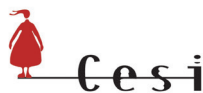




parents@work

Changing perceptions!

Parents in workplace
— between reconciliation
and discrimination



 Gleichbehandlungsanwaltschaft

Supported by the Rights, Equality
and Citizenship Programme
of the European Union (2014–2020)







parents@work

Changing perceptions!

Parents in workplace
— between reconciliation
and discrimination



Supported by the Rights, Equality
and Citizenship Programme
of the European Union (2014–2020)



The content of this report represents the views of the authors only and is their sole responsibility. The European Commission assumes no responsibility for any use made of this content.



Content

1. About the project “parents@work: Changing Perceptions!”	6
1.1. Why do we think the project is needed?	8
1.2. What is the existing evidence?	9
1.3. What are the main project activities?	12
2. The Ombudswoman for Gender Equality and discrimination of parents	16
2.1 About the Ombudswoman for Gender Equality	17
2.2. Legal framework for protection of parents	19
3. Experiences of working parents	25
3.1. What are the experiences of some parents?	26
3.2. Causes and forms of discrimination	28
3.2.1. What are the causes of discrimination?	28
3.2.2. What are the forms of discrimination?	30
3.3. Examples of parent discrimination	31
3.3.1. Case 1: Discriminatory provisions of employment contract	31
3.3.2. Case 2: Termination of employment contract due to pregnancy	34
3.3.3. Case 3: Transfer to a less favourable position due to pregnancy upon return from parental leave	36
4. Parents in the workplace – employers’ perspective	39
4.1. What are the views of some employers?	40
4.2. What approaches do employers suggest?	41
4.3. How have parents and employers been affected by the Coronavirus crisis?	43
4.4. How do some employers view discrimination?	44
5. Sources	46

1.

About the project

“parents@work:

Changing Perceptions!”

This brochure is about the project “**parents@work: Changing Perceptions!**” which is carried out in Croatia and Austria by **L&R Research**, **CESI** – Centre for Education, Counselling and Research, the **Ombud for Equal Treatment** in Austria, and the **Ombudswoman for Gender Equality** in Croatia.

The project has started in June 2019 and will be implemented until September 2021. The project aims to find out what difficulties parents are exposed to at work due to their private responsibilities of childcare and how they reconcile private and professional life.

1.1.

Why do we think the project is needed?

Based on the experience that partner organizations have in their long-term work, we notice that the difficulties that parents face can be different, such as the deterioration of the work environment, transfer to a lesser position or termination.

There are often prejudices that “mothers or fathers are less productive and flexible”, and when organizing work (e.g., scheduling meetings late in the afternoon or evening), childcare obligations, as well as other private obligations of working parents, are not considered.

Parents are disadvantaged in workplaces because of their parenting or childcare responsibilities. This has been shown in research as well as through experience gained by counselling institutions such as state equality bodies.

The discrimination often begins during pregnancy and later women continue to do the majority of childcare tasks. Thus, they are more negatively affected than men.

If men take on family responsibilities, they do not meet the “male” role perception and are also discriminated against. Discrimination may include harassment/mobbing, deterioration in the work environment, transfer to lesser positions, and even termination of employment.

Discrimination usually occurs due to prejudices: parents are seen as being less flexible and productive and as causing organisational difficulties to the employers because of their parenting responsibilities.

Changing the attitudes of companies, employees, and the society is necessary. This would lead to more positive perception and reduce discrimination against parents in the workplace. This is precisely the goal of the parents@work project.

1.2.

What is the existing evidence?

The work of different Ombudspersons for Equal Rights shows that parents, and in particular women, are facing discrimination as parents at work (*e.g., Adams et al. 2016*). Several studies investigated the influence of gender and parental status on employment decisions (*see e.g., Fuegen et al. 2004*) and indicated that parents were judged as less active and less committed to their jobs than other workers. According to these studies parental status also interacted with gender, indicating that fathers were not judged in the same way as mothers.

A recent experimental study conducted in Germany,

Switzerland and Austria investigated the effect of a candidate's family status in hiring practices. The results show that married women without children and women with younger children are disadvantaged in comparison to single women or women with older children. These effects were only found for women applying for part-time jobs, whereas family status did not affect hiring decisions concerning women applying for full-time jobs. In the case of male candidates, information about their family situation did not have any effect.

Direct or indirect discrimination ranges from deterioration of the working environment, assignment to inferior activities to termination of employment. This was also shown in a survey by the legal advice department of the Austrian Chamber of Labour. In three months, nearly 80 cases of parental discrimination were raised in the counselling. That means there was at least one case per workday.

In 2016 the Ombudswoman for Gender Equality of the Republic of Croatia initiated 26 anti-discrimination cases based on complaints on the violation of maternity rights - 21% of all complaints related to labour rights, including equality in wages.

