

STUDY

Requested by the FEMM committee



The Gender Gap in the EU's Public Employment and Leadership

Mapping promising measures for
gender equality and equal
opportunities in the EU27



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Abstract

This Study has been commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the FEMM Committee. It provides a situational analysis of the gender gap in EU and Member States' public sector, administration and sphere and identifies promising policy measures for reducing it.

This document was requested by the European Parliament's Committee on Women's rights and Gender Equality.

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LIST OF ABBREVIATIONS

AI	Artificial Intelligence
CEDAW	UN Convention on the Elimination of all forms of Discrimination Against Women
CJEU	Court of Justice of the European Union
CoE	Council of Europe
ECHR	European Convention on Human Rights
EHW	Euducation, Health and Welfare
EIGE	European Institute for Gender Equality
ESC	European Social Charter
EU	European Union
GD	Gender recast Directive
GES	EU Gender Equality Strategy
HRM	Human Resource Management
ICCPR	International Covenant on Civil and Political Rights
IPU	Inter-Parliamentary Union
MEPs	Members of the European Parliament
SDGs	Sustainable Development Goals
STEM	Science, Technology, Engineering and Mathematics
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UDHR	Universal Convention of Human Rights
WEF	World Economic Forum
WLB	Work Life Balance

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EXECUTIVE SUMMARY

The United Nations' Index on Gender Equality scored five EU Member States among the top 10 countries in the world for gender equality in 2020.¹ At the same time, the European Institute for Gender Equality (EIGE) concluded that Europe is at least 60 years away from achieving full gender equality.² Gender equality is a fundamental right and one of the fundamental values in the EU. Achieving it involves putting in place and into practice smart policies that grant equal opportunities to women, allowing them to fully deploy their potential, participate and contribute to the public sector, administration and sphere. The inclusion of women in the European public workforce at all levels is not only in line with EU values: it is also a boost for Europe's economic growth and competitiveness in a quickly ageing society.³

For this reason, the EU democratic institutions have stepped up action for gender equality over the past decades. Legislative measures in this area have been accompanied by strategies and action plans, including the recent **EU Strategy for Gender Equality** (2020-2025). Despite all efforts made, women in the EU are still victims of stereotypes and gender violence. Substantial evidence gathered by analysts and scholars reveals the pervasive **existence of discriminatory practices and inequalities between men and women** in accessing the job market, working conditions (including remuneration), decision-making power, economic independence and responsibility-sharing (for household, childcare and care of other family members).⁴

With the view of summarizing and giving supporting evidence to inform results-oriented policies, the present article provides:

- A situational analysis on the number of women employed in EU and national institutions, with insights on their managerial and/or leadership level (Chapter 1)
- A preliminary mapping of the factors hindering women's entry and progression in EU Member States' public sector, administration and sphere (Chapter 1)
- An outline of the international and EU legal frameworks on anti-discrimination and gender equality (Chapter 2)
- Identification and description of legislative and policy measures in the Member States that give implementation to the principle of gender equality and facilitate women's entry and progression in the public sector and administration (Chapter 3)
- An outline of future challenges for the EU's gender equality agenda, including those related to maintaining work-life balance during the Covid-19 pandemic, to the digitalisation of work and recent developments in the field of AI (Chapter 4)
- Actionable recommendations to EU and national policymakers (Chapter 4)

¹ The full data is downloadable at <http://hdr.undp.org/en/content/gender-inequality-index-gii#:~:text=The%20GII%20is%20an%20inequality%20index.&text=Thus%20the%20higher%20the%20GII,major%20areas%20of%20human%20development>.

² <https://eige.europa.eu/news/gender-equality-index-2020-can-we-wait-60-more-years>

³ <https://eige.europa.eu/gender-mainstreaming/policy-areas/economic-and-financial-affairs/economic-benefits-gender-equality>

⁴ For an overview of the status of Gender Equality in the EU, we refer the reader to the 2019 European Commission's report on equality between men and women in the EU https://ec.europa.eu/info/sites/info/files/aid_development_cooperation_fundamental_rights/annual_report_ge_2019_en.pdf

A recent report on women's out-of-work' responsibilities has been published by the World Economic Forum in December 2020 and available at <https://www.weforum.org/agenda/2020/12/covid-women-workload-domestic-caring/>

In order to ensure factual information, a balanced view and insights from practitioners, this research combined, to the extent possible, desk-research with semi-structured questionnaires and interviews with 30 civil servants in Member States and EU institutions. Our main findings are summarised below:

- Despite recent efforts, **the number of women in leadership and managerial positions in EU institutions and Member States is lower than that of men;** while these findings cannot lead us to conclude that women's specific needs are not represented or considered in policymaking, nevertheless, the data prompt compelling questions on I. The reasons why there is a significantly lower number of women than men in managerial and leadership positions of EU and national democratic institutions; II. The extent to which indirect representation can be effective; III. What are we missing out on by not benefitting from women's leadership?
- **There is an unfair share of household and caring responsibilities between men and women in the EU.** This situation has been addressed also through the recent EU Work-Life Balance Directive (WLB) at the EU level, and in the Member States through appropriate policies for maternal, paternal, parental leave and other instruments for long-term care. Most measures, however, are still tilted towards the attribution of caring-related responsibilities to women rather than to men. This leads us to question how social policies promote gender equality and equal opportunities and incorporate a de-gendered prospective.
- Member States' **Human Resources Management** - particularly in recruitment and promotion – still needs to improve in order to ensure **fairer and unbiased processes.**

1. THE GENDER GAP IN THE EU'S PUBLIC SECTOR AND ADMINISTRATION EMPLOYMENT AND LEADERSHIP

This article starts by exploring the factors that hinder women's entry and progression in the EU's public sector, administration, and sphere (Section 1.1). After isolating some of the causes and consequences of occupational segregation, we provide a statistical overview of the share of women in managerial and leadership positions in EU and Member States' institutions (Section 1.2). We conclude with preliminary remarks on the approaches that can be taken to address the root causes of occupational segregation (1.3).

1.1. Women's employment in the public sector and administration in Europe: a situational analysis of gender gap causes and outcomes

Every year, UN Women, the United Nations agency dedicated to gender equality and the empowerment of women, reports on the progress made towards Goal 5 of the 2030 *Sustainable Development Agenda*, 'Gender Equality'.⁵ The report sets gender equality as an objective to achieve in itself while also looking at the whole Sustainable Development Agenda from a gender perspective.⁶ To look at the Sustainable Development Goals (SDGs) from a gender perspective implies acknowledging that gender equality and the empowerment of women are necessary conditions for the achievement of all the other targets. Some of the data included in the most recent UN Women's report are useful to contextualise and frame the situational analysis presented in Chapters 2 to 4 of this Study.

First, the data reported shed light on the factors which hinder women's employment and career advancement across all sectors, including the public. One of the key actions to achieve gender equality is to grant women equal access to **education opportunities** (p. 83). Equal access to education is a pre-condition for women's entry into the job market. This applies especially also to those women who aim to work in the public sector, administration, and sphere, where many employment opportunities are open only to women who have received graduate-level education. For those women who are already employed in the public sector and administration, fewer opportunities to access advanced education, training, and lifelong learning programmes can constitute obstacles to career progression and ultimately prevent from occupying higher managerial and leadership positions. In addition, the recent deployment of digital technologies and online working makes it particularly urgent to close the gap in digital skills in Europe at all levels.⁷ **Education**, at all levels, is, therefore, **a pre-condition for women's entry and progression in the public sector**. Without opportunities to access education and continuous training, women are simply unable to join and advance in the job force. Unsurprisingly then, one of the key actions of the new EU Gender Equality Strategy (2020-2025) is to **monitor gender equality progress** in the Member States in the

⁵ This Study makes relevant references to the work of UN Women for three main reasons. Firstly, because Sustainable Development Goals equally concern Europe. Secondly, because the European Union's Consensus on Development Agenda shares the same vision and objectives as the UN Sustainable Development Agenda. Thirdly, because the new Commission aims to lead on gender equality globally.

⁶ UN Women. Turning promises into action: Gender equality in the 2030 agenda for sustainable development. Accessible at: <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2018/sdg-report-fact-sheet-europe-and-northern-america-en.pdf?la=en&vs=3554>

⁷ <https://ec.europa.eu/digital-single-market/en/digital-economy-and-society-index-desi>

labour market as well as **in education**.⁸ In addition, in June 2020, EU Ministers for employment urged the Commission to update the 'Skills Agenda for Europe' and emphasised the importance of **making the digital transition fair** to women and to **encourage women to be fully part of it**.⁹

The first take-home message from the UN Women's report, which is relevant to this study, is that fewer opportunities to foundational, vocational, higher education and continuous training represent severe barriers to women's entry and progression in the public sector, administration, and sphere. Further, **segregation in the education system**, namely the presence of women in some fields of knowledge significantly more than in others, is a consequence of gender stereotypes and one of the root causes of **occupational segregation**, namely the predominance of women in some occupational sectors, more than in others. The issue of occupational segregation has received attention from EU institutions in debates over the European workforce's characteristics. The Council Conclusions of December 2017 (15468/17) acknowledged the shortage of men in some public sector areas, including education, health, welfare (EHW), and the shortage of women in science, technology, engineering, and mathematics (STEM).¹⁰ Fewer education opportunities create a competitive disadvantage for women and contribute to occupational segregation.¹¹ A **proposal for Council recommendations on vocational education and training**, which addresses gender balance in traditionally men or women-dominated professions, as well as in education and training, has been tabled in 2020.¹²

Occupational segregation can hamper access to the job market as well as progression within it. We can distinguish two types of occupational segregation. *Horizontal segregation* refers to the dominance of one gender (men or women) within a specific sector. A 2014 report by the European Institute of Gender Equality (EIGE) on gender-segregated occupations at the EU level reported that almost 2/3 of professionals in education (teaching) and health are women, while the remaining 1/3 are men.¹³ One of the consequences of horizontal occupational segregation is that women become under-represented in some occupations and sectors. On the other hand, *vertical segregation* refers to the concentration of women, or men, in specific roles, positions, and levels of responsibility. While the next section looks more closely at vertical segregation in the public administration and sphere and its implications for leadership, here we would like to draw attention to two important consequences of vertical segregation: first, the under-representation of women in managerial and/or decision-making roles, that is,

⁸ European Commission – Questions and Answers: Gender Equality Strategy 2020-2025, Brussels, 5 March 2020

⁹ <https://www.consilium.europa.eu//media/44351/st08682-en20.pdf>

¹⁰ Council of the European Union. 2019. Draft conclusions on Gender-Equal Economies in the EU: The Way Forward. As accessed: <https://data.consilium.europa.eu/doc/document/ST-14254-2019-INIT/en/pdf>

Note: It is important to mention that the level of qualifications deemed necessary is higher for women than for men (Brieger, Francoeur, Welzel, & Ben-Amar, 2017). One study has suggested that the higher level of qualifications held by women is to compensate for their lack of board experience compared to men, which is frequently viewed as a barrier for women's career progressions (Gabaldon, de Anca, Mateos de Cabo, & Gimeno, 2016).

¹¹ European Institute for Gender Equality (EIGE). How gender equality in STEM education leads to economic growth. As accessed: <https://eige.europa.eu/gender-mainstreaming/policy-areas/economic-and-financial-affairs/economic-benefits-gender-equality/stem>

¹² COM (2020) 275: Proposal for a COUNCIL RECOMMENDATION on vocational education and training (VET) for sustainable competitiveness, social fairness, and resilience.

¹³ European Institute for Gender Equality (EIGE). 2017. Gender segregation in education, training, and the labour market. As accessed: <https://data.consilium.europa.eu/doc/document/ST-14624-2017-ADD-2/en/pd>

power inequality; second, differences in earnings, that is **economic inequality**. Further, even when women occupy the same position as men, there often exist differences in the remuneration, that is the **gender pay gap**: according to Eurostat, the gender pay gap in Europe in 2018 was at 14.5%, meaning that women's hourly gross pay was around 14% lower than that of men.¹⁴ Further, the gender pay gap varies greatly between the EU Member States, with the highest gap in 2018 in Estonia (22.7%) and the lowest in Romania (3.0%). Both horizontal and vertical segregation also limit the range of pay scales and earnings to which women have access, causing economic inequality. They restrict the options available for pension schemes. They limit women's access to different and better working conditions and environments. And, particularly in cases of vertical segregation, they impede women from participating and contributing to decision-making processes.¹⁵

A second factor that challenges women's career advancement in all public sector areas is the unbalanced distribution of unpaid work and unpaid care work. The above-cited UN Women's report points at this issue as a global challenge. **Unpaid work** includes all types of work that are not remunerated, including, for example, work done in the household or for a family-run business (p. 217). It also includes all activities related to the household's maintenance, such as cooking or cleaning. Unpaid care work, on the other hand, refers more specifically to all those activities related to the care of people, including the elderly, the ill, people with disabilities, and children (p. 217). According to the report, **the proportion of women in unpaid work is higher than that of men** worldwide. Women bear most responsibility for the caretaking of children, other family members in need, and the household in general. The UN Women's report findings add to an extensive body of scholarly literature, concluding that the primary responsibility for managing the household, children, and other family members tends to fall on women.¹⁶ These data have recently been confirmed also by the World Economic Forum (WEF), indicating that the **Covid-19 pandemic has increased the time women spent caring for children and other dependents**.¹⁷

While women's participation in the workforce has increased over the last number of years, they have continued to carry most of the responsibility for these tasks. This means that their increase in workload (out of the house/paid employment) has not been matched by a decrease in unpaid work or by a fairer share of responsibilities with men.¹⁸ This issue has already been brought up on the global stage in 1995, in the context of the *Beijing Declaration and Platform for Action*, which urged to address the issue of unequal distribution of unpaid work between

¹⁴ Eurostat. 2020. Gender pay gap statistics. As accessed: https://ec.europa.eu/eurostat/statistics-explained/index.php/Gender_pay_gap_statistics#Gender_pay_gap_levels_vary_significantly_across_EU

¹⁵ European Commission. 2019. Report on Equality between Men and Women. As accessed: https://ec.europa.eu/info/sites/info/files/aid_development_cooperation_fundamental_rights/annual_report_ge_2019_en.pdf

¹⁶ Brieger, S. A., Francoeur, C., Welzel, C. & Ben-Amar, W., 2017. Empowering Women: The Role of Emancipative Forces in Board Gender Diversity. *Journal of Business Ethics*, pp. 495-511.; Feeney, M. K. & Stritch, J. M., 2019. Family-Friendly Policies, Gender, and Work-Life Balance in the Public Sector. *Review of Public Personnel Administration*, pp. 422-448.

Strazdins, L. & Broom, D., 2004. Acts of love (and work): Gender imbalance in emotional work and women's psychological distress. *Journal of Family Issues*, pp. 356-378.; Tang, N. & Cousins, C., 2005. Working time, gender and family: An east-west European comparison. *Gender, Work and Organization*, pp. 527-550.; Tower, L. E. & Alkadry, M. G., 2008. The social costs of career success for women. *Review of Public Personnel Administration*, pp. 144-165.

¹⁷ <https://www.weforum.org/agenda/2020/12/covid-women-workload-domestic-caring/>

¹⁸ Grönlund, A., Halldén, K. & Magnusson, C., 2017. A Scandinavian success story? Women's labour market outcomes in Denmark, Finland, Norway and Sweden. *Acta Sociologica*, pp. 97-119.

men and women in the path towards gender equality (Art 160).¹⁹ Calls for a fairer distribution of work has also been one topic of discussion for the 2019 EU Presidency (Council Conclusions 14254/19)²⁰ and object of the current Commission's action to promote work-life-balance for women. To this aim, the Commission has committed to enforcing the Work-Life-Balance (WLB) Directive and other EU laws to close the gender gap. On the topic of women's caring responsibilities for older family members and on the necessity to allow women to be part of the workforce, particularly in an ageing Europe, the Commission has also recently presented a **Green Paper on Ageing** *fostering solidarity and responsibility between generations*.²¹ Particularly relevant will be to follow up on the Commission's measures to:

*"To promote equal participation of women and men in both paid and unpaid family work can help boost employment rates among women, including by supporting people and families to achieve better reconciliation between work and private life. Action to improve gender equality in the labour market and close the gender gap could **enhance men's participation in household work and family care** - if coupled with structural measures reforming the tax and welfare systems."*

One last observation that needs to be made concerns the immediate consequences of the unequal distribution of unpaid work on women's career advancement. The time women spend in housework and caretaking responsibilities reduces not only the time spent in training or employment but also their physical and mental wellbeing. The combined workload – unpaid work and paid employment - can give rise to a work-life conflict. In the education sector, a recent study noted that women researchers were more concerned about potential work-life conflicts compared to their male colleagues.²² Separate studies have suggested that women pay a higher cost for raising a family while working as we shall see in our focused reflection on the antecedents and consequences of parental burnout.²³ Here, it is relevant to conclude that the off-balanced distribution between men and women of work-care-leisure time is one of the most referenced barriers to women's career progressions since it limits the time that could be dedicated to self-improvement, training, or networking, a strategy necessary in some professions for career advancement.²⁴ The impact of this conflict is not limited to career outcomes. Men with families are more likely to be offered a promotion and enjoy increased publication rates and salaries, while women with families experience no additional benefits and, in some cases, are disadvantaged.²⁵ In conclusion, the unbalanced distribution of out-of-work commitments can hinder women's career progression and affect women's work-life-balance in the absence of favourable policies.

¹⁹ United Nations. Beijing Declaration and Platform of Action. 1995. As accessed: https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf

²⁰ Council of the European Union. 2019. Draft conclusions on Gender-Equal Economies in the EU: The Way Forward. As accessed: <https://data.consilium.europa.eu/doc/document/ST-14254-2019-INIT/en/pdf>

²¹ COM/2021/0050. GREEN PAPER ON AGEING Fostering solidarity and responsibility between generations

²² Salinas, P. C. & Bagni, C., 2017. Gender Equality from a European Perspective: Myth and Reality. *Neuron*, pp. 721-729.

²³ [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556933/IPOL_STU\(2016\)556933_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556933/IPOL_STU(2016)556933_EN.pdf)

²⁴ Brieger, S. A., Francoeur, C., Welzel, C. & Ben-Amar, W., 2017. Empowering Women: The Role of Emancipative Forces in Board Gender Diversity. *Journal of Business Ethics*, pp. 495-511.; Feeney, M. K. & Stritch, J. M., 2019. Family-Friendly Policies, Gender, and Work-Life Balance in the Public Sector. *Review of Public Personnel Administration*, pp. 422-448. ; Gabaldon, P., de Anca, C., Mateos de Cabo, R. & Gimeno, R., 2016. Searching for Women on Boards: An Analysis from the Supply and Demand Perspective. *Corporate Governance: An International Review*, pp. 371 -385.

²⁵ Ceci, S. J., Ginther, D. K., Kahn, S. & Williams, W. M., 2014. Women in Academic Science: A Changing Landscape. *Psychological Science in the Public Interest*, pp. 75-141. ; Bygren, M. & Gähler, M., 2012. Family formation and men's and women's attainment of workplace authority. *Social Forces*, pp. 795-816.

1.2. The gender gap in the EU's public employment and leadership: let's talk numbers

Now that we have isolated some of the key factors which hinder women's entry and advancement in employment, including in the public sector, we can move to examine more closely the situational picture of women's employment in the EU's public sector and administration. This section provides an overview of the number of women in public employment in Europe, with a particular focus on the presence of women in leadership positions.

On the issue of women's equality in decision-making, the global statistics on the presence of women in national parliamentary bodies in 2020 show that only around 25% of women hold parliamentary seats globally.²⁶ This indicates that there is a significantly lower rate of women than men in parliaments worldwide. Consequently, women are an under-represented group in high decision-making bodies of democratic organisations and institutions.²⁷ At the European level, the Inter-Parliamentary Union (IPU) provides a situational picture of the number of women holding parliamentary seats in the European Parliament and in national parliaments of Member States. According to the latest data published in 2019, out of the 736 seats of the European Parliament, 259 (35.2%) were held by women.²⁸ The three European countries whose number of women Members of the European Parliament (MEPs) was higher or equal to the number of men were: Finland (8 out of 13 MEPs were women, that is 61.5% of the total number of MEPs from Finland were women); followed by Sweden (10 out of 18 seats were held by women, that is 55%) and Estonia (3 out of 6, that is 50%). The three European countries where the number of women MEPs was significantly lower than that of men MEPs were Poland (11 out of 50, 22%), the Czech Republic (4 out of 22, 18.2%) and Malta (0 out of 5).

At the national level, Finland and Sweden also figured among the top 10 countries worldwide where the proportion of women in the national parliament was close to that of men in 2019 - 47% of Swedish parliamentarians are women and 41% in Finland.²⁹ While in the world classification, the European countries with the lowest number of women in national parliaments were Hungary in 2018 (25 out of 199, that is the 12.6%) and Malta in 2017 (8 out of 67, 11.9%).³⁰ The increase of women's participation in politics and in the decision-making process is one of the areas of focus of the Beijing Declaration and Platform for Action (1995). In Art 182 of the Declaration and Action Plan, 189 governments pledged to encourage

²⁶ This statistics is reported by The World Bank, based on data by the Inter-Parliamentary Union (IPU). Data available at <https://data.worldbank.org/indicator/SG.GEN.PARL.ZS?end=2020&start=1997&view=chart>

²⁷ Similarly, women are under-represented in decision-making positions - senior and middle management - within governments, large firms and institutions globally. A similar situation exists in Europe, where the proportion of women on management boards of public companies was only 26.7% in 2018. The countries closest to achieving equal representation in public companies' management boards were France (44%), followed by Italy, Sweden, Finland and Germany, according to data included in the Gender Statistic Database of the European Institute for Gender Equality.

²⁸ Inter-Parliamentary Union. 2019. Women in regional parliamentary assemblies. As accessed: <http://archive.ipu.org/wmn-e/regions.htm>

²⁹ The data for these countries for 2020, as provided by the European Institute for Gender Equality, is still very similar. Sweden was still the EU country with the highest share of women members of the national parliament (46.4 %), followed by Finland (42.9%).

