

# Chile<sup>1</sup>

**Maria Jose Bosch** (ESE Business School – Universidad de los Andes)

**April 2020**

For comparisons with other countries in this review on leave provision and early childhood education and care services, please see the [cross-country tables](#) at the front of the review (also available individually on the Leave Network website). To contact authors of country notes, see the [members page](#) on the Leave Network website.

## **1. Current leave and other employment-related policies to support parents**

### **a. Maternity leave (*pre y postnatal maternal*) (responsibility of Ministry of Labour and Social Security)**

*Length of leave (before and after birth)*

- 18 weeks: six weeks before birth, and 12 weeks after birth. It is obligatory to take the whole period. In addition, women are entitled to a further 12 weeks of leave after obligatory Maternity leave is finished.

*Payment and funding*

- Dependent worker: During the leave, the salary is paid by the health insurance institution of the employee. In Chile each employee can choose between a private (ISAPRE) or public (Compin-FONASA) health insurance. 100 per cent of the salary is covered, with a taxable

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<sup>1</sup> Please cite as: Bosch, M.J. (2020) 'Chile country note', in Koslowski, A., Blum, S., Dobrotić, I., Kaufman, G. and Moss, P. (eds.) *International Review of Leave Policies and Research 2020*. Available at: [http://www.leavenetwork.org/lp\\_and\\_r\\_reports/](http://www.leavenetwork.org/lp_and_r_reports/)

cap of UF73.20<sup>2</sup> [€2,246.90] per month.<sup>3</sup> To avoid salary fluctuations, the insurance company calculates an average income for three months from the beginning of the Maternity leave. Meanwhile the institution also pays the obligatory monthly contribution to pension insurance (ten per cent).

- Independent worker: Maternity leave is covered for independent workers who issue invoices. Health insurance provides a monthly payment of the average income of the worker, which is calculated based on the commercial invoice issued three months before the beginning of the Maternity leave. 100 per cent of the salary is covered with a taxable limit of UF73.20 [€2,246.90].

#### *Flexibility in use*

- Women can choose to go back to work on a part-time basis for the second period of leave (after obligatory leave), in which case they may extend this leave period by six weeks to a total of 18 weeks.
- Women can choose to transfer a period of the second part of her leave to the father. This transfer can be done in one of two ways: one way is for the mother to transfer the last six weeks of full-time leave to the father and his health insurance pays 100 per cent of his earnings and pension insurance up to a taxable limit of UF73.20 [€2,246.90]; or the other way is for the mother to transfer 12 weeks of part-time leave to the father and his health insurance pays 50 per cent of his earnings and pension insurance, while the employer pays the other 50 per cent.

#### *Eligibility (e.g. related to employment or family circumstances)*

- Dependent worker: all employees with permanent job contracts are entitled to take Maternity leave. Employees on fixed-term contracts must meet the following conditions:
  - Renewal of their contract.
  - If the contract is not renewed the worker must have at least:
    - One year of contribution to the pension system through the administration of the individual pension funds (the name in Chile is AFP).

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<sup>2</sup> *Unidad de Fomento* (UF) is a unit of account used in Chile, adjusted in line with inflation. It was created in 1967 to maintain the value of savings against inflation. Later, its use was extended to the financial system, pensions system, health system, education, and other fields. One UF is equivalent, approximately, to €30.

<sup>3</sup> Conversion of UF currency to Euro undertaken for 31 July 2020, using: <https://cuex.com/de/clf-eur>

- The last contribution to the pension system must be as a dependent worker, no matter the type of contract (permanent or fixed term).
- Independent worker: independent workers are entitled to Maternity leave if they meet the following requirements:
  - A one-year contribution to the pension system (AFP).
  - At least six contributions to the pension system during the last 12 months before stopping work before giving birth.
  - Contribute to a health insurance institution (public or private).

*Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the mother*

- If any health complications are detected by a doctor during pregnancy, the worker is entitled to supplementary leave before the birth: the length is specified by the doctor and a medical certificate is required.
- In the case of multiple births, the leave is extended by seven days for every child, starting with the second baby.
- In the case of a premature birth, Maternity leave is extended from 12 to 18 weeks after birth. In the case of a premature and multiple birth, the longer extension applies.
- If childbirth occurs more than six weeks after the mother started her pre-birth leave, the pre-natal leave is extended until the date of the birth.
- If the mother has any health problems because of childbirth, Maternity leave is extended according to medical judgement.
- If the mother dies during or after childbirth, all Maternity leave rights are transferred to the father or a legal guardian.
- If the child dies during or after childbirth, the mother is entitled to use Maternity leave, though it is not obligatory.

**b. Paternity leave (Permiso pagado del padre en caso de nacimiento - postnatal paternal) (responsibility of the employer)**

*Length of leave*

- Five working days. It is obligatory to take Paternity leave.

### *Payment and funding*

- 100 per cent of earnings, paid by the employer.

### *Flexibility in use*

- The father can choose to take leave in one continuous period immediately after childbirth or can distribute the five days over the first month after the birth.

### *Eligibility (e.g. related to employment or family circumstances)*

- All employees are eligible if they have a contract (permanent or fixed term).
- Self-employed workers do not receive any payment.
- Fathers who are deprived of their parental rights by a court lose all their rights of Paternity leave and transferred Maternity leave.
- Same-sex couples are not recognized in Chilean law.

## **c. Parental leave**

No statutory entitlement.

## **d. Other employment-related measures**

### *Adoption leave and pay*

- Parents that adopt a child are entitled to the same leave as biological parents. If the adopted child is over six months of age, the mother is only able to use the first part of Maternity leave.

### *Leave to care for sick children less than a year old (responsibility of Ministry of Labour and Social Security)*

- Every working mother or father is entitled to paid leave in the case of serious illness of a child under the age of one. This must be certified by a doctor who should also specify the length of the leave. Paid at 100 per cent of earnings by the parent's health insurance with a taxable cap of UF73.20 [€2,246.90].
- The father can take the leave only if the mother allows it. In case the mother dies, all her rights are transferred to the father. In the case

of single mothers, these rights are transferred to the legal guardian of the child.

#### *Leave to care for sick children with serious illness<sup>4</sup>*

- In the case of serious illness (i.e. cancer, organ transplant, or terminal disease) or a serious accident impacting a child between one and 18 years of age, every working mother is entitled to take up to ten days' leave (or the equivalent hours). The employee chooses how to distribute the hours (e.g. as complete days, partial days, or a combination). If both parents work, the mother can transfer this leave to the father.
- 100 per cent of earnings is paid to employees on leave, but employees must return the equivalent working hours to the employer, although there is no time limit for when this must be done.
- To apply for this leave, an employee must have a job contract and have paid eight contributions to pension insurance in the 24 months preceding the start of leave.

#### *Sanna Law<sup>5</sup>*

- Sanna Law was approved in December 2017. Its main purpose was the creation of a compulsory insurance for working mothers and fathers, in the case they had to take care of a child under eighteen years old, with a serious illness. In this way, working parents receive a 100 per cent of their salary while they are absent, with no taxable cap.
- With this coverage parents can be absent from work for a specific period, depending on the severity of the accident or illness. As the law was on implementation, the number of situations covered by the insurance has increased since 2017. Since February 2018, if a son or daughter has cancer, parents can leave for 15 days from work; this period may be extended to 90 days full-time or 180 days part-time in a lapse of 12 months. Later, on July 2018, organ transplant coverage was added, in which parents are entitled to 15 days of leave, with possibility of extension to 90 days full-time or 180 days part-time in a lapse of 12 months. In January 2020, the coverage was extended for parents with a child diagnosed with a terminal disease, in which case the working parent is entitled to a leave until

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<sup>4</sup> Biblioteca del Congreso Nacional de Chile. (2016) *Recuperado el 14 de Marzo de 2019, de Ley Fácil*. Available at: <https://www.bcn.cl/leyfacil/recurso/licencia-medica-para-el-acompanamiento-de-hijos-e-hijas-enfermos-graves-o-en-estado-terminal>

<sup>5</sup> Ministerio de Trabajo y Previsión Social (2020) *Ley SANNA*. Gobierno de Chile

the death of the child. Finally, in February 2020, coverage was extended for parents with a child that suffered a serious accident. In this situation, parents are entitled to use 15 days (which may be extended to 45 days).

