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Measures to address the challenges of work-life balance in the EU Member States, Iceland, Liechtenstein and Norway

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French and German

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Measures to address the challenges of work-life balance in the EU Member States, Iceland, Liechtenstein and Norway

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Contents

EXECUTIVE SUMMARY	6
RÉSUMÉ	11
ZUSAMMENFASSUNG	17
1. INTRODUCTION	23
1.1 Purpose and scope of the Report	23
1.2 The legislative context in European Union Law	23
1.3 Setting the report in context	24
1.4 Structure of the report	25
2. FAMILY, WORK AND GENDER EQUALITY	26
2.1 Introduction	26
2.2 Models of work-life ‘balance’	27
2.2.1 The impact of parental leave on women’s labour-market participation	29
2.2.2 The impact of part-time work on women’s labour market status	30
2.3 Reconciliation and gender (in)equality	32
2.4 The importance of childcare	32
2.5 Conclusion	34
3 PART-TIME/FLEXIBLE WORK	35
3.1 Introduction	35
3.2 Part-time work	35
3.2.1 Rights to work (or to request to work) part time	37
3.2.2 Restrictions on the timing of requests to work part time	41
3.2.3 Restrictions on ‘part-time’ working hours	41
3.2.4 Restricting the right to work part time on the basis of the employer’s interests	42
3.2.5 Collectively agreed rights to part-time working arrangements	45
3.2.6 Returning to full-time work	46
3.3 The organisation of working time	47
3.4 Remote working/homeworking	53
3.5 Uptake of part-time work/flexible working	55
3.6 Conclusion	57
4 SHARING LEAVE	59
4.1 Introduction	59
4.2 Maternity leave	59
4.2.1 Shared leave	59
4.2.2 Part-time leave	63
4.3 Paternity leave	64
4.3.1 Shared leave	64
4.3.2 Part-time leave	67
4.4 Parental leave	67
4.4.1 Ordinary and additional ‘parental leave’	67
4.4.2 Additional child-related leave	75
4.4.3 Part-time leave	78
4.5 Uptake of leave	82
4.6 Conclusion	86
5 CARE LEAVES	87
5.1 Care leaves	87
5.2 Conclusion	92
6 LEAVE, WORKING ARRANGEMENTS AND LABOUR-MARKET EQUALITY	93
6.1 Introduction	93
6.2 Labour-market participation	93
6.3 Part-time working arrangements	95
6.4 Conclusions	97

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Executive summary

Introduction

The purpose of this report is to provide a comparative analysis of the extent to which 31 European states (the 28 Member States and the 3 EEA countries: Iceland, Liechtenstein and Norway) have adopted measures which promote the reconciliation of working and private and family life. In contrast with the focus of recent reports of the European Network of Legal Experts in the Field of Gender Equality,¹ the focus is on measures which go beyond those required by EU law. In particular, the report is concerned with flexible arrangements governing the time during which and the place in which work is undertaken, with flexibility in use of family-related leave, with carers' leave and with measures permitting the sharing of parts of maternity leave between parents. The report does not address measures adopted by states to promote women's re-entry into the labour market after periods of absence, as distinct from their return to full-time work after periods of part-time work related to domestic responsibilities or other reasons.

The EU has recognised the importance of reconciliation between work, private, and family life for some time.² Important in their own right, measures promoting the reconciliation of these spheres of life are of fundamental significance to the practical realisation of gender equality: not only do they allow women, who disproportionately bear the responsibilities of caring for children and other dependents, to balance those responsibilities with paid labour, but they can also facilitate the transfer of some measure of caring responsibilities onto men, thus advancing gender equality at a more profound level.

A considerable amount of EU legislation impacts on the reconciliation of professional, private, and family life. The most directly applicable directives are perhaps the Parental Leave Directive 2010/18/EU and the Pregnancy Directive 92/85/EEC, (now under revision), which between them provide for a minimum level of accommodation of childbirth and early childcare. In addition the Recast Directive 2006/54 regulates indirect discrimination against women³ and the Part-time Work Directive 97/81/EC regulates discrimination against those who work part time, a mechanism by which women in many (though not all) states often seek to balance work, private, and family lives.

The conditions designed to help people balance work, private, and family life are established in laws and regulations of Member States, collective agreements and/or employment contracts and case law. The focus of this report is on flexible arrangements governing the time during which and the place in which work is undertaken, with flexibility in use of family-related leave, with carers' leave and with measures permitting the sharing of parts of maternity leave between parents. The report also considers other significant laws and practices designed to address the challenges of reconciling work, private, and family life in the context of increasing female labour-market participation and/or tackling demographic change.

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- 1 See, in particular, Masselot, A., Caracciolo di Torella, E., Burri, S., European Network of Legal Experts in the Field of Gender Equality (2012), *Fighting Discrimination on the Grounds of Pregnancy, Maternity and Parenthood. The application of EU and national law in practice in 33 European countries*, European Commission, http://ec.europa.eu/justice/gender-equality/files/your_rights/discrimination_pregnancy_maternity_parenthood_final_en.pdf, accessed 9 June 2015; (2013), Burri, S., Aune, A., *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, accessed 29 August 2015 and Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.
 - 2 See discussion in Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, pp. 1-2 http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.
 - 3 Article 21(2) explicitly links the topic of gender equality with reconciliation issues regarding flexible working-time arrangements.

Important to the reconciliation of working, private, and family life are measures by which parents (whether specifically as parents or as workers/employees) may access part-time, reduced-hours and/or flexible working arrangements. Because women continue to do more than their fair share of childcare and domestic work, they often work part time in many (though not all) states which are considered in this report. As was reported in the 2013 report on part-time and fixed-term work of the European Network of Legal Experts in the Field of Gender Equality,⁴ there is often a link between part-time work and work which is precarious and/or low paid, and whose part-time nature is not the choice of the worker. It remains the case, however, that in many countries, particularly those in which full-time working hours are long and childcare facilities limited and/or expensive, access to part-time work (in particular to part-time or otherwise reduced working hours in formerly 'full-time jobs', rather than to sex-segregated, low-paid and often low-skill 'part-time jobs'), may be key to women's retention in high-quality labour-market activity during at least the early years of motherhood.

Chapter 1

In Chapter 1, the Introduction to this report, a number of different approaches to the reconciliation of working, private, and family life are considered ranging from those at the traditional end of the spectrum (complete female exit from the labour market on childbirth, exit for a period of years followed by a lengthy period of part-time work prior to return, if any, to full-time work) to more gender-balanced models with relatively long periods of transferrable, well-remunerated parental leave which fathers are encouraged to share. The former types of model are associated with a high cost in terms of women's labour-market value and lifetime earning capacity. The latter are associated with more gender-equal outcomes but are relatively expensive in terms of state input, in particular in relation to the subsidisation of leave and of good-quality childcare to facilitate labour market engagement by both parents.

The point is made in Chapter 1 that workplace reconciliation measures are not the only factors which are significant to gender equality in the labour market. Among the other characteristics which are associated with high levels of such equality is the availability of high-quality reasonably priced childcare, which varies considerably across the states which are the subject of this report.

Chapter 2

Chapter 2 seeks to place the comparative analysis in context by discussing the relationships between reconciliation measures, the availability of childcare and women's labour-market participation. It draws attention to the relationship between women's disproportionate share of childcare responsibilities and gendered inequalities in the labour market, in particular as regards labour market participation rates. It sets out three basic models of family, private, and work-life balance ('traditional', 'intermediate' and 'progressive'), the models being ranked according to their implications for gender equality in labour-market outcomes. It considers the impact of childcare, parental leave and part-time working on labour-market outcomes, particularly those for women, and suggests that, while there is no perfect model, some approaches to the reconciliation of work, private, and family life are associated with more gender-equal labour-market outcomes than others.

Chapter 3

Chapter 3 considers the different approaches across the 31 states to what might be termed 'reconciliation measures' – in particular, access to part-time working and flexibility as regards the organisation and

4 *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries*, http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, accessed 29 August 2015.

location of work. The states surveyed demonstrate a wide variety of approaches. By way of example, in the **United Kingdom** all employees may request access to reduced-hours or flexible work, but employers are required only to give reasonable consideration to such a request; in **Austria, Latvia, Lithuania, Slovenia, and Sweden**, by contrast, the parents of children of a variety of ages have an absolute right to reduced-hours work, but no such right is afforded to other categories of worker. There are also a variety of approaches as regards the duration of reduced working hours: in a number of states, including **Luxembourg and Portugal**, reduced working hours are subject to express time limits. In **Austria, Finland, Slovenia and Sweden**, by contrast, they are linked to the age of the child to whom they relate while elsewhere, as in the **Netherlands and the United Kingdom**, hours are altered indefinitely if a request is granted and the employee will have to make a fresh request (with no guarantee of success) if he or she wishes to resume full-time hours. In some states, such as **Germany, Ireland, Lithuania, Norway and Spain**, part-timers who wish to increase their working hours are entitled to preferential access to any additional hours available.

It is evident from the states surveyed that, whereas many states provide some access to reduced working hours, the provision to workers (or to working parents) of any measure of control over their pattern of their work, much less its location, is altogether less common. Having said this, workers in **Norway** are entitled to flexible working time where this does not cause serious difficulties for the enterprise,⁵ while in **Austria** the parents of children aged up to 4 or 7, depending on the size of the company, have the legal right to change their working schedules as well as to reduce working hours.⁶ In **Sweden** employees who are working reduced hours have relatively strong rights to organise those hours in any daily or weekly pattern. Collective agreements are of some significance in this context, in particular in **Austria, Germany, the Netherlands and Luxembourg** in which flexible working arrangements commonly feature in such agreements, while in **France** negotiation on equality issues is mandatory and working time is partly regulated through collective agreements which could provide for reduced hours.

Chapter 4

Chapter 4 considers rights to parental, maternity and paternity leave. An increasing number of states (currently, **Bulgaria, Hungary, Poland, Portugal, Spain and the United Kingdom**) allow some sharing of maternity leave (other than solely where the mother dies or is very unwell and/or absent), though they are still very much in the minority. Maternity leave varies in length between 14 and 52 weeks. Paternity leave is reserved to fathers/women's partners and is generally for a period of two weeks or less. Notable exceptions to this are **Finland, Iceland, Lithuania and Slovenia** where fathers are entitled to 54 days, 3 months, 1 month and 30 days of leave respectively. Fathers in **Bulgaria** are entitled to 15 days of leave, those in **Romania** to 10 days if they have completed a course in infant care, otherwise to 5. At the other end of the spectrum are **Croatia, Cyprus, Ireland, Liechtenstein and Slovakia** where there is no general right to paternity leave.

Shared parental leave is much more common, as is illustrated by Table 10 of the report. In some cases (such as **Bulgaria, Croatia, Cyprus and Ireland**) there are formal arrangements whereby parents may assign part or all of their individual rights to each other. Elsewhere leave is provided on a *per child* basis and may be taken by either or both parents (**Denmark, Estonia, Finland, Italy**). In some cases (such as **Austria and Hungary**) the leave is for a period of the child's life, rather than a particular length of time, and parents may take leave simultaneously as well as consecutively. In other countries, such as **Greece**, the leave is transferable in the public sector only.

5 S10-2(3) Working Environment Act (WEA) 17 June 2005 No. 62.

6 Under the Maternity Protection Act and the Fathers' Parental Leave Act (parental part-time work, *Elternteilzeit*) §§ 15h to 15p Maternity Protection Act and §§ 8 to 8h Fathers' Parental Leave Act (*Väterkarenzgesetz, VKG*) <https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10008674/VKG25%202c%20Fassungvom%2014.04.2015.pdf>, accessed 14 April 2015.

There is a wide variety of arrangements for parental leave and the interplay between such leave and maternity/paternity leave is often complex, a number of states also providing various types of additional leave for purposes connected with children. In addition, and overlapping with the subject matter of Chapter 2, in a number of states workers may take maternity, paternity and/or parental leave on a part-time basis, a right which, when such leaves are lengthy, amounts in practice to a right to work reduced hours over a significant period of time. Important to the extent to which parental leave allows workers to balance their working, private, and family lives is the question of payment, which is touched on in Chapter 4. Also of real significance from the perspective of gender equality is the extent to which parental leave is transferrable and this is addressed in Chapter 3 as well as in Table 10.

Chapter 5

Chapter 5 considers the carers' leave provided in a number of states. Such leave, which for the purposes of this report is defined as leave for the purposes of looking after adult dependents and others whose care does not (except as regards the emergency dependent leave provided by Clause 7) fall within the scope of the Parental Leave Directive. Chapter 5 also analyses other relevant laws and practices which aim to increase the balance between work, private, and family life outside the scope of flexible working arrangements or the sharing of leaves.

Chapter 6

The empirical evidence available from the states surveyed does not allow many conclusions to be drawn as to the efficacy of individual reconciliation measures considered in this report to improve the extent and quality of female labour-market participation. For this reason, Chapter 6 discusses the countries which are the subject matter of this report regarding a number of measures of labour-market and broader gender equality. In particular, consideration is given to Eurostat statistics concerning employment rates of women (and of women relative to those of men) and part-time working by women (and by women relative to men) across the states surveyed. The purpose is to provide some additional information about the extent and nature of women's participation in the labour market by way of background information against which the efficacy of the various measures discussed in this report as measures to encourage such participation may be assessed.

The states which do particularly well (that is, in terms of female labour-market participation both absolutely and relative to that of men) are **Denmark, Estonia, Finland, Iceland, Norway** and **Sweden** while **Croatia, Greece, Hungary, Italy, Malta, Poland, Romania** and **Slovakia** all do relatively badly both in terms of absolute and relative female participation. The tables presented subsequently in the report consider part-time working by women; the evidence is that **Austria, Belgium, Germany, Luxembourg** and the **United Kingdom** all have both absolutely and relatively high proportions of female part-time workers (the latter relative to the number of male part-time workers), while at the other end of the spectrum **Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania, Slovakia** and **Romania** have both absolutely and relatively low proportions of female part-time workers.

Unsurprisingly, perhaps, there is a high correlation between the extent of female part-time working and the degree of female labour-market participation; of the top ten states ranked by female labour-market participation, seven (**Austria, Denmark, Germany, the Netherlands, Norway, Sweden** and the **United Kingdom**) were also in the top ten states ranked by the rate of part-time working among women. There is also a relatively high correlation between low female participation rates and low rates of female part-time working, with **Croatia, Hungary, Poland, Romania** and **Slovakia** featuring in the bottom ten countries for female labour-market participation (absolute and relative) and part-time working. This being the case, the quality of part-time work to which women have access is a significant factor in determining women's labour-market status, pay and prospects in many states surveyed.

Conclusions

It will become clear in the report that there is a positive correlation, whether or not there is a causal relationship, between the provision of relatively long and generously paid periods of parental leave, a significant proportion of which must be taken by each parent if the full period is to be enjoyed, and good labour-market outcomes for women. In addition, access to flexible working arrangements, including reduced-hours work, appears to be strongly correlated with positive labour-market outcomes for women, though it is important to emphasise that there is a distinction to be drawn between this and a situation in which women are concentrated in female-dominated part-time work in 'women's jobs' for which many are over-qualified and which produce high gender-wage gaps and de-skilled women workers. There is also a distinction to be drawn between those countries in which high levels of female part-time work are positively correlated with gender equitable labour-market outcomes and those in which they are not; in the former, men's working hours tend to be relatively short also with the effect that the *relative* levels of part-time female work are not particularly high.

It is important to emphasise that even the front-runners as regards gender-equitable labour-market outcomes have labour markets in which women take the lion's share of parental leave and men appear slow to take even that leave which is available to them alone. Transforming gendered expectations (including the expectations of men and women workers, as distinct from employers and governments) may well be a very slow process. It is, however, clear that the relative cost of parenthood to women in terms of labour-market outcomes may be reduced, even if it may not be completely eliminated, by legal reconciliation measures. It would be foolish to overlook the potential impact of childcare to this end; as will be seen in Chapter 2, there is an inverse relationship between childcare availability/use and the impact of motherhood on women's labour-market participation.

Résumé

Introduction

Le présent rapport a pour objet de proposer une analyse comparative de l'ampleur des mesures adoptées par 31 pays européens (les 28 États membres de l'UE et les trois pays de l'EEE, à savoir l'Islande, le Liechtenstein et la Norvège) pour favoriser la conciliation entre vie professionnelle et vie familiale. À l'inverse de récentes publications du Réseau européen d'experts juridiques dans le domaine de l'égalité des genres,¹ il se concentre sur des mesures allant au-delà des exigences de la législation de l'UE. Le rapport s'intéresse plus particulièrement aux régimes souples régissant le temps et le lieu de prestation du travail, à la flexibilité d'utilisation du congé pour raison familiale, au congé d'aidant proche et aux mesures permettant un partage partiel du congé de maternité entre les parents. Le rapport n'aborde pas les mesures adoptées par les États en vue de favoriser la réinsertion des femmes sur le marché du travail après une période d'absence, par opposition à leur retour au travail à plein temps à l'issue d'une période de travail à temps partiel pour cause de responsabilités familiales ou pour d'autres raisons.

L'UE reconnaît depuis un certain temps qu'il est important de concilier vie professionnelle, privée et familiale.² En plus d'être essentielles en tant que telles, les mesures visant à promouvoir la conciliation entre ces différentes sphères de vie s'avèrent déterminantes pour la concrétisation de l'égalité des genres: non seulement elles permettent aux femmes, qui assument une part disproportionnée des responsabilités de garde et de soins aux enfants et à d'autres personnes à charge, de trouver un juste équilibre entre ces responsabilités et un travail rémunéré, mais elles peuvent aussi faciliter le transfert d'une part de ces responsabilités vers les hommes, ce qui fait progresser l'égalité des genres à un niveau plus fondamental.

De nombreux volets de la législation européenne ont une incidence sur la conciliation entre vie professionnelle, privée et familiale. Les directives les plus directement applicables à cet égard sont sans doute la directive 2010/18/UE sur le congé parental et la directive 92/85/CEE relative à la grossesse (en cours de révision), lesquelles assurent conjointement un niveau minimum d'aménagement autour de la naissance et de la petite enfance. Par ailleurs, la directive 2006/54/CE (refonte) interdit la discrimination indirecte envers les femmes³ et la directive 97/81/CE relative au travail à temps partiel interdit la discrimination envers ceux qui prestent selon cette formule à laquelle les femmes de nombreux pays (mais pas tous) recourent souvent pour tenter de trouver un meilleur équilibre entre vie professionnelle, vie privée et vie familiale.

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- 1 Voir notamment Masselot, A., Caracciolo di Torella, E., Burri, S., Réseau européen d'experts juridiques dans le domaine de l'égalité des genres (2012), *Fighting Discrimination on the Grounds of Pregnancy, Maternity and Parenthood. The application of EU and national law in practice in 33 European countries* (résumé en français: «La lutte contre la discrimination fondée sur la grossesse, la maternité et la parentalité»), Commission européenne, http://ec.europa.eu/justice/gender-equality/files/your_rights/discrimination_pregnancy_maternity_parenthood_final_en.pdf, consulté le 9 juin 2015; (2013), Burri, S., Aune, A., *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, consulté le 29 août et Palma-Ramalho, M., Foubert, P., et Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries* (résumé en français: «La mise en œuvre de la directive 2010/18 sur le congé parental dans 33 pays européens»), http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, consulté le 9 juin 2015.
 - 2 Voir discussion dans Palma-Ramalho, M., Foubert, P., et Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, p. 1-2 http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, consulté le 9 juin 2015.
 - 3 L'article 21, paragraphe 2, établit un lien explicite entre le thème de l'égalité hommes-femmes et les questions de conciliation en rapport avec l'aménagement flexible du temps de travail.

Les conditions destinées à faciliter cet équilibre entre vie professionnelle, privée et familiale sont définies dans des lois et réglementations nationales, des conventions collectives et/ou des contrats d'emploi et la jurisprudence. Le rapport s'intéresse plus particulièrement aux régimes souples régissant le temps et le lieu de prestation du travail, à la flexibilité d'utilisation du congé pour raison familiale, au congé d'aidant proche et aux mesures permettant un partage partiel du congé de maternité entre les parents. Il s'intéresse également à d'autres législations et pratiques visant à relever le défi de la conciliation entre vie professionnelle, privée et familiale dans un contexte de participation croissante des femmes au marché du travail et/ou de réponse à l'évolution démographique.

Les mesures importantes pour la conciliation de la vie professionnelle, privée et familiale sont celles qui offrent aux parents – que ce soit spécifiquement en leur qualité de parents ou en leur qualité de travailleurs/salariés – la possibilité de travailler à temps partiel, en horaire réduit et/ou en régime flexible. Étant donné que les femmes continuent d'assumer plus que leur juste part de la garde des enfants et des travaux ménagers, elles travaillent souvent à temps partiel dans bon nombre (mais pas dans la totalité) des pays couverts par le présent rapport. Comme le signalait le rapport 2013 que le Réseau européen d'experts juridiques dans le domaine de l'égalité des genres a consacré au travail à temps partiel et au travail à durée déterminée,⁴ il existe fréquemment un lien entre travail à temps partiel, d'une part, et travail précaire et/ou faiblement rémunéré, de l'autre – l'option du temps partiel n'étant pas un choix délibéré de la part du travailleur. Il n'en reste pas moins que dans beaucoup de pays, et en particulier dans les pays où les journées de travail sont longues et les structures de garde d'enfants limitées et/ou onéreuses, l'accès au travail à temps partiel (surtout lorsqu'il s'agit d'un travail à temps partiel ou à horaire autrement réduit dans le cadre d'un emploi antérieurement presté à temps plein, et non d'un emploi à temps partiel caractérisé par une ségrégation sexuelle ainsi que par un faible niveau de rémunération et, souvent, de qualification) peut être décisif pour que les femmes continuent d'exercer une activité de qualité sur le marché du travail au moins durant les premières années de leur maternité.

Chapitre 1

Le premier chapitre du rapport, qui en constitue l'introduction, expose une série d'approches de la conciliation entre vie professionnelle, privée et familiale depuis les plus traditionnelles (sortie complète des femmes du marché du travail au moment d'une naissance; sortie de ce marché pendant quelques années, puis longue période de travail à temps partiel avant la reprise – éventuelle – d'un travail à temps plein) jusqu'à des modèles davantage équilibrés en termes de genre proposant des périodes relativement longues de congé parental transférable et bien rémunéré que les pères sont encouragés à exercer en partie. Les modèles du premier type ont un coût élevé en termes de valeur des femmes sur le marché du travail et en termes de capacité de gains sur l'ensemble de la durée de vie. Les modèles du deuxième type tendent à donner des résultats plus équitables en termes de genre mais s'avèrent relativement onéreux en termes de contribution de l'État, laquelle contribution consiste notamment à subventionner le congé ainsi que des services de qualité en matière d'accueil et de garde des enfants pour faciliter la participation des deux parents au marché du travail.

Le chapitre 1 montre clairement que les mesures de conciliation prises sur le lieu de travail ne sont pas les seuls facteurs déterminants pour assurer l'égalité hommes-femmes sur le marché de l'emploi. Parmi les autres conditions associées à un niveau élevé d'égalité figure la disponibilité de structures de garde offrant une grande qualité à des prix raisonnables – laquelle disponibilité varie considérablement selon les pays couverts par le présent rapport.

4 *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries*, http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, consulté le 29 août 2015.

Chapitre 2

Le deuxième chapitre contextualise l'analyse comparative en examinant les interdépendances entre mesures de conciliation, disponibilité de structures de garde d'enfants et participation des femmes au marché du travail. Il attire l'attention sur l'existence d'un lien entre la part disproportionnée de responsabilité assumée par les femmes en ce qui concerne l'éducation des enfants, et les inégalités entre les sexes sur le marché du travail, en termes de taux de participation plus particulièrement. Ce chapitre décrit trois modèles de base en matière d'équilibre entre vie professionnelle, privée et familiale («traditionnel», «intermédiaire» et «progressiste»), classés en fonction de leur impact sur les avancées réalisées sur le marché du travail dans une perspective d'égalité hommes-femmes. Ce deuxième chapitre étudie l'incidence des services de garde d'enfants, du congé parental et du travail à temps partiel sur les résultats obtenus sur le marché du travail, du côté des femmes en particulier, et laisse penser que, même si le modèle parfait n'existe pas, certaines approches de la conciliation entre vie professionnelle, privée et familiale peuvent être davantage associées que d'autres à l'obtention de résultats plus équitables sur ce marché en termes de genre.

Chapitre 3

Le troisième chapitre se penche sur les diverses approches adoptées par les 31 pays en matière de «mesures de conciliation» – et plus spécifiquement en termes d'accès au travail à temps partiel et de flexibilité dans l'organisation et la localisation du travail. Ces approches varient fortement entre les pays couverts par le rapport: ainsi au **Royaume-Uni** par exemple, tous les salariés peuvent demander un temps de travail ou un horaire flexible, mais les employeurs sont uniquement tenus d'accorder une considération raisonnable à ce type de demande; en **Autriche**, en **Lettonie**, en **Lituanie**, en **Slovénie** et en **Suède**, en revanche, les parents d'enfants de différentes tranches d'âge jouissent d'un droit absolu de travailler moins d'heures, mais ce droit n'est accordé à aucune autre catégorie de travailleurs. On observe également une grande diversité d'approches en ce qui concerne la durée du travail à horaire réduit: dans plusieurs États membres, parmi lesquels le **Luxembourg** et le **Portugal**, ce temps de travail réduit est expressément limité. En **Autriche**, en **Finlande**, en **Slovénie** et en **Suède**, par contre, ce temps de travail est lié à l'âge de l'enfant auquel il se rapporte, tandis qu'ailleurs – aux **Pays-Bas** et au **Royaume-Uni** notamment – il est modifié sans limite dans le temps lorsque la demande est acceptée et le salarié/la salariée doit formuler une nouvelle demande (sans garantie de succès) s'il/si elle souhaite reprendre le travail à temps plein. Dans un certain nombre de pays tels que l'**Allemagne**, l'**Espagne**, l'**Irlande**, la **Lituanie** et la **Norvège**, les salariés à temps partiel qui souhaitent augmenter leur durée de travail bénéficient d'un accès préférentiel aux heures qui sont ou deviennent disponibles.

Il ressort clairement de l'étude de ces 31 pays que si bon nombre d'entre eux permettent d'obtenir un temps de travail réduit, la possibilité offerte aux travailleurs (ou aux parents qui travaillent) de pouvoir exercer un minimum de contrôle sur leur rythme de travail, et à plus forte raison sur le lieu où il s'exerce, est beaucoup moins répandue. Ceci étant dit, les salariés de **Norvège** ont droit à un temps de travail flexible pour autant que cela n'engendre pas de sérieuse difficulté pour l'entreprise,⁵ et, en **Autriche**, les parents d'enfants de moins de 4 ou de 7 ans, selon la taille de l'entreprise, ont légalement le droit de modifier leur horaire de travail ainsi que de travailler moins d'heures.⁶ En **Suède**, les salariés qui prestent un temps de travail réduit jouissent de droits assez importants pour aménager ce temps selon le régime quotidien ou hebdomadaire qui leur convient. Les conventions collectives jouent un rôle non négligeable à cet égard, en particulier en **Autriche**, en **Allemagne**, aux **Pays-Bas** et au **Luxembourg** où elles contiennent couramment des dispositions relatives aux modalités de travail flexibles; en **France**, une

5 S10-2(3) Loi n° 62 du 17 juin 2005 sur l'environnement de travail.

6 En vertu de la loi sur la protection de la maternité et de la loi sur le congé parental des pères (travail à temps partiel des parents, *Elternteilzeit*), articles 15h à 15p de la loi sur la protection de la maternité et articles 8 à 8h de la loi sur le congé parental des pères (*Väterkarenzgesetz, VKG*) <https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10008674/VKG25%202c%20Fassungvom%2014.04.2015.pdf>, consulté le 14 avril 2015.

négociation sur les questions d'égalité est obligatoire et le temps de travail est partiellement régi par les conventions collectives, lesquelles peuvent en prévoir la réduction.

Chapitre 4

Le quatrième chapitre est consacré aux droits au congé parental, de maternité et de paternité. Un nombre croissant de pays (actuellement la **Bulgarie**, l'**Espagne**, la **Hongrie**, la **Pologne**, le **Portugal** et le **Royaume-Uni**) autorisent un partage partiel du congé de maternité (en-dehors de la condition exclusive du décès ou d'un mauvais état de santé/d'une absence de la mère) mais ils restent à ce jour très minoritaires. La durée du congé de maternité varie de 14 à 52 semaines. Le congé de paternité, réservé aux pères/partenaires de femmes, a généralement une durée maximale de deux semaines. Il existe des exceptions notoires à cet égard puisque les pères bénéficient en **Finlande**, en **Islande**, en **Lituanie** et en **Slovénie** d'un congé de 54 jours, de 3 mois, de 1 mois et de 30 jours respectivement. En **Bulgarie**, les pères ont droit à un congé de 15 jours, et de 10 jours en **Roumanie** pour autant qu'ils aient suivi avec fruit un cours de soins aux nouveaux nés (sinon le congé est de 5 jours seulement). On trouve, à l'autre extrémité, la **Croatie**, **Chypre**, l'**Irlande**, le **Liechtenstein** et la **Slovaquie**, où il n'existe aucun droit général au congé de paternité.

Le congé parental partagé est beaucoup plus répandu, comme le montre le tableau 10 du rapport. Dans certains cas (**Bulgarie**, **Croatie**, **Chypre** et **Irlande** notamment), des arrangements formels permettent aux parents de s'attribuer mutuellement tout ou partie de leurs droits individuels. Ailleurs, le congé est prévu par enfant et peut être pris par l'un ou l'autre parent ou par les deux (**Danemark**, **Estonie**, **Finlande**, **Italie**). Dans plusieurs cas (**Autriche** et **Hongrie** par exemple), le congé est accordé pendant une certaine période de la vie de l'enfant plutôt que pour une durée déterminée, et les parents peuvent exercer simultanément et consécutivement leur droit à ce congé. Dans d'autres pays, parmi lesquels la **Grèce**, le congé est uniquement transférable dans le secteur public.

Il existe une multitude de modalités en matière de congé parental et les interdépendances entre ce congé et le congé de maternité/paternité sont souvent complexes, sans compter qu'une série de pays prévoient également divers types de congé complémentaire pour des raisons liées aux enfants. De surcroît, et en recoupement avec l'objet du chapitre 2, plusieurs pays permettent aux travailleurs de prendre un congé de maternité, de paternité ou parental à temps partiel – un droit qui, lorsque le congé dure longtemps, équivaut de facto à un droit de travailler à temps réduit pendant une longue période. La question de la rémunération, évoquée au chapitre 4, est un facteur qui détermine largement la mesure dans laquelle le congé parental permet aux travailleurs de trouver un juste équilibre entre vie professionnelle, vie privée et vie familiale. Le degré de transférabilité de ce congé est lui aussi très important dans une perspective d'égalité entre les hommes et les femmes: ce point est abordé au chapitre 3 et illustré au tableau 10.

Chapitre 5

Le cinquième chapitre examine le congé d'aidant proche qui, prévu dans un certain nombre de pays, est défini dans le cadre du présent rapport comme un congé pris pour s'occuper de personnes adultes dépendantes et d'autres personnes dont la prise en charge ne relève pas (hormis en ce qui concerne l'absence du travail pour raisons de force majeure prévue à la clause 7) du champ d'application de la directive relative au congé parental. Le chapitre 5 analyse également d'autres lois et pratiques pertinentes visant à améliorer la conciliation entre vie professionnelle, privée et familiale en dehors des dispositions portant sur les régimes de travail flexibles ou le partage des congés.

Chapitre 6

Les éléments empiriques disponibles en provenance des pays couverts par l'analyse ne permettent pas de tirer beaucoup de conclusions quant à l'efficacité de mesures de conciliation particulières qui, décrites dans le présent rapport, visent à améliorer l'ampleur et la qualité de la participation des femmes au marché du travail. Aussi le chapitre 6 s'attache-t-il à examiner les pays en question par rapport à un certain nombre de mesures axées sur l'égalité hommes-femmes, à la fois sur ce marché et de façon plus générale. Une large place est réservée aux statistiques Eurostat relatives aux taux d'emploi des femmes (et des femmes par rapport aux hommes) et au travail féminin à temps partiel (y compris par rapport au travail masculin à temps partiel) dans l'ensemble des pays couverts par l'analyse – l'objectif étant de fournir des informations complémentaires concernant l'ampleur et la nature de la participation des femmes au marché du travail sous la forme de données de base pouvant servir de références à l'évaluation de l'efficacité des diverses mesures d'incitation à cette participation décrites dans le rapport.

Les pays qui affichent une très bonne performance (en termes de participation féminine au marché du travail tant en valeur absolue que par rapport à la participation masculine) sont le **Danemark**, l'**Estonie**, la **Finlande**, l'**Islande**, la **Norvège** et la **Suède**; à l'opposé, la **Croatie**, la **Grèce**, la **Hongrie**, l'**Italie**, **Malte**, la **Pologne**, la **Roumanie** et la **Slovaquie** affichent des résultats assez faibles en matière de participation des femmes, que ce soit en chiffres absolus ou en chiffres relatifs. Les tableaux présentés dans la suite du rapport concernent le travail féminin à temps partiel et montrent que l'**Allemagne**, l'**Autriche**, la **Belgique**, le **Luxembourg** et le **Royaume-Uni** sont autant de pays où la proportion de femmes travaillant à temps partiel est élevée, à la fois en termes absolus et en termes relatifs (par rapport au nombre d'hommes prestant à temps partiel); on trouve à l'autre extrême la **Bulgarie**, la **Croatie**, l'**Estonie**, la **Hongrie**, la **Lettonie**, la **Lituanie**, la **Slovaquie** et la **Roumanie** où cette proportion de travailleuses à temps partiel, tant absolue que relative, est assez peu élevée.

On observe – et ce n'est sans doute guère surprenant – qu'il existe une forte corrélation entre l'ampleur du travail féminin à temps partiel et le taux de participation des femmes au marché du travail: parmi les dix pays en tête du classement basé sur la participation féminine au marché du travail, sept (l'**Allemagne**, l'**Autriche**, le **Danemark**, la **Norvège**, les **Pays-Bas**, le **Royaume-Uni** et la **Suède**) figurent également dans les dix premiers du classement basé sur la proportion de femmes exerçant un emploi à temps partiel. On constate également une corrélation assez étroite entre les faibles taux de participation féminine et les faibles taux de travail féminin à temps partiel puisque la **Croatie**, la **Hongrie**, la **Pologne**, la **Roumanie** et la **Slovaquie** figurent dans les dix derniers du classement à la fois pour ce qui concerne la participation (absolue et relative) des femmes au marché du travail et pour ce qui concerne le travail à temps partiel. Il ressort clairement de ce qui précède que la qualité du travail à temps partiel auquel les femmes peuvent accéder s'avère déterminante pour leur situation, leur rémunération et leurs perspectives sur le marché du travail dans bon nombre de pays couverts par l'analyse.

Conclusions

Le rapport montre qu'il existe manifestement une corrélation positive, qu'il s'agisse ou non d'une relation de causalité, entre l'octroi de périodes de congé parental relativement longues et généreusement rémunérées – dont une proportion importante doit être prise par chacun des parents pour bénéficier de la période complète – et les bons résultats obtenus par les femmes sur le marché du travail. Il semblerait en outre qu'il existe une étroite corrélation entre l'accès à des régimes de travail flexibles, y compris une diminution du temps de travail, et les acquis des femmes sur le marché du travail, même s'il convient d'établir une distinction entre cette situation et celle dans laquelle les femmes sont concentrées dans un travail à temps partiel à prédominance féminine relevant d'«emplois de femmes» pour lesquels elles sont souvent surqualifiées et qui sont à l'origine d'écarts salariaux majeurs entre les sexes et d'une déqualification de la main-d'œuvre féminine. Une distinction doit également être faite entre les pays où existe une corrélation positive entre un niveau élevé de travail féminin à temps partiel et des acquis en

termes d'égalité de genre sur le marché du travail, et ceux où cette corrélation n'existe pas; dans le cas des premiers, la durée du travail masculin tend à être relativement courte, ce qui a également pour effet que le niveau *relatif* du travail féminin à temps partiel n'est pas particulièrement élevé.

Il est important d'attirer l'attention sur le fait que, même dans les pays pionniers en termes d'égalité hommes-femmes sur le marché du travail, ce sont les femmes qui prennent la majeure partie du congé parental tandis que les hommes hésitent encore à prendre ne serait-ce que le congé qui leur est réservé. L'évolution des attentes sexospécifiques (en ce compris les attentes des travailleurs et des travailleuses par opposition aux attentes des employeurs et des gouvernements) pourrait être un processus de longue haleine. Mais il est clair que des mesures légales en faveur d'une meilleure conciliation pourraient faire diminuer le coût relatif de la parentalité assumé par les femmes en termes de résultats obtenus sur le marché du travail. Il serait totalement insensé de négliger dans cette perspective l'incidence potentielle de la problématique de la garde des enfants: comme le montre le chapitre 2, il existe une relation inverse entre la disponibilité/l'utilisation des services de garde d'enfants et l'impact de la maternité sur la participation des femmes au marché du travail.

Zusammenfassung

Einleitung

Ziel dieses Berichts ist es, eine vergleichende Analyse vorzulegen, die beleuchtet, inwieweit 31 europäische Länder (die 28 EU-Mitgliedstaaten und die drei EWR-Länder Island, Liechtenstein und Norwegen) Maßnahmen zur Förderung der Vereinbarung von Beruf, Privatleben und Familie getroffen haben. Im Gegensatz zu jüngsten Berichten des Europäischen Netzwerks von Rechtsexpertinnen und Rechtsexperten auf dem Gebiet der Gleichstellung von Frauen und Männern¹ liegt der Schwerpunkt des vorliegenden Berichts auf Maßnahmen, die über die im Unionsrecht vorgeschriebenen hinausgehen. In dem Bericht geht es vor allem um flexible Regelungen des Ortes, an dem Arbeit erbracht wird, und der Zeit, in der sie erbracht wird, um Flexibilität bei der Inanspruchnahme von Freistellungen aus familiären Gründen, um Pflegefreistellungen und um Maßnahmen, die es Eltern ermöglichen, Teile des Mutterschaftsurlaubs gemeinsam zu nutzen. Staatliche Maßnahmen, mit denen Frauen nach einer Erwerbspause der Wiedereinstieg in den Arbeitsmarkt – im Unterschied zur Rückkehr in die Vollzeitbeschäftigung nach einer Zeit der Teilzeitbeschäftigung wegen häuslicher Verpflichtungen oder aus anderen Gründen – erleichtert werden soll, sind nicht Gegenstand dieses Berichts.

