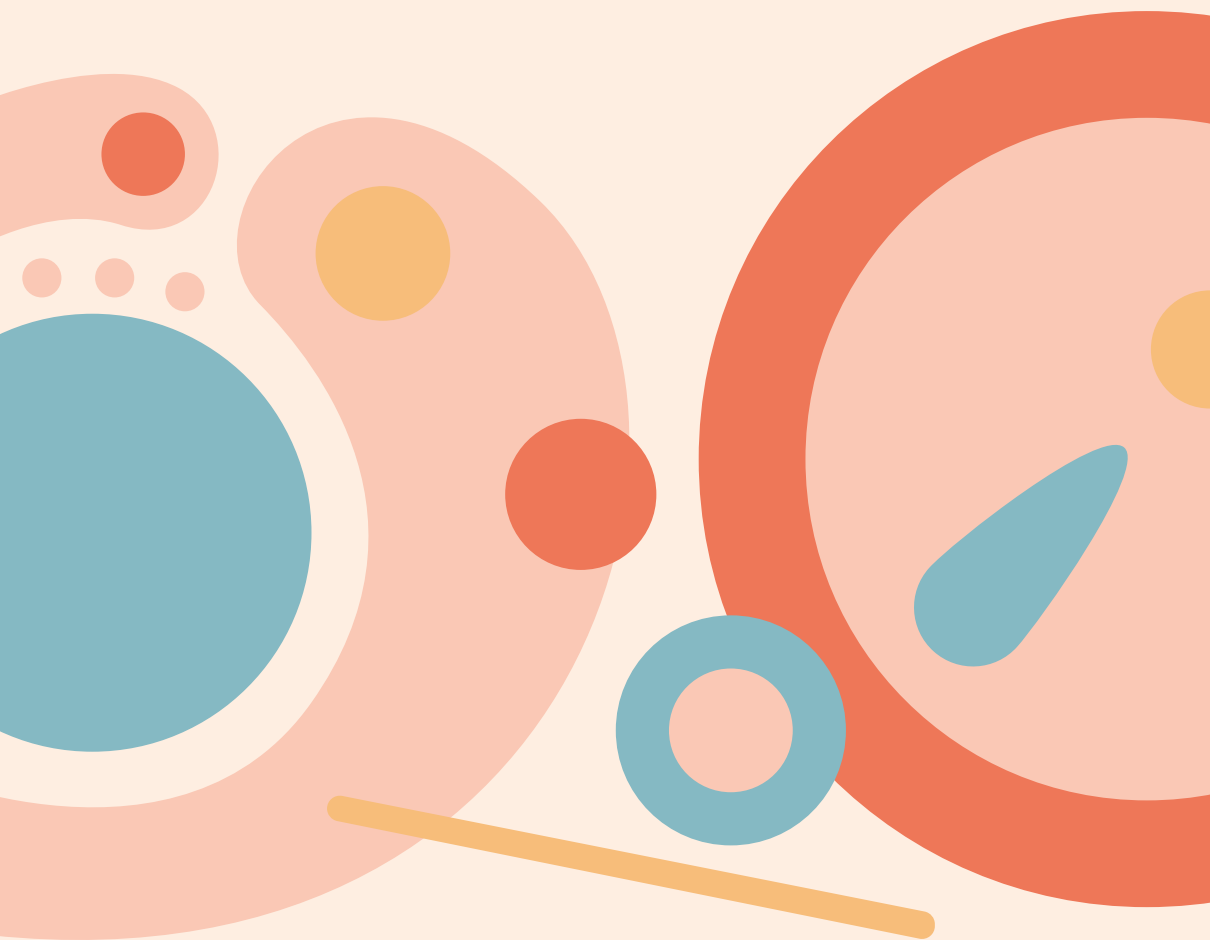


Policy Brief

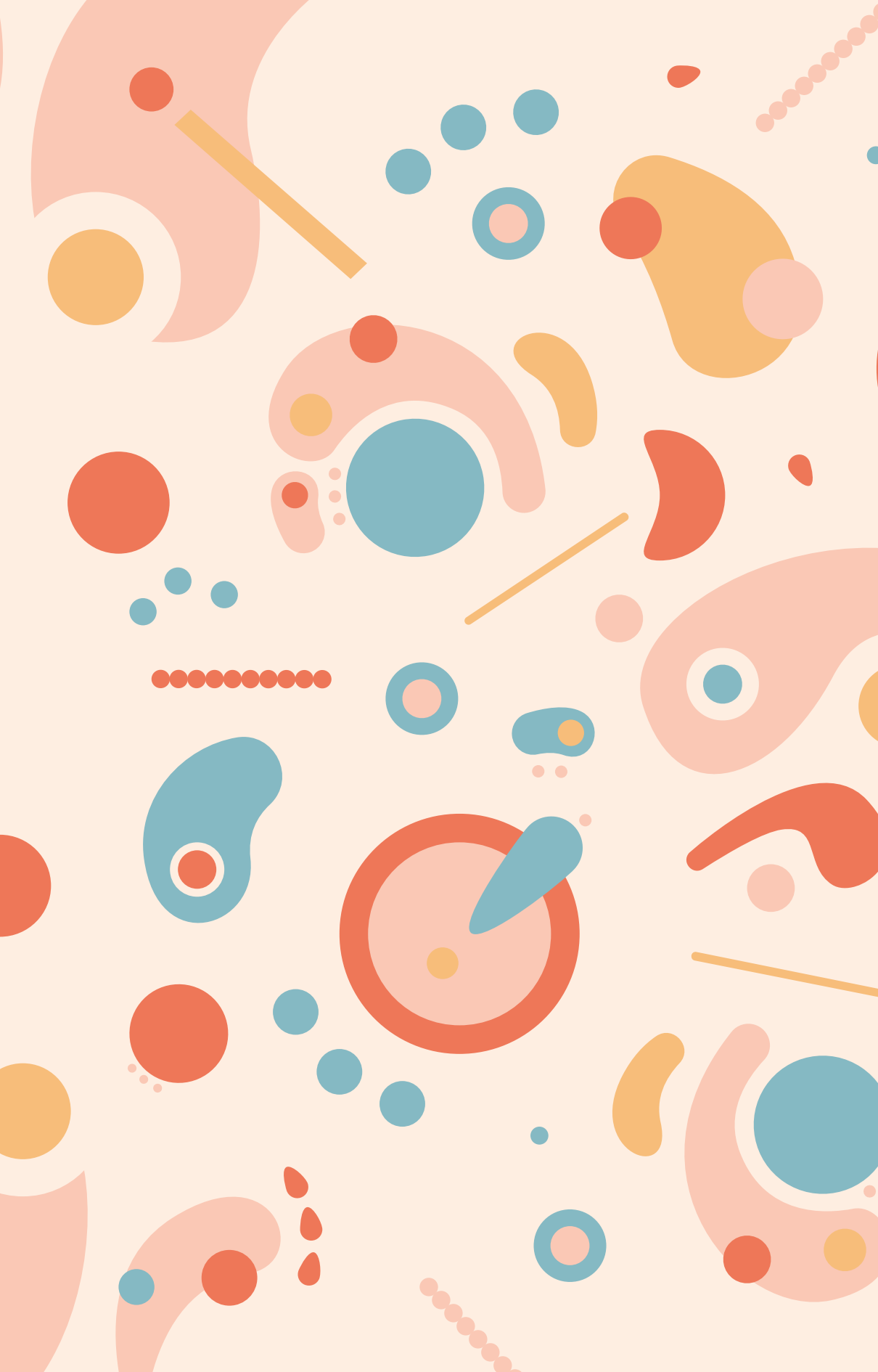
Expanding Choices through Family-Friendly Policies

Costing Maternity, Paternity, and Parental
Leave Provisions in the Law on Labour



Prepared for UNFPA by Dita Dobranja on behalf of
the Kosovo Women's Network





Expanding Choices through Family-Friendly Policies

**Costing Maternity, Paternity, and Parental
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Introduction

Women in Kosovo have remained consistently underrepresented in the labour market, both in terms of participation and employment. Only one in five women is active in the labour market, with women's labour force participation rate continuously remaining at approximately 20%.¹ Although women's labour force participation has improved in recent years, from 15% in 2018 to 21% in 2020, it is still below that of the other countries in the region.² The labour force participation gap between men and women differs for different age groups. Women ages 25–29 have the highest labour force participation rate of all age groups at 36% percent, though men of the same age have a rate of 60%. Men ages 30–50 have the highest labour force participation rate, over 70%, while women of the same age participate at 26%.³ The differences are even starker for Roma, Ashkali, and Egyptian women and men. The participation rates for all women and men have remained relatively constant with insignificant changes over time. Women who are active face further barriers in finding employment. Currently, only 16% of working age women are employed, compared to more than 40% of men.⁴

The current Law on Labour (LL), namely the provision on maternity leave, is one of the key obstacles to women's labour force participation and employment. Moreover, experience suggests that employers use temporary contracts to avoid repercussions for breaching LL provisions, particularly those relevant to maternity leave.⁵ The main issue is the significant costs that employers may incur when hiring women, as employers have the responsibility for paying maternity leave compensation at 70% of the employee's salary for six months.⁶ Employers incur additional costs for hiring and train-

¹ Kosovo Agency of Statistics, Labour Force Survey 2020–2021, accessed June 2022.

