



FATHER ON MATERNITY LEAVE

Research on Legislative and Administrative
Barriers to the Use of Maternity
Leave in Bosnia and Herzegovina

Delila Hasanbegović, Amina Dizdar

**Father on Maternity Leave: Research on Legislative and
Administrative Barriers to the Use of Maternity Leave in
Bosnia and Herzegovina**

REPORT

Sarajevo, 2022

Gender Edition of Sarajevo Open Centre

Book 19

Title: *Father on Maternity Leave: Research on Legislative and Administrative Barriers to the Use of Maternity Leave in Bosnia and Herzegovina*

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Layout and Design: *Andrej Arkoš*

Publisher: *Sarajevo Open Centre*

On behalf of the Publisher: *Emina Bošnjak*



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ISBN 978-9958-536-75-5

CIP zapis dostupan u COBISS sistemu Nacionalne i univerzitetske biblioteke BiH pod ID brojem 51384838

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Abstract

The aim of this research is to determine whether fathers use maternity leave and to what extent, and whether there is space for improving the laws governing this area, as well as public policies that would increase the participation of men in family life. The ultimate goal is to increase the participation of women in the labor market by amending and applying the appropriate provisions of the current laws and implementing public policies aimed at promoting the right for both parents to use maternity leave.

In the first part of the research, we present the legal framework for regulating maternity leave, that is, we analyze the most important provisions of the Labor Law in B&H Institutions, FB&H Labor Law, RS Labor Law and District Brčko of B&H Labor Law, Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (Federation of Bosnia and Herzegovina) i.e. the laws on child protection (Republika Srpska and District Brčko), as well as accompanying bylaws.

The second part contains basic information on the administrative procedures for using maternity leave, on the number of fathers who submitted a request for compensation instead of salary during maternity leave, and on the competent bodies for deciding on this issue. **The research has shown that only 0.36% of fathers exercised the right to compensation instead of salary during maternity leave.**

In the third part, we analyzed the responses of 500 fathers who were surveyed by the public opinion polling agency and who had a

child between 2016 and today,¹ as well as the responses of eight fathers who used maternity leave during this period, and who were interviewed in focus groups. We chose this period because it was only in 2016 that this right was guaranteed to fathers as well.

- More than half (**57.8%**) of the surveyed fathers responded that they were not familiar with the right to use maternity leave.
- **73.4%** of fathers said that they would have used maternity leave if they had known that this possibility existed.
- **28.8%** of fathers were informed about this right by their employers.
- Out of the total number of fathers who did not use maternity leave, **49.7%** of fathers did not know they could exercise this right, i.e. they were not sufficiently informed about the possibilities.
- **11.2%** of fathers believe they do not need maternity leave because women are the ones who take care of children.
- **6.3%** of fathers believe that no one exercises this right.
- **55.2%** of fathers believe that the term *parental leave* is more appropriate compared to the term *maternity leave*, which is currently being used in labor laws.

In the end, based on the collected data and findings obtained, we made recommendations, which the state should apply in order to enable both fathers and mothers to exercise this right equally. Given that a large number of fathers (more than half) stated they did not know about the possibility of using maternity leave, it is necessary to **implement appropriate campaigns to raise awareness, but also to require employers to introduce the employees with their rights**. In addition, the laws don't provide

¹ The data were collected for the period from 2016 to 2021, concluding with February 15.

the same type of protection to fathers taking maternity leave as for mothers, and it is necessary to **amend labor laws and other regulations that govern this area so that fathers also receive compensation while using maternity leave, have the right to leave in case of stillbirth, and have a guaranteed period of maternity leave that cannot be waived or transferred to the mother**, in accordance with the European Union Directive on Work-Life Balance for Parents and Carers.

Introduction

Gender inequality is visible in almost all segments, and this research focuses on the right to use maternity leave in Bosnia and Herzegovina, which, since 2016, belongs to both mothers and fathers. Although a neutral term would be *parental leave*, given that it is the right of both parents, we will use the term *maternity leave* throughout this research, because it is a term used in all laws governing this area.

Bosnia and Herzegovina is a signatory to the International Covenant on Economic, Social and Cultural Rights, which is part of the Bosnia and Herzegovina Constitution. This covenant guarantees the right to work, and this right implies that every person has the opportunity to earn through freely chosen or accepted work, and states will take all necessary measures to preserve this right.² Also, Bosnia and Herzegovina undertook the obligation to provide a fair salary and equal reward for work and the same values without any distinction to both male and female workers, while women in particular must have a guarantee that their working conditions are no worse than the working conditions used by men and that they receive the same reward for the same work.³ We will notice that this is usually not the case in practice.

Through the Law on Gender Equality and the Law on Prohibition of Discrimination, Bosnia and Herzegovina guarantees gender equality in all areas, including work and employment, social and health care, regardless of marital and family status.

² Article 6 of the International Covenant on Economic, Social and Cultural Rights

³ Article 7 of the International Covenant on Economic, Social and Cultural Rights

Unfortunately, these laws are frequently not implemented in practice, so the aforementioned rights are violated, and most often for one gender. In this paper, we have focused our attention to the application of valid laws governing the field of labor and social protection, which, like all other laws, should be harmonized with the B&H Law on Gender Equality.

Women are underrepresented in the labor market in Bosnia and Herzegovina. While 65% of men aged 20 to 64 are employed, for women that percentage is 40%.⁴ We have heard many assumptions, such as that women are less educated, that they are not ambitious enough or that they prefer to choose family life. According to the Agency for Statistics data, of those who completed higher education in 2020, 60% are women, while 40% are men.⁵ These data confirm that women do not lack either education or ambition, so we have to look for the causes elsewhere. This brings us to family/private life as an obstacle to greater participation of women in the labor market. The question arises whether women chose that for themselves or were forced to do so.

If we take a look at the labor laws in Bosnia and Herzegovina, we will see that there are special provisions related to the protection of motherhood. Namely, women are guaranteed the right to use maternity leave, they are protected from getting fired while using maternity leave, it is forbidden to ask questions about forming a family during employment processes, it is possible to use leave in the event of death of a child and so on. In this way, the legislator, although enabling fathers to use maternity leave, emphasizes the role of the mother in maintaining family life and caring for family members. So, not only has the patriarchal society transferred a

⁴ Women and men in Bosnia and Herzegovina, Agency for Statistics of Bosnia and Herzegovina, Sarajevo, 2022.

⁵ Ibid.

role that can be performed equally by both parents to the mother, but also the legislator, with provisions that seemingly have the purpose of providing protection to working mothers, while in fact they encourage inequality and indirectly lead to less representation of women in the labor market.

Discussions about this problem lead us to look at this situation from fathers' perspective and try to emphasize their importance and ability to participate equally in family life. With this research, we will try to determine what is needed for that and what are the thoughts of fathers on this topic, that is, whether they would be ready to equally participate in family life if the conditions were created for it.

Research Methodology

With this research, we try to determine whether the assumption that it is women who use maternity leave to a greater extent is correct – the right guaranteed by law for both genders since 2016 - and what are the reasons for that. We collected data using two methods. We initially sent inquiries to competent institutions, more precisely to social work centers or municipalities ⁶ in order to determine how many fathers have applied for the right to maternity benefits in the period from 2016 to today. The other method included surveying 500 fathers who were employed at the time of the child's birth. The survey included persons from Federation of Bosnia and Herzegovina, all ten cantons, Republika Srpska and District Brčko.

By sending a letter to the competent institutions, we wanted to determine if the fathers exercised their right to maternity leave, but also whether there were certain differences in applying for maternity benefits between fathers and mothers.

By surveying, we wanted to find out if fathers used maternity leave and to what extent. The questionnaire has consisted of 32 questions ⁷ aiming to determine the reasons for (not)using maternity leave, if external factors influenced their decision, such as fear of the environment reaction, existing patriarchal stereotypes, or is it about financial reasons.

By analyzing the collected data and the legal framework, we want to detect existing problems in the field of work and the exercise of right to maternity leave, and then come to possible legal and other

⁶ The laws on labor and social protection stipulate that social work centers or municipalities are responsible for deciding on benefits for maternity leave. Which of these institutions is competent is determined individually for each of the local self-governments.

⁷ The questionnaire can be found in the Annex of the publication.

solutions that would create a stimulating environment in which fathers would be encouraged to use maternity leave more often. This would remove the burden from mothers and avoid the "balancing" of family and business life.

1. Legal Framework for Regulating Maternity Leave in Bosnia and Herzegovina

1.1. Bosnia and Herzegovina

The Labor Law in B&H Institutions is the only labor law at the state level. It regulates the labor relations of persons employed in the institutions of Bosnia and Herzegovina and its bodies, and who are not civil servants, as well as persons employed in B&H public enterprises and all other legal entities established by the institutions of Bosnia and Herzegovina.

In its basic provisions, the law prohibits discrimination on the basis of gender or any other reason contrary to the fundamental human rights established by the B&H Constitution.⁸ It is also prohibited to collect data about employees that are not directly related to the nature of work duties.⁹ It can be concluded from this that it is also forbidden to ask questions about pregnancy, i.e. about family planning, regardless of whether it is a male or a female employee, and that women and men are equal when it comes to exercising parental rights.