Complaints were submitted in 65% of cases by women and in 21% cases by men. In the remaining 8% of cases, proceedings were initiated by the Ombudswoman. In 5,5% of cases, complaints were submitted by groups of both sexes (see Ombudswoman for Gender Equality Report from 2016).

The Ombud for Equal Treatment Austria has the experience that apart from equal pay and sexual harassment, cases

concerning the reconciliation of professional and private life make an essential part of its advisory services in the field of gender discrimination.

Examples show different forms of discrimination employees are facing. The unfair treatment at the workplace is often caused by prejudices towards parents and people with caring responsibilities. Prejudices are preconceived attitudes and opinions towards certain social groups, which often are not based on their own experiences. They arise from the fact that judgments, views or opinions that exist in our society are transferred to individuals, without verifying their actual truthfulness in reality: **“Mothers are less productive and flexible”**, for example, is a widespread prejudice. As Caroline Waters (EHRC) stated at an event of Equinet on the topic of “parenthood penalty”:

“The perception of working parents and pregnant women should change from business burden to business benefit. Additionally, while the impact on the economy is significant, it is important to remember that equality in employment is predominantly a moral imperative leading to the design of legislation and must play a role in ensuring no implementation gaps (Equinet/EHRC 2016).“

1.3.

What are the main project activities?

What are the activities and aims of the project?

- Increasing awareness of (hidden) discrimination of mothers and fathers in the workplace and in job applications among employees and employers as well as a broader public
- Developing new strategies to support employers and employees to combat discriminatory practices and new tools (information material, workshops, YouTube clips) adapted to the needs of affected people and organizations
- Support gender equality bodies and other counselling organizations with materials and tools – including you-tube clips – for their counselling work and their awareness-raising activities
- Involve companies and social partners in research and in awareness-raising activities to help them changing their practices

The aim is to explain (hidden) discrimination and the benefits that can arise by increased knowledge on what discrimination in the relevant area can be. The discussions will invite people to rethink their perceptions and often traditional conceptions of parenthood, arrangements of childcare duties, and work-life-balance in general.

Who are important stakeholders and target groups?

- Experts of Gender Equality Bodies and other counselling actors in this field
- Parents and caregivers who are discriminated against at workplace or when applying for a job
- Enterprises, their representatives and social partners
- Broader public

The first phase of the project was to examine the attitudes and experiences of workers about discrimination or difficulties they had had in the workplace or employment because they are or will become parents. The purpose was to better understand what are the problems that prevent them from reconciling private and professional life. Examining the experiences of workers gave us answers to questions about the most common causes and forms of discrimination or other negativities that parents often experience in the workplace, what helps them in such situations, what they expect from employers, and how such problems could be avoided in the future.

The results of the analysis showed that although more women recognize discrimination and non-compliance with the law by employers, it is necessary to work on informing and educating workers and employers about discrimination and other difficulties experienced by parents in the workplace.

Furthermore, it is necessary to continuously inform the public about the work of the Ombudswoman for Gender Equality and encourage workers, especially women, to turn to this institution for support and protection.

The second phase of the project was analysing the organizational culture of employers related to the reconciliation of professional and private life.

The analysis aimed to determine how employers perceive parents as workers and to support them by providing them with ideas to more easily address the difficulties faced by working parents.

During the implementation of this phase of the project, the **Covid—19 pandemic** occurred, and the analysis includes the part related to the attitude of employers towards parents during the corona crisis.

We were interested in what parenting means for workers and their employers, how the reconciliation of professional and private obligations can be supported and what difficulties may arise.

Analysed attitudes of employers indicate that corporate culture is very important in creating an open and supportive work environment and should be created and implemented from the highest level. Employers believe that both motherhood and fatherhood can be reconciled with full-time work.

The results of these two analyses give us two different pictures of how workers and employers see the topic of reconciling professional and private life. Although employers are willing to work on and support the problems that parents face in the workplace, workers often state dissatisfaction with the behaviour of their employers.

Together with the Ombud for Equal Treatment of Austria and Ombudswoman for Gender Equality of the Republic of Croatia and other counselling institutions, social partners etc., new tools (*information material, workshops, YouTube clips*) adapted to the needs of affected people and organizations are to be developed in the next phases of the project.

2.

The Ombudswoman for Gender Equality and discrimination of parents

2.1. About the Ombudswoman for Gender Equality

Gender equality is declared by the Constitution of the Republic of Croatia as one of the highest values of the constitutional order of the Republic of Croatia.

The Constitutional prohibition of discrimination is provided in Art. 14, according to which all persons in the Republic of Croatia enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other conviction, national or social origin, property, birth, education, social status or other characteristics.

A general framework for the protection and promotion of gender equality as a fundamental value of the constitutional order of the Republic of Croatia, as well as the definition and the method of protection from discrimination on grounds of sex and establishment of equal opportunities for women and men are regulated by the Gender Equality Act.

Since it elaborates the human rights established by the Constitution, the Gender Equality Act has to be adopted by the Croatian Parliament with a majority vote of all the members of the Parliament (organic law), which gives it a higher legal force than other laws.

