

In accordance with its Article 2, the Directive (EU) 2019/1158 on work-life balance for parents and carers¹ applies to workers who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, taking into account the case law of the Court of Justice of the European Union (CJEU). Recitals 16 and 17 further clarify that the personal scope of the directive does not expand to cover self-employed persons.

The term ‘worker’ should be interpreted according to the CJEU caselaw. In Case 66/85 Lawrie-Blum v Land Baden-Württemberg, the CJEU notes that *the essential feature of an employment relationship is that a person performs services of some economic value for and under the direction of another person in return for which he receives remuneration*. In other words, there are three conditions that have to be met cumulatively in order for a person to be considered a worker in regard to the EU law².

The CJEU has constantly held that ‘the classification of a self-employed person under national law does not prevent that person being classified as an employee within the meaning of EU law if their independence is merely notional thereby disguising an employment relationship’³. The sui generis nature of the employment relationship under national law cannot have any consequence in regard to whether or not the person is a worker for the purposes of EU law⁴, if the conditions set out above are met. The Commission is currently assessing the national legislation on its compliance with Directive (EU) 2019/1158.

¹ OJ L 188, 12.7.2019, p. 79–93.

² The existence of (1) a relationship of subordination between the worker and their employer, (2) the remuneration element, and that (3) the worker is engaged in *effective and genuine activities, to the exclusion of activities on such a small scale as to be regarded as purely marginal and ancillary*, Case 53/81, *Levin*, [17], Case C-337/97, *Meeusen*, [13].

³ Case C-256/01 *Allonby* para 71. C-413/13 *FNV Kunsten* para 35.

⁴ Case C-116/06, *Kiiski*.