However, the law indirectly discriminates against fathers in certain parts, so there are provisions that refer exclusively to the protection of women and maternity within the Chapter 4. The role of fathers in taking care of child is being neglected, as stipulated in paragraph 4 of Article 21: “ *A pregnant woman cannot work overtime, and a mother with a child up to three years old and a single*

⁸ Article 6 of the The Labor Law in B&H Institutions

⁹ Article 14 of the The Labor Law in B&H Institutions

parent up to six years of age of the child can work overtime, providing they give a written statement of voluntary consent to such work.“ It is evident from this provision that a certain priority is given to mothers, and that their role in the upbringing and care of the child is considered more important than the role of the father, so the father will be protected from overtime work only if he is a single parent.

Article 34 protects women from illegal dismissal due to pregnancy, i.e. prevents an employer from refusing to hire a woman who is pregnant. The reason for this provision is not just that only a woman can give birth to a child and be absent from work because of it, but also the fact that, even after the childbirth, mothers take all the care of the child, and therefore fathers are not expected to use leave. Articles 36 and 37 guarantee women and men the right to use maternity leave, but under different conditions. During pregnancy, childbirth and child care, a woman has the right to use maternity leave of one year continuously.¹⁰ Maternity leave can start 28 days before the birth with the possibility of shorter use, but not shorter than 42 days. The father of the child can use leave instead of the mother 60 days after the child is being born.¹¹ This means that parents cannot use leave at the same time, nor can the father use maternity leave during the first two months after the birth of the child. Article 38 of the Labor Law in B&H Institutions stipulates that a woman with a child up to one year of age has the right to half the working time if, according to the findings of an authorized healthcare facility, the child requires intensive care. Father can exercise this right provided that the child's mother works full time.

If the woman gives birth to a stillborn child or the child dies before the end of maternity leave, she has the right to extend her

¹⁰ Article 36 of the The Labor Law in B&H Institutions

¹¹ Article 37 of the The Labor Law in B&H Institutions

maternity leave for as much time as she needs to recover from childbirth and the psychological state caused by the loss of a child, whereby she has all the rights arising from maternity leave.¹² The law does not foresee the same possibility for fathers. The Law also stipulates that the worker has the right to adequate compensation for the time of maternity and parental leave, which means that mothers and fathers are treated equally in terms of exercising the right to compensation.

1.2. Federation of Bosnia and Herzegovina

At the Federation of Bosnia and Herzegovina level, parental leave is regulated by the Labor Law, Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children, and the FB&H Law on Material Support for Families with Children.

The FB&H Labor Law¹³ regulates **maternity leave** in its Article 62, paragraph 1, stating: “During pregnancy, childbirth and child care, a woman has the right to maternity leave of one year continuously”. Paragraph 2 foresees the possibility for a woman to start maternity leave 28 days before the expected delivery date if deemed necessary by the authorized doctor. Paragraph 3 states that it is possible to use shorter maternity leave, but not shorter than 42 days following the childbirth. The key paragraph that allows fathers the right to maternity leave (paragraph 4) says: **“Upon 42 days after childbirth, the right to maternity leave can also be used by the worker-father of the child, if the parents so agree”**. Paragraph 5: “Worker-father of the child can

¹² Article 40 of the The Labor Law in B&H Institutions.

¹³ “FB&H Official Gazette”, number 26/16 and 89/18.

exercise the right from paragraph 1 of this article in the event of the death of the mother, if the mother abandons the child or cannot use maternity leave due to other justified reasons“.

Article 63 of the Labor Law provides the possibility of **half-time work upon the expiration of maternity leave**. This right applies to the woman with a child up to at least one year of age, and for twins, third and every subsequent child, woman has the right to work half-time until the child is two years old, if the canton's regulation does not predict longer duration of this right. **This right can also be used by the working father of the child, if the woman works full-time during that period.**

Half-time work until the child is three years old (Article 64) is stipulated as the right of one of the parents, if, according to the medical findings of the competent healthcare facility, the child needs increased care and attention. The same right applies to the parents of a child with severe developmental difficulties (half-time work, Article 69).

The Labor Law prohibits discrimination against male and female workers and persons seeking employment on multiple grounds, including marital status, family obligations and health status (Article 8). **Overtime and night work** are prohibited for pregnant women, mothers or adoptive parents of children up to three years of age, as well as single parents and single adoptive parents and the person to whom, based on the decision of the competent authority, the child is entrusted with care and upbringing, up to child's six years of age, or until the child reaches two years of age (Articles 38 and 41 respectively). **Unequal treatment** is also prohibited, i.e. the employer may not refuse to hire a woman because of her pregnancy, nor may they cancel the employment contract of a woman or a worker exercising this right during pregnancy or during maternity leave (Article 60). The law also defines penal provisions for employers for prohibited actions (Article 171) – refusal of employment, cancellation of the

employment contract, preventing either male or female employee from using maternity leave.

The new Labor Law left the possibility of **paid leave from work with salary compensation** for up to seven working days in one calendar year, among other things, in the case of wife's childbirth (Article 53). Before the amendments to the Labor Law in 2016, this possibility was only available to fathers, which is extremely limiting for their equality and access to the right to maternity leave.

The Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children¹⁴ regulates the social protection rights - financial and other material assistance (Article 23), rights of families with children - maternity benefits and other types of material assistance.¹⁵ The following are determined, among others, to be the holders of rights: women during pregnancy, childbirth and after childbirth, in accordance with labor regulations, as well as parents, stepfather, stepmother or adoptive parent who takes care of one or more children up to one year of age, if there are no family members or relatives who are obliged by law to support them or, if there are any, that these persons are unable to fulfill the obligation of support. In Article 89, which stipulates the basic rights of families with children, the father is not explicitly mentioned as the holder of rights, but the Article 90 states that other rights of families with children can be determined by cantonal regulation, and also more closely

¹⁴ "FB&H Official Gazette", number 36/99, 54/04, 39/06, 14/09, 45/16 and 40/18.

¹⁵ Children's allowance, financial assistance during pregnancy and childbirth for a mother who is not employed, one-time assistance for the newborn child equipment, aid in child's nutrition up to six months of age and additional nutrition for nursing mothers, special psycho-social treatment of spouses who want children and pregnant women, accommodation of children with provided nutrition in preschool education institutions, provision of one meal during classes in primary education schools, tuition fees and scholarships for pupils and students.

regulates conditions, method, procedure, bodies and financing of these rights.

The FB&H Law on Material Support for Families with Children¹⁶ predicts the **right to financial assistance for an unemployed postpartum woman**, for the purpose of childbirth and the care of each child born, under the conditions prescribed by this law. The father is the holder of rights **only if the mother is not alive or is prevented from directly caring for the child or has abandoned the child**. The estimated amount is 55% of the lowest salary in FB&H, determined in accordance with the provisions of the Labor Law.

1.2.1. Federation of Bosnia and Herzegovina Cantons

The Laws on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children at the cantonal level¹⁷ regulate the **right to compensation instead of salary** for a working mother during the time she is absent from work due to pregnancy, childbirth and child care, while the **possibility for the father or adoptive father to exercise this right under the conditions specified in the labor regulations** was also foreseen. Not all cantonal laws foresee the father or adoptive father of the child as the holder of the right to compensation, and this unevenness of regulations produces the inequality of fathers in the Federation of Bosnia and Herzegovina. Cantons whose laws define fathers as holders of this right are: Sarajevo Canton, Tuzla Canton, Bosnian-Podrinje Canton, Central Bosnia Canton, Herzegovina-Neretva Canton, West Herzegovina Canton and

¹⁶ "FB&H Official Gazette", number 52/22.

¹⁷ Sarajevo Canton, Tuzla Canton, Zenica-Doboj Canton, Bosnian-Podrinje Canton, Central Bosnia Canton, West Herzegovina Canton, Una-Sana Canton.

Posavina Canton. Cantons whose laws do not define fathers as holders of this right are: Zenica-Doboj Canton, Una-Sana Canton and Canton 10 (only in cases of the death of the mother, if the mother abandons the child or if the mother is prevented from exercising this right due to justified reasons). It is evident that these cantons have not yet harmonized the regulations on social protection and the protection of families with children with the amendments to the FB&H Labor Law.

The Law on Protection of Families with Children of the Herzegovina-Neretva Canton¹⁸ regulates the right to compensation instead of salary during maternity leave (Article 14), and, in addition to the mother, designates the child's father as the holder of this right (Article 24). The Law on Maternity Benefits for Working Mothers of the Posavina Canton¹⁹ defines the father as a beneficiary of the right to maternity benefits, provided that he has continuously resided in the territory of Posavina Canton for at least three years prior to submitting the application, with the cumulative condition that the mother, while on maternity leave, has continuously resided in the territory of Posavina Canton for at least one year prior to submitting the application for recognition of the right to maternity benefits (Article 3). Canton 10 regulates this field with the Decision on the Right to Wage Compensation for Women-Mothers during Absence from Work due to Pregnancy, Childbirth and Child Care,²⁰ and the father is entitled to this right only in cases of the death of the mother, if the mother abandons the child or is prevented from exercising this right due to justified reasons. It is clear from this that Canton 10 did not harmonize the legal regulations with the FB&H Labor Law, and did not enable fathers to use the right to maternity leave in the same way as mothers - for a duration of one year. Also, the absence of unique and uniform regulations at the

¹⁸ Number 02-01-XXVI-185/17.