Die EU hat bereits seit einiger Zeit erkannt, dass der Vereinbarung von Beruf, Familie und Privatleben eine große Bedeutung zukommt.² Maßnahmen zur Förderung der Vereinbarkeit dieser Lebensbereiche, die *per se* einen hohen Stellenwert haben, sind für die praktische Verwirklichung der Gleichstellung von Mann und Frau von wesentlicher Bedeutung: Nicht nur ermöglichen sie es Frauen, auf denen, was die Pflege und Betreuung von Kindern und anderen Familienmitgliedern betrifft, unverhältnismäßig mehr Verantwortung lastet, diese Verantwortung mit einer Erwerbstätigkeit in Einklang zu bringen, sie können auch die Übertragung gewisser Betreuungsaufgaben auf Männer erleichtern und bringen so die Gleichstellung von Frauen und Männern auf einer grundlegenden Ebene voran.

Ein erheblicher Teil der unionsrechtlichen Vorschriften hat Auswirkungen auf die Vereinbarung von Beruf, Familie und Privatleben. Die Richtlinien, mit der unmittelbarsten Wirkung, sind wohl die Richtlinie 2010/18/EU über den Elternurlaub und die (derzeit in Überarbeitung befindliche) Richtlinie 92/85/EWG zur Verbesserung des Mutterschutzes, die zusammen genommen ein Minimum an Erleichterungen im Zusammenhang mit der Geburt eines Kindes und der Kleinkindbetreuung bieten. In der Richtlinie 2006/54/EG wird darüber hinaus die mittelbare Diskriminierung von Frauen reglementiert,³ in der Teilzeitrichtlinie 97/81/EG die Diskriminierung von Personen, die Teilzeit arbeiten – ein Instrument, mit dem Frauen in vielen (wenn auch nicht allen) Ländern häufig versuchen, Beruf, Familie und Privatleben in Einklang zu bringen.

- 1 Vgl. insbesondere Masselot, A., Caracciolo di Torella, E., Burri, S., Europäisches Netzwerk von Rechtsexpertinnen und Rechtsexperten auf dem Gebiet der Gleichstellung von Frauen und Männern (2012), *Die Bekämpfung von Diskriminierungen aufgrund von Schwangerschaft, Mutterschaft und Elternschaft. Die Anwendung des EU-Rechts und des nationalen Rechts in der Praxis in 33 europäischen Ländern*, Europäische Kommission, http://ec.europa.eu/justice/gender-equality/files/your_rights/discrimination_pregnancy_maternity_parenthood_final_de.pdf (letzter Zugriff am 9. Juni 2015); (2013), Burri, S., Aune, A., *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf (letzter Zugriff am 29. August 2015), und Palma-Ramalho, M., Foubert, P., und Burri, S. (2015), *Die Umsetzung der Elternurlaubsrichtlinie 2010/18 in 33 europäischen Ländern*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_de.pdf (letzter Zugriff am 9. Juni 2015).
- 2 Vgl. die Diskussion in Palma-Ramalho, M., Foubert, P., und Burri, S. (2015), *Die Umsetzung der Richtlinie 2010/18 über Elternurlaub in 33 europäischen Ländern*, S. 1-2 http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_de.pdf (letzter Zugriff am 9. Juni 2015).
- 3 Artikel 21 Abs. 2 verknüpft die Gleichstellung von Männern und Frauen ausdrücklich mit Vereinbarkeitsfragen in Bezug auf flexible Arbeitszeitregelungen.

Die Bedingungen, die den Menschen dabei helfen sollen, Beruf, Familie und Privatleben in Einklang zu bringen, sind in Gesetzen und Verordnungen der Mitgliedstaaten, in Tarifverträgen und/oder Arbeitsverträgen sowie in der Rechtsprechung verankert. Der Schwerpunkt dieses Berichts liegt auf flexiblen Regelungen des Ortes, an dem Arbeit erbracht wird, und der Zeit, in der sie erbracht wird, auf Flexibilität bei der Inanspruchnahme von Freistellungen aus familiären Gründen, auf Pflegefreistellungen und auf Maßnahmen, die es Eltern ermöglichen, Teile des Mutterschaftsurlaubs gemeinsam zu nutzen. Der Bericht befasst sich darüber hinaus mit anderen wichtigen Rechtsvorschriften und Praktiken, deren Ziel es ist, den mit der Vereinbarung von Beruf, Familie und Privatleben verbundenen Herausforderungen vor dem Hintergrund der steigenden Erwerbsbeteiligung von Frauen und/oder der Bewältigung des demografischen Wandels zu begegnen.

Wichtig für die Vereinbarkeit von Beruf, Familie und Privatleben sind Maßnahmen, durch die Eltern (entweder ausdrücklich als Eltern oder als Arbeitnehmer/Arbeitnehmerinnen) Zugang zu Teilzeitarbeit, verkürzten Arbeitszeiten und/oder flexiblen Arbeitszeitregelungen erhalten. Da Frauen nach wie vor mehr als den ihnen zustehenden Anteil an der Kinderbetreuung und der Hausarbeit leisten, arbeiten sie in vielen (jedoch nicht in allen) Ländern, die in diesem Bericht behandelt werden, häufig Teilzeit. Wie das Europäische Netzwerk von Rechtsexpertinnen und Rechtsexperten auf dem Gebiet der Gleichstellung von Frauen und Männern bereits 2013 in seinem Bericht über Teilzeitarbeit und befristete Arbeit feststellte,⁴ besteht häufig eine Beziehung zwischen Teilzeitarbeit und Arbeit, die prekär und/oder schlecht bezahlt ist und deren Teilzeitcharakter keine freie Entscheidung der betroffenen Arbeitnehmerinnen und Arbeitnehmer ist. In vielen Ländern – vor allem in solchen, in denen die Vollarbeitszeiten lang sind und Kinderbetreuungseinrichtungen nur beschränkt zur Verfügung stehen und/oder teuer sind – kann der Zugang zu Teilzeitarbeit (insbesondere die Möglichkeit, in einem früheren „Vollzeitjob“ Teilzeit oder mit anderweitig verkürzten Arbeitszeiten zu arbeiten statt in einem geschlechtlich segregierten, schlecht bezahlten und oft gering qualifizierten „Teilzeitjob“) jedoch entscheidend dafür sein, dass Frauen zumindest in den ersten Jahren der Mutterschaft eine hochwertige Erwerbstätigkeit aufrechterhalten können.

Kapitel 1

In Kapitel 1, der Einleitung zu dem Bericht, wird eine Reihe unterschiedlicher Ansätze zur Vereinbarung von Beruf, Familie und Privatleben untersucht; das Spektrum reicht von traditionellen Ansätzen (vollständiges Ausscheiden der Frau aus dem Arbeitsmarkt bei Geburt eines Kindes oder mehrjähriges Ausscheiden gefolgt von einem längeren Zeitraum der Teilzeitarbeit und anschließender Rückkehr, wenn überhaupt, zur Vollzeitbeschäftigung) bis hin zu Modellen mit einem besseren Gleichgewicht zwischen Männern und Frauen, bei denen relativ lange Abschnitte eines gut bezahlten Elternurlaubs übertragbar sind und die Väter ermutigt werden, diesen mit zu nutzen. Erstere Modelle sind, was den Arbeitsmarktwert und die lebenslange Verdienstkapazität von Frauen betrifft, mit hohen Kosten verbunden. Bei letzteren sind die Auswirkungen auf Männer und Frauen ausgeglichener, sie sind jedoch mit relativ hohen staatlichen Ausgaben verbunden, vor allem was die Bezuschussung der Freistellungszeiten und qualitativ hochwertiger Kinderbetreuungseinrichtungen betrifft, welche die Beteiligung beider Elternteile am Arbeitsmarkt erleichtern sollen.

In Kapitel 1 wird außerdem darauf hingewiesen, dass Vereinbarkeitsmaßnahmen am Arbeitsplatz nicht die einzigen Faktoren sind, die für die Gleichstellung von Frauen und Männern am Arbeitsmarkt maßgeblich sind. Einer der Faktoren, die ebenfalls mit einem hohen Maß an Geschlechtergleichstellung korrelieren, ist das Angebot an qualitativ hochwertigen, preiswerten Kinderbetreuungsplätzen; in den Ländern, die Gegenstand dieses Berichts sind, ist dieses Angebot sehr unterschiedlich.

4 *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries*, http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf (letzter Zugriff am 29. August 2015).

Kapitel 2

Kapitel 2 stellt die vergleichende Analyse in einen Kontext, indem es den Zusammenhang zwischen Vereinbarkeitsmaßnahmen, Kinderbetreuungsangeboten und der Erwerbsbeteiligung von Frauen untersucht. Es weist auf den Zusammenhang zwischen dem unverhältnismäßig großen Anteil an der Verantwortung für die Kinderbetreuung, den Frauen übernehmen, und den geschlechtsspezifischen Ungleichheiten am Arbeitsmarkt, vor allem bei den Erwerbsquoten hin. Es beschreibt drei Grundmodelle der Vereinbarung von Beruf, Familie und Privatleben, die entsprechend ihren Implikationen für das Geschlechtergleichgewicht bei den Arbeitsmarkterträgen als „traditionell“, „mittel“ bzw. „fortschrittlich“ eingestuft werden. Es untersucht die Auswirkungen von Kinderbetreuung, Elternurlaub und Teilzeitarbeit auf die Arbeitsmarkterträge, speziell die von Frauen, und schlussfolgert, dass, solange kein perfektes Modell existiert, einige Ansätze zur Vereinbarung von Beruf, Familie und Privatleben mehr Geschlechtergerechtigkeit bei den Arbeitsmarkterträgen bieten als andere.

Kapitel 3

In Kapitel 3 werden die verschiedenen Ansätze dessen beleuchtet, was in den 31 Ländern als „Vereinbarkeitsmaßnahmen“ bezeichnet werden kann – vor allem Zugang zu Teilzeitarbeit und Flexibilität in Bezug auf Organisation und Ort der Arbeitserbringung. In den untersuchten Ländern wurden viele unterschiedliche Ansätze gefunden. Im **Vereinigten Königreich** können Beschäftigte zum Beispiel generell eine Verkürzung oder Flexibilisierung der Arbeitszeit beantragen, die Arbeitgeber und Arbeitgeberinnen sind jedoch nur verpflichtet, derartige Anträge angemessen zu berücksichtigen; in **Lettland, Litauen, Österreich, Schweden und Slowenien** dagegen haben Eltern von Kindern unterschiedlichsten Alters einen absoluten Rechtsanspruch auf Verkürzung ihrer Arbeitszeit, andere Kategorien von Beschäftigten jedoch nicht. Unterschiedlichste Ansätze existieren auch, was die Dauer der Arbeitszeitverkürzung betrifft: In einer Reihe von Ländern, darunter **Luxemburg und Portugal**, unterliegen Arbeitszeitverkürzungen einer ausdrücklichen Befristung; in **Finnland, Österreich, Schweden und Slowenien** sind sie dagegen an das Alter des Kindes gebunden, auf das sie sich beziehen; in anderen Ländern wiederum, etwa in den **Niederlanden** und im **Vereinigten Königreich**, gilt die geänderte Arbeitszeit, sofern dem entsprechenden Antrag stattgegeben wurde, auf unbestimmte Zeit und muss der Arbeitnehmer bzw. die Arbeitnehmerin einen neuen Antrag stellen (ohne Erfolgsgarantie), wenn er oder sie in die Vollzeit zurückkehren möchte. In einigen Ländern, zum Beispiel in **Deutschland, Irland, Litauen, Norwegen und Spanien**, haben Teilzeitbeschäftigte, die länger arbeiten möchten, einen bevorzugten Anspruch auf eventuell anfallende Überstunden.

Aus der Befragung der Länder geht hervor, dass viele Länder zwar gewisse Möglichkeiten der Arbeitszeitverkürzung vorsehen, es insgesamt jedoch weniger üblich ist, Beschäftigten (oder berufstätigen Eltern) irgendwelche Möglichkeiten einzuräumen, die Struktur ihrer Arbeit, geschweige denn den Arbeitsort zu beeinflussen. Unabhängig davon haben Beschäftigte in **Norwegen** Anspruch auf flexible Arbeitszeiten, sofern dem Unternehmen dadurch keine ernsthaften Schwierigkeiten entstehen,⁵ während in Österreich Eltern mit Kindern bis zu vier oder (je nach Größe des Unternehmens) bis zu sieben Jahren Anspruch darauf haben, sowohl die Verteilung ihrer Arbeitszeit zu ändern als auch ihre Arbeitszeit zu reduzieren.⁶ In **Schweden** haben Beschäftigte, die bei reduzierter Stundenzahl arbeiten, relativ starke Rechte, diese Stunden in einem beliebigen Tages- bzw. Wochenrhythmus zu organisieren. Tarifverträge spielen in diesem Zusammenhang eine gewisse Rolle, vor allem in **Deutschland, Luxemburg, den Niederlanden** und Österreich, wo solche Verträge in der Regel flexible Arbeitsregelungen enthalten; in **Frankreich** sind Tarifverhandlungen über Gleichstellungsfragen obligatorisch und die Arbeitszeiten teilweise in Tarifverträgen geregelt, die eine Verkürzung der Arbeitszeit vorsehen können.

5 S10-2(3) *Working Environment Act* (WEA) 17. Juni 2005 Nr. 62.

6 Nach dem Mutterschutzgesetz und dem Väter-Karenzgesetz (Elternteilzeit) §§ 15h bis 15p Mutterschutzgesetz und §§ 8 bis 8h Väter-Karenzgesetz (VKG) <https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10008674/VKG25%202c%20Fassungvom%2014.04.2015.pdf> (letzter Zugriff am 14. April 2015).

Kapitel 4

Kapitel 4 untersucht die Rechtsansprüche auf Eltern-, Mutterschafts- und Vaterschaftsurlaub. Immer mehr Länder (derzeit **Bulgarien, Polen, Portugal, Spanien**, das **Vereinigte Königreich** und **Ungarn**) sehen die Möglichkeit vor, den Mutterschaftsurlaub bis zu einem gewissen Grad gemeinsam zu nutzen (nicht nur dann, wenn die Mutter verstorben, schwer krank und/oder nicht anwesend ist), sie sind jedoch noch sehr stark in der Minderheit. Die Dauer des Mutterschaftsurlaubs schwankt zwischen 14 und 52 Wochen. Der Vaterschaftsurlaub ist den Vätern/Partnern der Frauen vorbehalten und hat in der Regel eine Dauer von zwei Wochen oder weniger. Bemerkenswerte Ausnahmen sind **Finnland, Island, Litauen** und **Slowenien**, wo Väter Anspruch auf 54 Tage, drei Monate, einen Monat bzw. 30 Tage Urlaub haben. In **Bulgarien** haben Väter Anspruch auf 15 Tage Urlaub, in **Rumänien** auf zehn Tage, sofern sie einen Säuglingspflegekurs absolviert haben, andernfalls auf fünf Tage. Am anderen Ende der Skala stehen **Irland, Kroatien, Liechtenstein**, die **Slowakei** und **Zypern**, wo kein genereller Anspruch auf Vaterschaftsurlaub besteht.

Die gemeinsame Nutzung des Elternurlaubs ist, wie aus Tabelle 10 des Berichts hervorgeht, viel stärker verbreitet. In einigen Ländern (etwa in **Bulgarien, Irland, Kroatien** und **Zypern**) gibt es formelle Vereinbarungen, mit denen Eltern ihre individuellen Rechte ganz oder teilweise auf den jeweils anderen Elternteil übertragen können. In anderen Ländern wird der Urlaub pro Kind gewährt und kann von einem Elternteil oder von beiden in Anspruch genommen werden (**Dänemark, Estland, Finnland, Italien**). In manchen Fällen (zum Beispiel in Österreich und **Ungarn**) wird der Urlaub nicht für eine bestimmte Zeitdauer, sondern für einen bestimmten Lebensabschnitt des Kindes gewährt, und können die Eltern den Urlaub gleichzeitig oder hintereinander nehmen. In anderen Ländern wie zum Beispiel **Griechenland** ist der Urlaubsanspruch nur im öffentlichen Dienst übertragbar.

Die Palette der Elternurlaubsregelungen ist groß und das Zusammenspiel zwischen Elternurlaub und Mutterschafts-/Vaterschaftsurlaub häufig komplex, wobei einige Länder im Zusammenhang mit Kindern außerdem verschiedene Arten von Zusatzurlaub gewähren. Des Weiteren – dies überschneidet sich mit dem Gegenstand von Kapitel 2 – können Beschäftigte in einer Reihe von Ländern Mutterschafts-, Vaterschafts- und/oder Elternurlaub auf Teilzeitbasis nehmen; wenn solche Teilzeiturlaube lang sind, bedeutet dies faktisch einen Rechtsanspruch darauf, über einen längeren Zeitraum hinweg bei reduzierter Stundenzahl zu arbeiten. Wichtig für die Frage, inwieweit Elternurlaub es Beschäftigten ermöglicht, Beruf, Familie und Privatleben in Einklang zu bringen, ist der Aspekt der Bezahlung, auf den in Kapitel 4 eingegangen wird. Ebenfalls von großer Bedeutung unter dem Gesichtspunkt der Geschlechtergleichstellung ist die Frage, inwieweit der Elternurlaub übertragbar ist – ein Punkt, der in Kapitel 3 und in Tabelle 10 beleuchtet wird.

Kapitel 5

Kapitel 5 befasst sich mit den Pflegefreistellungen, die in einigen Ländern gewährt werden. Pflegefreistellungen im Sinne dieses Berichts sind Freistellungen zum Zwecke der Pflege und Betreuung erwachsener Familienangehöriger und anderer Personen, die (abgesehen von der in Paragraph 7 vorgesehenen Freistellung wegen dringender familiärer Gründe) von der Elternurlaubsrichtlinie nicht erfasst wird. Kapitel 5 geht darüber hinaus auf andere einschlägige Rechtsvorschriften und Verfahrensweisen ein, mit denen das Gleichgewicht zwischen Beruf, Familie und Privatleben verbessert werden soll und die nicht unter flexible Arbeitszeitregelungen oder die Aufteilung von Freistellungszeiten fallen.

Kapitel 6

Die empirischen Daten, die aus der Befragung der einzelnen Länder gewonnen wurden, lassen nur wenige Rückschlüsse darauf zu, wie effizient die verschiedenen in diesem Bericht behandelten Vereinbarkeitsmaßnahmen sind, wenn es darum geht, Umfang und Qualität der Frauenerwerbsbeteiligung zu steigern. Aus diesem Grund werden in Kapitel 6 die Länder, die Gegenstand des Berichts sind, auf

eine Reihe von Maßnahmen zur Gleichstellung von Frauen und Männern auf dem Arbeitsmarkt und zur Gleichstellung von Frauen und Männern im weiteren Sinne hin untersucht. Besonders berücksichtigt wurden dabei Eurostat-Statistiken zu den Beschäftigungsquoten von Frauen (und von Frauen im Vergleich zu denen von Männern) sowie zur Teilzeitarbeit von Frauen (und von Frauen im Vergleich zu der von Männern) in den untersuchten Ländern. Ziel ist es, zusätzliche Informationen über Art und Umfang der Erwerbsbeteiligung von Frauen bereitzustellen, die als Hintergrundinformation dienen, um die Wirksamkeit der diversen in diesem Bericht behandelten Maßnahmen als Maßnahmen zur Förderung der Frauenerwerbsbeteiligung zu bewerten.

Länder, die (bei der Erwerbsbeteiligung von Frauen, sowohl absolut als auch relativ im Verhältnis zu der von Männern) besonders gut abschneiden, sind **Dänemark, Estland, Finnland, Island, Norwegen und Schweden; Griechenland, Italien, Kroatien, Malta, Polen, Rumänien**, die **Slowakei** und **Ungarn** schneiden dagegen, sowohl was die absolute als auch was die relative Erwerbsbeteiligung von Frauen betrifft, allesamt ziemlich schlecht ab. In den Tabellen, die dazu in dem Bericht enthalten sind, wird die Teilzeitarbeit von Frauen erfasst; es zeigt sich, dass der Anteil der weiblichen Teilzeitbeschäftigten in **Belgien, Deutschland, Luxemburg, Österreich** und im **Vereinigten Königreich** – sowohl absolut als auch relativ (im Verhältnis zur Zahl der männlichen Teilzeitbeschäftigten) – hoch ist; am anderen Ende der Skala stehen **Bulgarien, Estland, Kroatien, Lettland, Litauen**, die **Slowakei, Rumänien** und **Ungarn**, wo der Anteil der weiblichen Teilzeitbeschäftigten – sowohl absolut als auch relativ – niedrig ist.

Es überrascht wenig, dass der Umfang der Teilzeitbeschäftigung von Frauen und der Grad ihrer Erwerbsbeteiligung stark korrelieren: Von den zehn Ländern mit der höchsten Frauenerwerbsbeteiligung sind sieben (**Dänemark, Deutschland, die Niederlande, Norwegen, Österreich, Schweden** und das **Vereinigte Königreich**) auch unter den zehn Ländern mit den höchsten Teilzeitquoten von Frauen. Eine relativ hohe Korrelation besteht auch zwischen niedrigen Frauenerwerbsquoten und niedrigen Teilzeitquoten von Frauen: **Kroatien, Polen, Rumänien**, die **Slowakei** und **Ungarn** gehören, was die Frauenerwerbsbeteiligung (sowohl absolut als auch relativ) und die Teilzeitbeschäftigung von Frauen betrifft, zu den zehn Schlusslichtern. Angesichts dessen ist die Qualität der Teilzeitarbeit, zu der Frauen Zugang haben, in vielen der untersuchten Länder ein Faktor, der den Arbeitsmarktstatus, die Bezahlung und die Arbeitsmarktchancen von Frauen wesentlich bestimmt.

Schlussfolgerungen

Der Bericht macht deutlich, dass – unabhängig von einem etwaigen kausalen Zusammenhang – eine positive Korrelation zwischen dem Anspruch auf einen relativ langen und gut bezahlten Elternurlaub, der, um den vollen Zeitraum auszuschöpfen, zu einem Großteil von beiden Elternteilen genommen werden muss, und guten Arbeitsmarkterträgen für Frauen besteht. Eine starke Korrelation besteht offensichtlich auch zwischen der Möglichkeit einer flexiblen Arbeitsorganisation, einschließlich der Reduzierung der Arbeitszeit, und positiven Arbeitsmarkterträgen für Frauen; es ist jedoch wichtig zu betonen, dass dies von einer Situation zu unterscheiden ist, in der sich die Erwerbstätigkeit von Frauen auf weiblich dominierte Teilzeitarbeit in „Frauenjobs“ konzentriert, für die viele von ihnen überqualifiziert sind, die hohe Verdienstgefälle zwischen Männern und Frauen entstehen lassen und qualifizierte weibliche Arbeitskräfte in ihrem Potenzial schwächen. Unterschieden werden muss auch zwischen den Ländern, in denen ein hohes Maß an weiblicher Teilzeitarbeit positiv mit geschlechtergerechten Arbeitsmarkterträgen korreliert, und den Ländern, in denen dies nicht der Fall ist; in ersteren sind die Arbeitszeiten von Männern in der Regel ebenfalls relativ kurz, so dass das *relative* Ausmaß der Teilzeitarbeit von Frauen nicht besonders groß ist.

Es ist wichtig festzuhalten, dass sogar die Spitzenreiter bei den geschlechtergerechten Arbeitsmarkterträgen Arbeitsmärkte haben, in denen Frauen den Löwenanteil des Elternurlaubs in Anspruch nehmen und Männer selbst von den Zeiten, die ihnen allein vorbehalten sind, nur zögerlich Gebrauch machen. Die Transformation geschlechtlich geprägter Erwartungen (auch der Erwartungen von Arbeitnehmerinnen

und Arbeitnehmern im Unterschied zu Arbeitgeberinnen/Arbeitgebern und Regierungen) kann ein sehr langsamer Prozess sein. Klar ist jedoch, dass die relativen Kosten der Elternschaft für Frauen durch gesetzliche Vereinbarkeitsmaßnahmen vielleicht nicht vollständig eliminiert, aber doch reduziert werden können. Es wäre töricht, die potenziellen Auswirkungen der Kinderbetreuung in diesem Zusammenhang außer Acht zu lassen; wie in Kapitel 2 gezeigt, besteht eine inverse Korrelation zwischen dem Kinderbetreuungsangebot/der Inanspruchnahme von Kinderbetreuung und den Auswirkungen von Mutterschaft auf die Erwerbsbeteiligung von Frauen.

1. INTRODUCTION

1.1 Purpose and scope of the Report

The purpose of this report is to provide a comparative analysis of the extent to which 31 European states (the 28 Member States and the 3 EEA countries: Iceland, Liechtenstein and Norway) have adopted measures which promote the reconciliation of working, private, and family life. In contrast with the focus of recent reports of the European Network of Legal Experts in the Field of Gender Equality,⁷ the focus is on measures which go beyond those required by EU law. In particular, the report is concerned with flexible arrangements governing the time during which and the place in which work is undertaken, with flexibility in use of family-related leave, with carers' leave and with measures permitting the sharing of parts of maternity leave between parents. Having said this, there is discussion of broader questions such as the length of maternity, paternity and parental leave and the payment of various types of leave as this information is important in the evaluation of the utility of shared and flexible etc. leave to the reconciliation of professional, private, and family life.

The EU has recognised the importance of reconciliation between work, private, and family life for some time.⁸ Important in their own right, measures promoting the reconciliation of these spheres of life are of fundamental significance to the practical realisation of gender equality: not only do they allow women, who disproportionately bear the responsibilities of caring for children and other dependents, to balance those responsibilities with paid labour, but they can also facilitate the transfer of some measure of caring responsibilities onto men, thus advancing gender equality at a more profound level.

1.2 The legislative context in European Union Law

A considerable amount of EU legislation impacts on the reconciliation of professional, private and family life. The most directly applicable directives are the Parental Leave Directive 2010/18/EU and the Pregnant Workers Directive 92/85/EEC,⁹ which between them provide for a minimum level of accommodation of childbirth and early childcare. In addition, the Recast Directive 2006/54/EC regulates indirect as well as direct discrimination against women (who bear a disproportionate share of childcare obligations, which impact on their availability for work)¹⁰ and the Part-time Work Directive 97/81/EC regulates discrimination against those who work part time, a mechanism by which women in many (though not all) states often seek to balance work, private, and family lives.

These directives, though the most directly relevant EU law measures, are not the only ones. The principle of gender equality is set out in Article 23 of the Charter of Fundamental Rights of the EU (CFREU), and Article 2 and Article 3, Paragraph 2 TEU, as well as Articles 8, 10, 153 No. 1 TFEU. Article 33(2) CFREU 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'. Soft-law measures of relevance in this context

7 See, in particular, Masselot, A., Caracciolo di Torella, E., Burri, S., European Network of Legal Experts in the Field of Gender Equality (2012), *Fighting Discrimination on the Grounds of Pregnancy, Maternity and Parenthood. The application of EU and national law in practice in 33 European countries*, European Commission, http://ec.europa.eu/justice/gender-equality/files/your_rights/discrimination_pregnancy_maternity_parenthood_final_en.pdf, accessed 9 June 2015; (2013), Burri, S., Aune, A., *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015 and Palma-Ramalho, M., Foubert, P., Burri, S., (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

8 See discussion in Palma-Ramalho, M., Foubert, P., Burri, S., (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, pp. 1-2, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

9 See http://europa.eu/rapid/press-release_IP-15-5287_en.htm, accessed 27 October 2015.

10 Article 21(2) explicitly links the topic of gender equality with reconciliation issues regarding flexible working time arrangements.

include, most obviously, Council Resolution No. 9303/00, of 19 June 2000¹¹ regarding the promotion of balanced participation of men and women in professional activity and in family activities, which states, inter alia, that the balanced participation of women and men both in the labour market and in family life is an essential aspect of the development of society, and that maternity and paternity rights as well as the rights of children are current social values to be protected by society, the Member States and the European Union. The Presidency Conclusions of 23/24 March 2006¹² acknowledged the need to promote a better work-life balance and to combat gender stereotypes in the employment market.

1.3 Setting the report in context

Work-life balance is about reconciling the demands of paid employment with those concerned with private and family life. The ideal work-life balance will be different for different people and may vary over a lifetime for any individual. Such balance plays a major role in gender equality, particularly with regard to female participation in the labour market. It also has a link with fertility rates and demographic change as well as social security arrangements and cultural norms and expectations concerning gendered behaviour. Legislation supporting work-life balance is therefore a vital aspect of legislation promoting gender equality.

The conditions designed to help people balance work, private, and family life are established in laws and regulations of Member States, collective agreements and/or employment contracts and case law. The focus of this report is on flexible working arrangements, and on legal arrangements providing for sharing parts of maternity leave and parental leave between the parents and using family-related leave in a flexible way. The report also considers other significant laws and practices, particularly carers' leave, designed to address (or capable of addressing) the challenges of work-life balance in the context of increasing female labour-market participation and/or tackling demographic change.

A report on parental leave published in 2015¹³ explains how Member States take a variety of approaches to parental leave in relation to a number of issues. These include the timing of leave; whether it can be taken in one or more blocks or could be utilised more flexibly by parents; whether it is an individual right or one to be shared between parents; and whether it is open to parents to use it so as to reduce working hours. The answers to these questions have significant implications for the utility of parental leave as a measure to facilitate the reconciliation of working, private, and family life, as does whether or not it is paid in full or in part; whether (in cases where the leave is provided to individuals rather than in respect of children) it may be transferred between parents; and whether leave is permitted in excess of the minimum laid down by the Directive (whether or not this is designated 'parental' leave).

The answers to questions such as these was not the focus of the parental leave report but they are the concern of this report, as are other measures by which states may facilitate the reconciliation of work, private, and family life including maternity and paternity leave and other care leaves, and access to flexibility as regards working hours etc. The central question addressed here concerns the extent to which current legal frameworks and practices in the states considered facilitate, or hinder, the reconciliation of working, private, and family life. Related to this, what are the main gaps, good practices and challenges which emerge from this comparative analysis?

Important to the reconciliation of working, private, and family life are measures by which parents (whether specifically as parents or as workers/employees) may access part-time, reduced-hours and/or flexible working arrangements. Women continue to bear the disproportionate share of childcare and other domestic responsibilities. This has the result that, in many (though not all) states that are considered in

11 OJ C 218 of 31 July 2000.

12 Presidency Conclusions of 23/24 March 2006, 777751/1/06 REV 1.

13 Palma-Ramalho, M., Foubert, P., Burri, S., (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

this report, many women work part time. As reported in a 2013 analysis of part-time work across EU and other European states,¹⁴ there is often a link between part-time work and work which is precarious and/or low paid, and whose part-time nature is not the choice of the worker. It remains the case, however, that in many countries, particularly those in which full-time working hours are long and childcare limited and/or expensive, access to part-time work (in particular to part-time or otherwise reduced working hours in formerly 'full-time jobs', rather than to sex-segregated, low-paid and often low-skill 'part-time jobs'), may be key to women's retention in high-quality labour-market activity during at least the early years of motherhood.

1.4 Structure of the report

Chapter 2 seeks to place the comparative analysis in context by discussing the relationships between reconciliation measures, the availability of childcare and women's labour-market participation. Chapter 3, in which the results of the comparative survey are first considered, considers the different approaches across the 31 states to what might be termed 'reconciliation measures' – in particular, access to part-time working and flexibility as regards the organisation and location of work. Chapter 4 considers various leave rights including parental, maternity and paternity leaves, their length and the conditions which apply to them as regards payment, sharing and flexibility. Chapter 5 considers other forms of carers' leave and reconciliation measures and Chapter 6 assesses the countries which are the subject matter of this report against a number of measures of labour market gender equality.

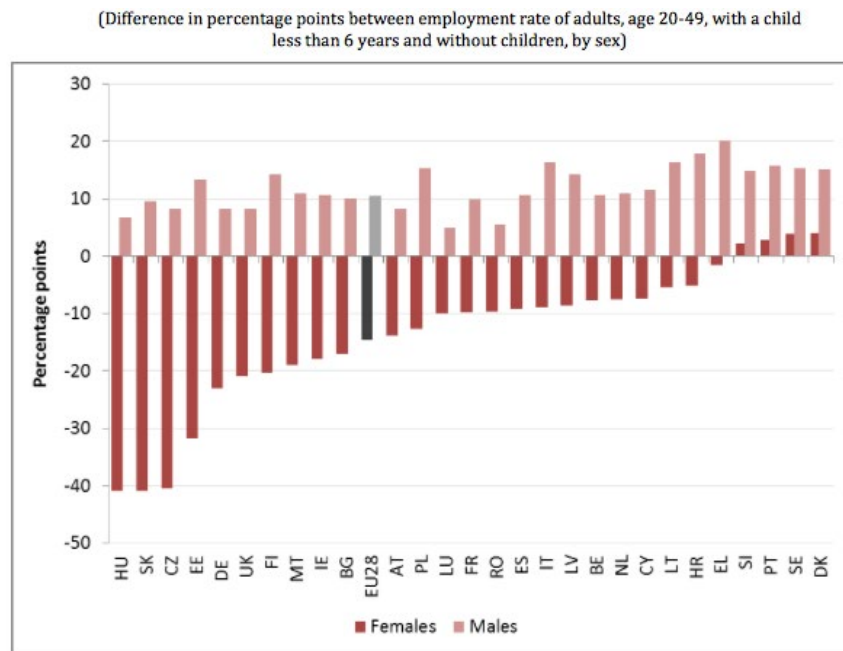
14 Burri, S., Aune, A., *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

2. FAMILY, WORK AND GENDER EQUALITY

2.1 Introduction

It is generally accepted that interrupted working patterns hold down women's wages by decreasing their relative work experience, depreciating their human capital and (more controversially perhaps) encouraging employers to regard them as less committed to the labour market than men, and/or than women with uninterrupted working patterns.¹⁵ Given the fact that many women and men will have children, and that the production and upbringing of children requires time spent away from the workplace (in blocks, in the case of childbirth and early months/years of care, and/or in the form of reduced working hours to accommodate older children's care needs) a degree of withdrawal is inevitable for at least one parent. The current distribution of childcare responsibilities between parents is such that women tend to take the disproportionate share of childcare duties generally (as distinct from the (largely) biologically determined roles of pregnancy and childbirth).

In the graph below we see the impact on labour-market participation of parenthood across the 28 EU states in 2013.¹⁶



In all states except **Denmark, Portugal, Slovenia** and **Sweden** mothers were less likely to work than other women whereas for men the picture across the board was reversed and fathers were more likely than non-fathers to work. It is interesting to note that the pattern for men did not differ greatly across

15 See for example Ruhm, C. J. (1998). 'The economic consequences of parental leave mandates: lessons from Europe', 113(1) *Quarterly Journal of Economics*, pp. 285–317; Jaumotte, F. (2003), *Female labour force participation: past trends and main determinants in OECD countries*, OECD Economics Department Working Papers, No. 376; Meurs, D., Pailhé, A., Ponthieux, S. (2011), 'Child-related career interruptions and the gender wage gap in France', pp. 99–100 *Annals of economics and statistics*, pp. 15–46; Becker, G. (1964), *Human Capital. A Theoretical and Empirical Analysis, With Special Reference to Education* University of Chicago Press, Chicago; Mincer, J., Polachek, S. (1974), 'Family investments in human capital: earnings of women', 82(2) *Journal of Political Economy* Part II, S76–S108; Albrecht, J., Edin, P.A., Sundström, M., Vroman, S. (1999), 'Career interruptions and subsequent earnings: a reexamination using Swedish data', 34 (2) *The Journal of Human Resources*, pp. 294–311.

16 http://ec.europa.eu/europe2020/pdf/themes/31_labour_market_participation_for_women_02.pdf, accessed 27 October 2015.

the Member States (though there were differences of 15 % between the impact of fatherhood on male participation in **Greece**, on the one hand, and **Luxembourg** and **Romania**, on the other). For women there was a huge variation between the **Czech Republic**, **Hungary** and **Slovakia**, at one extreme, and **Denmark**, **Portugal**, **Slovenia**, and **Sweden** at the other.

The Institute of Public Policy Research (IPPR) recently published a comparative study of flexible working arrangements across **France**, **Germany**, the **Netherlands**, **Poland**, **Spain**, **Sweden** and the **United Kingdom**.¹⁷ The report stated that:

‘[d]espite decades of increased participation and attainment in education among women, as well as improved legislative guarantees of maternity and parental leave, there remains significant room for improvement. If we average across the 28 EU member states we find that:

- the gap between male and female employment rates stood at 11.7 percentage points in 2013¹⁸
- the female employment rate remained steady at around 62.5 per cent between 2008 and 2013 (Eurostat 2014).¹⁹

Further, while the gap reduced by about half a percentage point each year from 2012, the IPPR study suggested that:

‘since 2007 this reduction in the gender gap has not been driven by rising female employment rates as it was previously. Instead, it can be almost entirely accounted for by falling levels of male employment in the wake of the global financial crisis.’²⁰

The IPPR study suggested that there have been ‘great changes in household and demographic structures across most industrialised economies since the 1980s’ with the ‘diversification and individualisation of working-time arrangements’ having been ‘driven not only by globalisation and the rise of the 24-hour economy, but also by social changes such as the entry of large numbers of women into the workforce’.²¹ ‘The most marked trend in household structures has been a rise in the number of dual-earner households’ with at least one adult working full time, this having become the majority model across Europe. As the IPPR report goes on to point out: ‘Given that most households have family responsibilities, the traditional 40-hour work week – which was originally designed to meet the needs of the male-breadwinner household – is no longer sufficient to accommodate the diversity of modern living and working arrangements’.²²

The question then arises, from an equality perspective, how best to facilitate the necessary provision of care for children with the continued presence of women in the labour market.