³⁰ Inter-Parliamentary Union. 2019. Women in national parliaments. Full classification available here: <http://archive.ipu.org/wmn-e/classif.htm>

women's participation in politics and decision-making positions in governments and legislative bodies in order to *contribute to redefining political priorities, placing new items on the political agenda that reflect and address women's gender-specific concerns, values and experiences, and providing new perspectives on mainstream political issues*"(Art 182).³¹

In addition to the European Parliament, a second central body in the EU's institutional and political architecture is the European Council, formed by the heads of state or government of the 27 EU member states, the European Council President and the President of the European Commission. The current composition of the European Council includes 29 Members (counting also the President of the European Commission and the Council President). The total number of women members of the EU Council is five, including the EU Commission President Ursula von der Leyen. The four women EU Council Members are Mette Frederiksen (Prime Minister of Denmark), Kaja Kallas (Prime Minister of Estonia), Sanna Marin (Prime Minister of Finland) and Angela Merkel (Federal Chancellor for Germany). With regards to the roles and numbers of women in the Council's General Secretariat, the table below shows that the number of women in senior management positions (33%) is lower than the number of women in secretarial and clerk level position (69%).³² The figures show that, while women are well represented in the General Secretariat as a whole, they are more present in clerical positions rather than in senior management ones.³³

Table 1: Women in administrator, assistant, secretarial and management positions in the General Secretariat of the Council of the EU in 2021

Share of women staff in total (%)	Women in administrator level positions (AD) (%)	Women in assistant level positions (AST) (%)	Women in secretarial/clerk level positions (AST/SC) (%)	The total share of women in management positions (%)	Women in middle management positions (%)	Women in senior management positions (%)
57.6%	55%	62%	69%	39.1%	42.4%	33.3%

Regarding the situation in the Member States, according to the EIGE's 2020 indicators on women in political power, the EU countries with the highest share of women ministers were Sweden (51.8% of ministers are women), followed by France (48.9%) and Spain (41.6%). The three countries where women were under-represented in ministerial positions were Cyprus (13.2% of ministers are women and 86.8% are men), followed by Malta (11.6%) and Hungary (4.9%). Looking at the share of Members of the National Parliament, after Sweden and Finland, Belgium had the largest share of women members of the national parliament (40.8 % of all parliamentarians in Belgium were women in 2020). Cyprus, Malta and Hungary had the lowest rate of representation of women at the national parliament. We provide here below a

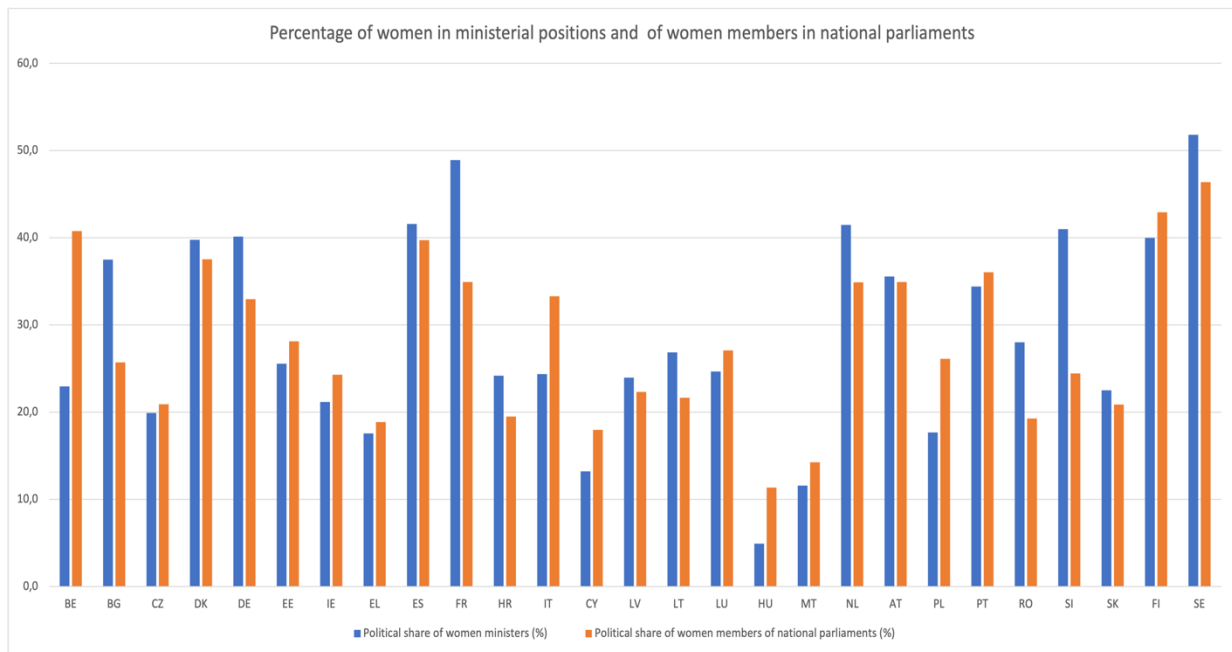
³¹ United Nations. UN Women. 2014. Beijing Declaration and Platform for Action. As accessed: https://beijing20.unwomen.org/~media/headquarters/attachments/sections/csw/pfa_e_final_web.pdf

³² The data in the table has been provided to the research team directly, upon request, by the Public Information Service General Secretariat of the Council of the European Union.

³³ This figure reflects data from The World Bank on the representation of women in the public sector in 'top' position, available at this link <https://blogs.worldbank.org/governance/five-facts-about-gender-equality-public-sector>

summary of the percentage of women in ministerial and parliament positions in the Member States.³⁴

Figure 1: Percentage of women in the EU's national ministries and parliaments



As Figure 1 shows, the share of women in national ministers and national parliaments reflects an unequal gender representation in the EU's member states' high public office. In EU national ministries and parliaments, it is more often the case that a higher number of men are in leading positions, compared to the number of women. This leads us to two conclusions: first, women represent a minority in national governments and parliaments, and second, governments are not balanced and diverse when it comes to gender. The unequal distribution of women in high public management, however, does not necessarily imply that women's interests are not represented. **Passive or indirect representation, namely the representation of women by men, can still lead to policies that take into account a gender dimension. However, the figures presented do reflect a male-dominated public leadership in most EU Member States.** This raises questions on whether passive representation is as effective as direct representation and whether women in public office would be better placed and more likely, to represent women's interest.

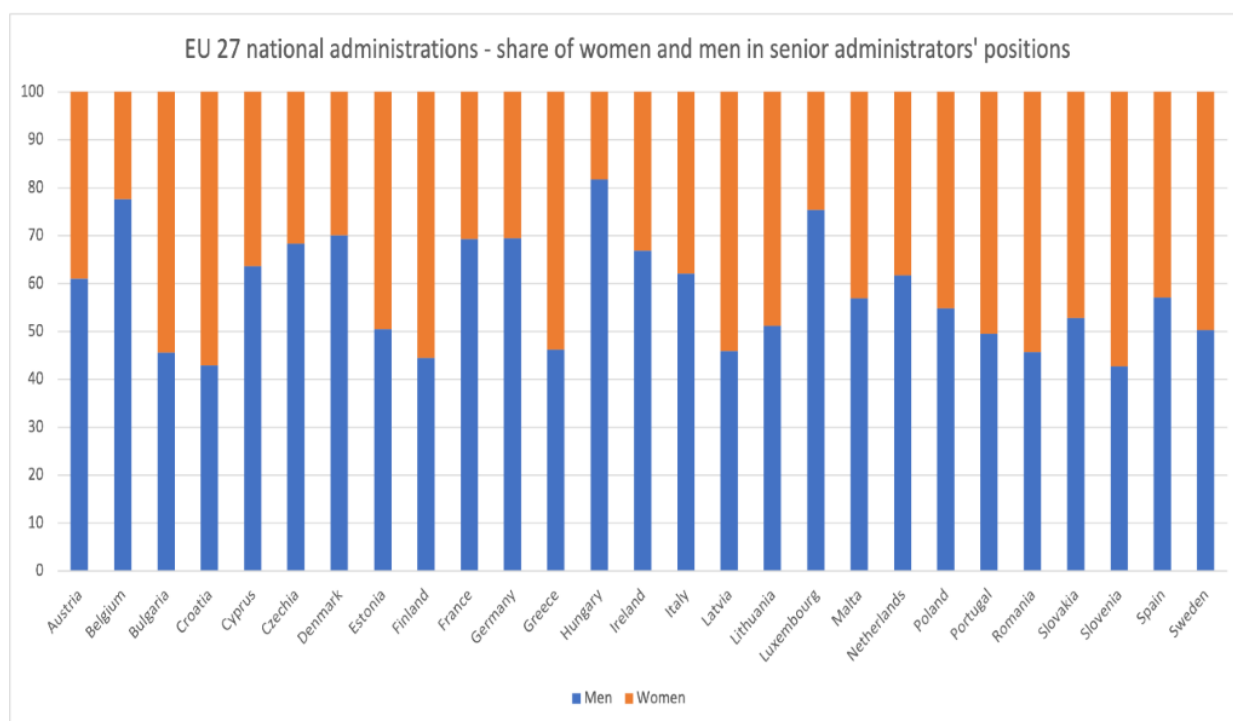
On the latter point, a wealth of social science and policy literature emphasises the **unique contribution that comes with women's leadership to the public sector and policies.** In her book on *Gender Equality and Public Policy* (2020), Professor Paola Profeta holds that there is a correlation between women's leadership and better policymaking. In favour of this position, empirical data have been generated during the recent Covid-19 health crisis. Research has also shown that **women leaders have formulated better responses to the COVID-19 crisis than**

³⁴ The graph is based on data publicly provided by the European Institute for Gender Equality's Gender Statistics Database, WMID, 2017-2018-2019, based on a three-years average and available at <https://eige.europa.eu/gender-equality-index/2020/domain/power/BE>. For Ministers, the counting includes all ministers (junior and senior). For Parliamentarians, the counting includes parliamentarians in both houses.

their male colleagues,³⁵ and that countries led by women had a lower fatality rate than countries led by men. These studies add to the body of evidence showing that the outcomes of decision-making processes improve with women's inclusion and prompt reflections on whether gender differences in leadership behaviour and style might explain better outcomes in and outside crisis contexts.

In addition to looking at the share of women in national parliamentary and ministerial positions, we include here below an overview of the number of women in senior positions in EU Member States' public administrations.

Figure 2. Share of women and men in senior administrators' positions in the national administrations of Member States.



Our concise overview of the share of men and women in EU Institutions and Member States' public administrations confirm that women's representation in public bodies and agencies is not gender-balanced. What follows for policymakers is a due reflection on why it matters that women are more represented in leadership positions of public institutions and ensuing coherent measures. Answering this question requires a critical overview of empirical data on the characteristics of women's leadership (including motivation and behaviour) and its impact.³⁶

³⁵ Garikipati, S., & Kambhampati, U. (2020). Leading the Fight Against the Pandemic: Does Gender 'Really' Matter?. Available at SSRN 3617953.

Sergent, K., & Stajkovic, A. D. (2020). Women's leadership is associated with fewer deaths during the COVID-19 crisis: Quantitative and qualitative analyses of United States governors. *Journal of Applied Psychology*.

³⁶ See also Smith, K. E. (2020). Missing in Analysis: Women in Foreign Policy-Making. *Foreign Policy Analysis*, 16(1), 130-141.

Vibeke Lehmann Nielsen, Personal Attributes and Institutions: Gender and the Behavior of Public Employees. Why Gender Matters to not only "Gendered Policy Areas", *Journal of Public Administration Research and Theory*, Volume 25, Issue 4, October 2015, Pages 1005–1029, <https://doi.org/10.1093/jopart/muu019>

1.3. From empowering to ensuring that women are in power/empowered: what should we be aware of?

The concise overview presented in this chapter shows **that there is a significant difference in the proportion of women and men represented in the EU and Member States' public sector, administrations and sphere**, at different levels. Several factors are holding women back from entering and thriving in the EU's public sector and public administration. Some of these result from deeply rooted and culturally engrained stereotypes, which can be addressed by promoting gender-sensitive leadership (men and women) and the implementation of binding measures for gender equality and equal opportunities. Measures are needed to challenge societal models, which result in occupational segregation³⁷ and freeze women and men in specific roles and positions.

There are two conclusions here that are relevant to the continuing of our article. First, gender discrimination and the lack of equal opportunities must be addressed by taking **holistic and intersectional approaches**.³⁸ Intersectional approaches acknowledge the interplay of different factors in gender inequality. For example, we have seen that uneven access to education is a cause of, among others, occupational segregation, imbalances in economic and decision-making power. In turn, unequal access to education and occupational segregation depends on a series of factors, including girls and women's country of birth, ethnic, religious, cultural, social and family background, financial means, sexual orientation, age, disability. This means that an intersectional approach to gender inequality and equal opportunities are necessary to address the multiple dimensions of a woman's background and identity that might hamper her ability to progress in employment. Intersectional approaches can help address situations in which women are vulnerable to what is known as 'multiple discrimination', which indicate the co-existence of multiple discriminatory factors at once. Such challenges are taken into account in the new Strategy for Gender Equality:

*The implementation of this strategy will be based on the dual approach of targeted measures to achieve gender equality, combined with strengthened **gender mainstreaming**. The Commission will enhance gender mainstreaming by systematically including a gender perspective in all stages of policy design in all EU policy areas, internal and external. The strategy will be implemented using **intersectionality** – the combination of gender with other personal characteristics or identities and how these intersections contribute to unique experiences of discrimination – as a cross-cutting principle.*

At the same time, holistic approaches are needed to identify also the demand side of gender inequality; that is, the pull factors causing gender discrimination and inequality. Factors resulting in the low level of women's representation in positions of authority in the workforce can be split into the supply-side and demand-side barriers. Supply-side barriers stem from socially constructed ideas of women and result in obstacles to gender balance in the

³⁷ For further information, please refer to the European Institute for Gender Equality. 2017. Work in the EU: women and men at opposite ends. Full text available in <https://eige.europa.eu/publications/work-eu-women-and-men-opposite-ends>

³⁸ EIGE defines 'intersectionality' as an "analytical tool for studying, understanding and responding to the ways in which sex and gender intersect with other personal characteristics/identities, and how these intersections contribute to unique experiences of discrimination" (See: <https://eige.europa.eu/thesaurus/terms/1263>).

workforce.²³ These barriers include a gendered classification of roles in society (including in the family nucleus) and gender stereotypes (and the identification with these stereotypes). On the other hand, institutions, firms and organisations are responsible for not creating barriers on the demand side as they make decisions and adopt practices on recruitment, promotion, care, tax and pension schemes.

2. ANTI-DISCRIMINATION, GENDER EQUALITY AND EQUAL OPPORTUNITIES IN EU LAW AND POLICIES

2.1. International law on gender discrimination

Over the years, the EU has progressively developed an extensive legal framework for gender equality, for the protection of women against discrimination and violence, for the defence of women's rights and access to justice and the promotion of their wellbeing and participation in society. The EU's gender equality framework is articulated in three main areas: anti-discrimination, gender and domestic violence, and access to justice.³⁹ Further, the EU promotes gender equality both within the Union, as well as globally, through external actions, including in the fields of humanitarian and development aid and through collaborations with non-EU countries and international organisations. The EU's action to advance gender equality, equal treatment and equal opportunity builds on and contributes to a global effort to improve the living, working conditions and inclusion of women in society. The adoption of a coherent approach to gender equality in the EU's internal and external action is evident in the composition of the newly formed **Task Force for Equality**, composed by representatives of the Commission and the European External Action Service. This section focuses on the concept of *non-discrimination*, as enshrined in international human rights law. Ensuring that the principle of non-discrimination is applied is the very basis of gender-equality. The chapter provides the reader with a comprehensive overview of the international legal framework against which EU's measures in this field have developed.

To begin with, it is important to acknowledge that all major international and regional human rights treaties contain a clause that prohibits discrimination in all its forms. A reference text for the international and EU anti-discrimination framework is the *International Covenant on Civil and Political Rights* (ICCPR). Article 2 of the Covenant prohibits all forms of discrimination, including based on sex, and defines discrimination as any behaviour which results in recognising different rights to people who belong to separate groups. One international instrument that focuses on the discrimination of women specifically is the *UN Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW), dating back to 1979. The Convention introduces two concepts embedded in the EU's legislative framework: direct and indirect discrimination. In the context of gender discrimination, **direct discrimination** refers to law, policy, other measures, actions, or behaviours that discriminate against women. **Indirect discrimination**, to the contrary, takes place when there is a rule that applies to men and women equally. However, its application has a discriminatory effect on women only. In such cases, equality exists *de jure*, but not *de facto*, since the measure in question has a discriminatory effect. To provide a practical example of indirect discrimination that may occur in public employment recruitment: if a public sector agency publishes a vacancy that foresees exclusively a full-time employment arrangement (100%), such vacancy will make it more difficult for women with childcare responsibilities to apply. In this case, we talk about indirect discrimination because, though both men and women are eligible to apply, the

³⁹ For the purpose of this study, we focus on the anti-discrimination framework specifically and provide a reference to studies relevant to the other two areas.

On the EU and Member States' legislation against gender violence and domestic violence, we refer the reader to the Study Violence Against Women: Psychological Violence and coercive control, available at [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/650336/IPOL_STU\(2020\)650336_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/650336/IPOL_STU(2020)650336_EN.pdf)

conditions of employment are less favourable for women. This practical example makes it clear why achieving 'equal opportunities' is fundamental to the gender equality agenda.

The Council of Europe's framework against women's discrimination includes three main texts: the *European Convention on Human Rights* (ECHR),⁴⁰ the *European Social Charter* (ESC)⁴¹ and the *Convention on Preventing and Combating Violence Against Women and Domestic Violence* (Istanbul Convention).⁴² Art 1 of the ECHR sets out a general prohibition of discrimination, whereby *'the enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex'*. The ECHR, and the application of the non-discrimination principle, are guarded by the European Court of Human Rights, which executes judgements against signatory States found in violation of the Convention. To monitor States' compliance with their decisions, the Court relies on a monitoring mechanism that is founded on the principle of *collective responsibility*. That is, all the Court's judgements are transmitted to the CoE's Committee of Ministers, formed by representatives of all Member States of the Council of Europe. These have then the responsibility to follow closely on the States' responses to the Court's judgement. This type of control mechanism elevates the issue of gender discrimination by making the preservation of gender equality a responsibility of all States.

Complementing the European Convention on Human Rights is the European Social Charter, which is considered the Social Constitution of Europe. The Charter guarantees fundamental social and economic rights for all and pays particular attention to vulnerable and minority groups. Article 8 of the Charter contains provisions on the rights of employed women during maternity and includes obligations on State Parties to: (i) provide paid leave before and after childbirth, (ii) protect to-be, and new mothers from dismissal, (iii) regulate the employment of pregnant and neo-mothers whose work requires to perform duties during night work and (iv) prevent the employment of pregnant women in hazardous employment conditions. In addition, the Charter includes provisions with a view of facilitating balancing between work and caring responsibilities of both men and women and asks signatory governments *'to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice'* (Art. 27). To complete our overview of the international legal framework on women's rights and equality, we must highlight the Istanbul Convention, a reference text for protecting women against violence and domestic violence.⁴³

⁴⁰ Council of Europe. European Convention on Human Rights. As accessed: https://www.echr.coe.int/documents/convention_eng.pdf

⁴¹ Council of Europe. European Social Charter. As accessed: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048b059>

⁴² Council of Europe. Convention on preventing and combating violence against women and domestic violence. As accessed: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>

⁴³ Stockholm Center for freedom. Article 'Erdogan Will withdraw Turkey from Istanbul Convention, opposition politician claims'. January 2021. As accessed: <https://stockholmcf.org/erdogan-will-withdraw-turkey-from-istanbul-convention-opposition-politician-claims/>

European Parliament press release 'Istanbul Convention: all member states must ratify it without delay'. November 2019. As accessed:

<https://www.europarl.europa.eu/news/en/press-room/20191121IPR67113/istanbul-convention-all-member-states-must-ratify-it-without-delay-say-meps>

A summary at a glance of all major international instruments to which the EU legal framework aligns is provided here below in Table 1. The table below includes the main international legal instruments requiring all signatory State Parties to take action to eliminate discrimination against women, promote women's rights and equality and step-up action to end gender discrimination and violence against women.

Table 2. The International framework on anti-gender discrimination

Source	Details at a glance
<p>Universal Declaration of Human Rights (UDHR) United Nations (UN), 1948</p>	<p><i>Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or another status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.</i></p> <p>(Art. 2)</p>
<p>European Convention on Human Rights² (ECHR) Council of Europe (CoE), 1950</p>	<p><i>Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.</i></p> <p>(Art. 14)</p>
<p>Convention C111 – Discrimination (Employment and Occupation) Convention International Labour Organizations (ILO), United Nations (UN), 1958</p>	<p><i>Any Member may, after consultation with representative employers' and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.</i></p> <p>(Art. 5(2))</p>

<p>European Social Charter (ESC) Council of Europe (CoE), 1961³ and revised in 1996</p>	<p><i>Considering that the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin</i> (Preamble)</p>
<p>International Covenant on Civil and Political Rights (ICCPR) United Nations (UN), 1976</p>	<p><i>Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</i> (Art. 2)</p>
<p>International Covenant on Economic, Social and Cultural Rights (ICESCR) United Nations (UN), 1976</p>	<p><i>The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</i> (Art. 2)</p> <p><i>Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such a period working mothers should be accorded paid leave or leave with adequate social security benefits.</i> (Art. 10.2)</p>
<p>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) United Nations (UN), 1979</p>	<p><i>For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.</i> (Art. 1)</p>

<p>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) United Nations (UN), 1987</p>	<p><i>For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.</i></p> <p>(Art. 1)</p>
<p>Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) Council of Europe (CoE), 2011</p>	<p><i>The purposes of this Convention are to:</i></p> <p><i>a) protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;</i></p> <p><i>b) contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women</i></p> <p>(Art. 1)</p>

2.2. EU Law for gender equality and equal opportunities and implementation in the Member States

The principles of non-discrimination and gender equality are among the founding values of the European Union. EU primary and secondary law, adopted by EU institutions in accordance with the EU Treaties and with international law, incorporate non-discrimination and gender equality as principles, as well as objectives. In this section, we outline relevant EU legislation in the field of gender equality and equal opportunity and use fundamental case law by the Court of Justice of the European Union (CJEU) to showcase the range of challenges that the Member States have encountered through the years when transposing and implementing it.

