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Instruments to foster long-term paternal involvement in family work

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Does Belgian law enhance paternal involvement in care work?

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1. Introduction: men and women's involvement in the Belgian labour market

Employment rates¹ in Belgium have shown a mild increase over the last 5 years, from 68,4% in 2013 to 68,5% in 2017. However, as illustrated in the table below, the country consistently scores under the EU average and remains below the Europe 2020 target of 75% and below its own national 2020 target of 73,2% generally and 69,1% for women.² Compared to EU averages, Belgian employment rates are low for both men and women.

Year	Women (B)	Women (EU)	Men (B)	Men (EU)	Total (B)	Total (EU)
2013	62,1%	62,6%	72,3%	74,3%	67,2%	68,4%
2014	62,9%	63,5%	71,6%	75%	67,3%	69,2%
2015	63,0%	64,3%	71,3%	75,9%	67,2%	70,1%
2016	63,0%	65,3%	72,3%	76,9%	67,7%	71,1%
2017	63,6%	66,5%	73,4%	78%	68,5%	72,2%

Table 1: Employment rates in Belgium and in the EU(28) for women and men aged 20-64.³

However, the low averages shown in this table hide large differences in employment rates between age groups. It is the 55-64 age group (both men and women) that is responsible for Belgium's bad performance and completely wipes out the far better performance of the 25-54 age group. With an 84,8% employment rate in 2017, the 25-54 age group appears to be far more active than the 55-64 age group, featuring an employment rate of only 51,3% in 2017.

Nevertheless, the high employment rate for the 25-54 bracket hides an obvious gender difference. For men, the employment rate amounts to 90% as opposed to only

¹ The overall employment rate is the percentage of employed persons in relation to the population of working-age (20-64 years of age). See this definition in the Eurostat Glossary, available online at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Employment_rate (accessed 23 October 2018).

² For more information on Belgium's performance with respect to the EU's country-specific recommendations (2017), please visit Belgium's website on the National Reform Programme (also available in English) at <http://www.be2020.eu>. See in particular: National Reform Programme 2018, available online at: http://www.be2020.eu/publications/publication_det.php?lang=nl&KeyPub=465 (accessed 23 October 2018).

³ This table is based on statistical data (table INB01) available on the website of the Federal Ministry of Labour (FOD WASO/ SPF ETCS) at: <http://www.werk.belgie.be/moduleDefault.aspx?id=23764> (accessed 2 October 2018) and on Eurostat data, available online at https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=t2020_10&plugi n=1 (accessed 23 October 2018).

79,6% for women (2017).⁴ Whilst the difference in employment rates between men and women is mild in the 15-24 age bracket (5%), it nearly doubles in the 25-54 age bracket (10%).⁵

Quite surprisingly, and contrary to what one would expect, having (less than 3) children seems to have little effect on Belgian women's employment rate.⁶ By contrast, it does seem to positively affect men's employment rate. By way of example: in 2016, 87,5% of men aged 20-49 with children under 6 years of age were employed as opposed to only 73,6% of men without children. In the group of women of the same age bracket (20-49), 68,6% of those with children were employed as opposed to 69,8% without children.⁷ Also in 2016 (only) 12,7% of professionally inactive women (15-64 years of age) with caring responsibilities pointed at the lack of child care facilities for their decision to stay at home.⁸ Generally speaking, child care facilities in Belgium are comprehensive, of relatively good quality and affordable.⁹ That seems to suggest that there must be other reasons than just lack of child care that inspire women with young children to stay away from the Belgian labour market.¹⁰

Combining a job with caring for children remains a challenge for many Belgian parents and mothers in particular. As indicated above, employment rates show that mostly women decide to reduce their paid employment, notwithstanding policy efforts aimed at allowing both men and women to combine their professional activities with

⁴ Data gathered online from the website of the Centre of Expertise for Labour market Monitoring (CELM) (Steunpunt Werk), a university-based knowledge centre for the monitoring and analysis of the labour market, acting on behalf of the Flemish Government. <http://www.steunpuntwerk.be/cijfers> (accessed 23 October 2018).