- This insurance is financed with the 0.03 per cent of the employee taxable income. Dependent workers should have at least 8 months of contributions to the pension system through AFP in the last 24 months. In the case of independent workers, they are responsible to contribute with this percentage, but also should have at least 12 months of contribution to the pension system in the last 24 months; and their health insurance payment must be up to date. Finally, laid off workers are also entitled to this benefit if they register at least 12 months of contributions to the pension system before the leave starts.

*Time off for the care of dependents (responsibility of National Disability Service and Ministry of Social Development)*

- Every worker is entitled to take a leave of up to ten days per year to care for a disabled person for whom they are responsible. The period of leave taken should be made up by working extra hours or using holidays; if this cannot be done, earnings are reduced. To use the leave, the dependent person must be enrolled in the National Disability Registration. Any carers can use the leave, however the decision for a male worker to use leave rests with his female partner (unless she has died).

*Specific provision for (breast)feeding*

- Every working mother has the right to use at least one hour daily to feed a child under the age of two. This can be taken in one of three ways: during the working day; dividing the breastfeeding hour into two half hours (at the beginning or at the end of the working day); or postponing the beginning of the working day or leaving earlier.
- The employee receives 100 per cent of her earnings.

## **2. Relationship between leave policy and early childhood education and care policy**

Technically there should be no gap between leave and early childhood education. The Labour Law established that all companies that employ more than 20 female workers must either provide a day nursery or pay for

this service outside of the workplace.<sup>6</sup> However, this benefit became a 'tax' for female employment, because adopting it means an increase in the cost of labour for the employer. Therefore, in practice, this provision is not universal.

At the same time, public services have increased their coverage, efficiency, and quality for their target population: every child between birth and five years of age in the bottom 60 per cent of households, in terms of wealth. In this context, the government has developed three programmes:

- Chile Crece Contigo: this inter-sectoral policy deals with early childhood development, covering health, education, social protection, justice, and employment, with guidelines from the Ministry of Social Development, and offering all its services at a local level. ECEC is the largest budgetary item on this programme, but there are no official statistics for coverage rates.<sup>7</sup>
- Two other programmes provide ECEC for vulnerable families:
  - Kindergartens administered by the National Council of Kindergartens (Junta Nacional de Jardines Infantiles- JUNJI).
  - Kindergartens and day nurseries administered by the Integra Foundation.

In 2018, JUNJI kindergartens and nurseries<sup>8</sup> covered 92 per cent of the target population, which is children from the bottom 60 per cent of households, in terms of wealth, enrolled in the Social Registry of Homes (*Registro Social de Hogares*). This means that the coverage of the program descended from 2017, when kindergartens received 98 per cent of the target population<sup>9</sup>. In terms of attendance, JUNJI kindergartens and nurseries presented a low increase from 77.2 per cent in 2017 to 79.0 per cent in 2018.

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<sup>6</sup> Dirección del Trabajo (2019). *Código del Trabajo*. Santiago de Chile.

<sup>7</sup> PNUD (2014) *Chile Crece Contigo: El desafío de la protección social a la infancia*. Santiago de Chile.

<sup>8</sup> Ministerio de Desarrollo Social (2018) *Informe de Seguimiento de Programas Sociales: Jardín Clásico Administrado por Junji y Vía Transferencia de Fondos*. Santiago de Chile.

<sup>9</sup> Ministerio de Desarrollo Social (2017) *Informe de Seguimiento de Programas Sociales: Jardín Clásico Administrado por Junji y Vía Transferencia de Fondos*. Santiago de Chile.

The situations of the Integra Foundation,<sup>10</sup> that of kindergartens, and of nurseries are similar: the programme covered 93.4 per cent of its target population in 2018.

These numbers may suggest that the coverage of kindergarten population for vulnerable families is quite high, however, the potential population with needs of primary education is much higher. A recent evaluation made by the Ministry of Social Development, stated that JUNJI kindergartens and nurseries only cover 21.6 per cent of the population that face a gap between parental leave and elementary education in Chile.