According to the Gender Equality Act, the Ombudswoman for Gender Equality performs the tasks of an independent body in charge of combating discrimination in the field of gender equality. The Ombudswoman acts in an independent manner and monitors the enforcement of the Gender Equality Act

and other regulations on gender equality and reports to the Croatian Parliament at least once a year.

In her annual reports to the Croatian Parliament, the Ombudswoman for Gender Equality Mrs. Višnja Ljubičić pays a special attention to the protection of the rights on the bases of maternity and parental benefits and to the cases initiated on complaints from mothers and fathers on discrimination in the field of work and employment.

In addition to the Gender Equality Act and the Labour Act, which contains special provisions on the protection of pregnant women, parents and adoptive parents, the most important regulation governing the rights of pregnant women and parents in the field of labour and employment is the Maternity and Parental Benefits Act.

Complaints received by the Ombudswoman for Gender Equality over the years point at the existence of obstacles for women in the labour market, insufficient security of their employment, the need for more flexible working conditions, a low share of fathers' participation in parental leaves and the need to inform the public about the difficulties that pregnant women and parents face in the job market.

In such circumstances, the Ombudswoman for Gender Equality considers as highly beneficial the project “parents@work: Changing Perceptions!” which she has officially joined as a supporting institution, because it aims at raising awareness of the prevalence of discrimination against mothers and fathers in the workplace and developing strategies and mechanisms to combat discriminatory practices.

Circumstances related to the economic consequences caused by the epidemic of the COVID-19 disease have drastically increased the pressure on the labour market and made the position of working parents even more uncertain. This is indicated by the content of complaints received by the Ombudswoman for Gender Equality in 2020, as well as by the analyses showing that during the March and April of 2020 in the Republic of Croatia there was a 79% increase in the number of unemployed persons in the records of the Croatian Employment Service in comparison with the same period in 2019, of which 85% of persons entered into the status of unemployed from working status. For this reason, ongoing projects such as “parents@work: Changing Perceptions!”, carry an extremely important new task to further expand their primary goals and try to address the risks that are the result of the epidemic of COVID-19.

2.2.

Legal framework for the protection of parents from discrimination

The basic regulation governing the protection of pregnant women and parents from discrimination in the field of employment and work is the Gender Equality Act of 2008 (*Zakon o ravnopravnosti spolova*¹). The Act contains general bases for the protection and promotion of gender equality, as fundamental values of the constitutional order of the Republic of Croatia and defines and regulates the manner of protection against discrimination on the grounds of sex, as well as the creation of equal opportunities for women and men.

1 „Narodne novine“, br. 82/08 i 69/17.

Gender discrimination means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of endangering or preventing the recognition, enjoyment or use of human rights and fundamental freedoms in political, economic, social, educational, cultural, civil or other area based on the equality of men and women.

In addition to the above, the Act prohibits discrimination on the basis of marital and family status, and it especially emphasizes that less favourable treatment of women on the basis of pregnancy and maternity is considered discrimination.

The legal definition of discrimination on the grounds of sex indicates the areas in relation to which protection against discrimination is provided. A special chapter of the Gender Equality Act² additionally elaborates protection against discrimination in the field of employment and work. The Act explicitly prohibits discrimination in the private and public sectors, including state bodies, effectively covering the entire labour market, regardless of the type of activity.

The Act recognizes the connection of certain segments and processes in the field of employment and work with increased risks, and especially emphasizes the prohibition of discrimination in relation to:

1. requirements for employment, self-employment or carrying out a professional activity, including the criteria and requirements for the selection of candidates for particular jobs in any activity and at all levels of professional hierarchy,

² Chapter no. IV. Gender Equality Act (Zakon o ravnopravnosti spolova) (čl.13)

2. promotion at work,
3. access to all types and levels of education, career counselling, vocational training, additional training and retraining,
4. employment and working conditions and all rights that arise from work and are based on work, including equal pay.

The legislator recognized increased discriminatory risks in relation to certain characteristics or personal circumstances related to workers, and thus prohibited discrimination in relation to:

1. membership and participation in workers' associations or employers' associations or in any other professional organisation, including privileges arising from such membership,
2. reconciliation of professional and private life,
3. pregnancy, childbirth, parenthood and all forms of guardianship.

From the aspect of the project “parents@work: Changing Perceptions!”, the last two points have the most important anti-discrimination significance, as they are directly related to the protection of employed pregnant women, mothers and parents.

In order to ensure the implementation of these legal provisions, as an independent body for combating

discrimination in the field of gender equality, the Act regulates the competence and conduct of the Ombudswoman for Gender Equality with the authority to: receive complaints from all natural and legal persons related to discrimination in the field of gender equality, provide help to all who have filed a complaint due to gender discrimination in initiating court proceedings, take action to examine individual applications until the initiation of litigation, and conduct conciliation and out-of-court settlement proceedings with the consent of the parties. In performing the tasks within its scope, the Ombudswoman for Gender Equality is authorized to issue warnings, propositions and make recommendations, and the entities concerned are obliged to inform the Ombudswoman in writing about the measures and actions taken in accordance with the received warnings, proposals and recommendations no later than 30 days.

