

Work & caregiving

Flexible working, congé d’aidant and protection from discrimination in Luxembourg

In brief

Caring for a relative often means having to coordinate work and support at the same time. In Luxembourg, there are concrete options: flexible working arrangements, the congé d’aidant and - in certain situations - protection from discrimination at work. This guide brings together the key information in a clear and concise way, together with official points of contact.

AT A GLANCE

Flexible working Telework, flexible working hours or a temporary reduction in working time can be requested as a “formule souple de travail”.	Time for care Under certain conditions, the congé d’aidant provides up to 5 days or 40 hours of special leave per reference period.
Protection from discrimination Parents who care for a child with a disability may also be protected at work by equal-treatment law.	Help if difficulties arise For employment-law questions, the ITM and employee representatives can help; where discrimination may be involved, the CET is an important point of contact.

Important: This guide provides general information and does not replace individual legal advice. The rules that apply depend on your employment status, family situation and individual circumstances.

1 · FLEXIBLE WORKING

Flexible working arrangements: “formules souples de travail”

Since 2023, Luxembourg law has provided a specific right to request flexible working arrangements. These may include telework, flexible working hours or a reduction in working time for a defined period of up to one year.

Who can make a request?

- Employees who have worked continuously for the same employer for at least 6 months, and
- parents of a child under the age of 9, or
- employees who provide substantial personal care or assistance, for serious medical reasons, to a family member or a person living in the same household.

For this purpose, “family member” means a son, daughter, mother, father, spouse or registered partner. The substantial need for support must be medically certified.

What must the employer do?

- Consider the request, taking into account both the employer’s needs and those of the employee.
- Respond within one month.
- If the request is refused or postponed, provide the reasons by registered letter.

- Keep the employee's position available during the agreed flexible arrangement - or, where this is not possible, offer a similar position with at least equivalent pay.
- Not disadvantage an employee because they request or use a flexible working arrangement.

Important: The law provides a right to have the request considered and discussed; it does not automatically entitle the employee to the exact arrangement requested.

Protection against dismissal

According to the ITM, a dismissal solely because an employee requested or used flexible working arrangements is null and void. The ITM refers to a very short 15-day deadline after dismissal for bringing an action to have the dismissal declared null and void. If you are dismissed in such circumstances, seek advice immediately.

2 · TIME FOR NECESSARY CARE

Congé d'aidant: up to 5 days of special leave

The congé d'aidant is a form of special leave for employees who need to provide personal care or support to a family member or a person living in the same household.

Entitlement	max. 5 days or 40 hours for full-time employees
Reference period	12 months of employment, starting with the first use of the leave
Qualifying period	none - entitlement may exist from the start of employment
Part-time work	hours are calculated proportionally
Supporting documents	medical certificate + proof of family relationship or shared household
Carry-over	unused hours do not carry over

Eligibility conditions

The person receiving care must require substantial care or assistance for a serious medical reason. Their condition must affect their ability and autonomy to such an extent that they cannot independently manage physical, cognitive or psychological limitations or health-related needs. This must be certified by a doctor.

For the congé d'aidant, family members include a son, daughter, mother, father, spouse or registered partner. Alternatively, the person receiving care may be someone who lives in the same household.

What do I need to do in practice?

- Inform your employer, orally or in writing, no later than the day of the absence.
- Provide the required supporting documents no later than the third day after each absence.
- For full-time employees, the 40 hours may also be taken by the hour; for part-time employees, the entitlement is calculated proportionally.

Formule souple or congé d'aidant?

	Formule souple	Congé d'aidant
Purpose	longer-term organisation	specific care/support
Examples	telework, flexible hours, reduced working time	taking individual hours or days off
Duration	agreed period, max. 1 year	max. 5 days / 40 hours for full-time employees
6 months' service required?	yes	no
Employer approval required?	requested arrangement not automatically granted	statutory special leave if the conditions are met

3 · PROTECTION FROM DISCRIMINATION

Protection from discrimination at work

Workplace rules may appear to apply equally to everyone and still place people who care for a child with a disability at a particular disadvantage. In such situations, European equal-treatment law may be relevant alongside Luxembourg employment law.

When can equal-treatment law be relevant?

A rule can appear to be the same for everyone while still placing certain people at a particular disadvantage. Example: “Everyone must work the same shift pattern.” For a parent who must ensure the necessary care of a child with a disability, such a rule may create a particular disadvantage.

This does not automatically mean that every rule must be changed. However, the individual situation cannot simply be ignored where it falls within the scope of anti-discrimination law.

What does “discrimination by association” mean?

The protection is linked to the protected ground of disability, even where the employee does not have a disability themselves. What may matter is that the disadvantage is connected to the disability of the person receiving care.

An important CJEU judgment from 2025

On 11 September 2025, the Court of Justice of the European Union (CJEU) ruled in Case C-38/24, Bervidi, that protection against indirect discrimination on grounds of disability may also extend to an employee who does not have a disability themselves but cares for their child with a disability.

Protection against so-called “discrimination by association” is not entirely new. In 2008, in Coleman, the CJEU had already held that an employee may be protected against direct discrimination on grounds of disability where it is not the employee, but their child, who has a disability. In 2025, in Bervidi, the Court expressly extended this protection to indirect discrimination as well.

The case concerned an employee who repeatedly asked for a position with fixed working hours because her son required extensive support due to his disability. The employer granted temporary adjustments but refused a permanent arrangement. The case ultimately reached the Italian Court of Cassation, which asked the CJEU to interpret EU law.

Why is this important for Luxembourg?

In this judgment, the CJEU interprets EU law - in particular Directive 2000/78 on equal treatment in employment and occupation. The interpretation is therefore not relevant only to the original Italian case. Courts in other EU Member States must also take it into account in comparable cases.

