

# Maternity leave provisions in the EU Member States: Duration and allowances







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When citing this report, please use the following wording:

Eurofound (2015), *Maternity leave provisions in the EU Member States: Duration and allowances*, Publications Office of the European Union, Luxembourg.

**Authors:** Christine Aumayr-Pintar, with contributions from Jorge Cabrita, Karel Fric and Yolanda Torres-Revenga

**Eurofound project:** Stakeholder enquiry service

Luxembourg: Publications Office of the European Union, 2015

doi:10.2806/63769

ISBN: 978-92-897-1382-5

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European Foundation for the Improvement of Living and Working Conditions

Telephone (+353 1) 204 31 00

Email: [information@eurofound.europa.eu](mailto:information@eurofound.europa.eu)

Web: [www.eurofound.europa.eu](http://www.eurofound.europa.eu)

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## Country codes EU28

<b>AT</b>	Austria	<b>IE</b>	Ireland
<b>BE</b>	Belgium	<b>IT</b>	Italy
<b>BG</b>	Bulgaria	<b>LT</b>	Lithuania
<b>CY</b>	Cyprus	<b>LU</b>	Luxembourg
<b>CZ</b>	Czech Republic	<b>LV</b>	Latvia
<b>DE</b>	Germany	<b>MT</b>	Malta
<b>DK</b>	Denmark	<b>NL</b>	Netherlands
<b>EE</b>	Estonia	<b>PL</b>	Poland
<b>EL</b>	Greece	<b>PT</b>	Portugal
<b>ES</b>	Spain	<b>RO</b>	Romania
<b>FI</b>	Finland	<b>SE</b>	Sweden
<b>FR</b>	France	<b>SI</b>	Slovenia
<b>HR</b>	Croatia	<b>SK</b>	Slovakia
<b>HU</b>	Hungary	<b>UK</b>	United Kingdom

## Introduction

The Committee on Women's Rights and Gender Equality of the European Parliament (FEMM) asked Eurofound to conduct a study on national regulations regarding maternity leave against the background of the possible revision of the Maternity Leave Directive (92/85/EEC). Eurofound accepted the FEMM Committee's request within its 'Stakeholder enquiry service' and drew upon recent information provided by its **Network of European correspondents**.

It is important to note, in this regard, that the scope of the terms used regarding 'maternity leave' in national systems is rather different. While some Member States distinguish explicitly between pregnancy leave and maternity leave (exclusively reserved for mothers) and later on between maternity leave and parental leave (which can be shared between both parents), other Member States use one overall term and regulation for leave that can be used by both parents (albeit with certain periods reserved for either parent). In addition, several Member States also have periods of paternity leave, which are exclusively reserved for the father (see Eurofound, 2015).

Against the background of the scope of the Maternity Leave Directive 92/85/EEC, this study is primarily interested in the part of leave which is related to women in employment – in particular, pregnant workers, workers who have recently given birth or workers who are breastfeeding.

In this sense, the report focuses mainly on leave periods around childbirth to be used by the mother. A complete picture, including parental leave provision, can be obtained from the country profiles produced by Eurofound's European Observatory of Working Life – EurWORK (forthcoming summer 2015).

## Policy context

The 1992 Maternity Leave Directive (**Council Directive 92/85/EEC**, on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding) provides for at least 14 continuous weeks of maternity leave, two weeks of which are compulsory before or after childbirth. In 2008, the Commission published a proposal (**2008/0193 (COD)**) amending the above directive to improve the protection offered to pregnant workers and workers who have recently given birth or are breastfeeding, and to extend the minimum length of maternity leave from 14 to 18 weeks. Among other provisions, it also proposed that all preparations for a possible dismissal (not related to exceptional circumstances) during the period of maternity leave would be prohibited, in order to take account of the case law of the European Court of Justice. It also made it clear that, following maternity leave, the woman has the right to return to the same job, or to an equivalent post on terms and conditions that are no less favourable; she also has the right to benefit from any improvement in working conditions to which she would have been entitled during her absence. The European Parliament adopted the **First Reading of the proposal** in October 2010. In its position statement, the European Parliament extended the length to 20 weeks, introduced a non-transferable period of paternity leave of at least two weeks, included domestic workers in the definitions used and reinforced the protection against dismissal. Lastly, it was stipulated that the wage replacement would amount to 100% of full pay for at least 16 weeks. The Council was not able to reach an agreement for a mandate for negotiations of the European Commission's proposal and the European Parliament's First Reading. Consequently, the Commission, when presenting the proposals of the **Commission's work programme 2015 (COM(2014) 910 final)**, declared 'it will withdraw it within six months, if it is not possible to unblock the negotiations. This should allow for a new approach which will look at the issue in its wider context, given the reality of today's societies, and will take into consideration progress in this area at the level of the Member States'.

It is in this political context that the Women's Rights and Gender Equality Committee (FEMM) requested Eurofound to carry out a comparative analysis to focus on verifying and updating existing information regarding the duration of

maternity leave and the compensation rate for previous income during that leave, with special attention to the correlation of income compensation during maternity leave and sickness pay.

### Key findings

#### Mandatory duration of the maternity leave

Nearly all Member States comply with the directive's provision of granting at least two weeks' mandatory maternity leave before and/or after childbirth; the majority of Member States exceed this requirement. No mandatory period is provided for in Lithuania and in Estonia, while the longest compulsory leave – in that the woman is not allowed to work – is over 20 weeks in Italy. The majority of Member States have opted for a compulsory leave period of between 8 and 16 weeks.

#### Maternity allowance

Around half the Member States have – in line with the provisions of the directive – made the entitlement to pay or the maternity allowance **conditional upon previous employment** (or the payment of social security contributions).

In the majority of Member States, **replacement rates stand at 100%** of the former salary – at least for a certain period of time.

Most Member States have set the **allowance in relation to previous earnings**. Only in Ireland (for the whole period of the leave) does a flat rate scheme exist. (For some countries this is also the case in the second part of the leave – for instance, Sweden and the UK.)

In more than half the Member States, **ceilings on the reimbursed amounts of pay and/or floors apply**. This is most often linked to the social security contributions thresholds; it appears that ceilings are more common than floors.

**Replacement rates are often lower** in the new Member States (the case in Cyprus, the Czech Republic, Hungary and Slovakia). However, this is not always so (as in the case of Estonia and Romania).

#### Who pays maternity allowance?

In almost all Member States the benefits are either partially or fully paid by some kind of **social security fund** – often also the public health insurance funds.

**Employers rarely pay the full contribution**: in Malta this applies only to the first 14 weeks; in Greece, when the woman is ineligible for the maternity benefit paid by the state fund, and only within the first 15–30 days after childbirth); and in the public sector, where the state is the employer (in France, for instance).

In several Member States, **employers contribute in a number of different ways**. Most often they pay out the entitlement and are reimbursed by the state fund (up to a certain ceiling) or they pay the difference on top of a lower statutory benefit. This is the case in Denmark, Finland, Greece, the Netherlands and the UK. In Germany and Poland, some employers have assumed administrative functions regarding maternity benefits, but are then fully reimbursed.

An interesting case is the Danish 'Barselsfonden', a fund for private companies that are members of or associated with the Confederation of Danish Industry, **which reimburses employers the amount not covered by the state**. The fund was established in 1995 as a way to even out the cost of maternity, paternity and parental leave between companies and different sectors.

In some Member States, with a dominance of sector-level bargaining, **collective agreements often provide for a top-up** of the statutory maternity allowance by the employer (as in Finland, Italy and Sweden). Alternatively, they may provide for the employer's topping up the difference between the ceiling and the full salary (as in France) or they may provide for a longer duration of the period in which the full salary is paid (Denmark).

In Ireland and the UK, employers often **voluntarily top-up the allowance** to the full salary.

### Relationship to sick pay

Although in several countries the schemes are connected (funded by the same social security organisation), in the majority of cases, maternity leave allowances are greater than sick pay or they are the same. Two countries depart from this trend. In Belgium, the first 30 days of maternity leave are paid at a lower rate than in the case of sick leave, the second part being paid at a higher rate. And in Greece, women with a shorter employment duration (of between 100 and 200 days over the past two years) do not qualify for the general statutory maternity benefit (but do qualify for sickness insurance); hence, their allowance is less than in the case of sickness.

### Payment provision when transferred to lower-paid activities for health and safety reasons

Most Member states have made statutory provisions that grant women who are temporarily transferred to lower-paid activities (for reasons of health and safety) the same level of pay. In the majority of Member States, the difference is borne by the employers, whereas in some countries 'bridge schemes' are in place. In a small number of countries (Croatia, Denmark, Finland and Sweden), regulation regarding pay is unclear or – as in the case of Ireland – practice is based on court rulings.

According to two recent European Court of Justice (ECJ) rulings, workers are entitled to their basic monthly pay and the supplementary allowances attached to their occupational status (such as their seniority, length of service or professional qualification). They cannot, however, claim the allowances and supplements for the disadvantages related to the performance of specific tasks in particular circumstances where they did not actually perform those tasks. In some countries (the Czech Republic, France, the Netherlands and Poland), the provisions are more beneficial and also include bonuses or additional allowances for night work.

It also should be noted that in some Member States (Denmark, Finland and Italy) these provisions do not include breastfeeding workers, as the scope of the directive suggests. And in France, the protection of breastfeeding mothers has been limited to one month after the employee returns to work.



# Introduction

The Committee on Women's Rights and Gender Equality of the European Parliament (FEMM) asked Eurofound to conduct a study on national regulations regarding maternity leave against the background of the possible revision of the Maternity Leave Directive (92/85/EEC). The proposal for amending this directive was published by the European Commission in October 2008 and the European Parliament adopted its First Reading in October 2010. The Council was not able to reach an agreement for a mandate for negotiations of the proposal and the European Parliament's First Reading. Consequently, the Commission declared to withdraw the proposal after the first semester of 2015 if no progress had been made on reaching an agreement between the two branches of the legislator.

Eurofound accepted the FEMM Committee's request in its Stakeholder Enquiry Service and has drawn upon recent information provided by its [Network of European correspondents](#) to produce this report.

Council directive 92/85/EEC is concerned with the 'introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding'.

In more detail, the applicability of the directive is defined on the basis of three distinct groups of workers, as the box illustrates:

## Article 2, 92/85/EEC

### *Definitions*

*For the purposes of this Directive:*

*(a) **pregnant worker** shall mean a pregnant worker who informs her employer of her condition, in accordance with national legislation and/or national practice;*

*(b) **worker who has recently given birth** shall mean a worker who has recently given birth within the meaning of national legislation and/or national practice and who informs her employer of her condition, in accordance with that legislation and/or practice;*

*(c) **worker who is breastfeeding** shall mean a worker who is breastfeeding within the meaning of national legislation and/or national practice and who informs her employer of her condition, in accordance with that legislation and/or practice.*

Article 2, Maternity leave directive 92/85/EEC

In a nutshell, the directive provides for the following (among other items):

- 14 weeks of maternity leave, two weeks of which should be mandatory (before and/or after childbirth) – Article 8;
- in which case, payment is maintained and/or an 'adequate allowance' is paid to the worker (Article 11-2(b)), whereby such allowance is deemed to be adequate, if 'it guarantees income at least equivalent to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health, subject to any ceiling laid down under national legislation';

It also provides for:

- temporary adjustments of working conditions and/or working hours to avoid exposure to certain risks following risk assessment (Article 5-1), and where such adjustments are not possible: transfer of the worker to other jobs (Article 5-2) or, if not possible, the granting of leave (Article 5-3);
- prohibition of exposure to certain agents (physical, biological or chemical) or working conditions (Article 6) and to night work (Article 7). In the case of night work, either the transfer to day work (Article 7-2(a)) or where not feasible, leave from the post or the extension of maternity leave shall be granted (Article 7-2(b)).
- in such cases, the employment rights relating to the employment contract, including the maintenance of a payment to and/or entitlement to an adequate allowance, must be ensured;
- the prohibition of dismissal (Article 10).

This report intends to assist the debate with comparative figures in relation to the above-cited aspects of the directive (except for Article 10). More concretely, it looks into:

- maternity leave duration and related ongoing payment and allowances in the Member States, and the question of who pays (what part) of ongoing payments or allowances;
- the relationship of payments to allowances received in case of sick leave, which, as pointed out in the preamble to the directive, is a mere ‘technical point of reference with a view to fixing the minimum level of protection and should in no circumstances be interpreted as suggesting an analogy between pregnancy and illness’.
- the payment provisions in place, when workers have to be transferred to otherwise lower-paid activities for health and safety reasons.

### A look at international labour standards: ILO Maternity Protection Convention, 2000

The most up-to-date international labour standard on maternity protection is the International Labour Organization’s (ILO) Maternity Protection Convention, 2000 (No. 183). To date, it has been ratified by around half the EU Member States. In some countries, the Maternity Protection Convention, 1919 (No. 3) and the Maternity Protection Convention (Revised), 1952 (No. 103) are still in force.

According to the ILO’s webpage on [International Labour Standards on Maternity protection](#),

*Convention No. 183 provides for 14 weeks of maternity benefit to women to whom the instrument applies. Women who are absent from work on maternity leave shall be entitled to a cash benefit which ensures that they can maintain themselves and their child in proper conditions of health and with a suitable standard of living and which shall be no less than two-thirds of her previous earnings or a comparable amount. The convention also requires ratifying states to take measures to ensure that a pregnant woman or nursing mother is not obliged to perform work which has been determined to be harmful to her health or that of her child, and provides for protection from discrimination based on maternity. The standard also prohibits employers to terminate the employment of a woman during pregnancy or absence on maternity leave, or during a period following her return to work, except on grounds unrelated to pregnancy, childbirth and its consequences, or nursing. Women returning to work must be returned to the same position or an equivalent position paid at the same rate. Also provides a woman the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.*

## Scope of the study

### Blurred boundaries between maternity and parental leave

It is important to note in this regard, that the comparison of an ‘overall’ duration of the schemes, including mandatory and optional periods, as depicted below should be done very carefully – in particular, in the case of non-mandatory periods. In some Member States such non-mandatory periods might still be called ‘maternity leave’ (and hence lead to a perceived longer total duration); however, similar periods exist in other countries, but under the heading of ‘parental leave’ and the borders between the two are rather fluid.

Take for instance the following examples. In **Poland**, the total of 20 weeks of maternity leave (*urlop macierzyński*) is only partly obligatory for the mother (14 weeks), but can also be transferred to the father (6 weeks). At the same time, Polish law also foresees additional maternity leave (*dodatkowy urlop macierzyński*) with a maximum period of 6 weeks’ leave and 26 weeks of parental leave (*urlop rodzicielski*). In **Austria**, on the other hand, the compulsory maternity leave (*Mutterschutz*) of 16 weeks is available only for women and is clearly distinct from the optional *Karenz*, which can be used by either parent.

Other countries in which the maternity leave scheme is closely linked to the parental leave schemes are Bulgaria, Portugal, Slovakia, Spain and Sweden.

In **Bulgaria**, ‘Leave for pregnancy and child birth/Отпуск за бременност и раждане’ is 410 calendar days of which 45 obligatory days should be taken before the child is born. However, once the child is six months of age, the father can use the remainder of the 410 days’ parental leave. In addition, further parental leave can be taken for children up two years of age.

In **Portugal**, initial parental leave comprises 120 or 150 consecutive days of leave. It is obligatory for the mother to take 45 days (six weeks) following the birth; the remaining period may be shared between the father and the mother by mutual agreement. The duration of the leave is extended by 30 days in the case of shared leave: each parent takes a leave of 30 consecutive days or two periods of 15 consecutive days. Mothers have the possibility to take up to 30 days of initial parental leave before birth. It is obligatory for fathers to take 10 working days’ exclusive parental leave of which 5 days must be taken consecutively immediately after birth and 5 days during the subsequent 30 days. The father also has an additional leave of 10 days, consecutive or not, which is not mandatory. These days must be used during the mother’s initial leave.

In **Spain**, women can transfer up to 10 of their paid 16 weeks to the father.

In **Slovakia**, the father gets the same conditions as the mother when he takes care of the newborn child.

**Portuguese** and **Swedish** legislation does not distinguish between maternity and paternity leave, but refers only to ‘parental leave’, with a certain fraction reserved for either parent.

In **Sweden**, this parental leave is paid for approximately 16 months (480 days), out of which 60 days are reserved for each parent. A Gender Equality Bonus is offered to parents choosing to split the parental leave more equally. A recent report by the European Parliament (European Parliament, 2015) on duration and compensation rates for maternity, paternity and parental leave gives a good overview of the inter-relationship between these different types of leave.

Table 1 relates only to ‘maternity leave’, which has been defined within the scope of this study as ‘the leave from work for mothers in the period immediately preceding and following birth.’

The legislation in some Member States furthermore also distinguishes explicitly between ‘pregnancy leave’ and ‘maternity leave’ – in Denmark (*Graviditetsorlov* and *Barselsorlov*) and in the Netherlands (*Zwangerschaps- en bevalingsverlof*). In other Member States, only one term is used.

Beside the general maternity leave, Member States may also have special provisions regarding the protection of pregnant workers and their babies, in case there is a risk to the safety or health. In Romania, for instance, there is an additional ‘maternity risk leave’, in the case that an assessment reveals a risk to the safety or health of pregnant workers.

In addition, most Member States have also reserved some parts of the leave exclusively for fathers. This may be taken either immediately following birth or within parental leave schemes, thereby prolonging the total duration, in cases where the leave is shared. Such provisions go beyond the focus of this report, but can be found in Eurofound (2015); this report focuses on maternity leave in the sense of directive 92/85/EEC.

### Employees and self-employed

The scope of this study has been mainly limited to cover salaried employees, people working in the context of directive 92/85/EEC. However, in 2010, the Parliament and Council passed a **directive on the equal treatment of men and women (2010/41/EU)**, which aimed to strengthen social protection for self-employed workers and their assisting spouses. This included provisions regarding maternity leave benefits and duration, as well as provisions regarding pension schemes. With this directive, for the first time, a maternity allowance has been granted at EU level to self-employed workers. The duration of leave (and the length in which the maternity benefit is paid) is a minimum of 14 weeks (Article 8-1). Member States can decide whether the maternity allowance is granted on a mandatory or voluntary basis (Article 8-2). The allowance is deemed sufficient if it guarantees an income at least equivalent to a) the level of sickness pay; b) average loss of income or profit or c) any other family related allowance established by national law. The directive also foresees a potential update of the duration of leave for self-employed, should the minimum leave at EU level be changed (Article 19). (While this report focuses mainly on provisions affecting salaried employees, the national contributions may sometimes also contain references to provisions for self-employed workers.)