To start with, the Treaty on the European Union, source of European Union law and Member States' national law state that:

*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and **equality between women and men prevail.***

(Art. 2)

The EU's legal framework providing for equality between men and women covers the following dimensions: equality in the workplace, including self-employment, access to goods and services, social security, pregnancy and maternity, childcare and family-care leave, flexible working arrangements for parents and careers. The Table below presents a schematic overview of the EU's legal framework relevant to gender equality, organised in chronological order.⁴⁴

Table 3. EU Primary and Secondary legislation on gender equality and equal opportunities

Source	Details at a glance
Treaty on the European Union (TEU)	<i>(The Union) shall combat social exclusion and discrimination and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.</i> (Art. 3)
Treaty on the Functioning of the European Union (TFEU)	<i>"When defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."</i> (Art. 10)
Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (no longer in force, repealed by Directive 2006/54/EC)	<i>Application of the principle of equal treatment with regard to working conditions, including the conditions governing dismissal, means that men and women shall be guaranteed the same conditions without discrimination on the grounds of sex.</i> (Art. 5)
Council Directive 92/85/EEC of 19 October 1992 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 (in force)	<i>The Member States shall take the necessary measures to ensure that workers are not obliged to perform night work during their pregnancy and for a period following childbirth which shall be determined by the national authority competent for safety and health, subject to submission, in accordance with the procedures laid down by the Member States, of a medical certificate stating that this is necessary for the safety or health of the worker concerned.</i>

⁴⁴ Because of the purpose of this study, we have focused only on instruments relevant to gender equality and equal treatment relevant to women's career progression. However, for the sake of comprehensiveness, it is important here to also mention the following measures relevant to gender equality: Emanating from the Anti-Trafficking Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims; Directive 2011/99/EU on the European Protection Order; Regulation (EU) No. 606/2013 on mutual recognition of protection measures in civil matters; Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime; Council Directive 2004/80/EC relating to compensation to crime victims.

	<p>(Art. 7)</p>
<p>Charter of Fundamental Rights of the European Union (2000)</p>	<p><i>Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.</i></p> <p>(Art. 21, non-discrimination)</p> <p><i>Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.</i></p> <p>(Art. 23 Equality between men and women)</p>
<p>Council Directive 2000/78/EC of November 2000 (Employment Equality Directive), in force</p>	<p><i>The purpose of this Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment.</i></p> <p>(Art. 1)</p> <p><i>The Member States shall communicate to the Commission (...) all the necessary information for the Commission to draw a report (...) on the application of this Directive.</i></p> <p><i>In accordance with the principle of gender mainstreaming, this report shall, inter alia, provide an assessment of the impact of the measures taken on women and men.</i></p> <p>(Art. 19)</p>
<p>Council Directive 2004/113/EC of 13 December 2004 implements the principle of equal treatment between men and women in the access to supply goods and services (in force)</p>	<p><i>Discrimination based on sex, including harassment and sexual harassment, also takes place in areas outside of the labour market. Such discrimination can be equally damaging, acting as a barrier to the full and successful integration of men and women into economic and social life.</i></p> <p>(Preamble, 9)</p> <p><i>The principle of equal treatment between men and women shall mean that</i></p> <ul style="list-style-type: none"> <i>a. there shall be no direct discrimination based on sex, including less favourable treatment of women for reasons of pregnancy and maternity;</i> <i>b. There shall be no indirect discrimination based on sex.</i>

	<i>(Art. 4, Principle of equal treatment)</i>
Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), in force	<i>The purpose of this Directive is to ensure the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.</i> <i>(Art. 1)</i>
Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (Text with EEA relevance), in force	<i>(...) more effective measures should be taken to encourage an equal sharing of family responsibilities between men and women</i> <i>(General considerations, 12)</i>
Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC;	<i>The principle of equal treatment means that there shall be no discrimination whatsoever on the grounds of sex in the public or private sectors, either directly or indirectly, for instance, in relation to the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity.</i> <i>(Art. 4)</i>
Directive (EU) 2019/1158 on work-life balance for parents and carers.	<i>This Directive lays down minimum requirements designed to achieve equality between men and women with regard to labour market opportunities and treatment at work by facilitating the reconciliation of work and family life for workers who are parents or carers.</i> <i>(Art. 1)</i>

In the area of gender equality in the workplace and self-employment, the EU has adopted the *Council Directive establishing a general framework for equal treatment in employment and occupation* (2000/78/EC)⁴⁵ and the *Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation* (2006/54/EC, recast). **The Employment Equality Directive (EED)** provides for equal treatment in both employment (including recruitment and promotion) and training. It sets out the minimum rules on discrimination based on four grounds: religion and belief, disability, age and sexual orientation regarding employment and occupation (Art. 1). The EED also defines and prohibits four types of discrimination:

- 1) *Direct discrimination*, which occurs when a person is subject to less favourable treatment than another on any of the four grounds listed above.
- 2) *Indirect discrimination*, which occurs when a provision, criterion or practice, creates a disadvantageous condition for people of a particular religion, belief, disability, age or sexual orientation.
- 3) *Harassment*, which is defined as any behaviour offending the dignity of a person or creating an intimidating, degrading, humiliating or hostile environment.

⁴⁵ In 2015, the Committee on Employment and Social Affairs required an implementation report, which can be found at [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/536346/EPRS_STU\(2016\)536346_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/536346/EPRS_STU(2016)536346_EN.pdf)

- 4) *Instruction to discriminate* against persons on any of the four grounds considered by the Directive.

Though the Directive does not contain obligations for the Member States to set up a national equality body, several Member States took the initiative following its adoption.

Box 1: CJEU Case law on gender equality⁴⁶**Case 1:** C- 409/16**Subject Matter:** Social Policy on equal access to employment**Legal context:**

- EU Law, Directive 76/207
- Greek Law: Law 2226/1994 on training and further training at the Schools of the Police Academy and at the Junior Officers' Division of the Firefighting Academy, and Presidential Decree 4/1995 on admission to the Officers' School and the School for Policemen under the system of general examinations.

Dispute:

Ms Kalliri applied to participate in the open competition for enrolling in the Greek police school. Her application was rejected on the ground that her height did not meet the minimum requirement of 1,70m (there was a 2cm difference).

Ms Kalliri challenged this decision before the Administrative Court of Appeal of Athens. The Court ruled that the Presidential Decree 4/1995, amended by the Presidential Decree 90/2003, was contrary to the principle of gender equality. Thus, this decision was referred to the CJEU by the Interior Minister and the Ministry of Education, questioning whether the Greek law was compatible with Directives 76/207/EEC, 2002/73/EC and 2006/54/EC, which forbid any form of discrimination based on sex regarding access to employment.

Summary of the judgement:

The Court stated that, since many women do not reach the height of 1,70m, the recruitment requirement for the Greek police discriminated against women and represented a case of **indirect discrimination**.

Such a form of discrimination could only be justified if it was necessary for the Greek police to fulfil its tasks and mandates. However, the Court determined that a minimum height is not required to fulfil tasks in the Greek police.

Thus, the judgement of the Court decided that the Greek law was not adequate to EU standards on gender equality and that the criteria for access to the School of Police Officers needed to be adapted.

⁴⁶ The text of all case law is kept as close as possible to the original to allow for comparison.

The Gender Recast Directive (GD) from 2006 provides protection against discrimination of men and women in access to employment, vocational training, career advancement, working conditions (including dismissals), as well as in security schemes. Therefore, both the EED and the GD Directives target the discrimination of women in employment and training. However, the 2006 GD addresses more specifically the discrimination of women in at least three principal ways. First, the Directive prohibits discrimination of women in both employed and self-employed working schemes, as well as in trainee schemes, vocational training or practical work experiences. Second, it provides for the **protection of women from discrimination at all steps of human and resource management processes**, including selection and recruitment criteria, working conditions, promotions and dismissals. Art 14 extends anti-discrimination measures to 'whatever the branch of activity and at all levels of the professional hierarchy. In doing so, the Directive targets vertical occupational segregation. Finally, it includes provisions specifically for equality in the working conditions. Particularly relevant here are two areas: pay and parental leave. The Directive provisions on equal pay state that, where there is a job classification system to determine **pay**, this **shall be based on the same criteria for men and women** (Art 4). In doing so, the Directive addresses the pay gap. On parental leave, it entitles women to return to their job after the end of their maternity; should their job be in any way different after childbirth, the Directive requires that the new job has terms and conditions equivalent to the job pre-maternity (Art 15).

Box 2 CJEU Case law – maternal and paternal leave

Case 2: Case C-463/19

Subject matter: Social Policy, paternity, parental leave

Legal context:

- EU Law, Directive 2006/54/CE
- French Law: Code du Travail (Labour Code) and Collective Agreement

Dispute:

CY, an employee in CPAM, asked for a period of leave in April 2016, after the birth of his child. According to the French Collective Agreement, an employee is entitled to a leave of three months on half-pay or one and a half months on full-pay.

The company refused the application, given that the right to such leave was reserved only to women.

Syndicat CFTC asked the Social Security Directorate to extend the benefit to male employees who are bringing up a child on their own. Again, this request was denied. Therefore, Syndicat CFTC, acting in favour of CY, challenged this decision against the conseil de prud'-hommes de Metz (Labour Tribunal, Metz, France), arguing that such a decision constitutes discrimination based on sex.

The case arose the question of whether there exists a difference in treatment between male and female workers and whether the provisions of the French Collective Agreement are excluded from the scope of the EU law principles of equal treatment and of the prohibition of discrimination.

Summary of judgement:

The Court established that, albeit this situation seems to constitute a form of discrimination, the Directive 2006/54 is without prejudice to provisions concerning the protection of women, particularly as regards pregnancy and motherhood.

The right to maternity leave granted to pregnant workers must be regarded as a particularly important mechanism of protection under employment law, given that women who have given birth, who are pregnant or breastfeeding, are in a vulnerable situation. Therefore, the situation of women is not comparable to that of a man.

The Court finally defined that an additional period of leave after the statutory maternity leave, reserved under national law exclusively for women, can be disposed of only if such leave pursues the protection of the biological condition of the woman after birth and her special relationship with the child and is intended to protect female workers regarding the effects of pregnancy and motherhood. Therefore, it is for the discretion of the Labour Tribunal to evaluate if the leave provided for in Article 46 of the Collective Agreement meets these conditions.

The issue of how to support women's return to their career post-maternity, and more broadly, of how to protect women's employment while they have children, is the subject particularly of the most recent Work-Life balance Directive. As we have seen in Chapter 1, unpaid work and unpaid care work make it extremely difficult for women to reconcile their work and personal life and, ultimately, to balance between work and out of work commitments. Placing on women a disproportionate burden of out of work commitments can have a tremendously detrimental impact on their career advancement, health and wellbeing. The European Commission has recently proposed a new *Directive on work-life balance for parents and carers*, adopted in 2019, which repeals the Council Directive 2010/18/EU. The work-life-balance Directive can have three important benefits for women, men and for societies *at large*:

1) It *challenges stereotypes on gender roles*: this instrument directly addresses societal stereotypes on women and men's roles in caring responsibilities. Societal expectations and practices often freeze women in their role of primary carers for the household, for children and for family members in need. This challenges women's entry and advancement in the job market and causes power and economic unbalances.

2) It *boosts change in work patterns and allows for a fairer share of responsibilities between men and women*: the Directive modernises EU's legislation on work schedule and modes (part-time, full-time, flexible working arrangements) and caring responsibilities. By introducing new models of responsibility-sharing between men and women in EU legislation, the Directive has transformative potential, as it codifies a new and more equal uptake of family and work-related responsibilities.

3) *Promotes equality of both women and men*: it often goes unnoticed the fact that the discrimination of women often results in the discrimination of men. For example, when public policies reinforce and privilege the image of women as the primary carer, men become victims of discrimination as they enjoy fewer opportunities to fulfil their roles as fathers or carers.

The Directive substantially improves the previous EU framework on maternity and parental leave (regulated respectively by the maternity leave Directive 92/85/EEC⁴⁷ and the parental leave Directive

⁴⁷ Directive 92/85/EEC - pregnant workers of 19 October 1992 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 (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).

2010/18/EU48).⁴⁹ While the previous legislative framework did not foresee provisions for paternal leave at the EU level, the new work-life balance directive provides for at least ten paid days of paternity leave for fathers. While these are supposed to help sharing responsibilities and facilitating women neo mothers to re-integrate into their career, yet it is unlikely that such a short amount of time would significantly impact either change in perceptions about women's roles as the primary child-carers or their re-integration in the work position.

In order to better understand what EU and national civil servants think of social policies relevant to women's career, we have asked public servants the following question":

"How do policies that facilitate and encourage women's access and progression in the public sector – including policies for childcare, maternity leave, parental leave, and return to work – compare to policies available to men?"

Here below, we report a few answers:

" *The paternity leave exists, but it's shorter than the maternity leave*" (Belgium)

" *All measures are available for men as well, except maternity leave*" (Luxembourg)

" *Similar to men, except for maternity leave (which is longer for women)*" (The Netherlands)

" *Same rules apply for men and women (except for maternal leave, mothers get 16 weeks and fathers 6).*" (The Netherlands)

"*Dedicated measures have been implemented to follow gender equalities, taking into account men and women. From 1 July, fathers will also benefit from extended duration for paternity leave.*" (France)

While we will examine the details of these policies at the Member States level in Chapter 3, we would like here to draw attention to the fact that respondents emphasised that the leave period granted to mothers is longer than the period granted to fathers. Also, in those Member States where paternity leave is already granted to fathers for a period of 10 days – such as in Belgium – respondents highlight the existence of a gap in length between the period granted to the mother and the period granted to the father.

These responses prompt critical reflections on the extent to which the work-life-balance Directive's provision on paternal leave and parental leave will achieve progress towards creating equal opportunities for men and facilitating women's re-insertion in their career. In those Member States where the minimum number of days granted was already ten or more (Belgium, Bulgaria, Denmark, Estonia, Spain, Finland, France, Ireland, Lithuania, Poland, Portugal, Slovenia, Sweden), the Directive has only incentivised the adoption of higher minimum standards for parental and paternity leave (see Chapter 3).⁵⁰

The Directive also establishes benefits for carers. This provision enables men and women that have caring responsibilities to remain in employment. Each worker is entitled to a leave of 5 working days per year, although this period could be increased depending on each national legislation. This provision, however, applies only to those who support relatives or persons living in the same household, a problematic restriction. The Directive also facilitates the adoption of flexible working arrangements, letting employees adjust their schedule, reduce the number of working hours, or even

⁴⁸ Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (Text with EEA relevance)

⁴⁹ For an overview of the previous framework and its fiscal element, see the article. *A Gender Equalising Regulatory Welfare State? Enacting the EU's Work-Life Balance Directive in Denmark and Poland* Porte, Caroline De La ; Larsen, Trine P ; Szelewa, Dorota; Benish, Avishai ; Levi-Faur, David Los Angeles, CA: SAGE Publications The Annals of the American Academy of Political and Social Science, 2020-09, Vol.691 (1).

⁵⁰ The Directive also foresees four months of parental leave, to be enjoyed by each worker as an individual right, until the child is eight years old.

chose to work remotely for a period of time while maintaining their right to come back to their original pattern of work once the agreed period ends.

These measures address women's under-representation in the labour market and promote men's roles as carers in the family. In doing so, the package represents an advancement compared to the previous framework in promoting non-discrimination and the participation of women with caring responsibilities in the job market. However, the Directive represents a cautious step forward and still reposes a significant discrepancy in the time women and men have at their disposal for childcare. Though the Directive represents a step forward towards gender equality, it eases rather than neutralising gender differences.

2.3. EU policies, strategies and other measures to support women's employment and participation in the public sphere

The incorporation of gender equality across legislative measures, the integration of a gender perspective in policy initiatives across fields (gender mainstreaming), and the creation of equal opportunities for women's career progression and leadership are common lines of objectives of the Europe 2020 Strategy,⁵¹ the European Pact for Gender Equality 2010-2020 and the European Pillar of Social Rights. More recently, at the policy level, the Von der Leyen Commission has recently stepped up for Gender equality by setting the achievement of a Union of Equality as a central objective of the new Commission's strategy. With this objective in mind, the new Commission has launched a Gender Equality Strategy (GES) 2020-2025. The GES adopts a dual approach to achieving gender equality:

- **Gender mainstreaming:** The Commission will include a gender perspective in all stages of the EU policy-cycle, in both internal and external policies
- **Intersectionality:** The Commission's Strategy will take into account the intersection between gender and other identities and factors in the design of policies.

Gender mainstreaming will therefore represent a circular vector: all Commission's policy initiatives, from their design to the technical and operational aspects of their delivery, will have to take the gender dimension into account. To ensure the presence of a gender perspective across policy fields, the Commission has appointed the first **Commissioner for Equality** and created a **Task Force for Equality**. Intersectionality will be a horizontal pillar in the EU policy cycle: data on the factors which determine gender inequality will need to be considered in legislative and policy proposals.

The GES articulates a European Strategy for women's rights and equality with the following target areas:

- I. Gender-based violence
- II. Gender stereotypes
- III. The gender gap in the labour market, including equal opportunities, equal pay, equal access to finance and pension, reaching equality on caring responsibilities
- IV. Achieving gender balance in decision-making and politics
- V. Gender equality in the EU's external action

⁵¹ European Economic and Social Committee. The gender dimension in the Europe 2020 strategy. As accessed: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/gender-dimension-europe-2020-strategy>

Particularly relevant to this study are the strategic objectives under point 3 and 4, with the two strongly interlinked to one another.

Under the objective of **'Leading equally through society'**, the Commission promotes the participation of women in a leadership position across the private and public sectors. In order to make it possible for women to progress in their career, take on leadership positions, managerial roles and participate more actively in decision-making processes, it is necessary to create **favourable conditions and safe paths**. Women are currently under-represented in public and private decision-making bodies, as we have seen in chapter 1, and the reasons for it have to do with attitudes towards women, women's access to education and training opportunities, as well as with the barriers related to working conditions and caring responsibilities. To tackle these challenges, the Commission sets up take a set of measures to enhance diversity, inclusivity and women's participation in corporate boards (**2012 Directive on improving the gender balance on corporate board**) and support national and regional platforms for exchanging good practices.

Relevant to women's career in the public administration and sphere specifically, the Strategy intends to **promote women's participation as voters, as candidates, and members of political parties**. To this aim, the Commission will provide financial support to initiatives aimed at encouraging the participation of women in the 2024 EP elections, in collaboration with the European Parliament, national parliaments and civil society actors. The promotion of women's participation in the public and political spheres will also take place through the identification and showcasing of best practices.

The Strategy also states that European political parties which apply for funding need to be transparent about women's representation among their members. This statement highlights the importance of giving implementation to Regulation 2018/673, which requires European political parties to make available information on the gender composition and has the potential, encouraging balanced representation in political parties. The commitment to improve women's participation in the European Parliament is part of a broader strategy for gender equality which applies to all institutions, regional and national. The GES states clearly that *"EU institutions and bodies should not be exempt from ensuring gender balance in leadership positions"* and *"the Commission will lead by example"*. Not only the Commission aims to achieve gender balance, but also to take policy measures for the appointment of women and or women's leadership development programmes. Principles of gender equality will also apply to structural reforms and support programmes, which should incorporate and promote mainstreaming in the public administration, in-state budgeting and financial management.

One of the core initiatives of the Commission to improve women's career progression is also the above mentioned Work-Life-Balance packages, which include provisions and policies to improve work-life balance for parents and carers. The Work-Life Balance Directive (EU 2019/1158) was adopted in 2019 and is particularly relevant in the newly changed European context: we now have a population demographic where a higher number of the elderly would benefit from family care; the number of women in employment has been steadily increasing in the past ten years; and, the recent changes related to the COVID-19 pandemic have accelerated the adoption of flexible ways of working, including remote work and flexible hours. In this context, the Work-Life Balance Directive (WLB) addresses the challenges related to new societal needs by non-traditional ways of working and new family types. At the same time, it sets to improve inclusiveness and the participation of women in the job market.

One of the objectives of the WLB Directive was to prevent that there is discrimination between all types of workers in their enjoyment of minimum standards for parental right. Indeed, the Directive applies to all workers who practise employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State. More specifically, the Directive also targets the impact of gender discrimination and inequality on women's rights of parenting and equal opportunities in the labour market and the indirect discrimination of men by extending the minimum length of paternal leave. In the next chapter, we will see specifically what the state of implementation for the Directive is in the Member States and how this improves previous national legislative frameworks.

Box 3. Parental burnout**In focus****Work life balance: what is 'parental burnout' and why should Member States take measures to prevent and address it?**

We have asked the two lead researchers from the *Parental Burnout Research Lab* at UCLouvain, Belgium, to explain what parental burnout is, a problem that affects working women more often than men and what policymakers should take into account when design policies for its prevention.

"Parental burnout affects both genders, but **the prevalence of parental burnout is indeed higher in mothers** compared to fathers (among burned out parents, 2/3 are mothers).

There are a number of reasons underlying this gender difference in prevalence. One of them is that parenthood remains a very gendered role, and it is the area where gender inequalities are the most obvious, including in countries that claim to be egalitarian, such as many European countries. In the work area and in a number of other areas of life (sport etc.), there is a whole range of regulatory mechanisms that aim to promote gender equality and/or fight against gender inequalities. In the area of parenthood, these mechanisms are less present. One example is that we do not speak of "parental leave" but of "maternity leave" and, when "paternity leave" exists, it is much shorter for fathers in many countries (9 times shorter in Belgium). Another example is family allowances: while fathers are eligible, in several countries, mothers receive them by default, which implicitly suggests that it is up to them to take care of the children. At last, there are (among many) examples are child-rearing advice: many family campaigns or ads for baby-related products are illustrated with pictures of mothers, much rarely of fathers, as if mothers necessarily had to be the primary caregiver.

All these subtle and less subtle examples contribute to parenting-related gender equalities. And these contribute to the fact that mothers do not only do more than fathers (the former still take care of 65 to 70% of family-related duties) but also feel more pressured in the parenting domain (the "good mother" pressure)"

(Dr Isabelle Roskam and Moira Mikolajczak, both Professors at the UCLouvain's Faculty of Psychology and Education Sciences)

Recommendations: A way to minimise the risks of parental burnout on women is to restructure and invest in the re-distribution of roles and responsibilities between women and men, for example, by giving more time and space to fathers to get involved in their parenting role and lift the pressure on mothers.

