman is on maternity leave or the woman and man are on parental leave, they are granted this leave for 2 weeks from the	If a child dies while the woman or man is on maternity leave, paternity leave or parental leave , they are granted this leave for a further 2

date of the child's death, up to the day the child would have reached 1 year.	weeks from the date of the child's death, up to the date the child would have been 1 year old.
§ 169 - paragraphs 1, 2	(Modified) § 169 - paragraphs 1, 2
1 A woman and a man who, by a final decision of the competent authority, has taken into the care of a child in substitution for the care of his/her parents, who has been entrusted to him/her by a decision of the competent authorities for later adoption or foster care, or a child whose mother has died, shall also be entitled to maternity leave and parental leave.	1 Maternity leave, paternity leave and parental leave shall also be granted to a woman and a man who have taken over a child on the basis of a court decision to entrust the child to the care of substitute parents pursuant to a special regulation.
2 Maternity leave or parental leave under section 166(1) shall be granted to a woman and a man from the date of taking charge of a child for a period of 28 weeks, to a single woman and a single man for a period of 31 weeks, and to a woman and a man who has taken charge of 2 or more children for a period of 37 weeks, up to a maximum of the date on which the child reaches the age of 3 years. Parental leave pursuant to Article 166(2) shall be granted for a period of 3 years from the date of the end of maternity leave or parental leave as referred to in the first sentence or from the date on which the child reaches the age of 3 years, up to a maximum of the date on which the child reaches the age of 6 years. In the case of a child with a long-term adverse health condition requiring special care, parental leave shall be granted for a period of 6 years from the date on which the maternity leave or parental leave referred to in the first sentence ends or from the date on which the child reaches the age of 3 years, up to a maximum of the date on which the child reaches the age of 6 years.	2 Maternity leave shall be granted to a woman under paragraph (1) and paternity leave shall be granted to a man under paragraph (1) from the date of the first court decision to entrust a child to the care of substitute parents under a special regulation for a period of 28 weeks, to a single woman and a single man for a period of 31 weeks, and to a woman or a man who has taken charge of two or more children for a period of 37 weeks, but not longer than until the child reaches the age of 3 years. Parental leave shall be granted to the woman from the date of the end of maternity leave and to the man from the date of the end of paternity leave as referred to in the first sentence or from the date of taking charge of a child who has reached the age of 3 years until the expiry of a period of 3 years from the date of the first court decision to entrust the child to the care of a parent in lieu of parental care under a special provision, up to a maximum of 6 years of age. In the case of a child with a long-term adverse health condition requiring special care, parental leave shall be granted until the day on which the child reaches the age of 6 years.
§ 64(1)(d) (Prohibition of termination)	(Modified) § 64(1)(d)
An employer may not give notice to an employee during a protected period, namely when the employee is pregnant, when the employee is on maternity leave, when the employee and the employee are on parental leave, or when the lone employee or the lone employee is caring for a child under 3 years of age.	An employer may not give notice to an employee during a protected period, namely while the employee is pregnant, while the employee is on maternity leave, between the notification of the expected date of commencement of paternity leave pursuant to section 166(3) by the employee, but not earlier than 6 weeks before the expected date of childbirth, until the end of the paternity leave , while the employee and the employee are on parental leave, or while a single employee or a single employee is caring for a child under the age of 3 years.
§ 64(3)(a)(2) (Exception to the prohibition on dismissal)	(Modified) § 64(3)(a)(2)
The prohibition on dismissal shall not apply to notice given to an employee on the grounds set out in the second subparagraph of Article 63(1)(a) at a time when the lone employee is caring for a child	The prohibition on dismissal shall not apply to a dismissal given to an employee for the reasons laid down in the second subparagraph of Section 63(1)(a) during the period when the lone female

<p>under the age of three years and at a time when a night worker is recognised by a medical report as temporarily unfit for night work.</p>	<p>employee or the lone male employee is caring for a child under the age of 3 years, during the period from the notification of the expected date of commencement of paternity leave pursuant to Section 166(3) by the employee, but not earlier than six weeks before the expected date of childbirth, until the day preceding the date of commencement of paternity leave, and during the period when an employee working at night is declared temporarily unfit for night work on the basis of a medical opinion.</p>
<p>§ 64(3)(c) (Exception to the prohibition on termination)</p>	<p>(Modified) § 64(3)(c)</p>
<p>The prohibition on dismissal shall not apply to a dismissal given to an employee for other breaches of labour discipline (§ 63(1)(e)), unless the employee is pregnant or on maternity leave or on parental leave.</p>	<p>The prohibition on dismissal shall not apply to a dismissal given to an employee for other breaches of labour discipline (section 63(1)(e)), unless the employee is pregnant or on maternity leave, an employee in the period between the notification of the expected date of commencement of paternity leave pursuant to section 166(3), but not earlier than 6 weeks before the expected date of childbirth, and the end of paternity leave, or an employee on parental leave.</p>

WHAT WILL THESE CHANGES BRING TO YOUR PRACTICE?

EXISTING EMPLOYMENT CONTRACTS/CURRENT STAFF

In the context of this change in the legislation, it will not be necessary to make any special amendments or additions to the employer's existing employment contracts.

NEW EMPLOYMENT CONTRACTS/NEW STAFF

We are of the opinion that this change is largely cosmetic and terminological. It remains for consideration to implement this new terminology into the relevant internal rules of the employer, as well as into the legal language applied by the employer in the day-to-day running of its business in its communication with employees.

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