In addition to protection through the actions of the institution of the Ombudswoman for Gender Equality, anyone who considers that their right has been violated on the basis of discrimination may file a lawsuit in a regular court of general jurisdiction and claim damages.

The party to the proceedings is obliged to state the facts that justify the suspicion that discriminatory conduct has occurred, after which the burden of proof that there was no discrimination lies with the opposing party. Court proceedings in cases of discrimination are urgent, and except at the initiative of a party, proceedings may be instituted in a joint action.

In addition to the Gender Equality Act, an integral part of the system of legal protection of pregnant women and parents

against discrimination is a special chapter of the Labour Act (Zakon o radu³), which introduces a ban on unequal treatment of pregnant women, women who have given birth or are breastfeeding and predicts misdemeanour liability of employers with high fines. The employer may not refuse to employ a woman because of her pregnancy, nor because of pregnancy, birth or breastfeeding a child in the sense of a special regulation may offer her an amended employment contract under unfavourable conditions.

Unless the worker personally requests a certain right provided by law or other regulation for the protection of pregnant women, the employer may not request any information about the pregnancy or instruct another person to request it.

During pregnancy, use of maternity, parental, adoption leave, part-time work, part-time work for enhanced care and nursing of a child, leave of a pregnant or breastfeeding mother, and leave or part-time work care and nursing of a child with severe developmental disabilities, or within fifteen days from the termination of pregnancy or termination of the use of these rights, the employer may not terminate the employment contract of the pregnant woman and the person exercising any of these rights. Apart from the fact that such conduct would constitute the most serious violation of the employer, such dismissal would be null and void if the employer was aware of the existence of any of the above circumstances on the day of dismissal or if the employee notifies the employer of the existence of any of the above circumstances and submits an appropriate certificate from an authorized doctor or other authorized body.

³ „Narodne novine“, br. 93/14, 127/17. i 98/19.

After the expiration of maternity, parental, adoption leave, leave for the care and nursing of a child with severe developmental disabilities and suspension of employment until the third year of the child's life in accordance with a special regulation, the worker who has used any of these rights has the right to return to the jobs he/she worked on before exercising that right, within one month from the day when he/she informed the employer about the termination of exercising that right. Violation of this provision is also one of the most serious violations of the employer.

In addition to the above, pregnant women, parents with a child up to three years of age and single parents with a child up to six years of age enjoy additional protection in relation to overtime work and work in unequal working hours.

Maternity and parental rights of workers during employment are regulated by the Maternity and Parental Benefits Act (*Zakon o o rodiljnim i roditeljskim potporama*⁴) based on which employed or self-employed parents are entitled to maternity leave, parental leave, part-time work, part-time work due to intensive care, childbirth, breastfeeding leave, leave of a pregnant worker or leave of a worker who has given birth or leave of a worker who is breastfeeding, day off for prenatal examination, leave or part-time work for the care of a child with severe developmental disabilities and rest employment until the third year of the child's life.

4 „Narodne novine“, br. 85/08., 110/08., 34/11., 54/13, 152/14., 59/17. & 37/20.

3.

Experiences of working parents

3.1.

What are the experiences of some parents?

The first phase of the “parents@work” project was to examine the attitudes and experiences of workers about discrimination or difficulties they had in the workplace or employment because they are or will become parents.

From the results of the analysis, we can see that still a small number of women report discrimination in the workplace or employment processes, although most immediately recognize that they are discriminated against. Also, they very rarely decide to initiate court proceedings related to discrimination.

There are several reasons for this: lack of information about their rights, distrust in the legal system and institutions, and fear of dismissal or mobbing. However, some workers believe that today they would act differently and seek some form of legal protection because they believe that society’s awareness of the problems that parents face in the workplace has been raised. They also believe that employers should show more understanding for all issues concerning the reconciliation of private and professional life.

Almost all participants were dissatisfied with the actions of their employer and believe that they did not show readiness to solve the problem that arose. The majority state that other employees have had similar problems in the workplace, and about a half state that they have noticed different treatment of mothers and fathers. **Two main causes of this behaviour by employers have been identified. One is that at the level of**

employers, there are often no policies or procedures in place to implement the issue of protection against discrimination in more detail. Therefore, it is important to work on the organizational culture of employers, which will develop measures and procedures for solving such problems. **Another thing that can be noticed is that women are still perceived as those who contribute less to work due to their care obligations and that pregnancy and/or parenthood are not desirable. It is necessary to work with employers to better understand the topic of reconciling professional and private life.**

Furthermore, given the impact of the legislative structure in the analysed cases, it was noted that work should be done to strengthen the legislative framework governing the issue of protection against discrimination and to inform parents about their rights. Also, it is necessary to inform the public about the work of the Ombudswoman for Gender Equality and her office and to work on encouraging employees to turn to this institution for support and protection. Namely, for parents who turned to this institution, this was crucial in solving the problems they faced. This is especially true for parents employed in the private sector because participants state that they feel less protected than public sector workers.