CASE 4: C- 174/16

Subject matter: Social policy on return to employment, parental leave.

Legal context:

- EU Law, Directive 2010/18 and the revised Framework Agreement, Directive 2006/54
- German law: Landesbeamtengesetz (Land Civil Service Law, 'LBG')

Dispute:

Ms H started working as a civil servant for the *Land* of Berlin in 1999. In 2011, she was promoted to a civil servant on probation with the position of counsellor. However, she didn't start working in her new post, given that she was on pregnancy leave from July 2011 to January 2012 and then on maternity leave from 20 January to 27 April 2012. Such vacancy was reassigned to another civil servant, and the Administration Office stated that Ms H did not complete her probation period successfully.

Ms H raised a complaint that was rejected, so she brought an action before the Administrative Court of Berlin. The Administrative Court stated that the ideal option would be to extend the probationary period. Nevertheless, given that German provisions required a new selection procedure in order to reassign a post, and this procedure entails not retaining a civil servant returning from parental leave, the German Court was uncertain as to whether this provision is contrary to EU law.

Therefore, it referred to the CJEU posing preliminary questions regarding the compliance of national provisions with EU law, concretely national rules that do not contemplate the option of extension of the probational period and the potential form of indirect discrimination on the grounds of sex constituted by these national rules.

Furthermore, it raises the question of whether the German provisions would still be contrary to EU law in case they can be justified by the objective of being able to assess the probation for a managerial post to be assigned permanently and what would be the legal consequence in case the post or equivalent position no longer exists.

Summary of the judgement:

The CJEU established that the provisions set in clauses 5.1 and 5.2 of the revised Framework Agreement on parental leave (Directive 2010/18) are contrary to the national rules applicable to the present case.

The reasoning established that Ms H was already on parental leave when she was told she would return to her old post. In addition, her probationary period was not extended, being impossible to evaluate her suitability for the vacancy.

In this sense, the CJEU stated that provisions set by Directive 2010/18 intend to improve work-life balance. In fact, clauses 5.1 and 5.2 aim at preventing the loss or reduction of work rights 'derived from an employment relationship, acquired or being acquired, to which the worker is entitled when he starts parental leave'. Furthermore, in case of workers are deprived of their rights as regards returning to their previous post, they might feel restrained from enjoying their right to parental leave.

Therefore, the CJEU ruled that the rights acquired or being acquired at the start of the parental leave should be guaranteed even if such leave period exceeds four months. Thus, the treatment received by Ms H cannot be justified and is contrary to EU law.

On the other hand, the CJEU established that it is the competence of the referring German Court to ascertain whether the Berlin *Land* was indeed unable to guarantee Ms H to return to her post at the end of her parental leave and if so, to ensure that she could be assigned to an equivalent or similar post

3. GENDER EQUALITY AND EQUAL OPPORTUNITIES IN EU MEMBER STATES: WHAT ALLOWS WOMEN'S ENTRY AND ADVANCEMENT IN THE PUBLIC SECTOR?

3.1. Introduction

All European Member States have in place anti-discrimination, gender equality and/or equal opportunities laws. This chapter outlines the current/existing legislative and policy measures in the EU Member States, providing a comparative overview of those measures which are essential for women's participation in and contribution to the public sector, administration and sphere.

Our overview is divided into four parts, around four main topics.

- I. Part I provides a **country-specific overview** of legislative and policy instruments in the field of gender discrimination, equality and equal opportunities. This first discussion concludes with a brief comparative analysis. The case studies have been selected to provide an overview of I. How Member States understand the issue of gender equality and II. the variety of approaches and instruments used to promote gender equality and employment opportunities for women in the national public sector and administration.
- II. Part II zooms on human resource management practices (HRM) in the EU Member States' public administration. The objective is to provide the reader with insights on the practices for gender equality and **equal opportunities in public administration recruiting, hiring and promotion processes**.
- III. Part III focuses on the **national social policies** in the specific areas of (I) maternity, paternity and parental leave, with updates on the current status of implementation of the EU's work-life-balance directive, where available (II) childcare and long-term care for other family members, (II) challenges with equal treatment in taxation and pension schemes.
- IV. Part IV provides examples of the types of **monitoring mechanisms** in place in the Member States for gender equality and/or equal opportunities.

3.1.1 Austria

In Austria, the Federal Equal Treatment Act (B-GBG) **prohibits sex discrimination in the public service**. It sets rules against gender discrimination which apply to all those employed in federal authorities, to those training with federal authorities, and those who apply for employment with federal authorities. Gender equality is an important aspect of performance management in Austria, according to our national respondent. Evidence of it is the recent introduction of gender budgeting measures. According to the United Nations, Austria is one of only three countries in the world to have **incorporated Gender Budgeting in their Constitution**.⁵² Gender budgeting was incorporated in the Austrian Constitution in 2009 and came into effect in 2013 through the Federal Budget Act (BHG 2013): this requires Federal Ministries to indicate gender objectives, measures and indicators in strategic reports on the federal budget. Gender budgeting, therefore, is a key dimension of performance

⁵² Full article available online at <https://www.un.org/ruleoflaw/blog/portfolio-items/austria-gender-budgeting/#:~:text=measures%20of%20policy,-.Austria%20is%20one%20of%20three%20countries%20worldwide%20which%20have%20implemented,enshrined%20in%20the%20Federal%20Constitution.&text=One%20of%20these%20should%20have%20a%20gender%20dimension>

budgeting. In addition, every Federal Ministry must formulate between one and five objectives in their Annual Budget, of which at least one must address directly gender equality.⁵³ Another important legislative measure is the **regulatory impact assessments principle**, in which the federal chancellery (in accordance with the Federal Ministry of finance) defines the draft legislation based on the desired outputs and outcomes. With gender equality as one of the objectives, progress achieved in the field is also assessed.

The Federal Ministries Act gives responsibility to the Federal Ministry for Arts, Culture, Civil Service and Sport for the cross-ministry coordination of actual gender equality. On cross-ministerial cooperation and gender budgeting, our national respondent for Austria explains in detail how gender equality is targeted in practice in budgetary processes and reporting:

The focus of management in public administration underwent a major shift with the introduction of impact orientation. The commitment to actual gender equality – which is enshrined in the Constitution – was also taken into consideration in this process. As a result, at least one gender equality target must be specified for each subdivision during the budgeting process – including associated figures and measures. This process includes both the compilation and evaluation of the gender equality impact data. The aim is to promote cross-ministerial cooperation, increase the relevance to governance, improve the underlying data and consolidate quality at a high level. There is no systematic connection between performance management regulated by the Federal Budget Act (see 6.1) and the SDG's. Nevertheless, different connecting dots between the national law and the SDG's can be observed. For example, performance budgeting instrument ensures that all ministries and supreme organs define gender-related outcome objectives, measures, and indicators. Those objectives, measures and indicator have to be defined according to specific quality criteria. One of those quality criteria is comprehensibility. The basis of comprehensibility can be different legal instruments as a government resolution. In Austria, the coherent implementation of the "Agenda 2030" constitutes a government resolution. Hence, there is a connection to the SDG's, even though it is not formalised yet. Furthermore, constant legal development and adaptations to the changing environment and changes in the working environment under the gender aspect created a permanent commitment to the achievement of the goal of "equality of women and men in federal service".

3.1.2 Belgium

In 2020, the Gender-Equality Index (GEI), compiled by the EIGE, scored Belgium 70.4 out of 100. More specifically, Belgium scored 74.7 in the domain of 'work', which assesses equal access to employment opportunities and working conditions, and 55.7 in the domain of 'power', which assesses gender equality in decision-making and women's participation in politics. The core of Belgian legislation on gender equality includes three measures: *The Gender Act*, to eliminate discrimination between men and women (10/05/2007), the *Gender Mainstreaming law* (12/01/2007), and the *Law on Economic Reorientation* (1978).

The *Gender Act* is often viewed as the main law in Belgium for discrimination on the grounds of gender and applies to both the public and private sectors. The Act was adopted in 2007 (lastly amended in 2020) as part of a new anti-discrimination legislative package that aligned Belgian national law with EU Directives in this area (including Directive 2004/113/CE). In its current expanded version, the text extends its previous provisions for the protection of women from discrimination on the grounds of gender and provides protection for gender-related matters, including pregnancy, maternity, breastfeeding, adoption and medically assisted reproduction (Art 4). The Act grants protection from

⁵³ To see a template of the Annual Budget Statement of the Austrian government, see the resource by OECD: <https://www.oecd.org/gov/budgeting/46384463.pdf>

gender discrimination in the recruitment, hiring and promotion processes, as well as across a range of social policy areas, including access to services and goods, public service provision, social protection, employment relation and social rights, including on health services, social security, social benefits, labour relations and membership to trade union and professional organisations.

The *Gender Mainstream Act*, also adopted in 2007, transposes EU Directive 2002/73 and incorporates the objectives set during the Fourth World Conference on Women (Beijing, 1995). The Act contains three important provisions which are particularly relevant to women's career in the public sector and bodies, by providing for:

- I. *Gender budgeting*, which requires to analyse public budgets from a gender perspective in order to assess how these impact women and men.
- II. *Incorporation of gender perspectives in all new policies*. The Act requires each Ministry to incorporate a gender dimension when planning and drafting new policies - '*Chaque ministre intègre la dimension de genre dans toutes les politiques, mesures et actions relevant de ses compétences*' (Art 4);
- III. Implementation of gender mainstream approaches in public administrations.

According to the national respondent for Belgium, an expert in selection and diversity management for the public sector, the **Civil Service Law from 2 June 2012** (*Arrêté royal modifiant l'arrêté royal du 2 Octobre 1937 portant le statut des agents de l'Etat*)⁵⁴ can be considered as a good practice for Equality and Equal opportunities, particularly in HR selection and recruitment processes: "*The Law fixes a quota of at least one third for the under-represented gender (in this case, women) for higher functions and foresees mandatory reporting about the gender dimension for civil servants, pursuant to the Gender Mainstreaming Law.*"

Box 4. The 'gender test'

The 'gender test'⁵⁵

Like in Austria, Belgium also conducts (ex-ante) gender impact assessment.

Article 3 of the Gender Mainstreaming Law requires the Minister responsible for a new law or regulation proposal to conduct a gender impact assessment, the so-called 'gender test'. According to EIGE, this provision was implemented through the Regulatory Impact Assessment Law.⁵⁶

3.1.3 Denmark

According to the Gender Equality Index by the European Institute for Gender Equality, Denmark ranks 2nd in the EU with 77.4 of 100 points. The country's best performance has been noted in the areas of 'work' and 'money'.

⁵⁴ Belgian Royal Decree of 22 December 2000, amending the Royal Decree of 2 October 1937 on the status of Civil Servants. Full text available in: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2000122254&table_name=loi#:~:text=CHAPITRE%20I.-%2D%2D%20Modification%20de%20l'arr%C3%AAt%C3%A9%20royal%20du%20%20octobre%201937.des%20agents%20de%20l'Etat.&text=Les%20agents%20de%20l'Etat,autorit%C3%A9%20de%20leurs%20sup%C3%A9rieurs%20hi%C3%A9rarchiques.

⁵⁵ Belgian Royal Law on the control of the application of the resolutions of the World Beijing Conference. January 2007. As accessed: <https://iqvm-iefh.belgium.be/sites/default/files/downloads/loiqm.pdf>

⁵⁶ European Institute for Gender Equality (EIGE). Belgium factsheet. As accessed: <https://eige.europa.eu/gender-mainstreaming/countries/belgium>

The sources of gender equality law in Denmark are the specific statutory acts on gender equality, ratified international treaties, national and EU case-law, and collective labour agreements.⁵⁷ It must be highlighted that collective agreements are an essential part of the Danish labour market since around 80% of all Danish employees are covered by collective labour agreements. Collective labour agreements include provisions on minimum wages, working hours, pension schemes, and parental leave rights.

The Danish Constitution does not contain a ban on sex discrimination, nor does it provide constitutional protection of equality between men and women. However, equal treatment legislation exists, namely the Gender Equality Act (last amended in 2019), the Act on the prohibition against discrimination in the labour market (last amended in 2017), the Equal Pay Act (2019), and the Act on Equal Treatment of Men and Women as regards Access to Employment (last amended in 2018).⁵⁸

The Gender Equality Act promotes equality between men and women in all spheres of society with the aim of preventing direct and indirect discrimination based on sex. The *Act on Equal Treatment* prohibits discrimination on the grounds of sex, both directly and indirectly, and explicitly refers to pregnancy and marital status. The Act is focused on labour relations, and it covers areas such as working conditions, employment and termination, promotion and training, membership of labour organisations. **It ensures that men and women are paid equally for the same type of work.** Additionally, the Act foresees a possibility to take positive action by the employer itself, but permission from the responsible Ministry must be received. For instance, **positive action could include gender quotas or give preferential treatment to one gender regarding employment relationship.** The Act on the Prohibition in the labour market; instead prohibits discrimination in more general terms, inter alia, includes discrimination based on race, religion, political opinion, and disability.

3.1.4 France

One of the latest legal developments in France in matters relating to gender equality and equal opportunities in the public sector is the 2019 *Law on the transformation of the public service (Loi n° 2019-828 du 6 août 2019 de transformation de la fonction publique)*⁵⁹ which transposes the *Agreement on the equality between men and women in public employment* (30 November 2018) into national law.⁶⁰ The Agreement set five objectives:

- I. Strengthen governance for gender equality
- II. Create the conditions for equal opportunities in the public sector
- III. Eliminate gaps in pay and career development opportunities
- IV. Support employment and career advancement during maternity, parental leave and strengthen the work-life balance
- V. Fight against sexual violence, harassment and sexist behaviour.

⁵⁷ According to EIGE, 'The idea of gender mainstreaming in Denmark has been influenced by the European Union (EU), and, in particular, by the Amsterdam Treaty, which came into force in 1999'. Full text available here <https://eige.europa.eu/gender-mainstreaming/countries/denmark>

⁵⁸ European Commission, Country report Gender Equality (2020), accessed on <https://op.europa.eu/en/publication-detail/-/publication/a156fc3c-e80e-11ea-ad25-01aa75ed71a1>

⁵⁹ French Law n° 2019-828 of 6 August, 2019 on the transformation of the public service. Full text available in: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000038889182?r=24YyKJIMUC>

⁶⁰ French Ministry of Public Action and Accounts. 2018. Relative Arrangement on Professional Equality between men and women in the public administration. As accessed: https://www.fonction-publique.gouv.fr/files/files/publications/politiques_emploi_public/20181130-accord-egalite-pro.pdf

The Directive obliges recruitment agents to put in place processes that create equal opportunities for entry into public employment (Art 15) and to adopt multiannual action plans to ensure equal access to promotion, prevent discrimination, gender violence, harassment and sexist behaviour and facilitate work-life balance (Art 80). Like in the Italian case, the French Law on Public Sector transformation also **poses an obligation on national administration bodies, entities and agencies to communicate official statistics relevant to women's employment in the public sector**, including on the recruitment, development, promotion, remuneration, working hours, working conditions, work-life balance measures, instances of violence, sexual harassment, sexist behaviour (Art 5).

On the remuneration, our respondent working in the French Public Administration has added that: "*the general status of the civil service guarantees to civil servants, and more broadly to public officials, remuneration based on objective criteria, and forbids any gender-based discrimination among public servants*". In 2018, the average earnings of women working in the French public administration were 12.6% lower than that of men (2,181 euros versus 2,497 euros).⁶¹ As part of the Agreement on Equal Opportunities for Women and Men in the Public Service of 30 November 2018, **the Government and public employers committed to implementing, across all the public service, measures to assess and address pay gaps** between women and men, regardless of their status, in order to ensure equal rights in the career development of public servants and equal pay.

BOX 5. CAREER ADVANCEMENT IN THE FRENCH PA

Career advancement provisions in the public sector and administration

Our national respondents emphasises that "this topic has been addressed by the recent law on public service transformation (6 August 2019), stating that **public administrations, hospitals and local authorities shall adopt a dedicated action plan for gender equality** who shall ensure, among others, equal access for jobs and positions."

3.1.5 Germany

In order to encourage further participation of women within the federal service, the Federal Government promotes Gender mainstreaming in all federal Ministries and agencies. The Joint Rule of Procedure of Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien) states that this principle must be followed in all political, legislative and administrative activities undertaken by federal bodies.

In 2015, the *German Bundestag passed a law on the equal participation of women and men in management positions in the private and public sectors* (Führungspositionen-Gesetzes - FüPoG). As part of this measure, two individual acts were put forward with regards to Gender Equality in the German public sector: The *Federal Act on Gender Equality* and the *Federal Act on the Appointment to Bodies* (Articles 1,2). The Federal Act on Gender Equality⁶ (Bundesgleichstellungsgesetz - **BGleiG**) seeks to **eliminate gender discrimination for both women and men in the recruitment and employment of the Federal Administration**. The aim of the Act is to "1. achieve gender equality, 2. eliminate existing discrimination on the basis of gender, in particular discrimination against women, and prevent discrimination in the future and 3. **improve the**

⁶¹ Julie Daniaud, Christophe Dixte, Déborah Massis. 2018. Les rémunérations dans la fonction publique en 2018 (Salaries on the public sector). As accessed: https://www.fonction-publique.gouv.fr/files/files/statistiques/rapports_annuels/2020/04_Vues_d'ensemble_03_RA2020.pdf

family-friendliness and reconciliation of family life, care work and employment for women and men." Under the terms of this Act, job postings for federal agencies must be written in a **gender-neutral language** and can not specify only one gender may apply (Sec. 6(1)). Job announcements must also specify that position may be worked on a part-time basis unless the nature of the job does not allow for this. (Sec.6 (1)). According to Section 7 of this Act, in situations where women are underrepresented and a "sufficient number of applications have been received by women", at least as many women as men must be invited for an interview. **Family care, spousal income and potential career breaks due to familial responsibilities cannot be included in the comparative assessment of applicants** under Section 9 of this Act.

Box 6. WOMEN IN LEADERSHIP IN THE PA IN GERMANY

Promoting women in managerial and leadership position in the German public administration

Under the BGlG, specific targets must be set for the proportion of women and men at each individual management level in the equality plan, with specific measures outlined to achieve these targets (Part 3). The Federal Act on the Appointment to Bodies (Bundesgremienbesetzungsgesetz - **BGremBG**) mandated a 30% gender quota for federal supervisory bodies as of January 2016 (Sec 4). This includes bodies in which the Federal government has at least three seats. From 1 January 2018, the proportion of women and men in federal committee seats was increased to 50%. An independent evaluation of the FÜPoG in 2020 found that the amendment of the Federal Act on the Appointment to Bodies has had a positive impact, resulting in a significant increase in the proportion of women among federally appointed members in boards. The number of women in management positions in the federal public service has also risen. However, the evaluation did note that some provisions of the Federal Equal Opportunities Act did not have the desired effect. One example of this was the use of equality plans. The evaluation found that the structured appointment processes introduced for appointments to the federal bodies have been successful and should be continued and improved upon.

In January 2021, a second management positions act (FÜPoG II) with the aim of increasing women's participation in management positions through binding measures for the public and private sector passed the federal cabinet and is currently passing through the parliamentary legislative procedure. FÜPoG II intends to build upon the original legislation by closing the gaps in certain areas. The includes **extending the gender quota of 30% on boards to companies where the federal government is a majority shareholder** and expanding the provisions of the Act on the Appointment to Bodies (BGremBG). Under the Federal Equal Act on Gender Equality, the Federal Government intends to set itself the goal of reaching equal representation of women in management positions by 2025.

3.1.6 Italy

A key legislative initiative to ensure gender equality and equal opportunities, specifically in the Italian national public administration, is the recent Directive 2/19 on '*Measures to promote equal opportunities and strengthen the role of the Central Guarantee Committee in the public administration*' (Directive n.2/2019). The Directive was jointly proposed by the Italian Minister of the Public Administration and the one for Equal Opportunities. It addresses gender equality specifically in the public administration and provides it with guidelines for promoting equality and equal opportunities. It was drafted pursuant to and by the effect of law decree n.198 (11 April 2006),¹⁵, which provided measures for realising equal opportunities, enhancing the wellbeing of workers and fighting against discrimination at work.

The 2/19 Directive repeals the Directive on '*Measures for realising equality and equal opportunities between men and women in the public administration*' (23 May 2007) and in so doing, it updates Italian national law to conform more closely to Union law on gender equality and equal opportunities. Key sources for the Italian Directive are: EU secondary legislation, namely the *Directive of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation* (2006/54/EC) and the *European Parliament resolution of 9 June 2015 on the EU Strategy for equality between women and men post 2015* (2014/2152(INI)), and EU action plans, particularly the European Commission's *Roadmap New start to address the challenges of work-life balance faced by working Families* (2015) and the *Europe 2020 Strategy*.

One of the core elements of the Italian Directive 2/19 is that states the interdependence between the efficiency of the public service and the work environment of the public administration. Accordingly, the amelioration and **increase of productivity and efficiency in the public sector require the creation of a work environment that promotes the respect of gender equality and equal opportunities** and which is intolerant to any form of discrimination and violence against workers. This legal text, therefore, makes public sector productivity and efficiency dependent upon the implementation of measures for equal opportunities, gender equality and against discrimination and gender-based violence, including sexual violence.

A second core element of the Directive is that it stresses the need for a cultural change in public sector organisations. By suggesting that a change in behaviour and attitudes is needed, the legislator acknowledges the existence of structural problems and stereotypes that cause gender discrimination and inequality. The solution proposed here is that **public bodies promote and facilitate cultural change by organising training programmes that also targeted public officials in higher management and leadership positions**. Accordingly, these should become "promoters and catalysers" of change towards a culture for gender equality and equal opportunities.

The Directive also promotes the organisation of training activities to facilitate women's career progress once they are back from maternity leave. Public bodies should ensure that training activities are organised to ensure their employees' participation in training programmes. This involves making the necessary arrangements so that participating in training does not negatively affect personal and professional life, for example, by using formats and methodologies that allow for remote and flexible access.