¹⁹ "Posavina Canton National Gazette", number 7/16.

²⁰ "Herzeg-Bosnia Canton National Gazette", number 1/13, 6/15.

FB&H level makes it difficult for parents to access the right to maternity leave.

1.3. Republika Srpska

The Republika Srpska Labor Law regulates labor relations, rights, obligations, responsibilities and other work-related relations in the Republika Srpska. This law prohibits gender-based discrimination during recruitment, duration of employment and termination of employment contracts.

Similar to the Labor Law in B&H Institutions, this law also puts greater importance on mothers, so the law prohibits overtime work for pregnant women and mothers with a child up to three years of age, while fathers and adoptive parents are prohibited from working overtime only if they are single parents.²¹ Night work is prohibited for mothers with children up to two years of age, while fathers and adoptive parents are not covered by this provision.²² The employer may not refuse to hire a woman because of her pregnancy, nor may they cancel her employment contract due to pregnancy or because she is on maternity leave. There are no provisions that regulate this type of protection for fathers, except for those that guarantee equal treatment to all employees.

Woman can start using maternity leave 28 days prior to childbirth. Maternity leave covers the period of pregnancy, childbirth and care of the child for a period of one year continuously, and for twins, third and every subsequent child, for 18 months continuously. The child's father can use maternity leave only after the mother has used 60 days of leave, and only instead of the mother, i.e. it is not possible for both parents to use

²¹ Article 64 of the Republika Srpska Labor Law.

²² Article 73 of the Republika Srpska Labor Law.

maternity leave at the same time.²³ The father can use maternity leave even when the mother is not employed, but only if he is unable to take care of the child due to justified reasons (serving a prison sentence, specialization and education, etc.). This right can also be used by adoptive parents of the child or another person to whom the competent guardianship authority has entrusted the child with care and custody from the day of adoption or the day the guardianship begins, regardless of the child's age.²⁴ If the woman gives birth to a stillborn child or the child dies before the end of maternity leave, the woman has the right to maternity leave for as long as the doctor estimates is necessary for her to recover from childbirth and the psychological state caused by the loss of the child. This possibility is not provided for the fathers.²⁵ Article 112 of the Republika Srpska Labor Law guarantees a salary compensation for the mothers during maternity leave, in the amount of the average salary earned in the last 12 months prior to maternity leave, that is, in the amount of salary they would have earned if they had been at work. These provisions also apply to persons who, in accordance with this law, are entitled to salary compensation for the time they are absent from work for the purpose of taking care of the child. In terms of employment contract cancellation, mothers and fathers are equally protected, meaning that employers cannot cancel the employment contract of either male or female employee during pregnancy, maternity leave and short-time work due to child care.²⁶ However, when we come to the penal provisions, we will see that the law foresees a penalty for employers who do not respect the mother's right to use maternity leave, while there is no penalty for employers who deny fathers the right to use maternity leave in the case of an agreement between mother and father.

²³ Articles 105, 107 and 108 of the Republika Srpska Labor Law.

²⁴ Article 110 of the Republika Srpska Labor Law.

²⁵ Article 108 of the Republika Srpska Labor Law.

²⁶ Article 183 of the Republika Srpska Labor Law.

1.4. District Brčko of Bosnia and Herzegovina

The District Brčko of B&H Labor Law guarantees equality to all persons during the recruitment process, regardless of gender and other characteristics.²⁷ Identical to the Republika Srpska Labor Law, overtime work is prohibited for pregnant women and mothers of children up to three years of age, while fathers are prohibited from working overtime only if they are single parents.²⁸ The prohibition of night work applies only to pregnant women from the sixth month of pregnancy and mothers with children up to three years of age.²⁹ Employers are forbidden to fire a pregnant woman or a woman using maternity leave or pregnancy sickness, while fathers who decide to use maternity leave are not protected in this way, with the fact that they can refer to provisions related to the prohibition of discrimination.³⁰ Fathers can use maternity leave no earlier than 42 days after the mother uses it.³¹ In case of stillbirth or if the child dies before the end of maternity leave, the mother has the right to use maternity leave for as long as necessary for her to recover from the state she is in due to the loss of the child, in accordance with the assessment of an authorized doctor.³² Fathers are not entitled to use leave in these situations. The law also stipulates the right to use maternity benefits for mothers and fathers, as well as other persons who are entitled to use leave in order to take care of a child. The amount of benefits is determined on the basis of the average salary earned by the person in the last 12 months prior to

²⁷ Article 7 of the District Brčko of B&H Labor Law.

²⁸ Article 51 of the District Brčko of B&H Labor Law.

²⁹ Article 57 of the District Brčko of B&H Labor Law.

³⁰ Article 76 of the District Brčko of B&H Labor Law.

³¹ Article 79 of the District Brčko of B&H Labor Law.

³² Article 80 of the District Brčko of B&H Labor Law.

maternity leave, that is, which they would have earned if they had been at work.³³ Unlike the Republika Srpska Labor Law, this law predicts sanctions for employers who deny fathers the right to use maternity leave, and such employer - legal entity will be fined from 1000 to 3000 BAM.³⁴

³³ Article 82 of the District Brčko of B&H Labor Law.

³⁴ Article 173, paragraph (1), point mmm) of the District Brčko of B&H Labor Law.

2. Administrative Procedures and Institutional Practices of Taking Maternity Leave in Bosnia and Herzegovina

The right to maternity leave is regulated by the FB&H Labor Law, RS Labor Law, District Brčko of B&H Labor Law and Labor Law in B&H Institutions. Given that there is no single law that regulates this area, there are certain differences in the way this right is exercised. So we addressed inquiries to 76 social work centers, i.e. municipalities, as well as the RS Public Fund for Child Protection and the Subdivision for Social Protection of the District Brčko of B&H Government.

2.1. Federation of Bosnia and Herzegovina

In the Federation of Bosnia and Herzegovina, the decision on maternity benefits most often falls under the jurisdiction of social work centers, while the municipalities decide on maternity benefits in some local communities. In certain municipalities, we were also referred to healthcare insurance funds. We addressed inquiries to 76 social work centers/municipalities, asking whether fathers submitted applications for exercising the right to compensation for the use of maternity leave and to what extent, are there any differences in the procedure when the requests are submitted by fathers compared to mothers, and whether extramarital partners are treated different than the married ones.

We received responses from 41 social work centers/municipalities. Out of those, we received incomplete responses from three social work centers, so we had a total of 38 responses in the end. According to data contained in those responses, a total of 28,838 persons, of which 105 were fathers, or only 0.36%, submitted a request for compensation instead of salary during maternity leave.

The competent social work services stated there are no differences in requests submitted by mothers and those submitted by fathers, while some stated that fathers must submit additional paperwork proving that the mother is prevented from using maternity leave due to justified reasons.

In Sarajevo Canton, the decision on maternity benefits is the municipal jurisdiction. In Sarajevo Center Municipality, by filling out a form, the employer submits a request to exercise the right to financial compensation for a working mother.³⁵ It is necessary to attach to the form the following:

- certificate of residence (CIPS), as it is one of the conditions for exercising the right to compensation during maternity leave,
- birth certificate for the child,
- an employment contract that proves the duration of the employment of at least 12 months before the beginning of maternity leave,
- mandatory insurance registration based on the employment,
- the employer's verification on whether the postpartum woman will receive a salary or part of her salary during maternity leave,

³⁵ Although the terms used are in female gender, they equally apply to fathers.

- certification from an authorized doctor indicating the starting date of maternity leave, and
- bank account of the applicant.³⁶

The competent municipal department has a deadline of 30 days to resolve the case with complete documentation. The procedure is similar in other municipalities in Sarajevo Canton.

In Zenica-Doboj Canton, fathers have the right to receive maternity benefits only in the case of the death of the mother, if the mother abandons the child or if she is prevented from exercising that right due to justified reasons.³⁷ This provision is not in accordance with the FB&H Labor Law³⁸ which guarantees the right to compensation for the worker's salary during maternity leave, which can be used in agreement with the child's mother, regardless of whether she does not use maternity leave due to justified reasons.

We received a response from Tuzla social work center that there are no procedural differences when it comes to exercising the right to maternity benefits, although some social work centers in Tuzla Canton stated that fathers can receive maternity benefits by submitting evidence that the mother is prevented from using maternity leave due to justified reasons. In Tuzla Canton, this right is also regulated by the Rulebook on Method and Procedure for Exercising the Right to Salary Compensation for a Woman-Mother, that is, to another employed person during absence from work due to pregnancy, childbirth, or child care, which stipulates that the father has the right to compensation only in the case of

³⁶ <https://centar.ba/upload/documents/obraci/12-08.pdf>.

³⁷ Article 122 of the Zenica-Doboj Canton Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children.