Does the employer have to make adjustments?

The CJEU states that the employer must provide reasonable accommodation enabling the parent concerned to give the child the necessary support, provided this does not impose a disproportionate burden on the employer.

- Possible adjustments may concern working time, the organisation of work or other appropriate measures.
- There is no automatic right to the exact solution requested by the employee.
- Whether an adjustment is reasonable must be assessed on a case-by-case basis. Relevant factors may include the cost of the adjustment, the employer's size and financial resources, and any available public support.

Important for HALTO families

This protection is not a general “right to preferred working hours” for all carers. The Bervidi judgment specifically concerns parents who provide the necessary support to a child with a disability. The extent of the protection is not equally clear for other family-care situations.

How does this complement Luxembourg employment law?

Luxembourg's formules souples de travail and European equal-treatment law are not the same thing, but they can complement each other.

Luxembourg employment law	provides certain carers with a specific procedure for requesting flexible working arrangements.
EU equal-treatment law	may additionally be relevant where a parent is placed at a particular disadvantage at work because of their child's disability.
The practical point	A formally identical rule for everyone may still be problematic. Where discrimination may be involved, it must be considered whether reasonable accommodation is possible.

One point to remember

“This rule applies to everyone” does not automatically end the assessment. If an apparently neutral rule places a parent at a particular disadvantage because they need to support their child with a disability, anti-discrimination law may come into play.

4 • IF THINGS BECOME DIFFICULT

If the employer refuses: practical next steps

- 1** Make the request in writing where possible. Briefly describe the care situation, the adjustment you need and the period requested.
- 2** Specify the adjustment you need. For example, fixed start and finish times, a particular telework day, adjusted shifts or a temporary reduction in working time.
- 3** Have supporting documents ready. A medical certificate may be required for statutory entitlements.

4

Keep the reply and your documents. For formules souples, a refusal or postponement must be justified.

5

Seek advice if you may be experiencing discrimination. The CET can assist where discrimination is suspected. For employment-law questions, the ITM and - where one exists in the workplace - the staff delegation (délégation du personnel) may also be points of contact.

5 • PUBLIC SECTOR

What if I work in the public sector?

Different rules depending on your status

The rules of the Code du travail do not apply in the same way to every form of public-sector employment. For example, the Portail de la fonction publique lists a separate 12-day special leave entitlement for salariés de l'État who need to provide personal care or support to a relative up to the second degree or to a person living in the same household. Different rules may apply depending on your status. Check with your HR department or consult the Portail de la fonction publique.

Do not confuse the congé d'aidant under the Code du travail described above (5 days / 40 hours) with specific public-sector provisions, which may have different eligibility conditions and entitlements.

6 • FREQUENTLY ASKED QUESTIONS

Quick answers

My child is over 9. Can I still request a flexible working arrangement?

Yes, possibly. Having a child under 9 is only one route to eligibility. A request may also be possible if you provide substantial personal care or assistance to a family member for serious medical reasons.

Does my relative need to be officially recognised as having a disability?

For Luxembourg's formules souples and the congé d'aidant, the key factor is primarily a substantial, medically certified need for care or support. Bervidi, by contrast, expressly concerns discrimination on grounds of disability.

Can I require my employer to allow telework?

Telework can be requested as a flexible working arrangement, but there is no automatic right to have that particular arrangement approved.

Does my employer have to reduce my working hours?

Not automatically. A reduction in working hours may be one possible solution. Whether it is necessary and reasonable in an individual case depends on the circumstances.

Does protection from discrimination apply only to mothers?

No. The protection does not depend on the parent's gender.

Does this protection also apply if I care for a partner, parent or sibling?

The 2025 CJEU judgment specifically concerns the care of a child with a disability. At present, it would be too broad to state that the same protection automatically applies to every other family-care situation.

Good to know: "aidant" does not mean the same thing in every context

Different rules have different eligibility conditions and cover different groups of people. The congé d'aidant may apply to certain family members or a person living in the same household. The Bervidi judgment, by contrast, specifically concerns a parent caring for a child with a disability. The different rules should therefore not be treated as equivalent.

7 · WHERE TO GET HELP

Where can I get support?

CET - Centre for Equal Treatment	For possible discrimination, including discrimination on grounds of disability. 65, route d'Arlon, L-1140 Luxembourg · (+352) 28 37 36 35 · info@cet.lu www.cet.lu
ITM - Labour and Mines Inspectorate	Official information on employment law and formules souples de travail. www.itm.public.lu
Guichet.lu / Ministry of Labour	Official information on the congé d'aidant, eligibility conditions and supporting documents. www.guichet.lu

8 · OFFICIAL SOURCES

Further reading

- [CJEU / CURIA - Press release on judgment C-38/24 “Bervidi” \(11 Sep 2025\)](#)
- [EUR-Lex - Case C-38/24 “Bervidi”](#)
- [CJEU / CURIA - Judgment C-303/06 “Coleman” of 17 Jul 2008](#)
- [ITM - Formules souples de travail: definition](#)
- [ITM - Formules souples de travail: eligibility and procedure](#)
- [ITM - Protection against dismissal](#)
- [Guichet.lu - Congé d'aidant](#)
- [CET - Centre for Equal Treatment](#)
- [Portail de la fonction publique - Leave \(salariés de l'État\)](#)
- Background article (print): “Un arrêt historique renforce le droit des salariés aidants”, issue #175, August/September 2026.

Practical help: CareShare also provides an **editable template letter for discussing a flexible working arrangement in the private sector**.

Information date & liability

Information current as of September 2026.

HALTO a.s.b.l. provides this information in good faith and with due care as general guidance for families and carers. It does not replace individual legal advice.

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If in doubt, we recommend contacting the appropriate advisory service or seeking qualified legal advice.