### Questionnaire

Contributors from Eurofound’s Network of European Correspondents were asked to submit details of their national situation in a questionnaire,<sup>2</sup> the text of which is displayed here.

#### Maternity leave

- Q1. Which are the legal sources for national regulations and provisions related to maternity leave?
- Q2. How does the allowance received during maternity leave (Article 11-3 of the Maternity leave Directive (92/85/EEC) refer to the former salary of the worker concerned?
- Q3. Who is responsible for the payment of the maternity leave allowance (Article 11-3)?
- Q4. If the employer is responsible for the payment of the maternity leave allowance (Article 11-3), is there any financial support in form of direct payments, tax reductions or other support measures?

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<sup>2</sup> Individual contributions are available upon request.

- Q5. What is the duration of maternity leave according to the national legislation? Is there a legally specified obligatory duration of maternity leave before or after the birth?
- Q6. Do public authorities or other institutions/bodies in your country collect information about the costs and benefits of maternity leave provisions? If so, please provide details about the data source and whether this information is accessible to the public.

**Sick pay and maternity leave allowance**

- Q7. How much pay is generally granted to employees in cases of sick leave? In what way does sick pay relate to the former salary of the worker concerned?
- Q8. In which national regulations and provisions is sick leave defined?
- Q9. Is the allowance referred to in Article 11-3 linked to sick pay in your country? Is it identical to sick pay? Please describe in detail what the level of sick pay would be in the case of the allowance being greater than sick pay.
- Q10. Articles 5, 6 and 7 of the directive states that employees must be transferred to other tasks if the normal tasks pose a health risk to their pregnancy or breastfeeding. If the new tasks are normally lower paid, how much pay is generally granted to employees? Is it identical to the salary they received before the pregnancy?



# Duration of maternity leave

The comparison of systems shows that no system of maternity leave matches another. As regards duration, maternity leave is defined and regulated differently along the following dimensions.

**Mandatory** and **non-mandatory** periods of duration together with mandatory or non-mandatory **starting points**. This is closely linked to the distribution of the total leave duration between pre-natal and post-natal phases, and to the **flexibility** or **discretion** of the system (being able to transfer parts of the pre-natal periods to the period after childbirth). Closely related, furthermore, is the **payment**, whereby different amounts can be linked to the different phases. In addition, **provisions** in relation to special circumstances (such as health reasons prior to childbirth) or special circumstances (multiple births or caesarean delivery) can prolong the duration. In line with the directive (Article 11-4), Member States can restrict the **eligibility** of workers. Finally, in several cases, maternity leave schemes are very closely linked to parental leave schemes (with leave that can be taken by either parent) and the borders are rather fluid. This report focuses only on reporting periods of maternity leave, and abstains from reporting parental leave periods, unless they were covered by the same legislation.

**Table 1: Duration of maternity leave by Member State**

	Prenatal leave		Postnatal leave				Total		Short description
	Non-mandatory		Mandatory	Non-mandatory		Mandatory	Mandatory and non-mandatory – mothers only (total, including shared with father in brackets)		
	Not transferable*	Transferable* to after birth		Exclusive to mother*	Transferable to father**				
<b>AT</b>			8	8			16	16	<i>Mutterschutz</i> : It is obligatory to take maternity leave for sixteen weeks, eight weeks before and eight weeks after the birth.
<b>BE</b>		5	1	9			10	15	<i>Protection de la maternité/ moederschapsbescherming</i> : Maternity leave can begin a maximum of six weeks before the birth of the child (this is the prenatal leave which can be extended to eight weeks in case of multiple birth). Five of these six weeks are optional and can be postponed to the postnatal leave. Only the week before the expected birth date is obligatory. After the birth, the postnatal leave is a minimum of nine weeks and a maximum of 15 (prenatal leave recovery). This postnatal leave can be extended to 17 weeks in case of multiple birth. Other extension mechanisms exist for particular cases.
<b>BG</b>			6	0	26	26	6	32 (58)	<i>Leave for pregnancy and childbirth/Отпуск за бременност и раждане</i> : There is a legally specified obligatory duration of maternity leave before and after the birth. The regulation in the Labour Code clearly states that (art. 163) the leave for pregnancy and delivery is 410 working days, 45 of which must be taken before the child is born.

## Maternity leave provisions in the EU Member States: Duration and allowances

	Prenatal leave		Postnatal leave				Total		Short description
	Non-mandatory		Mandatory	Mandatory	Non-mandatory		Mandatory	Mandatory and non-mandatory – mothers only (total, including shared with father in brackets)	
	Not transferable*	Transferable* to after birth			Exclusive to mother*	Transferable to father**			
CY			2	9	7	-	11	18	<i>Ο περί Προστασίας της Μητρότητας Νόμος</i> : According to the provisions of Law 100(I)/1997, maternity leave is currently set at 18 consecutive weeks, of which 11 should be used during the period that starts two weeks before the expected week of delivery.
CZ		2	6	6	12	2	14	28	<i>Mateřská dovolená</i> : An employee (mother) is entitled to 28 weeks of maternity leave in relation to the birth of a child. She enters maternity leave at least six weeks and at most eight weeks before the expected date of birth.
DE			6	8			14	14	<i>Mutterschutz</i> : The Maternity Protection Act stipulates the following duration: 14 weeks (6 weeks before the birth and 8 weeks after/12 weeks after a premature birth or multiple births).
DK		4	0	2	12		2	16	<i>Graviditetsorlov/Barselsorlov</i> : The rules on maternity, paternity and parental leave and benefits are placed in a special Maternity, Paternity and Parental Leave and Benefit Act ( <i>Barselloven</i> ). All parents are covered by these rules. Parents are – between them – entitled to 52 weeks parental leave on full benefit. The maternity leave is divided between pregnancy leave (minimum 4 weeks prior to the birth) and maternity leave (14 weeks after the birth; this can only be taken by the mother). In the maternity leave period, the father is entitled to 2 weeks paternity leave. Parental leave – from 14 weeks after the birth, each of the parents is entitled to 32 weeks' parental leave of absence.
EE	4		0	0	16		0	20	<i>Rasedus-ja sünnituspuhkus</i> : According to Employment Contracts Act Article 59, a woman has the right to pregnancy and maternity leave of 140 calendar days; between 30 and 70 days can be taken before the birth of the child. If less than 30 days' leave is taken before the expected birth, leave is shortened accordingly. The maternity leave is not obligatory under the law. However, the mother is eligible for maternity benefit only if she takes the leave at least 30 days before the expected date of birth. If she takes up the leave later, the number of days of leave and the benefit decrease accordingly (hence, the measure is not compulsory, but there are financial incentives in place).

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	Prenatal leave		Postnatal leave				Total		Short description
	Non-mandatory		Mandatory	Mandatory	Non-mandatory		Mandatory	Mandatory and non-mandatory – mothers only (total, including shared with father in brackets)	
	Not transferable*	Transferable* to after birth			Exclusive to mother*	Transferable to father**			
<b>EL</b>			8	9			17	17	<i>Άδεια μητρότητας</i> : Workers in private sector: the total duration of the maternity leave of women who are employed by any employer throughout the country, under a private law employment relationship, is 17 weeks as from 1 January 2000, according to Article 7 of the National General Collective Employment Agreement of 23 May 2000, which was ratified by Article 11 of Act 2874/2000. As prescribed in that provision, 8 weeks of that time period are obligatorily granted before the estimated date of childbirth (childbirth leave) and the remaining 9 after the birth ('lying-in leave'). In the event that childbirth takes place at an earlier time than that initially estimated, the remaining leave shall be granted, as per Article 7 of the EGSSE of 9 June 1993, to which the provision of EGSSE of the year 2000 refers, obligatorily after childbirth, so that a total time of leave of 17 weeks is ensured. In the event that childbirth takes place later than initially estimated (based on which the childbirth leave had been granted), the leave is extended up to the actual date of birth, without such extension entailing the corresponding reduction of the leave that the salaried employee is entitled to receive after childbirth. Thus, in this case the total maternity leave exceeds 17 weeks.
<b>ES</b>		10	0	6		(10)	6	16	<i>Baja de maternidad</i> : The length of the maternity leave (before and after the birth) is 16 weeks. Six weeks are obligatory and must be taken following the birth, while the remaining 10 weeks can be taken before or after birth. Thus, the start date for taking leave before birth can vary. Employed mothers have the right to transfer up to 10 of their 16 paid weeks of maternity leave to the father provided that they take six weeks after giving birth.
<b>FI</b>	3		2	2	10.5	-	4	17.5	<i>Äitiysvapaa/Moderskapsledighet</i> : Maternity allowance is paid for 105 weekdays. The right to maternity allowance commences at the earliest 50 weekdays (that is, calendar days except Sundays) and at the latest 30 weekdays before the estimated date of delivery. If the pregnancy ends earlier than 30 weekdays before the estimated date of delivery, the right to maternity allowance starts on the next weekday following the end of the pregnancy and expires when the benefit has been paid for 105 weekdays.

## Maternity leave provisions in the EU Member States: Duration and allowances

	Prenatal leave		Postnatal leave				Total		Short description
	Non-mandatory		Mandatory	Mandatory	Non-mandatory		Mandatory	Mandatory and non-mandatory – mothers only (total, including shared with father in brackets)	
	Not transferable*	Transferable* to after birth			Exclusive to mother*	Transferable to father**			
FR		4	2	6	4		8	16	<i>Congé de maternité</i> : 16 weeks for the two first children. Usually, 6 weeks before the birth and 10 after (or 8 weeks before and 18 after, from the third child). In the case of twins, 12 weeks before the birth and 22 weeks after (34 weeks in total) and 24 weeks before and 22 weeks after for multiple births. There is a legal mandatory duration of maternity leave of 8 weeks including 6 obligatory weeks after the birth. During this period a woman is not allowed to work. In practice, two additional weeks prior to delivery may be awarded in the case of a pregnancy with complications. This happens for 70% of pregnant employees. In the case of premature births (more than six weeks before the expected date of delivery) the maternity leave period is increased by the number of days intervening between the date of delivery and the date six weeks before the expected date of birth.
HR			4	10		16	14	30	<i>Rodiljni dopust</i> : Maternity leave lasts 98 days (28 days before and 70 days after the birth). Maternity exemption from work/maternity care for the child runs from the day of the birth until the child turns six months of age.
HU		2	2	0	20		2	24	<i>Szülési szabadság</i> : Paragraph 1 section 127 of the Labour Code regulates that mothers shall be entitled to 24 consecutive weeks of maternity leave, of which 2 weeks must be taken.
IE		(20)	2	4	20+16 unpaid		6	26+16 unpaid	<i>Maternity leave</i> : In Ireland, women are entitled to 26 weeks' maternity leave (which is covered by Maternity Benefit) together with 16 weeks' additional unpaid maternity leave, which begins immediately after the end of maternity leave. Under the Maternity Protection Acts, at least 2 weeks must be taken before the end of the week of the baby's expected birth and at least 4 weeks after.

Maternity leave provisions in the EU Member States: Duration and allowances

	Prenatal leave		Postnatal leave				Total		Short description
	Non-mandatory		Mandatory	Mandatory	Non-mandatory		Mandatory	Mandatory and non-mandatory – mothers only (total, including shared with father in brackets)	
	Not transferable*	Transferable* to after birth			Exclusive to mother*	Transferable to father**			
IT			9 or 4.5 with medical certificate	13.5 (+4.5 with medical certificate)			22.5	22.5	<i>Congedo di Maternità</i> : According to the Maternity and Paternity Law, Article 16 sets out specific cases where employers are prohibited from keeping in the workplace women who are pregnant or who have given birth. It provides for a total of five months of compulsory leave during the two months before the expected date of delivery (except for the cases covered by Article 20 of the same law) and three months after the expected date of delivery (except for the cases covered by Article 20 of the same law). Where the effective delivery occurs after the expected date, the days between the two dates are also covered. If the delivery occurs before the expected date, the days between the day of effective delivery and the day of expected delivery are added up to the amount of leave days. Article 20 specifies that – given the total duration of maternity leave (five months) – working women can decide to start the maternity leave one month before the expected date of delivery, and enjoy the other four months after delivery on condition that this decision is not prejudicial to their health or their child's. This has to be certified by both a specialist doctor of the National Health Service and the occupational physician. This article does not apply to women working in occupations involving heavy or dangerous tasks (undermining the health of the pregnant woman or the child). Article 17 of the Maternity and Paternity Law clarifies that the leave before childbirth is increased by one month (for a total of three months) if the mother's occupation involves heavy or dangerous tasks.
LT		10	0	0	8		0	18	<i>Motinytės pašalpa</i> : In compliance with Article 179 of the labour code of the Republic of Lithuania, women in Lithuania shall be entitled to maternity leave 70 calendar days before the childbirth and 56 calendar days after the birth of the child (in the event of complicated childbirth or birth of two or more children, 70 calendar days). This leave shall be added up and granted to the woman as a single period, regardless of the days used de facto prior to childbirth.

## Maternity leave provisions in the EU Member States: Duration and allowances

	Prenatal leave		Postnatal leave				Total		Short description
	Non-mandatory		Mandatory	Mandatory	Non-mandatory		Mandatory	Mandatory and non-mandatory – mothers only (total, including shared with father in brackets)	
	Not transferable*	Transferable* to after birth		Exclusive to mother*	Transferable to father**				
LU			8	8			16	16	<i>Congé de maternité</i> : Usually, 8 weeks before the birth and 8 after; or up to 12 weeks in the case of multiple births, premature delivery (before the 37th week) or breastfeeding. The 8 weeks of prenatal maternity leave and the 8 weeks of postnatal maternity leave are both legally mandatory.
LV	6		2	2	6		4	16	<i>Maternitātes pabalsts</i> : Section 154 of the Labour law states that the parental leave (before the birth) is 56 calendar days and maternity leave (after the birth) is also 56 calendar days.
MT		4	4	6	4 (paid from different source)		14		Protection of Maternity (Employment) Regulations: Pregnant employees are entitled to 14 weeks' maternity leave, which are compulsory. An additional four weeks are optional for the employee. The law stipulates clearly that maternity leave shall be availed of as follows: (a) six weeks of maternity leave entitlement are to be taken compulsorily immediately after the birth; (b) four weeks of maternity leave are to be availed of immediately before the expected date of birth unless agreed otherwise between the employer and the employee; (c) the remaining balance will be taken in whole or in part either immediately before or immediately after the date of confinement as the employee may request. Provided that if she is unable to avail herself of the maternity leave entitlement before the date of birth, such remaining balance of entitlement may be availed of after the birth.
NL			4	12				16	<i>Zwangerschaps- en bevalingsverlof</i> : Entitlement is 16 weeks in total. The entitlement consists of two parts: pregnancy leave and maternity leave. In principle, pregnancy leave starts 6 weeks before the expected date of delivery; maternity leave then is 10 weeks. There are some situations in which the duration of the maternity leave is extended – if the pregnancy leave has been less than 6 weeks, or if the date of delivery is earlier than expected (while the pregnancy leave started 6 weeks before the expected date) or later.

Maternity leave provisions in the EU Member States: Duration and allowances

	Prenatal leave		Postnatal leave				Total		Short description
	Non-mandatory		Mandatory	Mandatory	Non-mandatory		Mandatory	Mandatory and non-mandatory – mothers only (total, including shared with father in brackets)	
	Not transferable*	Transferable* to after birth		Exclusive to mother*	Transferable to father**				
PL			6	8		6	14	14 (20)	<i>Urlop macierzyński</i> : Maternity leave – the maximum period of leave is 20 weeks (the first part of the leave, namely 14 weeks, is obligatory and must be taken by the mother; the remaining 6 weeks can be taken by the mother or the father). In case of multiple births, the period of leave depends on the number of children: maximum 31 weeks for parents of twins, 33 weeks for parents of triplets, 35 weeks for parents of quadruplets, and 37 weeks for parents of five or more children in one birth. An employee can use up to 6 weeks of maternity leave before the expected date of birth and the postnatal maternity leave is reduced by the time that was used before birth.
PT (option 1/option2)		(4)	0	6		11/16	6	17/21	<i>Licença parental</i> : Initial parental benefit comprises 120 or 150 consecutive days depending on level of payment. It is obligatory for the mother to take 45 days (six weeks) following the birth; the remaining period may be divided between parents by mutual agreement. The duration of the leave is extended by 30 days in the case of shared leave; each parent takes a period of leave of 30 consecutive days. The benefit is extended by 30 days per child in the case of multiple births. Mothers can take up to 30 days of initial parental leave before birth. Finally, there is an extended parental leave, lasting for three months. This allowance shall be granted to one or both parents, provided that the respective leave is taken during the period immediately after the initial parental leave, or the additional leave in the extended version (up until now designated by parental leave) (Articles No. 40 and 41 of Labour Code – Law No. 7/2009 of 12 February).
RO		12		6			6	18	<i>Concediul de maternitate</i> : Maternity leave may be granted for a period not exceeding 126 days. It is divided into pre-birth maternity leave (which can be taken no earlier than the 84th day prior to the expected birth) and post-birth maternity leave (which is at least 42 days). There is no minimum period required for pre-birth maternity leave – only for the post-birth maternity leave. Disabled employees benefit upon request of a longer pregnancy leave, starting with the sixth month of pregnancy.