³⁸ Article 68 of the FB&H Labor Law.

the death of the mother, if she abandons the child or does not use maternity leave due to other justified reasons.³⁹

In Zenica-Doboj Canton, it is also stated that the father can receive maternity benefits only in the case of the death of the mother, or if the mother has abandoned the child, or if the mother is prevented from using maternity leave due to justified reasons. The exercise of the right to maternity benefits is similarly regulated in other cantons as well, which is in accordance with the FB&H Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children, which does not guarantee fathers the right to maternity benefits, although the same is stipulated by the FB&H Labor Law.⁴⁰

2.2. Republika Srpska

In the Republika Srpska entity, both male and female employees submit a written request for the use of maternity leave to the employer. The employer then issues a decision on the workingwoman's maternity leave, and the decision form can be found on the website of the RS Public Fund for Child Protection. The personal data of the workingwoman and the period for which the use of maternity leave is approved are entered in the form. The duration of maternity leave depends on which child the application for maternity leave is submitted for, given that, according to the RS Labor Law, a workingwoman has the right to maternity leave for 18 months continuously for twins, third and

³⁹ http://www.podaci.net/_gBiH/propis/Pravilnik_o_nacinu/P-npopnp63v0103.html

⁴⁰ Article 68, paragraph (1) of the FB&H Labor Law: During maternity leave, the worker has the right to salary compensation, in accordance with the special law.

every subsequent child.⁴¹ The form also contains an explanation of the decision on maternity leave. Although female gender is used, employers also fill out this form when the child's father takes maternity leave.

The decision is delivered to the person who submitted the request for the use of maternity leave, and to the RS Public Fund for Child Protection, which will decide on the benefit refund based on it.⁴² Furthermore, the conditions that the employer must meet are registration with the RS Tax Administration as a contributor and a person using maternity leave as the contribution debtor. The employer must make regular payments to the person using maternity leave and to all employed workers in the last year prior to beginning of maternity leave, as well as during its use. Salary compensation for the first 30 days of maternity leave is provided and paid by the employer from its own funds, and for the next 11 months, i.e. 17 months in the case of the birth of twins, third and every subsequent child, the compensation is paid by the employer and refunded by the Fund. The RS Public Fund for Child Protection bears the costs of compensation in the amount of 100% of the gross salary for postpartum women. The request for refund can be submitted within six months from the day the maternity leave began, alongside with all the necessary paperwork. Proof of paid salary compensation and paid contributions is submitted to the first-instance authority after the salary compensation has been paid, no later than six months upon expiration of maternity leave.⁴³

⁴¹ Article 107 of the RS Labor Law.

⁴² "RS Official Gazette", number 114, RS Law on Child Protection number 02/1-021-1320/17, Article 27; "RS Official Gazette", number 107, RS Law on Amendments to the Law on Child Protection number 02/1-021-1241/19, Article 5.

⁴³ <https://www.jfdz.org/sr/page/18/refundatsija-naknade-plate-za-vrijeme-korishenja-porodiljskog-odsustva>.

According to the information we received from the RS Public Fund for Child Protection, 22,449 decisions were made at the employers' requests for the exercise of the right to maternity benefits refund in the period from 2016 to present. Out of the total number of submitted requests for refund of salary compensation during maternity leave, 231 decisions were made to recognize the salary compensation refund rights to employers during the use of maternity leave by the worker - father of the child. It is stated that the number of fathers using maternity leave is increasing year by year, so in 2016, a total of 22 workers - fathers exercised the right to maternity leave, while that number increased to 63 in 2020. Apart from the differences in the way maternity leave is used, which are foreseen in the RS Labor Law, there are no differences in the procedure for submitting a request and exercising the right to maternity leave. If the father and mother of the child are in an extramarital union, the procedure depends on the employer, so it is possible that it will be necessary to prove paternity by attaching a birth certificate based on which the identity of the parents will be determined, and on the basis of the household list - statement of the family household members, the employer can establish the existence of an extramarital union.

2.3. District Brčko of Bosnia and Herzegovina

In the period from 2016 to October 2021, a total of 1,819 persons were entitled to compensation instead of salary during maternity leave, of which only two men, that is 0.11%. This area is regulated by the District Brčko Law on Child Protection, according to which the father has the right to salary compensation during leave from work to care for the child, in compliance with the labor

regulations in force in the District.⁴⁴ Salary compensation for the duration of maternity leave is borne by the employer for the first three months, after which the compensation costs are carried by the District Brčko Health Insurance Fund.⁴⁵ When the costs of salary compensation are transferred to the Health Insurance Fund, the employer submits a request for a refund of salary compensation paid during temporary incapacity to work for more than 42 days, stating the personal data of the employee - first and last name, personal identification number, and the period which the paid compensation applies to and the amount of compensation paid. The following is attached to the request:

1. filled, signed and authenticated report on the duration of temporary incapacity/inability to work (sick leave certificate);
2. three payslips for the months preceding the month in which the temporary inability to work occurred (when submitting the request for the first time);
3. proof of paid salary compensation for the month/s to which the request refers (bank statement or payment order);
4. proof of the base amount on which contributions for mandatory health insurance were calculated and paid for the month/s to which the request refers (specification or recapitulation or MIP-1023 form certified by the Tax Administration, or 1002 form).

The amount of salary compensation during the first three months of maternity leave is determined in a general act by the competent

⁴⁴ Article 9 of the District Brčko Law on Child Protection.

⁴⁵ Article 38 of the District Brčko Law on Health Insurance.

authority of the legal/natural person, in accordance with the Law on Health Insurance and the regulations based on it.⁴⁶

⁴⁶ Article 47, paragraph (1) of the District Brčko Law on Health Insurance.

3. Analysis of Fathers' Responses on the Use of Maternity Leave

During January and February, Sarajevo Open Centre, in cooperation with the public opinion polling agency, conducted **research on a sample of 500 fathers from Bosnia and Herzegovina who had a child in the period from 2016 to the moment of the research (until the end of 2021)**. Through a survey questionnaire that contained 32 questions, the intention was to obtain data on what the process of taking, i.e. accessing the right to maternity leave looked like, were there any legislative, administrative, economic and broader social barriers for fathers while exercising this right. Thus, insights into the reasons for using maternity leave, as well as its consequences, would be offered. Below is the presentation of the research results.⁴⁷

In the context of general data, respondents were asked about the **type of community** in which they are with their partner. The majority of respondents are married (98.2% of them), while 1.4% are in extramarital unions with their partners, and 0.4% are in a relationship, and there were no single parents in this research. Regarding the **employment status** at the time when they had a child, 55.6% of respondents answered that both him and his wife were employed, 44.4% answered that the father was employed and the mother was not. There were no cases in which the father was unemployed and the mother was employed or where both were unemployed.

⁴⁷ It is important to note here that it was possible to give more than one answer to certain questions and that is why the total sum of percentages for individual answers does not amount to 100%.

Regarding the **sector in which they work**, 62.6% of fathers worked in the private sector at the time they had a child, and 37.2% of them worked in the public sector.

As for **age**, most of the surveyed fathers are in the 25-35 age category (50.4% of them), then 36-50 (46.2% of them), then 18-24 (2.4% of them) and finally 51-65 years (1.0% of them).

The education level was one of the categories in the questionnaire: 63.6% of fathers finished high school, 26.4% of fathers graduated from college/academy/university, 6.0% specialization after high school/first degree of university, 2.2% elementary school, 1.2% postgraduate studies, 0.6% doctoral studies.

Respondents were then classified according to their **place of residence** in Bosnia and Herzegovina: Republika Srpska 35,6%, Tuzla Canton 12.4%, Sarajevo Canton 12.0%, Zenica-Doboj Canton 10.4%, Una-Sana Canton 7.6%, Central Bosnia Canton 7.0%, Herzegovina-Neretva Canton 5.6%, West Herzegovina Canton 2.4%, Canton 10 2.4%, District Brčko 2.2%, Posavina Canton 1.8%, Bosnian-Podrinje Canton 0.6%.

To the question ***Are you familiar with the legal possibilities of exercising the right to maternity leave for fathers***, 41.6% of fathers answered they were familiar with these possibilities, while slightly more than half (57.8%) of fathers said they were not. Only 0.6% of fathers did not want to answer.

Out of those who **are familiar**:

- 41.3% are married, and 71.4% are in extramarital unions;
- in 48.2% of cases both father and mother are employed, in 33.3% of cases the father is employed and the mother is not;
- 36.7% worked in the private sector, and 50.0% in the public sector;
- 25% of fathers are aged 18-24, 39.7% are aged 25-35, 44.2% are aged 36-50, 60.0% are aged 51-65;

- 36.4% finished elementary school, 33% high school, 56.7% higher school, 56.8% college, 83.3% postgraduate studies, 66.7% doctoral studies;
- 26.3% exercised this right in Una-Sana Canton, 0% in Posavina Canton, 22.6% in Tuzla Canton, 42.3 in Zenica-Doboj Canton, 66.7% in Bosnian-Podrinje Canton, 40% in Central Bosnia Canton, 42.9% in Herzegovina-Neretva Canton, 16.7% in West Herzegovina Canton, 65% in Sarajevo Canton, 58.3% in Canton 10.

