

PARENTAL LEAVE IN THE NETHERLANDS

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Introduction

This article addresses the development of leave policies, in particular parental leave, in the Netherlands. This development can be characterised as a search for the most accurate interpretation of the leave instrument and the corresponding division of responsibilities between the government, social partners and parents. Starting from a position in which parental leave was interpreted as a way to facilitate part-time employment, the Act on Parental Leave of 1991 provided a basic entitlement to take part-time, unpaid leave for a relatively short period of time. It was left to the social partners to supplement this minimum, for example, in terms of length or in terms of income support. Over time, however, the public responsibility regarding leave has increased. This is apparent not only in the increasing number of leave policies, but also in a growing public involvement in the provision of income support. During this process, the interpretation of parental leave seemed to have changed from a labour market instrument pure and simple, towards a more complex instrument also targeting the facilitation of parenthood and the wellbeing of children.

Legal entitlements

In 1991, after some years of debate, the Act on Parental leave came into force in the Netherlands. This act granted an unpaid part-time parental leave for a maximum of six months to employees who had been employed by their current employer for at least one year to be taken within four years after the birth of a child (TK 1987–1988).

The design of the parental leave was mainly inspired by practical feasibility and labour market effects; leave policies were hardly discussed as part of the care system with young children as the primary beneficiaries (Plantenga and Remery 2009). Given the importance attached to part-time working hours as a means of increasing the female participation rate, the parental leave policy was to enable young parents to work part-time during a period of heavy care responsibilities. The leave entitlement was therefore structured as a part-time right: the employee was to remain active in the labour market for at least 20 hours per week. A second important consideration in the early debates was that the leave arrangement should favour the equal division of paid and unpaid work between men and women. As a result, parental leave was defined as an individual, non-transferable right and not as a family right. Finally, the entitlement was unpaid, because parents were considered primarily responsible for raising their children. In addition, it was argued that a paid leave would result in an undesirable increase in the tax burden for both the private and collective sector.

Although the parental leave legislation was welcomed as a first important step towards a more gender equal society, there were several problems with the actual design of the leave policy. The stipulations of the act, especially the 20-hour threshold, excluded quite a number of (part-time) working mothers from taking leave. Another problem referred to the fact that the actual design of the leave policy did not favour an equal sharing of paid and unpaid work; it was presumed that a more flexible approach, especially the possibility to spread the leave hours over a longer period of time, would increase the take-up of men. A final argument against the rather rigid part-time orientation of the parental leave legislation was that this approach was not in line with the draft directive on parental leave of the European Union, which (either implicitly or explicitly) favoured a full-time leave (Spaans and Van der Werf 1994).

The remedy for these problems was to take a different approach to parental leave. While in the act of 1991 parental leave could be interpreted as introduc-



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ing a statutory right to reduce working hours against the background of a rather standard working-time regime, the new proposal brought parental leave in line with the growing reality of rather diverse and individualised working hours. In the new draft (TK 1995–1996), the total number of leave hours was set at 13 times the number of the contractual weekly working hours. The statutory right is still part-time: parents have the legal right to lower their working hours by 50 percent over a period of 26 weeks. However, employees may request the employer's permission to spread the leave hours over a longer period than six months or to take more hours per week. Employers may not refuse unless compelling business reasons dictate otherwise. As a result of this proposal, the flexibility of the leave policy was increased, while it also became accessible for part-timers. Moreover, it was suggested that the period until which the leave could be taken should be extended from four years to six years (TK 1995–1996). This extension would facilitate the transition from day care facilities to primary school. In the final negotiations over the parental leave act, the period during which the leave can be taken was further extended until the child was eight years old. This was in line with the EU Directive on Parental Leave, which was accepted in 1996 (TK 1997). Despite these major changes, the leave remained unpaid. The government persisted in its original point of view that income support during leave is an issue to be settled by the social partners through collective labour agreements. The changed Act on Parental leave came into force on 1 July 1997.

A few years later, the leave legislation was streamlined in the Work and Care Act of 2001 (TK 1998–1999). The act included the right to paid maternity leave (16 weeks), paid paternity leave (2 days), unpaid parental leave (for a maximum of 6 months on a part-time basis) and provisions in case of adoption and multiple births. In addition to the specifically child-related leave benefits, provisions to care for family or household members include paid emergency leave, paid short-term carers' leave and a regulation to finance a career break in order to care for or to study. Since June 2005 the Work and Care Act has been extended with an entitlement of all employees to take (unpaid) long-term leave to care for a terminally ill child, partner or parent. The design of the long-term care leave follows to some extent the logic of the parental leave legislation. The maximum duration of this leave is 6 times the weekly number of working hours in a period of 12 successive months. In contrast to parental leave, however,

long-term care leave is not a statutory right; employers may refuse because of compelling business reasons.