⁵ See the large interactive table available at <http://www.steunpuntwerk.be/cijfers> (accessed 23 October 2018), as well as table INE06 available on the website of the Federal Ministry of Labour (FOD WASO/ SPF ETCS) at: <http://www.werk.belgie.be/moduleDefault.aspx?id=23764> (accessed 2 October 2018).

⁶ T. KIL, J. WOOD, D. DE WACHTER, J. VERGAUWEN, L. VAN DEN BERG & K. NEELS, *Arbeidsparticipatie en gebruik van ouderschapsverlof bij moeders in Vlaanderen: een longitudinale analyse*, in: *Arbeid en Gezin: een paar apart* (L. Vanderleyden & M. Callens (eds.), Brussels, Flemish Government, 2015, 28-29 and 39, available online at <https://www.vlaanderen.be/nl/publicaties/detail/arbeid-en-gezin-een-paar-apart-1> (accessed 30 October 2018). Whilst having children does not affect women's employment rate, it does affect the number of hours they spend on paid work.

⁷ Table INK01, available on the website of the Federal Ministry of Labour (FOD WASO/ SPF ETCS) at: <http://www.werk.belgie.be/moduleDefault.aspx?id=23764#AutoAncher4> (accessed 23 October 2018).

⁸ Table INK02, available on the website of the Federal Ministry of Labour (FOD WASO/ SPF ETCS) at: <http://www.werk.belgie.be/moduleDefault.aspx?id=23764#AutoAncher4> (accessed 23 October 2018).

⁹ EUROFOUND, *European Quality of Life. Survey 2016. Quality of life, quality of public services and quality of society*, 2017, 58-59, https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1733en.pdf (accessed 23 October 2018). For more info, see as well: T. KIL, J. WOOD, D. DE WACHTER, J. VERGAUWEN, L. VAN DEN BERG & K. NEELS, *Arbeidsparticipatie en gebruik van ouderschapsverlof bij moeders in Vlaanderen: een longitudinale analyse*, in: *Arbeid en Gezin: een paar apart* (L. Vanderleyden & M. Callens (eds.), Brussels, Flemish Government, 2015, 24. Note that in Belgium the competence for organising child care does not lie with the federal government but with the Flemish and Walloon governments. For more information on the organisation of child care, see the website of Child and Family (Kind & Gezin), www.kindengezin.be, and the website of ONE (Office de la Naissance et de l'Enfance), www.one.be.

¹⁰ See as well, M. KREMER, *How Welfare States Care: Culture, Gender and Parenting in Europe*, Amsterdam, Amsterdam University Press, 2007, 241.

childcare.¹¹ It has been suggested that in Belgium ‘relatively absent fathers are standard’.¹² Traditional roles of ‘caring’ mothers and ‘working’ fathers still permeate the Belgian society¹³ and are, on closer consideration, underset by a legal system of care leaves that has not yet been cleared from all of its indirectly discriminatory characteristics.¹⁴ As will be illustrated below, the Belgian legal system – although quite progressive and egalitarian at first glance – traps many young women at home (or in part-time work)¹⁵ very early in motherhood and encourages fathers to stay employed on a full-time basis whilst at the same time limiting their involvement in care work to a minimum.

2. Belgian laws that allow men and women to combine work and caring for children

2.1. Maternity leave

The Belgian regulation regarding maternity leave has been relatively stable since 1991.¹⁶ A pregnant worker/ worker who has just given birth currently enjoys a *right* to

¹¹ For an overview of policy efforts, with a particular focus on Flanders, see K. EMMERY & D. LUYTEN, *Overheidsbeleid inzake combinatie arbeid en gezin in Vlaanderen*, in: *Arbeid en Gezin: een paar apart* (L. Vanderleyden & M. Callens (eds.)), Brussels, Flemish Government, 2015, 203-244. An example of a recent campaign: ‘Parental leave looking for fathers’ launched by the Institute for the Equality of Women and Men (Instituut voor de Gelijkheid van Vrouwen en Mannen), https://igvm-iefh.belgium.be/nl/activiteiten/arbeid/combinatie_werk_priveleven/campagne_ouderschapsverlof_zo_ekt_vaders (accessed 23 October 2018).