2.2 Models of work-life ‘balance’

A number of different models are available to accommodate the reconciliation of work, private, and family lives. Leaving aside the possibility of complete exit for women, at one end of the spectrum is a model in which women absent themselves from the labour market for the period during which children are most dependent, returning to part-time work when the youngest child starts school and possibly increasing hours thereafter. This is a traditional western European model and is less common now than it was in the past, though it is still to some extent characteristic of countries including **Hungary**, **Poland** and **Romania** in which absolute and relative levels of female participation in the labour market are low,

17 IPPR *Women and flexible Working: Improving Female Employment Outcomes in Europe* (2014, IPPR), http://www.ippr.org/files/publications/pdf/women-and-flexible-working_Dec2014.pdf?noredirect=1, accessed 25 June 2015.

18 10.5 % in 2014, on the latest Eurostat figures available.

19 See executive summary.

20 See executive summary.

21 See executive summary., citing Eurofound *Working time and work–life balance in a life course perspective: A report based on the fifth European Working Conditions Survey* (2012).

22 See executive summary., citing Plantenga, J., Remery, C. (2010) *Flexible working time arrangements and gender equality: A comparative review of 30 European countries*.

as are levels of part-time working. This model worked reasonably well (from the perspective of the family unit, if not necessarily the individual) during periods of family stability, transferable tax allowances and relatively high male (often regarded as ‘family’) wages. It could in theory provide a gender-neutral model for the reconciliation of work, private, and family life, in the sense that men rather than women could take on the main share of caring and household responsibilities. It is, however, associated with a high cost in terms of the decline in labour-market desirability of the primary care giver and the lifetime impact on his or her earning capacity. This is particularly problematic given increased levels of family separation and single parenthood across many states, and increased economic pressures which make it necessary for many families to benefit from two wages rather than one.

Alternative models include those in which one parent (who could in principle be either the father or the mother) switches to part-time hours after a period of parental leave but without (in contrast with the model above) dropping out of the labour market for any significant period. This model appears to be the norm in countries such as **Austria, Belgium, Germany, Luxembourg** and the **United Kingdom** where women’s involvement in part-time work is high both in absolute terms and relative to that of men. The benefit of relatively lengthy periods of parental leave (or combined maternity/ paternity/parental leave) within this model is that they allow workers to manage the early months or years of children’s lives, particularly in states in which there are limited high-quality affordable childcare alternatives, while maintaining the labour-market link that maximises the potential for a smooth return to work at a similar level to that at which the worker operated prior to taking leave. Equally, where part-time/reduced hours of work are facilitated within a parent’s previous job and workplace, much of the long-term damage done to workers by periods of part-time work can be ameliorated (since this is often associated with segregation into poor-quality and/or poorly paid work in feminised sectors).

This model, which might be called the intermediate model, (i.e. intermediate between the traditional and the progressive models, described above and below respectively) have benefits over the traditional model and allow parents to engage in a significant amount of child-rearing themselves, rather than delegating it to the state or to private bodies/employees. They are not without cost however. Lengthy periods of parental leave, in particular, may serve to increase rather than to decrease women’s labour-market disadvantage where they reduce women’s relative experience and/or are associated with de-skilling.²³ In 2011, and for this reason, a report from the Organisation for Economic Co-operation and Development (OECD) suggested that parental leave should be no longer than one year, but that it should be better paid.²⁴

Finally, under what might be called a ‘progressive’ model, reasonably lengthy periods of parental leave are structured in such a way as to deter or prevent their being utilised by one parent alone. This requires them to be paid at a level related to the parent’s previous salary and to have a strong element of individuation (i.e. unless both parents use the right to leave, the overall period which is available in respect of any child is significantly shorter than would otherwise be the case).²⁵ The other element of a progressive model is the avoidance of polarised working hours once parents return to work; rather than one parent (generally the man) working long (40+) full-time weekly hours while the other (generally the mother) works short (15-25) part-time hours, both parents would work long part-time/short full-time (30-35 hour) weeks such that both could participate in childcare/domestic and other caring roles. This model appears to be most associated with the Scandinavian states (**Denmark, Finland, Iceland, Norway, Sweden**) and **Estonia**, which are characterised by high levels of female labour-market participation (both absolutely and relatively), but which do not have particularly high levels of part-time levels for women relative to those of men.

23 See Budig, M., Misra, J., Boeckmann, I. (2011), ‘Work–family policy consequences of employment and wages of mothers’, 14(2) *Community, Work, and Family*, pp. 139-157.

24 OECD (2011), *Doing Better for Families*, available from <http://www.oecd.org/els/soc/doingbetterforfamilies.htm>, accessed 4 June 2015.

25 This of course may need to be nuanced to take into account the needs of single parents.

2.2.1 The impact of parental leave on women's labour-market participation

In California, which was the first US State to offer paid parental leave, the impact was an increase in the working hours and wages of the mothers of young children (though note this programme increased the amount of leave taken by mothers from only 3 to 6 weeks).²⁶ The impact of paid leave on relatively disadvantaged mothers was particularly marked.²⁷ The period of leave at issue in California was of course very short. In **Denmark** the increase in paid parental leave from 14 to 20 weeks in 1984 increased women's relative wages in the 12 months after birth and did not have any long-term negative impact on their longer-term employment or earnings.²⁸ And in **Germany** in 2009 the introduction of leave at 67 % of wages for 12 months after childbirth was found to be:

'...at least partially successful in attaining its objectives. Most importantly, the reform successfully generates incentives for (working) women to reduce employment during the 12 months postpartum and take care of the child, while after the [payment ends] employment activity is significantly increased, also for women who were not employed prior to giving birth... the ... reform does seem to have an impact on the timing of re-entry into the labor market, but has very little or no impact on (planned) long-run participation rates of women.

In addition, results show that highly educated women experience smaller income losses during the first year after birth compared with prepartum income and have a lower probability of receiving welfare payments relative to the old regulation. Finally, fathers seem to be incentivized indeed to take advantage of parental leave benefits. Given that most men only take 2 months of [paid leave], however, this is not (yet) reflected in significant changes in paternal employment rates or time devoted to childcare during the first 12 months after birth.'²⁹

More recent German analysis found that wages decreased by 18 % for every year an employee spends on parental leave. Importantly, however, workers' salaries increased faster after the initial decline than did those of workers who did not take parental leave. The researchers concluded as follows:

'... job-protected leave can increase female labour supply (though the effects may be overestimated due to data collection methods). The positive participation effect, however, comes at a cost. Thirty weeks of parental leave is roughly estimated to decrease the share of women in high-level occupations by 1.5% and women's wages in financial intermediation by 7.3%. As such, negative demand-side effects seem to dominate for high-skill workers. Compared with Ruhm's (1998) previous estimations,^[30] the results presented here suggest a slightly lower increase in employment accompanied by a larger decrease in high-skill wages, while the negative effect on manufacturing wages becomes insignificant. One redeeming factor is the higher number of hours worked by women when leave legislation becomes more generous.'³¹

The researchers then pointed to a number of shortcomings in their data, which was 'aggregate and cross-country' in nature and had 'a large number of missing values', with 'the focus ... purely on national-level

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- 26 Rossin-Slater, M., Ruhm, C. J., Waldfogel, J. (2013), 'The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes' 32(2) *Journal of Policy Analysis and Management*, pp. 224-245.
 - 27 Rossin-Slater, M., Ruhm, C. J., Waldfogel, J. (2013), 'The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes' 32(2) *Journal of Policy Analysis and Management*, pp. 242-243.
 - 28 Rasmussen, A. W. (2010) 'Increasing the length of parents' birth-related leave: The effect on children's long-term educational outcomes', 17 *Labour Economics*, pp. 91-100.
 - 29 Kluge J., Tamm M. (2009), *Now daddy's changing diapers and mommy's making her career: evaluating a generous parental leave regulation using a natural experiment*, IZA Discussion Papers 4500 <http://ftp.iza.org/dp4500.pdf>, accessed 4 June 2015, p. 17.
 - 30 Ruhm C. J. (1998) 'The economic consequences of parental leave mandates: lessons from Europe', 113(1) *Quarterly Journal of Economics*, pp. 285-317.
 - 31 Akgunduz, Y.E., Plantenga, J. (2013) 'Labour market effects of parental leave in Europe', 37(4) *Cambridge Journal of Economics*, pp. 845-862, pp. 859-860.

legislation'; 'strong assumptions' being made about take-up and the data being 'only a proxy for high- and low-skill wages'. Notwithstanding these, they were able to suggest that 'paid leave for women of about 20 weeks, including both maternity and parental leave... would both minimise the negative effects on high-skill wages and vertical segregation' whereas women's continued participation in paid work was maximised by slightly longer periods of around 30 weeks of paid parental leave. The researchers concluded that 'the 30-week option would be particularly preferable in countries where part-time work has a lasting and negative impact on future earnings and career opportunities'.³²

2.2.2 *The impact of part-time work on women's labour market status*

Much of the discussion in these studies was of the impact of parental leave on women's working patterns. Another aspect of the intermediate model is the dependency on part-time working by one parent (generally, though not necessarily, the mother) after return to work from maternity/parental leave.

The IPPR's recent comparative study pointed out that the EU Labour Force Survey (EU LFS) indicated that 'the most common reason given by women in our seven countries for working part time is to reconcile work commitments with caring responsibilities' (33.7 % in France, 36.6 % in the Netherlands, 41.7 % in the **United Kingdom**), and suggests that this is illustrative of 'the fact that women continue to play the role of primary carers in modern industrial economies'.

'These findings suggest that flexible working options, in the form of part-time hours, are being used for the purposes of combining work and caring responsibilities. To the extent that part-time employment is allowing mothers to work who would otherwise be unable to do so, this may help explain the association between part-time work and a higher employment rate.'³³

Important from the gender equality perspective were the report's findings on the *type* of jobs which are done part time. The authors cited Eurofound evidence that such jobs are 'disproportionately concentrated in elementary-grade occupations relative to – and at the expense of – professional occupations',³⁴ which 'in turn, may be caused in part by a failure to employ mothers in jobs that meet their level of experience and qualifications'. The IPPR's own analysis of Eurostat evidence confirmed this, the evidence being that 'across the EU, part-time work is more concentrated in elementary occupations, and less concentrated in professional and managerial roles, than full-time work'. (By way of example, Eurostat figures from 2014 show that professional and managerial occupations comprise 43 % of full-time jobs across the EU but 31 % of part-time jobs, while 'elementary occupations' account for 7 % of full-time but 19 % of part-time jobs.) The authors suggest that 'many high-skilled mothers who decide to return to work part time are finding themselves obliged to take up work of a lower level than they are capable of – or indeed, a lower level compared to the work they were doing before the birth of their child...'. Further:

'Based on an analysis of qualifications, it is also possible to argue that more people in full-time work are under-qualified, compared with those in part-time work... the ratio of highly skilled jobs to highly qualified workers is higher for full-time employment than it is for part-time. Along with structural and institutional dynamics, an important factor that may be contributing to this phenomenon could be the exclusion of highly qualified mothers from full-time work, many of whom may instead take up part-time work that is below their skill level. This may be occurring in part because of an undersupply of part-time work in high-level occupations (and possibly an undersupply of flexible working options that do not necessitate a drop in hours). In any case, it can

32 Akgunduz, Y.E., Plantenga, J.(2013) 'Labour market effects of parental leave in Europe', 37(4) *Cambridge Journal of Economics*, p. 860.

33 IPPR (2014) *Women and flexible Working: Improving female Employment Outcomes in Europe*, p.10.

34 *Fifth European Working Conditions Survey*, Publications Office of the European Union. Available for download at: <https://www.eurofound.europa.eu/publications/report/2012/working-conditions/fifth-european-working-conditions-survey-overview-report>, accessed 27 October 2015; cited by the IPPR at p.12.

result in the promotion and progression of less able men and women at the expense of retaining or returning more able mothers in the workforce...'³⁵

The proportions of women working part-time in various occupational categories in the seven countries studied in 2012 is illustrated by Table 1 below, which is taken from the IPPR report.

Table 1: IPPR analysis of women part-time workers by occupational group

	Legislators, senior officials & managers	Professionals	Clerks	Service workers and shop & market sales workers	Elementary occupations
Poland	4.0%	7.5%	8.7%	13.9%	19.3%
Sweden	10.7%	31.1%	38.4%	56.9%	59.5%
France	11.6%	26.3%	27.8%	32.5%	58.5%
Netherlands	50.1%	67.3%	78.6%	86.7%	90.4%
Spain	7.1%	15.6%	19.5%	28.3%	45.0%
Germany	15.5%	36.6%	42.6%	56.8%	75.3%
UK	19.5%	30.6%	44.9%	53.7%	67.5%

Source: IPPR analysis of EU LFS (Eurostat 2013)

It would appear to be an obvious point that enabling women to continue in their own jobs working reduced hours would reduce the labour-market impact of part-time working; whereas such working arrangements would obviously reduce wages by virtue of fewer hours worked, it might be anticipated that, by preserving women in the jobs for which they are qualified (and preventing their move down the occupational hierarchy in order to secure the jobs which have traditionally been available to part-time workers), it would eliminate, or at least minimise, any downward impact on *hourly* rates. It should also reduce the long-term impact of part-time work since it should avoid the de-skilling that would otherwise happen to women working in part-time jobs for which they are over-qualified.

Of significant concern, therefore, are the results of a 2013 French study³⁶ into the *complément libre choix d'activité* (CLCA), introduced in 2004.³⁷ The CLCA can be paid for a maximum period of six months to allow full-time leave or supplement income during part-time working. Its introduction was associated with an increased number of career interruptions (prior to its introduction women had not been entitled to paid parental leave after the birth of a first child), with women in higher occupational positions tending to use the leave on a part-time basis.

The 2013 study (which looked at the 2004–2008 period) found that full-time parental leave which was short term and paid had ‘no effect on post-birth wages and small positive effects on labour market participation’, with the ‘only visible effect [being] a lower likelihood of being out of labour force for low-educated women 18 and 24 months after birth... Part-time paid leave also prevents some women from giving up work and increases the employment rate, especially for low-educated women’. But part-time leave had a ‘negative impact on wages, especially for medium and highly educated women’ with part-time parental leave takers’ wages still increasing at a lower rate two years after the relevant birth. The author found this result ‘puzzling’. Remarking on the fact that CLCA was ‘almost never taken by men and is likely to encourage couple specialisation, with the woman reducing her labour market investment quite early in the life-cycle’ the author suggested that ‘shared parental leave with separate rights for mothers and fathers, currently debated, might not be more appropriate’ as a reconciliation tool.³⁸

35 IPPR (2014) *Women and flexible Working: Improving Female Employment Outcomes in Europe*, p.12.

36 Lequien, L. (2012) ‘The impact of parental leave duration on later wages’ (2012) 107–108 *Annals of Economics and Statistics*, pp. 267–285.

37 The *Loi 2003-1199 du 18 décembre 2003, loi de financement de la sécurité social* provided for the creation of the CLCA.

38 Joseph, O. (2013) ‘The economic impact of taking short parental leave: Evaluation of a French reform’, 25 *Labour Economics*, pp. 63–75.

2.3 Reconciliation and gender (in)equality

It is clear from these studies that there is no perfect solution to reconcile work, private, and family life. Shorter periods of parental leave may reduce the labour-market disadvantage which would otherwise accrue to women who would take it, but who would choose (if it were unavailable) to revert more rather than less quickly to their pre-birth working patterns. But many women are not in a position to do this and so may end up leaving the market for longer rather than shorter periods when parental leave is less available, and/or to 'downsize' from better, longer-hours or less flexible working arrangements to lower-quality, lower-paid 'mommy track' jobs, often in feminised occupations and/or industries. In the absence of high-quality and affordable childcare, the provision of short periods of parental leave will not enable families (disproportionately women) to reconcile professional, private, and family life and women will simply fall out of the labour market without the protection afforded by long (even unpaid) periods of parental leave, allowing their eventual labour market return.

The fact that there is no perfect way to reconcile work, private, and family life does not mean that some models are not better than others from a gender equality perspective. The final type of model considered here is what will be referred to as the 'progressive' model, which endeavours to allocate childcare responsibility to both parents, rather than one. This model may be regarded as the most gender equitable of the three because it facilitates gender equality in practice. It is true that the other models could in theory function with a female breadwinner (or primary breadwinner) and a male domestic worker/secondary wage earner. The fact is, however, that this is rarely the case.

2.4 The importance of childcare

The number of hours worked by parents will turn in part on the availability of good-quality, affordable childcare which accommodates working parents' needs, as well as of social infrastructures which shift primary responsibility for the care of the elderly and infirm from the private (domestic) to the public sector. The extent to which this is the case varies across the countries surveyed at least as much as do approaches to parental and other forms of leave and access to part-time and other 'flexible' forms of work. The table below shows 'formal' childcare available across Member States by duration (hours per week) and age of children. ('Formal' refers to controlled childcare within pre-school or equivalent and day-care centres and so excludes childcare by professional child minders and nannies as well as informal care.)

Table 2: Childcare across European States

Formal childcare by age group and duration 2013 ¹						
State(s)	Age of child: 3 years – compulsory school age			Age of child: under 3 years		
	1-29 hrs ²	30 ³ hrs +	Total childcare and % 30 hrs + ⁴	1-29 hrs	30 hrs +	Total childcare and % 30 hrs +
EU 28 states	35	47	82/57 %	13	14	27/52 %
Austria	52	27	79/34 %	9	8	17/47 %
Belgium	21	77	98/79 %	21	25	46/54 %
Bulgaria	6	72	78/92 %	0	11	11/100 %
Croatia	13	34	47/72 %	1	10	11/91 %
Cyprus	34	46	80/58 %	3	22	23/88 %
Czech Republic	21	55	76/72 %	1	1	2/50 %
Denmark	7	91	98/93 %	2	60	62/97 %
Estonia	9	82	91/90 %	3	18	21/86 %
Finland	20	59	79/75 %	7	21	28/75 %
France	46	46	92/50 %	13	26	39/67 %
Germany	35	54	89/61 %	9	19	28/68 %
Greece	39	30	69/43 %	8	6	14/43 %
Hungary	17	67	84/80 %	1	9	10/90 %
Iceland	3	95	98/97 %	3	40	43/93 %
Ireland	68	21	89/24 %	19	10	29/34 %
Italy	21	69	90/77 %	8	13	21/62 %
Latvia	9	70	79/89 %	1	22	23/96 %
Lithuania	6	68	74/92 %	0	10	10/100 %
Luxembourg	36	37	73/51 %	23	24	47/51 %
Malta	32	60	92/65 %	17	3	20/15 %
Netherlands	71	15	86/17 %	40	6	46/13 %
Norway	12	76	88/86 %	10	37	47/79 %
Poland	9	29	38/76 %	1	4	5/80 %
Portugal	5	80	85/94 %	2	36	38/95 %
Romania	36	15	51/29 %	5	1	6/17 %
Slovakia	13	61	74/82 %	1	3	4/75 %
Slovenia	10	81	91/89 %	3	36	39/92 %
Spain	51	39	90/42 %	19	16	35/46 %
Sweden	26	70	96/73 %	26	34	60/57 %
Switzerland	60	11	71/15 %	27	5	32/16 %
United Kingdom	60	21	81/26 %	21	4	25/16 %

1 Eurostat data, <http://ec.europa.eu/eurostat/en/web/products-datasets/-/TPS00185>.

2 Percentage of children in formal childcare between 1 and 29 hours per week. This explanation applies also to the column concerning children aged under 3 years

3 Percentage of children in formal childcare for 30 hours or more per week. This explanation applies also to the column concerning children aged under 3 years.

4 The total percentage of children in formal childcare / the percentage of that total that are in formal childcare for 30 hours or more per week. This explanation applies also to the column concerning children aged under 3 years.

Table 3, immediately below, suggests an overall categorisation of states which has been derived by ranking the countries in order of % coverage of childcare overall from age 3 to the age of compulsory schooling, differentiating otherwise equally ranked countries by reference to the % of available childcare which is for 30+ hours, and dividing them into 4 quartiles.³⁹ The same has been done for countries according to availability of childcare for children aged under 3. Then countries have been shifted up or down their original quartile ratings according to their placement in the under 3 childcare quartiles. This results in the following four groupings (arranged by alphabetical order within groups):

Table 3: Rank of childcare across European States

Group 1	Group 2	Group 3	Group 4
Belgium	Estonia	Austria	Bulgaria
Denmark	Germany	Cyprus	Croatia
France	Ireland	Finland	Czech Republic
Iceland	Italy	Hungary	Greece
Norway	Malta	Latvia	Poland
Slovenia	Netherlands	Lithuania	Romania
Sweden	Portugal	Luxembourg	Slovakia
	Spain	United Kingdom	Switzerland

We saw in the graph at **2.1** above the impact on labour-market participation of parenthood across the 28 EU states in 2013. Comparing this graph to Table 3 we can see that the relationship between the availability of ‘formal’ childcare as defined above and the impact of motherhood on women’s labour market participation is not straightforward. It is the case that more of the countries in Groups 1 and 2 in Table 3 were to be found in the right half than in the left half of the graph above, and more of those in Groups 3 and 4 in the left half rather than the right half of the graph. But the pattern is by no means strong: five of those countries in Groups 1 and 2 in table 3 were among the half of countries in which women’s labour-market participation was most affected by motherhood (**Estonia, France, Germany, Ireland** and **Malta**) and six of the countries in Groups 3 and 4 were among the half of countries in which women’s labour-market participation was least affected by motherhood (**Croatia, the Czech Republic, Greece, Latvia, Portugal** and **Romania**). This does not disprove the link between the availability of formal childcare and mother’s continued labour market participation but it does demonstrate that other factors matter too.

2.5 Conclusion

It is clear from the material in this chapter that the approach taken by states to the reconciliation of work, private, and family lives, as well as the availability of childcare, has implications for women’s labour-market participation and in turn for labour-market (in)equality between men and women. It has been accepted that there is no ideal model; the provision of parental leave and the facilitation of part-time work have the potential to hold down women’s wages. But such measures are likely to have less impact than situations in which the only viable prospect is a lengthy departure from paid work. Three models of work, private, and family life balance have been suggested (the ‘traditional’, the ‘intermediate’ and the ‘progressive’), the models being ranked according to their implications for gender equality in labour-market outcomes. In later chapters (in particular, in Chapter 6) the relationship between these models and real labour-market outcomes will be explored.

39 There being only 31 states, one ‘quartile’ has 7 rather than 8 states.

3 PART-TIME/FLEXIBLE WORK

3.1 Introduction

This chapter considers the different approaches across the 31 states to what might be termed ‘reconciliation measures’ – in particular, access to part-time working and flexibility as regards the organisation and location of work.

3.2 Part-time work

We see in Chapter 4 below that a number of states permit parental and/or other forms of leave to be taken on a part-time basis. In particular where this right is accorded in respect of lengthy parental leaves or extended care leaves there is a broad overlap with the right to reduced hours here considered, and as will become apparent below. Lengthy periods of parental and/or care leave which may be taken part-time could equally be characterised as a right to work part time in certain circumstances and discussed here; the approach that will be taken for the purposes of this report is that leave which is conditional on specific contingencies or which attracts pay will be considered in Chapter 4, whereas part-time work with correspondingly lower pay is considered here.

Many states allow parents (sometimes broader categories of workers) access to part-time or reduced-hours working arrangements, usually on a temporary basis, in circumstances in which (whether or not this is the purpose of the legislation) it facilitates the reconciliation of work, private, and family life. In most of the states discussed in this section access to reduced-hours working arrangements is a matter of right (albeit in some cases subject to satisfaction of one or more conditions pertaining to continuous service, size of employer, etc.). In others it is a right to request, which request may have to be dealt with according to a particular procedure or may only be refused for particular justifications.

The subject of breastfeeding leave is dealt with in the 2012 report of the European Network of Legal Experts in the Field of Gender Equality, Fighting Discrimination on the Grounds of Pregnancy, Maternity and Parenthood.⁴⁰ It will not be discussed here except to the extent that, as in **Estonia, Greece** and **Spain**, such leave has crystallised into a form of transferrable reduced-hours working arrangements for parents.)

The approach taken across the states surveyed is summarised in Table 4 and in the text which follows:

40 Masselot, A., Caracciolo di Torella, E., Burri, S., European Network of Legal Experts in the Field of Gender Equality (2012), *Fighting Discrimination on the Grounds of Pregnancy, Maternity and Parenthood. The application of EU and national law in practice in 33 European countries*, European Commission, http://ec.europa.eu/justice/gender-equality/files/your_rights/discrimination_pregnancy_maternity_parenthood_final_en.pdf, accessed 9 June 2015; (2013), Burri, S., Aune, A., *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, accessed 29 August 2015 and Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

Table 4: Access to reduced-hours working arrangements

Country	Access to reduced hours		Compensation?
	Tied to reconciliation purposes?	Right or right to request?	
Austria	Yes	Right	No
Belgium	Yes	Right	Yes
Bulgaria	No	Right to request	No
Croatia	N/A	N/A	No
Cyprus	No	Right to request	No
Czech Republic	Yes	Right, with exceptions	No
Denmark	Yes	Right to request	No
Estonia	Yes	Right to request	No
Finland	Yes	Right, with exceptions	Flat-rate benefit
France	No	Right to request	No
Germany	No	Right, with exceptions	No ¹
Greece	Private sector only	Collective agreements only	No
Hungary	Yes	Right	No
Iceland	No	Right, with exceptions	No
Ireland	Yes	Right to request	No
Italy	No	Collective agreements only	No
Latvia	Yes	Right	Possibly (unclear as yet)
Liechtenstein	No	Right to request	No
Lithuania	Yes	Right	Sometimes ²
Luxembourg	Public sector only	Right	No
Malta	Yes	Right to request	No
The Netherlands	No	Right to request	No
Norway	Yes	Right	No
Poland	Yes, during (extended) period of additional maternity/parental leave	Right	No
Portugal	Yes	Right, with exceptions	No
Romania	Yes	A few collective agreements provide	No
Slovakia	Yes	Right, with exceptions	No
Slovenia	Yes	Right	Social security contributions paid for some parents ³
Spain	Yes	Right	Sometimes ⁴
Sweden	Yes	Right	Sometimes ⁵
United Kingdom	No	Right to request	No

1 Except where the part-time working carries entitlement to Home Care Support Benefit (see 5.1).

2 Where the working reduced hours is by parents of children under 12 (or a disabled child under 18), who are entitled to have their weekly hours reduced by 2 hours (4 hours in the case of parents of 3 or more children under 12).

3 Those with a child under 3/a disabled child under 18, or 2 children one of whom has not completed the first year of primary schooling.

4 Where the working reduced hours is in the form of 'breastfeeding permission' (available to either parent).

5 If parents have not yet exhausted their right to Parental Benefit.

As is clear from Table 4, in a number of states workers have a right to work part time on request. Such a right, which is often subject to a variety of conditions, is generally found in national legislation. This is the case below except where expressly stated to the contrary. Where the right is subject to conditions, the conditions are set out below. Except where otherwise specified, the right is not contingent on the size of the employer or on other considerations such as the number of other workers already engaged in part-time working or the timing of the request. Where employers are entitled to refuse a request to work part-time the basis on which such a refusal may be made is set out below.

In a number of states the right to request part-time working can be regarded as an ‘absolute’ right in that, as long as the the qualifying conditions for it are satisfied, employers may not refuse a request to work part time (for example because it is difficult for the employer to accommodate the request). Among these states are **Hungary, Latvia, Lithuania, Slovenia** and **Sweden**. In other states employers may refuse working part-time for a variety of reasons, considered below. And in other states there is no right to work part time as distinct from a right to *request* to do so, with employers being placed solely under obligations to consider such requests.

3.2.1 *Rights to work (or to request to work) part time*

In many states here considered rights relating to part-time work are conditional on workers having parenting or other caring responsibilities. In other states they are not. So, for example, workers in **Spain** and employees in the **Netherlands** are entitled to work part time subject to the employer’s ability to refuse for compelling business reasons (i.e. if compliance with the request would cause serious problems). In the **Netherlands**, the entitlement is to the employee’s own job on reduced hours, rather than to transfer to a different part-time job. It is not conditional on family or other reasons.⁴¹ Also in the **Netherlands**, this right depends on the size of the employer; the right is restricted to employees that work for employers with at least 10 employees.⁴² It is also restricted to employees with one year’s continuous service who have provided four months’ notice.⁴³ Draft legislation presented to the Polish Parliament on 27 March 2015⁴⁴ would, if adopted in its present form, require employers of at least 20 employees to accept requests for flexible and shortened working hours unless the organisation of work or the type of work performed by the employee justifies a refusal.

Workers in **France** may work part time, again subject to the employer’s right of refusal (see below) and may in addition request annualised part-time hours and a reduction in their working hours in the form of one or more weeks of leave of absence, on the basis of family commitments,⁴⁵ which allows employees with dependent children to fit their working pattern around the school year.

In **Germany** civil servants are entitled to reduce their hours of work in their particular jobs by up to half and may make an indefinite number of requests for such reduced working time (each request pertaining to a fixed period).⁴⁶ Employees other than civil servants are also entitled to reduced working hours, subject to employers’ interests (see below), and employers are encouraged to offer the possibility of reduced-hours working arrangements including, expressly, to workers in higher management (again in respect of their particular jobs).⁴⁷ This appears to be the only example of particular regard being paid in legislation to

41 Article 2(3) Act on the Adjustment of Working Hours.

42 Smaller employers are required to have arrangements for the adjustment of working hours and case law suggests that the statutory requirements will be imposed on those which do not: Eindhoven District Court, 5 March 2002, *JAR* 2002/88.

43 Article 2(3). This period is shortly to be reduced to two months, and a year must elapse between an unsuccessful request and a subsequent request.

44 Parliamentary Document No. 3288, available at: <http://www.sejm.gov.pl/sejm7.nsf/PrzebiegProc.xsp?nr=3288>, accessed 27 October 2015.

45 L. 3123-7 Labour Code.

46 Ss91-92a Federal Civil Service Act (*Bundesbeamtenengesetz, BBG*) of 5 February 2009, Official Journal (*Bundesgesetzblatt, BGBl.*), part I, p. 160, http://www.gesetze-im-internet.de/bbg_2009/BJNR016010009.html, accessed 27 October 2015, or, in the case of state civil servants, under state law.

47 S6 Part-Time and Fixed-Term Employment Act.

the possibility of reduced hours in higher-level working. In **Iceland**, too, public sector workers are entitled to flexible working arrangements, again subject to the employer's interests (see below), whereas private sector employees have very limited legal entitlement to work part time or flexibly.

In **Belgium**, private sector workers with 24 months of service with their employer are entitled to up to 48 months of care leave over the course of a career to care for children⁴⁸ or family members.⁴⁹ Such leave may be taken in the form of part-time work and carries entitlement to social security benefits (as of January 2015, EUR 481.02 per month in the case of private sector employees who have less than 5 years of seniority with the employer, EUR 641.37 in other cases with 50 % leave paid at half this rate and 20 % leave at a flat rate of EUR 204.39 for single parents, EUR 158.38 in other cases).⁵⁰ Though this is, strictly speaking, a form of leave, the length of periods involved and the availability of part-time hours during this leave mean that it functions in effect as form of access to part-time working arrangements.

Public sector workers in **Belgium** have access to career breaks of up to five years of full-time leave over a career, plus up to 5 years of part-time leave (20 or 50 %). Such leave is not conditional on family or other reasons. Such workers are entitled to a benefit of EUR 402.59 per month full time, or EUR 786.78 per month for up to 2 years if this form of leave is used, inter alia, to care for a seriously ill child. Steps are being taken to align the public sector scheme with that in the private sector. In addition, many public sector workers are permitted to work reduced hours (the most common example being the 4-day week) with access to reduced hours being by application in respect of a period of between 3 and 24 months at a time and not being conditional on the worker having family or other specific reasons for working reduced hours. Under such arrangements an employee is entitled to 80 % of his/her remuneration, and (except for the most senior employees) to a monthly 'bonus' payment (currently of EUR 112) for a period of up to 60 months (indefinitely in the case of workers aged 50 and over).

In the **United Kingdom** there is a general right to request flexible working (including part-time hours, altered working-time arrangements and/or place of work). When it was introduced in 2003 it applied only to parents of young or disabled children, to be used for the purposes of facilitating childcare. It was extended in 2011 to apply to the parents of older children (up to 17), again to facilitate the reconciliation of work, private, and family life, and in 2014 the link with childcare was removed.⁵¹ In **Cyprus**, too, workers are entitled to request reduced hours in their job for any reason, without restriction as to qualifying service or size of employer.⁵² And in **Ireland** and **Liechtenstein**⁵³ employees who work full time are entitled to request reductions to their working hours,⁵⁴ though they cannot insist on such reductions. The only right to reduced hours as such in **Ireland** is that of breastfeeding mothers who are entitled to breaks without loss of pay or to shorter working hours for up to 26 weeks after the birth.⁵⁵

In considering the rights to work (or to request to work) part time that are conditional upon caring (or other obligations): in **Latvia** the right to work part time is enjoyed by the parents of children aged under 14 (18 in the case of disabled children), by those who are pregnant, in the year after childbirth, and/or who are breastfeeding.⁵⁶ In addition, breastfeeding mothers are also entitled to at least 30 minutes off every three hours, or alternatively to shorten their working day.⁵⁷ There is uncertainty as to whether parents working part time are making use of childcare leave, which since 1 October 2014 has generated entitlement to

48 Up to 8 years old, or 21 in the case of disabled children.

49 By Collective Agreement No. 103, concluded on 27 June 2012.

50 Royal Decree of 12 December 2001, considerably amended by the Royal Decree of 30 December 2014.

51 Children and Families Act 2014 Section 9.

52 Part-Time Employees (Prohibition of Discriminatory Treatment) Law No. 76(I)/2002 (Article 8) as amended by Law No. 14(1)/2007 and Law No. 55(1)/2007.

53 §1173a Article 36a Civil Code (ABGB), State Gazette No. 2006/40, legislation published at www.gesetze.li, accessed 27 October, accessed 27 April 2015.

54 The Industrial Relations Act 1990 (Code of Practice on Access to Part-Time Working) Declaration Order 2006 S.I. No. 8 of 2006. <http://www.irishstatutebook.ie/2006/en/si/0008.html>, accessed 4 May 2015.

55 Maternity Protection (protection of Mothers who are Breastfeeding) Regulations 2004.

56 Article 134(2) Labour Law *Darba likums*, OG No.105, 6 July 2001.

57 Article 146.

a statutory social insurance allowance⁵⁸ and provides protection as regards return from leave.⁵⁹ Further, the uncertain status of workers is problematic as regards the calculation of compensation in cases of dismissal.⁶⁰ The use of the right to work part time is problematic during pregnancy because it reduces the salary on the basis of which statutory social insurance allowances are calculated. Further, only 30 % of the social insurance allowance which is available to parents who remain at home is available to those who continue to remain in employment on a part-time basis.⁶¹

In the **Czech Republic** the right is accorded to those workers who are caring for a child under 15, or who provide primary care for a person who is completely or mainly bedridden,⁶² and to pregnant women. In **Slovakia**, pregnant women and workers who take care of children younger than 15 are entitled to have their working hours adjusted (including by a transition to part-time work).⁶³ And in **Sweden**, parents may work part time until their child is 8⁶⁴ (or, in a case in which they have not yet exhausted their entitlement to parental benefits, until this happens or until the child is 12).⁶⁵ The Parental Benefits Scheme provides for 480 days' benefit (390 at income-replacement level) for each child which may be paid at 100 %, 75 %, 50 % or 25 % where the parent works 0, 25 %, 50 % or 75 % of normal hours, and so may subsidise extensive periods of reduced-hours working.

In **Spain** the parents of children under 12 are entitled to work reduced hours as are those with disabled or otherwise infirm dependent relatives.⁶⁶ The group of workers entitled to benefit from this right is fairly wide and there is no limit on the duration of reduced-hours working arrangements other than (where the right relates to childcare) the age of the child. In addition, the parents of children under 9 months (12 in the case of civil servants) are entitled to one hour's paid 'breastfeeding permission' leave a day the purpose of which is not limited to breastfeeding and which is transferrable between parents.⁶⁷ The effect of this is to entitle one of the parents to work reduced hours for this period.

In **Hungary** employers are obliged to comply with requests to transfer from full-time to half-time work from parents returning to work from unpaid leave before the child turns 3 (when the right to parental leave ends), or 5 where the employee had 3 or more children.⁶⁸ In **Lithuania** women who are pregnant, who have recently given birth or who are breastfeeding, employees with children aged under 3 (18 in the case of a disabled child) and single parents of children under 14 are entitled to work part time.⁶⁹ In addition, employees with a disabled child under 18 or with two children under 12 are entitled to an additional rest day each month, or in the alternative to have their weekly working time shortened by 2 hours, and employees raising 3 or more children under 12 are entitled to 2 additional rest days per month

58 The Law on Maternity and Sickness Insurance (*Likums Par maternitātes un slimības apdrošināšanu*), OG No. 182, 23 November 1995, respective amendments OG No. 228, 22 November 2013.

59 The Senate of the Supreme Court recently ruled in case No. SKC-2608/2014 (<http://www.tiesas.lv/nolemumi>, accessed 8 April 2015), that the right to return to the same or equivalent working place after childcare leave is absolute.

60 Case C-588/12, *Lyreco Belgium NV v Sophie Rogiers*, 27 February 2014 requires this to reflect full-time salary if the employee is dismissed during a period of part-time childcare leave.

61 For example, if a parent's gross salary were EUR 1 000, then the amount of parental allowance for parents who stop working would be EUR 600 (normally salary after taxes constitutes 69 % of gross salary: in the example it would be around EUR 690), which amounts to 60 % of the social insurance contribution salary. If, however, a parent decides to stay in active employment he/she would be entitled to 30 % of the parental allowance, i.e. 30 % of EUR 600 (or the normal parental allowance), which would amount to EUR 180 with one of the parents also being entitled to flat-rate social security allowance – childcare allowance in the amount of EUR 171.

62 S242 Labour Code.

63 Article 164 (2) Labour Code.

64 The (1995:584) Parental Leave Act (PLA) s7.

65 The Social Security Code (2010:110, SSC) provides generous parental benefits including up to 96 days (of a total of 480, 390 of which are at income-replacement level) after the child turns 4. These may be taken at 25 %, 50 %, 75 % or 100 % with a corresponding right to work part-time while benefit entitlement continues.