Given all the above, although more and more women recognize discrimination and non-compliance with the law by employers, it is necessary to continue to work on informing and educating workers and employers about discrimination and other difficulties experienced by parents in the workplace, and to develop tools to make it easier for employers to develop a system of support and flexibility in reconciling private and professional obligations.

3.2.

Causes and forms of discrimination

3.2.1. What are the causes of discrimination?

In the analysis of the participants' answers, it was noticed that most of the causes of discrimination and negative experiences they had in the workplace are related to:

1. pregnancy, pregnancy planning or temporary incapacity for work due to pregnancy, e.g.

“Because of having pregnancy complications, I was accused of not being loyal to the company and I did not get the promotion I was supposed to (before I got pregnant, I went through all the interviews and tests).”

“Giving a leadership position to a male person after the employer found out I’m pregnant, not sending me to a planned education for a license, telling me to “give birth to all the children I plan to at once.”

2. use of the legal right to maternity and/or parental leave, e.g.

“Complaints by the employer that “I won’t be working for a long period”...Suddenly you are not considered for a raise anymore because you are going on maternity leave. When you return to work, you start from the bottom, as if you have just started working for the first time.”

“They reduced my salary during maternity leave.”

“When I returned from maternity leave to work — after ONLY 6 months — I was removed from my managerial position to which they hired another person - without explanation.”

3. going on sick leave to take care of a child, e.g.

“My child ended up in the hospital, I took two days off. When I returned, my boss informed me that they would have to terminate my contract if I took sick leave again.”

“When I went on sick leave due to my child’s illness, I received an objection that I had already taken a lot of sick leave days. And that I should give my children something to boost their immunity!”

4. the very fact that they are parents, e.g.

“But the boss told me regularly how his grandmother gave birth to 11 children and how she worked in the fields.”

“The employer told me “your child is big enough, why do you need to take care of him - you have to dedicate yourself to work”.”

Most of the respondents stated only one of the discrimination causes, however, some of the respondents stated that they experienced discrimination/negative experience from several causes, e.g.

“After the first maternity leave, I was demoted to a lesser position - I was told that women with small children cannot focus well on work. After the second maternity leave with another employer, I got a fixed-term employment contract, although I had an indefinite contract before going to the maternity hospital ... my boss was angry because I have to go on sick leave when the children are sick, she told me I didn’t like working and that every time I have a hard time at work I go on sick leave, and also how come her mother takes care of her child when she is sick and mine doesn’t”.

3.2.2. What are the forms of discrimination?

Forms of discrimination and negative experiences that respondents experienced at work or during recruitment are most often related to:

1. termination of employment and threat of termination, e.g.

“I got fired as soon as I told my boss I was pregnant.”

“I was fired after returning from maternity leave”

2. transfer to a lesser position, denial of promotion or benefits, e.g.

“Reduction of the salary coefficient during maternity leave.”

“Suddenly you are removed from the list for a raise because you are taking maternity leave. When you return to work, you start from the bottom, as if you have just started working.”

3. negative comments, harassment, mobbing and not understanding the needs of parents, e.g.

“Better to finish your doctoral studies now, because when your child is born, you won't have time to do that and be a father”

“And on one occasion I was “asked” not to become pregnant - not at a job interview, but later when we were already on good terms.... Of course, with an explanation to “have understanding” for the company.”

“As I have an administrative job, I often hear inappropriate comments from superiors about sick leave, pregnancy

complications, etc., and on one occasion the supervisor openly commented at the meeting that he would rather “replace the entire hallway with men” (referring to the hallway where administrative offices are located and mostly women work) because he was informed about the pregnancy of two workers.”

3.3.

Examples of parent discrimination

3.3.1. Case 1: Discriminatory provisions of employment contract

The Ombudswoman received a complaint from the Croatian Association of Hospital Doctors (HUBOL) in which they point out the discriminatory practice carried out against specialists in one hospital. Namely, the complaint states that the employment contract that the future trainee is obliged to sign with the hospital states that “In case the trainee is prevented from performing work obligations after the completion of the specialization, and if that precaution lasts longer than 30 days a year (maternity, maternity leave, sick leave or other circumstances), the obligation to stay at work extends in proportion to the duration...”.

As stated by HUBOL, this provision discriminates against pregnant women and mothers who, due to the use of their legal right to maternity and parental leave, are obliged to make up for “missed” work.

