

Protective measures related to maternity

In any of the situations referred to in Article 3 of the Convention or where a significant risk has been identified under subparagraph (1) above, measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of:

- (a) elimination of risk;*
- (b) an adaptation of her conditions of work;*
- (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or*
- (d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.*

Recommendation No. 191, Paragraph 6(2)

Recommendation No. 191 suggests that protective measures should be taken when work involves risks and an alternative to the work should be provided. These measures are strictly related to maternity and therefore are not to be considered discriminatory under Convention No. 111 (Article 5.1). Many of the countries analysed provide for measures designed to protect pregnant or nursing women from workplace risks. Such measures typically include a modification of the tasks involved to make them safer and more suitable for the woman's needs, a temporary transfer to a safer position or, in the absence of other possibilities, placing a worker on temporary leave. Of the 160 countries with information, 84 provide some sort of alternative while 76 provide no alternative. Iceland, for example, calls for the adaptation of working conditions. If the safety and health of a pregnant woman, a woman who has recently given birth or a woman who is breastfeeding is considered to be at risk, according to a special assessment, her employer must make the necessary arrangements to ensure the woman's safety by temporarily changing her conditions and/or working hours or, if adaptation is not possible, transferring her to another post or placing her on temporary paid leave. In France, employers must assess any risks in the workplace that might influence workers' safety or health and define measures to be taken. For pregnant and breastfeeding women, the occupational health practitioner's medical supervision is reinforced. If a pregnant or new mother is exposed to risk, her employer may adapt

the post or transfer her temporarily to a safer position without any loss in wages, or the employer may provide paid leave.

In Ethiopia and the Islamic Republic of Iran, a pregnant woman shall be transferred to another place of work if her job is dangerous to her health or pregnancy. The labour code of the Islamic Republic of Iran explicitly outlines the measures to be taken, stating that if the physician of the Social Security Organization considers the work of a pregnant woman to be dangerous or arduous, she must be provided with a more suitable and easier job until childbirth, without loss of income. In Afghanistan, women are to be assigned to lighter work during the course of their pregnancy, while keeping the wages applicable to their main job. In Bulgaria, the employer must take the necessary measures for temporary adjustment of the work conditions and/or the working time with a view to abolishing the security and health risk for pregnant women and nursing mothers. This provision comes with the right to monetary compensation for the difference in remuneration between the two jobs. Similarly, in Brazil, if the performance of her job could pose a risk to her health, a pregnant worker shall be transferred to a suitable alternative job and be reinstated in her regular job as soon as medically practicable.

Transfer to a safer position is a typical measure called for when the work involves a significant risk to the pregnant or nursing woman or to her child.²⁴ Some countries specify that such a transfer should not entail loss in benefits or pay. This is the case, for example, in Belarus, Bolivia, Bosnia and Herzegovina, Burkina Faso, Chile, Gabon, the Islamic Republic of Iran, Italy, Seychelles, South Africa, Uzbekistan and Viet Nam. In Lao People's Democratic Republic, an employee who is transferred for these reasons is entitled to her former pay for three months, after which she is paid at the level of the new position.

Some countries provide the right to extra leave if other alternatives, such as an adaptation of working conditions or a transfer, are not feasible.²⁵ In Estonia and Slovakia, for example, pregnant women have the right to request a temporary alleviation of working conditions or a temporary transfer to another position, based on a doctor's certificate. Any difference in wages between these two posts is compensated by social security. In Luxembourg, women who must take extra