

# EU Gender Equality Law

## Work-life Balance: Directive 2019/1158 On Work-life Balance For Parents And Carers

Tsveta Popova, PhD

Chief Assist. Prof. at Labor and Social Security law Department  
Law Faculty, Sofia University "St. Kliment Ohridski"



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## EU framework of family leave

- Directive 89/391/EEC** on the introduction of measures to encourage improvements in the safety and health of workers at work;
- Directive 92/85/EEC** - safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding;
- Parental Leave Directive 96/34/EEC** (not in force);
- The 2010 Parental Leave Directive 2010/18** (not in force);
- Maternity Leave Directive 2010/41/EEC;**
- Work-life Balance Directive 2019/1158/EEC**

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## **Maternity Directive 92/85/EEC**

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- ✓ Pregnant/recently given birth or who are breastfeeding - specific risk group;
- ✓ Measures for safety and health work conditions;
- ✓ Employer assesses risks; takes proper measures, incl. leave; gives information to employee;
- ✓ Prohibited exposure – agents, listed in Annex II;
- ✓ Night work – not obligatory, possible measures;
- ✓ Maternity leave - continuous period of at least 14 weeks, at least 2 weeks are compulsory, paid at least equal to sick leave;
- ✓ Prohibition of dismissal;
- ✓ New employment rights;
- ✓ Defence of rights.

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## **Parental Leave Directive 96/34/EC - 1**

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- ✓ Goals:
  - encourage men to assume an equal share of family responsibilities;
  - setting out requirements for parental leave, distinct from maternity leave;
- ✓ Broader scope:
  - Applies to all workers – men and women;
  - Leave on the grounds of birth or adoption;
- ✓ New rights:
  - Parental leave – 3 months/each parent;
  - Time off from work in urgent family reasons;
  - Protection against dismissal on the grounds of an application for, or the taking of, parental leave.

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## Parental Leave Directive 96/34/EC - 2

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✓ Parental leave:

- promote equal opportunities and equal treatment by granting a leave on a non-transferable basis;
- conditions and notice period for applying by the employee;
- postpone granting of parental leave by the employer for justifiable reason;
- condition of max. 1 year length of service;
- right to return to the same job;
- rights acquired or in the process of being acquired are preserved at the end of the parental leave.

✓ Not in force.

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## Parental Leave Directive 2010/18 - 1

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- ✓ Repeals Parental Leave Directive 96/34 which failed to improve the reconciliation of work, private and family life for working parents and equality between men and women in labour market opportunities;
- ✓ Parental leave as an individual right, non-transferable;
- ✓ Goals:
  - Increase women's employment rates;
  - Increase level of income during parental leave – important for fathers.
- ✓ Broader scope:
  - Incl. employees in a temporary agency;

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## Parental Leave Directive 2010/18 - 2

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✓New rights:

- Parental leave for minimum 4 months, 1 month - non-transferable;
- Adapted parental leave for parents with children with disabilities or long-term illness;
- To request changes in working hours and/or patterns for a set period of time when returning from parental leave;

✓Not in force.

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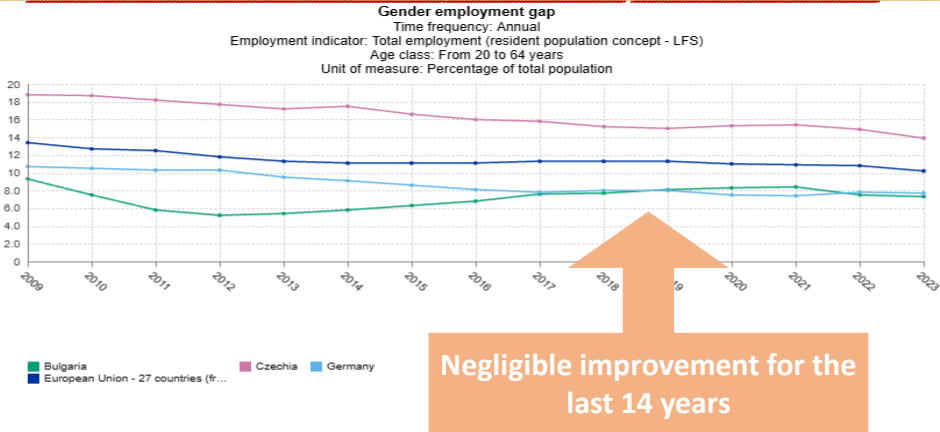
## Directive 2010/41/EEC

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**Directive 2010/41/EEC** mirrored the rights for employees under the Maternity Leave Directive for self-employed persons - female spouses and life partners of self-employed persons.

