

DIRECTIVE 2019/1158 ON WORK-LIFE BALANCE FOR PARENTS AND CARERS



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EU GENDER EQUALITY LAW SEMINAR FOR MEMBERS OF THE JUDICIARY,

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EMPLOYMENT
RATE

Employment rate of women in the EU-27 in 2001 was 56.6%, has grown to 71.3% in 2025. Gender gap 9.6 pp (Eurostat)

PART-TIME WORK

In 2024, 17.1% of employed people in the EU were part-timers. 27.8% of women in employment work part-time, compared with 7.7% of men (Eurostat)

CARE WORK AND
INACTIVITY

More than double the share of women (41%) than men (20%) in the EU spend more than 35 hours a week on childcare (EIGE, 2024).

Women are more likely than men to indicate that they are inactive (32% and 11% in 2024) or working part-time due to care responsibilities, thus leading to lower overall earnings in the labour market (Eurostat).

LONG-TERM CARE

Women and men provide long-term care at similar rates. Across the EU, about one in five adults (21%) provide informal long-term care, with little difference between women and men (EIGE, 2024).

DATA ON WORK & CARE

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82.1

Participation

Full-time equivalent employment rate (% , 15-89) ⓘ

EU-W 44

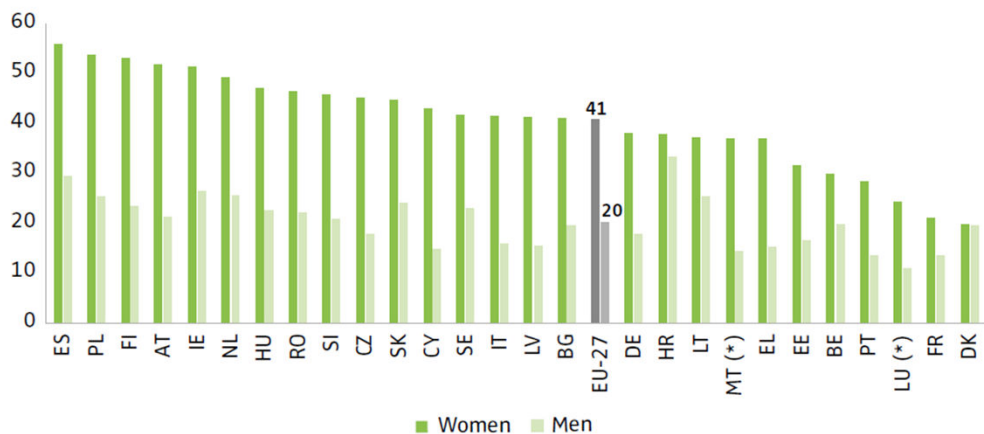
EU-M 59

Source: Eurostat, EU-LFS, EIGE's calculation with microdata, 2023.

Notes: FTE employment rate measures employed persons in a comparable way, even though they may work a different number of hours per week.

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Figure 4. Provision of childcare for own children (aged 0–11) exceeding 35 hours per week (% , 16- to 74-year-olds, 2024)



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EU LAW PRIOR TO DIRECTIVE 2019/1158

- **Charter of Fundamental Rights of the EU** Article 33(2) states that 'to reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity, and the right to paid maternity leave and to parental leave following the birth or adoption of a child.'
- **Pregnancy Directive 92/85/EEC**, protecting the health and safety of pregnant workers and allowing WLB at an early stage. Minimum of 14 weeks of maternity leave, at least 2 compulsory. Maternity leave is compensated at least at the national sick pay level.
- **Parental Leave Directive 96/34/EC** on reconciling family and working life: taking time off to care for young children; minimum requirements intended to facilitate the reconciliation of family and work for working parents; individual right to parental leave (birth or adoption of a child) for at least 3 months, until a given age up to 8 years to be defined by MSs and/or the social partners.