Employers' involvement

From the very start, the employer has been given an important role in the introduction of leave policies within the Dutch working-time regime. By way of collective labour agreements, the social partners are expected to top up public policy, which is mainly concerned with guarantying the minimum right. In order to create some flexibility and to allow for tailor-made solutions, the leave legislation is also of a so-called three-quarter mandatory legal nature. This means that deviation from the standard legal provision is allowed by way of collective agreement or by decision of the employee's council. In case of parental leave, divergent agreements are for example possible with regard to the splitting up of the leave and/or the spreading of the leave over the year. Also the age stipulation (the fact that the leave has to be taken up before the eighth birthday of the child) may be changed. The particular role of the employers in this dossier reflects the overall system of industrial relations with consultation and involvement at the central level, but which at the same time, emphasises the importance of decentralisation and tailor-made solutions. Yet the division of responsibilities is rather fluid. As the OECD puts it: "The government specifies issues that it thinks should be the topics under discussion in industrial bargaining. If the outcomes are unsatisfactory as they have been over leave, working time flexibility and childcare, to some extent, it may then consider imposing legislation" (OECD 2002: 16). An interesting illustration of this search for the optimal division of responsibilities is offered by the payment issue.

Within the context of the Act on Parental leave, the payment was left to the employees and the employers; collective agreements are expected to provide for income support. However, several studies indicated that the majority of employers did not offer any payment during the period of parental leave, and this majority proved to be fairly stable. The unpaid character of the leave had a negative impact on the take up rate. An evaluation in 1999 indicated that only one in five eligible parents actually made use of this right (Grootscholte et al. 2000). Yet in branches with paid leave the take-up rates were five times higher than in branches without paid leave. Two thirds of the parents that were entitled to the leave but did not use it stat-

ed that they would have taken it if 70 percent of the wages had been paid.

The rather reluctant attitude of the employers and the effects of this attitude in terms of take-up rates created a growing public support for additional measures. A more positive approach on the part of the employers was also favoured because of the presumption that higher take-up rates would contribute to a more equal sharing of unpaid care work, which was still an important goal of the emancipation policy. Finally, arrangements for paid leave would fit with developments in Europe, showing an increasing number of member states offering paid parental leave (TK 2000–2001:5). Making paid leave mandatory was still considered unrealistic, however, given the primary role employers were expected to play in matters concerning labour conditions. The solution was to change the fiscal incentive structure. By 2001, employers could deduct 50 percent of the costs of paid leave, under the condition that payment during parental leave was at least 70 percent of the minimum wage. In addition, payment was to be included in the collective agreement or made available to at least three-quarter of the employees in the firm. With this tax deduction the actual payment became the shared responsibility of the government, the employer and the employee.

Employers, however, have never been particularly eager to supplement legal provisions. Research carried out in 2004 indicated that only half of the employers were familiar with the Work and Care Act; small companies in particular did not have a positive view on these matters (Van der Linden and Van der Werf 2004). It seemed that the employer was overburdened by the specificity of the measures. It also implied that – more than 15 years after the introduction – only a minority of the potential leave takers were entitled to a paid parental leave.

Parental leave: take-up rates

The fact that young parents in the Netherlands are not entitled to paid parental leave presumably explains why the take-up is still far from 100 percent; see the Table for further details. In 2006 the take-up among women amounted to 44 percent while 21 percent of the entitled men took up parental leave. Although the take-up rate of men is considerably lower, it is fairly high compared with that of other European countries (Plantenga and Remery 2005).

The Table indicates that there are also slight differences in the average length of the leave taken up by men or women. Men on average take up eight hours of leave and spread the number of leave hours over 11 months. Women take up more hours of leave, resulting in a somewhat shorter duration of the leave period. The data seem to indicate that, in a typical case, both parents use the possibility of spreading the leave hours over a longer period of time. Part-time parental leave is thus still the usual option despite the possibility to organise leave on a full-time basis. This is in line with the overall emphasis on part-time working hours within Dutch society. Whereas in some of the other European countries leave is scheduled before the use of childcare facilities, in the Netherlands a parallel approach is advocated. To balance work and family life, parents use part-time working hours, partly facilitated by parental leave legislation, in combination with a part-time use of childcare facilities. By implication, childcare facilities are open to very young children, starting directly after the 16 weeks of maternity leave.

Latest developments

Although the Work and Care Act was considered to be a final piece of legislation, the debate over this dossier never completely stopped. Improving the possibilities to take up leave for the purpose of care or study became an important element in the debate on modernising social security. At the same time there was a growing reluctance to add just another piece of legislation to an already complex dossier. Rather the emphasis was on finding an innovative and flexible approach which would solve several problems and fit into a more mature, individualistic approach towards

Table

Take-up of parental leave among entitled employees, 2000–06

	Take up of parental leave		Average length of leave, in hours per week		Average length of leave, in months	
	Female	Male	Female	Male	Female	Male
2000	39.0	15.8	12	9	8	11
2001	45.3	15.7	12	8	8	10
2002	37.3	15.9	12	9	8	11
2003	42.1	15.9	12	8	8	10
2004	39.6	18.0	11	9	9	10
2005	44.1	18.9	11	8	8	11
2006	43.8	21.0	10	8	9	11

