

# WORK-LIFE BALANCE DIRECTIVE: A FOCUS ON EARMARKED PARENTAL LEAVE

## Denmark as a case of best practice?

EU Gender Equality Law seminar, ERA

15 - 16 April 2024

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European pillar of social rights, 2017

Previous iterations of WLBD

Work-life balance directive, main provisions and leave take-up before the directive

Case of Denmark before the WLBD was adopted

Case of Denmark after the WLBD was adopted

Lessons for other countries



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1. Equal opportunities & access to the labour market	1: Education	Soft Law	Soft law
	2: Gender equality	Soft & Hard law	Soft & Hard law (new)
	3: Equal opportunities	Soft law	Soft & Hard law
	4: Active support to employment	Soft Law	Soft law
2. Fair working conditions <i>Participation in labour market (LABOUR MARKETS)</i>	5: Secure and adaptable employment	Hard law	Hard law (revision)
	6: Wages (directive on min wages)	-	Hard law (new)
	7: Information about employment conditions and protection in case of dismissals	Hard law	Hard law (revision)
	8: Social dialogue and involvement of workers	Social partner inclusion in hard law (directives)	Social partner inclusion in hard law (directives)
	9: Work life balance (WLBD)	Hard law	Hard law (revision)
	10: Health, safe and well-adapted work environment and data protection	Hard law	Hard law (revision)
3. Social protection and inclusion <i>Re-distribution/social contingencies (WELFARE STATES)</i>	11: Children and support to children	Soft law	Soft law*
	12: Social protection	-	Soft law (Council recommendation)
	13: Unemployment benefits	-	-
	14: Minimum income	-	-
	15: Old age income and pensions	Soft law	-
	16: Health care	Soft law	Soft law
	17: Inclusion of people with disabilities.	-	Soft law
	18: Long-term care	Soft law	-
	19: Housing and assistance for the homeless	Soft law	Soft law
	20: Access to essential services	-	-

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## Work-life balance directive (2019): Father-specific leave

	Proposal in 1983	Framework directive on parental leave in 1996	Framework directive on parental leave in 2010	Work-life balance directive in 2019
<b>Paternity leave</b>				
<b>Duration</b>	No stipulation	No stipulation	No stipulation	>= 10 days
<b>Remuneration</b>	No stipulation	No stipulation	No stipulation	At least at level of sick pay
<b>Parental leave</b>				
<b>Duration</b>	>= 3 months	>= 3 months	>= 4 months	>= 4 months
<b>Remuneration</b>	Optional	No specification	Optional	<b>Mandatory</b>
<b>Reservation</b>	3 months	In principle	1 month (unpaid)	<b>2 months (paid)</b>

- **Paternity leave** 'should be taken around the time of the birth of the child and should be clearly linked to the birth for the purposes of providing care'
- **Requirement on compensation** 'payment or allowance (...) at least equivalent to the level of national sick pay'
- **Political Intention** '(...)allowance for paternity leave that is equal to the payment or allowance provided for maternity leave at national level.'
- **(Reserved) Parental leave** 'As most fathers do not avail themselves of their right to parental leave (...) this Directive extends from one to **two months the minimum period of parental leave which cannot be transferred from one parent to the other**'
- **Requirement on compensation** 'Member States should set the payment or allowance for the minimum non-transferable period of parental leave guaranteed under this Directive at an adequate level'
- **Political Intention** 'Member States should take into account that the take-up of parental leave often results in a loss of income for the family and that **first earners in a family are able to make use of their right to parental leave only if it is sufficiently well remunerated**, with a view to allowing for a decent living standard.'

## Work-life balance directive (WLBD) in the EU (2019)

- "The lack of paid paternity and parental leave in many member states contributes to the low take-up of leave by fathers"
- "the use of work-life balance arrangements by fathers, such as leave or flexible working arrangements, has been shown to have a positive impact in reducing the relative amount of unpaid family work undertaken by women and leaving them more time for paid employment"
- "Member states that provide a significant portion of parental leave to fathers and that that pay the worker a payment or allowance during that leave at a relatively high replacement rate, experience a higher take-up rate by fathers and a positive trend in the rate of employment of mothers."



