

Clarifications about the relative protection of new fathers against dismissal

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Employees who are new fathers benefit from a relative protection against the termination of their employment contract **for a period of 10 weeks** from the birth of their child, even if they do not take their postnatal leave (Article L. 1225-4-1 of the French Labor Code).

In theory, the employer may only dismiss the new father after the above-mentioned period of 10 weeks, except where it proves **a serious misconduct by the employee** or **the impossibility to maintain the contract for a reason unrelated to the arrival of the child**.

However, it is possible to convene the employee to the preliminary meeting and hold such meeting during the protection period (Court of Cassation, Labor Division, September 30, 2020, no. 19-12.036).

Indeed, the specific protection against measures that are in preparation for the dismissal (convening to preliminary meeting, holding of preliminary meeting; information about a projected dismissal for economic reasons regarding the employee on leave) **only applies to women on maternity leave**.

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