## Maternity leave provisions in the EU Member States: Duration and allowances

	Prenatal leave			Postnatal leave			Total	Short description	
	Non-mandatory		Mandatory	Mandatory	Non-mandatory		Mandatory		
	Not transferable*	Transferable* to after birth			Exclusive to mother*	Transferable to father**			
SE				2	7	60	2	9 (69)	<i>Föräldraledighet</i> : A total of 480 days of leave is granted per child, out of which 60 are reserved for each parent. Some 390 of the 480 days are granted at the sickness allowance level, and 90 on the lower level. Two weeks of maternity leave before or after the birth of a child is obligatory. The father, or other non-birth-giving partner, is entitled to 10 days of parental leave after the child is born.
SI	4	0	0	2	9		2	15	<i>Materniski dopust</i> : Maternity leave is 105 days long. The mother can start (and usually does) with maternity leave 28 days before the scheduled date of birth determined by the gynaecologist and can use the rest of the leave after the birth. The part unused before the birth may be claimed after childbirth if the birth took place before the envisaged date. It is obligatory to take 15 calendar days of leave (in total pre-or/and postnatal).
SK		8	0	6	20		6	34	<i>Materská dovolenka</i> : The standard duration is 34 weeks (6–8 weeks before the birth), 37 weeks for a single mother and 43 weeks for a mother who has borne twins and more children. If the man takes care of the newborn child, he enjoys the same conditions as the woman. Generally, a woman starts to use the maternity leave 6 weeks before the estimated date of birth; for the first child, 8 weeks before the birth. If she does not use this period for any reasons, she can use only 22 weeks after the birth.
UK		11		2	13[OML] +26[AML]		2	52	Maternity leave is up to 52 weeks. This comprises: Ordinary Maternity Leave (OML) – first 26 weeks; Additional Maternity Leave (AML) – final 26 weeks (the differences between OML and AML refer to the rights to return to the same or a similar job when maternity leave is concluded.) The earliest maternity leave can begin is 11 weeks before the due date. Two weeks leave are compulsory following the birth. (For factory workers the compulsory leave is four weeks.)

Note: \* ‘Transferable’ in this table means that the woman can opt not to use parts of her maternity leave before the birth, and instead use it after the birth, so the postnatal leave period is prolonged. In Member States where the period has been flagged as ‘non-transferable’, it might be the case that the postnatal leave is prolonged, in cases where childbirth takes place before the expected due date.

Source: Eurofound’s network of European correspondents, national legislation (this source pertains to all tables in the document).

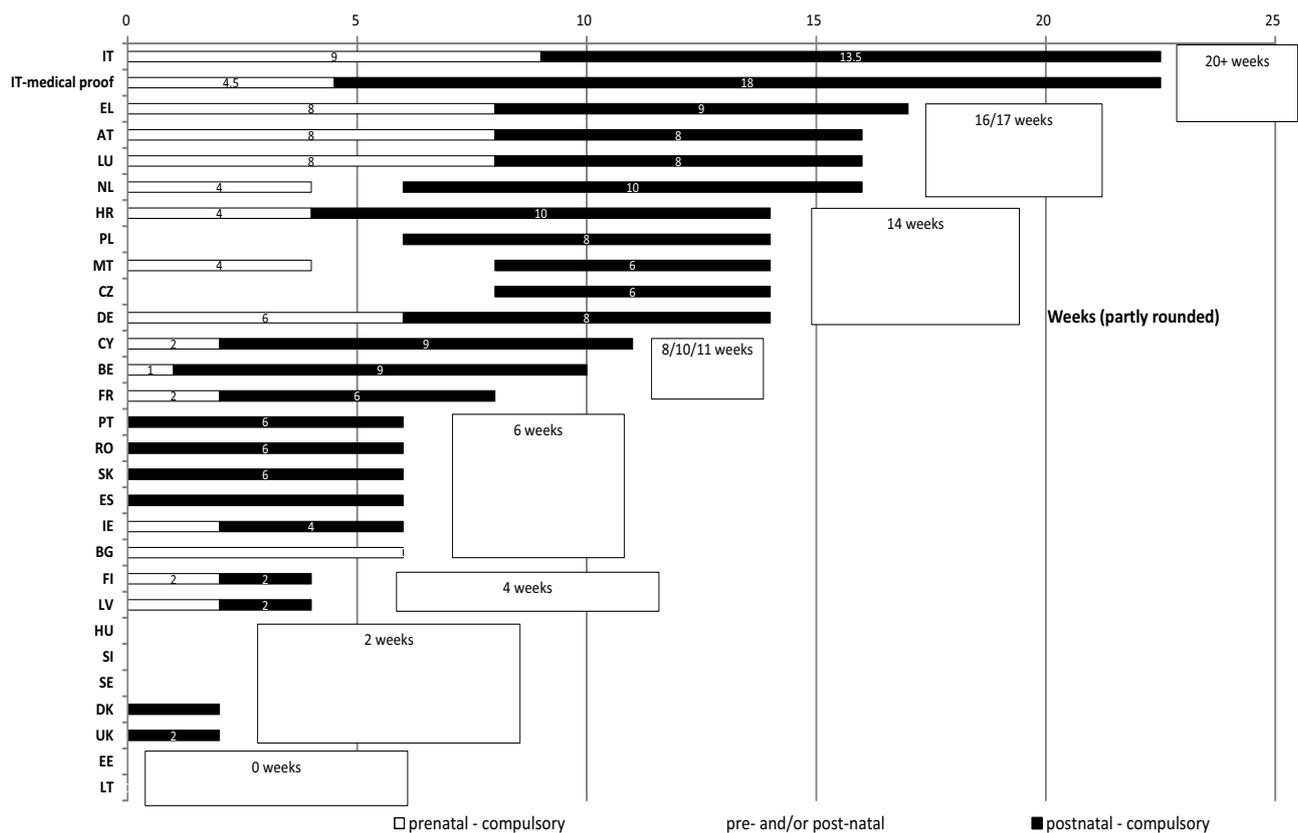
## Mandatory maternity leave

Member States differ widely in how much of the maternity leave is mandatory. Nearly all Member States comply with the directive’s provision of granting at least two weeks’ mandatory maternity leave before and/or after the date of birth; the majority of Member States exceed this requirement.

The leave entitlement of the prenatal phase is always based on the expected due date. In some Member States, it is possible to transfer (sometimes even from the mandatory period) ‘unused’ days prior to childbirth to the period after, if the child is born before the expected due date.<sup>3</sup> This ensures that the total obligatory duration is respected; in some Member States, the period after birth is not reduced if the birth takes place after the expected due date (as in France and Luxembourg).

And in the case of premature births, some Member States (France, Luxembourg and Germany) have special provisions that allow mothers to extend the duration of their leave.

Figure 1: Overview of the total length of mandatory periods of maternity leave and their distribution around the expected due date (weeks)



Source: Eurofound’s network of European correspondents, national legislation

<sup>3</sup> In Greece, if the child is born earlier than initially estimated, the remaining leave shall be granted obligatorily after childbirth, so that a total time of leave of 17 weeks is ensured. This is as per Article 7 of the National General Collective Labour Agreement (EGSSE) of 9 June 1993, to which the provision of EGSSE of the year 2000 refers.

### No mandatory period

There are only two Member States – Lithuania and Estonia – in which the entire period of maternity leave is non-mandatory.

### Two weeks' mandatory

In five Member States (Denmark, Hungary, Slovenia, Sweden, and the UK), two weeks of leave has been made mandatory.

In Hungary and Sweden, the starting point of this period has not been made mandatory: hence, the compulsory part of maternity leave is around the date of the birth. In Hungary, maternity leave starts at the earliest four weeks prior to the birth. Typically, it starts with child birth.

In Slovenia, women can (and usually do) start maternity leave four weeks (28 days) before the expected due date; however, only 15 days of leave have been set as mandatory. The unused prenatal part cannot be transferred to the post-natal period (except in the case where the baby is born before the expected due date), and the leave of 15 weeks (105 days) has to be used in one single block.

In Denmark and the UK, women are obliged to stay at home for two weeks after they have given birth,<sup>4</sup> while the remainder of the maternity leave is entirely non-compulsory.

### Four weeks' mandatory

In both Finland and Latvia, a period of four weeks is mandatory: two weeks before the birth, and two after.

### Six weeks' mandatory

Six Member States have made a total of six weeks of maternity leave mandatory.

In most of these, the mandatory part relates to the period after childbirth (Slovakia, Spain, Portugal and Romania).

In Ireland, it is mandatory to take two weeks before the end of the week of the baby's expected birth and four weeks after the birth.

In Bulgaria, the mandatory part of maternity leave (45 days) is to be taken before the birth.

### Eight weeks' mandatory

In France, eight weeks of maternity leave are mandatory: two weeks before the expected due date and six weeks following the birth. Two additional weeks prior to delivery may also be awarded in the case of a pregnancy with complications, which is the case for 70% of pregnant employees. Four additional weeks after delivery may also be awarded in cases of complications.

### Mandatory 10/11 weeks

In Belgium, women are obliged to stop working one week ahead of the expected date of delivery and must stay away from work for nine weeks after childbirth.

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<sup>4</sup> Or they must take four weeks' mandatory leave following the birth, in the case of UK factory workers.

In Cyprus, women are obliged to stay home for two weeks before the expected due date ('11 weeks must be used during the period that starts two weeks before the expected week of the birth.')

### **Mandatory 14 weeks**

Another five Member States have made 14 weeks of maternity leave mandatory.

In Croatia and Germany, the distribution of these weeks between pre- and postnatal period is fixed, whereas in the Czech Republic, Malta and Poland, some discretion is given to the employee to transfer parts of the prenatal obligatory period to after the birth.

In Malta, for instance, the 14 compulsory weeks should be availed of as follows:<sup>5</sup>

- six weeks of maternity leave entitlement are to be taken compulsorily immediately after the birth;
- four weeks of maternity leave are to be availed of immediately before the expected date of delivery unless agreed otherwise between the employer and employee;
- the remaining balance will be taken in whole or in part either immediately before or immediately after the date of the birth as the employee may request. If she is unable to avail of the maternity leave entitlement before that date, the remaining balance of the entitlement may be availed of after the birth.

In the Czech Republic, 14 weeks are obligatory, of which at least 6 weeks must be taken after the birth of the child. However, whereas the 6 weeks before the birth are not compulsory, in practice they are taken: if the woman does not start her leave at least 6 weeks before the birth, her maternity leave may then only last up to 22 weeks after the birth, so her optional maternity leave will be shorter.

### **Mandatory 16–17 weeks**

In Austria, Luxembourg and the Netherlands, obligatory maternity leave stands at 16 weeks and in the Greek private sector at 17 weeks. In most of these cases, the prenatal obligatory period is fixed; only in the Netherlands can a small portion of two weeks' leave be shifted flexibly to after the delivery.

### **Mandatory 18 weeks or more**

A higher number of mandatory weeks are found only in the Greek public sector and in Italy. In Italy, the general case foresees that women enter into their total 22.5 weeks of compulsory maternity leave nine weeks prior to the expected due date (which means two months' leave before the birth, and three months after). However, they can transfer half the pre-natal obligatory period to after the birth if they can provide a medical certificate that no risks exists for the mother and child. Otherwise, the entire maternity leave is mandatory, since it is explicitly forbidden by Italian law to 'assign women to work' during the five months of maternity leave.



# Maternity leave allowances

Under the terms of the directive (92/85/EEC, Article 11-2(b)), women who are pregnant, have recently given birth or are breastfeeding are entitled to 'maintain their payment' or to 'an adequate allowance'. The directive also specifies that such an allowance is deemed adequate if it guarantees income at least equivalent to that which the worker would receive if they had to stop working because of health reasons. Furthermore, the directive allows for payment or allowance conditional on the worker fulfilling certain conditions of eligibility for similar benefits (for instance, the woman must have worked for a certain amount of time to qualify for the payment). Such eligibility periods, however, may not exceed 12 months.

This section looks into the following aspects of how Member States have organised maternity leave allowances:

- the relationship of these allowances to the former salary and their relationship to sick leave entitlements;
- who pays for the allowances;
- what happens to salaries if the woman has to be transferred to otherwise lower-paid activities for health and safety reasons.

## Relationship to former salary

### Article 11

#### Employment rights

In order to guarantee workers ... the exercise of their health and safety protection rights as recognized in this Article, it shall be provided that ...

2. (b) maintenance of a payment to, and/or entitlement to and adequate allowance for, workers within the meaning of Article 2;
3. the allowance referred to in point 2 (b) shall be **deemed adequate** if it guarantees income **at least equivalent** to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health, subject to any ceiling laid down under national legislation;
4. Member States may make entitlement to pay or the allowance referred to in points 1 and 2 (b) conditional upon the worker concerned fulfilling the conditions of eligibility for such benefits laid down under national legislation.

Maternity leave Directive 92/85/EEC

How does the allowance received during maternity leave relate to the former salary of the worker concerned?

## Countries with restrictions on eligibility

According to Article 11-4, Member States may make entitlement to pay or the maternity allowance conditional upon the worker concerned fulfilling the conditions of eligibility for such benefits laid down under national legislation. Whereby 'These conditions may under no circumstances provide for periods of previous employment in excess of 12 months immediately prior to the presumed date of confinement'.<sup>6</sup>

The contributions show that around half the Member States have such restrictions in place (Table 2).

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<sup>6</sup> 'Confinement' here means the period between the onset of labour and the actual birth of the child.

Table 2: Overview of eligibility criteria for maternity leave allowances

Length of time worked or paid social security contributions	During previous six months	During previous year	During previous two years	At all
Less than 6 months	United Kingdom (with the same employer)	Romania (at least one month)		
At least 6 months		Cyprus, Luxembourg		Bulgaria, Finland (covered by social security), Spain, Portugal
Between 6 months but less than 12 months		Ireland	Greece (200 days) Czech Republic (270 days)	France, Slovakia (270 days)
At least 12 months			Lithuania	Croatia

In **Bulgaria**, the maternity allowance is for those having worked at least six months and paid social security contributions (осигурителен стаж) – except for persons below 18 years of age.

In **Cyprus**, a woman must have at least 26 weeks of paid contributions including at least 20 contributions paid or credited in the last year. In relation to the maternity grant, this is also paid to the nonworking wife of an insured man.

In the **Czech Republic**, a woman is eligible for maternity benefit only if she has contributed to the sickness insurance system for at least for 270 calendar days over the period of the two years prior to the beginning of maternity leave. If a woman wants to have her maternity benefit paid from several insurance systems (due to the fact she had more than one job), the criteria must be met in each of these insurance systems. The 270 days of participation in the sickness insurance system include studies (secondary or tertiary education) and periods of disability pension (if the insured person started working subsequently).

In **Estonia**, a flat rate – equivalent to the legal minimum wage – is paid to mothers who had not worked in the previous year but who had worked before.

In **France**, an employee must have been affiliated to the social security for a period of 10 months before she can obtain maternity allowance. Furthermore, she must have engaged in a working period of at least 150 hours (since 1 February 2015; previously, it had been 200 hours) in the three months prior to the maternity leave (or the 90 days prior to the sickness leave) or she must have paid social contributions on a salary of at least the hourly minimum wage multiplied by a factor of 1.015 in the six months prior to the beginning of the pregnancy or prenatal leave. If the employee is a seasonal worker or performs a discontinuous activity, she must have worked at least 600 hours in the year before the beginning of pregnancy or prenatal leave (this is since 1 February 2015; previously it was 800 hours). Alternatively, she must have paid social contributions on a salary of at least the hourly minimum wage multiplied by a factor of 2.030 in the 12 months prior to the beginning of the pregnancy or prenatal leave.

In **Greece**, there are two restrictions: for women who have worked less than one year for an employer, the employer is only obliged to pay 15 days of her salary (as against one month for women who have more than one year of tenure). Furthermore, for the second part of the maternity allowance, which is paid by the social security fund (and topped up by the Manpower organisation), only women who have worked for 200 days with any employer during the two years prior to the birth are eligible.

In **Lithuania**, all insured persons are eligible who have a sickness and maternity social insurance record of not less than 12 months during the 24 months prior to the first day of maternity leave. No minimum period of insurance is required

for persons who are up to 26 years of age or for whom the period between their graduation and their becoming insured is less than three months.

In **Luxembourg**, the maternity allowance is paid for those who have been compulsorily affiliated to the social security system for at least six months over the last 12 months.

In **Spain**, all employed women are eligible who have paid social security contributions for at least 180 days.

In **Croatia**, the maternity allowance is paid to all employed women who have worked for at least a year.

In **Portugal**, all insured employees and self-employed workers are eligible, under the condition of six months' affiliation with registered remuneration. There is also a possibility of voluntary insurance for certain groups. In cases where the condition of six months' registered contributions is not fulfilled, the worker may be eligible for a means-tested parental allowance.

In **Hungary**, the maternity allowance is paid to women who have been insured for at least 365 days over the two years prior to giving birth.

In **Ireland** (for new applicants as of 6 January 2014) employed women must have the following: at least 39 weeks' social security contributions (PRSI) paid in the 12-month period prior to the first day of maternity leave or at least 39 weeks' PRSI paid since first starting work or at least 39 weeks; PRSI paid or credited in the relevant tax year or in the tax year immediately following the relevant tax year.

In **Slovakia**, women must have paid 270 days of social security contributions to the Social Security Fund before the start of the maternity allowance.