## The main provisions of the WLBD (with a focus on leave)

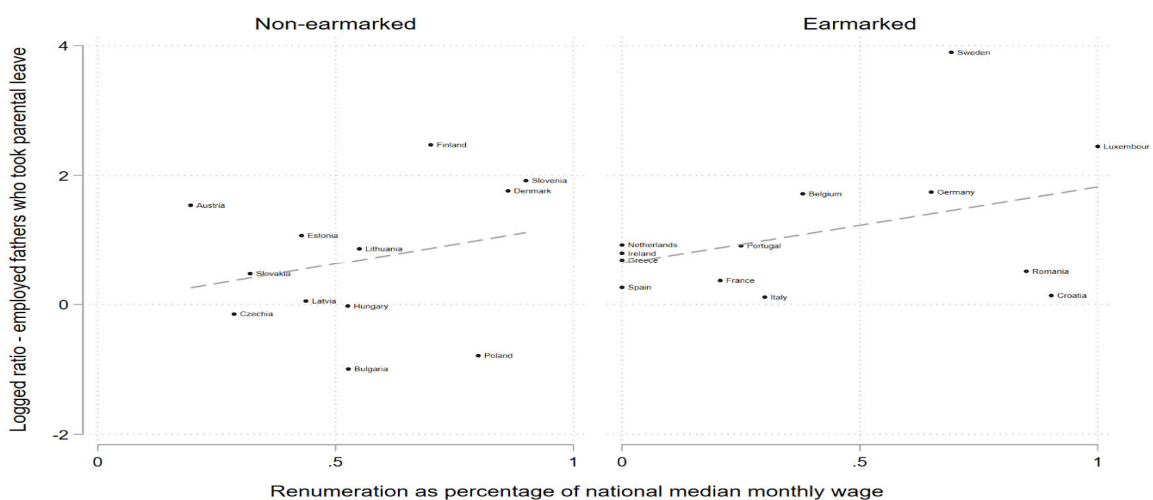
- **Paternity leave:** 10 days
- **Compensation:** Paid at least at level of sick pay
- No length of service requirement
- **Parental leave:** 4 months of leave, of which 2 months of earmarked leave per parent
- **Level of compensation during parental leave:** 'Member States should set the payment or allowance for the minimum non-transferable period of parental leave guaranteed under this Directive at an adequate level (...) Member States should take into account that the take-up of parental leave often results in a loss of income for the family and that first earners in a family are able to make use of their right to parental leave only if it is sufficiently well remunerated, with a view to allowing for a decent living standard.'
- Length of service up to one year
- 5 carer days per worker/year – pay not specified (But encouraged)
- Flexible work arrangements
- NB – the directive has an inclusive notion of 'parent', i.e. article 3 on definitions

1a. father '....or, where and insofar as recognised by national law, for equivalent second parents, on the occasion of the birth of a child for the purposes of providing care; and

1e. 'relative' means a worker's son, daughter, mother, father, spouse or, where such partnerships are recognised by national law, partner in civil partnership;



## Take-up of parental leave among eligible fathers (EU LFS ad-hoc module, 2018) before the WLBD



Ratio is number of employed fathers with children who have taken parental leave divided by the sum of fathers with children who have and have not taken parental leave.