3.1.7 Luxembourg

In 2015, Luxembourg established a '**Ministry of Equality between Women and Men**', dedicated exclusively to gender equality.⁶² In Luxembourg, 15,414 women and 13,906 men work in the central administration.⁶³ Here, 25% of senior managers are women, and 28% of the leadership positions are occupied by women in 2019.⁶⁴ To address women's equality in employment, the Law of 15 December

⁶² <https://mega.gouvernement.lu/en.html>

⁶³ Ministère de la Fonction Publique Luxembourg. 2019. Chiffres clés de l'emploi dans la Fonction publique de l'État (Key figures [on employment within the public sector](https://fonction-publique.public.lu/content/dam/fonction_publicque/fr/documentation/fonctionpublique/fonction-publique-chiffre-2019.pdf)). As accessed: https://fonction-publique.public.lu/content/dam/fonction_publicque/fr/documentation/fonctionpublique/fonction-publique-chiffre-2019.pdf

⁶⁴ The full report available in: https://fonction-publique.public.lu/content/dam/fonction_publicque/fr/documentation/fonctionpublique/fonction-publique-chiffre-2019.pdf

2016 established the principle of equal pay between men and women: since then, differences in remuneration between men and women are illegal.⁶⁵

The Luxembourgish Statute for Public Servant, **the 'Code Administrative de la Fonction Publique', effective as of 29 January 2021, has specific provisions against the discrimination of women.** General anti-discrimination principles are embedded in articles 1bis, while a specific provision for anti-discrimination on the ground of gender is contained in Art 1ter, which prohibits all forms of discrimination, direct and indirect, on the grounds of gender:

"Dans l'application des dispositions de la présente loi, toute discrimination fondée sur le sexe, soit directement, soit indirectement par référence, notamment, à l'état matrimonial ou familial est interdite".⁶⁶

3.1.8 Ireland

Legislation on women working within the Irish Civil Service has changed drastically since the Civil Service Regulation Act of 1956, which explicitly stated that "women holding positions in the Civil Service.... are required to retire on marriage"¹⁸. Presently, every interview board that assesses recruitment or promotion applications in the Irish Civil Service must be gender-balanced. **Interview board members receive formal training in relation to legal anti-discrimination obligations and unconscious bias.** Most interview boards are made up of human resources specialists trained specifically for the task.

Gender is not targeted as part of the external application process for roles in the Civil Service. It is only recognised as part of the onboarding process when a candidate is successful in a recruitment competition. There is a positive action in top-level appointments made by the Government (at Secretary-General and Assistant Secretaries-General, i.e., the Heads and Deputy Heads of Government Departments), whereby if a male and female candidate score equally across a range of competencies in a competitive recruitment process, it is the female that will be going forward over the male for recommendation to Government for possible appointment.⁶⁷

The Irish Civil Service has a formal Dignity at Work Policy that aims to promote dignity, respect, safety and equality in the workplace. The policy was produced in 2015 following a stakeholder consultation and a review of the former policy (A Positive Working environment). Regarding pay scale, in the Irish context, the same set of Civil Service pay scales apply equally for both successful male and female candidates on initial recruitment and/or promotion. **As the pay scale is dependent on the role awarded, it is the same for both genders.**

3.1.9 Netherlands

The Dutch Constitution explicitly forbids gender discrimination. Article 1 of the Dutch Constitution notes that all people must be treated the same and forbids discrimination. Also, the Dutch Civil Code (Articles 7:646-7:649) forbids sex discrimination in employment relationships. In the field of equal treatment law in the Netherlands, there are several acts addressing gender equality and equal opportunities, including the *Equal Treatment of Men and Women Act* (ETA) and *General Equal Treatment Act* (GETA) that forbid discrimination based on sex. The ETA dates back to 1980 and GETA to 1994; both

⁶⁵ <http://legilux.public.lu/eli/etat/leg/loi/2016/12/15/n2/jo>

⁶⁶ Ministère d'état. Luxembourg. 2021. Administrative Code As accessed: http://data.legilux.public.lu/file/eli-etat-leg-code-fonction_publique-20210129-fr-pdf.pdf

⁶⁷ Authors have chosen to maintain here and in the remaining part of the article the terms "male" and "female" only to keep terminology close to the original legal text. However, the issue of terminology in legislation should be updated and adapted to current developments.

acts implement the general EU gender equality acquis, and its implementation has been considered satisfactory.

Both GETA and ETA allow positive action on certain conditions. For instance, **positive measures must aim at diminishing or eliminating disadvantages for women** in cases where this disadvantage is linked to sex, and the measures must be proportional. However, there is no obligation in the Dutch equal treatment law to introduce positive action programmes. Since 2011 the Dutch Civil Code has been amended and now includes an obligation to strive that public or private limited companies, with more than 250 employees, in its board of executive directors and advisory boards would have 30% women. The provisions do not include any sanctions if this target is not met. The Acts also prohibit harassment and sexual harassment, and the definitions are quite similar to those provided by the EU Directives.

A new legislative proposal on equal pay for women and men is currently pending in the House of Representatives. The new proposal intends to provide additional measures to be incorporated into the Dutch Equal Treatment Act. As indicated in the legislative proposal's explanatory memorandum, a significant pay gap still exists in the Netherlands. Thus, the proposal aims to address this issue.

3.1.10 Portugal

The major provisions on gender equality are gathered in the Portuguese National Constitution, the Labour Code (2003). The Portuguese Constitution introduces the principle of non-discrimination based on various grounds, including sex, while the Labour Code also integrates the concept of non-discrimination, both direct and indirect, together, and the principle of positive action in the field of employment.

Additionally, **the Labour Code ensures equal opportunities to access to employment, work conditions, professional training and job promotion** while prohibiting unfair treatment or any form of discrimination based on the grounds of sex, gender, marital status, family situation, sexual orientation. Furthermore, it **establishes the right of equal pay**, which applies not only to salary but also to any financial benefit that the employee could be entitled to receive.

The principle of equal pay is also reinforced by a more recent law adopted in 2018, Law n° 60/2018, which establishes measures to ensure equal pay between men and women for equal work or work of the same value. At the same time, it also reinforces the employer's obligation to ensure transparent remuneration policies.

As regards provisions on gender equality applied concretely to the public administration sphere, there are various legislative acts. The law n° 35/2014 on general civil service employment regulates general labour provisions in the public sector, although it does not specify anything in terms of gender equality. However, in this case, general civil service law simply falls back on the general labour law. Therefore, such law is applicable to the public employment sphere without prejudice to the provisions established in the Labour Code in terms of non-discrimination, equality and harassment.

On the other hand, Law 26/2019 on gender equality for senior personnel of governmental bodies aims to ensure an equal representation of both genders within the management of public administration. It is applicable to the staff of the direct and indirect administration of the State, including public institutions and public foundations, to the government and management bodies of public higher education institutions, public associations and public entities. This balanced representation of both genders follows a pre-established minimum threshold of 40% for each gender.

3.1.11 Poland

The Polish civil service law follows and incorporates constitutional rules on anti-discrimination and **citizens' right to equal civil service** access. **The Labour Code rules on anti-discrimination in employment, remuneration, development and promotion also apply to the civil service corps members.** Article 6 of civil service law reads that "Each and every citizen shall be entitled to obtain information about vacancies within the Civil Service. The recruitment to the Civil Service shall be publicly open and based on the competition principle...". Any discrimination (e.g., based on gender, race/ethnicity, religion, disability, age, sexual orientation) regarding access to training and professional development is prohibited.⁶⁸

Our national informant for Poland highlights initiatives taken to ensure public sector actors use equality language. **Special attention is also paid to the language** used in activities within the Polish Civil Service. The Head of the Polish Civil Service recommended using elements of gender equality (at the level of language and vocabulary) in the announcement for vacant positions in the civil service. The Civil Service Department in the Chancellery of the Prime Minister uses in its development projects an **equality language in the area of public procurement** (e.g., tender documents). The contractors are also obliged to embed equality language in their products such as training materials, reports, analyses etc. Additionally, **ministries report on the set-up or update of anti-discrimination and anti-mobbing regulations and procedures**, and the creation of bodies dealing with cases of discrimination (according to the Ordinance of Head of Civil Service – definition and periodic revision of the anti-mobbing procedure in the office is obligatory and belongs to the responsibility of the head of the office). According to the Labour Code, it is an obligation of the employer to fight against discrimination in employment.

The Head of Civil Service publishes on a yearly basis a report on the State of the civil service. To do this, DGs and heads of all civil service offices (approx. 1830) are obliged to provide detailed data on the State of civil service in the office. They include statistics on employment, remuneration (including gender), ethics, disciplinary liability.⁶⁹ According to our national respondent for Poland, the male-to-female ratio in civil service: 71% of women of civil servants are women and 29% are men.⁷⁰ Concerning the leadership position, the ratio in the Polish civil service is the following: for senior positions, 51% are women and 49% men; in middle management positions, 54% are women and 46% men; in coordination positions 68% - 32%; in independent positions 70% - 30%; in specialist positions 71% - 29%.

As far as the gender pay gap is concerned, in 2018, men's average earning was 13.9% higher than the one for women. Nevertheless, it should be emphasised that this difference was reduced from 2014, when women earned on average 16.8% less than men. The difference in the level of remuneration between women and men is mainly due to the fact that women are employed, especially in large numbers in those offices that have a lower level of wages. In 2018, the pay gap was the smallest for senior civil service positions - 1.5% to the detriment of women, and it amounted to 2.9% at the level of middle management positions. According to the Women in Work Index 2020 (by PWC), Poland [next to Belgium] recorded the greatest increase in absolute performance, due to great improvements across

⁶⁸ Source: <https://www.gov.pl/web/civilservice/legal-framework>

⁶⁹ The results are made available for the general public: on the Civil Service Website (<https://www.gov.pl/web/sluzbacywilna/sprawozdaniessc>) and as so-called "open data" (<https://dane.gov.pl/pl>).

⁷⁰ Our respondent has provided a further breakdown: accordingly the ratio for ministries is 66% - 34%; central offices 57% - 43%; voivodeship offices 74% - 26%; National Revenue Administration 74% - 26%.

nearly all indicators, with Poland seeing the largest decrease in the gender pay gap across the OCED." Poland holds the eighth position with a pay gender gap of 5.3%.⁷¹

3.1.12 Romania

The Government Ordinance (GO) no. 137/2000 on preventing and sanctioning all forms of discrimination protects all individuals regardless of their status. It includes concrete provisions on discrimination, harassment, and victimisation. The GO implements EU Directive 2000/43/EC (equal treatment between persons irrespective of a racial or ethnic group) and Directive 2000/78/EC (equal treatment in employment and occupation).

According to Art. 1(3) of the GO, the provisions of the law are applicable to any natural or legal person. Additionally, Art. 1(2)(c) notes that **principles of equality and prevention of discrimination are particularly important for ensuring access to public positions**. Moreover, Law no. 202/2002 for equality of opportunities between women and men prohibits direct or indirect discrimination in all spheres of public life in Romania. The laws mentioned above are applicable in public administration and also are part of the public service admission exam.

3.1.13 Spain

According to the European Institute for Gender Equality, Spain is the 7th country with the highest index, concretely 72 out of 100. In the Spanish Public Administration, 1,451,022 women (56.27%) are employed out of 2,578,388 total civil servants⁷², complying with a fair distribution of work between genders. However, the underlying issue within the public sector is vertical segregation. Men still tend to occupy higher hierarchical positions, and the current systems of employment promotion are not adapted.

The Spanish Constitution already integrates principles like equality and non-discrimination. Article 35 states the right for all citizens to access to employment, employment promotion and fair salary, prohibiting all forms of discrimination based on the grounds of sex in this field. Furthermore, the concepts relating to gender equality and both direct and indirect sex discrimination in the field of employment are all gathered in the Law 3/2007 of 22 March 2007, on effective equality between women and men, which has been recently amended by the Royal-Decree 6/2019 of 1 March 2019 on urgent measures for equal treatment in the field of employment. This consolidates gender equality, the prohibition of discrimination for pregnancy and maternity, as well as reinforces the right to equal treatment in access to employment, professional training, job promotion and work conditions and ensures the provision of social benefits.

At the same time, the principle of non-discrimination and gender equality applied to work relations is reinforced by the Royal Legislative Decree 2/2015 of 23 October, on approving the Workers' Statute. As for specific legislative initiatives that reinforce gender equality in the national public administration, the Royal Legislative Decree 5/2015 of 30 October, approving the Civil Servants' Statute, establishes the individual right to non-discrimination on the basis of sex, sexual orientation, religion, ethnicity, disability, age, etc. **The Civil Servants' Statute prohibits any form of discrimination in terms of access to employment, evaluation of the employee's work performance, and internal promotion**. In turn, **equal pay** is not only referred to in Article 35 of the Spanish Constitution but also **ensured by**

⁷¹ Source: <https://www.pwc.co.uk/economic-services/WIWI/women-in-work-2020-full.pdf>

⁷² Report of the Secretary of Women and Social Policies of the Federation of Workers of the Public Sector UGT. (Informe de la Secretaría de Mujer y Políticas Sociales de la Federación de Empleadas y Empleados de los Servicios Públicos de UGT) 12 February 2020.

Law 11/2020 on the general State Budgets for the personnel. In addition, with regards to social benefits, these are regulated by the Spanish system of Social Security, established by Royal Legislative Decree 8/2015 of 30 October. All women are entitled to rights on maternity allowance, birth and childcare benefits, benefits for risk during pregnancy or breastfeeding.

3.1.14 Slovakia

According to our national respondent, the Slovakian civil service law (Zákon č. 55/2017 Z. z. Zákon o štátnej službe) prohibits discrimination on ground of gender. The law recalls Anti discrimination law (Zákon č. 365/2004 Z. z. Zákon o rovnakom zaobchádzaní v niektorých oblastiach a o ochrane pred diskrimináciou a o zmene a doplnení niektorých zákonov (antidiskriminačný zákon) which prohibits discrimination of any kind. In line with these legislative acts, also **Slovakian Civil service law expressly prohibits discrimination also in the selection procedures**⁷³

In Slovakia, the Ministry of Labour, Social Affairs and Family Unit have a Unit dedicated to gender equality. In 2018, the Ministry **proposed to increase the minimum wage of women** as one of the measures to reduce gender economic inequality. This proposal was based on the observation that the majority of people working for the minimum wage were women.⁷⁴ This measure is also relevant to the public sector since the majority of women working in the public sector in Slovakia are women. The Slovakian government has increased the wage of public sector workers by 10% per year to improve the economic situation of women public employees.

3.1.15 Sweden

According to statistics provided by the national respondent for Sweden, in 2020, there were 140,100 women (kvinnor), making up 52% of the total 267,700 employees, within the Swedish central government sector. In 2019 46% of the 15,400 managers in the central government sector were women (7,000 in total). 51% of the 201 Director Generals were women in 2020. Men and women are viewed as equal under Swedish civil service law. Most laws in Sweden are the same for all sectors in the labour market.

The Discrimination Act (Diskrimineringslagen 2008:567), adopted in 2008 and amended in 2014, represents the core framework with provisions on all forms of discrimination in Sweden.⁷⁵ It aims at counteracting discrimination and promote equal rights in the workplace. It **outlaws direct and indirect discrimination on different grounds, including gender or transgender identity** or expression, as well as sexual harassment and instructions to discriminate.⁷⁶

To regulate anti-discrimination in the civil service, the Public Employment Act (Lag om offentlig anställning SFS 1994:260, § 4) mandates that **only objective factors, such as merit and skills, be considered as assessment criteria for employment in the civil service**. These factors must be first considered when evaluating an application unless there are extraordinary justifications for considering something else first.

⁷³ Act no. 55/2017 Coll. Civil Service Act and on Amendments to Certain Acts. Full text available here <https://www.zakonypreludi.sk/zz/2017-55>

⁷⁴ <https://www.gender.gov.sk/den-rovnosti-v-odmenovani-2/>

⁷⁵ Discrimination Act. (2008:567). As accessed: https://www.legislationline.org/download/id/7062/file/sweden_discrimination%20act_2008_am2014_en.pdf

⁷⁶ Swedish Discrimination Act 2008: 567. As accessed: <https://www.do.se/lag-och-ratt/diskrimineringslagen/#Kaptiel2-Forbud-mot-diskriminering-och-repressalier>

All positions within the Swedish Central Government administration are open to candidates from both public and private sector. All competencies required from candidates to fulfil the role are specified in the job profile description for each position and are then considered legally binding.

Varying methods are employed in the selection process. It is **common to use external recruitment consultants when advertising for a role**. However, the final selection is always made in the governmental body, Ministry or agency, that is, recruiting. Often more than one person is involved in the final decision on recruitment in the Swedish public sector. In addition:

- Judicial appointments are made by the Government following a proposal from a national board of judges (Domarnämnden).
- Open selections are in place for university teaching staff.
- The process for the Government appointing director generals (DG) and other senior civil servants is as a principal rule open, predictable and traceable.

3.1.16 A comparative summary and good practices in the public sector

After providing a country-focused overview of gender equality in Member States' legislation, this subsection provides a short summary of the good practices that might be implemented in the other Member States.

- Some EU countries have adopted gender budgeting as one of their strategies to ensure gender equality in public management. In Austria, for example, the reform of public financial management provided an opportunity for incorporating a gender dimension in public budgetary processes. The incorporation of **Gender Budgeting** in the Austrian Constitution is fundamental for promoting and implementing gender mainstreaming in government policies. The Federal Budget Act (BHG 2013) **increases transparency** on the number of women in the civil service and their remuneration and **enhances accountability** for gender policy commitments and results.
- Member States are also taking measures to **improve transparency in gender pay** and reduce the pay gap (e.g., Luxembourg). It is also important that hard measures be taken at the EU level, including the proposal of binding pay transparency measures which is part of the new Commission's work programme.
- A gender perspective is systematically introduced in the policy cycle of some Member States (e.g., Austria, Belgium). In Belgium, the '**gender test**' incorporates a gender dimension in the **ex-ante impact assessment** of new policies and regulations.
- **Official statistics on the number of women employed in the public sector and on women's pay is compulsory** in some Member States (e.g., France).
- Gender equality is explicitly linked to public sector efficiency and performance (Italy).
- The question of how to ensure equal representation of women in the public sector and administration is addressed differently in the Member States: while some do not have hard policies (e.g., Estonia), others have introduced quotas (e.g., Austria), and others follow a mixed-approach, for example by taking into account gender equality only at the onboarding phase, after the initial selection (e.g., Ireland). Quotas are also fixed differently:
 - In Belgium, Civil Service Law fixes a quota of **at least one third for the under-represented gender**.
 - In Austria, the Austrian Federal Equal Treatment Act (B-GBG) defines quotas in such a way that, in case applicant women have equal or best qualifications should, they should be given preference until a **quota of 50%** is reached.⁵⁶ Similarly, in Germany, the Federal Act on Gender Equality⁶ (Bundesgleichstellungsgesetz - **BGleiG**) mandates that, in situations

where women are underrepresented, and a "sufficient number of applications have been received by women", at least as many women as men must be invited for an interview.⁸

- Good practice in public service recruitment to avoid **indirect discrimination** also comes from Germany, where job announcements must also specify that the **position may be worked on a part-time basis** unless the nature of the job does not allow for this. (Sec.6 (1)). In addition, Family care, spousal income and potential career breaks due to familial responsibilities cannot be included in the comparative assessment of applicants under Section 9 of this Act.
- (PPPs) Public-Private partnerships: in Germany, in January 2021, a second Management Positions Act (FüPoG II) intends to extend **the gender quota of 30% on boards of companies where the federal government is a majority shareholder** and expand the provisions of the Act on the Appointment to Bodies (BGremBG).
- **Training** is used to promote and facilitate the reintegration and career progression of women once they are back from maternity leave.
- Training is offered to the high-level management staff so that they become ambassadors for gender equality (Italy)
- It is also important to emphasise the importance of equality language across governments' activities. Another good practice to highlight is the requirement to use **equality language in public procurement** in Poland.

3.2. Zoom on human resources management's practices relevant to gender equality and equal opportunities in the Member States

One of the main objectives of civil service law, and more generally of national legislation for gender equality in the public administration, is to provide for equal opportunities for entry and promotion of women in the public service. We asked national respondents two questions relevant to the promotion of gender equality and gender balance in the human resource management of their respective national public administrations.

The first question asked them to describe broadly the measures taken to promote staff diversity. The second question was more specific and asked them to detail the measures in place to ensure gender-balance in their national public administration recruitment process. The table below provides a summary of the answers and provides a snapshot of how equality and equal opportunity is incorporated in human resource management (HRM) of public administrations in the Member States.

All answers have been submitted by civil servants working at the Ministerial level, including from the Ministry of Finance, Ministry of Civil Service, Office of the Prime Minister, Chancellery of the Prime Minister. Some of the respondents worked in the Department responsible for public administration and public service human resources.

Table 4. Human Resources Recruitment in the Public Administration of Member States

Country	Answer
Austria	<i>"There must be no discrimination based on gender, in particular when establishing an employment relationship, when determining</i>

	<p>remuneration, in training or in career advancement."</p> <p>"If women are underrepresented, it must not only be pointed out in the advertisement that applications from women are particularly desirable, but also that women with equal or best qualifications should be given preference until a quota of 50 per cent is reached"</p>
<p>Estonia</p>	<p>"The importance of staff diversity is taken into account during the HR planning process, and more effort is invested so that job advertisements would reach the underrepresented groups (through advertising in targeted channels, headhunting etc.). But no hard measures, like quotas or specific targets, are implemented."</p> <p>"The importance of gender-balance is taken into account during the HR planning process. However, recruitment is still the only merit-based and no hard measures, like quotas, targets or gender-specific shortlists, are implemented."</p>
<p>Luxembourg</p>	<p>"The most important criteria in the recruitment process is that the candidate matches the profile described in the job vacancy and fits in the organisation."</p>
<p>Ireland</p>	<ul style="list-style-type: none"> • All our documentation emphasises that PAS and the Civil Service is an equal opportunities employer. • Our selection processes and outcomes are continuously reviewed for fairness and equality and to ensure that there is no unintentional bias. • PAS and the Civil Service have a number of internship and work experience programmes in place to promote diversity. • Candidates who require reasonable accommodations are provided with significant support by PAS throughout the selection process.