Despite this, Chile keeps on focusing these policies at the most vulnerable families in the country. On the other hand, the law that requires employers to provide nursery provision is a real obstacle to women joining the labour force. Levels of attendance at formal services for children under the age of three are below the average for the countries included in this review and for OECD countries, but are around the average for children over three years of age. For actual attendance levels, see 'relationship between leave and ECEC entitlements' on [cross-country comparisons](#) page.

### **3. Changes in policy since April 2019 (including proposals currently under discussion)**

Flexible working is another change in labour legislation that has been discussed. However, the debate has been surrounding two main options. On one hand, some politicians aim to modernize work-life, with more flexibility to promote work-family balance and to include people in the labour force who are unable to work conventional hours due to a diverse range of personal situations.<sup>11</sup> On the other hand, there is a political wing that keeps looking to reduce formal working hours from 45 to 40 per week, with no flexibility, arguing that this is a better option to improve work-family balance. In the final months of 2019, the reduction of working hours was approved by the Chamber of Deputies but keeps waiting to be discussed in the Senate in April 2020<sup>12</sup>.

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<sup>10</sup> Ministerio de Desarrollo Social (2018) *Informe de Seguimiento de Programas Sociales: Jardines Infantiles y Sala Cuna de Administración Delegada*. Santiago de Chile.

<sup>11</sup> Gobierno de Chile (2018) *Trabajo a Distancia*. Available at: <https://www.gob.cl/trabajoadistancia/>

<sup>12</sup> El Mostrador (2019) *Comisión de Trabajo del Senado aprobó en general proyecto de 40 horas*. Available at: <https://www.elmostrador.cl/noticias/pais/2020/01/29/comision-de-trabajo-del-senado-aprobo-en-general-proyecto-de-40-horas/>.



One of the most important achievements in 2020 was the approval of distance working legislation. This debate was almost forgotten by the national congress. However, due to the sanitary crisis caused by COVID-19, the legislation became a major priority to regulate a wide variety of crucial points related to distance working, such as the definition of the working day, job contracts, security, and hygiene.<sup>13</sup>

In this way, the enactment of the law solved several ambiguities. First, it states explicitly that telecommuter contracts are governed by the Labor Code. It is the responsibility of the employer to respect the fundamental rights of the worker, while the Labor Office oversees the regulation of suitable working conditions.

Second, the law stipulates that telework is a voluntary working condition, both for the employer and the worker, which can be agreed individually or collectively. Thereby, it is possible to switch into a presence-based modality unilaterally, as long as distance working was arranged after the beginning of the contractual relationship. If the relationship began as teleworking, a change in the modality must be an agreement of both sides.

Additionally, the enactment clarifies all the security and health requirements for telecommuters, which are specified in the Law N°16.744, dictated by the Ministry of Labor and Social Security. Furthermore, it indicates that the employer is responsible to inform about the potential risks of distance working, indicated after the evaluation made by a labor security institution in the worker`s home.

A major contribution of the law is observed in terms of the working day. Now, distance workers may be hired under delimited or unlimited working hours. Previously, they could only be hired under unlimited working hours. Moreover, delimited working time contracts are flexible, in such a way that employees may adapt the workday, dividing it according to their personal needs. Regarding attendance control, it is the responsibility of the employer to provide the corresponding devices. It should be noted that distance workers hired under unlimited working hours have the right to digital disconnection.

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<sup>13</sup> Cámara de Diputados de Chile (13 de Agosto de 2018) *Cámara de Diputados de Chile*. Available at:  
[https://www.camara.cl/prensa/noticias\\_detalle.aspx?prmId=134867](https://www.camara.cl/prensa/noticias_detalle.aspx?prmId=134867) al/

Finally, the law establishes that operation, functioning, maintenance and reparation costs, related to distance working modality, are the responsibility of the employer<sup>14</sup>.

