

Case No: 78118
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Fact sheet: Parental leave in Norway

Background

Under the current Norwegian system, parents have an individual right to ten weeks of paid parental leave if they satisfy certain conditions. In addition, there is a common period of 26 weeks of paid leave, which the parents may divide amongst themselves as they wish.

However, Norwegian rules state that the father is only entitled to paid parental leave if the mother is working or studying. There is no such condition for mothers.

The rules also stipulate that the benefit calculation - for the paid leave in the common period - for the father is dependent upon the mother's work situation (percentage of time worked). The same does not apply in reversed circumstances.

ESA's objections

EEA law protects against discrimination. In ESA's view, Norwegian authorities discriminate against fathers when they make the father's entitlement to paid parental leave dependent upon the mother's situation, whilst this is not the case in the reverse circumstances.

Mothers are explicitly granted more comprehensive rights to paid parental leave than fathers. In ESA's view, this unequal treatment constitutes direct discrimination on grounds of sex, which is prohibited by [Directive 2006/54/EC](#).

Norway's stance

The Norwegian Government has made it clear that it does not agree with ESA's position. Norway is of the opinion that the Directive does not apply.

If, however, the Directive does apply to the national provisions on parental benefits, Norway considers that the Norwegian system must be considered as "positive action", making sure women participate in working life. ESA disagrees that the provisions can be seen this way.

Timeline

In October 2015, ESA opened an own initiative case to assess the Norwegian provisions on the right to parental leave. After the initial assessment, ESA sent a [Letter of formal notice](#) to Norway in July 2016. The Norwegian Government [replied](#) to this in October 2016.

ESA received several complaints from fathers against Norway following the opening of the case.

ESA confirmed its position in a [reasoned opinion](#) in [November 2017](#). The Norwegian Government's reply in January 2018 was again that the Norwegian system does not fall within the scope of the Directive. The case has also been discussed between ESA and the Norwegian Government at meetings in Oslo in October 2016 and in October 2017. As ESA and Norway have not come to an agreement, ESA decided on 7 May 2018 to bring the matter before the EFTA Court.