² World Bank, World Bank Data Bank, 2022.

³ Kosovo Agency of Statistics, Labour Force Survey 2020–2021.

⁴ Ibid.

⁵ KWN, Gender-based Discrimination and Labour in Kosovo, Prishtina, KWN, 2019, at: https://womensnetwork.org/wp-content/uploads/2019/05/GBD-Labour-Kosovo_ISBN-978-9951-737-31-9_FINAL.pdf.

⁶ Assembly of the Republic of Kosovo, Law No. 03/L-212 on Labour, 2010, at: <http://www.assemblykosova.org/common/docs/ligjet/2010-212-eng.pdf>, Article 49.

Women ages 25–29 have the highest labour force participation rate of all age groups at 36% percent

ing people to fill the role for six to twelve months of maternity leave.⁷ The private sector especially has cited these costs as major obstacles within the current law.⁸ Meanwhile, the Law only provides two or three days of paid leave for new fathers (depending on which contradicting article one refers)⁹ and two weeks of unpaid leave.¹⁰ With this, the Law further cements women's roles in childcare, while detaching men from their roles as fathers.

These provisions have fuelled discrimination in hiring women. Due to a higher likelihood of being discriminated against in the hiring process, Kosovo Women's Network (KWN) study found that approximately half of employers preferred hiring men, 20% preferred hiring women, and only 30% were indifferent in their hiring.¹¹ KWN's research in 2018 and 2021 show that there is a higher likelihood that employers will ask, female candidates, compared to male candidates whether they have or plan to have children during job interviews.¹² Women who are employed tend to have shorter working contracts, allowing room for employers to make decisions on contract renewals based not only on performance but also potentially on the likelihood of women becoming pregnant, thereby avoiding having to pay for maternity leave.

These labour market conditions have created added barriers to women's employment and have made women more likely to not work in paid

⁷ Farnsworth, N., Morina, D., Ryan, D., Rrahmani, G., Robinson-Conlon, V., Bajnska, I. Kosovo Gender Analysis, 2018, at: <https://womensnetwork.org/wp-content/uploads/2018/10/womens-network.pdf>.

⁸ Statements made during several public events and consultations.

⁹ Article 39 on Paid Absence from work specifies that employees are entitled to paid absence from work with the compensation of salary up to three days for the birth of a child. However, Article 50 on The Rights of the Father specifies that the father of the child has the right to two days paid leave upon the birth or adoption of a child.

¹⁰ Article 50.

¹¹ KWN, "Striking a Balance: Policy Options for Amending Kosovo's Law on Labour to Benefit Women, Men, Employers and the State", Pristina: KWN, 2016, at: <https://womensnetwork.org/wp-content/uploads/2018/10/20160504154201373.pdf>

¹² KWN, Gender-based Discrimination and Labour in Kosovo, Prishtina, KWN, 2022, at: https://womensnetwork.org/wp-content/uploads/2022/04/GBD-Labour-Kosovo_2022_FINAL-1.pdf.

Currently, only 16% of working age women are employed, compared to more than 40% of men

labour due to family obligations. One of the top three reasons women give for their labour inactivity remains child and family obligations.¹³

While changing gender norms and social constructs regarding childcare responsibilities is difficult and takes time, improving the legislative framework to share childcare is a crucial step towards improving gender equality. Creating equal opportunities for involvement in parental duties for women and men is crucial to reducing current gaps in childcare, the economy, and especially the labour market. Changing the current maternity, paternity, and parental leave provisions while ensuring implementation by employers, the government, and employees, alike, is essential.¹⁴ The EU Directive on Work-Life Balance gives parents the right to at least four months of leave after the birth of a child.¹⁵ More importantly, to ensure that care work is not transferred between parents and especially from fathers to mothers, the Directive states that at least two of the four months are non-transferable to the other parent. Moreover, the Directive guarantees parents the right to request flexible parental leave, including part time work and alternating days of work, encouraging parents, especially fathers, to take parental leave.¹⁶ More flexible working arrangements increase the likelihood that employees will take parental leave. Moreover, flexible arrangements benefit employers, given that they do not have to fully replace their workers during the leave period.