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# What was achieved? The numbers behind the rules – gender employment gap.



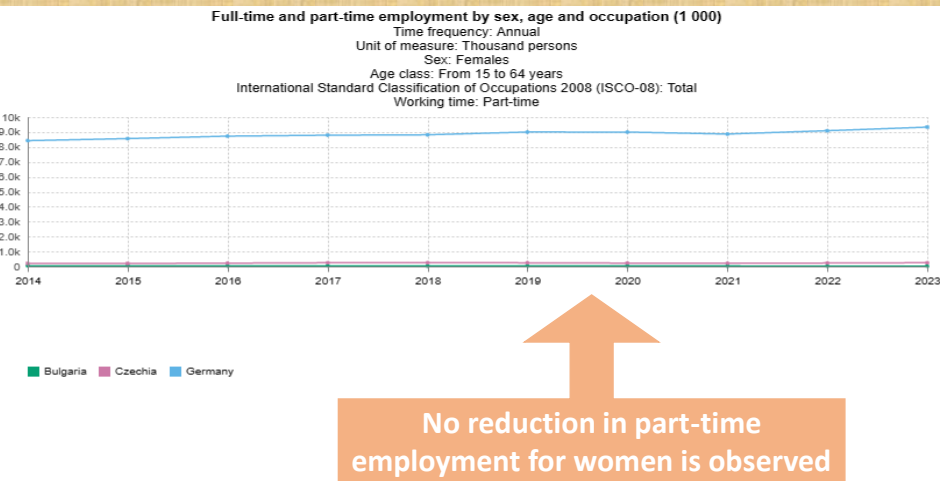
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# What was achieved? The numbers behind the rules – part-time employment



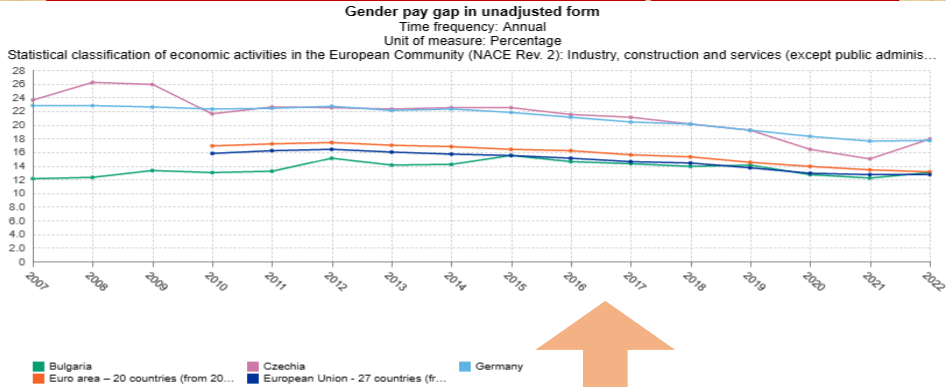
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# What was achieved? The numbers behind the rules – gender pay gap.



Gender pay gap is gradually getting reduced in most countries except for Bulgaria

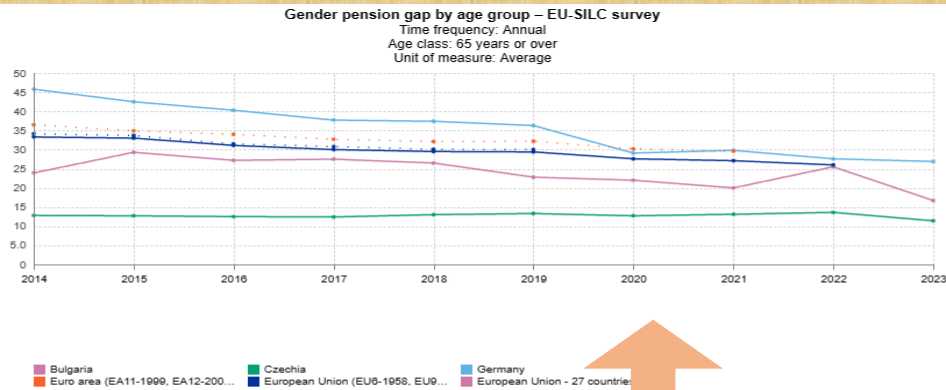
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# What was achieved? The numbers behind the rules – gender pension gap.