¹² See for a recent opinion piece in the Belgian media: B. VAN EEGHEM, *Relatief afwezige vaders zijn het Belgische normaal*, VRT NWS, 23 August 2018, <https://www.vrt.be/vrtnws/nl/2018/08/23/moeders-vaders-jongens-en-meisjes-hoe-stereotypen-ons-beinvlo/> (accessed 23 October 2018).

¹³ Time-use surveys suggest that Flemish men still spend less time on child care and household tasks than Flemish women. I. GLORIEUX, J. MINNEN, T. P. VAN TIENOVEN, J. DEYAERT & E. MÉSZÁROS, *De (on)evenwichtige verdeling van arbeidsen gezinstaken tussen mannen en vrouwen. Evolutie en een stand van zaken*, in: *Arbeid en Gezin: een paar apart* (L. Vanderleyden & M. Callens (eds.)), Brussels, Flemish Government, 2015, 45-63; A. CARTON, J. PICKERY & D. VERLET, *Opvattingen in Vlaanderen over de combinatie arbeid en gezin in 2002 en 2013. Nog steeds een genderissue?*, in: *Arbeid en Gezin: een paar apart* (L. Vanderleyden & M. Callens (eds.)), Brussels, Flemish Government, 2015, 141-171, available online at <https://www.vlaanderen.be/nl/publicaties/detail/arbeid-en-gezin-een-paar-apart-1> (accessed 30 October 2018).

¹⁴ See with respect to the Belgian system of maternity leave: P., FOUBERT, *Zwangerschaps- en bevallingsverlof. Zegen of vloek?*, in: *Recht en Gender in België* (Brems, E. & Stevens, L., eds.), Brugge, Die Keure, 2011, 199-217.

¹⁵ The percentage of part-time workers in Belgium amounted to 24,5% in 2017 (age group 15-64) and has remained more or less stable over the last 5 years. 41,2% of women worked part-time in 2017, as opposed to only 10,2% of men (age group 15-64). The number of women working part-time in 2017 was higher than the EU(28) average of 31,7%. See the interactive table available at <http://www.steunpuntwerk.be/cijfers> (accessed 30 October 2018). From that perspective it is quite surprising that in Belgium the gender pay gap is reasonably small as compared to other EU member states. The 2016 gender pay gap in unadjusted form was 6,1% in Belgium, as opposed to an EU(28) average of 16,2% (provisional number). See Eurostat table, map and graph available online at: <https://ec.europa.eu/eurostat/web/labour-market/earnings/main-tables> (accessed 30 October 2018).

¹⁶ Art. 39 Labour Act of 16 March 1971. For some history on this provision, see J. JACQMAIN, *Protection de la Maternité*, Waterloo, Wolters Kluwer, 2012, 41-53.

15 weeks of maternity leave, to be taken at the earliest as of the 6th week before the due date. In so doing, Belgium has installed a right that is one week longer than the minimum standard of a continuous period of 14 weeks' maternity leave as set by EU regulation.¹⁷

10 out of these 15 weeks are *compulsory* leave, implying that the employer cannot employ the concerned worker from the 7th day preceding the due date until the end of the 9th week following the day of the actual delivery. Criminal sanctions apply when an employer requires an employee to work during these weeks of compulsory leave.¹⁸ As a consequence, the employee cannot renounce this part of the leave.¹⁹ The underlying idea is that, during these 10 weeks of compulsory leave, gainful employment is bad for the health and safety of both the woman and her child.²⁰ The period of compulsory leave is longer than what the ILO requires²¹ and far more generous than the minimum (still) set by the EU.²²

The other 5 weeks of maternity leave are *optional* and may be taken either as of the 6th week before the due date, or after the end of the compulsory leave.²³ Since April 2009, the employee has the right to take up the last two weeks of optional leave (if taken after the compulsory leave) in separate days of leave within a period of 8 weeks following the end of the uninterrupted period of (compulsory and optional) maternity leave. An employer who refuses to grant the optional leave that his employee is entitled to is also subject to criminal sanctions.²⁴

Specific rules apply in case of multiple births (longer leave for the mother) and when the newborn baby needs to stay in hospital for more than 7 days after childbirth (possibility for the mother to apply for longer leave).²⁵