¹³ Mehmeti I., Dobranja, D., Hashani, A. Women in the Workforce, 2017, at: https://www.riinvestinstitute.org/uploads/files/2017/November/10/Women_in_the_workforce1510308291.pdf.

¹⁴ KWN, Expanding Choices through Family-Friendly Policies, at: https://womens-network.org/wp-content/uploads/2021/10/FINAL_KWN_Policy-Scan-Analysis_FINAL_2021-08-23-1.pdf. KWN also has argued that carer's leave and flexible working arrangements are important to include as well.

¹⁵ EU Work-Life Balance Directive, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L1158#PP4Contents>.

¹⁶ Work-Life Balance Directive, Recital 23

Proposal for Amending Maternity, Paternity, and Parental Leave Provisions

According to the World Bank, governments are fully responsible for compensation for such leaves in more than half of the countries in the world through social insurance funding; in around 30% of economies, employers are solely responsible for maternity leave payments; and in 19% of economies, compensation is shared between the government and employers, as is in Kosovo.¹⁷ Kosovo has one of the longest maternity leaves in the world, more than double the duration of the average leave globally.¹⁸ However, the lack of paternity and parental leave rights, making maternity leave the main family leave following childbirth, means that the length of maternity leave in Kosovo is similar to family leave provisions in some countries.¹⁹

The Women's Economic Forum, as a consortium of organisations,²⁰ has proposed a model that would better fit the needs of mothers, fathers, and children, while better balancing the burden of compensation between the government and employers. The total duration of the proposed leave remains as the current one. Similar to the current maternity leave provision, the proposed model recommends that the first six months of leave be considered as Maternity Leave, offered to mothers. However, during this period, fathers would be entitled to one month of Paternity Leave. Both maternity and paternity leave would be paid by the government at 70% of the salary. This model is proposed to ensure it does not impact the current income of mothers and fathers during this period, compared to the existing model. A higher percentage of the compensation would increase the budget burden further, increasing the risk of not being taken under consideration from the government. Moreover, based on the calculations, this model will provide a significant number of women with higher compensation during maternity leave than they currently have.

¹⁷ World Bank Group, "Maternity Leave and Women's Labor Market Status in Kosovo: Five Key Messages", 2015, at: <http://documents1.worldbank.org/curated/fr/355271521449544766/pdf/124373-WP-P144969-PUBLIC-KSVMaternityLeave-PoliciesEnglish.pdf>.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ The Women's Economic Forum is a platform of organizations working together in advocacy, research, and promoting women's economic empowerment.

The second six months would be offered as parental leave, of which three would be paid by the employer at 70% of salary; of these three, at least one month would be non-transferrable leave for fathers. The last three months would be unpaid, as they are currently, and one of these months also would be allocated as non-transferrable to the father. This model distributes childcare more equally between parents and improves the current provisions that are contributing to discrimination in hiring. Moreover, the proposed compensation would be replaced by establishing a social (or health) insurance fund from which payments would be made in the future.

First six months

Maternity and Paternity Leave



6 months
of Maternity Leave



1 month
of Paternity Leave

paid by the government
at **70% of the salary**

Second six months

Parental leave



3 months
Parental leave

paid by the
employer at
70% of salary



3 months
Parental leave

unpaid

of these three, **at least**
one month would be
non-transferrable leave
for fathers

To better understand the budgetary implications of this model, the calculations below show the increased cost to the Kosovo budget in the transitory period, as well as the lower costs for employers. The costs of covering maternity and paternity leave by the Kosovo budget are likely to be offset within the first year through higher levels of economic activity for women, which can contribute to higher revenues from profit and income taxes.

This model distributes childcare more equally between parents and improves the current provisions that are contributing to discrimination in hiring

The proposed model and following calculations involved an analysis of the employment rate of women by age group and the number of births per year by age group to ensure that the analysis correctly calculates the number of women who potentially take maternity leave annually (Table 1). A similar calculation was done regarding men. The employment rate used in the model is based on the average employment rate in 2018-2020 by age group. This avoids bias in employment levels related to government isolation measures amid COVID-19, as well as the potential artificial increase in labour force participation following the relaxation of these measures in 2020.²¹ The number of births among employed women was generated, which was an average of 3,876 births over the past five years. Given that it is difficult to administer individual salary compensations, the model suggests a simple 70% compensation at Kosovo's average salary, which in 2021 was €484.²²

Changing the responsibility for compensation from the employer to the government for six months would cost the Kosovo budget approximately €7.7 million annually. Using a similar model to calculate compensation for the one-month paternity leave for fathers would cost the Kosovo budget up to €3.3 million annually. Thus, if all new mothers and fathers take their full maternity and paternity leave, compensated by the government at 70% of the average salary, the total maximum cost to the Kosovo budget would be €11 million. The current budget allocation for maternity leave is approximately €6 million annually, so the proposed model would involve a maximum increase to the budget of €5 million annually. However, the cost to the state may likely be less as not all parents may take the leave, and experience from other countries suggests that men's uptake of paternity leave often is slow, particularly in the beginning.

