

Reconciliation of Work and Family Life: The Contribution of EU Law

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**Partnership Work Life Balance and
gender specific career patterns in
higher education and science**

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Outline

1. Reconciliation of Work and Family Life as Part of the EU Gender Equality Principles
2. The Three Pillars of the EU Reconciliation Framework
3. Recent Developments
4. Problems and Challenges

1. Reconciliation of Work and Family Life as Part of the EU Gender Equality Principles

- Reconciliation of work and family life and family policy were not part of the original Treaty of the European Community
- Reconciliation of Work and Family Life has originally been addressed as part of the gender equality issue
- Secondary level legislation have provided framework of rights for parents in member states
- Decisions of the European Court of Justice have strengthened rights of pregnant workers and care-givers

1. Reconciliation of Work and Family Life as Part of the EU Gender Equality Principles

- recently elevated to primary legislation, as it has been inserted into the Lisbon Treaty
- Article 33 of the Charter of Fundamental Rights declares:

“the family shall enjoy legal, economic and social protection. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.”

1. Reconciliation of Work and Family Life as Part of the EU Gender Equality Principles

European Commission issued a Communication on the issue of reconciliation between professional, private and family life in October 2008, which included the following goals:

- to improve legal measures serving reconciliation, including legislative proposals concerning the Directives regarding maternity leave and parental leave, with the aim of extending the first leave and promoting the father's access to the second one
- to promote equal treatment and maternity protection for independent workers and helping spouses, in a new Directive to replace Directive 86/613
- to promote assessment reports on childcare facilities in the Member States, and other actions and studies serving the practical implementation of reconciliation policies

2. The Three Pillars of the EU Reconciliation Framework

- **Leave provisions** – continuous periods of leave granted to working parents and workers with caring responsibilities
- **Time** – „flexibility“ and its implications for reconciliation policies
- **Care** – the activities and relations involved in meeting the physical and emotional requirements of dependent adults and children, and the normative economic and social frameworks within which these are assigned and carried out

2.1 Leave Provisions

- Pregnant Workers Directive
 - Framing: health issue – gender specific, provisions only for pregnant women and young mothers in the workplace
 - 14 weeks maternity leave, 2 must be compulsory
 - Enumeration at least equivalent to sick pay
 - paid time off during ante-natal examinations
 - no night work during pregnancy and for certain time after birth
 - employer must assess specific risks to pregnant workers and take appropriate action

2.1 Leave Provisions

- Parental Leave Directive
 - mothers *and* fathers are entitled to parental leave
 - 3 months *unpaid* parental leave
 - to be taken until a given age (of the child) below 8 years old, to be further defined by member states
 - flexibility provided is also up to member states

2.2 Time

- Part-Time-Work Directive
 - Objectives: Eliminate discrimination against part-time-workers and improve quality of part time work
 - Relevance for reconciliation? Employers are requested to give consideration to measures that facilitate part time work at all levels of the enterprise
- Fixed-Term-Work Directive

2.3 Care

- Comprehensive care-strategy across member states is still lacking
- EU legal provisions have largely overlooked the issue
- no uniform set of provisions on the EU level for care for children or adults
- Lisbon Strategy and Barcelona Council of Europe calls for providing childcare facilities
- Adult care: 3 Commission Communications

3. Recent Developments

- Proposals to amend Directive regarding maternity leave provisions:
 - duration of the maternity leave to be increased from 14 weeks up to 18 weeks, of which six weeks must be taken after birth
 - payment during maternity leave should be equivalent to the full monthly salary received prior to maternity leave
 - Right to ask for new working hours/patterns after return to work

3. Recent Developments

- Proposal to amend Parental Leave Directive:
 - Increase of individual entitlement to leave after birth or adoption of child from three to four months per parent
 - Individual right, at least one month non-transferable between parents (will be lost if not taken)
 - Parents returning from parental leave may request changes of working hours / patterns of working hours

4. Problems and Challenges

- Focus on needs of parents of very young children – little attention to life cycle dimension, care for dependent adults and older children
- Dimensions of care and time still underdeveloped
- Unpaid leave – who will take it?
- Changing working patterns – less balance?

Thank you for your attention!



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Sources

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