66 Article 37(5) Worker's Statute and Article 30(1)(g) Law 30/1984 of 2 August 1984.

67 Article 37(5) Worker's Statute, Royal Legislative Decree 1/1995 of 24 March 1995. http://noticias.juridicas.com/base_datos/Admin/l30-1984.html, accessed 12 April 2015.

68 Article 61(3) Labour Code.

69 Article 146 Labour Code.

for (or to have their weekly working time shortened by 4 hours accordingly), without loss of wages.⁷⁰ Draft legislation to be debated in **Lithuania** proposes the introduction of new rights for workers with families including rights to request to work part time and to job share.

In **Austria** the parents of children aged up to 4 or 7, depending on the size of the company, have the legal right to reduce their working time and/or to change their working schedules.⁷¹ This right may be exercised at any time from the end of the maternity protection period⁷² or return from full-time parental leave until the 4th birthday of the child in enterprises with up to 20 employees or the 7th birthday of the child in larger companies. In addition, civil servants are entitled to switch between part-time and full-time work without having to provide reasons. And in **Finland** parents may take childcare leave (available full-time until the child turns 3) on a part-time basis until the child finishes the second year of schooling (aged about 8) or 18 in the case of disabled children.⁷³ Such leave may be taken by both parents, but not simultaneously. It is available to employees who have worked for the same employer for a minimum of 6 months during the previous 12 months and attracts a flat-rate benefit.

In **Slovenia** a parent who cares for a child under 3 (or a disabled child under 18) may work part time while parents with 2 children may work part time until the younger child finishes the first year of primary school. Uniquely across the states considered, one year of this right is granted to each of the parents on a non-transferable basis⁷⁴ with the State paying the balance between the social security contributions of those working reduced hours which are proportional to their reduced pay and those which they would have paid had they not worked the reduced hours.

In **Portugal** all workers with a child aged under 12 (or a disabled or chronically ill child of any age) are entitled to reduce their working hours, though here a maximum period applies (other than that implied by the age limit). The right is available for a maximum period of 2 years, 3 years (in case of a third or additional child) or 4 years (in case of a disabled or chronically ill child) to take care of their child(ren).⁷⁵ Parents of children under 1 are entitled to refuse to work overtime.⁷⁶ Breastfeeding mothers are also entitled to take 2 daily hourly breaks from work on full pay until the child is 1 year old (or for the whole period of breastfeeding).⁷⁷

In **Luxembourg** there are significant differences between the leave entitlements of workers in the public and private sector: full-time civil servants are entitled as of right to take unpaid leave for 2 years and/or to work reduced (half-time) hours until the child is of primary school age.⁷⁸ The right has no equivalent in the private sector. They may also request unpaid leave or half-time leave to raise a child to 15 or for personal reasons and lower-level civil servants who are not exercising the right to take unpaid leave or half-time leave may be eligible to work 25 %, 50 % or 75 % of full-time hours.⁷⁹ In such cases part-time workers are considered as full-time for the purposes of promotion, seniority etc.

In **Norway** workers have a general right to flexible working hours which is discussed at **3.3** below. In addition, employees over 62 years of age or who have ill health or social or other weighty welfare

70 Article 214 Labour Code.

71 Under the Maternity Protection Act and the Fathers' Parental Leave Act (parental part-time work, *Elternteilzeit*) §§15h to 15p Maternity Protection Act and §§8 to 8h Fathers' Parental Leave Act (*Väternkarenslag*, VKG).

72 Paragraph 5 Maternity Protection Act.

73 Chapter 4 ss(2) & 4 Employment Contracts Act. The partial leave may be extended to the end of the third year at school.

74 Employment Relationship Act (ERA-1), Official Gazette of the Republic of Slovenia, No. 21/2013, of 13 March 2013 and the Parental Care and Family Benefits Act, Official Gazette of the Republic of Slovenia, No. 26/2014, Article 67.

75 Article 55 Labour Code which was approved by Law No. 7/2009, of 12 February 2009. Law No. 35/2009, of 20 June 2014 (hereafter LGTFP), establishes the provisions applicable to Labour Contract for Civil Servants. This provision applies both to private workers and to public servants (Law No. 35/2014, of 20 June 2014 (LGTFP) Article 4 No. 1 d).

76 Article 59 Labour Code.

77 Article 47 Labour Code

78 The right to reduced hours can be exercised after two years' full leave.

79 General Status of Civil Servants; http://www.legilux.public.lu/leg/textescoordonnes/compilation/code_administratif/VOL_6/FONCTIONNAIRES/A_STATUT_ETAT.pdf, accessed 28 April 2015.

reasons, are entitled to reduced working hours.⁸⁰ Norway's expert suggests that this would cover some situations in which a worker has to take children to and from kindergarten, for example, because his or her spouse works shifts, or is on placement. In **Poland** parents are entitled to work half or fewer hours during the period in which they are entitled to additional maternity leave or (unpaid) childcare leave following paid parental leave.⁸¹ Workers must provide at least 14 days' notice in writing of the intention to resume work and are entitled to do so during the period of additional maternity leave as long as this is possible given the organisation of work and the worker's role, the right to work reduced hours in lieu of leave being absolute in the case of unpaid childcare leave.

3.2.2 Restrictions on the timing of requests to work part time

Except as specified below, or where the right to work part time applies only while a child is of a particular age, the moment at which a request has to be made is not restricted. The exceptions include **Luxembourg** where civil servants must exercise their right to work part time immediately on return from maternity, adoption or parental leave though the 'softer' rights mentioned above (i.e. those which the employer may refuse to grant) may be exercised more flexibly. In **Denmark**, similarly, workers are entitled only to request changes to working hours or work patterns on return from maternity or parental leave. In **Bulgaria**, workers are only entitled to request a change to a part-time position on return from maternity/parental/care leave.⁸² And in **Hungary** the requests with which employers are obliged to comply are those made by parents returning to work from unpaid leave before the child turns 3 (when the right to parental leave ends), or 5 where the employee has 3 or more children.⁸³

3.2.3 Restrictions on 'part-time' working hours

There are no limits to the reductions which may be agreed in most states. In **Sweden**, whereas the proportion of the working day which can be taken as leave is flexible during any period in which a worker is entitled to maternity, paternity or parental benefit, in other cases where workers exercise the right to reduced working hours in respect of a child aged under 8 the minimum number of hours to be worked is 75 % of the full-time norm. In **France**, since 1 January 2014, minimum part-time hours are set at 24 hours a week subject to workers' entitlement to request shorter hours particularly if they want to work for several companies at the same time or for personal reasons. The 24-hour minimum was introduced by the National Interprofessional Agreement (ANI) of January 2013 as part of an attempt to reduce involuntary part-time working and improve the quality of part-time jobs in the interests, inter alia, of gender equality; the 24-hour minimum can be overridden where, inter alia, the employee is a student aged under 26 or a reasoned written request for lower hours. In **Croatia**, **Hungary** and **Luxembourg** reduced-hours working arrangements are set at half time (in **Croatia** and **Luxembourg** this only applies during parental leave – see 4.4.3 below). In **Poland** workers may not work more than 50 % of normal hours while exercising rights to work part time⁸⁴ and in **Portugal** the default reduction in working hours on request is 50 % daily but the parties may agree on other solutions. In **Spain** the regime for reduced hours is unusual in that, as well as requiring the reduction in working hours to be between 12.5 % and 50 %, it has required since 2012 that the reductions be applied to hours worked daily, rather than weekly or monthly.⁸⁵ Further, it may be made subject to collectively agreed arrangements rather than individual determination.

80 Working Environment Act 17 June 2005 No. 62 (WEA) Section 10-2 (4).

81 Articles 182¹ and 186⁷ Labour Code. Attempts to make provision for more extensive rights to flexible working were abandoned in June 2015: recording from the meeting of the Permanent Commission for Amending the Labour Code and Code of Administrative Procedure of 24 June 2015: http://www.sejm.gov.pl/Sejm7.nsf/transmisje_arch.xsp?unid=C310808F03A4FC0AC1257E68003A4369, accessed 27 October 2015.

82 Article 167b Labour Code.

83 Article 61(3) Labour Code.

84 Articles 182¹ and 186⁷ Labour Code.

85 Law 3/2012 of 6 July 2012 on Urgent Measures for the Reform of the Labour Market, <http://www.boe.es/boe/dias/2012/07/07/pdfs/BOE-A-2012-9110.pdf>, accessed 13 April 2015.

3.2.4 Restricting the right to work part time on the basis of the employer's interests

In many of the countries mentioned above the right to work part time cannot generally be 'trumped' by the employer, though in **Austria** the law provides for a very detailed procedure to be followed in cases in which workers and employers cannot reach agreement on the nature of the change. Employees may submit a written proposal. In enterprises with more than 20 workers where the employee requesting changes has 3 years of service the employer may agree or submit a counter-proposal. The parties then have 4 weeks to reach agreement failing which the employer must apply for arbitration and, if this does not succeed, must sue the employee to have the employer's chosen working pattern imposed. Such a lawsuit will succeed only if the court finds that the employer's proposal is in the enterprise's necessary interests. In smaller enterprises, and where the employee has less than 3 years of service, if the employer does not agree to the change the employee may file a legal claim and the court must dismiss the claim to the extent that the employer can show that agreement has been withheld for justified reasons. In such cases the employer still has the burden of proof but a lower standard of evidence is required.⁸⁶

In a number of countries the right to work part time may be restricted by the interests of the employer. In the **Netherlands** and **Spain**, for example, the general right to work part time is limited by the employer's ability to refuse on the grounds of compelling business reasons (i.e. if compliance with the request would cause serious problems). The rights of parents and carers to work part time in **Spain** are less qualified. In **France**, workers' requests to work part time⁸⁷ can be refused (only) if no comparable job exists in the company, or because the employer can demonstrate that the transfer requested will have harmful consequences for production and the company's operation. The first of these exceptions may be problematic in that it has the potential to reduce the potentially radical impact of allowing workers in jobs traditionally done only on a full-time basis to shape their working hours around their needs, rather than vice versa. The decision of an employer to refuse the request can be challenged in court, though there have been no reported cases to date. The exercise of the right is regulated by collective agreement,⁸⁸ otherwise by the Labour Code⁸⁹ which provides that the worker should make the request six months in advance of the desired start date and allows the employer three months to reply.

In the **Czech Republic** employers may refuse to comply where serious operational reasons make it impossible to do so.⁹⁰ In the event of a refusal the employee may attempt internal resolution and, if that is unsuccessful, may challenge under normal civil-law procedures.⁹¹ It is for the employee to disprove the existence of serious operational reasons. And in **Slovakia** employers may refuse applications for adjustments to working hours (including by a transfer to part-time work) for serious operational reasons.⁹² In **Finland** the right to work part time (strictly, to take parental leave on a part-time basis) is not absolute, employers being able to refuse permission where part-time leave would cause serious harm to production or provision of services at the workplace. In **Norway** employers may only deny part-time leave in cases where this will cause severe difficulties for the employer, employees being able to complain to the Board of Labour Disputes in the event of a refusal.⁹³ While the right to work reduced hours is not conditional on the size of the employer, size may impact on whether it is practical for employers to accommodate requests to work reduced hours. Those who are aged over 62 or who have ill health or social or other weighty welfare reasons are entitled to reduced working hours regardless of the employer's countervailing interests.⁹⁴ It is worth pointing out that, in **Norway**, the extent of gender segregation in the labour market

86 e.g. §15k Maternity Protection Act.

87 L.3123-5 and L3123-6 Labour Code.

88 L.3123-5 Labour Code.

89 L.3123-6 Labour Code.

90 S241 §2 Labour Code.

91 Act No. 99/1963 Coll., Civil Procedural Act.

92 Article 164 (2) Labour Code.

93 Working Environment Act 17 June 2005 No. 62 (WEA) ss 1-13.

94 WEA Section 10-2 (4).

and the predominance of part-time working in female-dominated professions are such that many women who wish to work full time find it difficult to do so.

In **Portugal** the right to access reduced-hours working arrangements is not an absolute one but may be refused in the interests of the business ('imperative entrepreneurial reasons') and where the worker is indispensable.⁹⁵ In such cases there is a right of appeal to the Commission for Equality in Employment (CITE), and from there to the Labour Court, the burden of proof being on the employer with respect to the 'imperative entrepreneurial reasons'. In **Luxembourg** the right of civil servants to work part time on return from maternity, adoption or parental leave is absolute but employers may refuse requests to unpaid leave or half-time leave to raise a child under 15 or for personal reasons, and may refuse to grant permission to lower-level civil servants to work 25 %, 50 % or 75 % of full-time hours if this is not compatible with the interests of the department.⁹⁶

In **Poland** employers may refuse to allow part-time work during a period in which the employee would otherwise be on additional maternity leave if 'it is not possible for the work organisation or due to the type of work performed by the employee'⁹⁷ but where part-time work is requested during the period in which a worker would otherwise be entitled to childcare leave it may not be refused.⁹⁸ Where an employer refuses a request to work part time during a period in which the employee would otherwise be on additional maternity leave the worker may apply to the Labour Court, the burden being on the employer to prove that it could not accommodate the request. The delays associated with applications to the Court, and with appeals therefrom, are such that the period in respect of which the worker would have been entitled to work part time is likely to have lapsed before the matter is judicially resolved.⁹⁹ The worker may also refer the case to the National Labour Inspectorate which may, however, refuse to determine whether any violation occurred because the grounds upon which the employer may refuse a request to work part time have been drafted very widely.¹⁰⁰

In **Germany** civil servants may be refused permission to allow reduced-hours working arrangements where there are opposing operational reasons (compelling opposing operational reasons where the request is for the purposes of caring for children under 18 or dependent relatives).¹⁰¹ The employers of other workers may refuse access to part-time working where they (the employers) can prove that the change would cause a significant impact on organisation, working conditions or safety in the company, disproportionate costs or other reasons established by collective agreement.¹⁰² And in **Iceland** public sector employers must allow workers flexible working arrangements as long as this is compatible with the employer's public service role.¹⁰³ In **Denmark**, by contrast, workers are entitled only to request changes to working hours and work patterns, with employers being obliged to consider the written application and

95 Article 57 No. 2 Labour Code.

96 General Status of Civil Servants http://www.legilux.public.lu/leg/textescoordonnes/compilation/code_administratif/VOL_6/FONCTIONNAIRES/A_STATUT_ETAT.pdf, accessed 28 April 2015.

97 Article 182¹ and 182^{1a}, Section 6 Labour Code.

98 Article 186⁷ Section 1 Labour Code. If an employer does refuse in these circumstances, the employee may apply to the Labour Court for a mandatory order.

99 Lenart, B. *Odmowa bez uzasadnienia możliwości łączenia z pracą dodatkowego urlopu macierzyńskiego i urlopu rodzicielskiego – skutki dla pracodawcy* (Unjustified refusal of the possibility to reconcile with work additional maternity leave or parental leave). Practical commentary, Legalis Online Legal Database 6 August 2013.

100 Lenart, B. *Odmowa bez uzasadnienia możliwości łączenia z pracą dodatkowego urlopu macierzyńskiego i urlopu rodzicielskiego – skutki dla pracodawcy* (Unjustified refusal of the possibility to reconcile with work additional maternity leave or parental leave). Practical commentary, Legalis Online Legal Database 6 August 2013.

101 Ss91-92a Federal Civil Service Act (*Bundesbeamtengesetz, BBG*) of 5 February 2009, Official Journal (*Bundesgesetzblatt, BGBl.*), part I, p. 160, http://www.gesetze-im-internet.de/bbg_2009/BJNR016010009.html or, in the case of state civil servants, under state law.

102 S8 Part-Time and Fixed-Term Employment Act (*Teilzeit- und Befristungsgesetz, TzBfG Teilzeit- und Befristungsgesetz*) of 21 December 2000, Official Journal (*Bundesgesetzblatt, BGBl.*), part I, p. 1966, <http://www.gesetze-im-internet.de/tzbfhg/BJNR196610000.html>, accessed 15 May 2015.

103 Article 13 of Act No. 17/1996 on government employees.

provide a written response and being prohibited from subjecting a worker to less favourable treatment on account of having made such a request.¹⁰⁴

In the **United Kingdom**, where there is a general right to request flexible working (including part-time hours, altered working-time arrangements and/or place of work), there are no substantive obligations on employers other than an obligation to consider the request in a reasonable manner, and to notify the employee of its decision within three months, or such longer period as may be agreed by the parties. When the right to request was extended in 2014 (see above) much of the prescription as to how such requests were to be considered by employers was removed, arguably diluting the right itself. The previous requirements for a meeting to be held and an appeal allowed have been removed, though the Advisory, Conciliation and Arbitration Service Code on good practice, which must be taken into account by any Tribunal considering a complaint about the application of the right,¹⁰⁵ suggests that these steps should be taken. An employer may only refuse the application on one or more of a number of specified grounds (burden of additional costs; detrimental effect on ability to meet customer demand; inability to reorganise work among existing staff; inability to recruit additional staff; detrimental impact on quality or performance; insufficiency of work during the periods the employee proposes to work; planned structural changes).¹⁰⁶ There is no right to challenge the employer's decision other than where an impermissible reason is given or the rejection has been based on incorrect facts. Employees may also complain to tribunals if the employer fails to consider the request reasonably, or within the statutory time limit, or victimizes the employee in connection with it. Invariably, employees who complain about refusals to allow them to access flexible working arrangements also complain of sex discrimination.

In **Ireland** similarly the right is a right to *request* rather than a right to *work* part time (even subject to the employer's trumping interests). Employers are encouraged to establish a procedure allowing for (i) application, (ii) relevant consultation and discussion, (iii) decision, and (iv) managing the outcome (implementation or refusal). Employers may not penalise an employee for exercising the right to request part-time work and an employee whose request is refused may be in a position to bring an indirect sex discrimination claim. As in the **United Kingdom**, there is no legal burden on the employer (other than in the context of a discrimination claim) to justify the refusal. Similarly in **Bulgaria**, where employers must consider requests from full-time workers who want to change to part-time positions and workers are entitled to negotiate, inter alia, as to the length and organisation of their working time,¹⁰⁷ employers are not obliged to *comply* with such requests. The same is true of employers in **Cyprus**, though they are required so far as possible to give consideration to employees' requests to transfer from full-time to part-time employment, or vice versa. A failure by an employer in **Liechtenstein** to consider a request from a full-time worker who wants to change to a part-time position, as far as possible, does not appear to be subject to legal challenge.

It is clear from the foregoing that the strength of rights regarding part-time work varies significantly across the countries surveyed, with workers in some states having no more than a right to request reduced-hours working arrangements. How strong any right to access part-time work is in practice will, of course, also depend on the system of enforcement including, if necessary, access to the courts but this is a question of general application, which is not within the scope of this report. Much also depends on the socio-economic context in each country; where this context is adverse, whether by reason of the current economic crisis or otherwise, employers may be reluctant to grant reduced working time or leave and workers, particularly women, may be reluctant to jeopardise their continued employment by seeking to exercise their rights; whether or not they are in theory protected by law from victimisation, difficulties of accessing the judicial system, proving victimisation and securing alternative employment may well render rights less than effective in practice whatever the legal position.

104 Equal Treatment Act (No. 645 of 8 June 2011) ss8a(2) & 9.

105 <http://www.acas.org.uk/flexibleworking>, accessed 25 June 2015.

106 ERA 1996 s 80G(2).

107 Article 167b Labour Code.

3.2.5 Collectively agreed rights to part-time working arrangements

In **Denmark** where national legislation provides only a right to request changes to working hours and work patterns on return from maternity leave, the collective agreement in the financial sector allows parents with children under 12 to work 30 instead of 37 hours a week with the employer's agreement, for periods of up to 12 months with employers being entitled to refuse to agree reduced hours only where they are inconsistent with operational conditions, in which case alternatives must be explored with the Trade Union representative. And in **Greece**, where there is no legal right to reduced working hours/part-time work, private sector workers are entitled by reason of national general collective agreements to one hour's reduced working time per day 'for breastfeeding and childcare' for 2.5 years after maternity leave (alternatively, by agreement with the employer, to two hours' reduced working time per day for one year, with one hour for the subsequent six months).¹⁰⁸ Since 2014 this leave has been fully transferrable between parents (previously it was the mother's right, though exercisable by the father if she did not take it). It can be taken by either parent or shared between them on notification to their employers by a joint statement, and may be exercised in the form of leave (i.e. by amalgamating the total number of hours by which working time would otherwise be reduced) by agreement with the employer. In addition, parents of disabled children (irrespective of age) are entitled to a transferable reduction of one hour in the working day, with correspondingly reduced pay,¹⁰⁹ in undertakings with at least fifty workers. Some sectoral collective agreements contain more favourable terms applicable to private sector workers; in particular, the collective agreements applicable to bank workers grant the same working-time reduction as public sector workers enjoy.¹¹⁰

In **Malta** there are no statutory rights to reduced hours, teleworking etc., but the Public Service Management Code, which reflects the collective agreement between the public service and its employees, makes provision for flexible working arrangements including reduced hours and telework. This is a matter of policy rather than of right and can be altered at will.¹¹¹ While certain parameters are laid out in the Code, the grant and terms are decided at the discretion of the Director/Head. And in **Italy**, while there are no statutory entitlements to part-time working arrangements, some collective agreements allow workers temporarily to reduce their working hours, subject to the employer's right to refuse where it conflicts with other interests or the functioning of the enterprise. The collective agreement applicable to health workers also provides for an increase in the percentage of temporary part-time workers otherwise permitted where the workers have serious and certified family needs and private sector agreements including that applicable in the commercial sector provide for temporary part-time work of up to 36 months' duration in the case of serious illness or family reasons; where these apply the worker has priority in access to reduced hours and is entitled to resume full-time work during or at the end of the period.

In **Estonia** the only right to reduced working hours is for breastfeeding, though national general collective agreements which provide minimum standards for workers under a private-law contract throughout the country grant paid daily working-time reduction 'for breastfeeding and childcare' (by one hour for two and a half years after maternity leave or two hours for one year, and one hour for the subsequent six months) to natural and adoptive mothers or, at the parents' choice, to fathers.¹¹² There is no right to reduced-hours working arrangements in **Romania**,¹¹³ though such arrangements are available under some collective agreements¹¹⁴ which may, for example, extend the right to reduced working hours to

108 NGCAs 1993, 2000-2001, 2002-2003 and 2004-2005. All NGCAs are available on the website of the Greek General Confederation of Labour (GSEE), in Greek: <http://www.gsee.gr/nomothesia/e-g-s-s-e/>, accessed 4 May 2015.

109 Act 1483/1984 OJ A 153/1984, Article 8.

110 Federation of Greek Banks' Employees (OTOE) CA 1997-1998.

111 See <http://opm.gov.mt/en/PAHRO/ERM/Pages/PSMC/Chapter%205/Chapter-5-4.aspx>, accessed 30 April 2015.

112 Article 10 of the Occupational Health and Safety Act.

113 However, women who are breastfeeding their child until the age of one are entitled to take two breaks every day from work in order to do so, or they are entitled to shorten their work presence by two hours every day. Emergency Ordinance No. 96/2003 regarding the protection of maternity at the workplace.

114 Romania, Collective Agreement No. 59.495 of 19 December 2012 in the field of higher education and research, Articles 22-23.

parents who return early from parental leave, until their child reaches the age of 2 (3, in the case of ill or disabled children),¹¹⁵ or permit parents of under 6's or under 7's to work part time if this is based on a medical recommendation.¹¹⁶ Such agreements are relatively unusual. In addition, employers are required to take working-time requests into consideration, but are not required to agree to them. There is no general right of all workers to reduced working hours in **Croatia**, except for workers in connection with the use of maternity and/or parental leave.¹¹⁷

3.2.6 Returning to full-time work

In **Luxembourg** and **Portugal** reduced working hours are subject to express time limits, while in **Austria**, **Finland**, **Slovenia** and **Sweden** they are linked to the age of the child to whom they relate. Elsewhere, changes to working time are indefinite and any subsequent increase in working hours will have to be applied for and/or agreed by the employer. However in a number of states including **Finland**, **Norway**, and **Spain**, part-time workers who wish to increase their working hours are entitled to preferential access to any additional hours available. In **Germany**, part-time workers have preferential access to available full-time posts within the same company. Information rights apply in **Estonia**, **Latvia** and **Liechtenstein**.

In the **Netherlands** the change to part-time work is permanently subject to the employee's right to request increased hours, which request may only be refused for serious financial reasons, if there is not enough work or if the personnel budget does not allow it.¹¹⁸ In **Iceland** an agreement to change working hours after parental leave must be set out in a written form which records the duration of the arrangement. In **Latvia**, once a transition to part-time work has been made it is indefinite and there is no procedure to facilitate return to full-time hours by parents who have made use of the right to reduced working hours.

In **Lithuania** and the **United Kingdom** any changes in working hours are permanent subject to the employee's right at a subsequent date to make a fresh request. The same is true in the **Czech Republic** though the **Czech** expert reports that, because **Czech** employers prefer full-time workers this does not generally pose any difficulties. In **France**, too, the move to part-time work is indefinite if the request is accepted but part-time workers have a priority right to full-time jobs available in the company (and vice versa).¹¹⁹ In **Ireland** any changes in working hours by reason of the exercise of a right to request will be permanent unless agreed to the contrary, again subject to the employee's right at a subsequent date.

115 E.g. Romania, Collective Agreement No. 1482 of 13 November 2014 (Higher education and research), published in the Official Journal, Part V, No. 6 of 26 November 2014, Article 22; Romania, Collective Agreement No. 1768 of 9 December 2013 at the level of group of public services operators of water supply and sewerage, for 2014-2015, published in the Official Journal, Part V, No. 1 of 10 January 2014, Article 82.

116 According to the collective agreements reduced hours may be available for a shorter period of time as an alternative to parental leave, allowing the employee to receive full salary. Alternatively, workers may work part time, for up to half of the normal working hours, for a longer period of time with the employee receiving the salary corresponding to the amount of time worked; see Romania, Collective Agreement No. 1482 of 13 November 2014 at the level of group of units within the sector of activity 'Higher education and research', published in the Official Journal, Part V, No. 6 of 26 November 2014, Article 23; Romania, Collective Agreement No. 1768 of 9 December 2013 at the level of group of public services operators of water supply and sewerage, for 2014-2015, published in the Official Journal, Part V, No. 1 of 10 January 2014, Article 82; Romania, Collective Agreement No. 1483 of 13 November 2014 at the level of the school education sector, published in the Official Journal, Part V, No. 5 of 26 November 2014, Article 25.

117 Article 16 of the Act on Maternity and Parental Benefits stipulates that following the utilisation of parental leave under Article 14(2) of the same Act, or the right to work half-time under Article 15(4) of the same Act, one of the employed or self-employed parents is entitled to work for half of the full working hours until the child reaches the age of three. This is if the child, according to specialised medical assessment, needs greater care and attention due to his/her health and development.

118 Article 2(3) Act on the Adjustment of Working Hours.

119 L.3123-8 Labour Code.

3.3 The organisation of working time

Also significant to workers' ability to reconcile work, private, and family life is the extent to which they may exercise a degree of control over the organisation of their working hours (i.e. the distribution of those hours across the day, week, month or year) and the physical location in which they work (in particular, the ability to work at home). As we see here, rights to determine the organisation of working time are much less common than rights to reduce working hours, though in some cases parental status allows employees to resist employer-driven 'flexibility'. Different types of flexibility are discussed by Plantenga and Remery who distinguish the following three models:

1. Unstructured flexibility: employees have limited autonomy over their working schedule and the volume of hours worked; the needs of the employer in relation to flexibility are privileged above those of the employee.
2. Structured flexibility: working-time arrangements that are predictable but non-standard, such as regular part-time schedules or rotating shifts, wherein the employer concedes flexibility over the volume of hours, but the employee concedes at least some flexibility over the pattern in which those hours are scheduled.
3. Autonomous flexibility: driven by the employees' needs rather than by the structure of the business, this type of flexibility gives employees the ability to change their working time in order to accommodate other responsibilities or activities.¹²⁰

The first of these models is, for obvious reasons, inconsistent with the reconciliation of working, private, and family lives. The third is particularly beneficial as it allows hours to be adapted, to a greater or lesser extent, to a worker's evolving needs.

Rights regarding the organisation of working time are less commonplace than rights to work part time (or to request to do so). The present status of the countries assessed is summarised in Table 5.

120 Plantenga, J., Remery, C. (2010) *Flexible working time arrangements and gender equality: A comparative review of 30 European countries*, European Union, <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=585&type=2&furtherPubs=no>, accessed 25 June 2015.

Table 5: Access to flexible working

Country	Right to organise hours	
	Tied to reconciliation purposes?	Right or right to request?
Austria	Yes	Right
Belgium	N/A ¹	N/A ²
Bulgaria	No	Right to request
Croatia		No
Cyprus	N/A	N/A (some collective agreements provide)
Czech Republic	N/A	N/A
Denmark	N/A	N/A
Estonia	N/A	N/A
Finland	N/A	Many collective agreements provide
France	N/A	Many collective agreements provide
Germany	N/A	Many collective agreements provide
Greece	N/A	No
Hungary	N/A	N/A
Iceland	N/A	N/A
Ireland	N/A	N/A (some collective agreements provide)
Italy	N/A	N/A
Latvia	N/A	N/A
Liechtenstein	N/A	N/A
Lithuania	N/A	N/A
Luxembourg	N/A	Many collective agreements provide
Malta	Yes	Right to request
The Netherlands	No	Right to request (and collective agreements often provide)
Norway	No	Right, with exceptions
Poland	N/A	N/A
Portugal	Yes	Right, with exceptions
Romania	N/A	N/A
Slovakia	N/A	N/A
Slovenia	N/A	N/A
Spain	Yes	Right, with exceptions
Sweden	Yes	Right, with exceptions
United Kingdom	No	Right to request

1 Because there is no right either to work or to request to work flexibly.

2 Because there is no right either to work or to request to work flexibly.

Only those countries in which workers enjoy rights to work (or to request to work) flexibly are discussed below (though note that draft legislation to be debated in **Lithuania** proposes the introduction of new rights for workers with families including rights to request flexible or individual working-time schedules). Any conditions and/or qualifications that apply to the right are stipulated in the text; where no conditions or qualifications are mentioned as to when a right can be exercised, by whom, or in relation to which employers, no relevant condition or qualification applies. Even in those states in which there is no right to flexibility workers may of course be permitted to organise their working hours in a way that suits them, and Member States are required by the Parental Leave Directive to provide a right to request adaptations

to the pattern of working hours (as well as or instead of the number of hours worked per day) on return from parental leave.

In **Austria** the parents of children aged up to 4 or 7, depending on the size of the company, have the legal right to change their working schedules as well as to reduce working hours.¹²¹ The only restrictions on this are procedural in nature (see discussion at 3.2.4 above), and the original terms of the employment contract come back into effect once the period for which any change was agreed has expired. Employees in **Norway** are entitled to flexible working-time arrangements where this does not cause serious difficulties for the enterprise.¹²² This will generally involve the enterprise setting 'core working hours', for example between 09.00 and 15.00, with employees being able to work the additional two hours of the working day before or after these hours.

In the **Netherlands** employers are required to take into account employees' wishes and personal circumstances when determining working-time schedules. In addition, employees with one year's service may request adaptations to the pattern as well as the hours of work, though employers are required only to deal reasonably with such requests.¹²³ The request can be made for any reason. The qualifying period of employment, and the requirement for notice on the employee's part, do not apply in cases of force majeure.¹²⁴ The Act on Flexible Working, which was adopted on 14 April 2015 and will enter into force on 1 January 2016, will provide a right to changes in the organisation of working time (as distinct from a reduction in working hours) subject to the employer's right to refuse where it is reasonable to do so (i.e. having balanced the interests of employer and employee). Employers in **Bulgaria** are also obliged to consider the wishes of a parent returning from leave,¹²⁵ concerning the length and organisation of their working time and other conditions of their labour contract.¹²⁶

In **Spain** workers may select their work patterns where they exercise a right to work reduced hours¹²⁷ subject, in case of conflict, to an expedited judicial procedure.¹²⁸ It appears that the burden of proof falls on the employer,¹²⁹ although the Act Regulating Social Jurisdiction emphasises the mutual responsibility of both employers and workers to bring proposals and alternatives to the table. In order to successfully resist an application to change working patterns the employer would have to show evidence of lack of entitlement on the part of the worker to ask for a working-time reduction, the existence of two workers in the same company applying for a reduction in relation to the same child, or that the employee's proposal requires a change in schedule or abuse of law.

In **Sweden** employees who are working reduced hours may organise those hours in any daily or weekly pattern with the employee having the final say on this matter if agreement cannot be reached, if such distribution does not cause substantial disturbance to the employer's activity. If an employer does not give effect to the employee's wishes in this matter, the default position, if employer and employee cannot agree, is that the employee's daily hours must be shortened (i.e. by a later start and/or earlier finish) and the employee's union must be informed.¹³⁰ And employees are entitled to resume their original working patterns at any time.¹³¹

121 Under the Maternity Protection Act and the Fathers' Parental Leave Act (parental part-time work, *Elternteilzeit*) §§ 15h to 15p Maternity Protection Act and §§ 8 to 8h Fathers' Parental Leave Act (*Väternkarenslag, VKG*).

122 S10-2(3) Working Environment Act (WEA) 17 June 2005 No. 62.

123 Article 2(5) Act on the Adjustment of Working Hours. Again, this will be reduced to six months and the notice period from 4 to 2 months, when the Act on the Adjustment of Working Hours 2015 enters into force.

124 Article 2(1) and 2(3) Act on the Adjustment of Working Hours.

125 The leaves under Article 163-167a of the Labour Code: maternity, paternity, and parental leave; leave for caring for a child aged up to two years; and leave for breastfeeding.

126 Article 167b of the Labour Code.

127 Article 37(6) Worker's Statute.

128 Article 139 Act Regulating the Social Jurisdiction, Law 36/2011 of 10 October 2011, http://noticias.juridicas.com/base_datos/Laboral/l36-2011.html, accessed 13 April 2015.

129 Article 37.6 of the Workers' Statute.

130 PLA s 14 §§ 2 & 3.

131 Ss 15 & 16 PLA.

Flexible working is a matter of right in countries including **Norway**, discussed above. Elsewhere it is more commonly the result of agreement between workers and employers or the product of collective agreements. 'Flexi-time' providing a certain 'time span' for starting and ending the working day and with a certain room for adjustments over the working week or month more or less generally prevails on the **Swedish** labour market, especially so in white-collar work. A similar approach applies in **Norway** to the banking of hours ('banking' refers to a system by which workers may work more hours at one time in order to accumulate entitlement to periods of time off). In **Norway**, although there is no legal right to this, it is a widespread practice in the public sector.¹³²

Workers in **Ireland** enjoy a variety of flexible working arrangements including part-time work, work sharing, working during term time only, and in the **Irish** civil service various flexible working arrangements, though the economic crash has had a damaging impact on the development of collectively agreed flexible working arrangements in the public sector. The Public Service Stability Agreement 2013-2016 revised public service work share arrangements, providing that work-sharing patterns of less than 50 % of normal working hours would not be approved from 1 July 2013 except where civil servants are disabled or in receipt of carer's allowance. Staff already working patterns of less than 50 % might retain their arrangements on 'a personal to holder basis' subject to management's overall discretion to change such arrangements by the giving of three months' notice.¹³³

The importance of collective agreements in this area is evident in the **Netherlands** for example where, although there are no legal provisions for banking hours (other than those allowing employees to save their 'extra-statutory' holidays for a maximum of five years),¹³⁴ collective agreements are increasingly providing for the determination of working hours and patterns over annual, rather than weekly, periods, with flexible patterns of work generally to be agreed between employees and their direct managers. In **Germany**, where working patterns and the location of the working time during the week are subject to collective or work council agreements as are working hours (start and end times of work, breaks, location and distribution, changes in weekly working time, holidays and flexible work),¹³⁵ up to 80 % of the companies allow working arrangements intended to promote a good work-life balance, as do 90 % of collective agreements and 13 % of works agreements.¹³⁶ Some such agreements deal only with the details of parental leave but others include wide ranges of measures including part-time work, teleworking, job sharing, flexitime, work schedules, core times, 'reduced full-time' (80 %), holiday balances, sabbaticals, in-house childcare, all kinds of care leave and/or various models of working-time accounts.

In **Germany** policymakers, employers' associations, and trade unions publicise best practice in this area¹³⁷ and companies including Volkswagen, Deutsche Post and chemical industries provide long-term time accounts¹³⁸ under which employees can work unpaid overtime, or work full time while being paid part time, and/or employers can contribute financially, building up credit from which the employee can then draw for family time, care leave, long-term holidays, sabbatical, or working part time while being paid his or her usual salary. Examples of best practice in this context include German airport operator

132 See *Hovedtariffavtalen i Staten og Statens Personelhåndbok* Chapter 3.

133 <http://www.per.gov.ie/circulars-11-and-12-of-2013-working-hours-and-worksharing-arrangements/>, accessed 3 May 2015.

134 Article 7:642 Dutch Civil Code.

135 S87 (1) (2), (3) & (5) Works Constitution Act (*Betriebsverfassungsgesetz, BetrVG*) 25.9.01, Official Journal (*Bundesgesetzblatt, BGBl.*), part I, p. 2518, <http://www.gesetze-im-internet.de/betrvg/BJNR000130972.html>, accessed 28 October 2015.

136 Klenner, C., Brehmer, W., Plegge, M., Bohulskyy, Y. (2013), *Förderung der Vereinbarkeit von Familie und Beruf in Tarifverträgen und Betriebsvereinbarungen in Deutschland*, http://www.boeckler.de/pdf/p_wsi_disp_184.pdf, accessed 28 October 2015.