²¹ Calculations also consider the first two quarters of 2021, published by KAS. However, given the seasonality of these quarters, there was a higher likelihood that including them in the average employment rate calculations would increase the bias in the calculation.

²² One aspect that need to be taken into consideration is the high level of inflation, which adjusting for 2022 levels, the calculations may need to be revised.

Predicted Compensations and Costs to the Government at 70% of Average Salary for 6+1 Months

Women

Age group	Employment Rate 2020	Births by age group 2020	Estimated births for age group
15-24	6%	5,817	372
25-34	19%	14,558	2,795
35-44	20%	3,401	690
45-54	15%	57	9
55-64	12%	5	1

Men

Age group	Employment Rate 2020	Births by age group 2020	Estimated births for age group
15-24	16%	5,817	931
25-34	48%	14,558	6,973
35-44	59%	3,401	1,997
45-54	58%	57	33
55-64	51%	5	3

Women

Age group

15-64



Employment
Rate 2020

14%



Births by age
group 2020

23,838



Estimated births
for age group

3,867



Average salary
2020

€484



% paid by
the state

70%



Months

6



Total Kosovo Budget

€7,698,946.38

Men

Age group

15-64



Employment
Rate 2020

43%



Births by age
group 2020

23,838



Estimated births
for age group

9,937



Average salary
2020

€474



% paid by
the state

70%



Months

1



Total Kosovo Budget

€3,296,931

Total amount: €10,995,877

Source: Author's
calculations based
on KAS data, 2022

Salary Brackets

	<u>Women</u>	<u>Men</u>
Under €100	0.4%	0.4%
€100–€150	1.0%	0.7%
€151–€199	2.8%	1.9%
€200–€249	10.2%	6.2%
€250–€299	16.8%	14.9%
€300–€399	24.9%	28.8%
€400–€499	33.6%	33.7%
€500–€600	7.1%	9.4%
€600–€799	2.0%	2.2%
More than €800	1.2%	1.8%

However, considering differences in salary levels, it is important to analyse a model that does not significantly change the quality of life and standard of living of women and men who have salaries and likely regular expenses (e.g., pre-existing loans or rent) higher than the average salary and expenses. Table 2 presents the distribution of earnings based on salary brackets; slightly more than 10% of women and 13% of men report salaries higher than €500 monthly.

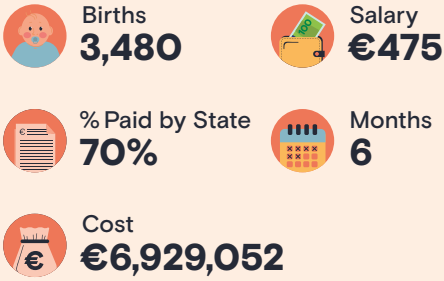
To ensure that these women and men are not worse off from the change in the maternity leave model, a modification to the proposed model is possible, involving compensation for parents whose monthly salaries are above €500. In this proposed model, the compensation would be provided in two brackets, one that is 70% of the average Kosovo salary and one that is 70% of 1.5 times the average Kosovo salary. This model would increase the government's cost of covering maternity and paternity leave by approximately half a million euros annually compared to the aforementioned model and by approximately €6.5 million compared to the current government expenditure on maternity leave.