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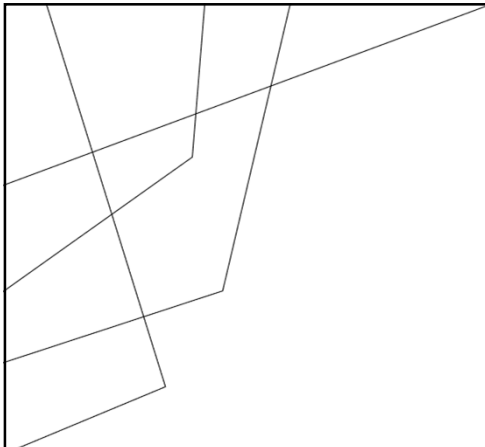
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EU LAW PRIOR TO DIRECTIVE 2019/1158

- **Directive 2010/18/EU regulating parental leave** – repealed the latter and is now being replaced by the Directive 2019/1158. It provided 4 months' unpaid parental leave which can be used until the child has reached the age of 8, at least 1 of the 4 months non-transferable.
- **Directive 97/81 on Part time workers** and **Directive 99/70 on Fixed Term Work** were not specifically part of the equality or WLB agenda. Supported women with caring responsibilities.

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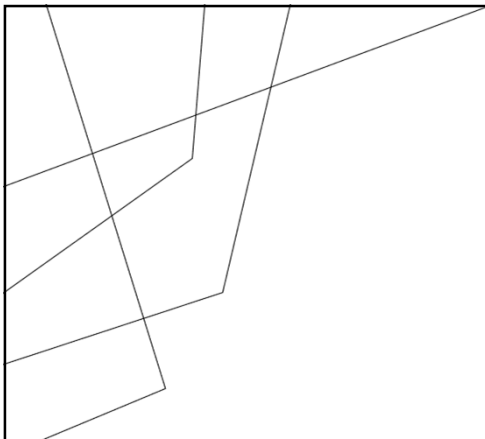
**DIRECTIVE
2019/1158**

PURPOSE

To lay down minimum requirements across all Member States to achieve equality between women and men with regard to labour market opportunities and treatment at work, and thus enable “the reconciliation of work and family life for workers who are parents or carers”.

Modernises some existing rights (parental leave and the right to request flexible working arrangements (FWAs)) and creates new rights at European level, i.e. paternity leave and carers’ leave.

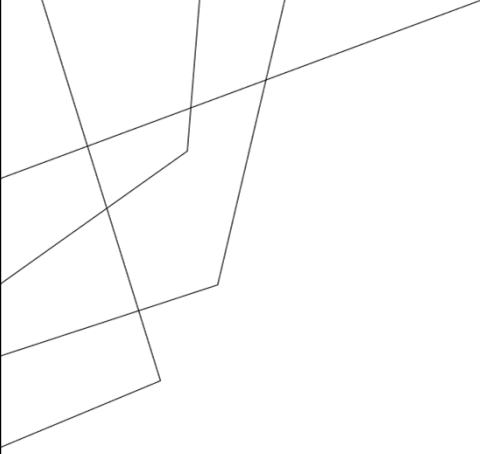
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**DIRECTIVE
2019/1158 IN
A NUTSHELL**

- Aims at addressing women’s lower rates of employment.
- Encourages an equal sharing of family leaves and flexible working arrangements between women and men.
- Provides opportunities for workers to be granted leave to care for relatives.
- Need for workers to reconcile work and family may arise at any point during their lives: not only if they have children, but also if they have a severely ill partner or a dependent parent.

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TERMINOLOGY


WORKER WHO IS A „CARER”

carer provides “personal care and support to a relative or to a person who lives in the same household as the worker”, needing significant care and support for a “serious medical reason”.

FLEXIBLE WORK ARRANGEMENTS

the possibility for workers to adjust their working patterns, incl through the use of remote working arrangements, flexible working schedules, or reduced working hours.

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PERSONAL SCOPE

- All workers who have an employment contract or an employment relationship.
- Includes part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency.
- It is for MSs to define employment contracts and employment relationships with limitations from the case law of the CJEU.