137 Federal Ministry for Family, Senior Citizens, Women and Youth (2015), *Familienbewusste Arbeitszeiten* <http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/Familienbewusste-Arbeitszeiten-Leitfaden,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf>; Confederation of German Employers' Associations (2013), *Vereinbarkeit von Familie und Beruf* [http://www.arbeitgeber.de/www/arbeitgeber.nsf/res/57B095F497D2E6BAC1257B90002C8413/\\$file/Vereinbarkeit-Familie-und-Beruf.pdf](http://www.arbeitgeber.de/www/arbeitgeber.nsf/res/57B095F497D2E6BAC1257B90002C8413/$file/Vereinbarkeit-Familie-und-Beruf.pdf); German Federation of Trade Unions (2012), *Arbeitszeiten in verschiedenen Lebensphasen gestalten*, https://www.dgb-bestellservice.de/besys_dgb/pdf/DGB301011.pdf, accessed 28 October 2015.

138 See Klenner, C., Brehmer, W., Plegge, M., Bohulskyy, Y. (2013), *Förderung der Vereinbarkeit von Familie und Beruf in Tarifverträgen und Betriebsvereinbarungen in Deutschland*, pp. 12 et seq.

Fraport which allows higher managers to work part time and/or remotely and allows job sharing in leading positions ('top-sharing').¹³⁹

In **Austria**, too, and despite an absence of legislative provisions relating to banking hours or other flexible working arrangements (except as outlined at 3.2.2 above), sectoral and enterprise level collective agreements are increasingly directed towards work-life balance and in many cases provide for the banking of overtime hours worked. Many private and public enterprises and organisations operate flexible working time frameworks, a common version of which permits work to commence between 7:00 a.m. and 9:30 a.m. and to finish between 3:00 p.m. and 18:30 p.m. with employees being required to work 9.30 a.m. to 3:00 p.m. 'core' hours and their daily or weekly hours (8 or 40). Typically employees would be allowed to bank up to 40 hours for later use as free time by agreement with their supervisors.

In **France** many collective agreements, both at sectoral and undertaking level, play an important role in promoting the reconciliation of work, private, and family life.¹⁴⁰ Several legal provisions encourage social partners to negotiate on this issue though the content of any agreements reached is a matter for the partners; negotiation on equality issues is mandatory and working time is partly regulated through collective agreements which could provide for reduced hours by means, for example, of additional days off work rather than shorter daily or weekly hours where this was more convenient to employers. Time-saving accounts can only be established through collective agreements at company or, in the absence of such agreements, the sectoral level.¹⁴¹ The detail of such accounts is established in the relevant collective agreement but the principle is that employees may accrue additional hours (by working in excess of their reduced hours for example, or saving the fifth week of annual leave) and using this time when they wish, or trading it in for a bonus payment. Some collective agreements also permit home-working and set down a procedure for its request.

A national inter-sectoral agreement addressing the issues of quality of working life and professional equality was concluded on July 2013 and transposed into law in March 2014.¹⁴² The agreement seeks to consolidate negotiations on the quality of working life (working time, gender equality, the gender wage gap, stress and harassment, and workers with disabilities), either at company or at sectoral level. The law is experimental and is applicable until the end of 2015 but draft legislation is under discussion to make it permanent. A report on collective bargaining published in June 2014¹⁴³ reported some good practices at sectoral level regarding the issue of work-life balance. In the reprographics sector, for example, undertakings are encouraged to take into account requests of workers (male and female) to work part time or to have some flexibility in the organisation of their working time. And in the publishing sector workers can ask to work from home one day a week for personal reasons (for example maternity, illness).

In **Luxembourg**, in which 59 % of the workers were covered by a collective agreement in 2010, one of the mandatory items for negotiation is organisation of the work, including working patterns. A study of collective agreements made or modified during the period 2005-2006 found that two thirds mentioned flexible working arrangements¹⁴⁴ and many included agreed flexible working schemes. In addition, more than 50 % of the collective agreements analysed mentioned a social leave of between 8 and 40 hours which could be taken for a variety of reasons.

In **Portugal**, as noted above, working parents may seek to adapt the pattern of their working time. More generally, flexible working arrangements, such as adaptable working time and banked hours can

139 Federal Ministry for Family, Senior Citizens, Women and Youth (2015), *Familienbewusste Arbeitszeiten* (Family-oriented working times), pp. 33-35.

140 Bilan, Rapport, *La Négociation collective en 2013*, Ministère du travail, de l'emploi et du dialogue social, Juin 2014.

141 L 3152-1 Labour Code.

142 Article 33 Law No. 2014-288 of 5 March 2014 transposing the agreement.

143 Bilan, Rapport, *La Négociation collective en 2013*, Ministère du travail, de l'emploi et du dialogue social, Juin 2014.

144 *Le temps de travail, l'emploi, la formation et l'égalité des genres dans les conventions collectives de travail en 2005 et 2006* (Working time, employment, training and gender equality in collective agreements from 2005 and 2006), CEPS Instead, Maas R., Blond-Hanten C., Etienne-Robert F. – Mai 2012.

be established by collective agreements or by individual agreements concluded between the employer and the worker.¹⁴⁵ These agreements can then be imposed on other workers of the same rank or section, provided they apply by agreement to a certain percentage of the workers.¹⁴⁶ These schemes, and others such as the provision of exemptions from normal daily limits on hours of work,¹⁴⁷ are designed primarily for entrepreneurial, rather than reconciliation, reasons and they can make the latter very difficult as they allow workers to demand flexibility from workers with little or no notice. There are no measures in place to promote flexibility to the benefit of employees in higher management most of whom work longer hours.¹⁴⁸ In **Finland**, while collective agreements often limit flexible working hours (which may not exceed or fall short of regular daily working hours by more than three hours), 69.5 % of the Finnish labour force has flexible working arrangements, 60 % being entitled to whole-day absences, and 9 % to adjust their working hours on a daily basis. The former type of flexibility is more common for men, the latter type for women.¹⁴⁹ And in **Cyprus** collective agreements in the hotel and catering sector often allow employees to 'bank' hours, particularly in the summer time when there is more work to be done than during other times of the year.

The legislation in some states deters flexibility. In **Belgium**, for example, employees' ability to 'bank' hours is limited by the fact that the provisions transposing the Working Time Directive 2003/88/EC allow for a reference period of no more than four months, and provide that 'banked' hours must generally be used in the following month. Flexibility regarding the organisation of working time may, of course, benefit employers at the expense of workers rather than operating as a measure to facilitate the reconciliation of work, private, and family life. In a number of states some categories of workers have a right to resist employer-driven flexibilities.¹⁵⁰ In **Hungary**, for example, pregnant women and single parents of children aged under 3 cannot be required to work irregular schedules, overtime, night work or stand-by duty,¹⁵¹ while single parents of children aged between 3 and 4 can be required to work overtime or stand-by duty, only with the consent of the employee.¹⁵² And in Slovakia pregnant women, workers caring for a child younger than 3, and single parents of children under 15 cannot be required to work irregular hours.¹⁵³

The IPPR study, discussed in Chapter 2, was concerned with the prevalence of flexible working arrangements across the states surveyed.¹⁵⁴ Table 6, which is a reproduction of one of the tables in the IPPR report, shows the prevalence of flexible working arrangements across the states surveyed by this report.

145 Articles 204, 205, 208 and 208-A Labour Code.

146 Articles 206 and 208-B Labour Code and (for civil servants) Article 106 of Law No. 35/2009, of 20 June 2014 which establishes the provisions applicable to Labour Contract for Civil Servants.

147 Article 218 Labour Code, for private sector workers, and Article 119 LGTFP, for public servants.

148 Under Article 218 Labour Code.

149 Lyly-Yrjänäinen, M., *Työolobarometri 2014 ennakkotietoja* (Working life barometer 2014), Ministry of Employment and of the Economy Reports 9/2015, <http://www.tem.fi/files/42242/barometri.pdf>, accessed 29 April 2015, pp. 43-47.

150 **Finland, Hungary, Slovakia.** And in **Iceland** some collective agreements permit employers to allow flexible working arrangements.

151 Article 113(3)&(5) Labour Code.

152 Article 113(5) Labour Code.

153 Article 87(3) Labour Code.

154 IPPR *Women and flexible Working: Improving female Employment Outcomes in Europe* (2014, IPPR), http://www.ippr.org/files/publications/pdf/women-and-flexible-working_Dec2014.pdf?noredirect=1, accessed 25 June 2015.

Table 6

Who sets working time as a proportion of all female workers (percentage), in selected European countries, 2010

	Germany	Spain	France	Netherlands	Sweden	UK	Poland
Hours are set by the company/organisation with no possibility of alteration	52.93%	72.72%	62.53%	31.69%	34.7%	58.64%	67.2%
You can choose between several fixed working schedules	11.49%	7.57%	9.26%	14.04%	7.58%	10.08%	5.3%
You can adapt your working hours within certain limits	21.77%	7.19%	14.29%	38.26%	40.98%	18.83%	8.0%
Your working hours are entirely determined by yourself	13.53%	11.91%	13.4%	15.33%	13.61%	11.51%	19.6%

Source: Eurofound 2012b

The IPPR remarked that ‘the data for Sweden consistently points to a high prevalence of flexible and adaptable working options [and] ...may help to explain how Sweden is able to maintain high levels of female employment without a large gender gap in average weekly working hours’. The report concluded that:

‘across Europe, the women who have the greatest autonomy over their work schedule are legislators, senior officials and managers (43 per cent). A significant minority of craft workers also determine their hours independently (25 per cent). Only 10 per cent of professional workers, and 5 per cent of clerks, set their hours completely independently (Eurostat 2013).

Most female workers in elementary occupations (65 per cent) have no autonomy over their hours. Women in higher-skilled jobs have higher levels of autonomy than women in lower-skilled jobs. Senior staff often enjoy considerably greater individual flexibility regarding *when* they work, but (as the availability of part-time working shows above) often have little scope to reduce *the number of hours* that they work (Hegewisch 2009).

... it would appear that there is an undersupply of ‘structured flexibility’ in high-skilled work, and an undersupply of ‘autonomous flexibility’ in lower-skilled work. The latter will often result in lower employment rates, as low-skilled women will be forced out of the labour market altogether, while the former might cause higher-qualified women to downgrade to lower-skilled work. This take-up of lower-skilled part-time work by highly skilled mothers may in turn suppress employment opportunities for lower skilled workers, who may find themselves out-competed for low-skill jobs and displaced from the labour market altogether.’

The IPPR reported that the countries with the highest levels of autonomy (**Germany**, the **Netherlands** and **Sweden**) had the highest female employment rates while those with the lowest levels of autonomy (**France**, **Poland** and **Spain**) had the lowest levels of female employment. This study, of course, focused on only 7 EU states but it may be indicative of a broader pattern.

3.4 Remote working/homeworking

Rights to remote working/homeworking are even less common than rights concerning the organisation of working time. As in the previous section, only those countries in which workers have some such rights are considered here. The current position of the countries assessed is summarised in Table 7.

Table 7: Access to remote working/homeworking

Country	Right to remote working/homeworking
Austria	No
Belgium	No
Bulgaria	No
Croatia	No
Cyprus	No, though some Collective Agreements provide
Czech Republic	No
Denmark	No
Estonia	No
Finland	No, though many Collective Agreements provide
France	No
Germany	No, though many Collective Agreements provide
Greece	No
Hungary	No
Iceland	No, though some Collective Agreements provide
Ireland	No, though some Collective Agreements provide
Italy	No
Latvia	No
Liechtenstein	No
Lithuania	No
Luxembourg	No
Malta	No
The Netherlands	Right to request to be introduced
Norway	No, though many Collective Agreements provide
Poland	No
Portugal	No
Romania	No
Slovakia	No
Slovenia	No
Spain	No
Sweden	No
United Kingdom	Right to request

Remote working/homeworking was mentioned by the national expert as a feature of collective agreements in **Germany** but rights to such working are rare, though it is permitted in the majority of states by agreement between the parties.¹⁵⁵ Such working arrangements are obviously only suitable in relation to some types of job/job function and it is in some places restricted by law. For example, teachers in **Denmark** are restricted by law or collective agreement from remote/homeworking, being required to be present at work throughout the working day.¹⁵⁶ As is the case with part-time work, home/teleworking may be associated with scant regulation, low-quality work and poor pay. It may, however, whether as all or only part of an employee's work is performed remotely, function as a valuable reconciliation measure.

¹⁵⁵ And see for example Article 165 of the **Portuguese** Labour Code and, in **Slovenia**, Articles 68, 69, 70 and 71 of the ERA-1.

¹⁵⁶ Act No. 409 of 26 April 2013 (which regulated primary school teachers) and the national collective agreement covering high school teachers, both of which are applicable from August 2014.

In the **United Kingdom** the right to request flexible working arrangements applies to the place as well as the hours and timing of work.¹⁵⁷ In the **Netherlands** the Act on Flexible Working, which was adopted on 14 April 2015 and will enter into force on 1 January 2016, will similarly give employees the right to ask for a different place of work¹⁵⁸ in order to support remote working/homeworking, so as to improve the reconciliation of work, private, and family life. The employer is, however, required only to give 'serious' consideration to the request (in the **United Kingdom** only to give it 'reasonable' consideration). 'Reasonable' and 'serious' consideration may amount to much the same thing. Neither, however, appears to oblige the employer to agree to the request unless the costs to the business of so doing outweigh the costs to the employee of refusing it.

In **Belgium** and **Hungary** remote working/homeworking is possible by agreement between the parties but is not available as of right to workers.¹⁵⁹ The same is true in **Poland** where a worker's refusal to engage in remote working may not constitute grounds for dismissal¹⁶⁰ and where workers performing remote working are protected from discrimination on this account.¹⁶¹ Special grants of up to 6 times the average monthly salary for those benefitted are available from the Labour Fund available to entrepreneurs to establish remote working/homeworking positions for unemployed parents returning to the labour market who have at least one child under 7.¹⁶²

In **Cyprus** teleworking for information technology employees is the subject of a framework agreement in the banking sector. Good practice examples include SNS Reaal, a bank in the **Netherlands**, which in 2008 allowed just over 6 % of its staff to work where and when they wanted. 80 % of the group now work at least 1 or 1.5 days per week from home.¹⁶³ In **Finland** teleworking has become common since the Social Partners' framework agreement on telework was implemented by the Finnish Social Partners in 2005 and 25 % of the workforce works remotely at least occasionally. And in **Norway**, where there is no legal right to remote working/homeworking, such arrangements are commonplace by agreement between the parties.

In **Ireland**, some large white-collar and public sector employers allow flexibility around remote working/homeworking though difficulties concerning broadband access hamper this to a significant extent in rural areas. In **Iceland**, remote working forms part of a collective agreement between Iceland's Association of Academics (BHM),¹⁶⁴ Federation of State and Municipal Employees¹⁶⁵ and Teachers' Union, on the one hand and its Minister of Finance; the municipality of Reykjavík and the wage committee of municipalities.¹⁶⁶

3.5 Uptake of part-time work/flexible working

In all of the countries surveyed, and despite wide variations in the prevalence of part-time working, women are more likely than men to work part time. This is often for reasons connected with childcare and other domestic responsibilities, though the fact that there is a causal relationship between these factors does not mean that workers are content with the 'choices' available to them; in **Germany**, for example where many women work part time, there are high levels of dissatisfaction with the distribution of working time between parents with dependent children; 6 % of couples would choose a male breadwinner model but 14 % have it; 40 % would choose the father to work full time and the mother part time but 57 % of couples are in this model; 38 % of couples would like both parents to work part time (30 hours per week) but 6 % have achieved this model; 13 % of couples would prefer both parents to work full

157 Ss80F-80G Employment Rights Act 1996.

158 Article 2(6) Act on Flexible Working.

159 Article 96 of the Hungarian Labour Code.

160 Article 67⁹ Labour Code.

161 Article 67¹⁵ Labour Code.

162 Article 60a Law of 20 April 2004 on employment promotion and labour market institutions.

163 http://www.flexibelwerken.nl/nl/voorbeelden_uit_de_praktijk/3/Flexibel_werken_bij_SNS_REAAL, accessed 21 April 2015.

164 BHM an organization of 27 trade unions; <http://www.bhm.is/enska>, accessed 20 May 2015.

165 <http://www.bsrb.is/english/>, accessed 20 May 2015.

166 <http://www.akureyri.is/starfsmannahandbok/vinnuvernd/vellidan/Sveigjanlegurvinnutimi>, accessed 20 May 2015.

time but 16 % do so.¹⁶⁷ The right to early childhood education in **Germany** was mentioned above. But in southern and western states, kindergarten places are undersupplied by tens of thousands of places.

In **Germany** in 2010, 37 % of all male and 35.5 % of all female employees were working in flexible working-time models.¹⁶⁸ But the increase in women's employment in **Germany** since 2001 has significantly been in part-time, marginal, low-paid and precarious work¹⁶⁹ with women part-timers in the former Länder of the FRG having the shortest working week of all European workers. Flexibility can work to the detriment as well as to the benefit of employees, of course, and the authors of a recent study of working time in **Germany** critically evaluated the operationally induced flexibility of working time and the intensification of work in shorter periods, and demanded measures to protect employees against both as well as measures to tackle the 'gender time gap' and to develop new models of life-course oriented working-time organisation.¹⁷⁰ The quality of part-time work has further deteriorated with a drive towards 'mini jobs' which are cheap in terms of tax and benefits to employers because they utilise workers paid less than EUR 450 per month who are locked out of much statutory social security.¹⁷¹

A large proportion of women in the **United Kingdom** work part time, often in female-dominated sectors in which part-time working is the norm, and the gender pay gap for part-time workers (i.e. between part-time women and full-time men, measured hourly) is much higher than that between male and female full-time workers. As in the **United Kingdom**, part-time work in **France** is highly feminised with women accounting for 80 % of part-time workers in 2011¹⁷² and almost 90 % of part-time workers being concentrated in the tertiary sector (education, health, social services, personal services and commerce), with part-time workers earning lower hourly rates than full-time workers and usually having lower qualifications.

Where, as in **Austria**, **France**, or the **United Kingdom**, shortcomings in the quality of part-time work mean that the transition from full-time to part-time work tends to reduce the labour-market status of those (particularly women) who do so, one route to improve that status would be to enable women to do the same jobs that they previously did full time on a part-time basis. By contrast with the ready availability of information pertaining to male and female rates of part-time working across the countries surveyed, however, there is relatively little data available as regards uptake (either generally or by gender) of the rights with which this chapter is concerned.

In the **United Kingdom**, part-time work remains characterised by low wages and poor working conditions despite employees' right to request flexible working arrangements (which should encourage flexibility *within* jobs). **Austria's** expert reports that, while in theory employees who wish to reduce their working hours are entitled to retain their previous status, many who shift to part-time work after parental leave find that this is not the case, and there is no right to bring a claim except under the Equal Treatment Act, which may not assist. The **French** expert reports that it is difficult to ascertain whether the right to move to part-time work is actually used by workers or not, but that public servants do appear to take advantage of it.¹⁷³

167 *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, accessed 29 August 2015.

168 Federal Statistics Agency (2010), available via: <https://www.destatis.de>.

169 *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, accessed 29 August 2015.

170 Absenger, N., Ahlers, E., Bispinck, R., Kleinknecht, A., Klenner, C., Lott, Y., Pusch, T., Seifert, H. (2014), *Arbeitszeiten in Deutschland*, http://www.boeckler.de/pdf/p_wsi_report_19_2014.pdf, accessed 28 October 2015.

171 *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries* http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, accessed 29 August 2015.

172 'Le temps partiel en 2011', Dares analyses n° 005, janvier 2013 ; 'Le travail à temps partiel', Synthèse Stat n° 4, juin 2013, 'Le temps partiel subi en France', Observatoires des inégalités, septembre 2012.

173 This right is enforceable by application to a joint administrative committee (Article 24, loi n° 84-16).

Part-time work is unusual in **Portugal** for economic reasons and flexible working arrangements imposed by collective agreements often serve the interests of employers rather than workers. In addition, the tradition in **Portugal** to work long hours further exacerbates the difficulties encountered when attempting to reconcile work, private, and family life. The right to part-time parental leave is, however fairly widely used, albeit primarily by women who are regarded as more responsible for the provision of care.¹⁷⁴ The disproportionate uptake of 'family friendly' working patterns is also evident in **Spain** where in 2014 95.96 % of those working reduced hours to facilitate family responsibilities were women.¹⁷⁵

Part-time work is not without difficulties as regards labour-market gender equality, but states where such work is unusual do not fare very well in the gender equality stakes. **Poland**, for example, was notable among the countries studied by the IPPR in the report considered in Chapter 2 for having the lowest level of part-time work performed by women, the highest female working hours and the highest gender gap as regards labour-market participation. The IPPR report suggested that '[t]he prevalence of standard working hours in **Poland** may mean that mothers – who may otherwise want to work alongside their caring responsibilities – are presented with the choice of either working to a rigid schedule or dropping out of work altogether'.¹⁷⁶ The draft legislation referred to at **3.2** above would require employers of at least 20 employees to accept requests for flexible and shortened working hours unless the organisation of work or the type of work performed by the employee justifies a refusal.

Many **Czech** employees work flexible hours, this being characterised by the **Czech** expert as the most important instrument for the reconciliation of work, private, and family life in the **Czech Republic**. Employers in the public, as well as the private, sector are very reluctant to let employees work part time and such work is in any event relatively unpopular, generally because of its implications for family income.¹⁷⁷ In **Slovakia**, where a recent study suggested that women's reproductive and caring role significantly affects their labour-market participation, only a small number of employers utilise flexible forms of work.¹⁷⁸ The Ministry of Labour, Family and Social Affairs recently launched a national project entitled 'Family and Work',¹⁷⁹ which aims to facilitate the harmonisation of family and work life by supporting the development of childcare and flexible work forms including short-time work contracts, remote working and the provision of subsidies for the employment of women with pre-school children or parents returning from maternity leave. The project, which will last through 2015, will receive EUR 23 million from EU funds.

3.6 Conclusion

It is clear from the foregoing that rights to work part time are the most commonplace of the reconciliation measures here considered, with rights to determine the organisation of working time less common and rights to homework/teleworking less common still. The approach taken across the states surveyed varies considerably, some providing absolute or near absolute rights to part-time work to various categories of worker and others according only a right to request reduced hours. By way of example, in **Austria, Latvia, Lithuania, Slovenia** and **Sweden** the parents of children of a variety of ages have an absolute right to work reduced hours, though no such right is afforded to other categories of worker, whereas in the **United Kingdom** all employees may request access to reduced-hours or flexible working arrangements, though employers are required only to give reasonable consideration to such requests. There are also a variety of approaches as regards the duration of reduced working hours: in a number of states, including **Luxembourg** and **Portugal**, reduced working hours are subject to express time limits. In **Austria**,

174 Parental Leave report p. 190: 19.1 % of mothers and 7.9 % of fathers take parental leave.

175 Active Population Survey, <http://www.ine.es/jaxiT3/Tabla.htm?t=4181>, accessed 14 April 2015.

176 IPPR *Women and flexible Working: Improving female Employment Outcomes in Europe*, p.17.

177 For example, according to a OECD study, only 5.6 % of Czech women work part time. See *Babies and Bosses: Reconciling Work and Family Life*, OECD 2007, p. 16.

178 Institute for Labour and Family Research, 'Sources of, and obstacles to, the growth of employment of women with stress on the strategy of harmonisation of family, working and personal life', http://www.ivpr.gov.sk/IVPR/images/IVPR/vyskum/2014/Hanzelova/2167_hanzelova_keselova_o.pdf, accessed 4 May 2015.

179 <https://ia.gov.sk/sk/narodne-projekty/>, accessed 4 May 2015.

Finland, Slovenia and Sweden, by contrast, they are linked to the age of the child to whom they relate while elsewhere, as in the **Netherlands** and the **United Kingdom**, hours are altered indefinitely if a request is granted and the employee will have to make a fresh request (with no guarantee of success) if he or she wishes to resume full-time hours. In some states, such as **Ireland, Lithuania, Norway and Spain**, part-time workers who wish to increase their working hours are entitled to preferential access to any additional hours available.

Recent comparative research by the IPPR indicates that employee-driven flexibility is positively correlated with women's labour-market participation. Workers enjoy what could be characterised as fairly strong rights of access to part-time work in **Belgium, Finland, Lithuania, Slovenia, Spain and Sweden**, in each case having rights to work part-time (albeit in some cases with exceptions) with at least some measure of compensation at least some of the time. In **Latvia and Norway**, additionally, workers have a right to work part time and in the **Czech Republic, Germany, Iceland, Portugal and Slovakia** workers enjoy this right albeit with exceptions.

Workers in a number of states are entitled to flexible and/or remote working (i.e. teleworking or homeworking), though this is very much a minority position. Relatively strong rights to organise working time are enjoyed by workers in **Austria and Sweden**, somewhat weaker rights in **Portugal and Norway** (in which some exceptions apply). Many workers in **Finland, France, Germany, Luxembourg and the Netherlands** benefit from collectively agreed rights to organise their working hours while those in **Bulgaria, Malta, the Netherlands, Spain and the United Kingdom** benefit additionally or alternatively from a right to request changes to the organisation of their working hours.

Only workers in the **United Kingdom** and, soon, the **Netherlands** are entitled to request remote working/homeworking though many workers in **Finland, Germany and Norway** have collectively agreed rights to remote working/homeworking as do some workers in **Cyprus, Iceland and Ireland**.

It is difficult to state a hierarchy of those countries surveyed as regards the reconciliation measures discussed in this chapter. It is clear, however, that **Finland, Germany, Norway, Portugal, Spain and Sweden** do fairly well as do **the Netherlands** and the **United Kingdom**, though it is worth noting that the latter two states provide rights only to request. It is also worth noting that, even in those countries which provide relatively strong rights, or a variety of rights, the extent to which workers are able to make use of such rights in practice may be limited. The widespread dissatisfaction among parents in **Germany** as to the distribution of working time between parents was mentioned in 3.5 as was the feminised, precarious and/or low-quality nature of much part-time work there (and in **Austria, France and the United Kingdom**). Part-time work remains unusual in **Portugal** while in **Spain** (as elsewhere), 'family-friendly' working hours are utilised mainly by women.

4 SHARING LEAVE

4.1 Introduction

The previous chapter was concerned primarily with employees' ability to determine working hours and patterns during periods of active engagement in the workforce. This chapter concerns arrangements for sharing maternity and parental leave between parents, also with the availability of paternity leave and the extent of flexibility afforded in relation to the taking of leave (in particular the ability to take part-time leave). The duration of maternity, paternity and parental leaves are set out below. What is of particular concern for the purposes of this report is the extent to which maternity leave may be shared, though where paternity and/or parental leave is extensive and/or paid this has some significance to the overall distribution between parents of infant-related leave.

It was pointed out in the *Parental Leave* report that there are complex arrangements in the various states as regards maternity, paternity, parental and care leaves and that 'the combination of these types of leave and even the identification of each leave differs substantively from jurisdiction to jurisdiction, making it very difficult to obtain a clear picture of the subject'.¹⁸⁰ The terms maternity, paternity, parental and care leave are used here but in some states these distinctions are not so clearly drawn.¹⁸¹ A particular focus of this chapter is on the extent to which maternity and parental leave are transferrable between parents and/or may be taken flexibly.

To the extent that conditions are attached to the sharing of leave, they will be specified below, as will payment arrangements for shared maternity leave. In none of the states considered is it reported that the size of the employer plays any role as a qualifying condition for shared leave (or paternity leave) or affects whether the employer can refuse, postpone or modify requests for leave. Wherever information is available as to take up of leave, overall and/or by gender, this will also be specified as will any problems which have arisen in practice, any reported costs and benefits, and any information provided by national experts on impact assessments and/or evaluations of shared leave arrangements.

4.2 Maternity leave

4.2.1 Shared leave

In most states this remains the preserve of women (as the name suggests) though the significance of this to the facilitation of shared care of children by parents varies greatly according to the extent of the leave, which varies very significantly across the states. The position of the countries assessed is set out in Table 8 and the text below.

180 Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015, p. 6.

181 See further the discussion at pp. 6-7 of that report.

Table 8: Maternity leave

Country	Maternity leave		
	Length	Payment	Transferable?
Austria	16 weeks ¹	100 % salary	No
Belgium	15 weeks	82 % for 4 weeks then 75 % (capped)	Only on maternal death ²
Bulgaria	410 days (additional maternity leave until child is 2)	90 %	Yes, after child is 6 months
Bulgaria	410 days (additional maternity leave until child is 2)	90 %	Yes, after child is 6 months
Croatia	7 months	100 % for 26 weeks then flat rate	Yes, after the first 14 weeks
Cyprus	18 weeks	80 %	No
Czech Republic	28 weeks	70 %	No
Denmark	18 weeks	100 %	Only on maternal illness
Estonia	140 days	100 %	No
Finland	17.5 weeks	70 %	No
France	16 weeks	70 %	No
Germany	14 weeks	100 %	No
Greece	17 weeks private sector 5 months public sector	100 %	No
Hungary	24 weeks	70 %	No
Iceland	3 months (plus additional 3 months shared)	80 %	No
Ireland	44 weeks	80 % (capped) for 26 weeks then unpaid	Only on maternal death
Italy	5 months	80 %	Only on maternal death, serious illness or abandonment ³
Latvia	16/18 weeks ⁴	80 %	No
Liechtenstein	20 weeks	80 %	No
Lithuania	18 weeks	100 %	No
Luxembourg	16 weeks	100 %	No
Malta	18 weeks	100 % for 14 weeks	No
The Netherlands	16 weeks	100 % capped	Only on maternal death ⁵
Norway	15 weeks	100 % for 25 weeks or 80 % for 45 weeks	Yes, other than 9 weeks
Poland	20-37 weeks, depending on the number of children born during the same delivery	100 %	Yes, after the first 14 weeks
Portugal	120-150 days plus 6 weeks	100 % for 120 days, or 80 % for 150 days	Yes, after first 6 weeks post-birth
Romania	126 days	85 %	No
Slovakia	34/37/43 weeks, depending on marital status of mother and number of births	65 %	No
Slovenia	105 days	100 %	Only on maternal illness or abandonment ⁶
Spain	16 weeks	100 %	Yes, after first 6 weeks or on maternal death

Country	Maternity leave		
	Length	Payment	Transferable?
Sweden	14 weeks	80 %	No
United Kingdom	52 weeks	90 % for 6 weeks then flat rate for 39 weeks ⁷	Yes, other than 2-week compulsory period

- 1 Longer if medically necessary
- 2 Leave available to father/partner as well as to the mother where the latter is hospitalised.
- 3 Or where the father has exclusive custody.
- 4 Depending on when the woman registers with a doctor.
- 5 Though this is expected to change.
- 6 Also where she is under 18, an apprentice or a student, in which case the child's grandparent may be assigned the leave.
- 7 Or 90 % salary if the latter is less.

The most common pattern is that maternity leave is for a relatively short period (14-18 weeks) and is not transferable between parents, or is transferrable only in very exceptional circumstances. So, for example, in **Austria**,¹⁸² **Cyprus**, **Finland**, **France**, **Germany**, **Greece**, **Iceland**,¹⁸³ **Latvia**, **Liechtenstein**, **Lithuania**, **Luxembourg**, **Malta**, **Romania** and **Sweden** maternity leave of between 14 and 20 weeks is available only to mothers. This leave is paid at between 70 % and 100 % of salary

(approximately 70 % for the whole period in **Finland**,¹⁸⁴ 75 % in **Cyprus**; 80 % in **Iceland**, **Latvia**, **Liechtenstein** and **Sweden**; 100 % in **Austria**,¹⁸⁵ **Germany**, **Greece**, **Lithuania**, **Luxembourg** and **Malta**.)¹⁸⁶ The same is true in **the Czech Republic**, where the period of leave is 28 weeks at 70 %),¹⁸⁷ **Estonia** (where it is 140 days at 100 %), **Hungary** (24 weeks at 70 %)¹⁸⁸ and **Slovakia** (34, 37, or 43 weeks at 65 %). In **France** the payment of maternity leave is complex; the first 56 weekdays are remunerated by the State at 90 % of salary (though under many collective agreements the employer pays the full pay during the first 3 months of maternity leave, and the employer receives the benefit). After this period benefit is paid at 70 % of incomes up to EUR 32 892; 40 % of incomes up to EUR 50 606; and 25 % of incomes exceeding EUR 50 606.

In **Ireland** and the **Netherlands** in maternity leave can be shared (only) where the mother dies. In the **Netherlands** the leave covers 16 weeks at 100 % of salary, subject to capping. In **Ireland** it includes 44 weeks of leave, with 26 weeks at 80 % capped and the remainder unpaid; the 26 weeks of maternity leave benefit are paid at EUR 230 gross per week.¹⁸⁹ Legislation currently under development in **Ireland** is expected to allow a broader measure of transfer from the mother. Maternity leave of 15 weeks (4 weeks at 82 % salary then 75 % capped) is not transferable in **Belgium**¹⁹⁰ except where the mother dies, though there fathers/partners will be entitled to maternity leave in addition to that of the mother where she is hospitalised but the baby is discharged. In **Denmark** and in **Slovenia** fathers are entitled to take maternity leave in the event of the mother's death or illness (those leaves are, respectively, 18 weeks and 105 days at 100 %),¹⁹¹ in **Italy** (where leave is 5 months at 80 %) in case of the death or serious illness

- 182 Longer in cases of premature births, caesarean sections, or multiple births.
- 183 Though note that in **Iceland** the father also enjoys a non-transferable right to 3 months' paternity leave Article 8, Act No. 95/2000 on Maternity/Paternity and Parental Leave.
- 184 The first 56 weekdays of maternity leave remunerated at 90 %.
- 185 Limited to 20 weeks, unless extended to a longer duration for health reasons.
- 186 Though only for 14 of the total 18 weeks.
- 187 Though note that parental leave is available to the father from the birth of the child until his or her third birthday and the mother's maternity benefit can be transferred to the father six weeks after the birth.
- 188 Maternity Protection Law No. 100(I)/1997 as amended (**Cyprus**); s4 PLA (**Sweden**). In **Luxembourg** such leave is for a minimum of 16 weeks and is fully paid.
- 189 Article 3(1) Work and Care Act; Maternity Protection of Employees Acts 1994 and 2004.
- 190 Article 39 Working Conditions Act of 16 March 1971.
- 191 In **Denmark** maternity, paternity and parental leave attract state benefits only (which do not include payment of social security contributions) unless there is a collective or individual agreement to the contrary. Most employees are in fact entitled to full or partial wages during all these periods of leave and the costs of this have been spread across employers by a 2004 collective agreement between the Confederation of Danish Trade Unions and the Confederation of Danish

of the mother, where she abandons the child or where the father has exclusive custody of the child¹⁹² and in **Slovenia** also if the mother leaves the child or is younger than 18 and is an apprentice or student (in which case she may, in the alternative, assign her leave to one of the child's grandparents).¹⁹³

Ireland is notable for its lengthy periods of non-transferrable maternity leave.¹⁹⁴ In the **United Kingdom**, by contrast, maternity leave (which lasts 52 weeks with pay at 90 % of salary for 6 weeks followed by a flat-rate payment for 33 weeks)¹⁹⁵ may be transferred after the compulsory period of two weeks is taken by the mother and may be taken (in the form of shared parental leave) by the mother's partner/the child's father. The arrangements for pay in respect of such leave may be less generous (maternity leave alone is subject to payment at 90 % of salary as distinct from a flat-rate weekly payment (EUR 196 per week from April 2015), and employers who pay enhanced maternity leave, as is relatively common, do not have to adopt the same approach to shared parental leave). Otherwise the conditions of entitlement are broadly similar; employees need to have been employed for 26 weeks at the 16th week before the expected week of birth. 26 weeks' parental leave is accorded to each parent and is not transferrable between them.

In **Norway** mothers are required to take three weeks' maternity leave before the birth and six weeks' immediately afterwards, but thereafter leave (a total of one year paid parental leave and another unpaid) may be shared. Ten weeks' paid leave are reserved to the father.¹⁹⁶ In **Bulgaria**, where maternity leave is for 410 days for each child, 45 of these to be taken prior to the birth, mothers may transfer any remaining leave to fathers once the child is 6 months old, in which case fathers are entitled to social security payments under the same conditions from that date as the mother would have been.¹⁹⁷ In **Poland** parents may share maternity leave (which varies from 20 to 37 weeks depending on the number of children born) after the initial 14-week post-birth period which is reserved to the mother.¹⁹⁸ Fathers are also (as are mothers) entitled to 6 or 8 weeks additional maternity leave in case of multiple birth. Additional maternity leave can be taken in 2 parts and parental leave in up to 3 parts, each of no fewer than 8 weeks' duration.

Maternity leave is transferrable in **Portugal** and in **Spain**. In **Portugal** maternity leave (120 or 150 days, depending on whether it is paid (by the State) at 100 % or 80 % of salary) may be shared after the 6-week post-birth period.¹⁹⁹ Where at least 30 days of the leave is shared the leave is extended by 30 days (this to increase uptake by men).²⁰⁰ And in **Spain** fathers may have the entire period of maternity leave (16 weeks at 100 %, with 2 weeks for each additional child in the case of multiple births) if the mother dies,²⁰¹ and are otherwise entitled to have maternity leave transferred 6 weeks' after the birth. Maternity leave is paid by the social security system in the same way for mother and father (100 % of

Employers' Organisations, extended by legislation to all private-sector employers in 2006: Act on the Reimbursement of Pregnancy Payments in the Private Sector (Act No. 417 of 8 May 2006). Due to the national Budget Act in 2010 a maternity fund was introduced. Based on Section 2 in the public order concerning the Maternity Fund, employers may receive a refund of part of the salary during maternity leave after the fixed rate. (Public Order, No. 974 of 11 August 2010). The fixed rate depends on the salary according to Section 4 in the order.

192 Decree No. 151/2001.

193 Consolidation Act No. 1084 of 13 November 2009, on Entitlement to Leave and Benefits in the Event of Childbirth, ss2, 6 & 7.

194 In the **Czech Republic** the mother has 28 weeks of non-transferrable maternity leave but the father may take parental leave from birth (until the child is 3) and the mother may transfer her right to maternity benefit to the father six weeks after the birth.

195 Or 90 % salary, if this is less.

196 Note one year is allocated exclusively to each parent.

197 Article 163 Labour Code.

198 Article 180 s5 Labour Code. Women have 8 weeks leave following a stillbirth.

199 Article 40 Labour Code. Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015, p.190, reports that 21.5 % of fathers shared maternity leave.