Source:
KAS, 2022

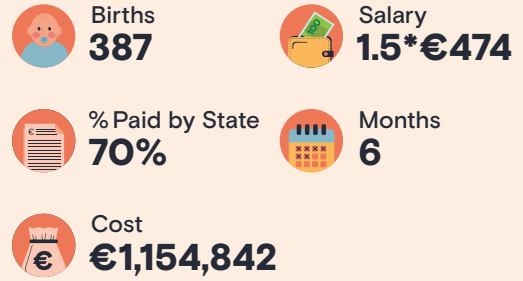
Compensations of Maternity and Paternity Leave with Different Salary Brackets

Women

90% of women earning less than €500



10% of women earning more than €500

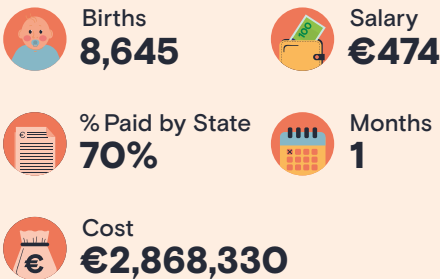


Total births of employed women **3,867**

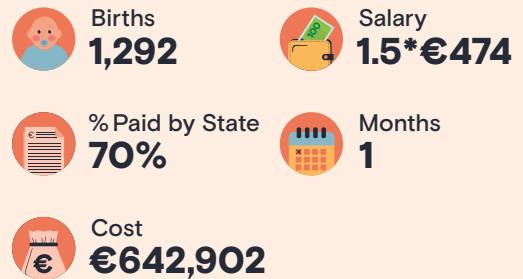
Total cost **€8,083,894**

Men

87% of men earning less than €500



13% of men earning more than €500



Total births of employed women **9,937**

Total cost **€3,511,232**

Total amount: €11,595,125

Source: Author's calculations based on KAS data, 2022

This proposal aims to improve the currently unequal distribution of the financial burden between employers and the state

The cost to employers in the transitory period until the establishment of the social insurance fund would decrease significantly. Being responsible for compensation for three months following the first six months of maternity leave, of which one month is allocated to fathers and is non-transferable, employers of women would be responsible to compensate their women employees for two months of parental leave, whereas employers of men would be responsible to compensate their employees for one month of parental leave. As women's and men's leaves would not be significantly different, this can contribute substantially to decreasing the currently widespread discrimination against women in hiring. Meanwhile, nothing prevents employers from taking the initiative to introduce family friendly policies as incentives for recruiting and retaining employees, such as providing additional compensation for employees' maternity, paternity, or parental leaves, based on employers' internal policies.

The total cost to employers for compensating women would be around 30% of the current cost of covering maternity leave. However, it would increase from two to three days of full salary for men, to one month at 70% of their salaries. This will better distribute costs across employers of women and men, directly reducing gender-based discrimination in hiring. Based on historical data, the uptake of the last three months of paid maternity leave has been lower than the first six months of maternity leave for mothers. However, there is a possibility that uptake could increase amid higher salaries paid by the employer, compared to the 50% of the average salary currently paid by the state.

This proposal aims to improve the currently unequal distribution of the financial burden between employers and the state. Moreover, the proposal aims to alleviate individual employers from the double financial burden of paying leave and hiring replacements, especially during the first six months of leave. Most importantly, this proposal seeks to reduce discrimination toward women in the labour market, especially in hiring. As such, the increased budget from the state would show the commitment of the Government of Kosovo to combatting gender-based discrimination in labour and ensuring equal opportunities for women and men alike. Moreover, with improved labour market conditions, women's active participation in the economy will likely increase, and, as such, earnings from taxation will

The proposed model would involve a maximum increase to the budget of €5 million annually

increase the state budget, as well.

State compensations for maternity, paternity, and parental leave could also impact employment formalization. Given that the eligibility for maternity, paternity, and parental leave paid by the Kosovo government would be contingent on formal employment at the time of the application for leave compensation, it would be in the interests of employees and employers to formalize their contractual agreements, ensuring that employers' burden is reduced, and employees benefit from the compensation. In the medium and long term, higher formalization will also increase the income tax base for the government, increasing revenues. Apart from the positive impact of reducing informality, it would offset the costs of this policy. Reduced discrimination in hiring women will increase women's employment and thus result in higher budget income from personal income tax. A simplified calculation of the potential impact shows that a one percentage point increase in women's employment; at the current average income and at a maximum 10% personal income tax; would increase budget income only from personal income tax for more than €330,000 annually. Considering the multiplier effect of higher employment and in turn higher spending, it shows that in the medium and long term, the benefits of this change in the legal framework far outweigh the costs.

In the short term, fiscal decisions need to be made to ensure funding is available for this proposed policy. Introducing an earmarked profit or income tax, which could be levied at profits and incomes beyond a certain threshold is one policy option to be considered. Through this earmarked tax, the government can establish the social security fund to finance maternity, paternity, and parental leaves.

In conclusion, the proposed policy reforms have the potential to reduce gender-based discrimination in the workplace, decrease informality, and contribute to improved labour force participation, particularly for women.

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