Overall positive trend  
 Significant reduction in Germany

Source of data: Eurostat (online data code: ilc\_pnp13)  
 Last update: 16/05/2024 23:00

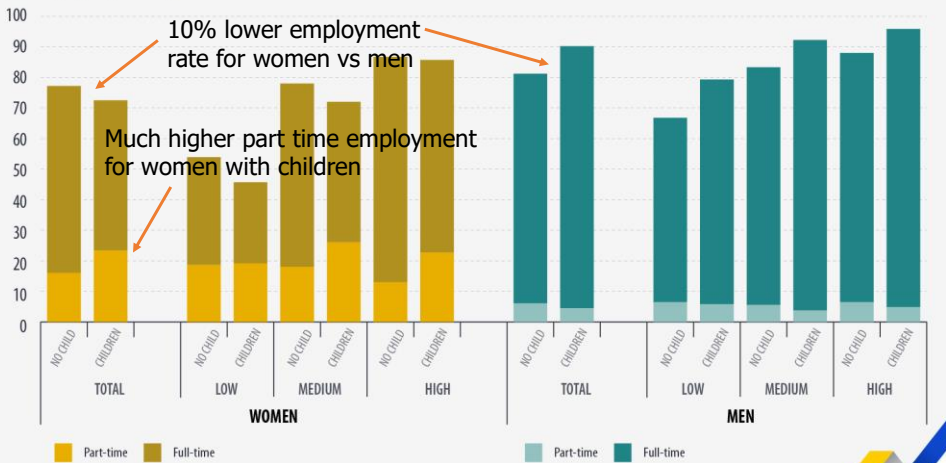
This graph has been created automatically by ESTAT/EC software according to external user specifications for which ESTAT/EC is not responsible.  
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## What was achieved? The numbers for parents' employment for 2021.

Employment rate of women and men with and without children by educational attainment level and by working pattern, EU, 2021  
(in % of people aged 25-54)



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## Work-life Balance Directive 2019/1158/EEC - goals

- ✓ Fight against:
  - decreasing of women's employment;
  - increase of part-time work and dropping out of the labor market when women take caring responsibilities;
  - gender stereotypes relating to women's occupations and role as carers.
- ✓ Strengthen gender equality by giving rights to fathers;
- ✓ Attract fathers to use parental leave - more flexible and well paid;
- ✓ Early creation of a bond between father and child;
- ✓ Create right to adopt work schedules to the personal needs and preferences of the carers.

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## **Work-life Balance Directive 2019/1158/EEC - 1**

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- ✓ Broader scope:
  - All workers in employment relationship according to Member state law, practice, collective agreements (Art. 2), not to self-employed;
  - Applies to carers not only to parents;
  - National legislation defines who is father or equivalent second parent;

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## **Work-life Balance Directive 2019/1158/EEC - 2**

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- ✓ New rights:
  - Paternity leave – equivalent to maternity leave status;
  - Paternity paid leave for childbirth;
  - 2 months paid non-transferable parental leave;
  - Carers' leave;
  - To request flexible working arrangements.

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## Directive 2019/1158 Paternity leave

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- ✓ Starts early – around birth (Art. 4);
- ✓ 10 working days;
- ✓ Flexible uptake;
- ✓ Not obligatory right;
- ✓ Employer can not refuse or postpone it;
- ✓ Payment (Art. 8):
  - minimum equivalent in case of sick leave;
  - may be subject to max. 6 months employment period.

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## Directive 2019/1158 Parental leave- Art. 5

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- ✓ 4 months for each parent for each child up to 8 years - Art. 5 (1);
- ✓ 2 months non-transferable - Art. 5, (2);
- ✓ Flexible uptake with reasonable notice period;
- ✓ May be subject to max. 1 year length of service;
- ✓ Member State can establish the employer's right to postpone/refuse it and the reasons;
- ✓ Adequate payment, Member state defines the amount - Art. 8 (3), Recitals 29 and 31:
  - ensures a decent living;
  - facilitates the take-up of parental leave by both parents.