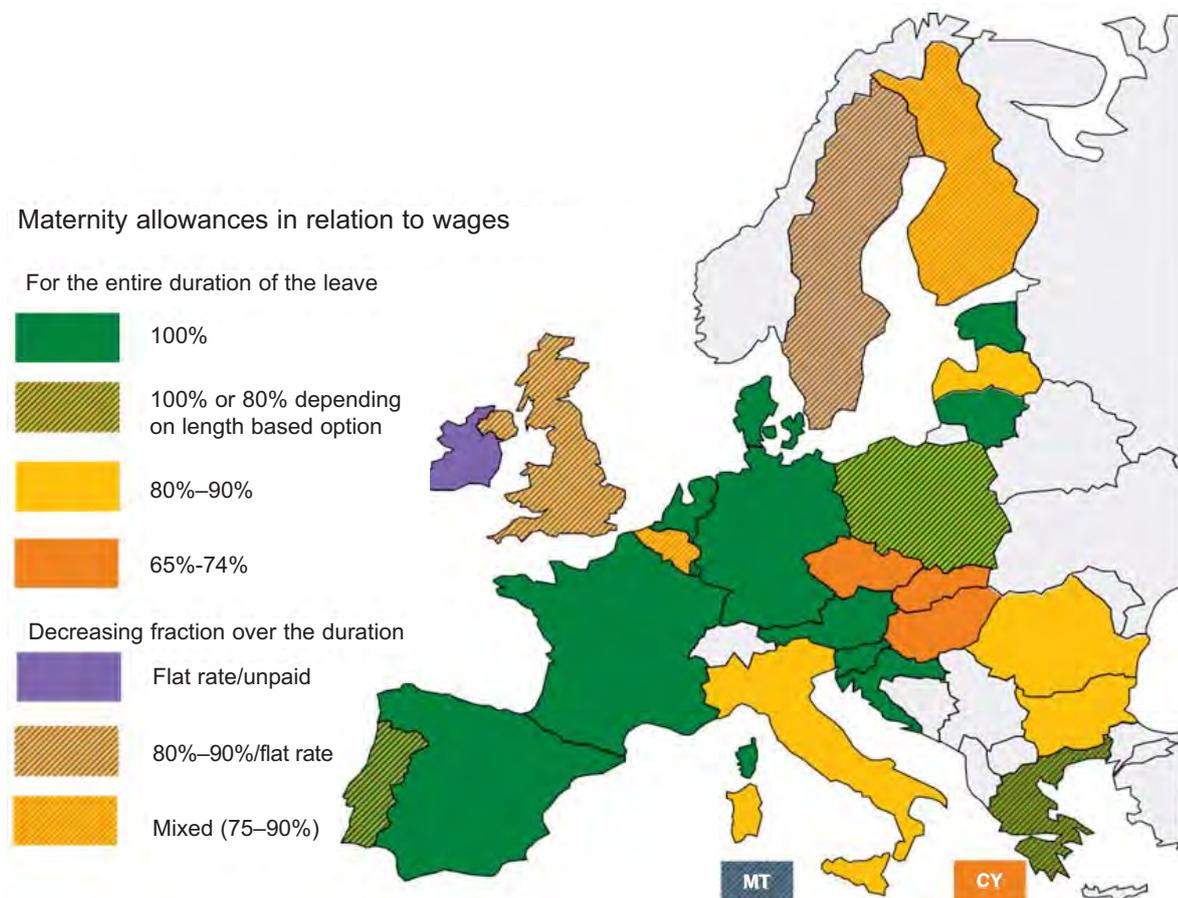
In the **UK**, a mother qualifies for Statutory Maternity Pay (SMP) if she earns on average at least GBP 111 per week (€155 as at 29 April 2015) and has worked continuously for the employer for at least 26 weeks up to the 15th week before the expected week of childbirth.

In **Finland**, the eligibility for maternity leave allowance is not based on being in employment at the time when maternity leave starts. Anyone who has been covered by the Finnish (or another EU Member State's) social security for at least 180 days just before the estimated date of delivery and 'whose pregnancy has lasted for at least 154 days has the right to receive maternity allowance on the basis of pregnancy and childbirth' (Health Insurance Act (1224/2004)). In practice this concerns the entitlement for the minimum allowance.

In all other Member States, no such limitations have been made, and the eligibility for maternity leave allowance is based on being in employment at the time when maternity leave starts.

This overview shows that the periods of previous employment range between six months and a year, whereas some countries stretch the period during which previous employment is counted over two years.

Figure 2: Maternity leave allowance in relation to the former salary



Source: Eurofound's network of European correspondents

### Allowance remains the same for duration of maternity leave

The comparison shows that in the majority of Member States, replacement rates stand at 100% of the former salary – at least for a certain period of time. Countries that **grant full compensation for the entire duration** of the maternity leave are Austria, Croatia, Denmark, Estonia, France, Germany, Lithuania, Luxembourg, the Netherlands and Spain. This is also the case in Poland (if the women chooses not to continue with an additional 26 weeks of parental leave; if she does opt for the additional weeks, only 80% of the salary is paid for the whole period) and in Portugal (but only when the shorter option of 120 days is chosen).

In most Member States, the link to previous earnings is based on some kind of average over different past periods; Luxembourg is unique, however, in that women receive the maternity allowance based on their highest salary in the past three months. In addition, the ceiling up to which the full salary is paid is considerably higher than in other Member States (five times the social security income).

Member States with a **compensation rate of 80%–90% over the full duration** (or major parts thereof) are Bulgaria (90%), Italy (80%), (Latvia 80%) and Romania (85%).

**Lower compensation** in comparison with previous pay exists in the Czech Republic (70%), Cyprus (72%), Hungary (70%) and Slovakia (65%).

### Allowance decreases over term of leave

The remaining Member States have systems in place where the **maternity allowance decreases** over the term of the leave. In two cases, this is linked to different sources of funding. In **Malta**, the employer pays 100% of the salary in the first and mandatory part of the leave, whereas the non-mandatory part is then compensated for at a flat rate by the state social security department. Similarly in **Greece**, the employer is obliged to pay 100% of the salary for a certain duration, depending on eligibility;<sup>7</sup> thereafter, payment continues at lower rates, funded by the social security fund (50% + 10% for each dependent family member). Under certain eligibility criteria, this may, however, be topped up again to level of the full salary by another organisation. In the other countries where allowances decrease over the term, these are paid for by the same organisation – the social security/health insurance funds. In **Belgium**, 82% is paid out in the first four weeks of maternity leave, and 75% in the remaining 10 weeks. In **Sweden**, reimbursement amounts to 80% of annual income for the first 390 days out of 480 and then decreases to a flat rate. In the **UK**, the first six weeks are paid at a rate of 90%, the following 33 weeks are reimbursed at a flat rate (or 90%, whichever is lower), and another 13 weeks of maternity leave can be taken on an unpaid basis.

**Table 3: Overview of relationship between maternity allowance and pay**

	For full length of maternity leave	For part
100%	AT, DE, DK, EE, ES*, FR*, HR, LT*, LU*, NL, PT* (shorter option), PL (shorter option), SI*	EL (first 15–30 days)
90%	BG*, RO	FI* (approximately first half) UK (first 6 weeks)
80%	IT, LV, PT (longer option), PL (longer option)	SE* (first 390 days)
82%	-	BE (first 30 days)
75%	-	BE (further 10 weeks)
72%	CY	-
70%	CZ*, HU*	FI (approximately second half)
65%	SK	-
50%+		EL (after 15–30 days)
Flat rates	-	IE (first 26 weeks) SE (after 390 days) UK (further 33 weeks)
Unpaid	-	IE (further weeks) UK* (another 13 weeks)

Note: \* In these countries, ceilings and/or floors apply (most often based on the part of income which is subject to social security contributions), hence average compensation rates are usually lower than the indicated amount.

See Figure 2 (legend) for explanation of colour scheme.  
Source: *Eurofound's network of European correspondents*

<sup>7</sup> The duration is 15 days for those who have been employed for less than one year with the employer, 30 days otherwise.

### Countries with ceilings and/or floors regarding the entitlements

In more than half the Member States, ceilings (and/or floors) on the reimbursed amounts of pay apply. This is most often linked to the social security contributions thresholds; it would appear that ceilings are more common than floors.

In two Member States (Bulgaria and Luxembourg) the floor has been set in line with the minimum wage. In most other Member States, minimum thresholds have been defined as a fraction of insurable income. For most countries, a de facto floor (even if it is not specifically mentioned in Table 4) is the ‘general’ maternity allowance that women receive irrespective of their employment. Hungary does not have a minimum sum for its social security allowance (GYED and CSED), but the GYES, a universal allowance available to all people with small children of HUF 28,500 HUF (€94) is – in practical terms – a minimum floor. And in the Czech Republic, the de facto floor for the maternity benefit is the standard parental benefit of CZK 7,600 per month (€277).

An exceptional case is Slovenia, in which the Law on Parental Protection and Family Benefits does not define ceilings. However, currently – as a part of austerity measures – until the year following the year in which economic growth exceeds 2.5 per cent of GDP, both floors and ceilings have been set. In Latvia, on the other hand, ceilings were abolished as of 2015.

**Table 4: Overview of relationship between maternity allowance and pay**

	Floors	Ceilings
<b>BG</b>	The daily compensation cannot be less than the minimum daily wage established for the country (art. 41, 2–5 SSC)	Maximum income on which the social security contributions are paid (in 2015, BGN 2600 or €1,327).
<b>CY</b>	No minimum	€753.32 per week.
<b>CZ</b>	No minimum	Maximum daily maternity benefit is CZK 1,087 (€40).
<b>HU</b>	No minimum	In the first 168 days, the maximum allowance is 200% of the minimum wage; After the first 168 days, the maximum of the benefit (GYED – childcare fee) is 140% of the minimum wage).
<b>FI</b>	The allowance (of 70%) is set to at least €24.02 per working day.	‘... up to an annual income of €56,302, and 32.5 % for the income above that’
<b>ES</b>	No minimum	€3,425.70 gross per month (2013)
<b>FR</b>	Minimum daily: €9.26 EUR (2015)	Maximum daily: €82.33 (linked to quarterly social security ceilings), in 2015
<b>LT</b>	Minimum monthly: €143.67 EUR (one-third of insured income in 2015)	Maximum monthly: €1,379.20 (that is, 3.2 times the insured income in 2015). Monthly social security ceiling is €3,170.00 in 2015.
<b>LU</b>	Minimum monthly: €1,922.96 (the amount of the social minimum salary on 1 January 2015)	Maximum monthly: €9,614.18 (five times the social minimum salary on 1 January 2015)
<b>PT</b>	Minimum daily: €11.18 per day in 2014	No maximum
<b>RO</b>	No maximum	The basis of calculation may not exceed an amount equivalent to 12 times the minimum wage. So, the maximum maternity allowance is 85% x 12 x minimum wage (in total, currently, RON 9,945 lei or €2,222).
<b>SI</b>	55% of the minimum wage	Twice the average wage
<b>SE</b>	24% of the price base amounts set by the government. If the income entitles a parent to a sickness level of allowance of less than 180 SEK per day, the parent is granted the basic level of allowance instead. The basic level is 225 SEK (€24) per day. For 90 days outside of the 390-day period the lower level of 180 SEK (€19) applies. During these days, the flat rate of 180 SEK is paid.	750% of the price base amounts set by the government. In 2014, one price base amount was 44,400 SEK (€4,773).
<b>SK</b>	€270 or €276 per month (in months with 30 or 31 days).	€792 or €819 per month (in months with 30 or 31 days).
<b>UK</b>	No minimum	There is no ceiling during first six weeks. The 90% reimbursement rate is capped in the second part of the leave to a flat rate, if this is lower.

## Who pays for it?

In all Member States, the benefits are either partially or fully paid by some kind of social security fund, which often also constitutes the public health insurance fund.

Table 5 provides an overview of how the funding of statutory maternity allowances has been organised in the Member States.

**Table 5: Funding of statutory maternity allowances, EU28**

	Employer			Social security fund	Other	
	pays it all, at least for a certain period	is partially reimbursed up to a ceiling or pays on top of the statutory pay	is fully reimbursed from public sources			potentially a top up – either voluntarily or through collective agreement
AT					X	X (Family burden equalisation fund, <i>Familienlastenausgleichsfonds</i> )
BE					X	
BG					X	
HR					X	
CY				X	X	
CZ					X	
DK		X (from both social security fund or employers fund)		X (prolongation of full pay period)	X	X (employers fund, <i>Barselsfonden</i> )
EE					X	
FI		X			X	
FR		(X)		X	X	
DE			X		X	X (Mutterschaftsgeldstelle for privately insured)
EL	X	X			X	
HU					X	
IE				X	X	
IT		X		X	X	X (for professionals: private funds of professional associations)
LV					X	
LT					X	
LU					X	
MT	X (first 14 weeks)				X (after 14 weeks)	
NL		X			X	

## Maternity leave provisions in the EU Member States: Duration and allowances

	Employer				Social security fund	Other
	pays it all, at least for a certain period	is partially reimbursed up to a ceiling or pays on top of the statutory pay	is fully reimbursed from public sources	potentially a top up – either voluntarily or through collective agreement	General funds, including public health insurance	Special funds
PL			X		X	
PT					X	
RO					X	
SK					X	
SI					X	
ES					X	
SE				(X)	X	
UK		X		(X)	X	

Note: (x) = exceptional cases, when employers are obliged to top up through collective agreements.

Source: Eurofound's network of European correspondents

### Employer pays entire maternity allowance

Only rarely do employers pay the entire maternity allowance; this is the case only in **Malta** for the first 14 weeks, and in **Greece** under specific circumstances (when the woman is not eligible for the maternity benefit paid by the state fund, and only within the first 15–30 days after the birth).

### Employers administer and contribute

In several other Member States, employers are part of the picture in a number of different ways. Most often they either pay out the entitlement and are reimbursed by the state fund (up to a certain ceiling), or they pay the difference on top of a lower statutory benefit. This is the case in **Denmark**, **Finland**, **Greece**, the **Netherlands** and the **UK**.

While ceilings of benefits for higher pay in most countries affect employees (unless topped up by employers or from other sources), in **Denmark** the ceiling applies to the employer, who is only reimbursed up to a certain weekly threshold. For this reason, the Confederation of Danish Industries has established a private fund – the *Barselsfonden*, which can in turn reimburse the employer.

#### Denmark – Barselsfonden

In Denmark, the employer pays 100% of the employee's earnings for a minimum of 4 weeks prior to the birth and 14 weeks after the birth for women; it pays a minimum of 14 days after the birth for men. However, the employer is reimbursed by the state for a sum equivalent to the maternity/paternity leave benefits up to a maximum of DKK 4,135 per week (€556).

For private companies that are members of, or associated with, the Confederation of Danish Industry, a fund has been established (Barselsfonden). The fund was established as part of the collective bargaining in 1995 as a way to even out the cost of maternity/paternity/parental leave between companies and different sectors. Companies pay ongoing contributions to the fund based on the number of employees and are reimbursed according to the difference between maternity/paternity benefits and salary within a fixed ceiling of DKK 142 per hour (€19).

The fund has had a positive effect in terms of promoting gender equality in the private sector; as anticipated, the effect has been greatest for women. However, an evaluation shows that the companies themselves do not consider that they have changed their position on hiring women of child-bearing age compared with five years previously (Cowi 2010). At the same time, a majority of parents feel that their employer is reluctant to employ women of childbearing age.

In **France**, although employers are legally not obliged to pay the benefit, collective agreements often stipulate that the employer must maintain the salary during the maternity leave. In such cases, the employer pays the employee as usual and then asks the social security fund to reimburse the employer up to the amount of the legal allowance. This is particularly relevant for cases where employees' earnings exceed the social security monthly ceiling (€3,170 per month in 2015).

In the **UK**, the employer pays the maternity leave allowance (SMP), but then recoups from Government. Usually the employer can recoup 92% of the amount, though if the company qualifies for Small Employers' Relief, the full amount – plus 3% for National Insurance contributions – can be claimed back. Many employers provide enhanced maternity pay for employees in the form of 'topping up' of the statutory rate.

### Employers administer and are fully reimbursed

Full reimbursement of the employer from public sources is provided for in **Germany** and **Poland**: in these cases, employers have assumed administrative functions regarding maternity benefits.

In Germany, women are entitled to their full pay (the average net pay received during the last three months before the maternity protection period sets in). However, for those women insured with a statutory health insurer and with entitlements to sick pay, no more than €13 per day is paid (equalling €390 per month). Employers pay any difference in pay for higher-paid women – that is, the difference in net pay. For those women not insured with a statutory health insurer (for instance, in the case of private insurance or using a family insurance provided by statutory health insurers) a maximum of €210 per month is paid as an allowance. All payments made by the employer in relation to the maternity leave allowance are then fully paid back by the statutory health insurance.

In **Poland**, employers with more than 20 employees administer the maternity benefits, but are subsequently fully reimbursed by the Social Insurance Fund (*Fundusz Ubezpieczeń Społecznych*).

### Employers may top-up maternity allowance (based on collective agreements or voluntarily)

In a number of Member States, with a dominance of sector-level bargaining, collective agreements often provide for a top-up of the (statutory) maternity allowance (**Finland, Italy** and **Sweden**), or the difference between the ceiling up to the full salary (**France**) by the employer or they provide for a longer duration of the period in which the full salary is paid (**Denmark**).

In **Finland**, according to some collective agreements, the employee might be entitled to their full salary during (part of) the maternity leave. In this case, the Social Insurance Institution pays the allowance to the employer. While there are no 'hard' figures on how widespread this is, it seems to be very common that agreements stipulate that the employer pay a full salary during the first 72 working days of maternity leave (and is reimbursed by the Social Security Institution). This is the case in most of the largest sectoral collective agreements, like those in retail, in the health sector and at least in the largest public-sector collective agreements.

In **France**, collective agreements may require the employer to maintain the salary during maternity leave and claim it later from the social security fund. Collective agreements may provide for higher benefits, mainly for employees that earn more than the social security ceiling monthly amount (€3,170 per month in 2015).

In **Italy**, the majority of national collective bargaining agreements (that is, sector-related agreements) provide for the integration of the mandatory 80% allowance up to 100%, to be paid directly by the employer without refunds. When national collective bargaining agreements provide for the mandatory 80% allowance to be topped up to 100%, the employer can apply only for an 80% refund from National Social Security Institute (INPS). The remaining part is paid

directly by the employer with no refunds from INPS. In some cases, employers are refunded by private funds activated by social partners (for instance, in the construction sector).

In **Sweden**, collective agreements can grant parents additional parental pay by the employer, often up to 90% of the income.

In **Ireland** and the **United Kingdom**, two Member States where sectoral collective bargaining agreements do not play a big role, the correspondents have noted that employers nevertheless often top up the statutory allowance to the level of the full salary. In Ireland, this is a common practice: a 2013 survey of its member companies by Ibec (the central employer organisation) found that 59% of the 436 surveyed companies paid over and above the maternity benefit allowance to employees on maternity leave.

In the United Kingdom, according to the dataset of the **Workplace Employment Relations study (WERS) (940 KB PDF)**, 28% of employers with some female staff offer some form of enhanced maternity pay.

Also in **Cyprus** it has been noted that employers sometimes choose to top up the allowance. During the 12 first weeks of an employee’s maternity leave, the University of Cyprus pays for the full amount of money that the woman is allowed to receive; this includes the allowance that will be provided by the social insurance. Upon her return to work, the money that the woman will receive from the social insurance services will be deducted from the first two salaries and/or her third salary in equal instalments.

### Relationship to sick pay

The directive’s preamble makes it clear that maternity leave is not sickness. However, for ‘technical reasons’, the allowance will be ‘deemed adequate if it guarantees income at least equivalent to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health, subject to any ceiling laid down under national legislation’.

That is the way most of the schemes allow for 100% or 80% payment during the mandatory period, or even longer, in order to reach the standards set by the International Labour Organization (ILO).

Although in several countries the schemes are connected (funded by the same social security organisation), in most cases maternity leave allowances are greater than sick pay.