## Ensuring take-up of rights: the missing link

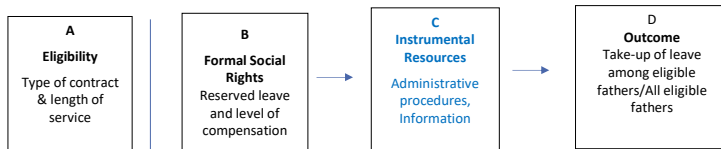
### Pre-existing explanations (for take-up or non take-up of leave among fathers)

Gender roles and stereotypes – but fails to explain inter-country variation

A. *Eligibility* – i.e. labour market contract, length of service requirements – but we only consider eligible fathers

#### Starting point:

B. *Formal social rights* - Length of leave, Earmarking of leave, Types of leave (maternity, paternity and parental leaves, child-care leaves), level of compensation/generosity (payment)



C. *Reference to instrumental resources in WLBD*: ‘Member States shall ensure that the national measures transposing this Directive (...) are brought to the attention of workers and employers, including employers that are SMEs, by all appropriate means throughout their territory.’ (OJEU, §18).

- ‘instrumental resources’ are hardly theorized or documented in the literature on parental leave

D. *Outcome*: Will be interesting to see the data in 2-4 years. In DK change from 25 % -50% eligible fathers taking 11 weeks of leave.

## Negotiations on the WLBD at EU level (until 2019)

- WLBD first proposed in 2017

#### Political parties

- Danmark voted against the WLBD in the Council
- Iseeu: 4 months earmarked per parent & minimum level of compensation: sickness benefits)
- Majority centre-right leaning government (Lars Løkke Rasmussen, 2016-2019) was against earmarked leave
- The **value-based opposition (i.e. gender conservative values)** was strong among the right-of-centre parties (conservatives, liberal alliance, as well as Danish people’s party)
- Mette Frederiksen (SD, then in opposition): Earmarked leave is a good idea, but ‘not from the EU’ (**subsidiarity argument**)
- In a nutshell: in 2017, all parties - except the socialist people’s party and the social liberals – were against the directive

#### Social partners

- Employer organisations: against more regulation
- Trade unions: against more regulation, as it could undermine the ‘danish labour market model’

Concerns about **subsidiarity** and about **gender values** were dominating the debate and the positions in Denmark until 2019

## After the directive was adopted (2019)

### Political parties

- Minority social-democratic government (2019-2022) under PM Mette Frederiksen, was against earmarked leave, until the WLBD was adopted in 2019
- Minister of Equality, Mogens Jensen, 2019: Danmark should ask for an exemption, not to implement earmarked leave (later retracted)
- Thereafter - Change of positions across political spectrum (except conservatives and far right), prompted by the WLBD
- The liberal party (Venstre) develops a new narrative about being a 'modern' party – supports earmarked leave
- Social-democrats - argue that more can be done to support gender equality (including earmarked parental leave)

### Social partners

- After the adoption of the WLBD, the social partners were active to ensure full implementation (de jure and de facto), but also to consider the compensation for leave.
- The statutory rate (without collective bargaining coverage) is at the level of unemployment benefit (ca 3,000 euros/month before tax)
- **Danish Industry (DI):** Early support of earmarked leave, after it was clear it would be adopted
- **Fagbevægelsens Hovedorganisation (unions):** worked for topping up unemployment benefit level to 8 weeks with full compensation
- Social partners were pro-active in implementation phase

## Implementation Denmark 1

### 1. 10/2021 – Political agreement on earmarked leave builds on the proposal developed by DA og FH

- 11 weeks leave earmarked for each parent; Compensation: unemployment benefit leave (and top up for those covered by collective bargaining)

### 2. Until 01/2022 – Hearing process gathering different perspectives

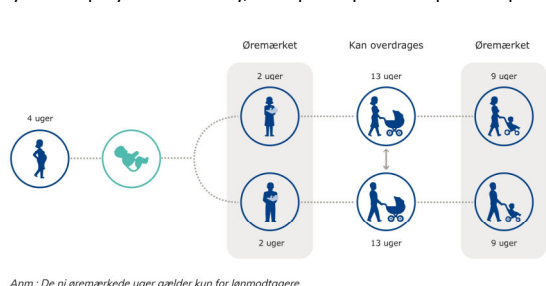
- Issues highlighted: **communication and information for citizens**, in particular:

**Definitions around 'leave'** as well as

**Necessity to have simple procedures** to ensure that all workers have access to leave irrespective of background (but excluding self-employed)

The aim is to use the WLBD implementation as an opportunity to improve the pre-existing system

### 3. Technical implementation is led by the Employment ministry, with participation of political parties and social partners



## Implementation Denmark 2

### New issues brought to agenda during technical implementation

Gender equality was a priority for the left-of-centre parties

- **Red-green alliance, social liberals and partly Social-democrats**

### New decisions that are included:

- 24/24 model
- LGBTQ+ (4 possible parents)
- Foster parents
- Single parents – possibility to share leave with close family member (grandparents or other family members)

### Excluded

- Self-employed

### The law entered into force in July 2022

**Post-scriptum: Twins:** in addition to 11 weeks/parent and 13 for sharing – 13 weeks earmarked for each parent (enters into force May 2024)



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## Leave in DK after the WLBD

- Baseline-model 24/24, of which 11 weeks are earmarked (including 2 weeks of paternity leave).
- Of the 9 earmarked weeks, 8 are with full compensation for those covered by collective bargaining
- The overall length of leave is the same as previously (48 + 4 weeks for mother before child-birth), and therefore, there are no extra costs for employers
- The distribution of leave is different, i.e. fathers more involved
- Use of 11 weeks by fathers/second carers has changed from **26,3 % pre-directive to ca. 50% post-directive while mothers/primary parents take 4,2 weeks less leave**
- **Ca 28% of fathers take only 10 days of paternity leave (previously ca. 50%)**

