

Helping You Navigate Challenges, Remain Compliant, and Mitigate Exposure to Risks in Poland

HR Space

Employment Law – Poland

Podcast Series

We are launching this series of employment podcasts to help you navigate the latest legislative developments in Poland, ensure compliance and mitigate employment risks.

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Stay on Top of Employment Law Changes in Poland

Since the global pandemic began, we have experienced tremendous economic and social change in Poland, as reflected in the shifting Polish laws regarding employees.

HR Space Podcast Series

With our HR Space podcast series, our labour and employment lawyers in Warsaw aim to answer your key questions on employment law developments in Poland. We explore the challenges HR directors are facing in the current climate, helping businesses to navigate legislative developments in Poland so that they can ensure compliance and mitigate employment risks.

Our series consists of 10 episodes focusing on:

Remote work

Transparency and predictability

Work-life balance

Follow our series, with new episodes coming out weekly.

Featuring



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Episode 10: Work-life Balance – Prolonged Parental Leave and Protection Period

Q&A

- Will parental leave be extended?
- Will periods of protection against dismissal be extended?
- Will preparatory steps to terminate employment be forbidden in certain situations?

Work-life Balance

The aim of the work-life balance directive (EU Directive 2019/1158) is to better support a work-life balance for parents and caregivers, encourage equal sharing of parental leave between men and women, and address women's underrepresentation in the labour market.

The directive was supposed to be implemented into national (Polish) law on 2 August 2022, but this deadline was not met.

Parental Leave

Pursuant to new draft legislation, the length of parental leave will be increased to 41 weeks (or 43 weeks for multiple births). Currently, parental leave is 32 weeks (or 34 weeks for multiple births).

Part of the prolonged parental leave (i.e. nine weeks) will constitute a nontransferable part paid at 70%. This means that each parent has a right to use a minimum of nine weeks of parental leave, which cannot be transferred to the other parent. If it is not used, it will be forfeited. Experts estimate that this new law may increase the number of fathers taking parental leave (in 2021, only 1% of fathers took it).

Once the new legislation comes into force, it will be possible to use parental leave in five parts (currently, four) until the end of the calendar year in which the child turns six.

Parts of the parental leave will not have to be used directly, one after another. This change has significant practical implications. Specifically, it will mean broader flexibility for parents because they will be able to postpone more than 16 weeks of parental leave to a later date (at present, 16 weeks is the maximum amount of parental leave that can be postponed). In turn, for employers, it can result in some additional difficulties with regard to proper work organisation.

The above changes imply 105 days of additional protection against dismissal. This is because protection starts from the time the request is submitted: 21 days before the start of the parental leave or its part (i.e. 21 days times five parts of the parental leave).

Protection During Other New Leaves

There will be two types of new leaves. The first is time off due to *force majeure* of two days (or 16 hours) per year, and the employee will retain a right to 50% of salary. The employee will be entitled to use this leave in the event of urgent family matters caused by illness or accident, where the employee's immediate presence will be required.

The second type of new leave will be a caregiver leave of five days per calendar year. It will be unpaid and is aimed at ensuring personal care or support to a family member (i.e. children, parents and/or a spouse) or a person living in the same household who requires significant care or support for serious medical reasons.

During both types of leaves, employees will be protected against dismissal.

Preparatory Steps for Termination

According to new draft legislation, the employer cannot take any preparatory steps to terminate employment with, among others, a pregnant employee, an employee during maternity leave or an employee who submitted a request to use paternity leave, parental leave, adoptive leave or their respective counterparts.

This is an entirely new legal concept under Polish labour law, and time will show what it really means in practice. For now, we can say that preparatory steps may include discussing employment termination with the relevant trade union, as well as recruiting another employee to permanently replace a pregnant employee or an employee taking maternity leave (e.g. the Court of Justice of European Union verdict of 11 October 2007 in case C-460/06 of Paquay).

Flexible Work Arrangements

Employees who are raising a child who is younger than eight years of age will be entitled to request a flexible work arrangement. This will include, specifically, telework, an interrupted working time system, a shortened workweek, weekend work, flexible working hours, an individual work schedule or reduced working hours.

Submitting the above request by the employee may not constitute grounds for termination of employment or constitute a reason for taking preparatory steps to terminate employment.