## **Policy response to the Covid-19 pandemic up to end June 2020**

### *Childcare and schools*

- All nursery schools, schools, and universities are closed since 16 March 2020. There is no official date to re-open them.
- ECEC has been affected for all children. The ministry of Education has implemented several initiatives: 1) They implemented an on-line learning webpage called "I learn on line". 2) They implemented several resources to give support to teachers, students and their families. Some of these supports are: family orientations and key elements of self-care and key elements for socio-emotional support. This information has been broadcast through seminars, documents and videos. 3) In association with the local TV CNTV and ANATEL, they created a new TV channel called "TVEducaChile". This channel only transmits educational content from grades 1 to 4 and from the school subjects: mathematics, language, history and natural science. 4) In parallel to the online learning, they have distributed print pedagogical material to more than 380.000 students from 1<sup>st</sup> grade to 4<sup>th</sup> grade. 5) They created a School digital library with more than 10.000 school books and a monthly lecture plan. 6) They have supported the inscription to the platform Google Suite, where schools have access free of charge to unlimited institutional email accounts, the learning management system Google Classroom, videoconferences through Meets, on line storage system Google Drive, and other learning tools. 7) They have strengthened socio emotional learning through: orientation guides for parents, experts videos, webinars, and others. 8) They anticipate the delivery of 125.000 computers with internet connection for 11 months provided by two internet companies: Movistar and Entel.

### *Parental leave*

- Parents and carers have access to regular leave options. They have no additional leave options during school/childcare closures.

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<sup>14</sup> Congreso Nacional (23 de marzo de 2020). Oficio N°15.412.

### *Other measures for parents and other carers*

- The Ministry of Education has distributed more than 1,517,734 individual food baskets for kids across the entire country. They distribute baskets every 15 days through home delivery, pick up at the educational site or with the help of the local police. The distribution started on March 16<sup>th</sup> and will last until the schools are open again.

## **4. Uptake of leave<sup>15</sup>**

### **a. Maternity leave**

Data on the use of the obligatory period of Maternity leave is available for up to 2017. According to the Ministry of Labour and Social Security, approximately 42.9 per cent of mothers took the leave six weeks before the birth of the child. Additionally, 44.6 per cent of mothers took Maternity leave after childbirth. This figure includes all mothers, but Maternity leave can only be taken by women who are employed, and the female employment rate is 48.5 per cent.<sup>16</sup> The data also does not include women working in national defense (army, air force, navy, and police).

The additional period of part-transferable Maternity leave started in 2012. That year, 37.4 per cent of mothers took the leave: this number had increased to 44.4 per cent in 2017. Approximately 99 per cent of women who took the leave did so full-time, which means taking 12 weeks of leave. This ratio has been a continuous tendency until 2019.

Leave is transferred to fathers in very few cases. Only 1,802 transfers have been made from 2011 to 2019. This means that, every year, only 0.2 per cent of leaves have been transferred to the father. The average number of days taken was 33.8: i.e., less than the six weeks allowed. According to

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<sup>15</sup> INE (2019) *Anuario de Estadísticas Vitales, 2017*.  
Ministerio del Trabajo y Previsión Social (2017) *Protección a la maternidad en Chile: Evolución del postnatal parental a cinco años de su implementación 2011-2016*. Santiago de Chile.

Superintendencia de Seguridad Social (2020) *Estadísticas de Seguridad Social*. Available at: <https://www.suseso.cl/608/w3-propertyvalue-10364.html>

<sup>16</sup> INE (2017) *Brechas de género en el mercado laboral chileno a nivel nacional*. Available at: [http://historico.ine.cl/genero/files/estadisticas/pdf/infografias/0\\_infografia\\_brecha\\_genero\\_mercado\\_laboral.pdf](http://historico.ine.cl/genero/files/estadisticas/pdf/infografias/0_infografia_brecha_genero_mercado_laboral.pdf)

the Ministry of Labour and Social Security, this low level of transfer is due to several reasons:

- Many women are still breastfeeding at a time when they might transfer leave.
- The decision to transfer Parental leave is with the mother.
- The legal procedure for transferring leave is complex and unknown in most human resources departments due to its low uptake.
- Fathers do not have the same maternal jurisdiction that mothers have at work. Maternal jurisdiction lasts two years, while paternal immunity only doubles the period in which they took the leave.

#### **b. Paternity leave**

There is no information available.

#### **c. Parental leave**

No statutory leave entitlement.