As part of the report submitted by the hospital, the Agreement on Mutual Rights and Obligations was received, and by inspecting it, the Ombudswoman was convinced of the accuracy of the complaint allegations. The hospital stated that, although they still considered that the disputed provision was not discriminatory, they are taking into account the recommendation of the Ombudswoman, so the hospital concluded with the trainees the Annex to the employment contract and removed the disputed provision. Despite welcoming said removal, given the fact that the hospital in question continued to deny its discrimination, the Ombudswoman considered it necessary to point out the provisions of anti-discrimination legislation applicable in this case. The Ombudswoman thus pointed out that the existing rule, referred to by the hospital, which allows in case of justified termination of specialization its extension for the duration of the interruption, cannot be applied analogously to the obligation to work in employment after the completion of specialist training. Specialization as a form of training is a certain type of acquisition of competencies through theory and practice, and it is logical that the specialization program prescribes its duration and that a trainee who, even for justified reasons did not meet the mandatory content of the specialization, cannot take the specialist exam. In contrast, the obligation to work after the completion of specialist training is not working as part of training, but only a time-limited obligation to work in the institution that financed the specialization. Extending this obligation for the period during which the interruption due to the use of the right to maternity and/or parental leave lasted de facto leads to exceeding the time limit and at the same time punishes the specialist for exercising these rights. The basis of discrimination, in this case, is pregnancy or motherhood which is prohibited

by Article 6, paragraph 2 of the Gender Equality Act, while in Article 13, paragraph 1 discrimination on the grounds of pregnancy, childbirth and parenthood in the field of employment and work is expressly prohibited. Furthermore, even an employee employed under a fixed-term employment contract who exercises the right to maternity or parental leave for the duration of that contract may not request that his/her contract be extended for the period for which he/she used the said rights, and neither can the employer require them to “make up” for that time. Under Article 63 of the Constitution of the Republic of Croatia, the state protects motherhood and therefore, with the provisions of the Labour Act, as well as numerous other laws, introduces measures to ensure that protection. Finally, the European Court of Justice has confirmed in its judgments that the protection of pregnancy and maternity is above any other interest, especially economic interest, which is the real motive for prescribing the obligation in the disputed provisions of employment contracts.

3.3.2. Case 2: Termination of employment contract due to pregnancy

The Ombudswoman received a complaint stating that the employer, which is a unit of local and regional self-government (hereinafter: employer) terminated the complainant's temporary employment contract, concluded as part of the implementation of public works. According to the complaint, the complainant was employed as a municipal warden for three months. One day she left her workplace due to nausea and weakness before the end of working hours and informed her immediate superior. During the visit to the doctor, her pregnancy was established, after which the complainant submitted a notice of temporary incapacity for work to her employer. However, the complainant alleges that the next day she received an extraordinary termination of her employment contract because she had failed to provide the employer with circumstances relevant to the performance of the job.

In order to examine the allegations in the complaint, the Ombudswoman sent a letter to the employer and requested a statement. Considering that the employer did not submit the report and documentation within the legal deadline of 30 days from the day of receipt of the letter, the Ombudswoman sent a total of three urgent letters which the employer completely ignored. In the above-mentioned letters, the Ombudswoman pointed out that the allegations in the complaint indicated that the complainant was placed at a disadvantage due to pregnancy and that the employer was therefore obliged to respond to all allegations in the complaint and submit all relevant documentation. Having in mind the described (non) conduct of the employer, the Ombudswoman determined that in the specific case there could be prima facie discrimination

and shifted the burden of proof to the employer. In other words, the complainant in his/her complaint, as well as in the investigation before the Ombudswoman, is not obliged to fully prove discrimination, but it is sufficient to state the facts from which it can be assumed that discrimination occurred or could have occurred, after which the employer must prove that it did not discriminate against the complainant.

Therefore, the Ombudswoman, in this case, concluded that the complainant's complaint was founded, for which she sent a warning to the employer with a recommendation to inform the complainant in writing of all specific and exact reasons for which her employment contract was terminated. In the statement that the Ombudswoman ultimately received from the employer in question, the position was expressed that in this particular case there was no discrimination since the complainant tried to exercise certain material rights by concealing her health condition, which she was obliged to inform the employer about under the Labour Act. The response received indicates a complete misunderstanding of the said legal provision relating to the obligation of workers to inform the employer of the disease, as well as a lack of understanding of the anti-discrimination guarantees prescribed by the Gender Equality Act. Based on the requested inspection, the Ombudswoman was informed that the Labour Inspectorate had found that the complainant's employer had terminated her employment contract during her pregnancy, thus acting contrary to the provisions of the Labour Act, and in the evidentiary procedure, it was indisputably established that the employer by such conduct, to create a humiliating or offensive environment, put the complainant in a less favourable position due to pregnancy, thus violating the Anti-Discrimination Act.

3.3.3. Case 3: Transfer to a less favourable position due to pregnancy upon return from parental leave

The Ombudswoman was contacted by a complainant due to discrimination on the grounds of pregnancy by her employer - the state administration body. In her complaint, she stated that based on the new systematization of jobs, and at a time when she was already on maternity leave, she was transferred from the position of head of the department to the position of a senior expert advisor, which makes her job less favourable in relation to working conditions and salary. She complained that the provisions of the Labour Act related to the protection of pregnant women, parents and adoptive parents have been violated.

