

AUSTRIA

Personal holiday

On 22 January 2019, the European Court of Justice ruled that the Austrian legislation under which Good Friday is a public holiday only for employees who are members of certain Christian churches, and consequently only these employees (if required to work on that public holiday) are entitled to additional payment, constitutes direct discrimination on the grounds of religion.

As a result of this ruling, the Austrian legislator created a personal holiday for all employees to prevent employers from being required to grant a paid public holiday on Good Friday to every employee.

Once per holiday year, employees can unilaterally determine one day that will be considered their personal holiday. In contrast to a regular holiday, while the employer can ask the employee not to take a particular day off, the employee is free to deny such a request, even if their presence at work would be necessary for operational reasons.

The introduction of the personal holiday did not lead to any increase in the statutory vacation entitlement of 25 days per year (rising to 30 days for employees with at least 25 years' service). Instead, it is deducted from an employee's existing holiday entitlement.

If, at the employer's request, the employee carries out work during their personal holiday, then the employee is entitled to be remunerated for the work they performed in addition to their regular (holiday) pay for that day. The employee is not, however,

entitled to another personal holiday in the current holiday year. The day worked is not considered a holiday and has no effect on their remaining holiday entitlement.

Recognition of maternity/ paternity leave

On 1 August 2019, an amendment to the Maternity Protection Act came into force. The amendment states that maternity and paternity leave of up to 24 months per child will count towards their years of service for all employment claims where length of service is a factor.

Previously, periods of maternity and paternity leave had only been taken into account for the first child up to a maximum of 10 months and, moreover, only for certain entitlements, namely notice period, holiday entitlement and continued remuneration in the event of sick leave.

This amendment applies to all employees whose child was born on or after 1 August 2019.

Daddy Month

The Austrian Paternity Leave Act was also recently amended. Fathers are now legally entitled to one month off work following the birth of their child, if they are living in the same household as the mother.

Employees who take up their right to what is known colloquially as 'Daddy Month' enjoy special protection against dismissal. The protection begins with the employee's announcement or a later agreement, but at the earliest four months before the expected date of birth and ends four weeks

after the end of their period of paternity leave.

During the Daddy Month the employer is not obliged to continue to pay the father. The father may, however, be entitled to state benefits under certain circumstances.



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