

## European (& the GCC) Employment Law Update

Jurisdiction: Austria  
Date: April 2017

Impact date	Development	Impact
1 March 2017	Family leave under the Family Leave Bonus Act	<p>Since March 2017, fathers in gainful employment (including adoptive and permanent foster fathers) are entitled to a family leave bonus of EUR 22.60 per day if they take off between 28 and 31 consecutive days of family leave within the first 91 days after the birth of a child born on or after 1 March 2017. A precondition for this is that the father lives in the same household with the mother and child, all are resident in Austria and they are entitled to claim family allowance for the child. In addition, the employee must have engaged in professional activities subject to mandatory health and pension insurance over the past 182 days.</p> <p>Women within the meaning of Section 144 of the Austrian Civil Code have equivalent status to fathers. This includes in particular any woman living in a registered partnership with the mother who underwent medically assisted reproduction between 300 and 180 days before the birth, has acknowledged that she bears parental responsibility for the child or whose status as a parent to the child has been recognized by a court of law.</p> <p>Whereas the Family Leave Bonus Act comprehensively regulates the requirements governing the entitlement of employees to family leave bonus, no such entitlement was concluded in labour law legislation. Strictly speaking, the employee does not have an enforceable right to family leave vis-à-vis the employer; instead, it is necessary for an agreement to be concluded. During the period in which family leave is taken, the employee is released from the obligation to work but is also not entitled to continued payment of remuneration. The family leave bonus is paid by social security institutions. No special protection exists against termination of employment.</p>

<p>1 July 2017</p>	<p>Reintegration on a part-time basis (Sec 13a of the Labour Contract Law Amendment Act)</p>	<p>From 1 July 2017 it will be possible for employees on long-term sick leave due to serious illness to return to work initially on a part-time basis. The legislator wishes to make it possible for those who have been off work for a prolonged period of time due to serious illness to return to the workplace gradually and thus strengthen the employee's fitness for work in a sustainable way.</p> <p>So-called employee reintegration on a part-time basis can be agreed in writing if the employee has been on sick leave for at least six weeks without interruption and the employment relationship had already existed for at least three full months. The reintegration of employees on a part-time basis must last at least one and no more than six months. The period can be extended once by one to three months if it continues to be deemed appropriate from the perspective of the effect it has on the occupational health of the employee.</p> <p>The reduction in weekly normal working hours must be between 25% and 50%. However, the employee must work at least twelve hours per week. The remuneration to which the employee is entitled for working part-time must be above the low income threshold (i.e. EUR 425.70 in 2017). In addition to this remuneration the employee is also entitled to reintegration pay paid out by the relevant social security institution. If the employee ceases to be entitled to reintegration pay, the period of employee reintegration on a part-time basis will end on the day after the reintegration pay is withdrawn.</p> <p>The agreement can only be concluded if there is confirmation of the employee's fitness for work and if the parties have had a consultation provided for under the Work and Health Act, during which an employee reintegration plan was drawn up. The works council, if one exists, must be involved in negotiations for the reintegration of the employee</p> <p>Upon termination of the employment relationship during the reintegration period, entitlement under the old severance scheme, annual leave payments and compensation for termination must be calculated on the basis of the employee's undiminished remuneration.</p> <p>As regards the period of reintegration on a part-time basis, it may well be advisable for employers to lay down in general terms the conditions that apply to the reintegration of employees on a part-time basis in</p>
--------------------	--	--

		order to avoid unequal treatment.
--	--	-----------------------------------