Based on the received complaint, the Ombudswoman asked the employer to submit their statement as well as all related documentation. In their answer, the employer stated that according to the new organization, there is no vacancy for the head of the department that would correspond to the jobs that the complainant worked on before the new structure and systematization and that her transfer was based exclusively on the needs of the service, professional knowledge and conditions prescribed by the regulations for each job. The employer further stated that he did not discriminate against her in any way on the grounds of pregnancy and that she was not transferred to another job because she was pregnant, but due to the structure and systematization. He also noted that her new working conditions are not less favourable than the working conditions she performed before using the right to maternity leave because the necessary professional conditions for the assignment of employees to the positions of

the department head and senior expert advisor are identical in terms of required education and years of work experience. However, the Ombudswoman noted to the employer that the Labour Act stipulates that if the need to perform the work performed by the employee before exercising the right to maternity and parental leave ceases, the employer is obliged to offer him/her a new employment contract for the performance of other appropriate jobs whose working conditions must not be less favourable than the working conditions of the work he/she performed before exercising that right.

The fact that the same job requires the same education and work experience like the one the pregnant employee has previously worked for is not sufficient to claim that the working conditions of the two jobs are the same. Equal working conditions, in any case, imply an equal salary which is related to the coefficient of the complexity of jobs, which was reduced from 1,746 to 1,523 for the complainant by the new decision. It is clear from the above fact that the working conditions of the new job are more unfavourable for the complainant than those she had before, and by looking at the job description of the head of department and senior expert advisor fit is clear that this is a lower level of responsibility. Also, the complainant stated that no one had contacted her during the adoption of the new systematization, although she had twice contacted the employer by e-mail. In any event, the complainant had to be informed of the reorganization process in the same way as the other employees.

In this regard, the Ombudswoman warned the employer that the protection of pregnant women in employment, as prescribed by the Labour Act, more precisely, the right to

return to previous or appropriate jobs after the expiration of maternity or parental leave, in the particular case was not properly applied and thus placed the complainant at a disadvantage based on her pregnancy.

For this reason, the Ombudswoman recommended that a suitable job be found for the complainant that would correspond to her previous job, both in terms of job complexity coefficient and salary and the level of responsibility arising from the job description.

The Ombudswoman was informed by the employer that the complainant's appeal against the decision on the transfer had been forwarded to the Civil Service Committee as a second-instance body and that they would act in accordance with its decision.

4.

**Parents in the
workplace
— employers'
perspective**

The second phase of the project was analysing the organizational culture of employers related to the reconciliation of professional and private life. The analysis aimed to determine how employers perceive parents as workers and to support employers by providing them with ideas to more easily address the difficulties faced by working parents. Also, the goal was to gain insight into the organizational culture of employers from the aspect of reconciliation. The extremely low response of the employers is understandable, considering that at the time of the implementation of this phase, the pandemic of COVID-19 virus occurred.

4.1.

What are the views of some employers?

Employers' responses regarding attitudes about the needs of working parents and the opportunities that companies offer them as support were analysed. Also, the focus was on how companies see workers who are parents compared to others in terms of their availability and the skills they have.

Analysed attitudes of employers indicate that corporate culture is very important in creating an open and supportive work environment and should be created and implemented from the highest level. The management or others in leadership positions must be “promoters” of ethical and non-discriminatory measures and procedures in companies.

Employers believe that both motherhood and fatherhood can be reconciled with full-time work. The same goes for part-time work, except when it comes to managerial positions. Attitudes are divided when we talk about new skills that workers can develop due to the role of parents. Most employers also believe that parents have different needs than other workers, but that they have some opportunities to meet those needs. In addition to the participation of employers, there is a need for stronger involvement of the competent state bodies, which will ease the burden of caring for children through legislative and other changes and encourage employers to find the best solutions in agreement with their employees.

4.2.

What approaches do employers suggest?

Some of the employers' suggestions are:

1. Internal procedures and documents with clear measures and possible forms of work for parents, but not at the expense of other workers
2. Supportive work environment and trust of colleagues, especially persons in managerial positions in the company
3. Contracts of indefinite duration, especially for women
4. Flexible work schedule and working hours. Existence of a kindergarten or similar facility in the company to which parents can bring their children during working hours

5. Implementation of policy of non-discrimination, especially of mothers, which is reflected in salaries and promotions
6. Solidarity and understanding of colleagues in difficult times like the Coronavirus crisis.

We add that it is necessary to stimulate fathers to use the right to paternity and parental leave, and in that sense, it would be necessary to start the process of legal changes.