	<ul style="list-style-type: none"> • Selection board members are informed of their responsibilities and provided with appropriate training. • <i>PAS will shortly be launching our new Equality, Diversity and Inclusion Strategy with the aim of attracting candidates from diverse backgrounds to ensure the public service is more representative of Irish society.</i> • <i>Our selection processes and outcomes are continuously reviewed for fairness and equality and to ensure that there is no unintentional bias.</i> • <i>We ensure the language used in our recruitment material is appropriate and gender-neutral.</i>
Malta	<p><i>To the extent, which is possible, the Selection Board composition should include members of both genders. Selection Boards must not discriminate, directly or indirectly, on the grounds of gender or family responsibilities or vulnerabilities and are to ensure equality of opportunity during the selection process. In determining the eligibility of and in assessing candidates, the Selection Board should avoid any form of discriminatory treatment.</i></p> <p><i>Questions regarding gender, family responsibilities, marital status and pregnancy/potential pregnancy, or any other discriminatory questions, cannot be asked (Section 2.5 of the Manual on Industrial Relations and the Selection and Appointment Process in the Malta Public Service)“</i></p>
Poland	<p><i>The Civil Service Department promotes employment in the Civil Service among students, university graduates and candidates with different disabilities and special needs. Taking into account that the recruitment process is decentralised in the Polish civil service, it is possible that the Directors General of offices implements such policy.</i></p>

	<p>At the central level, there are not taken any measures to ensure gender-balance in the recruitment process, but it is possible that offices may carry out such measures on their own.</p> <p>Every vacancy in the civil service is obligatorily published on a single webpage. The announcements on vacant positions include the so-called equality clause: "Our office is an employer of an equal opportunity, and all applications are considered with equal attention, regardless of gender, age, disability, race, nationality, political beliefs, trade union membership, ethnicity, religion, sexual orientation or any other legally protected feature ". Such a clause is recommended by the Plenipotentiary for Equal Treatment and the Head of the Civil Service.</p> <p>Many legal obligations are also imposed on the Directors General and heads of offices responsible for recruitment (documenting, publishing outcomes etc.).</p> <p>The civil service law also regulates the rights and duties of the civil service corps members (equal treatment). There is also soft law, recommendations of the Head of Civil Service (including obligatory ones), code of conduct and ethics – which follow and promote equal and fair treatment in broad employment. According to the Polish civil service law, all civil servants have equal access to training and opportunities for improving their professional qualifications. Civil servants have the right and duty to improve their professional knowledge and skills.</p>
<p>Portugal</p>	<p>Regarding gender, the most recent legislation (2019) essentially aims to ensure equal representation of women in senior management positions of central public administration organisations, as well as governing bodies of public higher education institutions and public associations, such as professional associations. This regime establishes as a minimum threshold of balanced representation the proportion of 40% of persons</p>

	<p><i>of each gender in senior management positions of the aforementioned organisations. With regard to gender, the scheme in place advocates a balanced representation regarding senior management positions in central government organisations.</i></p> <p><i>For the achievement of such a balanced representation, a minimum threshold of 40% of persons of each gender was established. Several measures were defined within the scope of recruitment and selection procedures in order to ensure this goal. In the case of elective collegial bodies, the application lists shall comply with the following sorting criteria: The first two candidates may not be of the same sex; There may be no more than two candidates of the same sex in succession.</i></p> <p><i>Regarding senior managers' recruitment for central public administration</i> organisations, the Recruitment and Selection Committee for Public Administration (CReSAP in Portuguese) takes into account <i>the objective of a balanced representation of men and women in the composition of the list of candidates</i> for the position sent to the Government. However, CReSAP is exempt from complying with this stipulation when the set of candidates, selected according to their legally required skills, aptitudes, experience and training, does not allow it. On the other hand, Government members shall promote a balanced representation at the senior management level whenever this is not the case in the respective government area, and the list of candidates presented by CReSAP allows it. The same applies to public institutes of general and special regimes.</p>
<p>Sweden</p>	<p><i>In Sweden, there are rules (The Public Employment Act ,Lag om offentlig anställning) SFS 1994:260, § 4) about the selection that it shall be strictly from merit and skills, and that the skills shall be put the first line to evaluate the best</i></p>

applicant if nothing special indicate others. Central government administration in Sweden practice a **position-based system**, and all positions are open for candidates from both the public and private sector. Vacancies shall be announced. Competences needed are specified in a requirement profile for each position and, after that, legally binding. Appointments can be appealed. The selection process varies, and different methods are used. **It is common to use external recruitment and search consultants**, but the final selection is always made in the governmental body, Ministry or agency, that is recruiting. Usually, more than one decision-maker is involved. For judges, appointments are made by the Government after a proposal from a national board of judges (Domarnämnden). For professors, there are open processes with, for example, test lectures and proposals made by promotion boards. The process for the Government appointing director generals (DG) and other senior civil servants is as a principal rule open, predictable and traceable.

3.3. Social policies to support women's participation in the public administration and public sector: a comparative overview

The new Strategy for Gender Equality (2020-2025) sets as objective the incorporation of gender equality principles and objectives in Member States' social policies. More specifically, the Strategy states that '*Social and economic policies, taxation and social protection systems should not perpetuate structural gender inequalities based on traditional gender roles in the realms of work and private life*'. The Strategy acknowledges that the unbalanced distribution of caring responsibility (childcare, house care, care of family members) between men and women prevents women from pursuing and advancing in their career across all sectors. In light of this, here below, we present an overview of the social policies in the Member States relevant to women's career in the public sector, administration and politics. The overall objective is to provide a picture of how national systems and schemes for leave (maternity, paternity, parental), benefits and taxations might make it easier or more difficult for women to participate in the public sector's labour market.

The overview presented below combines information collected via desk-based research and semi-structured questionnaires with national respondents. Our respondents cover various roles in the Member State' public sector, with years of experience ranging from 1 to 30 years. In order to respect the anonymity of those respondents who prefer privacy, while also providing the reader with an overview of the profiles, we include here a list of the roles, levels of seniority and management and specialisation of respondents. The research team has been able to count on the inputs of civil servants working in the field of international cooperation in the civil service, experts in ethics and integrity in the civil service; Heads of Departments for strategic performance management and innovation in the

public administration, public project managers and assistant, policy officers, policy advisors, data analysts, Heads of Human Resources, Legal Officers, Heads of Corporate Services, Advisers in international civil service, Ministerial Advisors, Analysts, Selection and Diversity Managers, Undersecretaries in the Ministry of Administration, equality officers.

3.3.1 Maternity, paternity and parental leave

The previous sections provided an overview of the basic safeguards for protection from discrimination against women who work in the public sector of Member States. In view of the objectives of recent EU legislation, particularly the Work-Life Balance Directive, this sub-section looks more specifically at some of the provisions for women work during their pregnancy and maternity leave periods.

In the areas of maternity, paternity and paternal leave, debates and legislative development have slowly advanced in the past three decades. To provide some background, the minimum period set for maternity leave in Europe in 1992 was of 14 weeks, through the Pregnant Women Directive (92/85/EEC).⁷⁷ In 2010, the European Parliament voted in plenary to extend maternity leave to 20 weeks, with full pay. The Parliament's proposal foresaw a maternity period two weeks longer than the one proposed at the time by the Commission (18 weeks). On the same occasion, the Parliament had also proposed that fathers could enjoy two weeks of leave during the maternity leave period.⁷⁸ These legislative proposals and changes reflect discussions over how to adapt women's work-life-balance, how to have a fairer distribution of responsibilities between men and women, and how to enhance women's contribution to the European economy.

The three tables below report on the current minimum standards for maternity, paternity and parental leave in the Member States and include where available information on the upcoming and recent changes brought about by the implementation of the new 2019 WLB Directive. The decision to extend our overview to include not only maternity leave but also paternity leave is since the two together can provide a full picture of how childcare is distributed between men and women, which reflects assumptions on the roles and responsibilities of the men and women in the Member States. We also include information, where available, on the pay because economic factors can be decisive in women's choice to stop or increase the length of their maternity leave.

⁷⁷ Council Directive 92/85/EEC of 19 October 1992 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 (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).

⁷⁸ European Parliament press release. 2010. Extending maternity leave to 20 weeks with full pay. As accessed: <https://www.europarl.europa.eu/news/en/press-room/20101020IPR88388/extending-maternity-leave-to-20-weeks-with-full-pay>

Table 5. Maternity leave in the EU Member States updated to 2021

Country	Pre-natal leave period	Post-natal leave period	In case of multiple childbirths	Pay
Austria	8 weeks	8 weeks	12 weeks (pre and post-birth)	100% salary
Belgium	6 weeks maximum <ul style="list-style-type: none"> • 1 week compulsory 5 weeks optional	14 weeks maximum <ul style="list-style-type: none"> • 9 weeks compulsory 5 weeks optional	(pre-child birth) 8 weeks maximum, of which 1 compulsory Post (childbirth) 18 weeks maximum, of which 2 additional weeks are compulsory	82% for the first 30 days 75% from the 31 st day Cap: € 110.23 per day
Bulgaria	45 calendar days (obligatory)	90 calendar days (obligatory) The total length of leave is 410 calendar days. 135 days for pre-natal and post-natal leave are obligatory.	-	90% of the total salary. Minimum monthly payment BGN460 and maximum BGN2600
Denmark	4 weeks	14 weeks (The first 2 weeks after the birth are compulsory)	-	Variable. All employees and self-employed persons are entitled to a daily cash benefit based on former earnings up to a ceiling of DKK 4300 (€ 577.37)
France	6 weeks (first child) Women must stop working no	10 weeks (first child) Women must stop for at least 8	(pre-child birth): 6 weeks for the second child	82% for the first 30 days 75% from the 31st day

	later than one week before childbirth.	weeks after childbirth.	8 weeks for the third child Post-child birth: 10 weeks for the second child 18 weeks for the third child Twins : 12 weeks pre-natal leave Triplets : 24 weeks pre-natal leave – 22 weeks post-natal leave	Cap: € 110.23 per day
Germany	6 weeks	8 weeks	12 weeks	Civil servants receive salary Public employees receive a combination of maternity benefit and an allowance to make up salary
Hungary	Up to 4 weeks (2 weeks mandatory)	20 weeks	Birth Grant (see below) increases to 300% of min. Pension per child with twins.	70% of average daily earnings Taxed at 15% (tax credit can be applied) Citizenship not linked to eligibility (employment)

Ireland	Minimum 2 weeks	24 weeks (option to avail of sixteen weeks unpaid additional maternity leave)	-	Full pay
Italy	2 months	3 months		80% of full pay for five months (2 prior and 3 after childbirth or 1 month prior and 4 months after)
Lithuania	10 weeks	8 weeks	-	77.58% of previous net earnings
Luxembourg	8 weeks	12 weeks		100% salary
Netherlands	4 to 6 weeks (4 weeks are obligatory)	10 to 12 weeks	20 weeks	100% of earnings
Norway *	<p><u>Maternity Allowance</u></p> <p>3 weeks before the due date (if unable to work due to potential harm)</p> <p><u>Parental leave:</u> >12 weeks optional but impacts joint parental period)</p>	<p>10 weeks (6 must be taken)</p> <p><u>Parental leave:</u> 15-19 weeks depending on the rate of benefit (out of total 49-59 weeks parental leave)</p>	<p>2 children: 66-80 weeks</p> <p>3 + Children: 95 - 115</p>	<p><u>Maternity Allowance</u></p> <p>100% salary up to NOK 92,576 per month</p> <p><u>Parental leave:</u> If 49 weeks taken overall = 100% earnings</p> <p>If 56 weeks taken overall = 80% earnings</p> <p>Max. Total NOK 92,576 per month</p>

Poland	<u>Max. 6 weeks</u>	14 weeks (obligatory) 20 weeks	31 weeks (2 children) 33 weeks (3 children) 35 (4 children) 37 weeks (5 or more children)	100% of salary during maternity leave if they have not applied for parental leave 80% of the salary for the duration of both maternity leave and parental leave 100% of the salary during maternity leave and 60% during parental leave
Portugal	<u>Parental leave exclusive to the mother:</u> 120 days, which can be divided into: <ul style="list-style-type: none"> • 30 days prior to birth 90 days after birth	<u>Parental leave exclusive to the mother:</u> leave can be taken as 120 consecutive days after the birth of the child.	120 days period is extended by 30 days.	100% of the monthly income for the first 120 days. In case the period is extended to 150 days, 80% of the income.
Romania	63 days	63 days (first 42 days of leave after the child is born are compulsory)	-	85% of the average monthly income earned by the mother during the last 6 months prior to maternity leave.
Slovakia	6 to 8 weeks	26 to 28 weeks In total, the leave cannot be shorter than 14 weeks.	A woman who gave birth to two or more children would be entitled to 43 weeks of maternity leave.	75% of total salary
Slovenia	4 weeks	11 weeks	-	100% of average monthly earnings

Spain		<p>One of the parents gets a 16-week leave (the first 6 weeks are compulsory).</p> <p>The other parent gets 12 weeks.</p> <p>This period might be extendable for 1 week in case of hospitalisation of the baby.</p>	<p>16 weeks plus an additional period of 2 weeks.</p>	<p>100% of earnings up to a ceiling of €4070.10 per month</p>
Sweden*	<p><u>The parental benefit</u> can be taken up to 60 days before the delivery date</p> <p>If unable to work, <u>pregnancy benefit</u> can be taken at the earliest 60 days before the due date.</p>	<p><u>Parental benefit</u> each parent gets 480 days per child</p> <p>During the first year, both parents can take parental benefit at the same time. These are called double days. There is a maximum of 30 double days per child.</p> <p>Up to 150 days can be transferred to the other parent.</p>	<p>660 days for 2 children 840 days for 3 children 1020 days for 4 children</p>	<p><u>Parental benefit:</u> 390/480 days are paid at the sickness benefit level (based on income) - if worked 240 days before delivery, can expect up to 80% of income (max SEK 1,012 per day)</p> <p>90/480 days are paid at SEK 180 per day</p> <p>The first 180 days must be taken at the sickness benefit level</p> <p><u>Pregnancy benefit:</u> 80% of total salary (max. SEK 759 per day)</p>

The leave period granted to to-be mothers prior to childbirth varies from 6 weeks (Belgium) to 10 weeks (e.g., Spain, Lithuania). **Taking leave from work before childbirth, however, is not compulsory in all EU Member States:** for example, in Spain, it is possible to not take time off work before maternity. Where maternity leave, prior to childbirth is compulsory, the period varies from one week (Belgium) to 8 weeks (e.g., Slovakia). On the contrary, in some national contexts, women are not allowed to work eight weeks prior to and eight weeks after childbirth (Austria). The leave period granted to mothers after childbirth also varies greatly from a minimum of 1 week (Hungary) to a maximum of 52 weeks (Bulgaria).⁷⁹ In Hungary, maternity leave is altogether 24 weeks, of which 2 weeks are mandatory.⁸⁰

Discrimination and unfair dismissal of women during pregnancy is explicitly prohibited in Codes of Civil Sector in some Member States. In most of the EU countries reviewed in this study, **women working in the public sector and administration are protected from unfair dismissal** during pregnancy and maternity leave. The dismissal of women during pregnancy, however, is not always prohibited altogether. For example, the dismissal of a woman during pregnancy is allowed in Belgium if the grounds for dismissal are not linked to the women's pregnancy or to childbirth.⁸¹ With regards to the length of the period of protection, women are often protected against discriminatory dismissal from the moment in which they communicate to their employer that they are pregnant up to a month after the end of their maternity leave. Similarly, in Luxembourg, the Administrative Code for the Civil Sector specifies that **measures for the protection of women during pregnancy and maternity** are non-discriminatory, on the contrary, they **are a pre-condition for gender equality** "*Les dispositions légales, réglementaires et administratives relatives à la protection de la femme, notamment en ce qui concerne la grossesse et la maternité ne constituent pas une discrimination, mais sont une condition pour la réalisation de l'égalité de traitement entre les hommes et les femmes*" (Art 3).

There are also in the EU Member States have provisions to protect the health of to-be mothers and neo-mothers at work. National law requires in some cases that **special arrangements be made to avoid that pregnant women and new mothers work on night shifts**. Such **provisions are particularly relevant for women working in the public sector**, including in the health sector. Provisions also exist for women who are undergoing in vitro fertilisation treatments (IVF). For example, in Belgium, the Royal Decree from 28 May 2003 requires to protect women from risks related to medical IVF treatments. Similarly, in Spain, the principle of non-discrimination based on maternity or pregnancy is stated in Law 3/2007 of 22 March 2007, on effective equality between women and men, amended by the Royal-Decree 6/2019 of 1 March 2019 on urgent measures for equal treatment in the field of employment. In addition, protection during pregnancy and maternity in the work environment is covered by the Royal Decree-Law 5/2015 on approving the Civil Servants' Statute (Article 48). In Sweden, if a pregnant woman is working in a physically strenuous job and cannot be reassigned to other tasks, they can apply for pregnancy benefit (graviditetsspenning). This is paid at a rate of 80% of the salary, with a maximum

⁷⁹ Please note that separate rules apply in cases of adoption.

⁸⁰ Further, in Hungary, during the maternity leave period parent receive CSED (csecsemőgondozási díj), provided that the parent had social security before the birth for 365 days (not necessarily continuously). The amount of CSED is 70% of the daily earning based on the annual net. GYED (gyermekgondozási díj) 70% of the daily earning, but is capped at 225 400 HUF, approx. 644 EUR which is calculated to be the 70% of the double of minimum wage per month up until the 2nd year after birth. GYES (gyermekgondozási segély) from the second to third year is 28500 HUF, approx. 81 EUR minus 10% pension contribution

⁸¹ Moreover, if the employer has intended to fire a pregnant employee and made arrangements towards her dismissal, it is the employee who needs to prove that the employer had planned her dismissal.

amount of SEK 759.82. A similar provision exists in Romania where women in at-risk jobs (defined as work that could potentially harm the baby) can apply for Maternal Risk Leave under Law Nr. 25 from the Code of Work. This provision entitles them to 75% of their gross earnings while they are unable to work and does not impact the mother's maternity leave.

Table 6. Paternity leave

Country	Paternity leave (pre-work-life balance directive)	Paternity leave (post-work-life balance directive)	Paternity benefits
Austria	4 weeks (Babymonat) 28 - 31 days within 91 days of the birth (Familienzeitbonus)	-	Babymonat = unpaid Familienzeitbonus = €22.60 per day, making a total of around 700 euros (can impact childcare benefit)
Belgium	10 days	15 days (between 1/1/21 and 31/12/22) 20 days from 1 January 2023	Full salary for the first 3 days; 82% of salary (capped at €120.52 per day) for the remaining time
Denmark	2 weeks	-	Cash benefit based on earnings up to DKK 4,405 (€592,47) per week. Fathers who are studying receive a total of six months' extra study grant that must also cover the two weeks' Paternity leave.
France	10 days	15 days (between 1/1/21 and 31/12/22) 20 days from 1 January 2023	Full salary for the first 7 days

⁸² (https://www.forsakringskassan.se/privatpers/foralder/vantar_barn/graviditetspenning)

Hungary	5 days (7 days for twins)	-	100% of the daily average wage Taken within the first 2 months after birth
Ireland	2 weeks post-birth	-	Full pay (if entitled to social security benefits, must sign a mandate to redirect them to their department)
Italy	7 days These were remunerated and to be taken within 5 months from childbirth.	-	7 days full paid
Lithuania	4 weeks	-	77,58% of previous net earnings, with an upper limit of the country's average wage
Luxembourg	10 working days	-	First 2 days = 100% of salary Day 3 – Day 10 = five times the social minimum wage (€10,709.97)
Netherlands	The length of leave is equivalent to the number of working hours per week per partner/father. (Collective agreements may contain supplementary or restrictive arrangements)	No changes are foreseen for the paternity leave. The Netherlands will introduce 2 months of paid parental leave following the implementation of the Work-life Directive.	100% of earnings
Norway*	2 weeks (around birth) <u>Parental leave:</u>	-	Unpaid (15-19 weeks of paid parental leave available)

	15-19 weeks depending on the rate of benefit (out of total 49-59 weeks parental leave)		<p><u>Parental leave:</u></p> <p>If 49 weeks taken overall = 100% earnings.</p> <p>If 56 weeks taken overall = 80% earnings.</p> <p>Max. Total NOK 92,576 per month</p>
Poland	2 weeks	-	100% of average earnings for the 12 months before the birth
Portugal	25 days (20 mandatories) (5 days are consecutive to the birth of the child mandatorily, and the 15 days left can be consecutive or not, during the 6 weeks following the birth of the child).		100% of gross earnings
Spain	16 weeks (the first 6 weeks are consecutive to the birth of the child)	-	100% of earnings, with the same ceiling as for maternity leave
Slovakia	<p>No statutory entitlement.</p> <p>Fathers do have access to 28 weeks of maternity benefit (not transferrable to the mother), which can be used on parental leave.</p> <p>Maternity benefit can be claimed when the child is between 6 weeks – 3 years old.</p>	-	-

Slovenia	30 calendar days	-	100% of total salary, but it may not be more than 2.5 times the amount of the average monthly wage (€3,664.30)
Sweden	90/480 days parental leave (see below) 10 days are also set aside for the co-parent in connection with the child's birth/adoption.	-	80% of normal pay

The time granted for paternity leave also varies greatly among the Member States. In Austria, fathers working in the public sector can enjoy four unpaid weeks off work. Whereas in Italy, the period is only seven days. In Slovakia, there is no statutory entitlement. In light of this picture, the new provisions of the WLB Directive are welcome. In addition, the way child-sharing responsibilities are understood and divided between men and women in the Member States vary greatly. Some EU Member States still place most of the burden on childcare on mothers and grant them a longer maternity leave period. In the other Member States, however, **policy discourses and practices go beyond the achievement of gender equality and propose less gendered arrangements for child care**. Such is the case of Sweden, where, for example, maternity leave in the prenatal period is a right of women as child-bearers, but after childbirth, both parents share equal responsibility for the child. Similarly, in Portugal, there is no maternity or paternity leave, but only parental leave (see table 7).