**Table 6: Overview of level of maternity benefit to sickness benefit**

		The amount of maternity benefit in relation to sickness benefits is		
		higher	the same	lower
Are maternity benefits linked to sickness benefits?	Yes	CZ, EE, FI, FR, SK	EL, HU, LU, SE	EL (pregnant workers with shorter employment)
	No	BE (after 30 days), BG, DE (after six weeks), IT (statutory), ES, LT, MT, NL, PT, RO, SI, UK	AT, DK, DE (first six weeks), IT (in practice), LV, PT, PL, SI	BE (first 30 days)

Source: Eurofound’s network of European correspondents

There is however one case that merits special attention – that of women in shorter periods of employment in **Greece** (see box below). As they do not qualify for the general statutory maternity benefit (but do qualify for sickness insurance), their allowance is less than in the case of sickness.

In **Belgium**, the first 30 days of maternity leave are paid at a **lower** rate than in the case of sick leave (100% against 82% for maternity allowance). However, for the following months, the amount of maternity allowance is 15 percentage points greater (75% instead of 60%).

Also noteworthy is the case of **Luxembourg**, in which maternity is treated as a period of sick leave, certified by a doctor, and the amounts are the same.

**Italy** is another special case. The amount of the sickness allowance, which is paid by the INPS, varies according to the work category the patient belongs to. Usually, however, it is 50% of the average overall daily wage from the fourth day of sick leave until the 20th day, and rises to 66.66% between the 20th and 180th day. After the 180th day, the worker does not receive any allowance. Hence, the amount of the maternity allowance – 80% of the last salary – is considerably higher. In practice, however, according to many collective agreements, the employer has to add an amount to the sickness leave up to 100% of the average overall daily wage. At the same time, the majority of national collective bargaining agreements provide for the integration of the mandatory 80% maternity allowance up to 100%, to be paid directly by the employer without refunds. In this sense, the relationship between the two allowances would be the same for many cases.

#### Case of Greece – for workers with shorter employment in the private sector

Women employed under a private-law contract of employment are entitled to at least 17 weeks (or 119 days) compulsory maternity leave – eight weeks before and nine weeks after (or 56 days before and 63 days after) childbirth. Their situation falls under Articles 657-658 Civ.C., meaning they are classed in this respect with workers who are unintentionally sick. Thus, the employer must pay their full salary for half a month or for a whole month, depending on the length of their employment, in accordance with Articles 657-658 Civ.C.

During the entire maternity leave, the Social Insurance Foundation (IKA) pays a maternity allowance, which is supplemented by a maternity allowance paid by another statutory scheme, run by the Greek Manpower Employment Organisation (OAED), so that a worker who is affiliated to both receives her full salary throughout the maternity leave. Thus, maternity pay is higher than sickness pay, since it corresponds to full pay for a longer period (17 weeks, instead of a maximum of one month).

However, while entitlement to the IKA sickness allowance is subject to the employee having worked 100 days during the year preceding the notification of the sickness, the IKA maternity allowance is subject to her having worked 200 days during the two years preceding the commencement of maternity leave. This condition makes the position of pregnant workers less favourable than that of sick workers of both sexes, as it excludes from the allowance those pregnant workers with shorter employment. It must be noted that this condition was provided for by the legislation governing IKA, the starting point for the retroactive calculation of the 100 working days being the date of childbirth. Article 11 of Decree 176/1997 aiming at transposing Directive 92/85/EEC extended this condition to all social security schemes and provided for an earlier starting point (the start of maternity leave), thus extending the required period of previous employment. Therefore, this provision of Decree 176/1997 is unfavourable to pregnant workers in respect of the conditions for entitlement to pay or to substitutes of pay because it puts pregnant workers at a less favourable position than sick workers, and it lowers the level of already existing maternity protection, something not allowed by Directive 92/85/EEC.

## Payment when transferred to lower-paid activities for health and safety reasons

According to Articles 5, 6 and 7 of Directive 92/85/EEC, pregnant or breastfeeding workers are under no circumstances obliged to perform work entailing risks to their safety and health, or carrying risks of exposure to physical, chemical and biological agents, or night work.

The national contributions' questionnaires sought to determine how much payment is generally granted for employees where they have to be transferred to lower-paid work because of a health risk related to the pregnancy or breastfeeding. They also sought to discover if this sum is identical to the salary the employee received before the pregnancy.

A comparison of the systems shows that Member States have regulated this question in different ways. The majority of Member States have made statutory provisions that require the employer to continue paying the same amount. In the absence of such statutory provisions (as in Ireland), court rulings have however led to the same result. In a small grouping of Member States (Belgium, Bulgaria, Czech Republic, Estonia, Poland and Slovakia), schemes exist that bridge the difference between higher- and lower-paid activities.

In Finnish, Croatian and Danish law, the aspects of payment provisions when a worker is transferred to lower-paid activities for health and safety reasons are not fully regulated or not entirely clear.

**Table 7: National approaches to payment in the case of female employee being transferred to lower-paid activity**

	Employer pays the difference	Schemes bridging the difference
Same pay	AT, CY, DE, EL, FR, HU, IT, IE (court based), LU, LV, LT, MT, NL, PT, PL, RO, SI, SE, UK	BE (healthcare and sickness benefits insurance) BG (social insurance) CZ (sickness insurance) EE (sickness insurance) SK (social security fund)
Not clear	DK, FI, HR	

### Unregulated/unclear cases

Under current **Danish** law it is not clear whether the employer has a duty to pay the same salary if the pregnant worker is transferred to less risky, but lower paid, work during pregnancy. However, if the employer cannot transfer the pregnant worker to a lower-risk job, the worker is entitled to stay at home with full payment. Depending on the collective agreement, the employee may be entitled to full payment; if this is the case, the employer pays it and is reimbursed by the state for a sum equivalent to the maternity/paternity leave benefits up to a maximum of DKK 4,135 per week (€556). Furthermore, this issue may be addressed in collective bargaining and agreements.

In **Finland**, under Section 11 (2) of the Occupational Safety and Health Act (738/2002), if work or working conditions may cause a particular risk to a pregnant employee or the unborn child, and the hazard cannot be eliminated, the employer shall aim to transfer the employee to suitable tasks for the duration of the pregnancy. Correspondingly, the Employment Contracts Act Chapter 2 Section 3 (2) provides that duties suitable in terms of the working capacity and skills of the pregnant employee shall be found in these circumstances, if possible. The provision does not refer to pay, which normally is defined in relation to the employee's tasks. Thus, there is no guarantee that the level of pay stays the same as when the employee performs her normal duties. Provisions on the employee's right to special maternity leave are laid down under Chapter 4, Section 1 of the Employment Contracts Act. If the employer cannot offer any suitable work, the pregnant employee is entitled to special maternity leave under Chapter 11, Section 4 of the Health Insurance Act. An employee becomes eligible for special maternity benefit if the following conditions are met: her tasks or working

conditions involve a risk due to chemicals, radiation, transmittable disease or a similar cause; she is otherwise capable of working; and her employer cannot provide other duties as required by the Employment Act. The provisions on ordinary maternity benefit are applied to special maternity benefit.

In **Ireland**, it is usual that an employee starts health and safety leave in the circumstances described in Articles 5, 6 and 7 of the Directive. Section 57 of the Social Welfare (Consolidation) Act 2005 states that an employee is not entitled to receive Health and Safety Benefit during any period when she engages in any occupation other than domestic duties in her home. The provisions of section 18 of the 1994 Act stipulates that an employee shall be granted leave if 'the other work to which the employer proposed to move the employee is not suitable for her'. 'Other work' is suitable for an employee if it is of a kind suitable in relation to the employee concerned and appropriate for the employee in all circumstances. The transfer of an employee to work that is lower paid would be in breach of this section. However, there is a practical point in that it may not be beneficial for the employee to go on health and safety leave and receive such benefit if she could earn more in employment. If there is any dispute between employer and employee, the dispute may be referred to a rights commissioner who may award up to 20 weeks remuneration. Hence there is a difficulty in respect of loss of remuneration where there is a risk to pregnancy or where breastfeeding if it results in lower remuneration. A claim could also be made under the Employment Equality Acts 1998–2008 on grounds of gender for the pay difference as it stems from direct discrimination arising from pregnancy.

In **Croatia**, the Maternity Protection (Safety and Health) at Work Law of 2002 – Administrative Regulation P.I. 255/2002 (Directive 92/85/EEC) entered into force on 31 May 2002, OG 3608/02 in Article 3. This states that the employer must take the necessary measures in the working environment to ensure the health and safety of the pregnant or breastfeeding employee and her child. It is not fully clear under current Croatian law whether the employer has a duty to pay the same wages as for the more risky job the pregnant worker performed before pregnancy, from which she is transferred to less risky work during pregnancy or whether it is sufficient to pay the normal rate for the work she is actually performing during pregnancy. According to the Labour Act (OG 93/14), in the chapter on the protection of pregnant workers and women who have recently given birth or are breastfeeding, Article 31 stipulates that the employer is obliged to offer an appendix to the employment contract during the entitlement period providing for a fixed-term performance of other appropriate tasks to pregnant workers, workers who have recently given birth or who are breastfeeding and are performing works that carry risks for the health or life of child or mother.

When the employer is not in the position to act in the mentioned manner, the worker is entitled to take leave in accordance with specific provisions. With the expiry of that entitlement the worker shall continue performing the work she was previously doing under the employment contract.

### **Is the same pay actually the same?**

Two rulings by the European court of Justice (C-194/08 and C-471/08) as of 2010 have been made in relation to the question of what kind of allowances need to be considered when workers are given leave from work or transferred to another job because of pregnancy. The rulings say that such workers are entitled to their basic monthly pay and the supplementary allowances attached to their occupational status (such as their seniority, their length of service or professional qualification). They cannot, on the other hand, claim the allowances and supplements for the disadvantages related to the performance of specific tasks in particular circumstances, where they do not actually perform those tasks.

However, Member States are free to maintain a higher level of remuneration than that enshrined in the directive.

### Two European Court of Justice rulings: Austria and Finland

#### *Case 1: Austrian junior doctor and on-call duty allowances (C-194/08)*

An Austrian junior hospital doctor received an allowance for on-call duty at the workplace for extra hours worked. She stopped working during her pregnancy, on the basis of a medical certificate stating that continuing to work was likely to endanger her life or that of her child, and then took maternity leave. Since Austrian law excludes the payment of the on-call duty allowance to persons who are not actually performing on-call duty, she was refused that allowance during the period while she was not working.

#### *Case 2: Finnish airline purser and allowances in relation to seniority and specific disadvantages (C-471/08C-471/08)*

A Finnish woman, working for an airline, received a substantial part of her pay in the form of supplementary allowances attached to her seniority or intended to compensate her for the specific disadvantages connected with the organisation of working time in the air transport sector. When she became pregnant, she was transferred to a ground job until her maternity leave began, and her monthly pay was reduced, because she no longer received the allowances for being a purser.

The ECJ found in both cases that some allowances may be conditional on the pregnant worker actually performing certain duties. Nevertheless, a pregnant worker, who is granted leave from work or transferred to an otherwise lower-paid job because of her pregnancy must be entitled to remuneration consisting of her basic monthly pay and the pay components and supplementary allowances relating to her occupational status, such as those relating to her seniority, length of service and professional qualifications.

In most Member States, the national regulations run along the same lines as these two judgements (or at least a different practice has not been reported), as in Hungary, Italy and Slovenia, for example.

In **Hungary**, following section 60 of the Labour Code, an employee shall be offered a job fitting for her state of health if she is considered unable to work in her original position according to a medical opinion from the time her pregnancy is diagnosed until her child reaches one year of age. The pregnant worker shall be discharged from work duty if no position appropriate for her medical condition is available. The worker shall be given the base wage normally paid for the job offered, which may not be less than her base wage fixed in the employment contract. The base wage shall be payable for the duration of discharge, except if the job offered is refused without good reason.

In **Italy**, transferring the employee to other activities when this means a downgrading (or demotion) for the employee contravenes Article 2103 of the Civil Code and is therefore illegal. Article 2103 states: ‘Duties assigned to the employee should be those for which she was hired or those corresponding to a higher category that the employee subsequently acquired or to an equivalent post to the last actually performed, without any loss of pay’.

According to case law it is permissible to derogate from the law for working mothers during pregnancy and up to seven months after giving birth, if the type of activity or the environmental conditions pose a risk to the health of the mother or the child (up to seven months of age). In this case however it is obligatory to maintain the previous wage. It should be noted that fringe benefits are not included in the wage (as they are supposed to compensate for particular conditions of work performance); nor is the remuneration for overtime work included in the wage (as it is supposed to compensate for the discomfort exceeding the ordinary work performance). It should also be highlighted that in Italy the wage must remunerate the worker for tasks carried out according to the contract. As a consequence the total amount received by the new mother under these working conditions may often be less than that received before her child was born.

Similarly, in Slovenia only the average basic income on which parental leave contributions were paid during the 12 months prior to the leave is taken into account; additional income components, such as in-work benefits and other income received in addition to basic earnings, are not considered.

In other cases, the benefits reflect more closely previous earnings, as is the case in Estonia, where the benefit is based upon the average amount of individually registered social tax per calendar month entered in the state pension insurance register; the calculation of these benefits does include allowances and bonuses.

National rulings or practice are also more favourable than the ECJ ruling in the **Czech Republic, France** and the **Netherlands**.

In **France**, according to article L1225-7 of the Labour code, a temporary change in the working conditions of a pregnant woman due to a related risk shall not have as a consequence a reduction in the wage of the worker. The Supreme Court has stated that the entire remuneration linked to the employees' position must be maintained (v. Cass. soc. 19 January 1999, n° 96-44976; Cass. soc. 14 May 1987, n° 84-43799; Cass. soc. 14 March 1989, n° 86-41648, Cass. soc. 10 January 2001 n° 99-40684) including bonus and other kind of benefits. The French court position is more favourable to employees than that of the European Court of Justice (CJUE, 1st July 2010, C-471/08, Parviainen).

In the **Netherlands**, jurisprudence based on Article 7:647 of the Civil Code shows that equal treatment applies in these cases, and that entitlement to bonuses remains in force in case of absence due to pregnancy. (One example is Hof Amsterdam 27 April 2010, LJNBM2034.)

In the **Czech Republic**, the pay after transfer to a lower-paid job is counted on the basis of the whole pay (including both basic salary and additional components of the salary such as benefits and variable pay). The pay should thus remain the same. Moreover, the maternity benefit is then counted on the basis of earnings before the transfer (if it is more advantageous) so that the transfer should have no consequences for the subsequent financial support of the woman.

In **Poland**, according to the opinions of academics and Supreme Court decisions in similar cases, this additional pay should also cover the loss of additional pay attributed to work during night hours. The basis for the assessment of special additional compensation payment is the same as for the salary in case of holiday leave. As a result, the total amount of payment for employees who have been transferred to a lower-paid job due to a health risk related to pregnancy or breastfeeding should not be lower than the salary received before the pregnancy. In **Sweden**, on the other hand, these aspects of pay are often regulated in collective agreements rather than by law. Generally, a woman has the right to maintain the same pay level even if she has to perform work associated with a lower pay level. However, there are no legal regulations on what would happen to certain aspects of pay associated with – for example, bonuses or night shifts – if she were required to change to a lower-paid job during pregnancy or when breastfeeding.

### Protection of breastfeeding working mothers

The scope of the directive, as pointed out earlier in the report, clearly extends to the case of workers who are breastfeeding. While such circumstances within the scope of this study, the kind of protection foreseen specifically for breastfeeding mothers has not been mapped in detail. However, Eurofound's correspondents have provided answers to the following question: (Q.10) 'Articles 5, 6 and 7 of the Directive states that employees must be transferred to other tasks if the normal tasks pose a health risk to their pregnancy or breastfeeding. If the new tasks are normally lower paid, what amount of payment is generally granted to employees? Is it identical to the salary they received before the pregnancy?'

Based on the answers received to this, it can be concluded that – in the majority of Member States – national health and safety law for maternity protection also extends to the case of breastfeeding working mothers and also breastfeeding workers can avail of a temporary change of working conditions.

However, it should be noted that the provisions have not been fully extended in all Member States to cover breastfeeding mothers. In Belgium, Denmark, Estonia, Italy and Finland, breastfeeding mothers are not mentioned – or are only partially mentioned – in health and safety regulations. The Italian legislator does not explicitly mention the term ‘breastfeeding’ in the relevant law (Legislative Decree N. 151 of 26 March 2001, with the sole exception of art. 8, paragraph 3 which states ‘It is also forbidden to force women who are breastfeeding to conduct activities involving a risk of contamination’). In Estonia, the right to accommodate working conditions is not directly related to breastfeeding, but in principle covers the period of breastfeeding to a certain extent.

Some Member States have also restricted the period in which breastfeeding mothers are protected – in France, for instance, to one month after they return to work (LC art. L1225-12), or in Lithuania to one year.<sup>8</sup>

**Table 8: Protection of breastfeeding working mothers**

<b>Have the right to temporarily adjust their working conditions, in case of need</b>	AT, BG, CZ, CY, HR, DE, LT, LV, IE, NL, PL, PT, RO, SE, UK, , GR, HU, ES, MT, SK, SI
<b>Are only partially included in the health and safety legislation (the scope of protection does not fully apply)</b>	IT (cannot be forced to conduct activities involving a risk of contamination)
<b>Are protected by health and safety legislation and can avail of temporary change of post only for a certain period of time</b>	FR (one month after return to work), LT (until child is one year old)
<b>Are not covered by health and safety legislation at all</b>	BE, DK, FI, EE

Special entitlements may also exist for breastfeeding mothers, such as the right to breastfeed during working hours, fully paid for by the employer (as in the Netherlands, Austria or Ireland).<sup>9</sup> In the Netherlands, this applies only until the child turns nine months old, in Ireland until the child is six months old, while in Austria it covers the whole period of breastfeeding.

<sup>8</sup> There may be more Member States in which the duration of protection of breastfeeding working mothers is restricted; however, no other information is available.

<sup>9</sup> There may be more Member States in which such paid time off is granted for the purposes of breastfeeding, but no further information is available.

# Costs and benefits of maternity leave provisions

While the original question posed to the correspondents aimed at gathering information on the costs and benefits of maternity leave provisions, the mapping showed that reported studies deal mainly, if not exclusively, with the costs or cost-efficiency related aspects of maternity leave provisions – if they are available at all. Table 8 provides a summary of regular reports and main national statistical sources.