200 Article 40 No. 2 Labour Code.

201 Article 48(4) Worker's Statute. This applies even if the mother did not work.

his/her previous salary).²⁰² In **Croatia**, although while the initial 14-week period of maternity leave (paid at 100 %) is reserved to mothers, additional maternity leave, which covers the period from 71 days after birth until the child is 6 months, is transferrable between parents in whole or in part (it is paid at 100 % for a further 12 weeks then at a flat rate).²⁰³

Other than in **Portugal** there appear to be no measures in place explicitly designed to encourage men to make use of the right to share maternity leave, though the possibility to use such leave other than on a full-time basis, flexibility as to the timing of such leave and generous payment of leave would all be expected to contribute to male take-up rates.

4.2.2 Part-time leave²⁰⁴

In some cases maternity leave may be taken on a part-time basis, the effect of this being to give workers rights to reduced working hours over and above those discussed at **3.2** above. Typically in these cases the result of taking leave on a part-time basis is that the duration of the leave is extended. Where no specific mention is made of the right to take part-time maternity leave, workers are only entitled to take such leave on a full-time basis, though in some states it may be possible for agreements to be reached regarding part-time leave between individual employees and their employers.

Taking first those countries with the most flexible approach to leave, in **Norway** employees may take parental leave (which includes maternity leave) in the form of part-time work if they choose,²⁰⁵ for a period of up to 3 years (this serves as an alternative to a total of 1 year's full-time leave). Employers and employees will normally reach agreement on the working pattern which balances their interests and employers may only deny part-time leave in cases where this will cause severe difficulties for the employer, employees being able to complain to the Board of Labour Disputes in the event of a refusal.²⁰⁶

In **Finland** women on maternity leave may work part time with the agreement of their employer, though not as of right.²⁰⁷ In **Croatia** additional maternity leave, which may be taken by either parent from the 71st day after birth until the child turns 6 months, may be taken as half-time work rather than full leave.²⁰⁸ And in **Poland** parents are entitled to reduce working hours by up to 50 % during the period in which they are entitled to additional maternity leave (see below).

Iceland is unusual in permitting maternity leave to be divided into a number of periods, if the employer agrees, rather than being taken in one continuous block, although it cannot be taken in periods of less than 2 weeks at a time and must be taken for at least the first 2 weeks after the birth of a child. It may also be taken in the form of reduced working hours. And in the **Netherlands** 10 of the total 16 weeks' maternity leave can be taken in the form of part-time working over a 30-week period except where the employer can provide compelling reasons to refuse this.²⁰⁹ In **Spain** maternity leave can be taken part time but this is subject to the employer's agreement or a collective agreement.²¹⁰ In **Bulgaria** legislation does not deal with the question whether maternity leave can be taken part time; the country expert suggests that this is a matter for individual agreement. In the **United Kingdom** maternity leave may

202 Article 133 General Law of Social security, http://noticias.juridicas.com/base_datos/Admin/rdleg1-1994.t2.html#a133q; Article 49 Basic Statute of Civil Servants, http://noticias.juridicas.com/base_datos/Admin/r5-l7-2007.t3.html, both accessed 14 April 2015.

203 Article 12(5) of the Act on Maternity and Parental Benefits Act.

204 See also table 11 below.

205 WEA Section 12-6.

206 See Sections 12-14 and 17-2.

207 Employment Contracts Act (55/2001) Chapter 4, s2 (1).

208 Article 15(1) Act on Maternity and Parental Benefits *Zakon o roditeljnim i roditeljskim potporama*, *Narodne novine* nos 85/08, 110/08, 34/11 and 152/14.

209 Work and Care Act as revised from 1 January 2015.

210 Article 48.4 Worker's Statute, http://noticias.juridicas.com/base_datos/Laboral/rdleg1-1995.t1.html#a48, accessed 13 April 2015.

only be taken on a full-time basis (the same is true of shared parental leave, the title by which maternity leave transferred from the mother is known). And in **Latvia** maternity leave generates a right to benefit only if the woman does not work at all.²¹¹

4.3 Paternity leave

4.3.1 Shared leave

Short periods of paternity leave are available by law to fathers in most states (or in some states to mothers' partners, male or female).²¹² The exceptions are **Croatia, Cyprus,**²¹³ **the Czech Republic,**²¹⁴ **Liechtenstein,** and **Slovakia**. Paternity leave also isn't available in **Ireland** unless contractually agreed otherwise, and in the case of civil servants who are entitled to three days of leave.²¹⁵ Where paternity leave is provided it is available to fathers in addition to any possibility of their taking advantage of the possibility to share maternity leave. The position of the countries assessed is set out in Table 9 and the text below. In no country is such leave transferrable.

211 The Law on Maternity and Sickness Insurance (*Likums Par maternitātes un slimības apdrošināšanu*), OG No. 182, 23 November 1995, respective amendments OG No. 228, 22 November 2013.

212 **Belgium, France, Slovenia**. In **Norway** to someone who assists the mother.

213 Maternity Protection Law No. 100(I)/1997 as amended by Laws No. 4561(I)/2000, 64(I)/2002, 109(I)/2007, 8(I)/2008, 43(I)/2008, 70(I)/2011.

214 For the position in the **Czech Republic** see European Network of Legal Experts in the Field of Gender Equality, *Fighting Discrimination on the Grounds of Pregnancy, Maternity and Parenthood*, report of the Czech Republic at pp. 72-79, European Commission 2012, available at: http://ec.europa.eu/justice/gender-equality/files/your_rights/discrimination_pregnancy_maternity_parenthood_final_en.pdf, accessed 8 July 2015.

215 See: <http://hr.per.gov.ie/paternity-leave/>, accessed 3 September 2015.

Table 9: Paternity leave

Country	Paternity leave	
	Length	Payment
Austria	0 ¹	N/A
Belgium	2 weeks	100 % for 3 days, then 82 %
Bulgaria	15 days	90 %
Croatia	0	100 %
Cyprus	0	N/A
Czech Republic	0 ²	N/A
Denmark	2 weeks	100 %
Estonia	10 days	100 %
Finland	54 days	70 % (capped)
France	11 days ³	100 % (capped)
Germany	0	N/A
Greece	2 days	100 %
Hungary	5 days ⁴	100 %
Iceland	3 months	80 % (capped)
Ireland	0	0
Italy	3 days	100 %
Latvia	2 weeks	80 %
Liechtenstein	0	N/A
Lithuania	Until child is 1 month	100 % capped
Luxembourg	2 days	100 %
Malta	1 day	100 %
The Netherlands	5 days	100 %
Norway	2 weeks	100 %
Poland	2 weeks	100 %
Portugal	4 weeks	100 %
Romania	5/15 days ⁵	100 %
Slovakia	0	N/A
Slovenia	30 days	100 % capped for 2 weeks then flat rate
Spain	13 days	unpaid
Sweden	2 weeks	80 % capped
United Kingdom	2 weeks	flat rate ⁶

1 Except in the case of civil servants, who are entitled to 4 weeks' leave.

2 But the mother may transfer maternity benefit to the father six weeks after the birth.

3 18 in the case of multiple births.

4 7 in the case of twins.

5 15 days if the father has completed a course in infant care.

6 Or 90 % salary if the latter is less.

In **Austria**, all collective agreements entitle fathers to mostly 2 and sometimes 3 days of paid leave on the occasion of the birth of a child. However, only civil servants have the right to take a longer unpaid leave for up to 4 weeks, which is considered paternity leave in the strict sense.²¹⁶ In no state may such

216 For federal civil servants by reason of the Bundes-Vertragsbedienstete. Most state legislatures have adopted similar provisions for their public servants.

leave be transferred to the mother. Also at the minimalist end of the paternity leave spectrum are **Italy** and **Malta** where (between 2012 and 2015 only in the case of **Italy**) fathers are entitled to 1 day on full pay and an additional 2 days, also on full pay, to be taken within the first 5 months following the child's birth in the mother's place, with her returning to work during the 2 days.²¹⁷ In the **Netherlands** fathers are entitled only to 2 days of paid leave. As of 1 January 2015, fathers are also entitled to 3 days of unpaid parental leave. This differs from 'regular' parental leave, because the employer may not refuse these days of leave (being the third, fourth, and fifth days after birth) to the father. In **Greece**²¹⁸ and **Luxembourg** fathers are entitled to 2 days of paternity leave (paid at 100 %). In **Hungary** fathers are entitled to 5 days of leave (7 in the case of twins), to be taken within the first 2 months. Such leave is paid by the State at the level of holiday salary.²¹⁹

The most common period of leave is 10 days/2 working weeks which applies in the **United Kingdom** where it is paid at a flat rate of EUR 196 per week²²⁰ and in **Belgium**,²²¹ **Denmark**,²²² **Estonia**,²²³ **Latvia**, **Norway**, **Poland** and **Sweden**.²²⁴

(Leave is paid at 80 % in **Latvia**,²²⁵ 100 % in **Denmark**,²²⁶ **Estonia**,²²⁷ **Norway** and **Poland**, 80 % capped in **Sweden** and 100 % for 3 days in **Belgium** with the remainder at 82 %). In **Latvia** leave must be taken within the first 2 months,²²⁸ in **Denmark** within the first 14 weeks after birth²²⁹ and in **Estonia** in the 4-month period starting 2 months prior to the expected date of delivery.²³⁰ In **Estonia** paternity leave is paid on the basis of his average wages, capped at 3 times the average gross monthly salary.²³¹ In **Norway** it is unpaid. In **France** paternity leave of 11 days (18 days in cases of multiple births), which is paid by the State at 100 % subject to a cap, must be taken within 4 months of the birth of the child.²³² In **Poland** paternity leave must be taken in the first year of the child's life.

In **Spain** fathers/mothers' partners are entitled to 13 continuous days of paternity leave (with an additional 2 days per child in the case of multiple births), which is paid at 100 % of salary.²³³ Law 3/2007, which introduced paternity leave in March 2007, was intended to extend paternity leave to 4 weeks over a 6-year period but the extension has been postponed on a number of occasions. Employed fathers in **Romania** are entitled to 5 days' paternity leave with an additional 10 days available to those who have completed courses in infant care.²³⁴ The leave must be taken within the child's first 8 weeks and is paid at full income rate. In **Bulgaria** fathers are entitled to 15 days' paternity leave, in respect of which social security benefits are paid, as long as he co-habits with the mother or is married to her.²³⁵ In **Portugal** men

217 Article 4 of Act No. 92/2012.

218 Public sector: Article 50(1) Civil Servants Code, as amended by Article 18(2) of Act 3801/2009. Private sector: national general collective agreement 2000-2001.

219 Article 118 (4) Labour Code.

220 90 % of salary if this is lower.

221 In **Belgium** for 3 days on full pay, thereafter on state benefits. It may be taken by fathers or by the mother's partner. Employment Contracts Act of 3 July 1978, Article 30(2).

222 The Maternity Act, Section 7(3).

223 Article 60 of the Employment Contracts Act.

224 Chapter 13 Section 10 of the Social Insurance Code (2010:110).

225 The Law on Maternity and Sickness Insurance (*Likums Par maternitātes un slimības apdrošināšanu*), OG No. 182, 23 November 1995.

226 If the employer does not provide full salary in this period, the father is entitled to 100 % of the benefits. See the Maternity Act, Section 2.

227 Article 60 of the Employment Contracts Act.

228 Article 155(1) Labour Law (*Darba likums*).

229 Consolidation Act No. 571 of 29/04/2015 on Entitlement to Leave and Benefits in the Event of Childbirth.

230 Article 60 of the Employment Contracts Act.

231 Article 60 of the Employment Contracts Act.

232 Article L 1225-35 Labour Code.

233 Article 48 (bis) Worker's Statute. Article 49 Basic Statute of Civil Servants allows civil servants 15 rather than 13 days of leave.

234 Law No. 210 of 31 December 1999 Law regarding the paternal leave (*Legea nr.210 din 31 decembrie 1999 Legea concediului paternal*), Articles 1.(2), 2.(1) and 4.(1), published in Official Journal No. 654 of 31 December 1999.

235 Article 163 of the Labour Code, SG No. 26/ 86, in force since 1 January 1987.

have a compulsory period of 2 weeks' paternity leave and a further 10 days which may be taken in the first 30 days of the child's life.²³⁶ Paternity leave is paid by the State at 100 % of salary.

In **Slovenia** fathers are entitled to 90 days of paternity leave (15 to be used in the first 6 months of the child's life and 75 in the first 3 years). Only 15 days of this leave are paid, however, and only minimal social security contributions paid by the State during the rest of the leave period. As a result fathers rarely take more than 15 days of leave. Legislation introduced in April 2014 entitles fathers to 30 days of paternity leave, 15 of which will have to be taken within the first 6 months of the child's life and the remainder before the child finishes the first year of primary school. During this leave fathers will be entitled to paternal benefit at 90 % of their average salary (100 % if this does not exceed EUR 763.06 per month.²³⁷ Transitional arrangements provide that in each of the the 3 years after GDP rises by at least 2.5 % paid paternity leave will be extended by 5 days per year and unpaid paternity leave shortened by 25 days.

At the most generous end of the paternity leave spectrum are **Finland, Iceland** and **Lithuania**. In **Lithuania** fathers are entitled to take paternity leave until the child is one month old at 100 % salary and in **Finland** there is a right to 54 days' paternity leave at 70 % capped. Only 18 days (paternity leave proper) may be taken during the maternity or parental leave period with the remaining 'father's month' of 26 days to be taken at the end of the parental leave period (which is generally taken by the mother). In **Iceland** fathers are entitled to 3 months of non-transferable paternity leave on the birth of a child.²³⁸ Like maternity leave, this is paid at 75-80 % of salary capped at EUR 1 932 per month.

4.3.2 Part-time leave

In **Norway** employees may take paternity leave in the form of part-time work if they choose.²³⁹ Employers and employees will normally reach agreement on the working pattern which balances their interests and employers may only deny part-time leave in cases where this will cause severe difficulties for the employer, employees being able to complain to the Board of Labour Disputes in the event of a refusal.²⁴⁰ In **Iceland**, unusually, paternity leave may be taken in a number of periods if the employer agrees and may be taken in the form of reduced working hours, although it cannot be taken in periods of less than 2 weeks at a time. In **Finland** paternity leave may be taken in a maximum of 4 periods until the child turns 2.

In **Spain** paternity leave can be taken part time but this is subject to the employer's agreement or to collective agreement.²⁴¹ No other state appears to provide for paternity leave (as distinct from parental leave taken by the father/partner) to be taken part time, though in some states it may be possible for arrangements to be made between individual employers and employees to this end.

4.4 Parental leave

4.4.1 Ordinary and additional 'parental leave'

A variety of arrangements apply as regards the length and payment of parental leave as well as the extent (if any) of its transferability between parents. Before turning to consider countries which provide for transferrable and non-transferrable periods as such, it is worth mentioning a third category of country:

236 Curiously the Parental Leave Report reports that only 72.2 % of the partners of women on maternity leave took the compulsory period, and 61.6 % the additional period.

237 Articles 25 and 27 of the PPFBA-1.

238 Article 8, Act No. 95/2000 on Maternity/Paternity and Parental Leave.

239 WEA Section 12-6.

240 See Sections 12-14 and 17-2.

241 Article 48.4 Worker's Statute, http://noticias.juridicas.com/base_datos/Laboral/rdleg1-1995.t1.html#a48, accessed 13 April 2015.

that in which leave is provided until the child reaches a particular age. In such cases the question is not so much whether it is transferrable in the sense that failure by one parent to utilise a portion of leave results in the loss of the leave, rather whether the arrangements which apply are flexible enough to allow parents to take such leave in turn and/or concurrently. The position of the countries assessed is set out in Table 10 and the following text.

Table 10: Parental leave

Country	Parental leave		
	Length	Payment	Transferable?
Austria	Until child is 2 ¹	flat rate	No ²
Belgium	4 months per parent	flat rate	No
Bulgaria	6 months per parent	unpaid	In part
Croatia	6-8 months (30 for third and consecutive children & twins)	unpaid	In part
Cyprus	18 weeks per parent/23 weeks for widow(er)s	unpaid	In part
Czech Republic	Until child is 3	flat rate	Yes
Denmark	32 weeks per child	100 %	Yes
Estonia	3 yrs minus 70 days	100 % paid for 435 days, then unpaid	Yes
Finland	26 weeks per child	70-75 %, capped	In part
France	Until child is 3	flat rate	Yes
Germany	3 years per parent	67 % for 14 months (when 2 months are taken by the other parent) then unpaid	No, but the parental allowances depend upon the share of parental leave between the parents.
Greece	4 months per parent (9 in the public sector)	unpaid (private sector)	Yes in public no in private sector
Hungary	Until child is 3 (general rule) ³	70 % (capped) for 104 weeks then very low flat rate	Yes
Iceland	4 months per parent	80 % (capped) for 13 weeks	In part
Ireland	18 weeks per parent	unpaid	In part
Italy	10/11 months per child	30 %	In part
Latvia	18 months per parent	70 %	No
Liechtenstein	4 months per parent	unpaid	No
Lithuania	Until child is 3	100 % for 52 weeks or 70 % for 104 weeks	Yes
Luxembourg	6 months per parent	flat rate	No
Malta	4 months per parent (12 months per child in public sector)	Unpaid	Yes in public sector no in private sector
The Netherlands	26 weeks per parent	unpaid but tax relief	No
Norway	Until child is 2	100 % for 49 weeks or 80 % for 59 weeks, capped	In part
Poland	26 weeks/48 months	60 % for 26 weeks and flat rate for 104 weeks	Yes
Portugal	3 months per parent	25 %	No

Country	Parental leave		
	Length	Payment	Transferable?
Romania	2 years per child	85 % capped differently depending on the length of the parental leave	Transferable, except for one month that is mandatory for the parent who did not take the parental leave
Slovakia	Until child is 3 ⁴	flat rate	No
Slovenia	260 days per child	100 % capped	In part
Spain	Until child is 3	Unpaid	Yes
Sweden	480 days (includes maternity leave)	80 % capped for 65 weeks then flat rate	In part
United Kingdom	18 weeks per parent	unpaid	No

- 1 Each parent being able to reserve 3 months of leave to take later. Parents are also entitled to share one month of parental leave. In this case, the overall period is shortened for this 'double month' and parental leave is only granted for 23, rather than 24, months.
- 2 Both parents have the same right to parental leave; there is no provision for a proper transferability. Within the legal provisions parents have the right to divide the duration of parental leave between them; an agreement on how to do this must be reached. Only one parent can take the leave at a time, except for one month where one parent takes over from another.
- 3 Longer in cases of twins or disabled children.
- 4 6 if disabled.

Dealing first with the first of the three categories of cases outlined above (non-transferrable leave), in **Belgium** and in the **Netherlands** each parent is entitled to non-transferable parental leave (in **Belgium** for 4 months unpaid but subject to social security payments of EUR 786.78 per month if taken full time, or a proportionately reduced rate if taken part time)²⁴² and in the **Netherlands** for 26 weeks, unpaid. Private sector workers in **Belgium** who have 24 months of service with their employer are also entitled to up to 48 months of care leave over the course of a career to care for children²⁴³ or family members.²⁴⁴ Such leave may be taken as 20 %, 50 % or 100 % of working time but in each case is subject to the 48-month maximum. Public sector workers have access to career breaks of up to 5 years of full-time leave over a career, plus up to five years of part-time leave (20 or 50 %). Such leave is not conditional on family or other reasons. Steps are being taken to align the public sector scheme with that in the private sector.

Parental leave (of 18 weeks and 4 months, each unpaid) is provided to each parent in in **Liechtenstein**²⁴⁵ and the **United Kingdom** and is not capable of transfer between them. In the **United Kingdom** such leave, which is unpaid, must be taken in blocks of at least 1 week, with parents being entitled to take no more than 4 weeks' leave in a single year (unless the employer agrees). It is available only to employees who have worked for at least a year. In **Liechtenstein** the way in which leave is to be taken has to be determined between the employer and the employee.

In **Luxembourg**,²⁴⁶ **Portugal** and in **Slovakia**,²⁴⁷ parental leave is similarly not transferable, being a personal right provided equally to both parents (and paid in **Luxembourg** at a flat rate of EUR 1778.31 per month,²⁴⁸ in **Slovakia** at EUR 203.2 per month,²⁴⁹ and in **Portugal** at 25 % salary). In **Luxembourg** such leave is available only to those who have worked for at least 1 year prior to the birth of a child.

242 Private sector: Royal Decree of 2 January 1991 concerning entitlement to career break benefits, Article 6(1). Public sector: Royal Decree of 7 May 1999 concerning career breaks in administrative services, Article 13.

243 Up to 8 years old or 21 in the case of disabled children.

244 By Collective Agreement No. 103, concluded on 27 June 2012.

245 Article 51 Labour Code.

246 Article L. 234-43 - Article L. 234-49 of the Labour Code.

247 Act on Parental Allowance.

248 If the employee has worked for at least a year.

249 Article 4(1) of the Act on Parental Allowance.

One parent must take parental leave, if at all, immediately after maternity/adoption leave, the other being able to use it at any stage until the child's fifth birthday. In **Latvia** parental leave is 18 months per parent.²⁵⁰ Leave may be taken simultaneously by both parents²⁵¹ but parental allowance (60 % of gross salary if 12 months' leave is taken, 43.75 % if 18 months) is granted to only 1 parent at any time,²⁵² and then not after the child is 18 months old. Parental leave must be taken prior to the child's eighth birthday and may be taken in 1 block or in many but must be taken full time. Fathers are not entitled to parental allowance during a period in which the mother receives maternity leave allowance, though each parent may take leave.

At the other end of the spectrum are countries such as **Denmark, Estonia** and **Finland**. In **Denmark** parents are entitled to 32 weeks of parental leave to be allocated between them as they choose (paid at 100 %, capped or to a total of 40 weeks at a reduced rate of parental leave benefit). Between 8 and 13 weeks of the total leave may be postponed by 1 parent only, to be taken in a single block before the child reaches the age of 9, the rest to be taken immediately after the end of the mother's maternity leave.²⁵³ Fathers cannot take parental leave until the end of the maternity leave period 14 weeks' after the birth. Some collective agreements provide for full salary during part or all of parental leave while others impose a cap on payment and a number of collective agreements provide a portion of the parental leave to the father with salary. Under the collective agreement applicable to public sector workers, for example, mothers have a right to full salary during maternity leave for 6 weeks before the expected birth and 14 weeks afterwards with fathers (if they are also employed in the public sector) being entitled to 2 weeks of paid paternity leave. Parents then have the right to 32 weeks of parental leave of which 19 weeks are paid and workers are entitled to benefits during the remaining 13 weeks; of the 19 weeks of paid parental leave 6 weeks go to the mother with 7 weeks to the father (non-transferable) and the remaining 6 weeks being transferrable between the parents (6-7-6 model). The collective agreement in the financial sector allows parents with children under 12 years to work 30 instead of 37 hours a week with the employer's agreement, for periods of up to 12 months, with employers being entitled to refuse to agree reduced hours only where they are inconsistent with operational conditions, in which case alternatives must be explored with the Trade Union representative.

In **Malta** parents with 1 year of continuous service in the public sector are entitled to unpaid leave of 1 year per child which is transferrable between parents both of whom work in the public sector, and which has to be taken before the child is 6. Private sector employees are entitled to 4 months' unpaid leave per parent, to be taken in 1-month blocks before the child is 8), and which is non-transferable.²⁵⁴ Public sector workers with one year's continuous service who have children under 8 may also take a 5-year unpaid career break.²⁵⁵

In **Finland** parents are entitled to 26 weeks' leave per child starting immediately after maternity leave (with an additional 10 weeks per child in multiple births). It can be taken in a maximum of 2 separate periods of at least 1 month, unless employer and employee agree differently, can be taken until the child is aged 3, and a benefit is paid at 70-75 % of salary capped at EUR 50 606 per annum, above which a smaller percentage of salary is paid.²⁵⁶ Fathers are entitled to 9 weeks of paternity leave, but may only use 3 weeks of the leave when the mother is also on family-related leave, and thus 6 weeks of the leave is lost if the father is not willing to take responsibility for the child on his own during paternity leave.²⁵⁷ Until recently parents could not take any of the leave concurrently. Parents (whether employed or self-

250 To be taken before the child is 8, either in one or a number of blocks.

251 Article 156 Labour Law.

252 Article 10⁴(2) Law on Maternity and Sickness Insurance (*Likums Par maternitātes un slimības apdrošināšanu*), OG No. 182, 23 November 1995, respective amendments OG No. 228, 22 November 2013.

253 Act on Entitlement to Leave and Benefits in the Event of Childbirth, ss9 & 10.

254 S.L. 452.78, Parental Leave Entitlement Regulations, Regulation 4.

255 Paragraph 5.3.3.5 of the Public Service Management Code, available at: <http://pahro.gov.mt/chapter-5-3>, accessed 1 April 2014.

256 Chapter 4 Section 3 Employment Contracts Act, Chapter 11, Section 1(2)(3) of the Sickness Insurance Act.

257 Chapter 9 Section 7 of the Sickness Insurance Act.

employed) may now share their combined entitlement to parental benefit and may simultaneously claim partial parental benefit, each caring for the child(ren) and working for between 40 and 60 % of full-time hours and pay. The shortest period in respect of which an agreement on part-time work may be made is 2 months.²⁵⁸

In addition to parental leave as set out above, employed parents in **Finland** are entitled to childcare leave until the child is 3 years old.²⁵⁹ Such leave can be taken in a maximum of 2 separate periods of a minimum of 1 month, unless the employer and the employee agree differently, and it is open to both parents (though only to one at a time). (Note this is the same leave that can be taken in the form of part-time work until the child is 8 (18 in the case of disabled children) – see **3.2.2** above). It is available to employees who have worked for the same employer for a minimum of 6 months during the previous 12 months and attracts a flat-rate benefit. It may be taken by both parents, though not simultaneously, and is fairly inflexible, being available in a maximum of 2 separate periods of a minimum of 1 month, unless the employer and the employee agree differently. Municipalities are required to make provision for the day-care for children under school age²⁶⁰ once maternity and parental leave periods are at an end.²⁶¹ As far as possible, the day-care is to be provided in the form that the parents or other custodians prefer, and parents who choose not to make use of such provision are entitled to a private care benefit.²⁶²

In **Estonia** parental leave (which may last for up to 3 years) may be shared between the parents (to be taken by only one at any particular time)²⁶³ with no period reserved to either. It may be used by a grandparent or other carer if neither parent utilises it. Parental benefit (100 % of salary,²⁶⁴ capped at three times average salary 2 years before the date of payment)²⁶⁵ is granted for the period of 435 days from the date on which the right to receive the benefit arises, i.e. until the child is 18 months old.²⁶⁶ Once the child is 18 months old parental leave ceases to be paid but childcare allowance is paid to either parent.²⁶⁷ It is not possible to 'save' any part of paid leave for the end of parental leave.

Falling between the two extremes is **Iceland** in which parents have, in addition to 3 months of non-transferrable leave paid at 80 % (maternity and paternity leave respectively) a further 3 months' transferrable leave also paid at 80 %, ²⁶⁸ and individual entitlements to 13 weeks' unpaid paternal leave which is not transferrable.²⁶⁹ Leave must be taken before the child turns 3 and is unpaid. It may be taken, by arrangement with the employer, in a number of periods and/or in the form of reduced working hours, though it cannot be taken in periods of less than 2 weeks at a time. In **Cyprus**, up to 2 weeks' parental leave (of up to 18 weeks unpaid for each parent, 23 in the case of a widow(er)) may be transferred to the other parent.²⁷⁰ In **Ireland**, similarly, each parent may transfer up to 14 weeks of (unpaid) parental leave to the other parent, though this is conditional upon the employer allowing such transfer²⁷¹ and employees are entitled to parental leave only if they have 1 year of continuous service.

258 Sickness Insurance Act, Chapter 5, Section 9. Chapter 4, Section 4 Employment Contracts Act clarifies that the parents may be on partial parental leave during the same calendar period, but not both simultaneously.

259 Employment Contracts Act Chapter 4, Section 3.

260 36/1973.

261 Section 11 a.

262 Act on Home Care of Children and Private Care (1128/1996).

263 On 14 days' notice to the employer, unless a different notice period is agreed.

264 If the parent did not work during the year preceding the time at which the right to the benefit arises, the parental benefit is paid at the designated benefit base rate, which in 2015 is EUR 355 per month.

265 In 2015 is EUR 2548.95 per month.

266 Article 4(4) of the Parental Benefit Act, <https://www.riigiteataja.ee/en/eli/504072014010/consolide>, accessed 4 May 2015.

267 State Family Benefits Act (SFBA), <https://www.riigiteataja.ee/en/eli/523012015004/consolide>, accessed 13 May 2015.

268 An additional nine months is available to parents whose partners die before the child reaches 18. Parental leave is paid as long as parents have been active in the labour market for six consecutive months prior to the child's birth (or placement in the case of adoption).

269 Article 24 Act No. 95/2000 on Maternity/Paternity and Parental Leave.

270 Parental Leave and Leave on Grounds of Force Majeure Law No. 62(I)/2002 as amended by Laws No. 111(I)/2007, 11(I)/2010, 47(I)/2012.

271 Parental Leave Acts.

In **Bulgaria** all but 1 month of each parent's 6-month unpaid parental leave entitlement may be transferred.²⁷² Such leave may be taken until the child reaches the age of 8.²⁷³ After using the leave for pregnancy, childbirth, or adoption, if the child is not placed in a childcare establishment the mother is entitled to an additional leave to raise her child until he/she reaches the age of two, regardless the number of children.²⁷⁴

In **Croatia** all but 2 months of parental leave (which extends for 8 months for first and second children) is transferrable between parents.²⁷⁵ In the case of twins, third and consecutive children, where the leave extends for 30 months, it is transferrable in its entirety.²⁷⁶ Parental leave, which must be taken before the child turns 8,²⁷⁷ is payable at between 80 % and 50 % of the individual's average salary as long as the employee has 12 months of service or 18 months of interrupted service in the preceding two years. This is subject to a cap of 80 % of the 'budget calculation base (currently EUR 350 per month); with a minimum payment of 50 % budget calculation base (currently EUR 220 per month). It may be taken in a single block or in up to 2 periods each year of at least 30 days.²⁷⁸

In **Norway** there is a period of 46 weeks parental leave per child, of which 4 weeks are reserved to the mother and 10 to the father (the mother having had 3 weeks of maternity leave prior to the birth and 6 after). During this period of combined maternity, paternity and parental leave parents are paid by the State (49 weeks at 100 % or 59 weeks at 80 % salary, capped in each case at EUR 65 000 in May 2015).²⁷⁹ An additional period of 12 months of unpaid leave is available per child thereafter.

In **Sweden** the total of 480 days of parental leave (in addition to 10 days of paternity leave), of which 390 are at income-replacement level are transferable between parents, except that 60 days at income-replacement level must be taken each by the mother and the father, or be lost.²⁸⁰ Additional parental pay is generally provided by collective agreement whether by way of a 'top up' to compensate for the EUR 49 000/annum salary cap operated by the social security system.²⁸¹ In **Romania** all but 1 month of parental leave (which is available until the child is 1 or 2, 3 in the case of disabled children, with allowances depending on the period of leave selected) is transferrable, and parents cannot take leave concurrently.²⁸² Such leave attracts social security payments at 85 % of the worker's average pay, subject to caps of between EUR 135 and EUR 764/month in the case of leave taken for 1 year, EUR 135 and EUR 270/month where leave is taken for 2 years.

In **Greece**, parental leave of 4 months, unpaid, per parent is non-transferrable in the private sector but the more generous allowance of 9 months of fully paid leave (or part-time equivalent) in the public sector (other than to fixed-term workers) must be offset by any right of the other parent to private sector

272 Article 167(a) of the Labour Code.

273 LC Article 167a as amended by SG No 54/2015. Parental leave can be taken in blocks as short as 5 days and the state pays social insurance contributions during such leave.

274 Article 164(1) of the LC as amended by State Gazette No. 54/2015.

275 A maximum 6 months parental leave is granted if only one parent takes the parental leave; if both parents take parental leave (not simultaneously), its combined duration is 8 months for the first and second child, and 30 months for each consecutive child and twins. In case of combined parental leave, two months are non-transferrable.

276 These durations of 8 months and 30 months are the combined durations of the parental leave, i.e. the maximum total duration of parental leave taken by both parents, and not by each of them.

277 Article 15(4) of the Act on Maternity and Parental Benefits.

278 Article 14(6) of the Act on Maternity and Parental Benefits.

279 These periods include the period of maternity leave after the birth.

280 Chapter 12 Section 17 the Social Insurance Code (2010:110).

281 Additional protection is better in predominantly female sectors of the labour market. See further: Carlson, L. (2007) *Searching for Equality, Sex Discrimination, Parental Leave and the Swedish Model with Comparisons to EU, UK and US Law* Uppsala, Iustus Förlag.

282 Government Emergency Ordinance No. 111 of 8 December 2010 regarding the leave and monthly allowance for child rearing (*Ordonanță de Urgență nr.111 din 8 decembrie 2010 privind concediul și indemnizația lunară pentru creșterea copiilor*), Articles 2 and 11, published in Official Journal No. 830 of 10 December 2010. 85 % of average income capped at EUR 135-764 per month for 1 year, EUR 135-270 for 2 years. The European Commission has sent an EU Pilot Letter to Romanian authorities to clarify the transferability of the one month of parental leave.

parental leave to reduce the entitlement of the public sector worker to 5 months of full-time leave or the part-time equivalent.²⁸³ To this extent the right to parental leave is not entirely individual. Parental leave can be taken in 1 period or piecemeal.

In **Italy** parents are entitled to a total of 10 months' parental leave to be taken by either parent during the first 8 years of the child's life; each parent has a right to a maximum of 6 months of this leave which may be taken by the mother, in a single period or in blocks, between the end of maternity leave and the child's eighth birthday, and in the case of the father from the date of birth.²⁸⁴ If the father takes leave for at least 3 months the total period available to the parents is 11 months. Single parents are entitled to 10 months' leave. Parents are each entitled to 30 % of their salary for 6 months of leave.

In **Germany** parental leave is available to each parent for up to 3 years with a total of 14 months of parental allowance per child, 2 of those months only being payable to the other parent.²⁸⁵ 24 months of the period can be postponed to be used between the child's third and eighth birthday.²⁸⁶ Recent amendments to the Federal Statute on Parental Leave and Parental Allowances, which apply from 1 July 2015,²⁸⁷ introduce a 'partnership bonus' by which parents who make use of their entitlement to parental leave by simultaneously working 25 and 30 hours per week while taking parental leave for 4 months are entitled to *additional* parental allowances for these months. Prior to this date parental leave is available for up to 3 years with a parental leave allowance of 67 % salary being payable for up to 14 months after birth, 2 months of which are not transferable. As of 1 July 2015 parents can receive half the monthly parental leave allowance for twice the period, with an additional 4-month 'partnership bonus' where parents take part-time parental leave simultaneously. The amendments are intended to encourage both parents to work part-time during parental leave and to share family responsibilities and childcare duties more equally.²⁸⁸

In **France** parental leave was reformed in August 2014 to enhance gender equality by encouraging fathers to take such leave.²⁸⁹ Both parents have an individual right to parental leave until the child is 3 (which they may exercise simultaneously), as long as they have at least 1 year of continuous service prior to the birth of the child.²⁹⁰ As of August 2014 the 'supplement for free choice of working time' is paid for 6 months per parent (non-transferable) for the first child at EUR 576.24 per month (for full-time leave, proportionately less for part-time leave). For subsequent children, the paid period is reduced to 2.5 rather than 3 years if it is not shared. In **Poland** parents are entitled to 26 weeks of parental leave, in respect of which social security payments are payable to low-income parents, which may be taken simultaneously and which is fully transferrable.²⁹¹ Parents may take parental leave simultaneously, however this does not change its statutory length. They are also entitled to reduce their working hours by up to 50 % during the period in which they are entitled to parental leave.²⁹² Parents who have worked for at least 6 months are entitled to (unpaid) childcare leave after paid maternity, additional maternity, and parental leave (which together last 52 weeks).²⁹³ This period may be as long as 48 months²⁹⁴ but terminates at the fifth birthday

283 Article 53(3) Civil Servants Code.

284 Articles 32-38 of Decree No. 151/2001.

285 At 65 % to 100 % of income with a minimum EUR 300 and maximum of EUR 1800 per month.

286 S15(2) of the Federal Law on Parental Leave and Parental Allowances, *Gesetz zum Elterngeld und zur Elternzeit* of 5 December 2006, Official Journal (*Bundesgesetzblatt BGBl.*), part I p. 2748, <http://www.gesetze-im-internet.de/beeg/BJNR274810006.html>.

287 Publication available at <http://www.bmfsfj.de/BMFSFJ/gesetze,did=93110.html>, accessed 28 October 2015.

288 See Federal Ministry for Family, Senior Citizens, Women and Youth, <http://www.bmfsfj.de/BMFSFJ/familie,%20did=209870.html>, accessed 28 October 2015.

289 Bill on Gender Equality (law on 'real equality between women and men' (No. 2014-873, 4 August 2014) was promulgated in August 2014.

290 4 where the child is seriously ill or disabled.

291 Article 182^{1a} Section 3, http://wyborcza.biz/biznes/1,100896,17504442,Ojcowie_wzieli_sie_za_dzieci_Przelomowy_miniony_rok.html?disableRedirects=true#ixzz3Ymd8B6iJ, accessed 28 October 2015.

292 Article 182¹ Section 5 Labour Code and Article 182^{1a} Section 6 Labour Code.

293 Article 186¹ Section 1 Labour Code.

294 Consisting of 36 months of care leave after a period of 12 months during which parents are protected from dismissal if they choose to work part time, 29 December 2014 (DPR III-053-1025/TW/EG/14).

of the child to whom it relates (the end of the third year of schooling in the case of a disabled child).²⁹⁵ The right applies irrespective of the size of employer. Parents may take childcare leave simultaneously for no more than 4 months and 1 month of each parent's leave is not transferrable.²⁹⁶ Such leave can be taken in 5 parts and parents entitled to unpaid childcare leave have the right to reduce their working hours down to half their normal hours.²⁹⁷

Draft legislation presented to the **Polish** Parliament on 27 March 2015²⁹⁸ would amalgamate additional maternity and parental leave and allow 16 weeks of the total to be utilised between the child's first and sixth birthdays, and allow the extension of parental leave which is taken part time rather than full time to 64 months (68 months in case of multiple children at one birth).