It is necessary to create policies and strategies that will contribute to the equal engagement of fathers in parenting and ensure a wholesome approach in promoting the topic of engaged fatherhood. **It is also necessary to introduce paternity leave as the sole rights of fathers and take measures for the earliest possible involvement of fathers in the care of children, as well as to reward families in which parents share parental leave more equally.** In order to improve the position of parents in the workplace and solve the difficulties they face, it is necessary to cooperate with workers, their representatives, employers and competent state bodies.

At this stage of the project, the Coronavirus crisis occurred. The crisis showed us the advantages and disadvantages of working from home, which is still not legally regulated in detail. In this sense, it should certainly be of great importance that the legislator, as well as the employers, recognize parents, especially mothers, as workers with a burden of private obligations. In addition, the Coronavirus crisis has shown the need to provide psychological support to workers, and this aspect could be addressed by the human resources department.

4.3.

How have parents and employers been affected by the Coronavirus crisis?

One of the topics that were dominant during the Covid - 19 pandemic was the reconciliation of private and professional life. Part of the questions referred to the significant changes that have taken place in everyday life and the workplace, how companies have coped with these challenges and whether the crisis has resulted in instruments that could be successfully applied in the future.

During the lockdown, parents worked from home, schools and kindergartens were closed, and most of the burden of helping children with their school obligations was borne by their parents. Although we do not yet have exact data, there are indications that most of the private obligations fell on women. An additional problem was the stress and pressure caused by spending time indoors, which left consequences on mental health. Employers recognized the overburdening of parents with younger children due to working from home and organizing online classes during the lockdown. **They point out that the difficulties were mostly related to time management and work organization, stress, technical equipment and insufficiently clear management instructions.**

Some employers have organized work from home or elsewhere so that families can be together, introduced flexible working hours and paid leave.

Of the opportunities offered during the Coronavirus crisis to support parents, most employers provided work from home

and flexible working hours. When we talk about working from home, in some form it was a novelty for employers, so they allowed workers to work from home for more hours than before, and some will keep this opportunity after the crisis ends. As an example of good practice, we mention one of the employers who organized *“virtual Kids day events for children of workers in which they offer animation for children during working hours organized by the employer; introduced m-doctor — an online application for all health inquiries so that parents who need to talk to a doctor do so from the comfort of their own home.”*

4.4.

How do some employers view discrimination?

As part of the analysis, interviews were conducted with some employers' representatives and they were presented with four fictitious scenarios in everyday working life that could potentially lead to conflicts and were asked if they were familiar with such situations in their own companies and how to position themselves in those situations.

Situation 1:

An employee on a temporary project (with the prospect of permanent employment) becomes pregnant

Situation 2:

A woman does not mention her three children during a job interview

Situation 3:

An employee in an important position wants to take parental leave, and the company is in the middle of a big deal

Situation 4:

Heads of departments create difficulties for men who go on parental leave

Of the three companies interviewed, two recognize the above fictitious scenarios as similar to situations that occurred within their company or in their previous work environment. One of the companies recognized situation 3 as a problem they are currently dealing with, especially since their employees are predominantly male. The importance of organizational culture is considered a very important aspect and is perceived as a task of persons in management positions. Clearly set policies and internal procedures in the HR department are recognized as very important although all interviewees consider the behaviour of responsible people in the company as one of the most important issues.

All presented situations are evaluated as problematic if the responsible person does not follow anti-discrimination policies and discriminates against workers, even if there are clear policies and rules that apply to these situations. Likewise, they are all recognized as accurate and possible and it is stated that they are often not easy to solve. As an example of good practice, we point to one of the companies that is in the process of adopting its internal anti-discrimination procedures.

5.

Sources

1. Web page of the project „parents@work: Changing perceptions!":
<https://parentsatwork.eu/hr/start-hr/>
2. Project Report
“Parents’ experiences - discrimination
in the workplace”:
https://parentsatwork.eu/wp-content/uploads/2020/07/HR_Report-Case-Studies-Parents@work_April2020-1.pdf
3. Project Report “Working parents – employers’ perspective”:
<https://parentsatwork.eu/wp-content/uploads/2020/11/Izvjese%CC%8Ctaj-stavovi-poslodavaca-studeni-2020.pdf>
4. Web page of the Ombudswoman for Gender Equality:
<https://prs.hr/cms>
5. The Constitution of the Republic of Croatia ([USTAV RH](#))
(Narodne novine, broj 56/90, 135/97, 08/98, 113/00, 124/00, 28/01,
41/01, 55/01, 76/10, 85/10, 05/14) - (NN, 85/10. - pročišćeni tekst)
6. Gender Equality Act
([Zakon o ravnopravnosti spolova](#)) (NN 82/08, 69/17)
7. Maternity and Parental Benefits Act
([Zakon o roditeljskim i roditeljskim potporama](#))
(NN 85/08, 110/08, 34/11, 54/13, 152/14, 59/17, 37/20)
8. Labour Act
([Zakon o radu](#))
(NN 93/14, 127/17; 98/19)