Out of those who **are not familiar**:

- 58% are married, and 28.6% are in extramarital unions;
- in 50.7% of cases both are employed, in 66.7% the father is employed and the mother is not;
- 62.3% worked in the private sector, 50% in the public sector;
- 73.7% exercised this right in Una-Sana Canton, 100% in Posavina Canton, 77.4% in Tuzla Canton, 55.8 in Zenica-Doboj Canton, 33.3% in Bosnian-Podrinje Canton, 60% in Central Bosnia Canton, 57.1% in Herzegovina-Neretva Canton, 83.3% in West Herzegovina Canton, 31.7% in Sarajevo Canton, 41.7% in Canton 10.

To the question ***Did the employer inform you of your rights regarding maternity leave***, 28.8% of fathers answered yes, while 70% said no, and 1.2% did not know/did not want to answer. It is an interesting indicator that the level of education is increasing among fathers whose employer has informed them of their rights (most fathers with postgraduate and doctoral studies), while the majority of fathers who have not been informed of their rights by the employer have finished elementary and high school.

Out of those whose employer did inform of their rights:

- 23.6% work in the private sector, and 37.6% in the public sector;
- 15.8% exercised this right in Una-Sana Canton, 11.1% in Posavina Canton, 19.4% in Tuzla Canton, 30.8% in Zenica-

Doboj Canton, 33.3% in Bosnian-Podrinje Canton, 22.9% in Central Bosnia Canton, 39.3% in Herzegovina-Neretva Canton, 8.3% in West Herzegovina Canton, 31.7% in Sarajevo Canton, 58.3% in Canton 10.

Out of those whose employer did not inform of their rights:

- 75.1% work in the private sector, and 61.3% in the public sector;
- 84.2% exercised this right in Una-Sana Canton, 88.9% in Posavina Canton, 79% in Tuzla Canton, 69.2% in Zenica-Doboj Canton, 66.7% in Bosnian-Podrinje Canton, 77.1% in Central Bosnia Canton, 60.7% in Herzegovina-Neretva Canton, 91.7% in West Herzegovina Canton, 61.7% in Sarajevo Canton, 41.7% in Canton 10.

To the question ***Who used maternity leave after the child was born***, in 53.6% of cases the wife/partner exercised this right, while in only 1.8% of cases the father used maternity leave. 41% of fathers did not use the leave because the wife/partner was unemployed, and in only 0.8% of cases it was partly used by the mother and partly by the father.

Citing the reasons for the stated ways of using maternity leave, 25% of fathers responded that it was the most practical for them, 25% responded their employers authorized the use of maternity leave for 5 days, and the wife used the rest, 25% responded that it is like that because of the company's interests, while 25% stated that it suits him and his wife.

Not a single father encountered any ***problems when exercising the right to maternity leave*** - submitting the request.

To the question ***Why did you not use maternity leave***,⁴⁸ 49.7% of fathers did not know they could exercise this right, i.e. they were not sufficiently informed about the possibilities, 44.8% of fathers

⁴⁸ It was possible to give more than one answer to the question.

responded the reason is that they are employed and their wives are not, 13.1% due to economic profitability, 11.2% believe they do not need it because women are the ones taking care of the children, 6.3% because they think that no one uses it, 3.4% because their employer did not authorize the use of this right, 3.2% of fathers cited other reasons, 1.1% could not use maternity leave alternately with their wives (part father, part mother), while 0.4% claim that the reason is difficult administrative procedure for taking maternity leave.

Of the percentage of fathers who were not sufficiently informed about the possibilities, 54.2% of fathers work in the private sector, and 41.8% in the public sector.

One of the answers to this question illustrates the difficulties and barriers in exercising the right to maternity leave: "I think that it is impossible in the private sector, even in the state sector I think that you've got to know someone. In my case, there was no need to take it, and I don't think I would have gotten it, it's good that I even got those 5 days, which is according to the law. "

To the question ***If you knew you had the legal right to maternity leave, would you have used it***, 73.4% of fathers said they would, 11.2% they would not, and 15.5% of fathers did not know/did not want to answer.

The reasons why fathers would not take maternity leave if they knew they could are as follows:

- He doesn't think he needs it
- It is enough that the wife took maternity leave
- Because the wife already took maternity leave
- Primarily because of his income - he earns more when he works, his income is higher because he supports his family
- Because the wife was not working at that moment
- Because there was no need, given that the wife was employed
- Because the wife was fired before she gave birth, so she was not employed when they had a child
- Because the employer did not inform him about it

- He thinks it is unnecessary
- He needs to be at work
- He is not the type of person who would like to take maternity leave
- He thinks that those who work privately do not have the right to be absent even during illness, and not to mention something else, the employer would not authorize that
- Mentality in which the father is not involved in the process
- The mother is staying with the children
- He works in a private company, it would be difficult to fight for maternity leave, and it is not economically profitable
- The company wouldn't allow it
- Economic reasons.

To the question ***Which legal term for this right is more adequate for you from the fathers' perspective***, 37.6% responded 'maternity leave', 55.2% responded 'parental leave', and 7.2% did not know/did not want to answer.

Of the fathers for whom the term 'maternity leave' is more adequate, 35.5% work in the private sector, and 41.4% in the public sector. Of the fathers for whom the term 'parental leave' is more adequate, 56.2% work in the private sector, and 53.8% in the public sector.

To the question ***What was the procedure for using maternity leave***, the respondents answered: "I don't remember" (7.7%), "I had the right from the company" (7.7%), "We agree internally" (7.7%), 'it was simple, I just submitted a request' (7.7%), 'it went easily' (7.7%), "I don't remember" (7.7%), "there were no complications, I submitted the necessary paperwork and received a positive answer" (7.7%), 'it was not necessary to submit a request, but according to the collective agreement I was entitled to five days off' (7.7%), 'I got it right away' (7.7%), 'I asked the boss and he allowed me to be away for two days' (7.7%), 'I submitted a request' (7.7%), 'I just submitted a request to the employer and

very quickly realized the right to maternity leave as a father' (7.7%), 'it was one of the items in my contract' (7.7%). It is evident from the answers that some respondents who answered they used maternity leave actually confuse the concept of maternity leave with the concept of paid leave in case of the birth of a child, which cannot last longer than seven days according to the FB&H Labor Law, or five days according to the Republika Srpska and District Brčko labor laws.

Out of a total of 13 fathers who used maternity leave, 46.2% used it for one year continuously. 38.5% of fathers used maternity leave in parts, of which 20% used only five days, while the wife used the rest, 20% used it for a couple of months intermittently, 20% used it for seven days, 20% used maternity leave for three weeks, and 20% for five days.

46.2% of fathers responded that the reactions of the environment were positive, 53.8% responded there were no reactions to the fact they used maternity leave.

To the question ***In what way did the use of maternity leave affect your career, i.e. your progress at work***, 7.7% responded it had a positive impact on their career, and 92.3% responded it had no effect on their careers. All respondents who exercised the right to maternity leave answered that their colleagues did not change the attitude towards them after using maternity leave.

Ten out of 13 fathers, which means 76.9%, received compensation instead of salary during maternity leave, 15.4% did not receive any compensation. The fathers who received compensation come from Tuzla Canton, Zenica-Doboj Canton, Central Bosnia Canton, Herzegovina-Neretva Canton and Sarajevo Canton, as well as from Republika Srpska. Fathers who did not receive compensation are from Central Bosnia Canton and Republika Srpska.

All fathers who used maternity leave worked full-time upon returning to work. They were not in a situation where they were fired or their employment contracts were not renewed due to the fact they exercised the right to maternity leave, nor were they put in a less favorable position compared to female employees in the same or similar situation – in the recruitment process, employment duration and/or termination of the employment contract.

4. In-Depth Interviews with Fathers Who Exercised the Right to Maternity Leave

Personal story number 1

One of the things he had to do during this procedure was a visit to the gynecologist who opens the sick leave. He thinks that it's all cute in a way, spending time with pregnant women who are waiting to be examined, but at the same time unnecessary and confusing because the doctor herself did not know what to write.

"It is important that as many fathers as possible exercise this right, because it would change the general awareness and image of the role of the father in those first days and months, and the personal contribution he can make in taking care of the child, but also to make them aware of how much the father can enjoy it."

The father of two children from Sarajevo used maternity leave both times. For the first time, he used a six-month maternity leave in the second half of the year when the child was born, and the second time he used the first six months, i.e. 42 days after the mother used maternity leave. The mother of the children is a self-employed entrepreneur with whom he lives in extramarital union and states this was not a barrier to using maternity leave. During the period of maternity leave, he was employed and had an indefinite employment contract.

Before they had a child, they agreed they both wanted to participate in the care of the child, i.e. that they both wanted to use maternity leave. He was familiar with the legal possibility of

using maternity leave even before they had a child. He was not familiar with the procedure of exercising this right, nor did he receive much information after informing his employer that he intended to take maternity leave. While going through the internal procedures, he noticed that the process was not well defined. He was the first in the company to exercise this right, so there was no established practice. He states that he was more informed about what steps to take than the HR department or the person who was supposed to guide him through the process. But everything was carried out correctly in the end.