Somewhat unusual is the situation in **Slovenia** in which each parent is entitled to 130 days (unpaid) parental leave of which all but 30 days are transferrable by the mother and which is transferrable in its entirety by the father.²⁹⁹ Parental leave is paid at 90 % of the employee's average salary subject to a cap of 2.5 times the average monthly wage and all but 75 days of such leave must be taken, if at all, after the mother's maternity leave with the remaining leave to be taken until the child finishes the first year of primary school education.³⁰⁰

Falling within the third category of countries is the **Czech Republic** in which, similarly, parental leave is calculated by reference to the age of the child, mothers being entitled to such leave between the end of their maternity leave and the child's third birthday, and fathers being entitled between the child's birth and the child's third birthday. Parental leave can be taken by the father when the mother is on maternity or parental leave and the right to maternity benefit can be shared after the child reaches 6 weeks.³⁰¹ Parental leave is not otherwise paid and parental allowance (which is currently a total of EUR 8 150 per child)³⁰² is not dependent on either parent taking leave (though it is lost once the child is 4 or turns 2 and attends kindergarten for more than 46 hours a month).

In **Lithuania**, too, parental leave may be taken until the child reaches the age of 3 by the mother or father or other relative who is caring for the child. It may be taken as a single block or in a number of periods and attracts benefits at income replacement level for 1 year, or 70 % of salary for 2.³⁰³ Such leave can be shared between the parents though both cannot take it simultaneously. In **Hungary**, similarly, parental leave can be taken by either or both parents until the child reaches the age of 3 or, in case of a permanently and seriously sick child, until the age of 10. For the first 2 years 70 % of average daily earnings is payable, with a ceiling of twice 70 % of the national minimum daily wage (EUR 457 EUR per month), to 1 parent (only), as long as the parent has a sufficient history of social insurance payments. After that, the payment is far lower at a flat rate of EUR 91 per month.³⁰⁴ Part-time work and child-related benefit may be combined but will fall short of the amount which could be earned in a full-time job. In **Spain** each parent is entitled to unpaid parental leave until the child is 3. And in **Austria** each parent is entitled to parental leave from the end of the maternity leave period until the child's second birthday with the ability to hold back up to 3 months of leave for use at any time before the child's seventh birthday.

295 Article 186 ss2 and 3 Labour Code.

296 Article 186(4) Labour Code.

297 Article 186⁷ Section 1 Labour Code.

298 Parliamentary document No. 3288, available at: <http://www.sejm.gov.pl/sejm7.nsf/PrzebiegProc.xsp?nr=3288>, accessed 28 October 2015.

299 Parental leave may be extended by 90 days in the case of ill or disabled children.

300 Article 34 PPFBA-1.

301 Section 32(1)e) of Act No. 187/2006 Coll., on sickness insurance. The mother is entitled to paid maternity leave from 6 or 8 weeks prior to the birth until 22 weeks after.

302 Though if this has not been expended by the time another child is born it is lost.

303 See pp. 144, 146 of the *Parental Leave* report Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015. 100 % of salary, subject to statutory maxima and minima, for one year or 70 % of salary for one year and 40 % for a second year (again subject to statutory maximums and minimums).

304 Articles 128 and 130 of the Labour Code, Article 25 (1) – (2) of Act LXXXIV of 1998 on the support provided for families.

Small Children's Care Benefit is payable to the parent on leave at between EUR 14.53 and EUR 66 per day depending on previous income and length of paid leave (the lower rate is payable for 30 months with a further 6 months for the other parent, while parents taking only 12 months of leave are entitled to the higher rate which will be paid also to the other parent for 2 months subject to that parent having held mandatorily insured gainful employment for at least 6 months prior to the maternity leave and having earned at least EUR 1980 net (about EUR 3150 gross) per month). 1 month of leave (only) may be taken simultaneously by both parents.

4.4.2 Additional child-related leave

In a number of states parents are entitled to various types of childcare leave which function either as an extension of parental leave or, in some cases, provide for significant periods of leave to care for sick children, going well beyond emergency dependents leave required by Clause 7 of the Parental Leave Directive. Finally, in a small number of states parents are entitled to additional holiday or leave for the purposes of child-related matters such as attendance at school meetings.

The leave available in the first category of states (**Belgium, Bulgaria, Finland, Malta** and **Poland**) is considered as part of parental leave at 4.4.1 above. Turning to the second category of states, in **Spain**, in addition to parental leave until the child turns 3,³⁰⁵ workers are entitled to up to 2 hours' unpaid leave a day when they have a hospitalised new-born child,³⁰⁶ and to work as little as 50 % of normal hours where they have a child under 18 who has a terminal or serious illness. In the case of reduced working hours for taking care of a serious ill child, social security guarantees the worker 100 % payment of his/her previous salary.

In **Sweden** employees are entitled to temporary leave of up to 60 days per year to care for a sick child (aged up to 12) in respect of which Occasional Parental Benefits are paid.³⁰⁷ Day-care in **Sweden** is guaranteed to working parents for children aged between 1 and well beyond the initial school age, and is provided at a subsidised maximum cost. Public childcare is guaranteed within 3 months after a child reaches the age of 1. Since 2008, in some municipalities, parents of children aged between 1 and 3 have been able to choose instead to receive care support (*vårdnadsbidrag*) of approximately EUR 319 per month³⁰⁸ which can be combined with paid work but cannot be used by parents using a public day-care centre for their children. The current Government has declared its intention to abolish this payment which is considered a trap for women, especially immigrant women and those in low-paid jobs. The **Swedish** example illustrates an additional element of the progressive model as it is exemplified in the Scandinavian states: high-quality, affordable childcare.

In **Germany** workers are entitled not only to emergency care leave for up to 10 working days but also to part-time or full-time 'home care leave' for up to 6 months to care for a close relative under the age of 18 in need of care or home care.³⁰⁹ In **Iceland** parents are entitled to financial assistance of up to 80 % of average wages for 3 months when they are unable to pursue employment or studies as a result of the special care needs of their children (aged under 18) who have been diagnosed as suffering from chronic illnesses or severe disabilities.³¹⁰ The right is shared between parents who may decide how to allocate the right between them, but may not both have payments in respect of the same period unless the child is

305 Or in the case of adopted/ fostered children, for three years after placement.

306 Article 37(4) (bis) Worker's Statute, Article 48(g) Basic Statute of Civil Servants, Law 7/2007 of 12 April 2007, http://noticias.juridicas.com/base_datos/Anterior/r5-l7-2007.t3.html, accessed 12 April 2015.

307 Section 8 PLA supported by the rules on 'occasional parental benefits' in Chapter 13 SSC.

308 Prop. 2007/08:91 on care support.

309 2008 Law on Home Care Leave (*Pflegezeitgesetz, PflZG*) Gesetz über die Pflegezeit (*Pflegezeitgesetz*) of 28 May 2008, Official Journal (*Bundesgesetzblatt BGBI*), part I pp. 874, 896, <http://www.gesetze-im-internet.de/pflegezg/BJNR089600008.html> and the 2012 Law on Family Home Care Leave (*Familienpflegezeitgesetz, FamPflZG*) of 6 December 2011, Official Journal (*Bundesgesetzblatt BGBI*), part I p. 2564, <http://www.gesetze-im-internet.de/fpfzg/BJNR256410011.html>, accessed 28 October 2015.

310 Act No. 22/2006 Article 8.

receiving palliative treatment and the parents have not fully used their entitlement under this provision. In **France** employees with at least 1 year of employment with an employer are entitled to unpaid leave or to work part time for a period of up to 3 years to care for children aged under 20 who are seriously ill or disabled (this is also mentioned at **3.2.1** above).³¹¹

In **Luxembourg** workers are entitled to paid leave of up to 2 days a year per child under 15 (4 days in the case of disabled children) in cases of illness, accident or other health reason requiring the presence of one of the parents. While this leave corresponds to that required by Clause 7 of the Parental Leave Directive, it can be extended, on medical evidence, to up to 52 weeks in any 104 weeks where the child is seriously ill.³¹² In **Austria**, employees with caring obligations for gravely sick children are entitled to take unpaid leave or to reduce their regular working hours/pattern for up to 6 months.³¹³

In **Italy** parents may take such unpaid leave as is necessary during the illness of a child under 3³¹⁴ and may take up to 5 days of unpaid leave annually to care for a sick child between 3 and 8.³¹⁵ Parents of severely disabled children for whom they care are entitled to parental leave for a period of 3 years in the first 8 years of the child's life, or may benefit from an additional 2 hours of rest period per day, or 3 days per month. Periods of up to 2 years of leave are available to care for severely disabled children, workers being entitled to benefits paid at the level of the last salary earned, capped at EUR 43 579 per year.³¹⁶

In **Croatia** workers are entitled to paid leave to take care of sick children for up to 60 days per illness for a child under 7, and 40 days per illness for a child between 7 and 18. Leave is taken on a full-time basis.³¹⁷ Employees in the **Netherlands** are entitled to a maximum of 10 days of care leave (pro rata for part-time employees) to care for a sick child,³¹⁸ and may request longer-term unpaid leave (a maximum of half working hours over a 12-week period)³¹⁹ to take care of a close relative or dependent.³²⁰ And in **Slovenia** workers are entitled to full-time care leave of up to 7 working days to care for children under 7, and up to 15 working days for disabled older children.³²¹ This leave may be extended in exceptional cases (medically certified) to up to 30 days for children, and may be further extended in exceptional cases of serious disease and hospitalisation. Such leave is compensated at 80 % of the worker's salary.

Workers in **Portugal** are entitled to 30 days of leave to care for children under 12,³²² or who are chronically ill or disabled, in case of accident or sickness, or for any longer period during which they are hospitalised, if the presence of the parent is 'absolutely necessary' and provided the other parent is also engaged in a professional activity and cannot take care of the child.³²³ Such leave may generally be taken part time or full time at the worker's will but is unpaid and in general does not give a right to any social security entitlement.

311 Article 1225-61 Labour Code.

312 Labour Code, http://www.legilux.public.lu/leg/textescoordonnes/codes/code_travail/Code_du_Travail.pdf, accessed 28 April 2015.

313 Articles 14a, 14b and 14c Work Contract Law Adaptation Act (*Arbeitsvertragsrechtsanpassungsgesetz*, AVRAG); the care allowance must at least reach level 3 which equals at least 120 hours of care requirements per month.

314 Articles 47–52, Decree No. 151/2001.

315 Social security contributions are paid by the State during such leave.

316 Pay is from the employer, who is refunded by the State.

317 Salary is refunded to the employer by the Croatian Health Insurance Fund in respect of care leave taken by employees. The employee is entitled to 100 % of salary if the child is under 3, and 70 % of salary in other cases, to a maximum of EUR 561 per month.

318 Article 5(1)& (2) Work and Care Act.

319 Article 5(10)(4) Work and Care Act.

320 Article 5(1) Work and Care Act. Again, the employer is only allowed to refuse a long-term care leave if the employee's absence were to result in serious problems for the company or organisation and is not allowed to judge the actual need for the care.

321 Article 30 Health Protection and Insurance Act, Official Gazette of the Republic of Slovenia, Nos 72/06-UPB3, 114/06, 91/07, 71/08, 76/08, 118/08, 47/10, 62/10, 87/11 and 40/12.

322 15 for children over the age of 12.

323 Article 49 of the Labour Code.

In **Lithuania** (full-time) care leave is available in case of family illness with a benefit payable by the State for 7 days or, in the case of a hospitalised child up to 7 or a severely ill child under 18, for a maximum of 120 days in the calendar year.³²⁴

In **Greece** parents are entitled (once parental and other leave entitlements, other than the entitlement to annual leave, are exhausted) to up to 10 paid days of leave per year to care for children aged under 18 who need blood transfusions, dialysis or a transplant or who have cancer; and up to 30 unpaid days' leave per year in the case of children aged under 18 who are hospitalised due to a disease or accident and require the parent's presence.³²⁵ In addition, public sector workers are entitled to 22 paid working days of leave per year³²⁶ to care for a child who has Down's Syndrome or a serious mental disability, or for a child who requires regular blood transfusions or periodic hospitalisation. Where both parents are employed in the public sector they must elect which parent uses these leaves. Private sector workers are, in addition to the rights set out above, entitled to up to 6 unpaid days of leave per year, non-transferable, to care for sick children aged under 16 or seriously or chronically sick children (8 in the case of 2 children, 14 for 3 or more).³²⁷ And in the **Czech Republic** employees are entitled to leave if this is necessary to care for an ill child³²⁸ in which case sickness benefit at 60 % of wages is available for 9 days (16 in the case of a single parent caring for a child under 16).³²⁹

Turning, finally, to the third category of states, in **Hungary** both parents are entitled to additional holiday time calculated according to the number of their children under 16: 2 working days for 1 child, 4 working days for 2, up to a total of 7 working days with the amount being increased by 2 days per annum in the case of a disabled child.³³⁰ Workers in **Portugal** are entitled to up to 3 hours of leave every 6 months for reasons related to the education of children.³³¹ In **Lithuania** employees with a disabled child under 18 or with 2 children under 12 are entitled to an additional rest day per month or to have their weekly working time shortened by 2 hours, and employees raising 3 or more children under 12 are entitled to 2 additional rest days per month (or to have their weekly working time shortened by 4 hours accordingly), without loss of wages.³³² Draft legislation to be debated in **Lithuania** proposes the removal of this right. Single parents of children under 14 (18 in the case of disabled children) are entitled to 7 additional days of (paid) annual leave (35 instead of 28) and parents of under 14 and of disabled children under 18 are entitled respectively to additional unpaid annual leave of up to 14 and 30 days per year. Workers are also entitled to up to 3 months of additional unpaid annual leave while their partners are taking maternity or parental leave and pregnant women and the parents of children under 14 (under 18 in the case of disabled children) may choose the timing of their annual leave as long as they have worked continuously for 6 months in the enterprise.³³³

In **Greece** public sector workers are entitled to up to 4 paid working days of leave per year for school visits (5 where there are 2 or more children).³³⁴ Where both parents are employed in the public sector they must elect which parent uses these leaves. Private sector workers are entitled to up to 4 paid working days of leave per year for school visits.³³⁵ Where both parents are employed in the private sector they must choose which parent exercises this right. In **Estonia** parents are entitled to unpaid 'child leave' days

324 Law on Sickness and Maternity State Social Insurance Law of 21 December 2000. State Gazette, 2000, No. 111-3574.

325 Act 4075/2012 transposing Directive 2010/18 (Article 51).

326 Article 50(2) & (3).

327 Article 7 Act 1483/1984 OJ A 153/1984.

328 Section 191 of the Labour Code.

329 Sections 39-4 Act No. 187/2006 Coll., on sickness insurance.

330 Article 118 (1)-(3) Labour Code.

331 Article 249 No. 2 f.

332 Article 214 Labour Code.

333 Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, 147, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June.

334 Article 53(6) Civil Servants Code, Joint Decision of the Ministers of the Interior, Public Administration and Decentralisation ΔΙΔΑΔ/Φ.53/12222/οικ.20561, OJ B 1613 of 17 August 2007, implementing this provision.

335 Article 9 Act 1483/1984.

in respect of children aged under 14 (3 if they have 1 or 2 children, 6 if they have at least 3 children under 14 or at least 1 child under 3).³³⁶ The mother or father of a disabled child is entitled to 1 day of paid leave per month until the child reaches 18.³³⁷ Some parents also have preferential rights to choose the timing of holidays; women immediately before and after pregnancy, maternity leave and/or childcare leave, men immediately after childcare leave or during their partners' pregnancy or maternity leave and parents of children under 7 may choose the timing of their annual leave while parents of children aged 7-10 may take their annual leave during the child's school holidays.³³⁸ There is no legal right to leave for the care of older dependents, though minimal benefits are payable to parents who care for disabled children under 16 (19 if the child is studying).³³⁹

4.4.3 Part-time leave

In some cases parental leave may be taken on a part-time basis, the effect of this being to give workers rights to reduced working hours over and above those discussed at **3.2** above. Typically in these cases the result of taking parental leave on a part-time basis is that the duration of the leave is extended, although this is not the case in **Austria, Germany,**³⁴⁰ **Hungary** or **Poland** (in which states the period of parental leave permitted by law is far in excess of that required by EU law). Having said this, as discussed in **4.4** above the 2015 amendments to the **German** Federal Statute on Parental Leave and Parental Allowances have the effect that parents who make use of their entitlement to parental leave by simultaneously working 25 and 30 hours per week while taking parental leave for 4 months are entitled to *additional* parental allowances for these months (i.e. over and above the 14-month allowance to which each parent would otherwise be entitled).

Where a country is not mentioned below, workers are not entitled by law to take parental leave other than on a full-time basis (though in some cases employers might be free to agree such an approach). Taking first those countries with the most flexible approach to leave, in **Norway** employees may take parental leave in the form of part-time work if they choose,³⁴¹ for a period of up to 3 years (this as an alternative to 1 year of full-time leave. Employers and employees will normally reach agreement on the working pattern which balances their interests and employers may only deny part-time leave in cases where this will cause severe difficulties for the employer, employees being able to complain to the Board of Labour Disputes in the event of a refusal.³⁴²

In **Finland**, parents can work part time during parental leave and/or childcare leave (the latter can last until the child is 3 or, in the case of *partial* childcare leave, until the child is 8 or has completed the second year of primary education). Parental leave benefit, which is income related, can subsidise part-time work during parental leave. It comprises 75/300 of annual income per day for the first 30 days followed by 70/300 for 158 days (this being the same as sickness benefit) and is capped for higher income brackets.³⁴³ And in **Sweden**, where parents are entitled to full-time parental leave until the child is 18 months old³⁴⁴ or to part-time parental leave/reduced-hours working arrangements until the child is 8³⁴⁵ (or, in a case in which they have not yet exhausted their entitlement to parental benefits, until this

336 Article 63 ECA.

337 Article 64 ECA. Pursuant to Article 61 the adoptive parents of a child under 10 years of age are entitled to adoptive parent leave of 70 calendar days from the date of entry into force of the court judgment approving the adoption.

338 Article 69(7) ECA.

339 75 % of the social benefit rate (EUR 19.18 per month in 2015).

340 See discussion at **4.4** above of the 'partnership bonus'.

341 WEA Section 12-6.

342 See Sections 12-14 and 17-2.

343 Chapter 11 Section 1 Sickness Insurance Act (1224/2007). Statutory maternity pay is paid for 105 days and at 90 % of income for the first 56 weekdays capped at EUR 50 602 (in 2014), with women being entitled to 32.5 % of former income in excess of the cap. Paternity leave is paid for a maximum of 18 weekdays (Mon to Sat) and may be taken in up to 4 separate periods during the maternity and parental leave periods.

344 Or 18 months post-adoption until the child is 8.

345 The (1995:584) Parental Leave Act (PLA) s7.

happens or until the child is 12),³⁴⁶ the Parental Benefits Scheme provides for 480 days of benefit (390 at income-replacement level) for each child which may be paid at 100 %, 75 %, 50 % or 25 % where the parent works 0, 25 %, 50 % or 75 % of normal hours, and so may subsidise extensive periods of reduced-hours working arrangements.

In **Croatia** parental leave, which is for a period of eight months for the first and second child or 30 months for twins, or for the third and consecutive children, can be taken in the form of half-time work in which case its duration is twice as long (such leave must be taken before the child turns 8).³⁴⁷ A 30-days' notice is required of changes between full-time and part-time leave³⁴⁸ and the employer is able to postpone the change for 30 days. In addition, 1 parent of a child who is in need of additional care and nurture for health or developmental reasons may work half-time until the child is 3³⁴⁹ or, where the child's needs are severe, until the child is 8 or more if the need persists.³⁵⁰ Workers are entitled to social security allowances during periods of half-time work in the amount of 50 % of maternity/parental leave allowance or, in other cases of half-time work, 50 % of the State Budget Base (which is EUR 439 per month).

In **Poland** parents are entitled to reduce working hours by up to 50 % during the period in which they are entitled to additional maternity leave (see above), parental leave or (unpaid) childcare leave after paid parental leave.³⁵¹ Childcare leave can last until the child is 4 or, in the case of disabled children, 18.

In **Liechtenstein** parental leave (4 months for each parent) may be taken on a full-time, part-time or hourly basis, taking into account the legitimate interests of the employer and the employee.³⁵² Such leave, which may be postponed by the employer, is available in respect of children under 3 (5 in the case of adopted children). And in **France** workers' (individual) rights to parental leave until the child reaches 3 (4 where the child is seriously ill or disabled) can be exercised as part-time as well as full-time leave.³⁵³ Parents can apply for parental leave at any time between the end of maternity leave and the child's third birthday.³⁵⁴ Part-time working arrangements during parental leave must be for at least 16 hours a week during this period. Parents may also work part time for a period of up to 3 years to care for children aged under 20 who are seriously ill or disabled,³⁵⁵ or for up to 6 months to care for relative at the end of their lives (whether a child or a parent living in the employee's home).³⁵⁶

In **Greece** public sector workers are entitled, as an alternative to 9 months of paid parental leave until a child reaches the age of 4, to have their daily working time reduced by 2 hours until the child reaches 2, and 1 hour thereafter until the child reaches 4, without loss of pay.³⁵⁷ In the case of multiple births parents are entitled to an additional 6 months of leave per child (the legislative provision is silent as to whether this may be taken in the form of reduced working hours)³⁵⁸ while in the case of a fourth child, the reduction in working time may last an additional 2 years. Single/widowed/disabled parents with guardianship of a child are entitled to an additional month's full-time leave or 6 months of reduced-hours

346 The Social Security Code (2010:110, SSC) provides generous parental benefits including up to 96 days (of a total of 480, 390 of which are at income-replacement level) after the child turns 4. These may be taken at 25 %, 50 %, 75 % or 100 % with a corresponding right to work part-time while benefit entitlement continues.

347 Article 15(4) Act on Maternity and Parental Benefits.

348 Article 47(1) Act on Maternity and Parental Benefits.

349 Article 16(1) Act on Maternity and Parental Benefits.

350 Article 23(2) Act on Maternity and Parental Benefits.

351 Article 186¹ s1 Labour Code.

352 Paragraph 1173a Article 34(a) and (b) Civil Code (ABGB).

353 L.1225-47 Labour Code.

354 Or at any time in relation to the adoption of a child under 16.

355 Article 1225-61 Labour Code.

356 L.3142-16 Labour Code.

357 Civil Servants Code (CSC) (Article 53(2)). The Greek expert considers that the restriction of the parental leave and of its alternative, the reduced working time, until the child is 4 is not compatible with EU law, as Act 4075/2012 transposing Directive 2010/10/EU grants parental leave until the child is 6.

358 Article 53(2) CSC by Article 6 of Act 4210/2013 as amended by Article 6 of Act 4210/2013 following Case C-149/10 *Zoi Chatzi v Ipolygorgos Ikonomikon* [2010] ECR I-8489.

working arrangements.³⁵⁹ Where the public sector worker's spouse is employed in the private sector, the public sector worker is entitled to the rights set out above only to the extent that they exceed the spouse's private sector rights as exercised.³⁶⁰ In other words, if for example the spouse takes 4 months' parental leave, the civil servant is entitled to only 5 months of parental leave. If the civil servant chooses to take parental leave in the form of reduced hours, the 2 hours per day reduction until the child reaches the age of 2 will be offset against the 1-hour reduction applicable in the private sector (see 3.2.2 above).³⁶¹ Some sectoral collective agreements contain more favourable terms applicable to private sector workers; in particular, the collective agreements applicable to bank workers grant the same working-time reduction as public sector workers enjoy.³⁶²

In **Slovenia** parental leave of up to 260 days can be taken part time or full time, and in 1 block or a number of blocks of no less than 15 calendar days no more than twice a year. The leave may be taken until the child finishes the first year of primary school education.³⁶³ In the absence of agreement between parent and employer as to the pattern of leave the matter is determined by the Centre for Social Work in the child's best interests.

In **Luxembourg** parental leave may be taken for 12 months part time (with the employer's agreement) rather than 6 months full time. And in **Belgium** parents may take full-time parental leave for up to 4 months,³⁶⁴ or may work 50 % of hours for up to 8 months or 80 % of hours for up to 20 months, or any combination thereof. Parental leave is unpaid but is subject to social security payments of EUR 786.78 per month if taken full time, or a proportionately reduced rate if taken part time.

In **Portugal** parental leave (of 3 months per parent if taken full time) can be taken in the form of part-time work for the maximum period of 12 months, until the child reaches the age of 6.³⁶⁵ In **Spain** both maternity and parental leave (the latter available to each parent, unpaid, until the child is 3) can be taken part time, subject to the provision of 15 days' notice and to the employer's agreement.³⁶⁶

In the **Netherlands** until 1 January 2015 all 26 weeks of parental leave could be taken in the form of part-time work except where the employer can provide compelling reasons to refuse this;³⁶⁷ the default position was that parental leave was taken part time (50 %) unless the employer agreed an alternative arrangement. As of 1 January 2015 the employee is entitled to parental leave of up to the total number of hours she or he would otherwise work in a 26-week period, but may choose whether to take full-time leave or to take part-time leave and spread it over 26 weeks or some other period. All kinds of arrangements are possible but the employer has the right, after consultation with the employee, to change the arrangement chosen by the employee if there are compelling reasons to do so.

In **Italy** parental leave, can be taken continuously or in blocks, and may be taken on an hourly basis or a time-credit system as stipulated by the relevant collective agreement.³⁶⁸ In **Denmark** parents may work half time during parental leave while receiving half the parental benefits otherwise payable, prolonging

359 Article 53 (2), (3), (5).

360 Article 53(3) CSC.

361 The entitlement to reduced-hours working in the private sector ceases when the child is around 32 months (30 months of reduced-hours working following the end of maternity leave, which is typically when the child is nine weeks old).

362 Federation of Greek Banks Employees (OTOE) CA 1997-1998. Recent CAs are available at: <http://www.otoe.gr/Contracts.mvc/ListItems?page=1&type=Contract> (in Greek), accessed 4 May 2015. Older CAs, such as CA 1997-1998, are available on the NOMOS data bank website, accessible to subscribers only.

363 Article 34 of the PPFA-1.

364 Prior to the child's 12th birthday, or 21st birthday in the case of a child with disabilities.

365 Article 51 No. 1 b) of the LC. Parents may combine full-time and part-time leave.

366 Article 48.4 of the Worker's Statute, http://noticias.juridicas.com/base_datos/Laboral/rdleg1-1995.t1.html#a48, accessed 13 April 2015.

367 Work and Care Act as revised from 1 January 2015.

368 Parental Leave report p.129, Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

the period of leave accordingly. And in **Hungary** parents may work half-time hours during the period when they would otherwise be entitled to be on parental leave (i.e. the child's third birthday, except in the case of disabled children).

In **Malta** parental leave may be taken in the form of reduced and/or flexible working hours by arrangement with the employer, unless otherwise prescribed in a relevant collective agreement.³⁶⁹ In **Austria** and **Latvia** parental leave may be taken on a part-time basis.³⁷⁰ In **Latvia** the period is 18 months per parent, to be taken prior to the child's eighth birthday; it may be taken in 1 block or in many and may be part time or full time. In **Austria** parental leave ceases at the child's second birthday except for a 3-month period which each parent may reserve to use before the child's seventh birthday. In **Iceland** parental leave may be taken in a number of periods of leave each of which comprises days off or hours off or a combination of either with the employer's agreement.³⁷¹ In **Bulgaria** legislation does not deal with the question whether parental leave can be taken part time; the country expert suggests that this is a matter for individual agreement.

In **Germany** employees are entitled to work part time for up to 30 hours per week during parental leave (which can last until the child is 3),³⁷² subject to the right of smaller employers to refuse this. Parental leave is relatively inflexible, with the length of leave to be determined in advance and the right being to have no more than 2 such periods prior to the child's third birthday. In **the Czech Republic** parental and other forms of leave may only be taken full time, though workers have a qualified right to reduced-hours working arrangements for care-related reasons. In **Romania** parental leave can only be taken as full-time leave and in the **United Kingdom** parental leave may not be taken on a part-time basis as of right, though employers could agree to this, except in the case of shared parental leave (the title by which maternity leave transferred from the mother is known), which must be taken full time.

Entitlement (as of right, rather than by agreement) to take maternity, paternity and parental leave is illustrated in Table 11 immediately below.

369 Regulation 4 Parental Leave Entitlement Regulations (Legal Notice 225 of 2003).

370 As of right in **Austria** only where employees have worked in enterprises and organisations with a workforce of 20 or more for at least three years. Parents on parental leave may enter an additional occupation with their own or another employer. If the parent earns above the social security threshold (2015: EUR 405.89; 2016: EUR 415.72) then the leave is limited to 13 weeks per year.

371 *O'Neill v Dunnes Stores* [2000] E.L.R. 306.

372 With parents being entitled, with the employer's consent, to save 12 months of the 3 year period to use between the child's 3rd and 8th birthdays.

Table 11: Flexibility of leaves

Country	Available as of right on part-time basis		
	Maternity leave	Paternity leave	Parental leave
Austria	No	No	Yes
Belgium	No	No	Yes
Bulgaria	No	No	No
Croatia	Yes in the case of additional maternity leave	No	Yes
Cyprus	No	No	No
Czech Republic	No	No	No
Denmark	No	No	Yes
Estonia	No	No	No
Finland	No	No	Yes
France	No	No	Yes
Germany	No	No	Yes
Greece	No	No	Yes (public sector workers)
Hungary	24 weeks	No	Yes
Iceland	Yes	No	No
Ireland	No	No	Yes
Italy	No	No	Yes
Latvia	Not if paid	No	Yes
Liechtenstein	No	No	Yes
Lithuania	No	No	No
Luxembourg	No	No	Yes
Malta	No	No	No
The Netherlands	No	No	Yes
Norway	Yes	Yes	Yes
Poland	Yes in the case of additional maternity leave	No	Yes
Portugal	No	No	Yes
Romania	No	No	No
Slovakia	No	No	No
Slovenia	No	No	Yes
Spain	Not as of right except where collectively agreed	Not as of right except where collectively agreed	No
Sweden	No	No	Yes
United Kingdom	No	No	No

4.5 Uptake of leave

In **Norway** the national expert reports that parents are often discriminated against for taking leave and in 2012 fewer than 10 % of fathers took more than the non-transferable part of parental leave, though sharing of parental leave was more common where the mother had completed higher education.³⁷³ In

373 See the 2012 report from Statistic Norway Report on the parental leave and the fathers quota: <https://www.ssb.no/befolkning/artikler-og-publikasjoner/likere-delning-av-foreldrepermisjonen>, accessed on 2 May 2015.

addition, the expert notes that the financial crisis has influenced the distribution and uptake of parental leave. In contrast, in **Iceland** although fathers have generous entitlements to paid parental leave, they have been making decreasing use of the right. Almost 25 % of the fathers of children born in 2009 did not take parental leave during the 36 months in which it was available to them, and interim statistics for 2010-2012 show that this trend continued with fathers making less use of parental leave than they had before the 2008 financial collapse in Iceland. Still fewer men are exercising their right to share the 3-month period of transferrable paid parental leave, this being attributed to the fact that the maximum payments from the Maternity/Paternity Leave Fund have been incrementally reduced from the peak they reached just prior to the crash.

The reluctance of men to make use of the 'daddy month' or similar reserved period of leave is also an issue in **Finland** and **Sweden**. In **Finland** parental leave is almost always used by mothers, fathers typically taking a short period of paternal leave with only 2-3 % of fathers taking a longer period of parental leave and almost none taking childcare leave.³⁷⁴ The distribution of leave between parents has hardly changed since the 1980, and changes in 2012 designed to increase uptake by fathers (by lengthening paternity leave from 6 to 9 weeks, and allowing 3 of these weeks of which 3 to be taken while the mother is on leave) have not significantly changed matters yet.

The **Swedish** national expert reports that, while the strength of Swedish legislation is no doubt the right to shorter working hours when there are children, this can create a trap for women who traditionally take on the larger part of family responsibilities. Reforms have successively been made to try to encourage men to make use of parental leave, hence the 2 non-transferable 'daddy months'. In 2012, however, men used only 24.4 % of parental leave to women's 75.5 %, ³⁷⁵ although it has been steadily increasing since the scheme's introduction back in 1974. The current Government has declared its intention to increase the non-transferrable days to 90 and 'equal parenting' has tripled from 2000 in **Sweden** to 12.7 % in 2012. Younger parents with higher education and higher earnings (particularly for women) are more likely to seek equal parenting as are those who work in the public sector and in cities.³⁷⁶

In 2012 in **Germany**, 26 % of mothers and 2 % of fathers took the parental leave to which they were entitled, although 20 % of fathers of children born in 2012 took some period of leave (in 80 % of cases only the 2 months of leave in respect of which payment is not transferrable to the other parent).³⁷⁷ While the number of fathers taking parental leave in **Germany** is increasing, the period of leave taken by them is decreasing.³⁷⁸ In 2013, 32 % of the fathers took parental leave while receiving parental allowances but 80 % of them only for the obligatory 2 months.³⁷⁹ Unpaid parental leave (without allowances, after the first 15 months) was taken by 28 % of mothers and 2.4 % of the fathers.³⁸⁰ The right to take parental leave was an individual right for each parent from its introduction in 2006, but taking parental leave simultaneously meant severe financial losses to many parents. Legal changes introduced in 2015 give financial advantages to parents taking parental leave simultaneously in an attempt to encourage the take-up of leave by fathers.

374 Tilastotietoa perhevapaiden käytöstä (Statistics on the use of family-related leaves) National Institute of Health and Welfare, <https://www.thl.fi/en/tutkimus-ja-asiantuntijatyo/hankkeet-ja-ohjelmat/perhevapaatutkimus/tilastotietoa-perhevapaiden-kaytosta>, accessed 4 May 2015.

375 *De jämställda föräldrarna* (2013:8).

376 See also Report 2012:9, Parental Benefits 1974-2011.

377 Parental leave report, Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

378 Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

379 Federal Statistics Agency (2014), available via <https://www.destatis.de/EN/Homepage.html;jsessionid=DEDF5B87C0797D8A24AC386977ED618.cae4>.

380 Federal Statistics Agency (2014), available via <https://www.destatis.de/EN/Homepage.html;jsessionid=DEDF5B87C0797D8A24AC386977ED618.cae4>.

In **Estonia** **Latvia**, **Lithuania** and **Slovenia**, as elsewhere, the use of reconciliation measures is highly gendered. The low take-up of parental leave by fathers in **Estonia** (6-8 %) is attributed by that country's national expert in part to the relative inflexibility of the regulations governing it, also to the gendered division of labour between parents. And the anecdotal evidence is that, in the vast majority of cases, care leave in **Lithuania** is taken by women who have until recently tended to take 3 years of parental leave per child with only 2 % taking less than 2 years (though this has changed in recent years as benefits have become less generous).³⁸¹ Only two thirds of those who took parental leave (but 90 % of those in the public sector) returned to their former positions with a further 20 % returning to a different job. The proportion of parental leave taken by men increased from 7.5 % to 11.5 % between 2012 and 2013 but this is attributed by the national expert not to any change in the traditional model of parenting but to economic changes with men choosing to take parental leave, receive social benefit and retain their jobs rather than being dismissed or having their wages reduced. In addition, however, the idea of fathers caring for children has begun to be more widely accepted by fathers and by the public more generally.

The proportion of men in **Latvia** taking parental leave has doubled from 7 to 15 % in the year to January 2014 as a result, it appears, of a legislative change awarding parental allowance to workers who remain in employment. It is suggested, however, that fathers are claiming this allowance while remaining in full-time employment while mothers remain at home without parental allowance and equally without any social insurance rights during the period of (for her) unpaid leave. The uptake of paternity leave is only 45 %, though this has increased from 22 % in 2004.³⁸² In **Slovenia**, by contrast, whereas more than 80 % of fathers exercised their right to 15 days of paternity leave in 2011,³⁸³ only 63 % did so in 2013.³⁸⁴

In **Cyprus** only 162 women and 14 men took parental leave in 2014.³⁸⁵ Notably, according to the Cypriot expert's report in 2013, 'in the public sector part-time workers can be found only among hourly-paid staff in the field of cleaners and they are mainly women'.³⁸⁶ In the **United Kingdom**, 2014 research by the Institute of Leadership & Management found that a quarter of new fathers took no paternity leave at all with fewer than 10 % claiming their 2-week entitlement.³⁸⁷ The uptake by men of parental leave has always been low, in part no doubt because such leave is unpaid and inflexible, having to be taken full-time in blocks of a minimum of 1 week unless the employer agrees to the contrary. Furthermore, fewer than 1 in 172 men took advantage of the right to share maternity leave when it was first introduced.³⁸⁸

In 2014 one third of fathers in **Poland** took paternity leave (124 000), an enormous increase since 2011, when 11 000 men took such leave (23 300 in 2012 and 28 500 in 2013).³⁸⁹ In the **Czech Republic** it is slowly becoming more common for fathers to take parental leave for a year or more after the mother has returned to work after taking a year or so of parental leave. Generally, however, relatively few fathers make use of reconciliation rights (only 2-3 % of people taking parental allowance are men), probably in part because of the large gender gap. And in **Hungary**, although mothers and fathers are both entitled to take

381 See Palma-Ramvalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015, pp. 146 & 148.

382 Data provided by the Ministry of Welfare at the Parliamentary Demography Sub-Commission on 21 April 2015, available in Latvian at <http://titania.saeima.lv/livs/saeimasnotikumi.nsf/webComisDK?OpenView&restrictToCategory=21.04.2015&count=1000>, accessed 23 April 2015.

383 Now being increased to 30 days – see above.

384 http://www.mddsz.gov.si/si/uveljavljanje_pravic/statistika/druz_prejemki_zavarovanje_sv/#c18836, accessed 22 April 2015. According to the old legislation, which was in force until May 2014, only 15 days out of 90 days of paternal leave were paid. Fathers are now entitled to 30 days of paternity leave, 15 of which must be taken within the first six months of the child's life.

385 Data from the Department of Labour Relations.

386 See p. 76 of the report on Sex Discrimination in relation to Part-Time Work.

387 <https://www.i-l-m.com/~media/ILM%20Website/Documents/research-reports/shared-leave/ilm-shared-parental-leave-report%20pdf.ashx>, accessed 28 October 2015.