**Table 8: Overview of national resources regarding maternity leave statistics**

	Sources and main findings
<b>AT</b>	The total expenditure on maternity leave (maternity pay and the payment for operational support) in 2013 was €439.2 million. Source: Statistik Austria (2015), p. 228
<b>BE</b>	Some 78,845 instances of maternity leave were reported in 2013. The total spent on allowances in 2013 was €427.8 million. National Sickness and Disability Insurance Institute – insurance committee for maternity leave: <a href="#">statistics in French</a> and <a href="#">statistics in Dutch</a> . Federal Agency for Child Allowances pays family allowance and birth bonus for employees – <a href="#">statistics in French</a> and <a href="#">statistics in Dutch</a> ; National Sickness and Disability Insurance Institute (insurance committee) pays family allowance and birth bonus for self-employed workers.
<b>BG</b>	For 2014, the total amount of social security compensations for pregnancy and birth was BGN 293.2 million or €149.6 million (Source: National Social Security Institute). The National Statistical Institute collects information about paid benefits by function ‘Family/Children’ – data from 2005 to 2012. <b>The latest available data concerns 2012 (in Bulgarian)</b> . The National Social Security Institute also collects <b>information about the benefits paid (in Bulgarian)</b> . Analyses of cost and benefits in general of the policies for work-life balance can be found in Friedrich Ebert Stiftung (2012). The Ministry of Labour and Social Policy uses data such as the number of pregnant women (both current and future estimates) to plan the state social security budget. Analyses can be found on the website of the Ministry of Labour and Social Policy: <a href="http://www.mlsp.government.bg">www.mlsp.government.bg</a>
<b>CY</b>	The Social Insurance Services of the Ministry of Labour, Welfare and Social Insurance is the administrative authority for maternity benefits; it collects information on the costs of both the maternity allowance and the maternity grant. The latest data are from <b>July 2014 (in Greek)</b> ; <b>the latest available information in English is from July 2012</b> .
<b>CZ</b>	In recent years, some studies have focused on comparing the costs and benefits of maternity and parental leave policies and public spending. These studies have been conducted by authors from different institutions in response to the recent baby boom, the change in the design of parental leave, as well as the public discussion on gender differences in employment amplified by the recent economic recession, and their joint reflection on the shortfall in capacity of childcare facilities. Some general conclusions on this topic can be found in OECD (2014), pp. 94–99. The report stresses that public spending on maternity and parental leave in the Czech Republic is the highest among OECD countries and ‘implicit taxes on returning to work’ (taking into account the increase in social contributions and income tax and decrease in benefits and childcare fees) are generally high for both two-earner and lone-parent family households. A much-cited analysis has been conducted by Kalíšková and Münich (2012) at Prague’s Center for Economic Research and Graduate Education Economics Institute (CERGE-EI). Eurostat provides comparative data on maternity/family benefits as a percentage of GDP (see for instance Letablier et al, 2009). All of these sources are available to the public. The Czech Social Security Administration collects data about the number of maternity benefits paid out monthly and the volume of benefits in terms of costs. Summarised outcomes from this data are published annually in the statistical yearbook in the field of labour and social affairs published by the Ministry of Labour and Social Affairs – <b>Statistická ročenka v oblasti práce a sociálních věcí (in Czech)</b> ; the data from which the published outcomes derive is not available to the public in greater detail. The Ministry of Labour and Social Affairs provides the outcomes of their regular statistical surveys to the Mutual Information System on Social Protection (MISSOC) and Eurostat (through the European Statistical System). Some of these surveys are conducted in collaboration with the Czech Statistical Office, which directly collaborates with Eurostat in terms of developing, producing and disseminating comparative national statistics.
<b>DE</b>	In the case of maternity leave, companies have to cover the costs of reorganisation and replacement. According to the national contribution, in 90% of cases companies have found internal solutions. For the remaining 10%, they have had to use external job postings, leading to costs of between €9,500 and €43,200 per employee (depending on the wage category). The Maternity Protection Act obliges companies that regularly employ more than three women to provide a copy of the law at the working place (§18); this leads to costs of around €600,000. In the era of internet and legislation made available online, this may no longer be necessary. Most employers (nearly 80%) claim for online services for administering the notification of pregnancy online. This could save postal charges of around €150,000. The report provides some proposals regarding how the current legislation might be improved and simplified – for example, by allowing for more flexible working time (currently the German legislation provides for a rather strict protection in relation to Sunday work or night work) or by canceling §18. These proposals could save costs of between €600,000 and €800,000 euros. In June 2013, the Federal Statistical Office published a report on the costs of maternity leave provisions (Destatis, 2013).

## Maternity leave provisions in the EU Member States: Duration and allowances

	Sources and main findings
<b>DK</b>	<p>In 2013, some 51,389 men and 97,873 women received benefits in relation to maternity/paternity leave and parental leave, and the total public costs were DKK 9.23 million (DKK 849,000 for men and around DKK 8.4 million for women).</p> <p>Statistics Denmark <b>provide information on the public costs of parental leave</b> broken down by the above mentioned types of leave: pregnancy leave, maternity leave, paternity leave and parental leave. Furthermore, the costs can be broken down by age, gender and calendar years.</p>
<b>EE</b>	<p>Statistics Estonia provides information on the <b>information on the number of benefits</b>, on the number of recompensable days and <b>information on payments (in Estonian)</b>.</p>
<b>ES</b>	<p>-</p> <p>The National Institute of Social Security (INSS), which is in charge of paying maternity allowances, also collects information on the number of allowances granted.</p> <p>The INSS website hosts statistics on the <b>number of maternity allowances granted (in Spanish)</b>, as well as data classified by region on the number of allowances offered (both maternity and paternity leave), and on the total cost incurred by the INSS.</p>
<b>FI</b>	<p>-</p> <p>The Social Insurance Institution provides <b>statistics on the maternity allowance</b> (number of recipients and allowances paid out).</p>
<b>FR</b>	<p>Each year the social security fund (Assurance Maladie) provides a report to the government and the parliament on the expenses and revenues with proposals to improve the quality and efficiency of health care. The <b>report from 2015</b> provides data on: the number of births (821,000 in 2013); the share of the expenses linked to maternity (hospital cost: 46%; monetary allowance: 42% ; ambulatory medicine: 12%); the length of staying in hospital after the birth (4.2 days).</p> <p>The social security agency, as it provides the maternity allowance, has data about maternity leave. The <b>Research Directorate of the Ministry of Social affairs</b> (Drees) also works on such data.</p>
<b>EL</b>	<p>-</p> <p>Data on the private sector of the economy can be retrieved by the Wage Earners Insurance Fund (IKA/ETEM) and the Greek Manpower Employment Organisation (OAED).</p> <p>Data for the public sector can be retrieved by the General Accounting Office of the State (<b>GKL</b>).</p>
<b>HU</b>	<p>The main benefit of the Hungarian maternity allowance system is the relative social safety of the workers. Although the cash benefits are quite significant, the care services are problematic. For example, nursery places are available for only around 25% of children aged between six months and three years.</p> <p>The Hungarian State Treasury collects information about flat-rate, non-contributory benefits. The Health Insurance Fund collects information about maternity/pregnancy benefits and child care benefit.</p> <p>The Hungarian Central Statistical Office has surveyed the costs and benefits of these provisions, <b>in the form of tables</b> and a <b>substantial analysis</b>.</p>
<b>IE</b>	<p>In 2013, Ibec, the national employer body, <b>carried out research</b> (available to members only) on whether a top-up is provided by employers to employees on maternity leave – over and above social welfare benefit. Data was also collected on how this top-up is provided to employees.</p>
<b>IT</b>	<p>Research and analysis has been conducted on the issue but it does not refer to data collected by the National Institute of Social Security (INPS). The data refers either to ad hoc research and surveys (for instance, on the <b>costs of maternity provisions, in Italian</b>) or are calculated on <b>companies' cost estimates (in Italian)</b>. For instance, research from 2014 estimated that in 2008 every instance of maternity leave 2008 cost a company €5,822.</p> <p>INPS does not publish data on costs of maternity leave provisions. Data published by INPS refers only to the number of beneficiaries. The latest available data cover 2013 and are presented in <b>a publication by the Ministry of Labour and Social Policies (in Italian, 1.2 MB PDF)</b> in collaboration with INPS.</p>
<b>LT</b>	<p>According to the Board of the State Social Insurance Fund (VSDFV), in 2014 the total expenditure on maternity allowances in Lithuania was LTL 170.2 million (€49.3 million); in 2013 it had been LTL 157.2 million (€45.6 million). In February 2015, the average daily maternity allowance in Lithuania constituted approximately €29.</p> <p>The VSDFV is responsible for collecting and publishing statistical and other information related to the different types of social insurance. The VSDFV's web page provides <b>access to a range of indicators</b>, such as budget revenues and expenditure of the State Social Insurance Fund, the number of insurers, insured persons and beneficiaries, the average amounts of benefits/allowances and their trends. However, there is no institution in Lithuania given the explicit mandate to collect information about costs and benefits of maternity leave provisions.</p>
<b>LU</b>	<p>The <b>National Health Fund</b> pays maternity leave allowance and collects data of the number of instances of maternity leave per year (6,642 in 2013). It also pays an allowance when employees have to be transferred to lower-paid role due a health risk related to their pregnancy or breastfeeding (as was the case for 2,634 workers in 2013).</p> <p>Annual report 2013 of National Health Fund (in French, 7 MB PDF)</p>
<b>LV</b>	<p>-</p> <p>Social insurance budgets are administered in accordance with the Law on Budget and Financial Management. Section 14 of this law requires that <b>information on the state budget</b> be regularly published in a form that it is fully comprehensive and that the public can easily understand. Section 25 of the same law regulates the procedure of the control of the revenues and expenditure.</p> <p>The <b>State Social Insurance Agency</b> (VSAA) publishes <b>data on income and expenditure (in Latvian, 70 KB PDF)</b> of the disability, maternity and sickness special budget.</p>

## Maternity leave provisions in the EU Member States: Duration and allowances

	Sources and main findings
<b>NL</b>	There appears to be no information on the costs and benefits. A 2007 research report by TNO, commissioned by the Ministry of Social Affairs and Employment, looks at absenteeism before and after the period of entitlement to leave (in Dutch, 512 KB PDF).
<b>PL</b>	In the third quarter of 2014, there were 359,670 recipients of maternity allowance. The data is available at the <a href="#">Statistical Portal</a> of the Social Insurance Institution. The Social Insurance Institution (ZUS) collects and makes available <a href="#">data on maternity leave benefits</a> . ZUS collects data on the number of people receiving the maternity leave benefit by gender and administrative region (statistics are published quarterly). It is worth noting that in February 2014 the data were collected for the first time for all companies (not only those with fewer than 21 employees) on the number of days paid to all recipients and on the average monthly number of benefits.
<b>SE</b>	Försäkringskassan collects data about the distribution of parental allowances. The data accessible to the public cover the numbers of distributed days of parental allowance for men and women. Additional information about the total costs of the distributed allowance can be gathered from Försäkringskassan. In addition, Försäkringskassan and the Swedish Social Insurance Inspectorate carry out studies on the distribution of parental leave between men and women.
<b>SI</b>	The Social Protection Institute of the Republic of Slovenia in its <a href="#">report on social conditions in Slovenia in 2013–2014 (in Slovenian, 2.2 MB PDF)</a> provides data on the trends of proportion of GDP for expenditure on all compensation related to parental leave in 2008–2013 based on data from the Ministry. It shows that because of an increase in the number of births, the expenditure (as a proportion of GDP) rose until 2013 and then (because of austerity measures) decreased by 11% compared with 2012. The Ministry of Labour, Family, Social affairs and Equal Opportunities, and the Association for Centres for Social Work, collect information in a computerised database on rights to insurance for parenthood and family receipts for the purposes of management and decision-making regarding maternity/parenthood leave provisions, monitoring, planning and management of family policy, for scientific research purposes and for statistical purposes.
<b>UK</b>	In 2014, some 277,588 maternity allowances were paid, the average amount being €423. Costs for maternity allowance in total amounted to €117,269,503.
<b>HR</b>	The Croatian Institute for Health Insurance publishes relevant data in its <a href="#">annual report</a> , the latest being for 2013.

Note: information not available for Malta, Portugal or Romania.



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## Annex 1: Legal basis of maternity leave regulations

	Official name in national language	Official name in English	Aspects regulated by this provision
AT	Mutterschutzgesetz 1979 (MSchG)	Act on Maternity Leave 1979	Prohibition on women working at certain periods, dismissal protection, parental leave, part time work and changes of working time
BE	Arrêté royal du 2 mai 1995 concernant la protection de la maternité/ Koninklijk besluit inzake moederschapsbescherming	Royal decree of 2 May 1995 on maternity protection	Risk assessment and actions
	Convention Collective du Travail n°46/ Collectieve arbeidsovereenkomst n°46	National Collective agreement n°46 (1990)	Night work
	Loi du 16 mars 1971 sur le travail / Arbeidswet van 16 maart 1971	Articles 39 through 45 of the Working Conditions Act of 16 March 1971	Maternity protection and leave
	Loi du 14 juillet 1994 relative à l'assurance obligatoire soins de santé et indemnités / Wet van 14 juli 1994 betreffende de verplichte verzekering voor geneeskundige verzorging en uitkeringen	Articles 111 through 117 of the Consolidated Act of 14 July 1994 concerning the Healthcare and Sickness Insurance Scheme	Maternity allowance and duration of maternity leave
	Arrêté royal du 28 mai 2003 relatif à la surveillance de la santé des travailleurs / Koninklijk besluit van 28 mei 2003 betreffende het gezondheidstoezicht op de werknemers	Royal decree of 28 May 2003 on workers' health assessment	Risks assessment and actions
	Loi du 10 mai 2007 tendant à lutter contre la discrimination entre les femmes et les hommes / Wet van 10 mei 2007 ter bestrijding van discriminatie tussen vrouwen en mannen	Law of 10 May 2007 on gender inequalities	Tackling protection and pay differences between gender
	Convention collective de travail n° 80 du 27 novembre 2001 instaurant un droit aux pauses d'allaitement modifiée par la convention collective de travail n° 80 bis du 13 octobre 2010 / Collectieve arbeidsovereenkomst nr. 80 van 27 november 2001 tot invoering van een recht op borstvoedingspauzes gewijzigd door de collectieve arbeidsovereenkomst nr. 80 bis van 13 oktober 2010	National collective agreement n°80 of 27 November 2001 on rights to breastfeeding breaks	Breastfeeding breaks
BG	Кодекс на труда, глава I Видове отпуски, т. 163-168	Labour Code (LC) – Section I Types of holidays (leave), art. 163–168	Leave due to pregnancy, childbirth and adoption
	Кодекс за социално осигуряване, раздел II Обезщетения за майчинство	Social Security Code (SSC), Section II Compensations for maternity	Benefits (compensations) associated with childbirth, maternity and childcare
	Наредба за изчисляване и изплащане на паричните обезщетения и помощи от държавното обществено осигуряване	Ordinance on calculation and payment of cash benefits and benefits from state social security	Calculation of payments and benefits from the state social security, related to maternity leave, pregnancy and child birth
	Наредба за медицинската експертиза на работоспособността, NMER), art. 18, para. 1	Ordinance for medical expertise about labour ability	This deals with the conditions medical authorities should follow when issue the medical certificates
CY	Ο περί Προστασίας της Μητρότητας Νόμος (N. 100(I)/1997	The Protection of Maternity Law (Law 100(I)/1997	<ul style="list-style-type: none"> <li>• the right to maternity leave</li> <li>• protection against dismissal and safeguarding seniority and promotion</li> <li>• leave of absence for prenatal examinations</li> <li>• facilitating breastfeeding and nursing of child</li> <li>• the safety and health of women during pregnancy or breastfeeding</li> <li>• the right to maternity benefit</li> </ul>

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	Official name in national language	Official name in English	Aspects regulated by this provision
CZ	<i>Zákon č. 262/2006 Sb., zákoník práce</i>	Act No. 262/2006 Coll., the Labour Code	Length and scheduling of maternity and parental leave (Sections 195–198), protective period – prevention from notice (Sections 53–55), return after maternity leave (Section 47), coincidence of an annual and maternity leave (Sections 216–219)
	<i>Zákon č. 187/2006 Sb., o nemocenském pojištění</i>	Act No. 187/2006 Coll., on Sickness Insurance	Sickness insurance for cases of temporary incapacity for work, ordered quarantine, pregnancy and maternity care, care for a household member; organisation and implementation of insurance; health assessment for insurance purposes
	<i>Zákon č. 589/1992 Sb., o pojistném na sociální zabezpečení a příspěvku na státní politiku zaměstnanosti</i>	Act No. 589/1992 Coll., on Social Security Insurance and State Employment Policy Contributions	Sickness insurance payments
	<i>Výhláška č. 296/2013 Sb., o výši všeobecného vyměřovacího základu za rok 2012, přepočítacího koeficientu pro úpravu všeobecného vyměřovacího základu za rok 2012, redukčních hranic pro stanovení výpočtového základu pro rok 2014 a základní výměry důchodu stanovené pro rok 2014 a o zvýšení důchodů v roce 2014</i>	Decree No. 296/2013 Coll., on the level of the general reference amount and coefficient for the calculation of the reference amount for 2012, reduction limits for 2014, and basic height of pensions and their increase in 2014 (Official name in English not available)	Size of the general reference amount and coefficient for the calculation of the reference amount for 2012, reduction limits for 2014
	<i>Zákon č. 262/2006 Sb., zákoník práce</i>	Act No. 262/2006 Coll., the Labour Code	Length and scheduling of maternity and parental leave (Sections 195–198), protective period – prevention from notice (Sections 53–55), return after maternity leave (Section 47), coincidence of an annual and maternity leave (Sections 216–219)
DE	<i>Gesetz zum Schutz der erwerbstätigen Mutter</i>	Law on protection of employed mothers. Maternity Protection Act.	Employment and leave regulations, benefits available, dismissal protection, employer obligations and sanctions
DK	<i>Barselsloven</i>	Maternity, Paternity and Parental Leave and Benefit Act	Maternity, paternity and parental leave is regulated by this provision
	<i>Barselsudligningsloven</i>	Maternity, Paternity and Parental Leave and Benefit Equalisation Act	Regulates the contributions to and reimbursement from the private fund of social partners for private companies in the area of maternity, paternity and parental leave
EE	<i>Töölepingu seadus</i>	Employment Contracts Act	Pregnancy and maternity leave, but also paternity leave, child care leave, child leave  Right to the leave, duration in days; working conditions of pregnant employee and employee who has the right to pregnancy and maternity leave
	<i>Ravikindlustuse seadus</i>	Health Insurance Act	Right to obtain compensation for pregnancy and maternity leave
	<i>Vanemahüvitis</i>	<b>Parental Benefit Act</b>	Right to obtain compensation for child care leave
EL	Προεδρικό Διάταγμα 176/1997 ‘Μέτρα για την βελτίωση της ασφάλειας και της υγείας κατά την εργασία των εγκύων, λεχώνων και γαλουχουσών εργαζομένων σε συμμόρφωση με την οδηγία 92/85/ΕΟΚ’, όπως τροποποιήθηκε από το Προεδρικό Διάταγμα 41/2003	Presidential Decree 176/1997 ‘Measures to improve the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, in compliance with directive 92/85/EEC’, as modified by Presidential Decree 41/2003	PD 176/1997, as it was modified by PD 41/2003 and is in force, transposes the provisions of directive 92/85/EEC of October 19, 1992, into Greek law. Provision is made for a maternity leave of a total duration of 16 weeks. During this time, the wage is paid by the employer; a maternity allowance is paid by the Social Insurance Fund/ Consolidated Auxiliary Insurance Fund of Wage-earners (IKA/ETEAM); and additional maternity benefits by the Greek Manpower Employment Organisation (OAED), the total sum of which amounts to the sum of the wage paid before the maternity leave.
	Άρθρο 7 της Εθνικής Γενικής Συλλογικής Σύμβασης Εργασίας (ΕΓΣΣΕ) της 23.5.2000 που κυρώθηκε και απέκτησε ισχύ νόμου με το άρθ. 11 του νόμου 2874/2000	Article 7 of the National General Collective Employment Agreement (EGSSE) of 23 May 2000, which was ratified and acquired the force of law by virtue of art. 11 of Act 2874/2000	The above-mentioned provision, which applies to workers in the private sector of the economy and is supplementary to PD 176/1997, provides for the granting of an additional week of leave to working women after childbirth. The total duration of the maternity leave is thus readjusted to 17 weeks.

