

between 26 and 35 years of age and the stated reason for resignation alludes primarily to the impossibility of reconciling family responsibilities and working obligations due to the lack of available childcare or parental support. In this light, the CEACR has requested that the Government take additional concrete measures in order to address the issue of resignation without cause of pregnant women and working mothers, and to prevent and eliminate all discrimination against women on the basis of pregnancy and maternity (ILO CEACR, 2014).

Similarly, but providing a wider scope than the provision of Convention No. 183, the European Union adopted Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex, which was recast into Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. It deals with any complaints of direct or indirect discrimination based on sex and is also applicable in cases related to pregnant workers or those who have recently given birth, are breastfeeding or are on parental leave; while Article 8 of Convention No. 183 considers only the termination of employment on the grounds of maternity. The EU Directive is intended to enable all persons who consider themselves wronged because the principle of equal treatment has not been applied to have their rights asserted by judicial process after possible recourse to other competent bodies. It shall be for the respondent (the employer, in cases of dismissal) to prove that there has been no breach of the principle of equal treatment (Article 19). This reversal of the general rules of proof offers a useful means of strengthening the principle of equal treatment and ensures that the principle can be effectively enforced (EC, 2006).

Compensation and other remedies in case of dismissal

Despite the existing protective measures against discriminatory dismissal, it does, nonetheless, occur in practice. When employers do not comply with the ban on discriminatory dismissal, many countries provide compensation. In Albania, Argentina and Ecuador, for example, the compensation is equal to 1 year's remuneration; in Denmark, the employer can be fined

and forced to pay between 39 and 78 weeks of compensation, depending on the job; in the Dominican Republic, compensation is five months' ordinary salary; in Belgium, six months of gross remuneration; in Honduras, 60 days' wages; and, in Tunisia, the employer has to pay damages to the worker as a result of dismissal. In Zambia, employers who fire a worker within six months of childbirth are guilty of an offence and subject to unspecified penalties.

In other countries, reinstatement in case of unlawful termination is also mandated. In Cyprus, when a breach of the 2002 law on equality of treatment between women and men is determined, the Labour Dispute Court orders the reinstatement of the unlawfully dismissed employee, irrespective of the size of the enterprise and without examining the good or bad faith of the employer (ILO CEACR, 2014).

Guaranteed right to return to work

A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

Convention No. 183, Article 8(2)

The guaranteed right to return to work is often included in legislation alongside the prohibition of discriminatory dismissal (see figure 4.2 and Appendix V). The right to return should be implicit in the entitlement to take leave, as it is a temporary interruption of employment. However, in many countries, special provisions regulating the return to work are laid down. Of the 146 countries for which information was available, 38 countries set out legal guarantees of a woman's right to return to the same post or an equivalent one after maternity leave, while another 26 guarantee the same post and 82 do not guarantee the right to return to work.

Examples of countries in which the right to return includes the right to return to the same or an equivalent post, paid at the same rate as at the time when the woman went on maternity leave, include the Bahamas, Barbados, Canada, Cyprus, Fiji, France, Malta, Republic of Korea, Swaziland, Uganda and Vanuatu. In the United States, employees generally have the right to return to the same or an equivalent job with the same pay and other benefits. However, under limited circumstances,