Table 7. Parental leave

Country	Arrangements/duration	Details
Austria	<p>Child Age: < 2</p> <p>Minimum duration: 2 months, which parent can split between them</p> <p>Protection: parents are protected from dismissal until the 2nd birthday of the child</p> <p><u>Flexible flat-rate benefit:</u> If one parent applies: 365 days - 851 days.</p> <p>If both parents receive and share the benefit (respecting a minimum of 20 per cent non-transferable days of all childcare benefit days): 456 days - 1,063 days.</p> <p><u>Income-related benefit</u> One parent = 365 days Two Parents = 426 days</p>	<p><u>Flexible flat-rate benefit:</u> €12,366 (one parent) or €15,449 (both parents) over a chosen time span, calculated in days.</p> <p><u>Income-related benefit</u> 80% of income (max. €2,000 per month)</p>
Denmark	<p>Duration: 32 weeks</p> <p>Each parent can take 32 weeks of leave, but each family can only claim a total of 32 weeks of leave cash benefit.</p>	<p>Parental leave payments depend on the collective working agreement in place at the workplace of parents.</p>
Italy	<p>Child age: < 8</p> <p>Total duration: 11 months</p>	<p>Optional 30% of full pay in the first 6 months. 30% of full pay in the following 5 months under certain conditions.</p>
Germany	<p>Child age: < 3 Total duration of 3 years</p> <p>Child age: < 8 Can apply for up to 12 months (advance notice needed)</p>	<p>Can be split between parents</p> <p>Unpaid (parental allowance available)</p>
Hungary	<p>GYED: from the end of Maternity leave until second birthday (for insured parents)</p> <p>GYES: from the end of GYED until the third birthday or from birth – third birthday for uninsured parents</p>	<p>GYED: 70% daily earnings (capped at €465.86 per month)</p> <p>- gross amount, tax and pension contribution to be deducted, but tax credit exists.</p>

		<p>GYES: €82.47 per month (gross)</p> <ul style="list-style-type: none"> - Twins = 200% of the above amount - Triplets = 300% of the above amount <p>The Birth Grant (<i>Anyasági támogatás</i>) awards parents 225% of min. Pension. It can be claimed up to 6 months after birth. With twins, it increases to 300% per child.</p>
Lithuania	28 days within the three months immediately following childbirth	100% with a ceiling of €1617
The Netherlands	<p>Child age: < 8</p> <p>The duration of parental leave depends on the parents' working hours. Parents are entitled to parental leave, which is equal to 26 times the number of hours parent works per week.</p>	<p>Part-time basis (>50% working hours per week)</p> <p>Unpaid.</p>
Norway	<p>Child age: < 3 (or before you have another child)</p> <p>Duration: 49 – 59 weeks</p> <p>Both parents are entitled to parental benefits. Each has their own quota, as explained in the maternity and paternity sections above (same applies for same-sex parents)</p>	
Poland	32 weeks per family or 34 weeks in the case of multiple childbirths	Funding as per maternity leave option.
Portugal	<p><u>Initial leave:</u></p> <p>Duration: 120 – 150 consecutive days</p>	The benefit amounts are calculated by multiplying the beneficiary's reference by a certain %.

	<p>It can be extended for an additional 30 days in certain cases (for instance, multiple births or hospitalisation of the child)</p>	<p>120 days = 100% of % of reference income</p> <p>150 days = 80% of reference income</p>
Romania	<p>Child Age: < 2</p> <p>Duration: 12 months</p> <p>At least 1 month of the total period of this leave must be allocated to the co-parent.</p>	<p>85% of the average net income in the last 12 months</p> <p>A monthly return-to-work-bonus is paid to parents who return to work before their parental leave ends.</p> <p>Another provision awards parents for returning to work < 60 days before 2nd birthday.</p>
Sweden	<p>Duration: 480 days per child (additional 180 days per additional child in multiple births)</p> <p>240 days per parent. 150 days can be transferred to the other parent. But 90 sickness benefit qualifying days are reserved for each parent.</p> <p>During the first year, both parents can take leave at the same time for no more than 30 days – known as 'double days'.</p> <p>Child Age: depends on when the child was born.</p> <p>Born after 01/01/2014 - 384 days before 4th birthday; 96 days before 12th birthday</p> <p>Born before 01/01/2014 - applies until 8th birthday</p>	<p>390/480 days are paid at the sickness benefit level (based on income) - if worked 240 days before delivery, can expect up to 80% of income (max SEK 1,012 per day)</p> <p>90/480 days are paid at SEK 180 per day</p> <p>The first 180 days must be taken at the sickness benefit level.</p>
Slovenia	<p>130 calendar days per parent</p>	<p>100% of the total salary</p>

Slovakia	Child age: < 3 years	Parental allowance available (€270 per month) as well as child benefit (€24.95 per month)
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Our overview of maternal, paternal and parental leave in EU countries makes it evident that, though minimum standards are respected, there is great variation in the amount of time allowed to each parent and the two parents together in the different Member States. There is variation in terms of length of maternity period, pay, child allowances. In some EU countries, the leave period is significantly shorter than in others and at times unpaid. The country where balanced distribution of leave and child-caring responsibilities is achieved is Sweden, where parental leave is offered to both parents equally in Sweden.

We would like to flag here the major negative consequences that this will have on gender equality across the Union. Though the presence of different maximum standards allows for legislative and policy measures to better fit the social, economic and cultural situation of each Member States, **significant differences can generate great inequality between women in the different Member States**. One of the objectives of the EU is to facilitate the mobility of workers across borders, including in the civil service and sector. At the regional level, the EU civil service welcomes candidates from all Member States. At the same time, at the national level, public administrations in the Member States are increasingly looking into diversifying their workforce, including in terms of nationality. However, the existence of different provisions in the Member States regarding maternity leave and the fact that provisions in some member states are more favourable than others create discrepancies in the opportunities that women have to progress with their career while keeping a good work-life balance in the different member states. In addition, they create a competitive disadvantage for some women who are seeking employment in a different Member State. The result makes it difficult to achieve truly a Union of equality, that is, equality at the supra-national level: the fragmented picture that emerges from looking at all national contexts together shows a great disparity between women living in the different EU Member States. This results in some women having more favourable conditions than others to strive in their career.

3.3.2 Flexible working options: remote-working, flex work, financial and other measures to support childcare for women working in the civil service

A range of other measures is in place to ensure that women better balance work and off-work responsibilities. To ensure that women achieve a greater level of work-life balance and improve their employability and promotion, public administrations in the Member States have adopted relevant measures for remote and flexible working and childcare. The Luxembourgish Legal Administrative Code for the Public Function contains provisions for **part-time working** arrangements. Public servants can reduce their weekly working hours (90%, 80%, 70%, 60%, 50% or 40% of a full-time contract) to take care of one or more children. The part-time working period needs to follow maternity or paternity leave and can be taken for the purpose of bringing up children until the age of 5. (Art 31)⁸³. The possibility to switch to a part-time working arrangement is certainly helpful for mothers to manage both work and parental commitments. Such arrangements, however, need to be consistently made available to both mothers and fathers. In Germany, the aforementioned BGlG Act outlines measures

⁸³ Ministère d'état. Luxembourg. 2021. Public Administration. Administrative Code As accessed: http://data.legilux.public.lu/file/eli-etat-leg-code-fonction_publique-20210129-fr-pdf.pdf

to encourage a greater work-life balance under Part 4, including flexible working options (Sec. 16, 17), flexible working times (Sec 15) and the prohibition of discrimination (Sec 18). Inclusiveness regarding training is also outlined under this Act (Sec. 10). The Act also seeks to improve work-life balance for both genders.

Day care is another option available also for women working in the public sector and administration. In Sweden, **childcare** is a well-developed and affordable system. In 2020, 513,000 children were enrolled in preschool, which is available for children between the ages of 1-5 years. The country's maximum fee policy makes childcare **affordable**. Under this policy, parents pay between 0-3% of their income towards childcare costs. The greater the income, the higher the fee. However, this fee is ultimately capped at a maximum payable.⁸⁴ In France, our national respondent has described the extra support provided to women civil servants: "*Ministerial departments usually offer childcare facilities. Facilities are also granted for elderly care*" (France). This measure, common to both the public and private sector, has the potential of supporting our adaptation to new working modes in the coming years.

Box 5. Maternity and paternity during the Covid-19 pandemic

In focus

Paternity and Maternity responsibilities in the public sector during the Covid-19 pandemic. How did Member States support women employed in the public sector to juggle between work and family?

The COVID-19 pandemic has introduced – in many cases for the first time – remote working as the preferred default mode of working. No matter the status of digitalisation in the public sector and services around Europe, even the most digitally advanced Member States have faced new challenges related to the reorganisation of the workforce and processes. In adapting to teleworking, an additional challenge for public employees – men and women – with caring responsibilities consisted of making alternative arrangements that would allow maintaining work and family commitments. In some context, this challenge has been amplified by the discontinuation of childcare, schooling, ill and elderly people caring services.

In this context, women employed in the EU's public sector and public administration were often faced with the impossible task of taking care of children and family members, where services were no longer available, and fulfil their job-related responsibilities. Cases of working mothers – and parents more broadly – who suffered from parental burnout during the pandemic have received a greater deal of attention during 2020, and the messages conveyed in reportages, reports and self-reports can provide important lessons on which measures can and should be taken to improve women's work-life-balance during and outside the pandemic context.

In Italy, the Legislative Decree 18/2020 'Cura Italia' (The Cure Italy Decree) has granted parental leave also to employees in the public sector. The Decree establishes that public employees receive an allowance which corresponds to the 50% of their salary for the first 30 days of leave if the child is younger than six years old and 30% from the 2nd to the 6th month of leave.

⁸⁴https://eacea.ec.europa.eu/national-policies/eurydice/content/early-childhood-education-and-care-80_en
https://eacea.ec.europa.eu/national-policies/eurydice/content/organisation-programmes-pre-primary-education-1_en

In Ireland, childcare services were made available for vulnerable children and children of essential workers. The Irish government's definition of essential workers includes some working within the public administration.⁸⁵ Only one parent needs to be an essential worker in order for the child to qualify for this service.

In Germany, additional special leave was granted for 2021 to allow parents to take an extra ten working days (20 for single parents) to care for children who are not in school or daycare as a result of COVID restrictions. This is in addition to the special leave entitlement set out in the Ordinance on special leave for federal civil servants and for federal judges (SUrIV)⁸⁶

Another way of supporting parents is to offer remuneration in order to assist in the reduction of working hours. In Germany, parental allowance (Elterngeld) supports parents who have reduced their working time following the birth of a child in order to care for them. It is available to both men and women who work up to 30 hours per week or are not working at all. There are three kinds of parental allowance: basic parental allowance (Basiselterngeld), which is available for at least two months before the child's first birthday, parental allowance plus (ElterngeldPlus), which allows for an extension of the basic parental allowance, and the partnership bonus (Partnerschaftsbonus), which can be claimed separately to the parental allowance. Parents are entitled to a maximum of 12 months of basic parental allowance (before any potential extension) at approximately 66% of their net income. Single parents are entitled to 14 months, and low-income earners may be entitled to 100% of their net income.⁸⁷

Parental benefit (Föräldrapenning) is support offered to parents in Sweden to allow them to be at home with their children instead of working. It is paid out for 480 days (approximately 16 months) for one child. The payment of 390 days is based on the parents' income, at a level comparable to the sick leave. The compensation for the remaining 90 days is set at SEK 180 per day, comparable to the minimum payment. If the child was born in or after 2016, parents would receive 195 days each at the sickness benefit level and 45 days each at the minimum level. **Parents can decide how they prefer dividing the days between themselves.**⁸⁸ Both parents can take parental leave at the same time during the child's first year.⁸⁹

The parental benefit can also be accessed before the child is born to participate in parental education. Expected mothers can apply for parental benefit up to 60 days before their due date. Employers cannot deny parents parental leave so long as it was announced at least two months in advance. In addition, if a parent reduces their working hours within six months of their baby's due date, their parental benefit will not be effected.⁹⁰ Compensation is also available for Swedish parents to stay

⁸⁵ Irish Department of the Taoiseach. Essential services at level 5. As accessed: <https://www.gov.ie/en/publication/c9158-essential-services/>

⁸⁶ DBB Beamtenbund und Tarifunion. Corona pandemic: basic information for civil servants. As accessed: <https://www.dbb.de/corona-informationen-beamtinnen-und-beamte.html>

⁸⁷ European Commission. Employment, Social Affairs & Inclusion. 2020 Germany Factsheet. As accessed: <https://ec.europa.eu/social/main.jsp?catId=1111&langId=en&intPageld=4547>
<https://familienportal.de/familienportal/meta/languages/family-benefits/parental-allowance/141952>

⁸⁸ Exception made for 90 days of the sickness-level benefit, which are reserved and are non-transferrable.

⁸⁹ These are known as double days. There is a limit of 30 double days per child. The number of parental benefit days increases in case of multiple births.

⁹⁰ Parental benefit before the child is born. As accessed: https://www.forsakringskassan.se/privatpers/foralder/vantar_barn/foraldrapenning_innan_barnet_fotts

home due to a sick child (Vård av barn – VAB). The compensation for VAB is less than 80% of the regular salary.⁹¹

In some countries, new mothers can enjoy so-called 'benefits in kind'. In Luxembourg, for example, employed women who are insured can access services such as visits from midwives, extra medical assistance, stay in a maternity centre or clinic and pharmaceutical supplies.

Box 6 Breastfeeding

Focus: other necessary measures

Facilitating breastfeeding in the workplace and other provisions for new mothers:

Breastfeeding schemes and provisions are part of gender equality agendas for at least two important reasons: they allow women to continue working, and they benefit mothers' and new-borns' health. This is why it is important that governments make the right arrangements to allow women to **breastfeed in a safe and welcoming environment**. In this section, we provide some provisions for breastfeeding mothers working in the Member States and an example of relevant case law.

In France, women working in the public sector can benefit from leave for breastfeeding until up to one year after the birth of the child (as established by law n° 2019-828 of 6 August 2019 for the transformation of the public service, Art 46).

In Ireland, breastfeeding mothers are entitled to a paid break of up to **one hour per day** or a one-hour reduction of their daily working time to facilitate breastfeeding.⁹²

In Portugal, women who are breastfeeding are entitled to the right to be **exempt from work for the purpose and breastfeeding duration**. In fact, women who are pregnant or breastfeeding do not have to work during night shifts or work extra hours in Portugal (according to Art 47 of the Labour Code).

In Belgium, women breastfeeding have the right to one **30-min breastfeeding** pause if they work less than 7 hours 30 and two 30-min pauses if they work more than 7 hours 30 minutes. Breastfeeding pauses in Belgium are not paid, but the insurance compensates them. (national respondent)

CASE 5: C-531/15

⁹¹ Childcare (VAB). As accessed: https://www.forsakringskassan.se/privatpers/foralder/vard_av_barn_vab

⁹² Irish Department of Public Expenditure and Reform. Human Resource Management in the Civil Service: leaves. As accessed: [HYPERLINK "https://hr.per.gov.ie/supports/leave/#maternity%20leave"](https://hr.per.gov.ie/supports/leave/#maternity%20leave)<https://hr.per.gov.ie/supports/leave/#maternity%20leave>

Subject matter: Protection of the safety and health of workers in the public sector

Legal context:

- EU Law, Directives 92/85 and 2006/54/EC.
- Spanish Law, Ley Orgánica 3/2007 para la igualdad efectiva de mujeres y hombres (Organic Law 3/2007 on effective equality between women and men) of 22 March 2007 and the General Law on Social Security.

Dispute:

Ms Otero Ramos, a nurse, working in the accident and emergency unit of a public hospital, asked that her working conditions were adapted so that she could breastfeed. She asked for safer conditions because she was already exposed to health and safety risks that could have an adverse effect on breastfeeding and on the child's health. However, the management department of the hospital determined there was no such risk.

Ms Otero Ramos, for the purpose of obtaining a financial allowance, requested a medical certificate from the National Institute of Social Security (INSS). The INSS, after examining her application and the statement given by the management department of the hospital, rejected her request. Ms Otero brought an action before a Social Court, which was dismissed. Next, Ms Otero Ramos appealed against that decision again.

Summary of a judgement:

According to the provisions of the **Directive 2006/54/EC**, breastfeeding women must be protected in the same way as pregnant woman. Therefore, the fact that the employer failed to ensure safer conditions supposed a less-favourable treatment for her.

The Court determined that the letter provided by Ms Otero Ramos constitutes evidence that the risk assessment of her work did not include a specific assessment taking into account her individual situation. Therefore, the defendant, in this case, the hospital, needed to present a risk assessment in conformity with the criteria established in Directive 92/85.

Furthermore, the Court stated that, according to Directive 92/85, the worker is entitled to leave from work for the whole of the period necessary to protect her safety or health.

3.3.3 Long-term care for family members: the focus of the new work-life balance Directive

Young and older family members need in some situations, special care arrangements, such as in the case of persons with disabilities, illness or old age. Social policies for long-term care (LTC) are important for both employed women and family members in need. For working women, *ad hoc* policies enable them to continue working and attend to people they care for. For people in need, social policies are fundamental to allow them to live in a nurturing, family environment. The development of LTC policies is important, particularly in the European context, where the demographic changed observed between

2009 and 2019 has seen an increase in the population aged over 65.⁹³ Such measures have also pivotal importance for the care of younger family members in need. In this section, we present examples from EU countries with LTC policies in place and provide some details. They are also important to ensure that women with children or family members with illness and special needs can be appropriately cared for.

In France, for example, women can apply for leave (310 days among 36 months) for the care of children with disabilities, sick or who have suffered following an incident.

In the Irish Civil Service, up to 2 years of unpaid leave is also available as carer's leave to allow an employee to provide full-time care to a family member.⁹⁵ There is also a so-called Force Majeure Leave that provides for up to 3 days paid leave within a 12-month period because of accident/illness of an immediate relative.⁹⁶ In Sweden, relatives' allowance supports people who have a seriously ill close relative. This applies to people who have a loved one suffering from a "significant threat to life". **The notion of 'relative' here is not limited to family members.** The allowance is provided at a rate of 80% of the regular income, with a maximum limit.⁹⁷

There are several flexibility policies in the Irish Civil Service to provide options around maintaining a work-life balance. Staff can benefit from **career breaks** of up to 5 years for a variety of purposes.⁹⁴ The career break scheme can be requested for family reasons, domestic reasons, travel, educational purposes. This period is, however, unpaid. Flexitime policies allow staff up to the level of Assistant Principal (senior manager) level to have up to 1.5 days flexi days per month.⁹⁵ While such a scheme is also helpful, it is not accessible to women in higher leadership positions. Finally, Under the Shorter Working Year Scheme, staff can apply for up to 13 weeks off work during the year with pay adjusted accordingly.⁹⁶ Finally, the Civil Service Work-sharing Scheme allows staff to work reduced hours patterns with their pay adjusted accordingly.⁹⁷

3.3.4 Taxation and pension scheme

The EU is bound to ensure gender equality and the field of taxation is not an exception. Articles 2 and 3 TEU highlight the non-discrimination and equality between men and women as part of the fundamental values of the EU. However, in the field of taxation, EU secondary law and soft law mechanisms focus on the disincentives to work and lack clear gender equality objectives.⁹⁸ For instance, Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment does not include taxation in the scope of the Directive's application. Additionally, the Country Specific Recommendations that are part of the

⁹³ Eurostat. 2020. Population structure and ageing. As accessed: HYPERLINK "https://ec.europa.eu/eurostat/statistics-explained/index.php/Population_structure_and_ageing#:~:text=In%202019%2C%20more%20than%20one,from%205.8%20%25%20to%2014.6%20%25"https://ec.europa.eu/eurostat/statistics-explained/index.php/Population_structure_and_ageing#:~:text=In%202019%2C%20more%20than%20one,from%205.8%20%25%20to%2014.6%20%25.

⁹⁴ Irish [Department of Public Expenditure and Reform](https://www.gov.ie/en/circular/bd914ab7ff3640c1a46d29b5bef84636/). 2013. Career Break Scheme in the Civil Service. As accessed: <https://www.gov.ie/en/circular/bd914ab7ff3640c1a46d29b5bef84636/>

⁹⁵ Irish Department of Public Expenditure and Reform. 2013. Circular Title: Revision of Working Hours and Flexible Working Arrangements for Civil Servants. As accessed: <https://hr.per.gov.ie/wp-content/uploads/2020/04/DPER-Circular-11-of-2013.pdf>

⁹⁶ Irish Department of Finance. 2009. Shorter Working Year Scheme. As accessed: <https://www.gov.ie/en/circular/dbefa8f50915429689240cf22fc51b80/>

⁹⁷ <https://www.gov.ie/en/circular/83b17bcf9d294a81a841549c7a3232c7/>
<https://circulars.gov.ie/pdf/circular/per/2013/12.pdf>.

⁹⁸ Gunnarsson Åsa and Spangenberg, U. (2019) "Gender Equality and Taxation Policies in the Eu," *Intereconomics: Review of European Economic Policy*, 54(3), pp. 141–146. doi: 10.1007/s10272-019-0812-5.

European Semester framework lack clear references to gender equality, nor do they consider the impact the country-specific recommendations will make on gender equality. Thus, at the EU level, the majority of considerations concerning gender equality exclusively focus on the secondary earner trap and disincentives to women participation in labour. In 2018 the European Commission conducted a survey on tax policies in the EU Member States and highlighted the issue of a second earner gap that affects the equal participation of women in the labour market.⁹⁹ In 2019 the European Parliament adopted a Resolution on gender equality and taxation policies in the EU.¹⁰⁰ The Resolution notes the inequalities in the field of taxation, including the issue of the second earner gap.

Joint tax provisions present in some cases examples of economic gender inequality. A joint tax unit consists of family members or spouses and allows for certain tax benefits. Joint taxation can significantly lower the tax burden for single-earner couples or families as well as for families with uneven earnings distribution. However, when certain tax payments or reliefs are higher than for single individuals, there is a risk of secondary gainers getting caught in low wages or inactivity traps. According to the European Commission survey on tax policies conducted in 2020, the inactivity trap for second earners is highest in Denmark, Germany, and Belgium, and the contribution of taxation is most pronounced in Belgium and Germany.¹⁰¹ This issue equally affects women working in the public sector, particularly if the woman is working part-time, as it can become not financially beneficial to maintain employment. It is considered that replacing the income splitting system with individual taxation would increase women's participation in the labour market.¹⁰²

Moreover, another area where the difference in the economic situation and opportunities between men and women can be observed is pensions. The gender gap in pensions results in a greater chance for women to be at risk of poverty at a later stage of life. Two main contributing factors to the pension gap are employment history and the design of the pension system. According to the European Parliament, women's careers are shorter due to family roles and commitments.¹⁰³ It has been observed that women often work less intensively than men (part-time) because of family roles. Another aspect affecting the pension gap is remuneration for labour, meaning that the gender pay gap is expected to affect the gender gap in pensions. In 2019 the gender pension gap in the EU was 29%, as compared to 34% in 2010.¹⁰⁴ The gender gap in pensions is not a very flexible variable, according to the European Parliament. However, some overall positive developments were observed in reducing the gender pension gap. In order to address this issue, design of pension systems can be improved. For instance, the introduction of career break compensation, pension redistribution, pension indexation, and retirement age difference would reduce the gender pension gap.