He did not encounter any barriers when exercising this right because he was determined to use it, in accordance with the right guaranteed by law. When he was on maternity leave to take care of his first child, he had a manager who was extremely supportive. However, he did not rule out the possibility that there were comments from senior management. Even though he had no obstructions, nor was he ready to change his decision and even though his colleagues accepted it very well, he overheard some informal stories about the fact the management was not "enthusiastic about the introduction of this practice".

Before he went on maternity leave for the second time, there were changes in the management structure. When he returned from his second maternity leave, he was assigned to another position that is lower than the one he previously held. He could not claim with certainty that the reassignment was due to the use of maternity leave, that is, he believes it is possible the reason could have been some other things.

When asked what the whole process looked like, that is, who he had to turn to in order to exercise this right, he answers that all these steps were rather confusing, messy. Given that he was the first in the company to exercise that right, they were not familiar

with the practice in those situations. He primarily addressed the municipality where the right is actually requested, and the municipality issues a decision which is then submitted to the employer. The municipal services encountered this request for the first time, which caused a lot of "wandering" and confusion from all sides. They did not know who authorizes the use of maternity leave for fathers, to whom to refer him, what to write, especially when it came to the formulation of the decision. People who work in the municipality lost a lot of time because they basically do not have any regulation or operational act that contains guidelines on how to proceed in that situation, so there were a lot of doubts. One of the things he had to do during this procedure was a visit to the gynecologist who opens the sick leave. He thinks that it's all cute in a way, spending time with pregnant women who are waiting to be examined, but at the same time unnecessary and confusing because the doctor herself did not know what to write. The doctor opened his maternity leave, which should only be opened to pregnant women. Despite everything, he believes that he had help from people from the institutions, but the system simply did not exist, not a single step was clearly defined, which is why he wasted a lot of time. He encountered many illogicalities and contradictions, from the fact that obtaining benefits for postpartum woman is written on the forms, to the request for a discharge letter from the hospital after giving birth.

He used his second maternity leave three and a half years ago and the situation was no different than the first time. He believes that certain acts must be adopted to determine the path to be followed, in order to facilitate the work of both the persons who exercise this right and those who process these requests, but this may not be done because there is only a small number of fathers who exercise this right, so they think there is no need to deal with it. When mothers take maternity leave, it is very clear what the steps

are and what needs to be done, while there is no standardized procedure for fathers.

The reactions of the environment were positive. He wanted to take a leave to be with his child, and that was mostly well received by the people around him, because they all have similar views and would exercise that right themselves if they had the opportunity. There were several questions like: Are you sure? What will it mean for your job? Are you going to be sanctioned in some way?

He thinks it is important that as many fathers as possible exercise this right, because it would change the general awareness and image of the role of the father in those first days and months, and the personal contribution he can make in taking care of the child, but also to make them aware of how much the father can enjoy it. Although people from his immediate and wider environment supported him and had a positive reaction to his decision, they did not decide to exercise this right. There were also people who claimed that he took maternity leave to gain some benefit or that he took six months "to rest".

When asked whether he was put in a disadvantageous position compared to female colleagues who use maternity leave, he answered that he was not, but he had a problem because of the way the compensations were calculated. The company pays 100% of the salary during maternity leave, and 70% for the next six months. Given that it is women who mostly use maternity leave, the situation is very clear. However, he used maternity leave for the second six months after the child was born, which is actually the beginning of using maternity leave, and was therefore entitled to full salary. This was the only situation in which he could say that he found himself in a disadvantageous position compared to his female colleagues who took maternity leave. It is positive that this issue was resolved in his favor and that the company

subsequently clearly defined the rules. He believes that the employer should have used his case and promoted it as a positive story for the company and the people working in it. While using maternity leave, he was not scared that he could be fired or that it would affect his advancement at work.

Personal story number 2

"I see the terminology used as a procedural problem at the Sarajevo Canton Health Insurance Fund – fathers are classified under the terms 'pregnant woman' and 'postpartum woman', while the legal documents for this procedure are not adapted for men as well. During the municipal procedure, the clerks treated the request as a 'unique case'."

A father from Sarajevo used a six-month maternity leave in 2019. He was employed with a fixed-term contract when he had a child, living in an extramarital union with his partner. He took maternity leave without any problems at the moment when he was supposed to begin his employment under indefinite-time contract. He used the leave, given that his partner had the right to three months of maternity leave in the international organization where she was employed.

He was aware of the right to maternity leave for fathers, considering the nature of his job (social worker, works with children without parental care), while his friends also exercised this right. The main motive for exercising the right to maternity leave was his desire to spend time with the child, and the environment encouraged him to do so. The organization he worked in did not inform him about this right, but he was already aware of the possibilities. Reactions in the working environment were positive and they quickly found a replacement for his position. He also found support at home, because the traditional division of roles between men and women did not apply in his family.

As for the administrative procedure, he went to a consultation for pregnant women at the gynecologist, where he was told this was the first time they met a father who used this possibility, which he believes is not entirely true. He knows at least ten fathers in Sarajevo who really exercised this right. He sees the terminology

used as a procedural problem at the Sarajevo Canton Health Insurance Fund – fathers are classified under the terms 'pregnant woman' and 'postpartum woman', while the legal documents for this procedure are not adapted for men as well. During the municipal procedure, the clerks treated the request as a 'unique case'.

When he returned to work, he worked full-time. While on maternity leave, he received the full amount of salary (without meal allowance) for three months, as provided in his employment contract, and then he received compensation from the municipality/canton in the following period.

The father believes that a more adequate term for this right would be "parental" leave, because he was not the one who gave birth. He believes the myth that maternity leave is a vacation should be debunked, because there is a lot of work to be done at home and outside with a newborn. He's been working with children as part of his profession, but only when he went on maternity leave did he get a different perspective on parenting, new energy for care and upbringing.

Finally, when asked how to promote fathers' right, this father responded: "First, to encourage employers to support the concept, so that people are not afraid. You can have a promotion so that people know, but are afraid of how the employer would react. Women today are afraid, I don't know, maybe they didn't ask you that, but my sister was recently at a job interview in the bank and they told her: 'Are you planning a child?' One of the questions. That's a minus. So, maybe go in that direction and resolve those difficulties. Maybe the state should be paying. I don't know, perhaps come to a solution that would be OK for the employer as well. I mean, the employer should support it because we generally live here and it's a little different. Maybe in that direction. First the employers, then the conversations."

Personal story number 3

He believes there is not enough promotion of this right in the form of public policies. According to this father's expert opinion, a better term would be "parental" leave, where there is a non-transferable part (the right of the mother to start maternity leave 28 days before giving birth, i.e. mandatory 42/60 days of leave after the birth of the child) and a transferable part that can be used by the mother or father, as agreed, for a period of one year since the childbirth.

A father from Sarajevo used maternity leave in 2021 for a period of seven or eight months. He was employed in a public institution for an indefinite period of time when the child was born. Married to his partner. Given the fact she works in an international organization, his wife was able to use maternity leave for four months. He took maternity leave primarily because there was no one to look after the child and so that his wife could keep her job (financial factor).

He believes that many people do not know the legal possibilities, while he outlined employers as another barrier in the process – how they understand this right and how they pledge to fulfill their legal obligations. The problem, in his opinion, is also different regulation of this right in the cantons, especially in the context of financial compensation. The right to maternity leave is promoted and encouraged in the institution where he works. He believes that maternity/parental leave should be available for both parents, regardless of the type of union they are in.

His request was authorized at work, his colleagues accepted that, although they wondered why he was the one taking maternity leave. His family was questioning whether there will be problems at work because of this, or whether this decision will be financially profitable for him. From the environment, mostly men, there were some funny comments, and women praised his decision. Due

to the nature of his work (protection and realization of human rights), he was aware of the possibilities and thus sent the request. He sees different regulations in the entities and cantons, as well as insufficient information of citizens as barriers. The administrative procedure was not complicated; as a father, he was entitled to maternity benefits, but he received a certain amount of salary (90% then 80%). He thinks the procedure depends on the sector in which the person works - public or private, somewhere the salary is fully covered, somewhere it is not. When he returned to work, he worked full-time. He believes there is not enough promotion of this right in the form of public policies. According to this father's expert opinion, a better term would be "parental" leave, where there is a non-transferable part (the right of the mother to start maternity leave 28 days before giving birth, i.e. mandatory 42/60 days of leave after the birth of the child) and a transferable part that can be used by the mother or father, as agreed, for a period of one year since the childbirth. He also opined that supervision and control over the exercise of these rights should be increased.

In the end, when asked how to promote fathers' right, this father responded: "I invite all fathers, all citizens, to inquire about the possibility of using this right and to be persistent in realizing it. If they are denied that right - to come forward, they have the possibility of filing an appeal. At the same time, people should not accept it as an obligation but as a responsibility, because you primarily have the parental responsibility to be there with your children, to spend some quality time with them. Not every time spent with the child is quality. You need time to create memories for yourself and your child. So the child grows into a healthy person, which is for the benefit of both the family and the entire society."

Personal story number 4

“Efforts should be made to promote the use of maternity leave among fathers. First of all, it should be done in healthcare facilities - with primary care physicians or gynecologists. The staff is in a situation where they can inform postpartum women and parents about the existence of such possibilities.”

