

Transposition of the non-transferable part of parental leave under the work-life balance directive

Summary

The thesis analyses the compliance of Czech legal regulation with the requirements of Article 5(2) and Article 8(3) of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance of parents and carers and repealing Council Directive 2010/18/EU (work-life balance directive). It addresses both the requirement for the non-transferable part of parental leave and the related requirement for allowance during the non-transferable part. These requirements of the Directive have not led to any legislative changes in the Czech Republic, as the Czech Republic considers that the existing legislation is in conformity with the Directive.

The thesis concludes that the Czech legislation does not indeed seem to contradict the text of the Directive, but is not in conformity with its objectives, which are expressed especially in the preamble. Therefore, the thesis examines the possibilities of transposing both the non-transferable part of parental leave (as an obstacle at work) and the allowance during the non-transferable part of parental leave into the Czech legal system. As for the obstacles at work, the thesis considers both the use of existing obstacles at work (parental leave and maternity and paternity leave) and the introduction of a new obstacle at work. The thesis particularly emphasises the possibilities of using parental leave for the transposition and the need to better enshrine the flexibility of its use. It questions whether it is necessary and reasonable to create a non-transferable part within the Czech parental leave, even though this obstacle at work is conceived as an individual entitlement of each parent that is independent of the other.

As for the allowance, the thesis examines the possibilities of transposition through wage compensation, sickness insurance benefits and state social support benefits. It concludes that existing benefits are not suitable for the allowance during the non-transferable part of parental leave and that the allowance should be designed in a similar way to existing sickness insurance benefits. In analysing the possibilities of transposition, the paper also takes inspiration from the approach of other countries, using Slovak, Polish, Hungarian, Slovenian and Austrian legislation for comparison. The thesis does not omit nor the personal scope of the Directive.

Keywords: work-life balance directive, non-transferable part of parental leave, social protection of parents