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## Supreme Courts declares legislation extending paternity leave and benefits to unmarried fathers unconstitutional

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In late 2018, the House of Representatives introduced amendments to the Protection of Paternity Law and the Social Insurances Law, by which paternity leave and benefits were granted to unmarried working fathers (previously these rights were only available to fathers married to their child's mother before the birth or adoption).

The President of the Republic of Cyprus, expressing the Government's opposition on the matter, referred the amending laws to the Supreme Court, claiming that the extension of paternity benefits to unmarried fathers adds unbudgeted costs to the governmental budget and, therefore, violates articles 80(2) and 54 of the Constitution. Note that Article 80(2) of the Constitution states that no representative can introduce a bill that results in increased budgetary expenditure and Article 54 states that only the government's executive branch has the power to direct general policy.

The Supreme Court, with its recent decision on the matter<sup>1</sup>, accepted the position of the Government and declared the amendments unconstitutional, stating that:

- (a) There is no EU legislation or Directives requiring a Member States to grant paternity leave or benefits to unmarried fathers. Relevant EU legislation regulates the equality between men and women and not the equality between married and unmarried men.
- (b) Cyprus law has already been harmonized with EU Gender Equality laws and, since EU laws do not require a Member state to grant unmarried fathers paternity related rights, there is no question of direct or indirect discrimination.
- (c) It is obvious that with these amendments add additional, unbudgeted costs to the government and therefore violate article 80(2) of the Constitution. Since there is no violation of EU law, any justification given for the amendments cannot negate this fact.

### Comments

This well justified Supreme Court decision will definitely disappoint many Cypriot citizens who have been expecting the Republic of Cyprus to address this issue and grant paternity related benefits to unmarried fathers as well. The will of the majority of Cypriot people on this issue is clear, as most of Cypriot MPs voted in

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<sup>1</sup> President of the Republic of Cyprus v. House of Representatives, Referrals 2-3/2018, 6/2/2018.



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favour of the amendments. It is now up to the Government to reconsider the issue and maybe address it in future governmental policies.

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