Box 7 Case law on gender discrimination in pension schemes

Case 1: C-354/16⁶

Subject matter: Social Policy on Termination, Unemployment, Pension

Legal context:

⁹⁹ European Commission: Tax policies in the Member States. 2018 Survey, European Union, 2018, p. 49.

¹⁰⁰ European Parliament: Resolution on gender equality and taxation policies in the EU, 2018/2095 (INI), 2018.

¹⁰¹ European Commission: Tax policies in the European Union. 2020 Survey, European Union, p. 72

¹⁰² Gunnarsson Åsa and Spangenberg, U. (2019)

¹⁰³ European Parliament, The gender gap in pensions in the EU. 2019 briefing, European Union, p. 2.

¹⁰⁴ Eurostat, "Closing the gender gap?" (2020), accessed on <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20200207-1>

- EU Law, Directive 2000/78
- German

Law: Gesetz zur Verbesserung der betrieblichen Altersversorgung (Betriebsrentengesetz) (Law on the improvement of occupational pensions, 'the Law on Pensions')

Dispute 105:

Ms Kleinsteuber was employed by Mars. She worked both full-time and part-time (between 50% and 75%). At 55, she reached the age for the occupational pension. German social security law calculates the ceiling for contributions as the amount up to which the salary of a person benefiting from statutory cover is used for social insurance.

The salary components above the contribution's calculation ceiling were valued, during the calculation of Ms Kleinsteuber's occupational pension, at 2%, whereas the salary components under that limit were valued at 0.6%.

Ms Kleinsteuber challenged the employer's calculation of the amount of her occupational pension and considered that she is entitled to a larger pension than that calculated by Mars.

Summary of judgement:

This judgement concerns the compatibility of national legislation governing the calculation of occupational pensions on part-time work with the EU Directive. In this case, the employee has worked both part-time and full-time and requested an early retirement pension. The quantity of such pension is calculated according to a 'split' formula instead of calculating the income by adapting the corresponding rate salary of a full-time employee to a part-time employee.

The Court's preliminary observation justified the participant invoking the infringement of the principle of equal opportunity and equal treatment of men and women because part-time work is mostly carried out by women.

The Court defended the employer's approach, stating that this formula is in line with the *pro-rata temporis principle* and does not suppose any form of discrimination to part-time workers, and thus, to women.

3.3.5 Monitoring Mechanisms

The promotion of equal opportunities between men and women can be strengthened by putting in place bodies and mechanisms to monitor implementation and progress in the area. In this section, we provide examples of some of the monitoring mechanisms and bodies for gender equality and equal opportunities in the EU Member States.

In France, it is the Directorate-General for Administration and the Public Service (Direction générale de l'administration et de la fonction publique, DGAFP), part of the newly founded Ministry for the Public Transformation and Service, that monitors the indicators concerning gender equality and equal opportunities. **Numbers, quotas and indicators relevant to gender equality and equal**

¹⁰⁵ The summary of the dispute reported here is kept as close as possible to the original text to facilitate analysts' comparisons of judgements in other national contexts.

opportunity in the public sector are also published annually in two reports. The first is the Annual Report on the Status of the Public Service, Politics and Practices of Human Resources 106, published by the same Ministry for Public Transformation.¹⁰⁷ The second is the yearly report on gender equality, published by the Ministry for equality and equal opportunities between men and women.¹⁰⁸ Moreover, as provided for in Article 5 of the Law of 6 August 2019 (and from 1 January 2021, Article 9a of the General Staff Regulations of the Civil Service), the different administrations draw up a single annual social report bringing together the elements and data relating to professional equality between women and men and the fight against discrimination. In addition, our national respondent explains that *"part of the Agreement on Equal Opportunities for Women and Men in the Public Service of 30 November 2018, the government and public employers committed to implementing, in all three sides of the public service, measures to assess and address pay gaps between women and men, regardless of their status, in order to ensure equal rights in the career development of public servants and equal pay. Moreover, as provided for in Article 5 of the Law of 6 August 2019 (and from 1 January 2021, Article 9a of the General Staff Regulations of the Civil Service), the administrations of the three sides of the public service draw up a single annual social report bringing together the elements and data relating in particular to professional equality between women and men and the fight against discrimination."*

In Germany, under Section 38(1) of the Federal Act on Gender Equality (BGleIG) "each (federal) agency shall every two years record the total number of women and men employed in the agency". **Top-level federal authorities must include information on the responsibilities of the employees and their professional advancement**, as per Section 38 (2). On receipt of this data, the Federal Statistical Office "prepare(s) statistics every two years on the data collated in the agencies (Equality Statistics) and forward them to the top-level federal authorities" and "prepare an index every year based on the data collected in the top-level federal authorities (Equality Index)".⁴⁷ This information is used by the German Federal Government in a report they submit to the German Bundestag every four years. This report outlines the conditions of both men and women employed by Federal agencies, highlighting what provisions of the BGleIG Act have been achieved and good practices in place in individual agencies. The report is compiled with input from the Interministerial Working Group of the Equal Opportunities Officers (Section 39).

Austria has introduced an **Equal Treatment Officer** and the Federal Equal Treatment Commission, in addition to legal instruments such as mandatory plans to promote women and reporting on the status of the implementation of equal treatment. In Germany, an **Equal opportunities officer** must be elected in public bodies with at least 100 employees (Part 5). They are charged with overseeing the enforcement of this legislative Act. The officer must be a woman and is elected by a secret ballot by the agency's women employees (Sec.19).

¹⁰⁶ 21 DECEMBRE 2013. - Arrêté royal portant exécution du titre 2, chapitre 2 de la loi du 15 décembre 2013 portant des dispositions diverses concernant la simplification administrative

¹⁰⁷ https://www.fonction-publique.gouv.fr/files/files/statistiques/rapports_annuels/2020/RA2020_web.pdf

¹⁰⁸ https://www.egalite-femmes-hommes.gouv.fr/wp-content/uploads/2020/12/Chiffres-cles-EFH_2020.pdf.

4. WOMEN'S CAREER IN THE PUBLIC SECTOR, ADMINISTRATION AND SPHERE: CHALLENGES, OPPORTUNITIES AND RECOMMENDATIONS

4.1. Digitalisation, Artificial Intelligence and the future of women in public work

Relevant to the European Strategy for Gender Equality is the EU's *Strategy for Artificial Intelligence* (AI) and related developments in the field, both at the European and Global levels. In 2018, the European Commission published the *European AI Strategy*, which outlined the EU's main objectives in the field of AI (COM(2018) 237).¹⁰⁹ The Communication was followed, in 2020, by the Commission's "*White Paper on Artificial Intelligence: a European approach to excellence and trust*". The White Paper on AI had two primary purposes: promoting the EU's development¹¹⁰ and deployment of AI solutions, and highlighting potential challenges.¹¹¹ As one of our era's most transformative technological developments, AI is now an integral component of the EU strategies for the Digital Single Market and an EU fit for the Digital Age. **The development of "in-house" related expertise and solutions will be fundamental to grow the EU's independence and competitiveness in this field.** As the EU aspires to lead on AI innovation and have global influence in this field, the Commission has mobilised investments to support research and development, including the recent Horizon2020 call of €50 million for projects in the field of AI, launched in 2019.

EU competitiveness in the field of AI, however, must not come at any price. The EU's independent **High-Level Expert Group on Artificial Intelligence** (AIHLEG) has stressed that the EU must pursue 'responsible competitiveness' in this sector. AI is a relatively recent, fast-paced and fast-growing field, and it requires us to pause and reflect on which principles should guide its development and adoption. EU policymakers have recently focused their attention on two issues in particular: **security** and **ethics**. The Commission's White Paper on AI promotes the development of an AI ecosystem while warning on the risks associated with the use of this technology. These include malicious uses of AI and risks associated with cyber-security. EU policymakers are also concerned with how to make innovation in AI and robotics ethical and **legal**. That is, which guidelines, regulatory frameworks, and binding rules should be in place to make the AI ecosystem safe, reliable and human-centric, in line with EU values and principles. These were the challenges focus of the 2019 *Ethics Guidelines for Trustworthy AI*,¹¹² the 2020 *Assessment list for trustworthy AI*,¹¹³ and the *Coordinated Plan on Artificial Intelligence* (COM(2018) 795 final).

The Ethics Guidelines outline seven requirements for trustworthy AI. The EU's **requirement #5 Diversity, Non-discrimination and Fairness** as essential assessment criteria for trustworthy AI in the

¹⁰⁹ COM(2018) 237 final. Full text available here: <https://ec.europa.eu/digital-single-market/en/news/communication-artificial-intelligence-europe>

¹¹⁰ For further information on the uses and abuses of AI and cybersecurity-related risks, we refer the reader to the work of Europol's European Cybercrime Centre (EC3) and to the recent publication *Malicious Uses and Abuses of Artificial Intelligence Trend Micro Research*, United Nations Interregional Crime and Justice Research Institute (UNICRI) Europol's European Cybercrime Centre (EC3), available at <https://static1.squarespace.com/static/5b504068365f025b0e4f790a/t/5fbbdee340350635ed33c68f/1606147831970/AI+MLC.pdf>

¹¹¹ COM(2020) 65 final.

Text fully available at: https://ec.europa.eu/info/sites/info/files/commission-white-paper-artificial-intelligence-feb2020_en.pdf

¹¹² <https://ec.europa.eu/digital-single-market/en/news/ethics-guidelines-trustworthy-ai>

¹¹³ <https://ec.europa.eu/digital-single-market/en/news/assessment-list-trustworthy-artificial-intelligence-altai-self-assessment>

EU. AI solutions can either reproduce and perpetuate gender bias and discrimination or enhance gender equality, inclusion, and diversity. Given the topic of our study, we provide here a few examples relevant to the deployment of AI to overcome the bias towards the participation of women in the public sector, administration and political sphere. To start with, AI systems can inform the formulation of policies that improve women's career prospects in the public sector and administration. Since AI systems can analyse large datasets, with a precision and speed which would otherwise be impossible for humans, they can produce accurate and clear data on different dimensions of gender inequalities (e.g., pay gap, leadership level) and the intersectionality between different factors determining gender inequality (e.g., origins, education, economic background, age, disability). In other words, AI systems can pick up on existing inequalities and gender bias. Based on the available data, policymakers can then strategise on the measures across different policy fields, tackle gender inequality, and create equal opportunities for women to enter the public sector's job market. To provide a practical example, AI has been used in the Member States for profiling unemployed citizens,¹¹⁴ identifying gender employment gaps at the national level, as well as the intersection between different factors in women's unemployment. **AI-based profiling models could then be used to design measures that address the specific needs of discriminated, disadvantaged, and vulnerable women.**

We have seen in the previous chapter that human resource management processes are essential to ensure fairness in the recruitment, hiring and promotion of women. A relevant example showcasing how **AI technologies can reduce gender bias** in the public sector is *Tengai*, an AI recruitment assistant. Developed in Sweden, the robot is programmed to be blind to the gender of job candidates. It is currently used to recruit public sector staff in the European Member States. It represents one example of how AI technology can improve the recruitment process by making it less discriminatory, more inclusive, fairer, and more objective. The development of this technology testimonies to the need to curb gender bias in human resource management processes.

However, one of the challenges related to **AI systems** is that they **can embed, reproduce, and perpetuate gender biases**. Since AI systems learn from the existing data they are fed, they can incorporate in their algorithm human bias, including gender bias. According to some, this problem is also due to the low representation of women in the field of AI. The scarce presence of women means that men create most algorithms, which are then informed by men's perspectives and experiences.¹¹⁵ In addition, AI systems might be discriminatory on the receiving side. Such is the case when AI technologies and AI-powered services are not accessible to some societal groups, including women. Therefore, **binding rules must be in place for developers and employers of AI systems**. This conclusion is particularly appropriate now, as the **Commission is drafting a proposal for regulation** in this field, due to be tabled in the first quarter of 2021.

4.2. Gender equality and equal opportunities post-pandemic: mainstreaming in the EU's Recovery funds for the Public Sector

The question of gender equality was already gradually receiving increasing attention in EU Policies in each programming period (e.g., EU Cohesion Policy). However, in the current situation related to post-pandemic crises' economic and social consequences, the gender equality issue is now stated as an objective and as a horizontal dimension of EU policies even stronger than before.

¹¹⁴ PLATFORM, E. T. (2018). Tackling Long-Term Unemployment through Risk Profiling and Outreach. <http://www.oecd.org/els/emp/OECD-Profiling-policy-brief-DEC-18.pdf>

¹¹⁵ <https://www.openglobalrights.org/addressing-gender-bias-in-artificial-intelligence-and-automation/>

Women have been significantly affected by the COVID-19 crisis, as they represent the majority of healthcare workers across the Union (76% of the 49 million)¹¹⁶ and had to balance an unprecedentedly stressful work situation with unpaid care work-related responsibilities. The situation is particularly challenging for single parents, 85% of whom are women. Investment in a robust care infrastructure is also essential in order to ensure gender equality. A quality care infrastructure can improve women's economic empowerment, build resilient societies, combat precarious conditions in a male-dominated sector, boost job creation, prevent poverty and social exclusion, and have a positive effect on Gross Domestic Product, as it allows more women to take part in paid work.¹¹⁷

As a response of the EU to the post COVID crises, the new instrument called **Recovery and Resilience Facility** was proposed to help the Member States face their economic and social challenges and make their economies more resilient and better prepared for the future. Questions related to gender equality and equal opportunities for all should be taken into account and promoted by all Member States throughout the preparation and implementation of their national plans submitted under this new instrument¹¹⁸ across the six pillars:

- I. green transition.
- II. digital transformation;
- III. smart, sustainable and inclusive growth, including economic cohesion, jobs, productivity, competitiveness, research, development and innovation, and a well-functioning internal market with strong SMEs;
- IV. social and territorial cohesion;
- V. health, and economic, social and institutional resilience, with the aim of, inter alia, increasing crisis preparedness and crisis response capacity; and
- VI. policies for the next generation, children and the youth, such as education and skills.

The guidelines for the Recovery and Resilience Plan ask the Member States to:

"explain how the reforms and investments supported by the plan will be instrumental in overcoming the equality challenges identified, by replying to the following questions:

How does the plan ensure and foster equality between women and men? When doing so, Member States are in particular invited to explain how the plan mitigates the social and economic impact of the crisis on women, including concerning gender-based and domestic violence, and how it contributes to the UN Sustainable Development Goal 5 on gender equality and its targets."

Considering our findings on parental burnout, on the unbalanced distribution of paid and unpaid work between men and women and how it affects women working in the public service, it is clear that this issue cannot be ignored. The EU and the Member States must consider the specific vulnerabilities and needs of women when managing EU funds, designing and delivering programmes.

¹¹⁶ 'The gendered impact of the COVID-19 crisis and post-crisis period', Policy Department for Citizens' Rights and Constitutional Affairs Directorate-General for Internal Policies PE 658.227- September 2020, p. 23

¹¹⁷ Proposal for a Regulation of the European Parliament and The Council establishing a Recovery and Resilience facility; 2020/0104 (COD), art 12 (a), 14310/20

¹¹⁸ GUIDANCE TO MEMBER STATES RECOVERY AND RESILIENCE PLANS, COMMISSION STAFF WORKING DOCUMENT, Brussels, 22.1.2021 SWD(2021) 12 final, p. 10

4.3. Recommendations

Considering our findings, we identify the following objectives as fundamental to women's participation in the public sector and administration:

1. Improve **understanding of the root factors** which hinder women's entry and advancement in the public sector, administration and sphere, at all levels;
2. Strongly promote the inclusion of women in decision-making positions;
3. Set and promote a **fairer, less gendered distribution of caring and household-related responsibilities between men and women**;
4. Improve the working conditions of women, including through measures that **prevent parental burnout**, particularly in the new context brought by the Covid-19 pandemic;
5. Promote **smarter and more productive modes of working** (including through remote working and flexitime);
6. Embrace the opportunities afforded by **digital learning solutions** to facilitate women's career development and advancement in the public administration, sector and sphere;
7. Pursue the overall improvement of the public sector and **public administration's appeal for women**, compared to the private sector.

To achieve these objectives, we propose the following **actionable and output-oriented measures** based on our input and the lessons learned from good practices from the Member States:

- Adopt **hybrid approaches to ensuring equal opportunities in public sector recruitment and promotion**. These include a combination of the measures that some of the Member States are already using:
 - **Quotas**, being careful to strike a balance between ensuring equal opportunities and not generating indirect discrimination
 - Appropriate **training** of boards of interviewers
 - Introduce innovative measures to reduce gender bias in recruitment and promotion processes
 - Encourage the adoption of **blind reviewing evaluations of applicants in the public sector, at some stage of the recruitment process** and/or strengthen **independent inspection services** and mechanisms. In some EU Member States, cities and regional authorities send recruitment agencies fake CVs which match real CVs in all but one characteristic (e.g., gender, age, ethnicity). The acceptance of one CV but not the other signals cases of discrimination, which can then be further investigated;
- **Promote shifts towards less gendered care-sharing responsibilities between men and women**. In the case of child-care, for example, most Member States still tend to grant significantly longer periods for maternity leave to mothers than to fathers. Such arrangements perpetuate stereotypes on gender roles and discriminate against fathers. While longer periods are necessary for the prenatal phase, the choice of flexible options should be given to both parents in the post-natal period, so that they can decide how to best organise their time and family lives. This approach is likely to have **short as well as long-term effects on eliminating gender stereotypes**, since children who will grow up with parents with a more balanced responsibility-sharing system will more interiorise that parenting and responsibility-sharing model. In addition, **adequate policies are still needed to allow women care take of family members in need**;
- Foster **organisational change** through training activities to be offered to men in high leadership positions in the public sector;
- Design policies that **foster women's training and leadership in digital technologies and AI**, specifically for the public sector;

- Exploit **digital solutions to promote work-life balance and career advancement opportunities.**
 - Digital technologies can allow women and men to work remotely and organise their professional and private lives in such a way that it enhances professional performance and facilitates the fulfilment caring responsibilities
 - Digital technologies can also be used to foster career change and career advancement. Asynchronous learning opportunities can help women training for a career change, re-orientation, updates or progression with less impact on professional and family lives

- Address limitations of the current study, mainly because this does not address sector-specific challenges, for example, the challenges of those women working for police forces, the health sector.

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ANNEX I - CASE LAW

Case	Country	EU Directive
C-354/16	Germany	Directive 2000/78
C- 409/16	Greece	Directive 76/207
C-463/19	France	Directive 2006/54
C- 174/16	Germany	Directive 2010/18 (the revised Framework Agreement) Directive 2006/54
C-531/15	Spain	Directives 92/85 Directive 2006/54
C-98/15	Spain	Directive 97/81 Directive 79/7
C-354/16	Germany	Directive 97/81 (Framework Agreement on PT work) Directive 2006/54 Directive 2000/78

ANNEX II - CASE STUDY: NORWAY

There is a strong gender-divided labour market in the public sector of Norway. In fact, there is an imbalance on the number of civil servants regarding gender, with 70.1% of the civil servants being women, and only 29.9% men¹¹⁹. This strong division depends on the different counties and municipalities and is less pronounced in Oslo.

Regarding national legislation on gender equality, the National Constitution does not include any specific provision. This area is regulated by the Norwegian Equality and Anti-Discrimination Act. It was adopted in 1979 and has been repeatedly amended, most recently, in 2020. Known as the Gender Equality Act (GEA), this aims at promoting equality and preventing any form of discrimination or harassment based on grounds of gender and gender-related motives, including sexual orientation, gender identity or gender expression. Section 3 explicitly states that the only differential treatment to be allowed would be one that promotes or pursues gender equality. Since its coming into effect, the Norwegian Gender Equality Act applied to private and public authorities. To the latter, it specifically requires advancing gender equality across policy areas and ensure equal treatment between genders in all areas of society. However, since 2002, this requirement also applies to the private sector.

The GEA forbids direct or indirect differential treatment in general terms, successfully implementing the Directive 2000/43/EC (on equal treatment between persons irrespective of a racial or ethnic group). At the same time, it also includes provisions on employment, in line with the Directive 2000/78/EC (Employment Equality Directive) and Directive 2006/54/EC (on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation). The Act ensures gender equality in employment, improves women's labour situation and encourages employers to actively ensure fair access to employment, fair work conditions, ensures equal pay for the same work or work of equal value, and offers pregnancy and maternity protection.

It maintains the prohibition of any kind of discrimination in cases of announcement of a position, appointment, promotion, reassignment of a position, professional training, pay and working conditions and cessation of the contractual relation. It forbids the collection of data about pregnancy plans, religion, disability, sexual orientation, gender identity. As in relation to workers' rights, it allows any employee that suspects from discrimination to demand information to the employer in relation to the individual case.

¹¹⁹ Statistics Norway. 2019. Indicators for gender equality in municipalities. As accessed: <https://www.ssb.no/en/befolkning/statistikker/likekom/aar>

ANNEX III - RESPONDENTS

Respondents to the questionnaires have in most cases preferred to remain anonymous. The authors thank them all for their inputs.

The respondents bellowed have agreed to be mentioned. The authors would like to thank them for their generous contributions in terms of time and information.

Deputy Direction General for relations with other administrations in the Directorate General for Public Service from the Spanish Ministry of Territorial Policy & Public Service.

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Velia Ficchi, Office of the Prime Minister, Department for Public Administration, International Relations, Rome, Italy

Observatory of the Civil Service, Ministry of Civil Service of The Luxembourg Government

Directorate General for the Civil Service and Public Sector Innovation, Federal Ministry for Arts, Culture, the Civil Service and Sport, Austria

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