In case the mother dies or is being admitted to hospital during maternity leave, the law provides that the (rest of the) maternity leave as described above may be attributed to the father of the baby, by way of 'paternity leave'.²⁶ Employers who refuse to grant such leave to fathers are subject to criminal sanctions.²⁷

While on maternity leave women are no longer paid by their employers but are entitled instead to a 'maternity benefit', paid under the social security system (health insurance scheme).²⁸ During the first 30 days of the leave, the benefit amounts to 82% of the wage previously earned. As of 31st day of the leave, the benefit drops to 75% of the

¹⁷ Art. 8(1) Directive 92/85/EEC of 19 October 1992.

¹⁸ Art. 147, 1° Social Criminal Code.

¹⁹ J. JACQMAIN, *Protection de la maternité*, Waterloo, Kluwer, 2012, 43.

²⁰ A. VAN DE GEUCHTE & C. VAN LAERE, *Zwangerschap en moederschap*, Mechelen, Kluwer, 2010, 74-76.

²¹ Art. 4(4) of ILO Convention No. 183 of 15 June 2000 imposes 6 weeks' compulsory leave after childbirth.

²² Quite surprisingly, Art. 8(2) of Directive 92/85/EEC of 19 October 1992 only requests a 'compulsory maternity leave of at least two weeks allocated before and/or after confinement'.

²³ A pregnant employee who has been ill during the 6 weeks before the actual delivery, will see her absence automatically transformed into maternity leave after the delivery. In case her sickness was uninterrupted during those 6 weeks before the delivery, she may request to be attributed one extra week of maternity leave after her compulsory leave (of 9 weeks after the delivery) has come to an end. Art. 39 Labour Act of 16 March 1971.

²⁴ Art. 147, 2° Social Criminal Code.

²⁵ Art. 39 Labour Act of 16 March 1971.

²⁶ Royal Decree of 17 October 1994.

²⁷ Art. 147, 3° Social Criminal Code.

²⁸ Art. 113 Law of 14 July 1994.

wage previously earned.²⁹ Benefits are calculated on the basis of an ‘average daily wage’, which is subject to a cap as of the 31st day.³⁰ As of 1 September 2018 the maximum daily maternity benefit amounts to € 106,9 gross (based on 6 working days per week).³¹ Days of maternity leave are counted as worked days for the purpose of entitlement to various social security benefits.³² Women are protected against dismissal based on pregnancy or childbirth.³³

Generally speaking, one could say that, in Belgium, everyone (including employers) assumes that women take the full 15 weeks of maternity leave and stay alone at home with the child during that period of time. Often, fathers would join mother and baby at home during the first few days after the delivery (see 2.2. Paternity leave).³⁴

2.2. Paternity leave

It was only in July 2002 that fathers saw their paternity leave (which is to be distinguished from the ‘transposed’ maternity leave mentioned above) rise from 3 working days to 10 working days, to be taken consecutively or separately, within 4 months of the day of confinement.³⁵ In Belgium, paternity leave is a *right*, not an obligation.

During the first 3 days the father is paid his full wage by his employer. The following 7 days he is entitled to a social security benefit under the health insurance scheme. This benefit amounts to 82% of his wage. Here again, benefits are calculated on the basis of an ‘average daily wage’, which is subject to a cap.³⁶ The maximum amount per day, as of 1 September 2018, is € 116,87 gross (based on 6 working days per week).³⁷ Days of paternity leave are counted as worked days for the purpose of entitlement to social security benefits. Fathers are also protected against dismissal based on paternity leave.³⁸

In 2011, the Institute for the Equality of Women and Men (IEWM) highlighted that 81% of the male workers taking part in one of their studies had taken up paternity leave.

²⁹ Art. 216 Royal Decree of 3 July 1996.

³⁰ Art. 2 Royal Decree of 10 June 2001.

³¹ Most recent data available from the website of the Federal Sickness and Disability Office (RIZIV/INAMI) at: <https://www.riziv.fgov.be/nl/themas/zwangerschap-geboorte/bedragen/werknemers-werklozen/Paginas/max-uitkering-moederschapsrust.aspx> (accessed 2 October 2018). For unemployed women, slightly different amounts apply.