A father from Banja Luka used maternity leave following the birth of his first child. He learned about the right to use maternity leave from his wife, and afterwards informed in detail through the Labor Law. He did not receive any information about this right from his employer, but had no problems while submitting the request. He spent six months on maternity leave, after his wife used the first six months. He did not encounter any administrative problems, and had to regularly deliver remittances from the family doctor to the employer. Given that he used maternity leave in 2013, he was unable to remember what the procedure for exercising this right looked like. While on maternity leave, he received the full amount of salary, which was refunded to the employer by the Government.

He was the only father in the company who used maternity leave. His colleagues did not make comments to him, except for the occasional joke, which was not a problem for him. After returning to work, he worked full-time, while his wife was getting out of work to breastfeed. He was not afraid of being fired because he works in a public institution and he is aware that workers in the public sector are a bit more protected than those in the private sector, and that he cannot be fired for exercising his legally guaranteed right.

He believes that the mother should be with the child in the beginning for breastfeeding, because it is a role that the father cannot take on, but that father and mother feel equal love towards the child and have an equally important role in raising the child. He came across cases where fathers used maternity leave in his environment, but not often. Therefore, efforts should be made to promote the use of maternity leave among fathers. First of all, it should be done in healthcare facilities - with primary care physicians or gynecologists. The staff is in a situation where they can inform postpartum women and parents about the existence of such possibilities. In addition, different campaigns should be implemented through social networks, television, radio, etc.

Personal story number 5

There is a lack of communication between the institutions in the whole process, in order to make it easier for parents. The procedure is demanding, bearing in mind that it is very difficult to leave a small baby and be present in all competent institutions that are necessary for the process to be completed.

“This right should be set more flexibly - for parents to take leave alternately and for both parents to be able to use the leave more than once. “

A father from Tuzla used maternity leave for a period of approximately five months - his wife used the first part, he took the second (ended in April 2022). At the time the child was born, he was employed for an indefinite period of time. He is married to his partner, who got an employment contract shortly before giving birth.

He found out about the possibility of exercising the right to maternity leave through the Work Regulations of his company and the FB&H Labor Law. He is the first father to exercise this right in the company where he works. He did not encounter any barriers when seeking the right from his employer, but he states that the administrative procedure to realize this right is complicated: a lot of waiting in lines, lots of necessary documentation, plenty of time is wasted while gathering all the necessary paperwork. After taking over the use of maternity leave, this father also took over receiving the amount of maternity benefits. After the expiration of the leave period, he returned to work under the same conditions as before, working full-time.

The procedure looked like this: a request needed to be made to the employer - it was necessary to submit proof that the child's mother terminated her maternity leave, and also a birth certificate

for the child; social work center issued a decision on maternity benefits (there is no effective communication between the employer and the social work center); healthcare center (primary care physician) - it is necessary to submit a certificate from the child's mother and her employer that she has terminated her maternity leave, without informing the social work center of same. The father emphasizes there is a lack of communication between the institutions, in order to make it easier for parents. The procedure is demanding, bearing in mind that it is very difficult to leave a small baby and be present in all competent institutions that are necessary for the process to be completed. It was also necessary for the parents to sign and notarize the agreement on the use of maternity leave, which proves that the mother did not forcibly terminate her part of the maternity leave.

Colleagues at work were surprised, they did not know it was possible for fathers to exercise this right, but they mostly reacted positively. He also had occasional video calls/meetings with his colleagues during that period, in order to convey to them the impressions of caring for a child, as well as to be informed about the workflow. When asked how the exercise of this right affected his career and personal life, this father responded: "I think that I've come out of all this as a better person, and that I have some other social skills acquired during these few months that I spent intensively with the baby. That I've learned a lot about patience, understanding, other people's needs. As far as the job description is concerned, it is a short period for something to change. What I can say for myself is that I certainly came back to work as a better employee."

He believes that the mandatory period that a mother should spend with her child after giving birth (42 days in the Federation of Bosnia and Herzegovina) should be extended, because it takes much more time for the mother to recover. The biggest problem, he says, are maternity benefits, which are extremely low for the

context and standard of Bosnia and Herzegovina. When it comes to the terminology, both "maternity" and "parental" leave are acceptable to him, although maternity leave is more related to the mother, and parental leave is related to the whole family.

When asked how to promote fathers' right, this father responded: "I think that an initial step would be during regular gynecological examinations. During COVID, I could not attend the examinations with my wife because it was not allowed, but since the first moment we talked about starting a family, I knew I wanted to be involved in all of that as much as possible. So these regular gynecological examinations and follow-up visits are a good opportunity to obtain a little more information about the rights. I don't think that even my wife received any specific information regarding her rights, i.e. what will happen after she gives birth. What rights does she have, what are her benefits, how long is she allowed to be away from work to look after the baby and all that. In general, that would be a great first step. Of course, then, in cases when someone says they are expecting a baby, it would be great if the employer would conduct some sort of an informative interview. To see how they can help, make the whole process easier." The father believes this right should be set more flexibly - for parents to take leave alternately and for both parents to be able to use the leave more than once. He also believes that a year is a short period and that the duration of maternity leave should be extended to two or three years, as is the case in some more developed European countries; upon expiration of the leave, for parents to be able to work part-time or partially from home, so that the transition period is as painless as possible for both the baby and the parent. The father is satisfied with the possibility of working from home and being available to the child now that his maternity leave period has expired.

Conclusions and Recommendations

A total of 145,465 children were born in Bosnia and Herzegovina in the period from 2016 to 2020.⁴⁹ According to the quantitative research conducted by Sarajevo Open Centre, 13 out of 500 surveyed fathers used maternity leave in the period from 2016 to 2021. This means that every 38th father out of 500 used maternity leave, i.e. every 3828th of the total number of 145,465 children born.

It is a completely legitimate question why this is so, given that even the legislator understood the importance of the father's role in the upbringing and care of the child, enabling fathers to use maternity leave as well. Surveying men who became parents showed that the biggest reason for this is lack of knowledge of the law, even 49.7% of fathers who did not take maternity leave stated they did not know about this possibility. Another reason is that the father is employed and the wife is not, which was claimed by 44.8% of fathers. A small number of fathers, but not negligible, responded that it is women who use maternity leave - 11.2% of fathers.

In order to create an environment in which fathers will be encouraged to use maternity leave, we propose implementing the following measures:

- Introduce the concept of *paternity leave*, which implies the right to use at least 10 paid working days of leave in case of the birth of a child, in accordance with Directive (EU)

⁴⁹ Women and men in Bosnia and Herzegovina, Sarajevo, 2022.

2019/1158 of the European Parliament and Council of June 20, 2019, on Work-Life Balance for Parents and Carers.

- Introduce the concept of *parental leave*, which implies that two of the minimum four months of parental leave are non-transferable to the other parent, in accordance with Directive (EU) 2019/1158 of the European Parliament and Council of June 20, 2019, on Work-Life Balance for Parents and Carers.
- Amend labor laws so that it is explicitly prohibited to put fathers who use maternity leave at a disadvantage.
- Amend labor laws so that it is possible for fathers to use maternity leave regardless of whether the child's mother is employed.
- Prohibit overtime and night work for fathers as well, or enable work in these conditions only with the exclusive consent of the employee.
- Enable through laws for fathers to use leave in case of stillbirth.
- Guarantee by law the right to parental benefits for all fathers and harmonize laws on social protection at the cantonal level.
- Oblige employers to familiarize workers with their rights.
- Competent institutions should implement a media campaign to promote the use of maternity leave among fathers.
- Create appropriate procedural rules and guidelines for institutions/facilities responsible for deciding on the awarding of maternity benefits (municipalities, social work centers).
- Change the forms that fathers submit to competent institutions so that they are gender-sensitive, i.e. applicable to both genders.

Annex: Questionnaire for Examining the Opinions, Attitudes and Practices of Fathers in Bosnia and Herzegovina

S1. Have you had a child in the last 5 years (from 2016 to present)? (Choose one answer!)

| | |
|-----------|---|
| 1 | Yes |
| 2 | No (End of survey) |
| 99 | Does not know/Does not want to answer (End of survey) |

S2. What was your marital status when you had a child? (Choose one answer!)

| | |
|-----------|--|
| 1 | Married (Move to S4) |
| 2 | In extramarital union with my partner (Move to S4) |
| 3 | In a relationship (Move to S4) |
| 4 | Single parent (Move to S3) |
| 99 | Does not know/Does not want to answer (Move to S4) |

S3. What was your employment status when you had a child?
(Choose one answer!)

| | |
|-----------|---|
| 1 | Employed (Move to S5) |
| 2 | Unemployed (End of survey) |
| 99 | Does not know/Does not want to answer (End of survey) |

S4. What was the employment status of you and your partner when you had a child? (Choose one answer!)

| | |
|-----------|---|
| 1 | Both my wife/extramarital partner and I are employed (Move to S5) |
| 2 | I am employed, my wife/extramarital partner is not (Move to S5) |
| 3 | I am unemployed, my wife/extramarital partner is employed (End of survey) |
| 4 | We are both unemployed (End of survey) |
| 99 | Does not know/Does not want to answer (End of survey) |