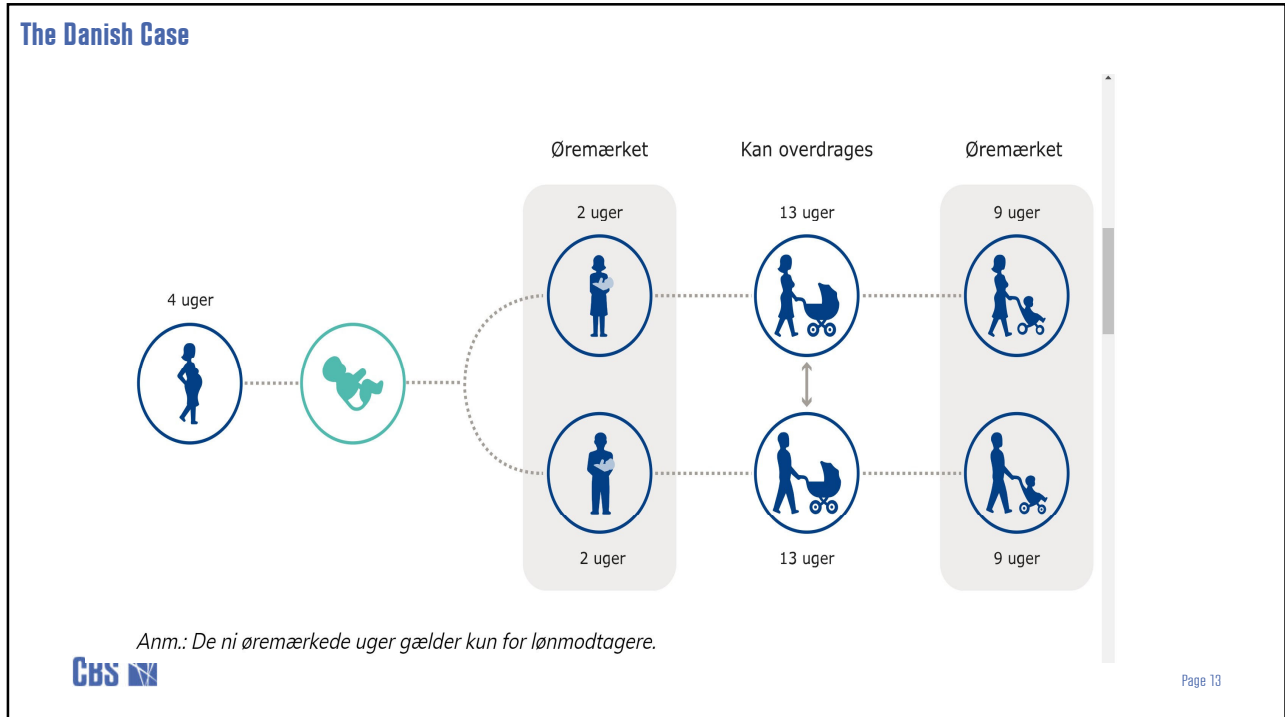


## Ownership of WLBD is high

- Municipalities – daddy groups
- High commitment to communication of new rights, especially unions
- **Aim to simplify and consolidate pre-existing system** (all actors)
- **Digital planning tool** for parents to plan their leave and to be familiar with their rights. The digital planning tool is integrated with the digital application procedure
- In the planning & application procedure, the complexity is tackled ex-ante rather than leaving it to parents
- Targeted Information (role-playing, videos, etc) launched by unions, especially in sectors with low levels of participation amongst fathers (f. ex construction)

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### From the planning instrument on borger.dk

#### Vælg jeres familiesammensætning

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- 
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←


#### Vælg et udgangspunkt for fordelingen af orloven

Fordelingen kan justeres senere i barselsplanen.

Fordeling

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## Contrast with Poland: one of the other case countries

### Formal social rights before the WLBD

- Long, gendered (financial incentives) and well-compensated leave, used mainly by women

### Formal social rights after WLBD

- 2 extra months (9 weeks) on the top of existing leave (thus to avoid women's use of leave to be altered).
- But - Payment harmonized (70% of salary)
- Exclusion LGBTQ+
- It was implemented *after the transposition deadline*

### Instrumental resources

Administrative procedures – highly complex

- new forms and administrative procedures for application have not been developed yet (confusion around the transition phase)
- No plans for a serious campaign

Information:

- If any – treating father's entitlement to emphasise separate gender roles

### Preliminary data on outcome

- Men take more leave, but during holidays (and not generalized like in DK)



## Concluding remarks

- To ensure take-up of rights, several factors (each is a necessary but not sufficient conditions) need to be present together

- 1) Policy design – earmarked leave (use it or lose it) and high compensation
- 2) Level of digitalization of public administration
- 3) Information to all workers via HR /union representatives
- 4) Digital planning instrument (Constructed without preliminary bias about which parents takes most leave)
- 5) High integration of planning tool with application procedure (and integration of social right with labour market right)



## Articles published on the WLBD in the EUSocialCit project

Article #1: C. de la Porte, T. Larsen and D. Szelewa (2020), A gender equalizing regulatory welfare state? Enacting the –EU’s work-life balance directive in Denmark and Poland, <https://journals.sagepub.com/doi/pdf/10.1177/0002716220956910>

Article #2: B. Pircher, C. de la Porte & D. Szelewa (2023), Actors, costs and values: the implementation of the Work-Life Balance Directive, *West European Politics*: [10.1080/01402382.2023.2181504](https://doi.org/10.1080/01402382.2023.2181504)

Article #3: C. de la Porte, Z. Im, B. Pircher, & D. Szelewa (2023), The EU's work-life balance directive: Institutional change of father-specific leave across member states. *Social Policy & Administration*: <https://doi.org/10.1111/spol.12920>

Article #4: de la Porte, C., Im, Z., Pircher, B., Ramos Martin, N., & Szelewa, D. (2023). An examination of ‘instrumental resources’ in earmarked parental leave: The case of the work–life balance directive. *Journal of European Social Policy*, 33(5), 525-539. <https://doi.org/10.1177/09589287231207557>

Article # 5: Z. Im, T. Larsen and B. Pircher (2023) European Social Dialogues: Shaping EU social policy through parental leave rights. *ILRR Review*

Deliverable (2022) <https://zenodo.org/record/7534047#.ZEEHcXZBzD4>

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