³² C. MAIRY, *Bijzondere verloven*, Mechelen, Kluwer, 2007, 51.

³³ Art. 40 Labour Act of 16 March 1971.

³⁴ Impression supported by very recent messages in the media, e.g., S. PEETERS, *Tien dagen op de babywolk, maar wat daarna?*, *De Standaard*, 2 October 2018, 38-39.

³⁵ Art. 30 §2 Employment Contracts Act of 3 July 1978.

³⁶ Art 223bis Royal Decree of 3 July 1996.

³⁷ Most recent data available from the website of the Federal Sickness and Disability Office (RIZIV/INAMI) at: <https://www.riziv.fgov.be/nl/themas/zwangerschap-geboorte/bedragen/werknemers-werklozen/Paginas/max-uitkering-geboorteverlof.aspx> (accessed 2 October 2018).

³⁸ Art. 30 §4 Employment Contracts Act of 3 July 1978.

Highly educated workers took paternity leave substantially more often than low-skilled workers.³⁹

2.3. Parental leave and time credit

2.3.1. Parental leave

It was by way of implementation of EU law⁴⁰ that Belgium first introduced, in 1998, parental leave in its national legal order. Both father and mother of a child are currently entitled to 4 months of parental leave each, for each of their children until the age of 12.⁴¹ This leave can be taken on a full-time (100%) basis or – and this is an option for full-time employees only – on a part-time basis, i.e. at a rate of 50% or 20%. Very recently, the possibility has been introduced to take up parental leave at a rate of 10%, on the condition that employee and employer come to an agreement in this respect.⁴²

It is important to note that part-time take-up of parental leave implies a proportionate increase of the number of months: 4 months of full-time leave are equal to 8 months of 50% leave or 20 months of 20% leave. Full-time leave can be split up in periods of one month, and part-time leave can be split up in periods of 2 months each (in case of 50% leave) or 5 months each (in case of 20% leave). The entire period of parental leave is not transferable to the other parent.⁴³

During their parental leave parents are entitled to a flat rate 'interruption benefit', paid under the national unemployment insurance scheme.⁴⁴ As of 1 September 2018 the interruption benefit amounts to (gross) € 834,90 for full time parental leave.⁴⁵ In case parental leave is taken on a part-time basis, the interruption benefit is calculated accordingly.⁴⁶ For children born as of 8 March 2012, the full 4 months of leave are paid. For children born before 8 March 2012, only 3 months are paid, whilst the 4th month remains unpaid.⁴⁷ The benefit may be combined with an income from a political office or a wage from additional employment that the beneficiary had already been engaged in at least 3 months before the start of the (full-time or part-time) parental leave. Only in case of full-time parental leave a combination with a self-employed activity is possible, for 1 year maximum. It is not possible to combine interruption benefits with pension benefits.⁴⁸

Take-up of parental leave in Belgium has featured a steady growth over the previous 20 years, both amongst women and men. However, figures clearly show that women

³⁹ INSTITUUT VOOR DE GELIJKHEID VAN VROUWEN EN MANNEN, *De ervaringen van werknemers met vaderschapsverlof in België*, 2011, p. 53 and following, available online from the website of the Institute for the Equality of Women and Men: https://igvm-iefh.belgium.be/sites/default/files/downloads/47%20-%20Vaderschapsverlof_publicatie_NL.pdf (accessed 25 September 2018).

⁴⁰ Directive 96/34/EC of 3 June 1996, as later repealed by Directive 2010/18/EU of 8 March 2010.

⁴¹ For disabled children, the age limit is set at 21.

⁴² Act of 2 September 2018. Additional measures still need to be taken.

⁴³ Arts. 2 and 3 Royal Decree of 29 October 1997.

⁴⁴ Art. 6 §3, 3° Royal Decree of 2 January 1991.

⁴⁵ Most recent data available from the website of the Federal Employment Office (RVA/ONEM) at: <https://www.rva.be/nl/documentatie/baremas/loopbaanonderbreking-tijdskrediet#24783> (accessed 2 October 2018). Slightly higher amounts apply for lone parents.