Source: CBS Statline.

social security. In this context, the life-course perspective became an important frame of reference for both policy makers and academics (Plantenga 2005). The first initiative to develop a life-course savings scheme was undertaken in 2002 but it was not until 2006 that the Dutch scheme came into effect. According to this scheme employees may save up to 12 percent of their gross annual income tax-free for a “life-course product”. Employees may use it to finance a period of non-labour-force participation. In principle, the period of leave may be used for all kinds of different purposes, like going on holidays, care obligations or a sabbatical. A maximum of 210 percent of the last-earned yearly wage may be saved, which amounts to three years of leave at 70 percent of the last earned income. The deferred tax principle is applicable implying that no taxes are paid on the savings account, but solely on the withdrawal. In addition, there is a fiscal bonus for each participating year as a result of which the life-course scheme can be characterised as a tax-favored private savings scheme. Finally, parents who take up parental leave and participate in the life-course scheme have access to an extra fiscal benefit of 50 percent of the minimum wage for the statutory period of parental leave. As a result, although the statutory right for parental leave was still unpaid, since 2006 young parents had access to paid parental leave as long as they participated in the life-course savings scheme.

The organisation of the income support for leave takers may not be a very elegant nor a very transparent solution – the time component of parental leave is now organised within the context of the Work and Care Act, whereas the payment is organised within the context of the life-course scheme. Yet it indicates a shift from the interpretation of the leave instrument from only enabling part-time working hours for parents towards a broader perspective in which the well-being of young parents and children also plays a role. The introduction of a tax credit also indicates the difficulty of generating a full coverage by collective labour agreements. The reluctance of the employers to provide income support is thereby acknowledged, and the government has taken over the responsibility. Within this context it is only logical that by introducing the parental credit within the life-course scheme, the tax relief for employers who provide paid parental leave has been terminated.

In addition to the payment issue, the length of the parental leave period also became a subject of policy concern. At the start of the fourth Balkenende cabinet in 2007 the Coalition Agreement (2007) stated

that “parents should be able to combine labour and care, working and raising children. In the rush hour of life it should be possible to organize a time out. The life-course scheme also serves that purpose. The statutory right to parental leave will be lengthened from 13 to 26 weeks per employee and will not be transferable. The life-course scheme will be reorganised accordingly” (p. 29). Indeed, as of the first of January 2009, the length of parental leave is now fixed at 26 times the contractual number of working hours. Young parents are thus entitled to a part-time (50 percent) leave of 52 weeks. Contrary to the original statement, however, the fiscal benefit is now granted to all employees taking-up parental leave and no longer reserved for employees also participating in the life-course scheme. This can be interpreted as an important first step to develop a more broadly accepted, paid parental leave legislation.

This slight reorientation also seems to imply a shift from a concurrent towards a more consecutive relationship between leave arrangements and childcare provision. The latest Equal Opportunities Policy Note, for example, points out that the 26 weeks per parent was chosen so that working parents, when taking up parental leave, can care for their child during his/her first year (OCW 2007, 31). This indicates a clear break from earlier policies, according to which the leave taker was supposed to remain attached to the labour market and the parental leave scheme only to facilitate part-time working hours.

Concluding remarks

The Dutch policies on parental leave seem rather limited compared to other European countries. In fact, it seems fair to state that Dutch policy makers always had some ambivalence towards the instrument of leave. Presumably, this rather austere attitude is partly inspired by the Dutch working-time regime that is characterised by relatively short full-time working hours and a high part-time rate. As a result, the pressure for extended leave policies has never been strong. Rather the parental leave policy was intended to facilitate the attachment to the labour market in a period in which care responsibilities were rather heavy. As such the parental leave legislation entitles parents to work part-time. Consistent with this view, the payment issue is of only secondary importance.

The developments within the parental leave legislation also demonstrate an underlying search for the

proper design. On the whole this search seems rather “incremental” and problem-oriented; there was no particular, goal-oriented plan. As such the specific details of the parental leave legislation illustrate the typical Dutch problem-solving style of decision-making (e.g., Hemerijck and Visser 1999). This particular style and the heavy reliance on party-political compromises may not always translate into extremely transparent regulations. This is also illustrated by the parental leave case in the sense that the entitlement to leave and the entitlement to income support is organised by different legislation. As stated before, this is not a very carefully considered design and it is quite perceivable that it will lower the use of parental leave (Haan and Plantenga 2007).

Nevertheless, there are clear signs of a somewhat broader perspective on the leave instrument. With hindsight, the inclusion of payment within the life-course scheme may be assessed as a slight detour that has made financial support for leave takers from public funds more acceptable. Within a European perspective, the extension of the period of parental leave to 26 weeks (in full time equivalents) is certainly an improvement. The level of payment remains rather low, however, despite improvements, which raises concern about affordability and related to this the take-up of parental leave.

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