388 <https://www.tuc.org.uk/workplace-issues/just-one-172-fathers-taking-additional-paternity-leave>, accessed 28 October 2015.

389 http://wyborcza.biz/biznes/1,100896,17504442,Ojcowie_wzieli_sie_za_dzieci_Przelomowy_miniony_rok.html#ixzz3Ymd8B6iJ, accessed 4 August 2015.

parental leave, mothers generally take the leave because men's wages are generally higher, and childcare is considered the duty of the mother. Further, where both parents take childcare leave only women are entitled to protection from dismissal during the period though the national expert reports that even where workers have legal protection from dismissal during childcare leave such dismissal is relatively frequent and rarely challenged. In 2011, 7.7 % of working-age women but only 0.2 % of working-age men were on some form of childcare leave.³⁹⁰ This is attributed by the country expert to gendered expectations about childcare with public hostility to the employment of mothers of young children and ensuing reluctance on the part of many mothers to return to work before children reach the age of 2 or 3. There are very limited childcare facilities for children under 3, only 9 % of whom attend nursery.

The **Greek** national expert reports that, in the framework of the crisis, workers in the private sector do not often make use of family-related leaves such as parental leave because of concerns about victimisation which the Greek Labour Inspectorate lacks the resources to police, in particular due to growing budget cuts;³⁹¹ in 2012 only 1.2 % of women and 0.02 % of men in the private sector took parental leave. Women returning from maternity leave account for a disproportionate number of part-time workers and part-time work, particularly in the form of 'rotation' work (in which otherwise full-time workers have their number of working days/weeks/months reduced, is increasingly imposed by employers (particularly on women).³⁹²

In **Italy** parental and similar leave is used mainly by women, men only taking 11 % of such leave in 2012.³⁹³ This is attributed by the national expert to the fact that benefits are a percentage of the worker's pay and men are generally higher paid than women, with the result that most families can afford to lose part of the mother's but not the father's.

In **Austria** parental leave, to which both parents are equally entitled, is taken very disproportionately by women, in 2011 only 8.4 % of fathers using any part of their entitlement to such leave and men taking only between 4.2 % and 4.5 % of all available parental leave days.³⁹⁴ In **France** parental leave is widely used, but largely by mothers after maternity leave, with 1 in 2 mothers taking such leave (full time or part time) in contrast with only 12 % of fathers.³⁹⁵ In 2011 96 % of parental leave was taken by women and other leaves, with the exception of paternity leave, are taken mainly by women. Parental leave was reformed in August 2014 to enhance gender equality by encouraging fathers to take such leave,³⁹⁶ both parents having an individual right to parental leave until the child is 3 (which they may exercise simultaneously), but from August 2014 payment is made for 6 months per parent on a non-transferrable basis (at EUR 576.24 per month for the first child for full-time leave, proportionately less for part-time leave).

390 Nepszamlalas 2011. 13. A nepesseg gazdasagi aktivitasa. Census 2011. 13. The Economic Activity of the Population. Kozponti Statisztikai Hivatal Central Statistical Office. Budapest, 2014, p. 49.

391 Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, p. 107, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

392 *Sex discrimination in relation to part-time and fixed-term work. The application of EU and national law in practice in 33 European countries*, p. 149, http://ec.europa.eu/justice/gender-equality/files/your_rights/sex_discrimination_in_relation_to_part_time_and_fixed_term_final_en.pdf, accessed 29 August 2015.

393 Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, p. 132, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

394 http://sprachportal.integrationsfonds.at/fileadmin/user_upload/2015/Materialien%20Schwerpunkt%20Deutsch/Vaeter_gehen_in_Karenz.pdf.

395 Palma-Ramalho, M., Foubert, P., and Burri, S. (2015), *The implementation of Parental Leave Directive 2010-18 in 33 European countries*, pp. 91-92, http://ec.europa.eu/justice/gender-equality/document/files/parental_leave_report_final_en.pdf, accessed 9 June 2015.

396 Bill on Gender Equality (law on 'real equality between women and men' No. 2014-873, 4 August 2014).

4.6 Conclusion

It is clear from the foregoing that shared access to maternity leave is rare, though increasing, and shared access to paternity leave is unheard of (perhaps unsurprisingly, in view of its generally short duration). By contrast, parental leave is generally organised at least to permit, and in many cases to incentivise, sharing between parents. This is illustrated by Tables 10-11 above. In some cases (such as **Bulgaria, Croatia, Cyprus and Ireland**) there are formal arrangements whereby parents may assign part or all of their individual rights to each other. Elsewhere leave is provided on a *per* child basis and may be taken by either or both parents (**Denmark, Finland, Hungary and Italy**).

For the purposes of this report 'progressive' approaches to leave are taken to mean the ability to share periods of maternity leave, at least where they are lengthy, and the provision of lengthy (paid) paternity leave and/or reasonably long periods of parental leave which are designed (by reason of payment and/or flexibility and/or non-transferability of at least part of the period) to encourage uptake by fathers. Amongst the countries surveyed, the following are notable for taking such a progressive approach:

- **Bulgaria, Croatia, Norway, Poland, Portugal, Spain, Sweden** and the **United Kingdom** (which allow transfer of maternity leave other than only in exceptional circumstances);
- **Croatia, Iceland, Norway and Poland** (which allow at least some maternity leave to be taken part time);
- **Finland, Iceland, Norway** (allowing 2 weeks (fully paid) to be taken part time), **Portugal** and **Slovenia** (which provide periods of at least 4 weeks' paternity leave with at least some pay);
- **Belgium, Finland, Germany, Iceland, Latvia, Luxembourg, Norway and Slovenia**, which provide a significant period of non-transferrable parental leave which is paid other than at a minimal level.

It appears from the list above that the 'stand out' progressive states in this regard are **Finland, Iceland, Norway and Slovenia**.

In a number of states workers also have access to various types of care leave which together form part of the reconciliation jigsaw. It is difficult to generalise about the effect of such leaves which vary broadly across Member States, except to say that any additional flexibility accorded to workers to accommodate the needs of children and other dependents is likely to assist them in reconciling their professional, private, and family lives.

5 CARE LEAVES

5.1 Care leaves

In addition to parental and maternity leave (which may be significantly in excess of that required by EU law), a number of states provide entitlement to ‘care leave’, i.e. leave of longer or shorter duration in order to take care of or make arrangements for the care of e.g. sick/dependent relatives (e.g. elderly relatives) who do not fall within the scope of the Parental Leave Directive. The possibility of such leave, together with access to reduced working hours and flexibility as regards the manner in which parental leave may be taken, may help workers to balance their work, private, and family lives particularly where, as is the case in a number of states, care leave allow generous periods of time off (sometimes, though rarely, with pay or benefits). Note that **Belgium**’s career break schemes, discussed at 3.2.1 above, allow full-time as well as part-time leave, which may (though it does not have to be) used for caring purposes.

Below the length of carers’ leave, whether it can be taken part time, and how often it is available to employees, is considered, as are the circumstances under which it is available and how, if at all, it is paid. In no case has it been reported that the size of the employer plays any role as a qualifying condition, or that it permits employers to refuse, postpone or modify requests for leave. Nor has any information been provided by national experts as to the uptake of this form of leave by gender. No care leave is provided for in the countries of **Estonia, Iceland, Latvia, Liechtenstein, Luxembourg, Malta, Poland, Romania, Slovakia** or the **United Kingdom**.

Among the more generous states as regards provision of carers’ leave is **Denmark**, where employees may be granted leave to look after disabled or terminally ill relatives.³⁹⁷ During periods of leave to care for disabled or sick relatives, which may last for 6 (or, in special cases, 9) months, the carer will be employed by the local authority to provide care at home with payment of approximately EUR 550 per week for up to 9 months.³⁹⁸ When an employee wishes to care at home for a dying relative s/he may work reduced hours at full pay (the State reimbursing the employer in respect of payment for hours unworked) or take leave and be paid by the State at 150 % of normal sickness benefits.³⁹⁹

In **Ireland** employees with at least 12 months of continuous service may take up to 104 weeks of leave (unpaid) to care for a seriously ill or disabled person without losing the right to return to work.⁴⁰⁰ The person to whom care is to be given must require full-time care and attention as certified by a medical practitioner. There are detailed notice provisions in the Act. Carers in these circumstances may engage in limited employment or self-employment and carer’s leave may be taken in one continuous period of 104 weeks or in a number of periods (with not less than 6-week gaps between them), the total not exceeding 104 weeks. An employer may on reasonable grounds refuse to grant carer’s leave for any period of less than 13 weeks.

In **Spain**, in addition to parental leave until the child turns 3,⁴⁰¹ workers are entitled to unpaid leave to care for infirm relatives (of up to second degree) for up to 1 year (unless otherwise provided for by a relevant collective agreement).⁴⁰² A worker may alternatively request a working-time reduction for the care of family dependants,⁴⁰³ or alternatively to work reduced hours. Full-time unpaid leave is available to workers who need to take care of an infirm relative (up to a second degree relation) who, for reasons of age or disease, is not able to take care of him/herself, for a period of up to 1 year, unless otherwise provided for by a relevant collective agreement. Workers are entitled to reduced working hours to provide

397 Consolidated Act No. 150 of 16 February 2015 Act on Social Service, Chapters 22 and 23, Sections 118, 120.

398 S118A Consolidated Act No. 150 of 16 February 2015 Act on Social Service.

399 S119 Consolidated Act No. 150 of 16 February 2015 Act on Social Service.

400 Carer’s Leave Act 2001 (as amended by Section 48 Social Welfare Law Reform and Pensions Act 2006).

401 Or in the case of adopted/ fostered children, for three years after placement.

402 Article 37(5) of the Worker’s Statute for workers, and Article 30(1)(g) of Law 30/1984, of 2 August 1984, for civil servants.

403 Article 37(5) of the Worker’s Statute for workers, and Article 30(1)(g) of Law 30/1984, of 2 August 1984 for civil servants

direct care to a disabled family member (regardless of the degree) who is unable to perform any gainful activity, or to take care of an infirm relative (of up to second degree relation) who, for reasons of age or disease is not able to take care of him or herself and who is unable to perform any gainful activity. The worker must continue to work between half and seven eighths of his or her normal hours and reduced working hours can apply for the duration of the relative's disability.

Such rights do not depend on the size of the employer. During full-time leave the worker does not receive any payment and rights acquired or in the process of being acquired by the worker on the date on which full-time unpaid leave starts are maintained until the end of the leave. During such leave the worker will maintain and increase his/her seniority.⁴⁰⁴ In addition, Spanish legislation establishes the presumption that during the first year of the unpaid leave the worker has made effective contributions to the social security system.⁴⁰⁵

Workers working reduced hours will receive the salary that corresponds to the reduced working time. During the first year of reduced working hours, for the purposes of contributions to the social security system, work will be considered as if completed full time.⁴⁰⁶

In **Hungary** unpaid leave of between 30 days and 2 years is available to care for relatives subject to medical certification that this is necessary.⁴⁰⁷ The term 'relative' covers spouses, direct descendants and ascendants, adopted, step and foster children, adoptive parents, stepparents, foster parents, siblings, and domestic partners, spouses of the direct descendants and ascendants, spouse's direct descendants and ascendants and siblings, and spouses of siblings.⁴⁰⁸ The employee is legally entitled to full-time leave, but the employer must be informed 15 days ahead in writing.⁴⁰⁹ The leave ends on the day determined by the medical certificate, or earlier if the employee wishes, but at least 30 days' notice must be given to the employer.⁴¹⁰ Leave may be taken part time if the employer agrees and care allowance may be available for the duration of unpaid leave from the State at a level of between 95 and 170 EUR depending upon the condition of the cared-for person. Those in receipt of care allowance may work for up to 4 hours daily.⁴¹¹ In addition, employees are entitled to indefinite leave of absence (unpaid) for personal or family reasons (the specific circumstances must be agreed upon with the employer)⁴¹² as well as to 2 days of paid leave on the death of a relative.⁴¹³

In **Germany**, prior to 1 January 2015, workers were entitled to work reduced hours (no fewer than 15 per week), by agreement with the employer, for up to 2 years to care for a close relative in need of home care.⁴¹⁴ Such arrangements did not attract any pay protection but did carry entitlement to an interest-free loan guaranteed by the State which allowed the employee's lower income to be topped up by a payment of 50 % of his or her reduced income, the loan being repaid after the home-care leave. These arrangements were rarely used by employees. Under the latest amendments,⁴¹⁵ employees taking (full-time or part-time) emergency care leave for up to 6 months to care for a close relative under the age of

404 Article 46(3) of the Workers' Statute.

405 Article 180(1) of the General Law of Social Security.

406 Article 180(3) of the General Law of Social Security.

407 Article 131 Labour Code.

408 Article 249(1)b Labour Code.

409 Article 133(1) Labour Code.

410 Article 133(2) Labour Code.

411 Article 40 – 44 Act III of 1993.

412 Article 55 (1) i Labour Code.

413 Article 55(1)f and 146(3)b Labour Code.

414 2008 Law on Home Care Leave (*Pflegezeitgesetz, PflZG*) Gesetz über die Pflegezeit (*Pflegezeitgesetz*) of 28 May 2008, Official Journal (*Bundesgesetzblatt BGBI*), part I p. 874, 896, <http://www.gesetze-im-internet.de/pflegezg/BJNR089600008.html> and the 2012 Law on Family Home Care Leave (*Familienpflegezeitgesetz, FamPflZG*) of 6 December 2011, Official Journal (*Bundesgesetzblatt BGBI*), part I p. 2564, <http://www.gesetze-im-internet.de/fpfzg/BJNR256410011.html>, both accessed 28 October 2015.

415 By the Statute on the Better Reconciliation of Family, Home Care and Work *Gesetz zur besseren Vereinbarkeit von Familie, Pflege und Beruf*.

18, or for up to 3 months to provide end-of-life care to a close relative, are entitled to 'home-care support benefit' as a means of earnings replacement benefits.

In **Italy** workers may take 3 additional days of leave per month to care for seriously disabled relatives⁴¹⁶ and those with seriously disabled cohabiting spouses may also take leave for up to 2 years off work either as a continuous period or in a number of shorter periods.⁴¹⁷ The legislation does not specify the modalities for taking such leave (full-time or part-time, the degree of family relationships covered etc.). Workers are, additionally, permitted to up to 3 days of paid leave per year in case of a death or serious illness. These days can be taken on the death or serious illness of a spouse or of another relative in the second degree, whether or not they lived or live with the worker, or of anybody who belongs to the registered family of the employee. Paid leave is paid by the employer rather than the State. Workers may, in addition, take up to 2 years of unpaid leave in their career for serious family reasons, which leave may be taken in a block or in fractions, subject to the employer's right to refuse for adequate organisational or productive reasons.⁴¹⁸

Shorter periods of leave are permitted in **France** where workers are entitled to a period of leave of 6 months to care for a child at the end of his or her life (see also **3.2.1** above). Such leave may be taken full time or part time.⁴¹⁹ The leave is unpaid, but the parent can benefit from a specific allowance of a maximum of EUR 51.05 per day (for a single parent). In addition, the worker is entitled to a maximum of 310 days, which can be taken in separate periods.⁴²⁰ Entitlement to a period of leave of 6 months also applies to care for a co-habiting spouse at the end of his or her life. The Labour Code explicitly provides that this leave can be taken in the form of part-time work, with the agreement of the employer.⁴²¹ The leave is unpaid but the worker is entitled to an allowance of EUR 55.15 per day for up to 21 days.

In **Austria** employees with caring obligations for terminally ill close relatives, or close relatives who are entitled to a regular care allowance, are entitled to take unpaid leave or to reduce their regular working hours/ pattern for up to 6 months.⁴²² In **Sweden** employees are entitled to take leave or to work reduced hours when caring for severely sick relatives.⁴²³ Such leave entitles employees to benefits for 100 days, or 240 days in the case of caring for a relative who has AIDS caused within the healthcare system.⁴²⁴

Shorter periods again are permitted in a number of states. In **Norway** employees are entitled to up to 60 days of leave to care at home for a terminally ill 'close person'.⁴²⁵ Employees also have the right to up to 10 days per calendar year to provide for necessary care of parents (biological, step-parents and foster parents), spouses, co-habitants or registered partners and adult disabled children.⁴²⁶ This may be taken as full-time or part-time leave. Workers in **Bulgaria** are entitled to 60 days per year to care for a sick child, or up to 10 days to care for a sick adult relative.⁴²⁷ The leave is paid at 70 % of the worker's average pay. And in **Lithuania** workers are entitled to leave, compensated by state benefits, to care for a

416 Article 33, Act 104/1992.

417 Who are not hospitalized, or who need continuous assistance in hospital.

418 Article 4, Act No. 53/2000 (implemented by Ministerial Decree of 21 July 2000, No. 278).

419 L.3142-16 Labour Code.

420 L.1225-62 – L.1225-65 Labour Code.

421 L.3142-16 Labour Code.

422 Articles 14a, 14b and 14c Work Contract Law Adaptation Act (*Arbeitsvertragsrechtsanpassungsgesetz*, AVRAG); the care allowance must at least reach level 3 which equals at least 120 hours of care requirements per month.

423 The Act on the right to leave for urgent family reasons (1998:209); the Act on leave for the care of relatives, 1988:1465.

424 Chapter 47 SSC.

425 Working Environment Act 17 June 2005 No. 62 (WEA) §12-9. A 'close person' is a biologically related person, or other person who has been living in the household. For instance this includes step-children, a foster parent/child, or a person that you for other reasons have close ties to and can also document that you are a primary care giver. Very often the National Insurance System will provide financial support under these circumstances and the employer will on that basis grant the leave.

426 WEA Section 12-9 (3).

427 Article 162 Labour Code and Arts 40-45 of the Code on Social Insurance, adopted by SG No. 110/99, in force since 1 January 2000, last amended by SG No. 22/2015, full Bulgarian version available at: <http://lex.bg/laws/ldoc/1597824512>, accessed on 4 May 2015.

spouse, child, mother, or father.⁴²⁸ The available period of leave is 7 days, except when the leave is used for the care of a very sick or hospitalised child, in which case the worker is entitled to take leave for up to 120 days per calendar year.

Employees in the **Netherlands** are entitled to a maximum of 10 days of care leave (*pro rata* for part-time employees) to care for a sick parent or partner.⁴²⁹ During this period employees receive payment of up to 70 % of their normal salary, paid by the employer,⁴³⁰ employers being permitted to refuse short-term care leave only if the employee's absence would result in serious problems for the company or organisation. Such leave may be taken full time or part time at the choice of the employee. Employees may also request longer-term unpaid leave (a maximum of half of their working hours over a 12-week period)⁴³¹ to take care of a close relative or dependent (a child, parent or partner, brother, sister, grandparent, grandchild, roommate or other person who is dependent upon the help of the employee.⁴³² Again, the employer is only allowed to refuse a long-term care leave if the employee's absence would result in serious problems for the company or organisation, and is not permitted to determine the actual need for care relied upon by the employee. Such leave may only be taken on a part-time basis.

Workers in **Portugal** are entitled to up to 30 days of 'grandparents leave' to assist a minor daughter who has given birth and her child,⁴³³ as well as to emergency dependents' leave of up to 15 days of leave per year.⁴³⁴ Such leaves may generally be taken part time or full time at the worker's will but are unpaid and in general do not carry any right to social security payments. And in **Greece** public sector workers are entitled to 22 paid working days of leave per year⁴³⁵ to care for a child or spouse who requires regular blood transfusions or periodic hospitalisation. This leave can also be taken to care for a child suffering from a serious mental handicap such as Down's Syndrome and private sector workers are entitled to up to 6 unpaid days of leave per year, non-transferable, to care for sick dependents.

In **Croatia** workers are entitled to leave to take care of ill spouses or adult children for up to 20 days per illness with leave being taken on a full-time basis.⁴³⁶ The leave is paid at 70 % salary capped at EUR 561 per month with employers being refunded by the State.⁴³⁷ In **Slovenia** workers are entitled to full-time care leave of up to 14 days to care for close family members, which may be extended in exceptional cases of serious disease and hospitalisation.⁴³⁸ During such leave, which must be taken full time, workers are entitled to 80 % of average salary in the 12 months immediately prior to the date on which payment is claimed. And in the **Czech Republic** employees are entitled to leave if this is necessary to care for a sick family member,⁴³⁹ in which case sickness benefit at 60 % of wages is available for 9 days.⁴⁴⁰

In **Finland**, in addition to being required to provide emergency dependent leave as required by Clause 7 for compelling and unexpected family reasons,⁴⁴¹ employers must also 'attempt to arrange work so that the employee may be absent from work for a certain time' to care for a family member or other intimate person where longer-term leave is required. The national expert reports, however, that this 'cannot be seen as [a] justiciable ... right' of the employee. In **Estonia**, although there is no legal right to leave for

428 Law on Sickness and Maternity State Social Insurance, Law of 21 December 2000, State Gazette, 2000, No. 111-3574.

429 Article 5(1)& (2) Work and Care Act.

430 Article 5(6) Work and Care Act.

431 Article 5(10)(4) Work and Care Act.

432 Article 5(1) Work and Care Act.

433 Article 50 Labour Code.

434 Article 249 No. 1 e Article 252 Labour Code.

435 Article 50(2) & (3).

436 Salary is refunded to the employer by the Croatian Health Insurance Fund in respect of care leave taken by employees.

437 Article 39(1)(5) of the Compulsory Health Insurance Act *Zakon o obveznom zdravstvenom osiguranju*, *Narodne novine* Nos 80/13 and 137/13.

438 Article 30 of the Health Protection and Insurance Act, Official Gazette of the Republic of Slovenia, Nos 72/06-UPB3, 114/06, 91/07, 71/08, 76/08, 118/08, 47/10, 62/10, 87/11 and 40/12.

439 Section 191 Labour Code.

440 Sections 39-41 Act No. 187/2006 Coll., on sickness insurance.

441 Chapter 4 Section 7 Employment Contracts Act.

the care of older dependents, municipalities are responsible for making some payment (often no more than EUR 15-25 per month) to those caring for such dependents.

Table 12: Availability of Care Leaves other than Leaves Relating to Parenting

Country	Purpose(s) of leave	Maximum period of leave	Compensation?	Other relevant information
Austria	Care of disabled or terminally ill close relatives	Six months	No	Worker may instead reduce hours of work
Belgium	Care of young or disabled children or seriously ill relative	48 months over a career	State benefits	Private sector only, ¹ subject to 24 months' service and may be taken part-time ²
Bulgaria	Care of sick child, spouse or relative	Up to 60 days per year for a child, 10 for an adult	70 % pay	
Croatia	Care of ill relatives	20 days per illness	70 % of salary, capped	
Cyprus	No	Right to request	No	
Czech Republic	Care of family member	9 days	State benefits (60 % wages)	
Denmark	Care of disabled/terminally ill relative	6+ months	<u>Yes</u>	
Finland	Care of sick relative	Indefinite	Unpaid	Best practice rather than justiciable right
France	Care of a terminally ill child or spouse	Six months	State benefits available	May be taken part time
Germany	Care of close relative	Two years	State benefits available	May be taken part time
Greece	Care of child or spouse in hospital or requiring transfusions, or disabled child	22 days per year	Yes	Public sector workers only
	Care of sick dependents	6 days per year	No	
Hungary	Care of seriously ill or disabled person	Two years	State benefits may be available	Indefinite leave of absence also available
Ireland	Care of seriously ill or disabled person	104 weeks	<u>No</u>	Subject to one year of continuous service
Italy	Care of seriously disabled relatives	Three days per month	No	Details of the nature of such leave to be determined between employer and worker
	Care of seriously disabled spouse	Two years	No	
	Death or serious illness of a close relative	Three days per year	Yes	
	For serious family reasons	Two years over a career	No	

Country	Purpose(s) of leave	Maximum period of leave	Compensation?	Other relevant information
Lithuania	Care of sick child, relative or spouse	120 days per year for a severely ill child, 7 for an adult	State benefits	
The Netherlands	Care of ill parent or partner	10 days	Yes at 70 %	May be taken part time
	Care of close relative or dependent	12 weeks part-time work	No	Worker may reduce hours by up to 50 %
Norway	Care of terminally ill intimates	60 days	Yes, equal to sick leave pay (100 % salary)	May be taken part time
	Care of relatives	10 days per year	Yes, equal to sick leave pay (100 % salary)	May be taken part time
Portugal	Care of grandchild where mother is a minor	30 days	No	May be taken part time
	Care of dependents	10 days a year	No	May be taken part time
Slovenia	Care of close relatives	14 days, capable of extension	80 % salary	
Spain	Care of infirm relatives	One year	No	May be taken as reduced hours
Sweden	Care of severely ill relatives	100 days (240 where the relative has AIDS)	State benefits	

- Public sector workers may take up to 5 years' full-time and 5 years' part-time leave in a career, which may be used for any reason. Such leave is unpaid but entitles the worker to a low level of social security payment; this is paid at a higher level when the leave is used to care for an ill child. There is a proposal to bring the public sector in line with the private sector scheme, although without improving the level of social security payable to public sector workers.
- The 48 month maximum applies regardless of whether leave is taken full-time or part-time.

5.2 Conclusion

As is clear from the foregoing, there is a wide variety of practices across EU states not all of which provide any justiciable right to care leave beyond the parental and other leaves discussed in foregoing chapters. Where such leaves are granted they are typically designed to allow workers to care for very ill or disabled relatives, occasionally only for very close relatives such as spouses, children and/or parents. Their length varies very considerably from a few days to a couple of years. Care leaves are generally unpaid, though in a reasonable number of states some social security benefit is available to workers.

6 LEAVE, WORKING ARRANGEMENTS AND LABOUR-MARKET EQUALITY

6.1 Introduction

The foregoing chapters have considered access to part-time work and the length and transferability of parental leave and other types of leaves. As has been said a number of times, however, the extent to which workers in any particular state are enabled to balance their work, private, and family lives in fact depends on the combination of reconciliation devices available in that state. In this chapter an attempt is made to set out the position of states as regards two significant measures of gender equality – female labour-market participation and part-time work by women – in order to facilitate consideration of the possible impact on gender equality of the reconciliation measures considered in this report. The purpose of this chapter is to try to provide some basis for such consideration in light of the paucity of information available across most states as to uptake and impact of particular reconciliation measures.

6.2 Labour-market participation

The Eurostat tables which are set out below indicate the employment rates by sex and the extent of part-time work by men and women across the states surveyed. The figures are not always the same as those in the national reports because the methods of collection differ, but Eurostat is useful in allowing robust cross-country comparisons. (Note these tables do not include **Liechtenstein**, but do include **Switzerland**, the latter of which is not considered in this report).

Table 13: Eurostat employment rates by sex (%)⁴⁴²

	Total	Male	Female
Belgium	61.9 ^(b)	65.8 ^(b)	57.9 ^(b)
Bulgaria	61.0 ^(b)	63.9 ^(b)	58.2 ^(b)
Czech Republic	69.0 ^(b)	77.0 ^(b)	60.7 ^(b)
Denmark	72.8 ^(b)	75.8 ^(b)	69.8 ^(b)
Germany (until 1990 f	73.8 ^(b)	78.1 ^(b)	69.5 ^(b)
Estonia	69.6 ^(b)	73.0 ^(b)	66.3 ^(b)
Ireland	61.7 ^(b)	66.9 ^(b)	56.7 ^(b)
Greece	49.4 ^(b)	58.0 ^(b)	41.1 ^(b)
Spain	56.0 ^(b)	60.7 ^(b)	51.2 ^(b)
France	64.2 ^(b)	67.6 ^(b)	60.9 ^(b)
Croatia	54.6 ^(b)	59.1 ^(b)	50.0 ^(b)
Italy	55.7 ^(b)	64.7 ^(b)	46.8 ^(b)
Cyprus	62.1 ^(b)	66.0 ^(b)	58.6 ^(b)
Latvia	66.3 ^(b)	68.4 ^(b)	64.3 ^(b)
Lithuania	65.7 ^(b)	66.5 ^(b)	64.9 ^(b)
Luxembourg	66.6 ^(b)	72.6 ^(b)	60.5 ^(b)
Hungary	61.8 ^(b)	67.8 ^(b)	55.9 ^(b)
Malta	62.3 ^(b)	74.9 ^(b)	49.3 ^(b)
Netherlands	73.9 ^(b)	78.6 ^(b)	69.1 ^(b)
Austria	71.1 ^(b)	75.2 ^(b)	66.9 ^(b)
Poland	61.7 ^(b)	68.2 ^(b)	55.2 ^(b)
Portugal	62.6 ^(b)	65.8 ^(b)	59.6 ^(b)
Romania	61.0 ^(b)	68.7 ^(b)	53.3 ^(b)
Slovenia	63.9 ^(b)	67.5 ^(b)	60.0 ^(b)
Slovakia	61.0 ^(b)	67.6 ^(b)	54.3 ^(b)
Finland	68.7 ^(b)	69.5 ^(b)	68.0 ^(b)
Sweden	74.9 ^(b)	76.5 ^(b)	73.1 ^(b)
United Kingdom	71.9 ^(b)	76.8 ^(b)	67.1 ^(b)
Iceland	81.7 ^(b)	84.0 ^(b)	79.3 ^(b)
Norway	75.2 ^(b)	77.0 ^(b)	73.4 ^(b)
Switzerland	79.8 ^(b)	84.4 ^(b)	75.1 ^(b)

442 <http://ec.europa.eu/eurostat/web/employment-and-social-policy/equality/indicators-gender>, updated 29 May 2015, accessed 30 May 2015.

Employment rates vary for women from 41.1 % in **Greece** to 79.3 % in **Iceland**, with the equivalent rates for men being 58 and 84 % respectively. Below, the states considered in this report are ranked: from the state in which women's labour-market participation is highest, down to that in which it is the lowest. In the second column is a figure which represents, from high to low, women's labour-market participation relative to that of men, with the third column displaying the states in order of those with the highest level of female participation relative to that of male participation (**Lithuania**), to those states with the lowest (**Malta**).

Table 14: Labour-Market Participation⁴⁴³

State by Female Labour-Market Participation	Relative % Female Labour-Market Participation	Relative % Female Labour-Market Participation (= indicates equal ranking)
Iceland (79.3 %)	0.94	Lithuania
Norway (73.4 %)	0.95	Finland
Sweden (73.1 %)	0.96	Sweden
Denmark (69.8 %)	0.92	Norway
Germany (69.5 %)	0.89	Iceland
Netherlands (69.1 %)	0.88	Latvia
Finland (68.0 %)	0.98	Denmark
United Kingdom (67.1 %)	0.87	Estonia =
Austria (66.9 %)	0.89	= Portugal =
Estonia (66.3 %)	0.91	= Bulgaria
Lithuania (64.9 %)	0.98	France
Latvia (64.3 %)	0.94	Germany =
France (60.9 %)	0.90	= Austria =
Czech Republic (60.7 %)	0.79	= Slovenia =
Luxembourg (60.5 %)	0.83	= Cyprus
Slovenia (60.0 %)	0.89	Netherlands =
Portugal (59.6 %)	0.91	= Belgium
Cyprus (58.6 %)	0.89	United Kingdom
Bulgaria (58.2 %)	0.91	Ireland
Belgium (57.9 %)	0.88	Spain =
Ireland (56.7 %)	0.85	= Croatia
Hungary (55.9 %)	0.82	Luxembourg
Poland (55.2 %)	0.81	Hungary
Slovakia (54.3 %)	0.80	Poland
Romania (53.3 %)	0.78	Slovakia
Spain (51.2 %)	0.84	Czech Republic
Croatia (50.0 %)	0.84	Romania
Malta (49.3 %)	0.66	Italy
Italy (46.8 %)	0.72	Greece
Greece (41.1 %)	0.71	Malta

443 High to low.

Of the top 10 states ranked by (absolute) female labour-market participation rates, 6 also have the highest female labour-market participation rates relative to those of men (**Denmark, Estonia, Finland, Iceland, Norway, and Sweden**) while the remaining 5 are in the middle group of states as regards relative female labour-market participation rates. A stronger relationship is seen at the bottom of the table between women's absolute and relative labour-market participation rates – 8 of the bottom 10 countries are the same in columns 1 and 3 of table 14 (**Croatia, Greece, Hungary, Italy, Malta, Poland, Romania, and Slovakia**) with the remaining 2 countries of the lowest ranking for female labour-market participation (**Ireland and Spain**) just escaping the bottom 10 as regards relative female labour-market participation rates.

6.3 Part-time working arrangements

The following tables are concerned with the extent to which women (and men) work part time.

Table 15: Eurostat part-time employment as percentage of the total employment, by sex (%)⁴⁴⁴

	Total	Male	Female
Belgium	23.7	8.4	41.2
Bulgaria	2.5	2.2	2.8
Czech Republic	5.5	2.5	9.5
Denmark	24.6	15.2	35.0
Germany (until 1990 f	26.5	9.1	46.3
Estonia	8.3	5.7	11.2
Ireland	23.0	13.1	34.4
Greece	9.3	6.5	13.0
Spain	15.8	7.7	25.5
France	18.5	7.3	30.5
Croatia	5.3	4.2	6.7
Italy	18.1	7.8	32.1
Cyprus	13.5	10.3	16.8
Latvia	6.8	4.7	8.9
Lithuania	8.6	6.4	10.6
Luxembourg	18.5	4.7	35.6
Hungary	6.0	4.1	8.3
Malta	15.4	6.9	28.8
Netherlands	49.7	26.3	76.6
Austria	26.9	9.6	46.3
Poland	7.1	4.4	10.3
Portugal	10.1	7.6	12.6
Romania	8.7	8.2	9.5
Slovenia	10.0	6.8	13.7
Slovakia	5.1	3.7	6.8
Finland	14.1	9.2	19.3
Sweden	24.6	12.8	37.3
United Kingdom	25.3	11.2	41.3
Iceland	19.7	10.1	30.1
Norway	25.7	13.7	38.9
Switzerland	36.3	14.9	60.9

⁴⁴⁴ <http://ec.europa.eu/eurostat/web/employment-and-social-policy/equality/indicators-gender>, updated 29 May 2015, accessed 30 May 2015.

Table 16: Part Time (PT) Working Arrangements

State by % PT women workers	% PT women workers	State by relative % Female PT workers	Relative % Female PT workers
Netherlands	76.6	Luxembourg	7.6
Germany =	46.3	Germany	5.1
= Austria	46.3	Belgium	4.9
United Kingdom	41.3	Austria	4.8
Belgium	41.2	France =	4.2
Norway	38.9	= Malta	4.2
Sweden	37.3	Italy	4.1
Luxembourg	35.6	Czech Republic	3.8
Denmark	35.0	United Kingdom	3.7
Ireland	34.4	Spain	3.3
Italy	32.1	Iceland	3.0
France	30.5	Netherlands =	2.9
Iceland	30.1	= Sweden	2.9
Malta	28.8	Norway	2.8
Spain	25.5	Ireland	2.6
Finland	19.3	Denmark =	2.3
Cyprus	16.8	= Poland	2.3
Slovenia	13.7	Finland	2.1
Greece	13.0	Slovenia =	2.0
Portugal	12.6	= Greece =	2.0
Estonia	11.2	= Estonia =	2.0
Lithuania	10.6	= Hungary	2.0
Poland	10.3	Slovakia	1.8
Romania =	9.5	Latvia =	1.7
= Czech Republic	9.5	= Portugal=	1.7
Latvia	8.9	= Lithuania	1.7
Hungary	8.3	Cyprus =	1.6
Slovakia	6.8	= Croatia	1.6
Croatia	6.7	Bulgaria	1.3
Bulgaria	2.8	Romania	1.2

Austria, Belgium, Germany, Luxembourg and the **United Kingdom** all have both absolutely and relatively high proportions of female part-time workers (the latter relative to the number of male part-time workers). At the other end of the spectrum **Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania, Romania** and **Slovakia** have both absolutely and relatively low proportions of female part-time workers. And comparing this table with Table 11 it is evident that there is a high correlation between the extent of female part-time work and the degree of female labour-market participation; of the top 10 states ranked by female labour-market participation, 7 (**Austria, Denmark, Germany, the Netherlands, Norway, Sweden** and the **United Kingdom**.) were also in the top 10 states ranked by the rate of part-time work among women. There is also a relatively high correlation between low female participation rates and low rates of female part-time work, with **Croatia, Hungary, Poland, Romania**, and **Slovakia**

featuring in the bottom 10 countries for female labour-market participation (absolute and relative) and part-time work.

The recent comparative study by the UK's Institute of Public Policy Research was discussed in Chapter 2 above. The significance of this report's findings about the nature of part-time work cannot be over-stated: if and to the extent that part-time work is concentrated in occupations in which many of the workers are over-qualified, giving those workers access to part-time work in more skilled occupations (i.e. by allowing traditionally 'full-time jobs' to be done part time) is likely to make a significant difference to women's labour-market status, pay and prospects.

6.4 Conclusions

There is a relative paucity of information available as to the uptake of various reconciliation measures across the countries considered in this report, and a greater dearth of information about the impact of those measures on women's labour-market participation and other measures of labour-market equality. For this reason, it is useful to look at broader measures of labour-market equality in order to try to reach some conclusions about the usefulness of the reconciliation measures considered in this report for the pursuit of gender equality.

It is not possible to draw many conclusions from the information in this chapter. It is possible to say, however, that among those states which have the highest levels of female labour-market participation (both absolute and relative) are (Table 13) most of the Scandinavian states (**Denmark, Finland, Iceland, Norway** and **Sweden**). We have seen in earlier chapters of this report that the first 3 of these states are among the 'stand out' states as far as progressive approaches to parental leave are concerned (see **4.6**), with **Finland, Norway** and **Sweden** being notable for having relatively strong rights to reconciliation measures such as access to part-time working arrangements.

At the other end of the spectrum we see **Hungary, Poland** and **Romania**, where absolute and relative levels of female participation in the labour market are low, and where even part-time work by women is not especially prevalent. These states are characterised by significantly less flexibility as regards the length and organisation of working time, and much less emphasis on male uptake of child-related leave. As suggested in Chapter 2, this model is associated with a high cost in terms of the decline in labour-market desirability of the primary care giver and the lifetime impact on his or her earning capacity.

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