

not wish or are unable to return to work to resign without notice at any time following childbirth without having to pay compensation for breach of contract.¹⁰

In some cases, provisions guaranteeing the right to return to work cover not only maternity but also other types of leave.¹¹ For example, in Belarus, Belgium, Canada (Ontario and Quebec), Cuba, France, Iceland and Spain, the right to return to work is also guaranteed to workers at the end of parental leave.¹² The right to return to work has also been addressed at the European Union level in Directive 2006/54/EC (recast) on equal treatment. It provides that return to work must be guaranteed not only to women, but also to workers on paternity, parental or adoption leave (EC, 2006).

Maintaining employment benefits

The period of leave referred to in Articles 4 and 5 of the Convention should be considered as a period of service for determination of her rights.

Recommendation No. 191, Paragraph 5

Whatever the importance of a woman wage-earner's right to be reinstated in her previous work, and however effectively it may be recognized and applied, it is not in itself enough to prevent women's procreative role from becoming an obstacle to the realisation of equality of opportunity and treatment. For this, it must be ensured that a woman's absence on maternity leave and the extension of that leave does not result in the loss or reduction of entitlements and benefits under the terms of the employment contract, which would only exacerbate the often considerable differences between men and women wage-earners.

International Labour Office, 1999

In the legislation of several of the countries analysed, the period of leave is considered to be a period of service with regard to the determination of employment rights. The entitlement to continue in the same work without loss of seniority rights is applicable in Barbados, Fiji, Spain, Swaziland and Vanuatu. In Zimbabwe, it is specified that rights to seniority and advancement, as well as other customary benefits and rights continue during the entire leave period. Maternity leave counts as full service in Belgium, Islamic Republic of Iran and

Tajikistan. In Cyprus, workers retain their employment rights during leave. In France, workers are entitled to any wage adjustments that are granted during their maternity, paternity, adoption or parental leave. In the United Kingdom, an employee is entitled, during the period of maternity leave, to the benefit of all of the terms and conditions of employment which would have applied had she not been absent.

Importantly, accumulation of pension benefits during leave periods is essential to recognizing and valuing both women's and men's care work and to ensure adequate pension provision in old age. In 2012, Estonia introduced an act for a parental pension scheme that will decrease inequalities in old-age pensions due to a parent's time out of the labour force. Recognizing that women usually take up parental leave, the measure is expected specifically to improve the future pensions of women (Curtarelli et al., 2013). Some countries, such as France, have moved forward by providing pension credits for caregivers related to periods of unpaid work, with limited or no pension contributions. In 2010, these pension credits were extended to fathers (Fultz, 2011).

4.2 Non-discrimination in employment in relation to maternity

When discussing the adoption of Convention No. 183, most of the ILO member States expressed concern about the struggle of women against discrimination in employment and about the inequality of opportunity between men and women. Some of them considered that, although such discrimination may already be prohibited under Convention No. 111 and other standards, it should be clearly stipulated in Convention No. 183 (ILO, 1999; CEACR, Direct Request, C156, Guatemala, 2000). Thus, for the first time, an ILO Convention on maternity protection calls for member States to adopt appropriate measures, including those covering access to employment, to prevent discrimination in employment specifically on the grounds of maternity.

"Non-discrimination in relation to maternity" refers to the right of all women not to be treated less favourably in a work situation – including access to employment – because of their sex, or due to circumstances arising from their reproductive function.