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	Official name in national language	Official name in English	Aspects regulated by this provision
EL	Άρθρο 52 του ΥπαλληλικούΚώδικα	Article 52 of the Code of Employees	The code of employees applies to civil servants and to the permanent personnel of Legal Persons Governed by Public Law (NPDD). Article 52 thereof provides for the duration of the maternity leave, the way in which the leave weeks are allocated before and after the date of childbirth and the wages paid. Provision is made for a maternity leave of a total duration of five months, plus two months for each child after the third one. During this time period, full wages are paid by the state and the legal person as their employer.
	Άρθρο 59 του Κώδικα Κατάστασης Προσωπικού Υπαλλήλων Τοπικής Αυτοδιοίκησης (Νόμος 3584/2007)	Article 59 of the Code on the Status of the Personnel of Local Authorities (Act 3584/2007)	The code of employees of the Local Authorities applies to permanent employees of local authorities. Article 59 thereof provides for the duration of the maternity leave, the way in which the leave weeks are allocated before and after the date of childbirth and the wages paid. Provision is made for a maternity leave of a total duration of five months, plus one month for each child after the first (in the event of multiple births), plus two months for each child after the third one. During this time period, full wages are paid by the State and the legal person as their employer.
	Άρθρο 4 παρ. 5 του Νόμου 2839/2000	Article 4 paragraph 5 of Act 2839/2000	This provision extends the above-mentioned arrangements of the Code of Employees and of the Code for Employees of Local Authorities in terms of the maternity leave to the personnel of the State, of Legal Persons Governed by Public Law and of the Local Authorities respectively, who is employed under private law employment contracts of indefinite duration
ES	<i>Real Decreto 295/2009, de 6 de marzo, por el que se regulan las prestaciones económicas del sistema de la Seguridad Social por maternidad, paternidad, riesgo durante el embarazo y riesgo durante la lactancia natural</i> (published in the BOE – Official State Bulletin)	Royal Decree 295/2009 of 6 March, which regulates economic allowances of the Social Security System due to maternity, paternity, risks during pregnancy and risks during breastfeeding	This is the main legal source in Spain regulating maternity leave.  It regulates economic allowances granted by the Spanish Social Security System linked to: maternity leave; paternity leave; risks during pregnancy; and risks during breastfeeding.
	<i>Real Decreto 625/2014, de 18 de julio, por el que se regulan determinados aspectos de la gestión y control de los procesos por incapacidad temporal en los primeros trescientos sesenta y cinco días de su duración</i> (published in the BOE- Official State Bulletin)	Royal Decree 625/2014, of 18th July, which regulates several aspects of the management and control of temporary incapacity processes during the first 365 days of their duration	Royal Decree 625/2014 slightly modifies a few aspects regulated in the previous Royal Decree 295/2009, particularly concerning documentation/administrative requirements for obtaining the allowances listed in Royal Decree 295/2009 (such as accreditation of payments of Social Security contributions, maternity report elaborated by the doctor).
FI	<i>Työsopimuslaki</i>	Employments contracts Act (55/2001)	The Employments Contracts Act includes regulations concerning employees' entitlement to take leave from work during maternity, special maternity and parental benefit periods as referred to in the Health Insurance Act. The Employments Contracts Act also includes regulations concerning the employee's obligation to notify the employer about forthcoming maternity leave as well as regulations concerning the employee's right to return to work.
	<i>Sairausvakuutuslaki</i>	The Health Insurance Act (1224/2004)	The conditions and amount of the maternity allowance
FR	<i>Code du travail, Article L1225-16 to L1225-34</i>	Labour Code, Article L1225-16 to L1225-34	Absence of medical grounds, length of the maternity leave, additional leave of two weeks on medical grounds ( <i>congé pathologique</i> ), suspension of the employment contract, right to return to the former (or similar) position after the maternity leave
	<i>Code du Travail, Article L1225-66, Article R1225-18, Article R1225-19</i>	Labour Code, Article L1225-66, Article R1225-18, Article R1225-19	Right for the mother to resign when she returns from the maternity leave or two months after the birth; right to be reengaged within one year after resigning (re hiring priority)

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	Official name in national language	Official name in English	Aspects regulated by this provision
FR	<i>Code de la Sécurité sociale: Article L333-1</i>	Social Security code, Article L333-1	Right to a daily allowance ( <i>indemnités journalières</i> ) from the social security if the employment contract is suspended for medical reasons (Labour code, Article L122-25-1-1)
	<i>Code de la sécurité sociale: Article L313-1, Article R313-3</i>	Social Security code, Article L313-1, Article R313-3	Right to daily allowance
	<i>Code de la sécurité sociale: Articles R331-5 to R331-7</i>	Social Security code, Articles R331-5 to R331-7	Amount and payment of the daily allowance
HR	Zakon o roditeljnim i roditeljskim potporama (Narodne novine broj 85/08, 110/08, 34/11, 54/13, 152/14)	Act on Maternity and Parental Benefits (Official Gazette No. 85/08, 110/08, 34/11, 54/13, 152/14)	Length of leave (before and after birth); payment and funding; flexibility in use; eligibility; variation in leave due to child or family reasons; parental leave
HU	<i>2012. évi I. törvény a munka törvénykönyvéről</i>	Act I of 2012 of Labour Code	Maternity leave, unpaid leave, prohibition of dismissal
	<i>1997. évi LXXXIII. törvény a kötelező egészségbiztosítás ellátásairól</i>	Act LXXXIII of 1997 on the Mandatory Health Insurance Benefits	Pregnancy/maternity benefits, childcare benefits, sick pay
	<i>217/1997. (XII. 1.) Korm. rendelet a kötelező egészségbiztosítás ellátásairól szóló 1997. évi LXXXIII. törvény végrehajtásáról</i>	Government Decree 217/1997 (published on 1 December) on the Implementation of Act LXXXIII of 1997 on the Mandatory Health Insurance Benefits	Pregnancy/maternity benefits, childcare benefits, sick pay
	<i>1998. évi LXXXIV. törvény a családok támogatásáról</i>	Act LXXXIV of 1998 on the Family Support	Childcare assistance
IE	The Maternity Protection Acts 1994–2004	The Maternity Protection Acts 1994–2004	The acts provide statutory minimum entitlements in relation to maternity at work including maternity leave: duration of paid and unpaid maternity leave; time off for antenatal classes; health and safety leave; father's leave if the mother dies; time off from work or reduced working hours to allow breastfeeding; protection of certain employment rights; the right to return to work after taking the leave; protection against dismissal; a mechanism for resolving disputes and appeals about entitlements under the act; stopping additional maternity leave with the employer's agreement if the mother becomes sick; delaying maternity leave if the baby needs to be hospitalised.
IT	<i>Costituzione della Repubblica Italiana</i>	Constitution of the Italian Republic	<p>The Italian Constitution provides for important principles in relation to maternity protection.</p> <p>In Article 37, paragraph 1 it is stated that: 'Working women have the same rights and are entitled to equal pay for equal work. Working conditions must allow women to fulfil their essential role in the family and ensure specific appropriate protection for the mother and child'.</p> <p>This implies that the Italian Republic should enable women to fulfil their family functions, and at the same time that all women should be ensured the possibility to work.</p> <p>The protection assured to the mother and child concerns the mother and child as well as their relationship, which has to be protected since it may impact on the biological, relational, and affective needs of the child and the future development of his/her personality (as stated in Constitutional Court rulings Nos. 1/87, 332/88, and 61/91).</p>

	Official name in national language	Official name in English	Aspects regulated by this provision
IT	<i>Costituzione della Repubblica Italiana</i> (cont'd)	Constitution of the Italian Republic	<p>The adequate protection of the working mother includes protection from discrimination, since 'maternity and the commitments related to childcare should not negatively affect the working mother' (Constitutional Court ruling No. 423/95).</p> <p>This is also related to Article 31 of the Constitution, which contains a more general will to protect and encourage the formation of the family: 'the Republic shall encourage family formation and the fulfilment of related duties, with special regard to large families, through economic measures and other benefits.</p> <p>The Republic shall protect mothers, children and the young by adopting the necessary measures.'</p> <p>Within the scope of Article 37, this protection has to be regarded as guaranteeing that pregnant women enjoy the same opportunities as men.</p>
	<i>Decreto Legislativo 26 marzo 2001, n. 151: Testo unico delle disposizioni legislative in materia di tutela e sostegno della maternità e della paternità, a norma dell'articolo 15 della legge 8 marzo 2000, n. 53</i>	Legislative Decree 26 March 2001, No. 151: Consolidated Act containing provisions concerning maternity and paternity protection and support, according to Article 15 of Law 8 March 2000, No. 53	<p>Legislative Decree 26 March 2001, No. 151 combines in a single legal instrument the first law on this matter, adopted in 1971 (Law 30 December 1971, No. 1204 on the protection of working mothers) and the one promulgated in 2000 (Law 8 March 2000, No. 53 containing provisions on maternity and paternity support, on the right to care and training, and on the management of time in towns) as well as the other sector-specific rules on the protection of health and professions.</p> <p>This law makes the protection more flexible as regards the time for leave, and extends the protection to working women (professionals and self-employed workers) and women working under atypical employment contracts (so-called 'quasi-subordinated workers') who were previously not covered by law.</p> <p>Moreover, this law confers on adoptive and foster mothers the right to maternity leave, and on foster and adoptive parents the right to parental leave. Adoptive or foster fathers are entitled to parental leave only when the mother, who shall work as an employee, waives the right to use maternity leave, or cannot use it owing to death or serious illness.</p> <p>The law was further modified in 2003, 2004, 2005, 2007, 2008, 2010, 2011, 2012, 2013, and 2014.</p> <p>All these modifications as well as the relevant rulings by the Constitutional Court are incorporated in the final text of the law.</p> <p>The aspects regulated by the law are as follows: general provisions, health protection for working mothers; maternity, paternity and parental leave; other breaks, special leaves, and time off including rest days; leaves in case of sickness of the child; night shifts; prohibition of dismissal, resignations, and right to return to work; special provisions for self-employed women; women professionals; support to maternity and paternity; surveillance; provisions on contributions; final provisions;</p>
	<i>Maternity leave</i>		Maternity leave is regulated by Legislative Decree 26 March 2001, No. 151, Articles 16–27.
LU	<i>Code du Travail, Art. L. 332-1.</i>	Labour Code, Art. L. 332-1. Art. L. 332-2.	Length of the maternity leave (antenatal and postnatal leave), additional leave (multiple births, premature birth, breastfeeding)
	<i>Code du Travail, Art. L. 332-3.</i>	Labour Code, Art. L. 332-3	Maintenance of wages, benefits and all the rights and the advantages acquired before the maternity leave. <sup>10</sup>

<sup>10</sup> The employer must take into account the period of maternity leave when calculating seniority and related rights; it has to keep the employee's position open while she is on maternity leave, or an equivalent position corresponding to her qualifications and with a salary at least equivalent to her current salary. The employer has to maintain the advantages acquired by the employee prior to her maternity leave; furthermore, the employer must allow her to benefit from any improvements in working conditions introduced during her maternity.

## Maternity leave provisions in the EU Member States: Duration and allowances

	Official name in national language	Official name in English	Aspects regulated by this provision
LU	<i>Code du Travail, Art. L. 332-4</i>	Labour Code, Art. L. 332-4	Right for the mother to resign when she returns from maternity leave or two months after the birth; right to be reengaged within one year after resigning (re-hiring priority)
	<i>Code de la sécurité sociale, Article 25</i>	Social security code, art. 25	Right to an maternity benefit ( <i>indemnités pécuniaire de maternité</i> ) from the Social security
	<i>Code de la sécurité sociale, Article 294</i>	Social security code, art. 294	Right to maternity allowance ( <i>allocation de maternité</i> )
LT	<i>LR Vyriausybės nutarimas Nr. 86 dėl ligos ir motinystės socialinio draudimo pašalpų nuostatų patvirtinimo</i>	Resolution of the Government of the Republic of Lithuania No. 86 on the Approval of Regulations on Sickness and Maternity Social Insurance Allowances	These regulations govern the procedure of the granting and payment of social insurance benefits under the Law on Sickness and Maternity Social Insurance of the Republic of Lithuania.
	<i>LR Darbo kodeksas Nr. IX-926 (DK)</i>	Labour Code of the Republic of Lithuania No. IX-926 (LC)	The labour code lays down guarantees to pregnant women and employees raising children; requirements of working conditions for pregnant women, women who have recently given birth or breast-feeding women; duration of maternity leave.
	<i>LR ligos ir motinystės socialinio draudimo įstatymas Nr. IX-110</i>	Law on Sickness and Maternity Social Insurance of the Republic of Lithuania No. IX-110	This law indicates persons who are insured by sickness and maternity social insurance, establishes their entitlement to the allowances payable under this insurance scheme, and conditions for the granting, calculation and payment of such allowances.
	<i>LR valstybinio socialinio draudimo įstatymas Nr. I-1336</i>	Law on State Social Insurance of the Republic of Lithuania No. I-1336	This law establishes the basis for state social insurance relations: types of state social insurance, categories of the persons covered by state social insurance, and so on.
LV	<i>Likums Par valsts sociālo apdrošināšanu</i>	Law On State Social Insurance (adopted on 1 October 1997, valid from 1 January 1998)	The law defines types of social insurance – among others, maternity and sickness insurance (Section 4); general principles of social insurance; social insurance funds and procedures for utilisation, including main regulations regarding disability, maternity and sickness special budget (Section 11); main rules regarding social insurance contributions; and principles and institutions of the state mandatory social insurance administration. The law specifies that the State Social Insurance Agency (a non-profit organisation and state-owned company) is the manager of the four special social insurance budgets, including disability, maternity and sickness special budget, from which the maternity benefits are paid.
	<i>Likums Par maternitātes un slimības apdrošināšanu</i>	Law On Maternity and Sickness Insurance (adopted on 6 November 1995, valid from 1 January 1997)	The law regulates the procedures for granting, calculation and disbursement of defined state social insurance benefits (maternity benefit; sickness benefit; funeral allowance; paternity benefit; and parents' benefit) in the insurable events provided for in this law; and specifies the persons who are entitled to such benefits and the cases when the referred to entitlement arises.
	<i>Ministru kabineta noteikumi Nr.270 Vidējās apdrošināšanas iemaksu algas aprēķināšanas kārtība un valsts sociālās apdrošināšanas pabalstu piešķiršanas, aprēķināšanas un izmaksas kārtība</i>	Regulation of the Cabinet of Ministers No 270 on Procedures for Calculation of Average Wage Subject to Insurance Contributions and Procedures for Granting, Calculation and Payment of State Social Insurance Benefits (adopted on 28 July 1998, valid from 1 August 1998)	The regulation prescribes the procedures by which the average wage subject to insurance contributions has to be calculated, as well as the procedures by which a maternity benefit, a paternity benefit, parents' benefit, a sickness benefit and a funeral benefit shall be granted, calculated and paid.
	Ministru kabineta noteikumi Nr.152 Darbnespējas lapu izsniegšanas kārtība	Regulation of the Cabinet of Ministers on Procedures for Issuance of Sick-Leave Certificates (adopted on 3 April 2001, valid from 1 May 2001)	The regulation sets forth that a sick-leave certificate shall be issued during pregnancy and maternity leave, and prescribes the procedures by which the temporary work disability of a person shall be certified, and the procedures for the issuance of the relevant documents.