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FLAGSHIP PROVISION ON PATERNITY LEAVE

- 10-day paternity leave – previously non-existent under EU law.
- ‘To be taken on the occasion of the birth of the worker's child’. MSs may allow leave to be taken in flexible ways.
- For fathers and equivalent partners (in 14 MSs)
- Leave must be paid at least at the rate of sick pay, as opposed to normal salary level.
- The right to paternity leave ‘shall not be made subject to a period of work qualification or a length of service qualification’.
- The right granted irrespective of marital or family status as defined in national law.

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PATERNITY LEAVE IN MEMBER STATES


Paternity leave

	Number of weeks	Payment
Germany (DE)*	0	N/A
Bulgaria (BG)	2	90%
Croatia (HR)	2	100%
Cyprus (CY)	2	72%
Czechia (CZ)	2	70%
Denmark (DK)	2	Variable
Greece (EL)	2	100%
Hungary (HU)	2	100%
Ireland (IE)	2	◀ Flat rate
Italy (IT)	2	100%
Latvia (LV)*	2	80%
Luxembourg (LU)	2	▶ Variable
Malta (MT)	2	100%
Poland (PL)	2	100%
Romania (RO)	2	100%
Slovakia (SK)	2	75%
Sweden (SE)*	2	78%
Austria (AT)	4	♥ Flat rate
Belgium (BE)*	4	♦ Variable
Estonia (EE)	4	100%
France (FR)	4	100%
Lithuania (LT)	4	78%
Slovenia (SI)	4	100%
Portugal (PT)*	5	100%
Netherlands (NL)	6	100%
Finland (FI)*	16	Variable
Spain (ES)*	16	100%

Current EU legislation
2 weeks minimum

Infographic by European Parliamentary Research Service, March 2025

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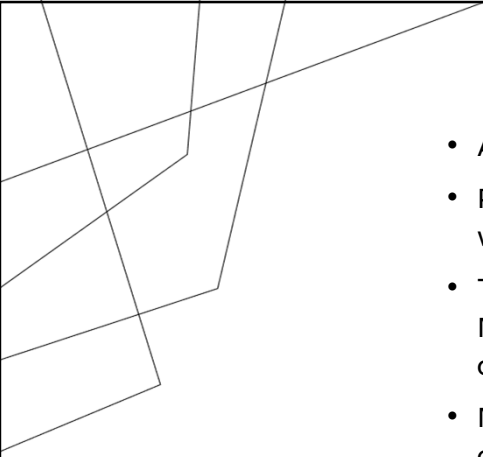


ENCOURAGING MEN TO TAKE PARENTAL LEAVE

- Parental leave still stands at **4 months**. **2** of these months may not be transferred to the other parent and will be paid in order to encourage uptake from men.
- Each MS is able to make 'the right to parental leave subject to a period of work qualification or a length of service qualification which shall not exceed 1 year'.
- Employees will be able to request flexible uptake, MSs must adopt measures to facilitate this.
- Employers to respond to such requests, 'taking into account the needs of both employers and workers, and they shall justify any refusal of such a request in writing within a reasonable time'.

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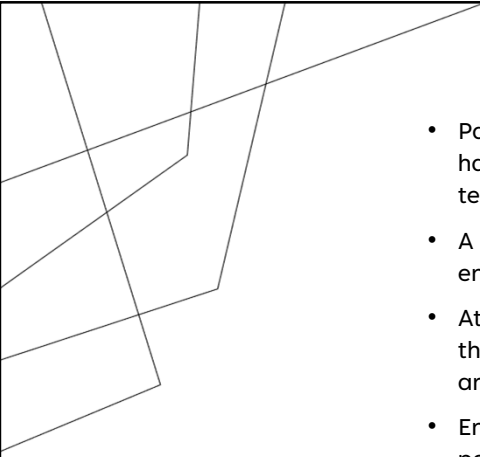


CARERS' LEAVE

- A new carers' leave of 5 days per year.
- Personal care and support to a relative or to a person who lives in the same household as the worker.
- The directive does not say that leave must be paid. MSs may determine details re the scope and conditions of carers' leave.
- MSs 'may allocate leave over a reference period other than a year, per person in need of care or support, or per case'.