⁴⁶ Ibid.

⁴⁷ Art. 5 Royal Decree of 31 May 2012. This decree introduced a 4th month of parental leave, but reserved payment of this 4th month to children born as of 8 March 2012.

⁴⁸ Art. 14 Royal Decree of 2 January 1991.

remain the principal beneficiaries of (paid) parental leave, as can be seen in the table below.

Year	Women	Men	Total
2009	33.244	11.145	44.389
2011	38.085	14.454	52.539
2013	38.386	14.849	53.235
2015	41.655	16.718	58.374
2017	44.184	19.555	63.739
2018 (until July)	44.965	19.999	64.964

Table 2: Monthly average number of persons who take up paid parental leave in Belgium.⁴⁹

For both men and women, take-up of parental leave at a 20% rate remains by far the most popular choice. In 2009, a monthly average of 9.811 men (out of 11.145) and 22.627 women (out of 33.244) opted for parental leave at a rate of one day per week. In 2017, the numbers were 16.051 for men (out of 19.555) and 27.889 for women (out of 44.184). Although women, just like men, clearly prefer parental leave at a rate of 20%, many more women than men still opt for full-time leave or leave at a rate of 50% instead of just one day per week.

The available data do not allow to find out whether women who take up full-time parental leave do so in particular at a younger age, when they tend to have very young children. An interesting hypothesis is that many Belgian women use full-time parental leave to prolong, after maternity leave has come to an end, the period during which they stay at home alone, to take care of their baby, while the father of the child remains employed on a full-time basis.

Apart from paid parental leave as described above, Belgian legislation also provides a right to 4 months of unpaid parental leave, which should be taken before the child concerned reaches the age of 9.⁵⁰ This unpaid leave, however, cannot be combined with paid parental leave. The employee needs to choose between either paid parental leave as described above or unpaid parental leave. No need to explain that the vast majority of workers opts for the paid version of the leave.

The reason why a (limited) number of workers may wish to apply for the unpaid leave is that this system also allows part-time workers to take up parental leave on a part-time basis (resulting in a corresponding increase in the number of leave months), whilst the paid system only allows full-time take-up by part-time workers.

2.3.2. Time credit

Although 'time credit' is not explicitly linked to the EU requirement to provide workers with a right to parental leave, this scheme does allow workers to take time off for a number of care-related reasons as well as for educational purposes.⁵¹ Quite

⁴⁹ This table is based on the statistical data that are available on the website of the Federal Employment Office (RVA/ONEM) at: https://www.rva.be/nl/documentatie/statistieken/cijfers/loopbaanonderbreking-tijdskrediet-en-thematische-verloven/thematische-verloven#h2_1 (accessed 2 October 2018).

⁵⁰ Collective Labour Agreement 64bis of 24 February 2015.

⁵¹ The time credit scheme was first introduced by Art. 103bis of the Repair Act of 22 January 1985. Its original purpose was to combat unemployment.

interestingly, this scheme may be combined with formal parental leave (paid/unpaid) as described in the previous paragraphs.⁵²

Employees of the private sector all have a right to 51 months of time credit, to be taken for 5 care-related reasons: (1) care for a child of up to 8 years old, (2) palliative care, (3) care for a seriously ill family member, (4) care for a disabled child of up to 21 years old, (5) assistance to or care for a minor and seriously ill child or family member. If time-credit is taken for educational purposes, the number of months is limited to 36. Irrespective of the reasons for which time credit is taken, the total number of months can never surpass either 51 months (including a maximum of 36 months for education).⁵³ For example, if an employee takes up 51 months of time credit following the end of maternity leave, nothing is left, neither for other care needs that might surface later on in the employee's career, nor for education. Time credit is personal and not transferable to anyone else.