S5. What is/was the basis of your employment: (Choose one answer!)

| | |
|-----------|---|
| 1 | Employment contract (Move to D1) |
| 2 | Service contract (End of survey) |
| 3 | Other basis (End of survey) |
| 99 | Does not know/Does not want to answer (End of survey) |

D1. In which sector do you work/have you worked: (Choose one answer!)

| | |
|-----------|---|
| 1 | Private |
| 2 | Public |
| 99 | Does not know/Does not want to answer (End of survey) |

D2. What is your age? (Choose one answer!)

| | |
|-----------|---------------------------------------|
| 1 | 15 – 18 |
| 2 | 18 – 24 |
| 3 | 25 – 35 |
| 4 | 36 – 50 |
| 5 | 51 – 65 |
| 6 | 66 and more |
| 99 | Does not know/Does not want to answer |

D3. What is you(highest completed) level of education: (Choose one answer!)

| | |
|-----------|--|
| 1 | Without any education or incomplete primary education |
| 2 | Elementary school |
| 3 | High school |
| 4 | Specialization after high school, higher school and first degree of university |
| 5 | Faculty, academy, university |
| 6 | Post-graduate studies |
| 7 | Doctoral studies |
| 99 | Does not know/Does not want to answer |

P1. Are you familiar with the legal possibilities of exercising the right to maternity leave for fathers? (Choose one answer!)

| | |
|-----------|---------------------------------------|
| 1 | Yes |
| 2 | No |
| 99 | Does not know/Does not want to answer |

P2. Has your employer informed you of your rights regarding maternity leave? (Choose one answer!)

| | |
|-----------|---------------------------------------|
| 1 | Yes |
| 2 | No |
| 99 | Does not know/Does not want to answer |

P3. Who used maternity leave after the child was born? (Choose one answer!)

| | |
|-----------|---|
| 1 | Wife/extramarital partner used the leave (Move to P7) |
| 2 | I used maternity leave (Move to P5) |
| 3 | My wife/extramarital partner used one part of the leave, and I used the other. (Move to P4) |
| 99 | Does not know/Does not want to answer (Move to P10) |

P4. Why did you use maternity leave this way (one part by you and the other by your wife/extramarital partner)? (Write down the answer!)

P5. Did you encounter any barriers while exercising your right to use maternity leave? (Choose one answer!)

| | |
|-----------|--|
| 1 | No, I submitted the request without any problems (Move to P10) |
| 2 | Yes (Move to P6) |
| 99 | Does not know/Does not want to answer (Move to P10) |

P6. What did you have difficulty with? (More answers are possible!)

| | |
|-----------|---|
| 1 | Employer (Move to P10) |
| 2 | Health Insurance Fund (Move to P10) |
| 3 | Medical doctor (Move to P10) |
| 4 | Other: _____ (Move to P10) |
| 99 | Does not know/Does not want to answer (Move to P10) |

P7. Why didn't you take maternity leave? (More answers are possible!)

| | |
|-----------|---|
| 1 | I did not know that I could use maternity leave/I was not sufficiently informed about the possibilities (Move to P8) |
| 2 | I could not use it alternately/in parts with my partner - part her, part me (Move to P10) |
| 3 | Due to the difficult administrative procedure for taking maternity leave (Move to P10) |
| 4 | I didn't need it because women are the ones taking care of children (Move to P10) |
| 5 | Because I am employed and my wife is not (Move to P10) |
| 6 | Because it is financially more profitable for me to work (Move to P10) |
| 7 | I would have used maternity leave, but I thought/think that the environment and colleagues at work will judge me/make fun of me/will not understand or support me (Move to Q10) |
| 8 | Because nobody uses it (Move to P10) |
| 9 | The employer did not authorize my use of maternity leave (Move to P10) |
| 10 | Other: _____ (Move to P10) |
| 99 | Does not know/Does not want to answer (Move to P10) |

P8. If you knew you had a legal right to maternity leave, would you have used it? (Choose one answer!)

| | |
|-----------|---|
| 1 | Yes (Move to P10) |
| 2 | No (Move to P9) |
| 99 | Does not know/Does not want to answer (Move to P10) |

P9. Why not? (Write down the answer!)

P10. Which legal term for this right is more adequate for you from the father's point of view? (**With this question ends the survey for fathers who did not take maternity leave**) (Choose one answer!)

| | |
|-----------|---------------------------------------|
| 1 | Maternity leave |
| 2 | Parental leave |
| 99 | Does not know/Does not want to answer |

P11. Can you explain to us what the procedure for exercising the right to maternity leave looked like? (Write down the answer!)

P12. How long and in what way did you use maternity leave?
(Choose one answer!)

| | |
|-----------|---|
| 1 | One year continuously (Move to P14) |
| 2 | In parts (Move to P13) |
| 99 | Does not know/Does not want to answer (Move to P14) |

P13. In what way/in which parts? (Write down the answer!)

P14. What were the reactions of the environment after you took maternity leave? (Choose one answer!)

| | |
|-----------|---------------------------------------|
| 1 | Positive |
| 2 | There were no reactions |
| 3 | Negative |
| 4 | Other: _____ |
| 99 | Does not know/Does not want to answer |

P15. In what way did the use of maternity leave affect your career, i.e. progress at work? (Choose one answer!)

| | |
|-----------|---|
| 1 | It had a positive effect on my career (Move to P16) |
| 2 | It had a negative effect on my career (Move to P16) |
| 3 | In no way, using maternity leave had no effect on my career (Move to P17) |
| 99 | Does not know/Does not want to answer (Move to P17) |

P16. How/In what way? (Write down the answer!)

P17. Have your colleagues changed their attitude towards you after taking maternity leave? (Choose one answer!)

| | |
|-----------|---|
| 1 | Yes (Move to P18) |
| 2 | No (Move to P19) |
| 99 | Does not know/Does not want to answer (Go to P19) |

P18. How/In what way? (Write down the answer!)

P19. Did you receive benefits while using maternity leave?
(Choose one answer!)

| | |
|-----------|---------------------------------------|
| 1 | Yes |
| 2 | No |
| 99 | Does not know/Does not want to answer |

P20. Did you work full-time or part-time when you returned to work after the termination of maternity leave? (Choose one answer!)

| | |
|-----------|---------------------------------------|
| 1 | Full-time |
| 2 | Part-time |
| 99 | Does not know/Does not want to answer |

P21. Have you been in a situation where you were fired or your contract was not extended because of exercising the right to maternity leave? (Choose one answer!)

| | |
|-----------|---|
| 1 | Yes (Move to P22) |
| 2 | No (Move to P23) |
| 99 | Does not know/Does not want to answer (Move to P23) |

P22. What happened? (Write down the answer!)

P23. Due to the use of maternity leave, have you been put in a disadvantageous position at work compared to female employees in the same or similar situation - in the recruitment process, during employment and/or the termination of the employment contract? (Choose one answer!)

| | |
|-----------|---|
| 1 | Yes (Move to P24) |
| 2 | No (End of survey) |
| 99 | Does not know/Does not want to answer (End of survey) |

P24. How/In what way? (Write down the answer!)

About Sarajevo Open Centre

Sarajevo Open Centre (SOC) is working on human rights promotion, especially the position and human rights of LGBTI persons and women in Bosnia and Herzegovina, by interpreting, presenting and promoting the authentic experiences of persons suffering human rights violations and unequal position, and advocating for legal, political, economic, social and cultural changes in all spheres of life. We will set forth here only some of the achievements related to the equality of LGBTI persons and women. In addition to psycho-social and legal counseling, we continued to run the only LGBTI media in the country - the www.lgbti.ba portal. We organized trainings for the police, prosecutor's offices and courts, focusing on the topics of hate crimes, hate speech and the application of anti-discrimination law; for medical experts and healthcare workers, focusing on trans-specific and trans-inclusive gender reassignment; and for the LGBTIQ community. We worked intensively on creating a local institutional network to support LGBTI persons in Sarajevo Canton, improving the regulation of bio-medically assisted fertilization in the Federation of Bosnia and Herzegovina, female workers' rights in relation to discrimination based on gender and maternity leave, introducing gender-sensitive language in parliaments and universities, adoption and implementation of cantonal gender action plans, but also raising awareness on gender-based violence in Bosnia and Herzegovina. Over the past years, several of our legislative and policy initiatives have entered government or parliamentary procedure. Our advocacy focus has been placed on policy issues for women's and LGBTI persons' equality in Bosnia and Herzegovina, issues of women's and men's reproductive rights, parenthood in the context of harmonization of private and professional segments of life, freedom of assembly for LGBTI persons and improvement of the institutional

framework for protection against violence and discrimination, and we intend to continue working on issues concerning transgender persons, intersex persons, same-sex partnerships, their social inclusion, but also the position of LGBTI persons in education, health, work and employment. Over the past few years, we have conducted media campaigns, which have reached over one million B&H citizens, and we also organized the LGBTI film festival Merlinka, which is known as local film festival Kvirhana since 2021, organized in cooperation with Tuzla Open Centre. You can find more about our work at www.soc.ba. This publication is produced as part of the *Gender* edition, published by Sarajevo Open Centre.

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