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## **Directive 2019/1158 Carers' leave - Art. 6**

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- ✓ Goal – to be adequate to the ageing population situation;
- ✓ Scope – worker (men/women) who provide personal care or support to a relative/ person living in their household in need of significant care or support for a serious medical reason;
- ✓ Defines the relative – Art. 3 (1) e);
- ✓ 5 working days per year - Art. 6 (1);
- ✓ Allows a Member State to:
  - require prior medical certification;
  - allocate carers' leave on the basis of a reference period other than a year, per person in need of care/per case;
  - define the period that can be taken;
- ✓ Can not be postponed/refused by the employer;
- ✓ Not paid.

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## **Directive 2019/1158 Time off in force majeure - Art. 7**

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- ✓ Repeats the right regulated in Clause 3 Directive 96/34 Clause 7 Directive 2010/18;
- ✓ Scope – worker (men/women) for urgent family reasons
- ✓ Force majeure - illness or accident making the immediate attendance of the worker indispensable;
- ✓ Allows a Member State to limit the right to:
  - certain amount days per year or by case;
- ✓ Can not be postponed/refused by the employer.

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## Directive 2019/1158 flexible working arrangements - Art. 9

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- ✓ A right for a parent with a child under 8 years and for carers’;
- ✓ The change concerns working hours reduction, telework, etc. – recital 34;
- ✓ A right to request, not to receive;
- ✓ Employer must:
  - respond within a reasonable period of time;
  - provide reasons for postponement or refusal.
- ✓ Worker has the right to return to the original working pattern:
  - at the end of the agreed period;
  - or in case of a change to the underlying circumstances – under employer’s consideration.
- ✓ Member State may subject:
  - the duration of the arrangements to a reasonable limitation;
  - to a period of max. 6 months length of service.

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## Directive 2019/1158 ancillary protection- Art. 10-16

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- Applicable to all leaves – paternity, maternity, parental, carers’;
- Goal - effective use of rights, provided by the Directive;
- ✓ Right to return to the same/equivalent job when the leave ends – Art. 10;
  - ✓ Right not to be discriminated on the grounds of application or taking leave or time off in force majeure or flexible arrangements – Art. 11;
  - ✓ Dismissal/preparation for dismissal are prohibited – Art. 12
    - Employer obligation to provide reasons for dismissal in written if worker considers that the reason is an exercise of right as per the Directive;
    - Burden of a proof to the employer.
  - ✓ The existing gender equality bodies deal with discrimination issues under Directive 2019/1158 – art. 15.

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## Directive 2019/1158 transposition

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- ✓ Transposition in 3 years (by 2 Aug 2022) with additional 2 years for 2-weeks paid parental leave – Art. 20 (1) and (2);
- ✓ Steps on the rights that already exist - Art. 20 (6);
- ✓ When the rights at national level are above the minimum standards provided in Directive 2019/1158 or in Directive 92/85, rights no need to be changed or renamed (Art. 21 (6), Rec. 49);
- ✓ Exception to the minimum requirements for payment of the paternity leave – if national legislation already ensures a payment or an allowance of at least 65 % of the worker's net wage (may be subject to a ceiling) for at least six months of parental leave for each parent.

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## Directive 2019/1158 Member States and the model of Bulgaria

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- ✓ Length of Maternity leave:
  - maternity leave close to the Directive (14 - 18 weeks);
  - More (20-28 weeks);
  - Generous – 30 - 39 weeks. Bulgaria – 410 days paid.
- ✓ Right can be transferred:
  - Do not allow mothers to transfer leave to fathers;
  - Allow a part of leave to be transferred – Bulgaria.
- ✓ Who is using parental leave:
  - Parental leave used by both parents;
  - Parental leave predominantly used by mothers – Bulgaria.

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## **Directive 2019/1158 – are these measures going to strengthen gender equality?**

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- ✓ More flexible rights;
- ✓ More rights, reserved only for fathers;
- ✓ Mandatory days in leave for fathers;
- ✓ Well-paid leaves for fathers;
- ✓ Ancillary protection not only for mothers:
  - Right not to be discriminated;
  - Dismissal prohibition.

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THANK YOU!

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