Time credit is to be taken either full-time (100%), part-time (50%, only for those who are employed for at least 75%) or 1 day per week (20%, only for those who are employed full-time). As opposed to formal 'parental leave', the maximum number of months is absolute (no multiplication based on percentage of take-up). Employees can take time credit on the condition that they have 2 years of seniority with their employer, unless they want the time credit to follow immediately after a period of parental leave, in which case the seniority requirement does not need to be fulfilled.⁵⁴

Employees who take time credit are entitled to a flat rate 'interruption benefit', paid under the unemployment insurance scheme.⁵⁵ As of 1 September 2018, this benefit amounts to € 510,44 gross for full time leave (employee with a seniority of maximum 5 years). In case of part-time leave, the benefit is decreased accordingly.⁵⁶ Interruption benefits may be combined with income from a limited number of political offices, with income from an additional employed activity in which the beneficiary had already been engaged at least 12 months before the start of the time credit leave and with income from a self-employed activity. The latter is on the condition that the time credit is full-time, that the self-employed activity already existed 12 months before the start of the time credit leave and that the combination of the self-employed activity with the time credit leave does not last longer than 12 months. Combination of interruption benefits with pension benefits and income from development projects abroad is not allowed.⁵⁷

The table below clearly shows that, in 5 years' time, the number of workers who take up paid child care-related time credit has more than doubled. The flip side of this success is that the percentage of men taking such time credit remains stable at around 10 to 15% of the total number of beneficiaries. These data should be approached with some care, however, since until 1 April 2017, it was possible to take up paid time credit leave 'without motive',⁵⁸ which used to be very popular, particularly

⁵² Collective Labour Agreement 103ter 20 December 2016 (as slightly adapted by Collective Labour Agreement 103quater of 29 January 2018).

⁵³ Art. 4 §8 Collective Labour Agreement 103ter.

⁵⁴ Art. 5 §2 Collective Labour Agreement 103ter.

⁵⁵ Art. 5 Royal Decree of 12 December 2001.

⁵⁶ Most recent data available from the website of the Federal Employment Office (RVA/ONEM) at: <https://www.rva.be/nl/documentatie/baremas/loopbaanonderbreking-tijdskrediet#16312> (accessed 2 October 2018).

⁵⁷ Art. 7 KB of 12 December 2001.

⁵⁸ The option of time credit without motive has been abolished by Collective Labour Agreement 103ter.

amongst men.⁵⁹ Still it is to be expected that, even before 1 April 2017, men who had children under the age of 8 first took up child care-related time credit before taking time credit without motive.

Year	Women	Men	Total
2013	11.977	1.069	13.047
2015	18.829	2.328	21.157
2017	21.263	3.282	24.545
2018 (until July)	24.046	3.909	27.955

Table 3: Monthly average number of persons who take up paid time credit leave for reasons of care for a child of up to 8 years old (figure for the entire country of Belgium).⁶⁰

3. Conclusion and recommendation: the ‘care trap’ needs to be fought

Although the Belgian system of care leaves features quite some flexibility and is – at first sight at least – gender neutral, mainly women take advantage of the leaves and reduce (sometimes definitively) the time they spend on paid employment once they have children.⁶¹

One explanation certainly is connected with the fact that in Belgium, like in the rest of the EU, fathers often earn more than mothers. Given the low benefits that go with the leaves described in this paper, it may be seen as a family’s rational choice to have the mother take up the leave. Therefore, increasing the amount of benefits may have a positive impact on fathers’ take-up of childcare leave.⁶²

However, involving fathers in family work will require more than just increasing the amount of the benefit. It has been highlighted above that in Belgium, traditional opinions on women’s and men’s roles regarding child care and family work have not

⁵⁹ See the statistical data that are available on the website of the Federal Employment Office (RVA/ONEM) at: <https://www.rva.be/nl/documentatie/statistieken/cijfers/loopbaanonderbreking-tijdscrediet-en-thematische-verloven/tijdscrediet> (accessed 2 October 2018).

⁶⁰ This table is based on the statistical data that are available on the website of the Federal Employment Office (RVA/ONEM) at: <https://www.rva.be/nl/documentatie/statistieken/cijfers/loopbaanonderbreking-tijdscrediet-en-thematische-verloven/tijdscrediet> (accessed 2 October 2018).