## Maternity leave provisions in the EU Member States: Duration and allowances

	Official name in national language	Official name in English	Aspects regulated by this provision
LV	<i>Darba likums</i>	Labour law (adopted on 20 June 2001, valid from 1 June 2002)	Section 154 of the Labour Law on Prenatal and Maternity Leave determines the duration of the prenatal leave and maternity leave.
	<i>Likums par budžetu un finanšu vadību</i>	Law On Budget and Financial Management (adopted on 24 March 1994, valid from 24 April 1994)	This law determines the procedure for the formulation, approval and implementation of the State budget and local government budgets and the responsibility in the budget process. The state budget and the local government budgets consist of a basic budget and a special budget (Section 3(2)). This way, the law determines management of the funding of maternity benefits.
	<i>Ikgadējais likums Par valsts budžetu XXXX gadam</i>	Annual law on the state budget for XXXX (budget law 2015 adopted on 17 December 2014, valid from 1 January 2015)	Determines division of the income from the social contributions into four special social insurance budgets.
MT	<i>Att dwar l-Impjieg u Relazzjonijiet Industrijali</i>	Employment and Industrial Relations Act	The act regulates termination of employment by both the employer and also by the employee who availed herself of maternity leave entitlement.
	<i>Regolamenti dwar il-Harsien tal-Maternita (Impjieg)</i>	Protection of Maternity (Employment) Regulations	The purpose of these regulations is to lay down minimum requirements to safeguard the employment rights of pregnant employees, employees who have recently given birth and breastfeeding employees, thus facilitating improvements in the safety and health of these employees and to give effect to the relevant provisions of Council Directive 92/85/EEC.
NL	<i>Wet arbeid en zorg, par. 3</i>	Act on Work and Care	Entitlement to leave
	<i>Boek 7 BW, art. 7:629 lid 4 en 5</i>	Civil Code Book 7, art. 629	Entitlement to salary
	<i>Artikel 29a Ziektewet</i>	Sickness Act, art. 29a	Entitlement to sickness pay
PL	<i>Ustawa z dnia 26 czerwca 1974 r. Kodeks pracy</i>	The Labour Code (LC) of 26 June 1974	Regulated aspects: duration; procedures and timeframe for filing applications; entitlements; coverage (who is entitled to particular type of maternity leave)
PT	<i>Código do Trabalho (Lei n.º 7/2009 de 12 de Fevereiro)</i>	Labour Code (Law No. 7/2009 of 12 February 2009)	Protection of parenthood, regarding the different forms of parental leave available as well as workers' rights with regard to the granted leave from work, including consultations and breastfeeding.
	<i>Decreto-Lei No. 91/2009 de 9 de Abril</i>	Decree-Law 91/2009 of 9 April	Defines and regulates the protection of parenthood within the scope of maternity, paternity and adoption of the welfare system and the solidarity sub-system
RO	<i>Ordonanta de urgenta a Guvernului nr. 158/2005 privind concediile si indemnizatiile de asigurari sociale de sanatate</i>	Emergency Governmental Ordinance no. 158/ 2005 on health social insurance leave and allowances, published in the Official Journal No. 1074 of 29 November 2005, with further modifications and completions	Maternity leave and allowance received during maternity leave
	<i>Legea nr.95/ 2006 privind reforma în domeniul sanatatii</i>	Law no 95/ 2006 on healthcare reform, published in the Official Journal No. 372 of 28 April 2006, with further modifications and completions	Monthly contribution of the insured persons to the National unique fund of health social insurances
	<i>Ordonanta de urgenta nr. 96/2003 privind protectia maternitatii la locurile de munca</i>	Emergency Governmental Ordinance No 96/ 2003 on maternity protection at workplaces published in the Official Journal No. 750 of 27 October 2003, with further modifications and completions	Protection of pregnant workers and workers who have recently given birth or are breastfeeding The draft of a new regulation on the issue is currently under public debate. It is meant to transpose directive 2014/27/EU.

## Maternity leave provisions in the EU Member States: Duration and allowances

	Official name in national language	Official name in English	Aspects regulated by this provision
SE	<i>Föräldraledighetslag (1995:584)</i>	Parental Leave Act (1995:584)	The Parental Leave Act (1995:584) provides employees the right to leave from work for a maximum of 18 months until their child turns eight years old. The Act also regulates the possibility to enable an alternative caregiver, who is not a parent of the child, leave from work to care for the child. In addition, the law prohibits employers from disfavoursing a person due to parental leave.
SI	<i>Zakon o starševskem varstvu in družinskih prejemkih</i>	Law on Parental Protection and Family Benefits ZSDP-1, Official Gazette RS, no. 26/14	
SK	<i>Zákonník práce č. 311/2001 Z.z. v znení neskorších predpisov</i>	No. 311/2001 on Labour Code as amended by acts, §103/2014 and No. 183/2014)	§103/2014 and No. 183/2014 modify these conditions: maternity leave, parental leave, length of maternity leave and nursing breaks.
UK	The Maternity and Parental Leave, etc Regulations 1999	The Maternity and Parental Leave, etc Regulations 1999	Entitlement to ordinary maternity leave; entitlement to additional maternity leave; commencement of maternity leave periods; duration of maternity leave periods; compulsory maternity leave; exclusion of entitlement to remuneration during ordinary maternity leave; redundancy during maternity leave; requirement to notify intention to return during a maternity leave period; requirement to notify intention to return after additional maternity leave.

## Annex 2: Legal basis of sick pay

AT	Sick leave is defined by the social security acts, such as the General Act on Social Security (Allgemeines Sozialversicherungsgesetz), the Act on Social Security for Farmers (Bauern-Sozialversicherungsgesetz), Act on Social Security for Self Employed (Gewerbliches Sozialversicherungsgesetz) and for civil servants (Beamten-Kranken- und Unfallversicherungsgesetz).
BE	The labour law aspects are regulated by the Employment Contracts Act of 3 July 1978 and by Collective Agreements n°12bis and 13bis of the National Labour Council (on allowances to be paid by the employer as complements to the sickness benefit during the first 30 days). The social security aspects, by the Consolidated Act of 14 July 1994 (Healthcare and Sickness Benefits Insurance, which also includes the Maternity Insurance).
BG	Sick leave is defined in Art. 11 paragraph 1, p. 1. (a) of the Code of Social Insurance as 'general illness' and as a type of temporarily inability to work, along with accident at work, professional illness, sick leave for medical visitation and analyses, sick leave for caring for a sick family member, and so on.
CY	The Social Insurance Law (Law 59(I)/2010) as amended from 2010 until 2014.
CZ	Act No. 187/2006 Coll., On Sickness Insurance (zákon č. 187/2006 Sb., o nemocenském pojištění)
DE	Sick leave is defined by the Law on Continuing Salary Payment. It is defined as inability to work due to an illness that the employee has not caused culpably (negligently or intentionally) and that prevents the employee from performing his/her usual tasks (Section 3 (1) (1) EntgFG).
DK	Rules on salaried employees ( <i>funktionærer</i> ) are found in the Salaried Employees (Act no 81 of 03/02/2009) ( <i>funktionærloven</i> ). For other workers the rules are found in the Act on sick leave and benefit (Act no. 833 of 27/06/2014).
EE	Employment Contract Act Occupational Health and Safety Act Health Insurance Act
EL	<b>Workers in the private sector of the economy:</b> The period for which the worker is entitled, by virtue of Articles 657 and 658 Civ. C., to be absent from work and receive their full pay due to sickness, constitutes the maximum sick leave for every year. Thus, the worker is entitled to a (fully paid) sick leave of up to 15 days a year, in the case that they have been employed by the same employer from 10 days to one year prior to the sickness. They are entitled to a (fully paid) sick leave of one month, in the case that they have been employed by the same employer at least one year prior to the sickness. In the case of a new instance of sickness within the same year, they are entitled to sick leave and sick pay only to the extent that they have not made use of the whole sick leave for that year. <b>Workers under a public law contract and those assimilated to them:</b> Sick leave for such workers may last for as many months as their years of service, but it cannot exceed 12 months, by virtue of the same provisions.
ES	Sick leave is defined in Article 128 of Social Security General Law (Royal Decree Law 1/1994, <i>Ley General de la Seguridad Social</i> ).

## Maternity leave provisions in the EU Member States: Duration and allowances

<b>FI</b>	<p>The provisions on sick leave are included in the Employment Contracts Act (55/2001), Chapter 2. The most important provisions are Sections 11 and 11a of the said chapter which define the right to pay during absence due to illness and the employee's right to part-time absence during illness. Section 11 (3) contains the employer's right to receive the sickness insurance benefit to which the employee is entitled, while the employer pays to the employee at least an equivalent sum as their wage.</p> <p>The Health Insurance Act (1224/2004) Chapter 11 contains the provisions on sickness insurance benefits. Section 1 of the Chapter defines the benefit level as a percentage of the yearly income from employment, divided by 300 (using a figure taken to correspond to working days and Saturdays during one year). Section 2 of the chapter defines what is meant by income from employment; Section 3 allows the actual yearly income from employment to be replaced by taxed income in certain cases when there has been no actual income due to incapacity to work or family related leave. Section 4 allows an estimation of such income by the Social Insurance Institute of Finland, and Section 5 contains provision on deductions that are to be made from the yearly income. There are specific provisions on the minimum benefit under Section 7, and provisions related to benefits in the context of family related leaves under Sections 8–11. The partial sickness insurance benefit (paid to persons on part-time sickness leave) is always half of a full benefit, under Section 12 of Chapter 11 of the Health Insurance Act.</p>
<b>FR</b>	The Social Security code deals with sick leave.
<b>HR</b>	Sick pay is regulated by the Act on Mandatory Health Insurance ( <i>Zakon o obveznom zdravstvenom osiguranju</i> - OG 80/13 and 137/13), the Book of Rules Regarding Longest Duration of Sick Leave Depending on the Type of Disease ( <i>Pravilnik o rokovima najduljeg trajanja bolovanja ovisno o vrsti bolesti</i> – OG 153/09), the Book of Rules on Sick Leave Control ( <i>Pravilnik o kontroli bolovanja</i> – OG 123/11), The Labour Act ( <i>Zakon o radu</i> , 93/14) and Act on Maternity and Parental Benefits ( <i>Zakon o roditeljskim i roditeljskim potporama</i> – OG 85/08, 110/08, 34/11, 54/13, 152/14).
<b>HU</b>	<p>After the section 126 of the Labor Code (Act I of 2012), employees shall be entitled to 15 working days of sick leave per calendar year for the duration of time during which the employee is incapacitated to work. In respect of employment relationships beginning during the year, employees shall be entitled to sick leave as commensurate for the remaining part of the year.</p> <p>Sick leave shall not be available in connection with any duration of being unfit for work due to accidents at work and occupational diseases as specified by social insurance provisions, and to pregnancy with possible delivery problems, because these problems are solved by other (mainly social insurance benefit) tools.</p>
<b>IE</b>	The Social Welfare (Consolidation) Act 2005 is the relevant legislation as amended by subsequent Social Welfare Acts.
<b>IT</b>	<p>Constitution of the Italian Republic art. No. 38 paragraph 2.</p> <p>The main regulations of sick leave are: Act no. 138/1943 (articles no. 5, 6, 7); Act no. 155/1981; Act no. 276/2003, Act no. 311/2004; Act no. 296/2006 (art. 1); Decree no. 1825/1924; Article 2110 Civil Code. The Law Decree No. 98 of 6 July 2011 in art. No. 16.</p>
<b>LU</b>	Art.L.121-6 from the Labour Law defines the obligations of the sick employee as well as his or her rights. Social security legislation (Book I of the Social Security Code) regulates the sickness and maternity insurance scheme.
<b>LT</b>	In Lithuania, sickness allowances shall be granted in accordance with the Article 5 (2) of the Law on Sickness and Maternity Social Insurance No. IX-110.
<b>LV</b>	<p>Law on State Social Insurance (adopted on 1 October 1997, valid from 1 January 1998), as amended until 17 December 2014.</p> <p>Law on Maternity and Sickness Insurance (adopted on 6 November 1995, valid from 1 January 1997), as amended until 23 October 2014.</p> <p>Regulation of the Cabinet of Ministers No 270 on Procedures for Calculation of Average Wage Subject to Insurance Contributions and Procedures for Granting, Calculation and Payment of State Social Insurance Benefits (adopted on 28 July 1998, valid from 1 August 1998), as amended until 10 December 2013.</p>
<b>MT</b>	For sick pay, the basic law is the Employment and Industrial Relations Act (the 'EIRA', Chapter 452 of the Laws of Malta) and the relevant provisions are Articles 4–10, which provide for the establishing of national standard orders or Wages Council Wage Regulation Orders (WROs). In sectors governed by a WRO or a collective agreement, sick leave entitlements will depend on the agreement or the order. For sectors that are not covered by either a collective agreement or WRO, the National Standard Order (Legal Notice 432 of 2007) prescribes minimum rights. This means that all employees are covered in one way or another, but to different degrees.
<b>NL</b>	<i>Ziektewet</i> (Sickness Benefit Act), Civil Code, Book 7, art. 629 and 629a
<b>PL</b>	Article 67 of the Constitution of 1997 guarantees the right to social security in case a person becomes incapacitated to work by reason of sickness or disability as well as having attained retirement age. The detailed regulations are stated in Article 92 and Article 178–179 of the Labour Code and in the law of 25 June 1999 on cash social insurance benefits in respect of sickness and maternity and the Law of 30 October 2002 on social insurance in respect of accidents at work and occupational diseases.
<b>PT</b>	In Portugal, the right to a paid sick leave is granted by law – Decree-Law No. 28/2004, from 4 February, with the changes introduced by Decree-Law No. 146/2005, from 26 August, by Decree-Law No. 302/2009 from 22 October, by Law No. 28/2011, from 16 June and by Decree-Law No. 133/2012, from 27 June.
<b>RO</b>	Sick leave is defined in the Article 2(1a) of the Emergency Governmental Ordinance 158 of 2005, approved through the Law No 399 of 2006.
<b>SE</b>	Sick leave is neither defined in the Act on Sick Pay nor in the National Insurance Act. The right to sick pay applies, according to the Act on Sick Pay, to a situation where 'the ability to work is diminished due to illness'. During the first 90 days of illness, the total or partial lack of ability is assessed in relation to the employee's regular or equivalent job. After the 90th day of illness, and up to the 180th day, the ability to work is assessed in relation to any job for the employer. After the 180th day of illness, the ability to work is assessed in relation to any job at the regular labour market.

<b>SI</b>	Sick pay is defined in the following regulations. The Health Care and Health Insurance Act ( <i>Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju</i> ), Official Gazette RS, no. 9/92, 13/93, 9/96, 29/98, 77/98 Odl. US: Up 53/96, 6/99, 56/99-ZVZD, 99/01, 42/02-ZDR, 60/02, 11/03 Skl.US: U-I-279/00-42, 126/03, 20/04-UPB1, 62/05 Odl.US: U-I-390/02-27, 76/05, 100/05-UPB2, 100/05 Odl.US: U-I-69/03-17, 21/06 Odl.US: U-I-277/05-32, 38/06, 72/06-UPB3, 114/06-ZUTPG, 91/07, 71/08 Skl.US: U-I-163/08-7, 76/08, 118/08 Skl.US: U-I-163/08-12, 47/10 Odl.US: U-I-312/08-31, 62/10-ZUPJS, 87/11 in 40/12-ZUJF) Rules of the Compulsory Health Insurance ( <i>Pravila obveznega zdravstvenega zavarovanja</i> ), Pravila obveznega zdravstvenega zavarovanja (Official Gazette RS, no. 79/94, 73/95, 39/96, 70/96, 47/97, 3/98, 3/98, 51/98 Odl.US: U-I-125/97, 90/98, 6/99 popr., 109/99 Odl.US: U-I-50/97, 61/00, 64/00 popr., 91/00 popr., 59/02, 11/03 Skl.US: U-I-279/00-42, 18/03, 30/03, 35/03 popr., 78/03, 84/04, 44/05, 86/06, 90/06 popr., 64/07, 33/08, 71/08 Skl.US: U-I-163/08-7, 118/08 Skl.US: U-I-163/08-12, 7/09, 88/09 in 30/11) Employment Relationship Act ( <i>Zakon o delovnih razmerjih</i> ), Official Gazette RS, No. 21/2013 ( <i>Uradni list RS</i> , št. 21/2013 z dne 13. 3. 2013)
<b>SK</b>	Social Security Act (Law No. 461/2003, § 30–38, § 54–58 and § 109)
<b>UK</b>	Sick leave is not defined as such in law, the Social Security Contributions and Benefits Act 1992, which regulates statutory sick pay, referring instead to periods of incapacity for work (see also the Social Security (Incapacity for Work) Act 1994 and the Social Security (Incapacity for Work) (General) Regulations 1995).

### Annex 3: Contributors and authors

This report was based on national contributions from **Eurofound’s network of European correspondents**; contributors are listed below.

<b>AT</b>	Manfred Krenn	<b>IE</b>	Roisin Farrelly
<b>BE</b>	Caroline Vermandere	<b>IT</b>	Feliciano Iudicone
<b>BG</b>	Ekaterina Markova	<b>LU</b>	Frédéric Turlan
<b>CY</b>	Eva Soumeli	<b>LT</b>	Inga Blaziene
<b>CZ</b>	Kristýna Psychlová and Štěpánka Lehmann	<b>LV</b>	Raita Karnite
<b>DE</b>	Sandra Vogel	<b>MT</b>	Charlotte Camilleri
<b>DK</b>	Tobias Bühring	<b>NL</b>	Robbert van het Kaar
<b>EE</b>	Märt Masso	<b>PL</b>	Marta Trawińska
<b>EL</b>	Sofia Lampousaki	<b>PT</b>	Heloise Perista
<b>ES</b>	Jessica Durán	<b>RO</b>	Raluca Dimitriu
<b>FI</b>	Lisa Tönnies Lönnroos	<b>SE</b>	Emilia Johansson
<b>FR</b>	Frédéric Turlan	<b>SI</b>	Aleksandra Kanjuo-Mrčela
<b>HR</b>	Predrag Bejaković and Irena Klemenčić	<b>SK</b>	Lenka Grandtnerová
<b>HU</b>	Hoffmann István	<b>UK</b>	Duncan Adam



*The Maternity Leave Directive (92/85/EEC) is concerned with improvements in the safety and health at work of women who are pregnant, have recently given birth or who are breastfeeding. This report finds that nearly all Member States comply with the directive's provision of granting at least two weeks' mandatory maternity leave before and/or after childbirth; a majority exceed this requirement. And in the majority of Member States, replacement rates stand at 100% of the former salary – at least for a certain period of time. Asked by the Committee on Women's Rights and Gender Equality of the European Parliament (FEMM) to conduct a study on national regulations regarding maternity leave against the background of the possible revision of the directive, Eurofound drew upon recent information provided by its Network of European correspondents to produce the report.*

**The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency, whose role is to provide knowledge in the area of social and work-related policies. Eurofound was established in 1975 by Council Regulation (EEC) No. 1365/75, to contribute to the planning and design of better living and working conditions in Europe.**