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FLEXIBLE WORK ARRANGEMENTS (FWA)

- Parents of children up to at least age 8 years old and all carers have the right to request FWA (reduced or modified hours or teleworking).
- A relative right – right to make a request to the employer, the employer can refuse.
- At the end of the period of leave, they must be able return to the same or an equivalent job and their original working-time arrangements.
- Employers must respond to requests within a reasonable period of time, and they are required to justify refusal or postponement of such an arrangement.
- MSs may decide that this right is subject to a period of work qualification or a length of service qualification (max. 6 months).

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TIME OFF IN FAMILY URGENCIES

- WLB Directive replicates the wording of Directive 2010/18 on parental leave and its predecessor Directive 96/34.
- For urgent family cases (accident or illness) in which the immediate presence of the parent or carer is indispensable, the worker may take time off work.
- No requirement for a payment or an allowance during the leave.

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EMPLOYMENT RIGHTS

- Rights acquired by workers on the date on which a period of leave starts are maintained until the end of the leave.
- Workers are entitled to return to their jobs at the end of the leave.
- Benefit from any improvement in working conditions to which they would have been entitled had they not taken the leave.

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PROTECTION OF CARERS AND PARENTS

- No discrimination on the ground of applying or exercising the rights provided in the Directive
- Prohibition of dismissal
- When dismissed, employer to provide reasons for the dismissal
- Reversed burden of proof - employer to prove that the dismissal was based on other grounds
- Effective, proportionate and dissuasive penalties for infringements
- National Equality Bodies (Art 20 of Directive 2006/54/EC) competent in cases of discrimination under scope of WLB Directive

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TRANSPOSITION AND IMPLEMENTATION

- As of 30 June 2023 the transposition generally satisfactory in just one MS (NL), leaving 26 with important implementation gaps.
- The data (De la Corte-Rodríguez, 2023): the main problems occur in relation to parental leave and/or compensation, FWAs and legal protection.
- Fewer gaps in the case of paternity leave and/or compensation, *force majeure* leave and the personal scope.
- Carers' leave lies somewhere in between.

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EXAMPLES OF PROBLEMATIC IMPLEMENTATION

- The length of parental leave covers (almost) the whole period during which the leave can be taken, which could be filled by one parent (usually the mother) leaving no (complete) 'space' of 4 months for the other parent (typically the father) – 10 MSs.
- Setting conditions for right to parental leave other than qualifying periods - goes against the case law of the CJEU, only the ones mentioned in the Directive are allowed – 5 MSs.
- Not ensuring that workers have the right to take parental leave on a part-time basis and for alternating periods – 14 MSs.
- Have not adopted specific measures for parental leave of the following groups of parents: adoptive parents, parents with a disability and parents with children with a disability or a long-term illness – 8 MSs.

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CASE-LAW

Spanish court 's request for preliminary ruling **Case C-673/22 (16 May 2024)**

- Applicant applied for an extension of 16-week leave on account of her family situation as a single parent. She claimed that the Spanish law discriminates against children born into single-parent families as compared with children born into two-parent families, as the former do not benefit from the 16-week period during which, in two-parent families, the parent other than the biological mother looks after the children.
- Does law comply when it excludes extending parental leave for a single mother and creates unequal treatment between her and the two-parent families who can take parental leave of a max of 32 weeks?
- Do single-parent families fall within the scope of Art 5(8), read in conjunction with recital 37, which allows the conditions of parental leave to be adapted to the needs of adoptive parents, parents with disabilities and parents of children with disabilities or suffering from a long-term illness?
- **Inadmissible** because the Directive is not applicable *ratione materiae* (issue about maternity leave and not parental leave) or *ratione temporis*.

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AITÄH!
THANK YOU

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