⁶¹ For a number of women, parental leave facilitates a transition to part-time work, whilst for others it leads to a full-time return to the labour market. T. KIL, J. WOOD, D. DE WACHTER, J. VERGAUWEN, L. VAN DEN BERG & K. NEELS, *Arbeidsparticipatie en gebruik van ouderschapsverlof bij moeders in Vlaanderen: een longitudinale analyse*, in: *Arbeid en Gezin: een paar apart* (L. Vanderleyden & M. Callens (eds.), Brussels, Flemish Government, 2015, 31.

⁶² See, e.g., M. WELDON-JOHNS, *EU Work–Family Policies – Challenging Parental Roles or Reinforcing Gendered Stereotypes?*, *European Law Journal*, 2013, 669-670.

disappeared yet. The Belgian leave system – supported by EU regulation⁶³ - lures women into a ‘care trap’.⁶⁴ It all starts with 15 weeks of maternity leave that are an exclusive right of the mother. 10 weeks are compulsory and need to protect a woman’s health and safety. The other 5 weeks are optional, yet it is generally expected that women take those weeks, which are, in fact, disguised childcare leave for women only.

The Belgian maternity leave system, combined with only 10 days of non-compulsory paternity leave, creates the typical situation in which women take care of their newborn alone during the first 15 weeks after the delivery. Most fathers continue their paid employment as they did before, with the exception of the 10 days of paid paternity leave usually taken after the delivery. As a consequence, most Belgian fathers do not take care of their baby alone during the first 15 weeks after the delivery. In so doing, they are less likely to get to know and develop for themselves a set of skills that are related to a primary caregiver.⁶⁵ During those early weeks a traditional division of tasks between mother and father emerges, which in many cases will prove to be irreversible.

The suggestion is, therefore, that the Belgian as well as the EU⁶⁶ authorities focus on the question whether mandatory paternity leave to be taken up by the father alone (i.e. not together with the mother) could be a bridge to a more equal sharing of family work between women and men. A sufficiently lengthy and mandatory leave for the father alone would counterbalance the mother’s mandatory maternity leave and consequently level the playing field vis-à-vis the employers. Moreover, mandatory paternity leave could also make life easier on those fathers who already want to take up child care leave now and find themselves confronted with employers and colleagues who are less understanding.⁶⁷

⁶³ Reference ought to be made here to the European Commission’s work-life balance initiative COM(2017)0253, which – unfortunately leaves the Maternity Leave Directive 92/85/EEC of 19 October 1992 untouched. For a discussion of this new initiative, see E. CARACCILO DI TORELLA, *An emerging right to care in the EU: a “New Start to Support Work-Life Balance for Parents and Carers”*, ERA Forum, 2018, 187-198, available online at:

<https://link.springer.com/article/10.1007/s12027-017-0477-0>. For an overview of past initiatives on work-life balance: E. CARACCILO DI TORELLA, *Brave New Fathers for a Brave New World? Fathers as Caregivers in an Evolving European Union*, European Law Journal, 2014, 88-106.

⁶⁴ P. FOUBERT, *Work-life balance in de EU: over de ongenaakbaarheid van het moederschap en de vrijblijvendheid van het vaderschap*, in: Liber Amicorum Willy van Eeckhoutte (De Corte, R. & others, eds.), Mechelen, Wolters Kluwer, 2018, 343-356.

⁶⁵ Regarding the importance of fathers staying at home alone with their young child, see B. BRANDTH & E. KVANDE, *Masculinity and Fathering Alone during Parental Leave*, Men and Masculinities, 2018, 72-90.

⁶⁶ Caracciolo di Torella argued, with respect to EU policy and legislation: ‘After over 40 years the position is still very much unchanged: at best fathers are “encouraged,” but not “bound,” to take the leave.’ E. CARACCILO DI TORELLA, *Men in the work/family reconciliation discourse: the swallows that did not make a summer?*, Journal of Social Welfare and Family Law, 2015, 341.

⁶⁷ See also S. FREDMAN, *Reversing roles: bringing men into the frame*, International Journal of the Law in Context, 2014, 451. Already in 1998 Arnlaug Leira advanced in the Norwegian context that some fathers found ‘that the element of “force” was all right and made it easier to discuss the leave with employers.’ A. LEIRA, *Caring as Social Right: Cash for Child Care and Daddy Leave*, Social Politics, 1998, 373.

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