

Letter to the Secretary General of the Council of the European Union, Mr Jeppe Tranholm-Mikkelsen, concerning the leave rights of certain staff members and the best interests of the child

Correspondence - 08/05/2019

Case SI/1/2019/AMF - Opened on 08/05/2019 - Decision on 01/10/2019 - Institutions concerned European Parliament | European Commission | European Council |

Mr Jeppe Tranholm-Mikkelsen

Secretary-General

Council of the European Union

Strasbourg, 10/05/2019

Re: SI/1/2019/AMF on the leave rights of certain staff members and the best interests of the child

Dear Mr Tranholm-Mikkelsen,

The EU institutions have rightly set out the need to avoid discrimination in staffing issues, including based on sexual orientation. The issue of maternity and paternity leave for EU civil servants in the context of same-sex couples or in relation to surrogacy has come to my attention.

Like you, I am aware of the complex and diverse legal situation at national level as regards surrogacy in the Union. The fact is that children come into the care of EU civil servants through surrogacy and I am sure you agree that the best interests of the child must be our first priority.

Indeed, the Charter of Fundamental Rights sets out that “*[c]hildren shall have the right to such protection and care as is necessary for their well-being*” and that “*[i]n all actions relating to children, whether taken by public authorities or private institutions, the child’s best interest must be a primary consideration*”.

In this context, I am considering how best to assist the EU institutions [1] in protecting the



interests of children in their staff policies. It is important, in particular, to ensure a consistent approach to the leave available to staff members across the EU civil service.

On this basis, I would be grateful if you could provide my Office with the following specific pieces of information:

1. If a woman in a same-sex couple becomes pregnant through artificial insemination and gives birth, what leave rights are provided to the non-biological mother of the child (assuming she is a staff member of your institution)?

2. What is the current policy in your institution regarding leave made available to staff members who become parents through surrogacy? Please include, in your answer, details of the duration of the leave per parent, how such leave is approved and how relevant information is made available to staff. Please provide a copy of the relevant policy/policies.

I would be grateful if you could reply by **7 June 2019**. If there are any queries on this initiative, your staff can contact Ms Ángela Marcos Figueruelo (angela.marcos-figueruelo@ombudsman.europa.eu [Link], +32 228 41 03 0).

Thank you in advance for your cooperation.

Yours sincerely,

Emily O'Reilly European Ombudsman

[1] This letter has been sent to the European Parliament, the European Commission and the Council of the EU.